



MOBILE VENDOR APPLICATION PACKET

 United City of Yorkville
651 Prairie Pointe Drive
Yorkville, Illinois, 60560

 630-553-4350

 www.yorkville.il.us

INTRODUCTION



WHAT IS THE PURPOSE OF THE INFORMATION IN THIS PACKET?

The purpose of the Mobile Food Vendor regulations are to encourage and monitor the operation of mobile food/retail vendors within Yorkville. The information and procedures in this packet are intended to provide potential operators with the necessary resources to conduct a mobile food/retail vendor business in the City. All of the codified regulations are not in this packet and may be found in Sections 3-5 and Section 10-3-14 of the Yorkville City code.

WHAT IS A MOBILE FOOD VENDOR?

Per the City's Ordinances, the following definitions apply:

MOBILE FOOD VENDOR VEHICLE

A vehicle, from which edible food products are cooked, prepared or assembled with the intent to sell such items to the general public, provided that food vendor vehicles may also sell other edible food products and beverages that have been prepared or assembled elsewhere. Food vendor vehicle operators may market their products to the public via advertising, including social media. For the purposes of this Title, this shall also include ice cream vendor vehicles, canteen trucks and pushcarts.

MOBILE RETAIL VENDOR VEHICLE

A vehicle from which merchandise is sold and retail sales are made, and is intended to be temporary, or is capable of being moved from one location to another.

CANTEEN TRUCK

A vehicle that operates to provide food services to workers at locations where access to such services is otherwise unavailable or impractical (e.g., a construction site); from which the operator sells food and beverages that require no on-site preparation or assembly other than the heating of pre-cooked foods; and is not advertised in any form to the general public except by virtue of signage on the vehicle. Products sold from canteen vendor vehicles may include fruits, vegetables, and pre-cooked foods such as hot dogs, prepackaged foods and pre-packaged drinks.

PUSHCART

A non-motorized vehicle limited to serving non-potentially hazardous foods or commissary wrapped food maintained at proper temperatures.

VENDOR VEHICLE RALLY

A coordinated and advertised gathering of more than three (3) mobile food vendor and/or mobile retail vendor vehicles, in one location and on a date certain, with the intent to serve the public.

