

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

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**ORDINANCE NO. 2023-21**

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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 27<sup>th</sup> 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.

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**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 (20<sup>th</sup>) 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

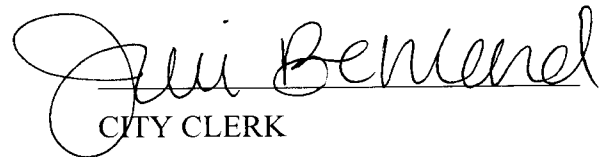
specifically provided, upon conviction thereof, shall be punished by a fine as permitted by law.

(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.”

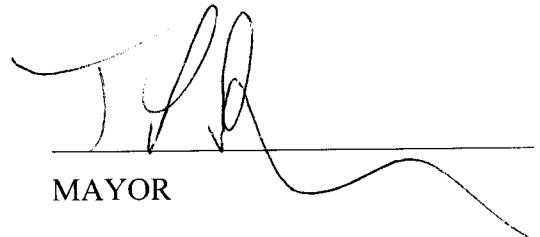
**Section 2.** This Ordinance shall be in full force and effect after its passage, publication, and approval as provided by law.

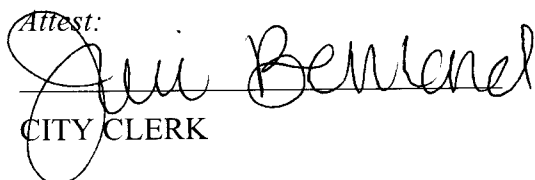
Passed by the City Council of the United City of Yorkville, Kendall County, Illinois this 27<sup>th</sup> day of June, A.D. 2023.

  
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<sup>m</sup> day of June, A.D. 2023.

  
MAYOR

Attest:  
  
CITY CLERK