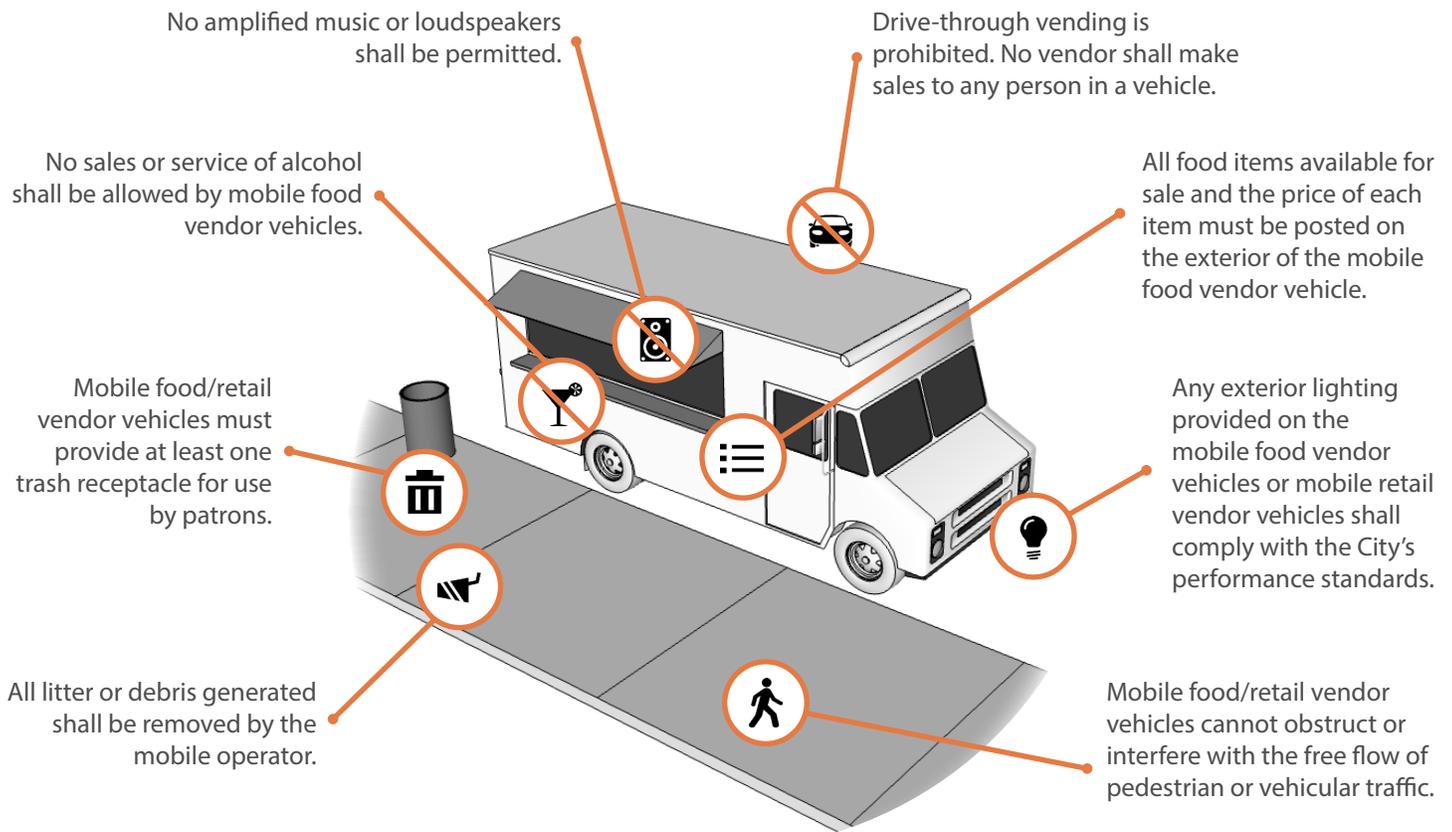
COMMISSARY

A catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged, or stored.

EDIBLE FOOD PRODUCTS

Products that are ready for immediate consumption, including prepackaged food and food cooked, prepared or assembled on-site. The term "edible food products" does not include fresh produce unless the produce has been packaged, cooked, chopped, sliced, mixed, brewed, frozen, squeezed or otherwise prepared for consumption.

GENERAL PROVISIONS



WHEN AM I ALLOWED TO OPERATE?

In general, mobile vendors may conduct business from 9:00AM to 8:30PM. Sunday through Saturday, including holidays unless such business is located on private property or as part of a City sponsored special event.

ADDITIONAL PROVISIONS

- Mobile food/retail vendor vehicles on public property must obtain a Certificate of Registration from the Office of the City Clerk.
- Mobile food/retail vendor vehicles must comply with all Federal, State, County and local Business Tax, Sales Tax and other tax requirements.
- The United City of Yorkville has implemented a Places of Eating (Food & Beverage) Tax, effective January 1, 2024. This tax, set at 1% of the purchase price, applies to food, alcoholic liquor, and non-alcoholic beverages intended for immediate consumption.
- Mobile food/retail vendor vehicles are permitted in all zoning districts of the City.
- Mobile vendors are not licensed to conduct business door to door.
- A mobile food vendor vehicle requiring a water system shall have a potable water system under pressure. The system shall be of sufficient capacity to furnish enough hot and cold water for food preparation, utensil cleaning and sanitizing, and hand washing.
- If liquid waste results from operation of a mobile food vendor vehicle, the waste shall be stored in a permanently installed retention tank that is of at least fifteen percent (15%) larger capacity than the water supply tank.
- It shall be unlawful for any person, mobile food vendor vehicle operator to drink any alcoholic beverages, shout or call to prospective customers, or to disturb the peace in any manner while on duty.

PUBLIC PROPERTY REGULATIONS



WHAT IF I WANT A MOBILE VENDOR IN THE PUBLIC RIGHT-OF-WAY?



Mobile vendors must be legally parked in full compliance with all state and local parking provisions.



Mobile vendors within City parks shall be subject to rules and regulations established by the park board.



No unattended mobile vendor may be parked or left overnight.



Mobile vendors shall not operate within 500 feet from any K-12 school building between the hours of 7:00 a.m. and 4:00 p.m. on regular school days; unless as part of a permitted special event or rally.



Mobile vendors cannot be parked within 25 feet from a street intersection with a crosswalk, traffic light, or stop sign, or within 25 feet from a railroad crossing.



Mobile vendor operators must organize customers to keep a clear path along the sidewalk that is at least four (4) feet wide.



Mobile vendors must face away from the public street.



Mobile vendors may not encroach onto the sidewalk with the vehicle or any equipment related to its operation, except for refuse receptacles.



Mobile vendors greater than 35 feet in length, or that occupy more than two on-street parking spaces, are not permitted to operate adjacent to residentially zoned properties.



Mobile vendors shall not block a lawfully placed monument sign of another business.



A mobile vendor operator must obtain a certificate of registration from the office of the city clerk.



Mobile food vendors are required to obtain a permit from the Kendall County Health Department.

PRIVATE PROPERTY REGULATIONS



WHAT IF I WANT A MOBILE VENDOR ON PRIVATE PROPERTY?

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The maximum number of mobile vendors permitted on a site shall be determined as follows:

One mobile vendor may operate on the site for every 525 square foot paved area except that vendors greater than 35 feet in length require a space at least 70 feet by 15 feet.

All operations shall occur upon a paved, level parking area or surface.

Mobile vendors parked within required parking areas shall not impede pedestrian or vehicle ingress or egress through the remainder of the parking area or adjacent public right-of-way.

Mobile vendors may be permitted to have outdoor seating areas, but may not occupy more than 2 parking spaces per truck.



Mobile vendors may be permitted to operate as a temporary accessory use in all zoning districts.



Mobile vendors shall not occupy more than 40% of required parking spaces on an improved lot. Also, they may not exceed the maximum lot coverage of their respective zoning district.



Mobile food vendors are required to obtain a permit from the Kendall County Health Department.

FOOD TRUCK RALLY REGULATIONS



WHAT IF I WANT TO HOLD A **FOOD TRUCK RALLY?**

-  A food truck rally is any event which has more than 3 food trucks on public or private property.
-  Issuance of a food truck rally permit shall be reviewed and approved by:
 - Community Development Director
 - Parks and Recreation Director
 - Director of Public Works
 - Police Chief
-  Traffic control and pedestrian safety of the event is the responsibility of the permittee of the event.
-  A truck rally permit will be subject to inspections conducted by the Building Code Official and Fire Marshal prior to the event.
-  A food truck rally operator must complete an application form provided by the City Clerk, including map of the area, site plan, description of parking and traffic control plans, list of vendors and dates/hours of the event.
-  The application must be submitted at least 30 days prior to the event.
-  For truck rallies held in the public right-of-way, the City may require for a posting of a financial guarantee prior to issuance of a permit to cover costs related to clearing trash and debris, and any damage to the public right-of-way.
-  Mobile food vendors are required to obtain a permit from the Kendall County Health Department.

**UNITED CITY OF YORKVILLE
KENDALL COUNTY, ILLINOIS**

ORDINANCE NO. 2023-21

ORDINANCE OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS
AMENDING THE YORKVILLE CITY CODE, TITLE 3, CHAPTER 2, SECTION 3-2-10

Passed by the City Council of the
United City of Yorkville, Kendall County, Illinois
This 27th day of June, 2023

Published in pamphlet form by the
authority of the Mayor and City Council
of the United City of Yorkville, Kendall
County, Illinois on July 5, 2023.

Ordinance No. 2023-21

**AN ORDINANCE OF THE UNITED CITY OF YORKVILLE, KENDALL COUNTY, ILLINOIS
AMENDING THE YORKVILLE CITY CODE, TITLE 3, CHAPTER 2, SECTION 3-2-10**

WHEREAS, the United City of Yorkville, Kendall County, Illinois (the “City”) is a duly organized and validly existing non-home-rule municipality created in accordance with the Constitution of the State of Illinois of 1970 and the laws of the State; and,

WHEREAS, Title 3, Chapter 5 of the Yorkville City Code, establishes business and license regulations and imposes various municipal taxes as permitted by law; and,

WHEREAS, the Mayor and City Council (the “Corporate Authorities”) reviewed Section 11-42-5 of the Illinois Municipal Code (65 ILCS 11-42-2) which authorizes the regulation and taxation of places for eating and have considered the imposition of a place for eating tax for the purpose of providing revenue to assist with the costs to be incurred by the City in connection with the project to construct a new water source for its businesses and residents; and,

WHEREAS, the Corporate Authorities have determined that it is in the best interest of the City and its businesses and residents to amend Title 3, Chapter 2 of the Yorkville City Code to provide for the imposition of a place for eating tax as hereinafter provided.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the United City of Yorkville, Kendall County, Illinois, as follows:

Section 1. That Title 3, Chapter 2 of the Yorkville City Code, be and is hereby amended by adding the following Section 3-2-10:

“Sec. 3-2-10 Place for Eating Tax.

A. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Eating Establishment means premises located within the City where prepared food is sold at retail for immediate consumption, with indoor or outdoor seating or similar accommodations provided for consumption of the prepared food on the premises, whether consumed on the premises or not, and whether or not such places for eating use is conducted along with any other uses in a common premise or business establishment. The term “eating establishment” includes, but is not limited to, those establishments commonly called restaurant, eating place, drive-in restaurant, buffet, bakery, banquet facility, cafeteria, café, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, hotel, motel, or club, or any other establishment which sells at retail prepared food for immediate consumption. Prepared food sold for immediate consumption through a drive-through window or carry-out counter co-located with a restaurant or similar establishment shall be considered part of the eating establishment.

Gross Receipts means the consideration received, valued in money, whether received in money or otherwise, including cash, credits, property and services, at an eating establishment for prepared food furnished at the eating establishment. The term “gross receipts” does not include amounts paid for federal, state and local taxes, including the tax levied by this article, and does not include amounts paid as gratuities for the employees of the eating establishment.

Owner means any person having an ownership interest in or conducting the operation of an eating establishment.

Prepared food means and includes any solid, liquor (including both alcoholic and non-alcoholic), powder or item used or intended to be used for human internal consumption, whether simple, compound or mixed, and which has been prepared for immediate consumption.

Sold at Retail means to sell for use or consumption in exchange for a consideration whether in the form of money, credits, barter or any other nature, and not for resale, with the transaction being subject to either the state retailers' occupation tax, 35 ILCS 120/1 *et seq.*, or the state service occupation tax, 35 ILCS 115/1 *et seq.*

B. *Tax Imposed, Credit Sales:*

(i) The City hereby imposes upon owners of eating establishments a tax at the rate of one percent (1%) of gross receipts received for prepared food sold at retail by the owner commencing January 1, 2024. The tax levied in this section is in addition to any and all other taxes and charges.

(ii) The owner of an eating establishment may collect an amount from persons who purchase prepared food at the eating establishment which shall reimburse the owner for the tax imposed on the owner by this article. If the prepared food is sold at retail on credit, the owner shall not be liable for payment of the tax imposed by this article on such a sale until payment for the sale is made.

C. Every owner maintaining an eating establishment in the City subject to tax under this article shall register with the finance department by December 1, 2023, or the date of becoming such an owner, whichever is later.

D. *Transmittal of Tax Revenue by Owner, Delinquency and Late Fees:*

(i) The owner of each eating establishment shall file tax returns showing the gross receipts received during each calendar month period upon forms prescribed by the finance director. Returns for each calendar month shall be due on or before the twentieth (20th) day of the next calendar month.

(ii) Notwithstanding the provisions of subsection (a) of this section, if the owner of the eating establishment is allowed to file state retailers' occupation tax or state service occupation tax returns with the state department of revenue at intervals greater than monthly, the owner shall be allowed to file tax returns concerning the tax imposed by this article at the same intervals. At the time of the filing of the tax returns, the owner shall pay to the City all taxes due for the reported period.

(iii) If the owner is more than sixty (60) days delinquent in filing the required return or payment of the tax imposed, a \$100.00 late fee shall be assessed, in addition to any tax due. After imposition of the initial late fee, if a tax return or payment remains delinquent, a \$100.00 late fee shall be assessed for each additional 30-day period the return or payment remains delinquent.

E. *Transmittal of Excess Tax Collections.*

If any person collects an amount upon a sale not subject to the tax imposed hereby, but which amount is purported to be the collection of the tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same to the purchaser who paid the same before

filing the return for the period in which such occurred, the person shall account for and pay over those amounts to the City along with the tax properly collected.

F. *Action for Enforcement upon Failure to Pay Tax.*

Whenever any person shall fail to pay the tax imposed by this article, the City attorney shall, upon request of the City Administrator, bring or cause to be brought an action to enforce the payment of the tax on behalf of the City in any court of competent jurisdiction.

Sec. 38-118. Right of Entry for Inspection of Books and Records; Compliance with Recordkeeping Required.

- (i) The finance director or his/her designee may enter the premises of any eating establishment for inspection, examination, copying and auditing of books and records, including, but not limited to, state retailers' occupation tax and state service occupation tax returns filed with the state department of revenue, in order to verify collection of the tax imposed by this Article. To the extent reasonably possible, the entry shall be done in a manner that is least disruptive to the business.
- (ii) It is the duty of every owner to keep accurate and complete books and records to which the finance director or his/her designee shall have full access, including a record of gross receipts received on a daily basis.

G. *Penalties:*

- (i) Any owner found guilty of violation, disobeying, omitting, neglecting or refusing to comply with or unlawfully resisting or opposing the enforcement of any of the provisions of this article, except when otherwise

specifically provided, upon conviction thereof, shall be punished by a fine as permitted by law.

(ii) Each day upon which an owner continues to violate this article or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(iii) Any owner subjected to the penalties provided for by this subsection shall not be discharged or released from the payment of any tax due.”

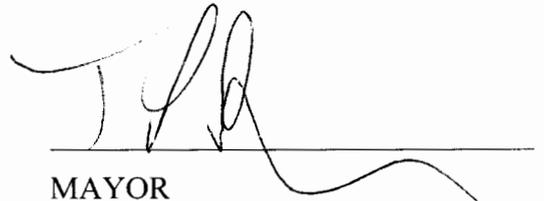
Section 2. This Ordinance shall be in full force and effect after its passage, publication, and approval as provided by law.

Passed by the City Council of the United City of Yorkville, Kendall County, Illinois this 27th day of June, A.D. 2023.


CITY CLERK

KEN KOCH	<u>AYE</u>	DAN TRANSIER	<u>AYE</u>
ARDEN JOE PLOCHER	<u>AYE</u>	CRAIG SOLING	<u>AYE</u>
CHRIS FUNKHOUSER	<u>NAY</u>	MATT MAREK	<u>AYE</u>
SEAVER TARULIS	<u>AYE</u>	RUSTY CORNEILS	<u>AYE</u>

APPROVED by me, as Mayor of the United City of Yorkville, Kendall County, Illinois this 30^m day of June, A.D. 2023.


MAYOR

Attest:

CITY CLERK



United City of Yorkville

651 Prairie Pointe Drive
Yorkville, Illinois 60560
Telephone: 630-553-8571
Fax: 630-553-7575
www.yorkville.il.us

Frequently Asked Questions

What is the Places of Eating Tax?

The United City of Yorkville Places of Eating (Food & Beverage) Tax is a 1.00% tax on the purchase price of food, alcoholic liquor, and non-alcoholic beverages for immediate consumption.

When will this tax take effect?

January 1, 2024. (Taxes from January sales are due by February 20th)

Where are these items sold?

All eating establishments located within the corporate limits of the United City of Yorkville where food and/or beverages are sold at retail and are intended to be, or are permitted to be, consumed on the premises. "Eating establishments" include, but are not limited to:

- Restaurant or eating place, drive-in restaurant, fast food outlet.
- Cocktail lounges, bars, taverns.
- Cafeteria, cafe, lunch counter, delicatessen, sandwich shop, coffee shop, buffet.
- Hotel or motel room service.
- Prepared food service area within a grocery¹, gas station¹ or convenience store¹.
- Banquet facilities, catering facilities & services.
- Bakeries and confectioners.
- Food courts or kiosks in an indoor shopping mall which provide food/beverages that are ready to eat.
- Mobile food¹ or beverage vendors¹

On what sales must I collect and pay the Places of Eating Tax? You must collect and pay the Places of Eating Tax if you make retail sales of prepared food and non-alcoholic drinks that have been prepared for immediate consumption, with seating or counters provided to customers for consumption of said food on the premises, whether consumed on the premises or not. The tax will also be collected on alcoholic beverages that have been prepared for immediate consumption at places for eating but not packaged liquor for consumption off premises. Examples of taxable sales include but are not limited to:

- All products served in restaurants, carry out orders, delivery orders.
- All restaurant style products sold by a grocery store or other places of eating, such as prepared chicken, ice cream cones or hot soup.
- All restaurant style products at convenience stores, such as food items selected under a heat lamp.
- A can or bottle of beer, a mixed drink, or a dispensed soft drink served to a diner at a place for eating as defined in the City ordinance.
- Brewed coffee, fountain drinks or other beverages prepared for immediate consumption on or off premises i¹n a grocery store or convenience store.

¹ Provided that this establishment provides seating for immediate consumption.

What transactions are exempt from the Places of Eating Tax? Products that are prepared off-site in packages ready for retail sale and not for immediate consumption. Examples of products that are exempt from the Places of Eating Tax include, but are not limited to:

- Pre-packed pizzas or other frozen food products sold in a grocery store or convenience store.
- A can of soda, six-pack of beer, and wine from a cooler or convenience store.
- General grocery items such as bread, milk, and eggs that are in their original packaging and not prepared for immediate consumption.
- Items sold in vending machines.

Is gratuity to be included in the cost of the meal?

No. The tax is paid on purchase price. Purchase price does not include amounts paid as gratuities to employees.

How will this tax be applied to a food or beverage purchase?

Example: \$150 dinner & drinks, customer presents a 20% off coupon:

Gross	\$150.00
Less: Discounts	- 30.00
Equals: Purchase Price	\$120.00
Add: Sales Tax (8.25%)	+ 9.90
Add: Food & Beverage Tax (1.00%)	+ 1.20
Equals: Total Sale	\$131.10
Add: Gratuity (<i>for illustrative purposes</i>)	+ 20.00
Equals: Total Customer Payment	\$151.10

How do I show this tax on my retail receipts?

You may either separately identify this tax or show this tax in combination with other taxes on the receipts you give your customers.

What form must I use to report the Places of Eating Tax? The City's informational packet includes a copy of the tax return form. The Places of Eating Tax Return form is also available on City's website.

Where do I file my return?

You should mail or deliver your Places of Eating Tax return and payment to:

United City of Yorkville
Attn: Finance Department
651 Prairie Pointe Drive
Yorkville, Illinois 60560

When is my monthly Places of Eating Tax Return and tax payment due?

The return and tax payment shall be due on the 20th day of the month, following the collection period (e.g., taxes from January sales are due by February 20th). All Places of Eating Tax returns must also be accompanied with a copy of your ST-1 Form filed with the Illinois Department of Revenue (IDOR) covering the same reporting period. If your business is allowed by the IDOR to file tax returns at intervals greater than monthly, you may also file your Places of Eating Tax returns at the same interval (e.g., quarterly).

How will payment be submitted?

The Places of Eating Tax payments will be submitted to the United City of Yorkville by check or money order on a monthly basis (or other allowable interval), along with the Places of Eating Tax form and the Illinois Department of Revenue Form ST-1 (and ST-2 when applicable).

How do I file if I have more than one site?

If you make retail sales from more than one site you must file a separate Places of Eating Tax Return for each site.

Must I file a Places of Eating Tax Return even if I have no sales to report?

Yes. You must file a signed return form for each monthly reporting period (or other allowable interval) regardless of whether or not there are receipts to report. You may file a “zero” return.

What if I do not file and pay by the due date?

A late penalty of \$100 will apply to any payment that remains delinquent for more than 60-days. A late fee of \$100 will also be added for every additional 30-days after the initial 60-day delinquency period. Please refer to the Places of Eating Tax Ordinance for more information on enforcement of payment.

Do caterers have to pay the Places of Eating Tax?

Yes. Catering for all events held within the City limits are subject to the Places of Eating Tax, regardless of where the caterer’s place of business is located. Events catered by Yorkville caterers OUTSIDE the City limits are not subject to the tax. The tax does not apply to goods associated with the event, such as linens, china, etc., if those items are distinctly priced separately in the event contract.

When a caterer has a dinner at a not-for-profit facility, is the Places of Eating Tax charged on the meal?

Yes. Catering for all events held in the City are subject to the Places of Eating Tax, regardless of where the caterer’s place of business is located. However, if the event is sponsored by and is an event of the not-for-profit agency, and the not-for-profit agency is sales tax exempt, then the Places of Eating Tax does not apply.

If I have questions, who should I contact?

Please call City Hall at (630) 553-4350 or send an email to YorkvilleFinance@yorkville.il.us.



United City of Yorkville

651 Prairie Pointe Drive
Yorkville, Illinois 60560
Telephone: 630-553-8571
Fax: 630-553-7575
www.yorkville.il.us

Places of Eating Tax Registration Form

Business Information

Business Name

Business Address

Phone Number

Mailing Address

City/State/Zip

IL Sales

Tax ID #

Federal Tax ID #

Owner Information

Please select one:

Sole
Owner

Partnership

Corporation

Owner Name

Owner Phone

Owner Address

City/State/Zip

Owner Email

For a Partnership or Corporation, please provide the legal name if different from business name

Under penalties as provided by law, I declare that to the best of my knowledge and belief, the information on this form is true, correct, and complete.

Signature

Printed Name

Title

Date



**UNITED CITY OF YORKVILLE
PLACES OF EATING TAX RETURN**

Collection Period: Month

Year

**Due Date: The 20th of Every Month, following
the Collection Period**

Business Name:

Phone No:

Business Address:

Preparer's Name and Address:

Illinois Business Tax (IBT) No. for Yorkville Business Location (from ST-1):

Computation of 1% Places of Eating Tax Liability

- 1. Gross Sales of Taxable Food and/or Beverages..... \$
- 2. Food and Beverage Tax Due (Line 1 multiplied by .01)..... \$
- 3. Penalties if Paid After the Due Date:
 - a. If more than 60-days late, add \$100 Penalty. Additional \$100 penalty for every 30-days thereafter. \$
- 4. Total Due the United City of Yorkville (add lines 2 and 3a)..... \$

I hereby affirm that I have examined this return and, to the best of my knowledge and belief, the information presented is true, accurate, and complete. I further declare that the information set forth is taken from the books and records of the business for which this return is filed.

Signature and Title of Taxpayer

Date

Preparer (if other than taxpayer)

Phone No.

Mail this completed return, a copy of the Illinois Department of Revenue Form ST-1 (and ST-2 when applicable), and a check for the amount due from Line 4 to:

**United City of Yorkville
Attn: Finance Department
651 Prairie Pointe Drive
Yorkville, Illinois 60560**

Should you have any questions, please call the United City of Yorkville at (630) 553-8534.