

**ORDINANCE NO. 1022-'00**

**AN ORDINANCE ESTABLISHING A TAX ON THE SALE OF  
FOOD AND BEVERAGES PREPARED FOR IMMEDIATE  
CONSUMPTION.**

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
FAIRVIEW HEIGHTS, ILLINOIS as follows:

SECTION 1. DEFINITIONS. As used in this Ordinance, unless the context otherwise  
requires, the following words shall have the meaning hereinafter ascribed to them:

- (A) "Person" means any individual, firm, unincorporated association, partnership, joint venture, limited partnership, corporation, representative, or other entity;
- (B) "Farm Produce Stand" means those temporary and sometimes semi-permanent stands utilized by farmers and other produce growers to sell primarily their own products in season;
- (C) "Business" shall refer to any commercial establishment.
- (D) "Food and beverages prepared for immediate consumption" shall mean any food and/or beverages capable of consumption without further preparation. Consumption on the premises is not required. Items that require only the removal of wrappers or packaging before consumption are included, specifically including, but not limited to, prepared salads, sandwiches, deli trays or deli foods ready to eat, hor d'oeuvres, and other related similarly packaged items. Items that have any form of cooling, heating, cleaning, cutting, or trimming, or mixing, or the like, applied on the premises, are considered prepared for immediate consumption. "Food and beverages prepared for immediate consumption" shall exclude items sold at:
  - (1) Places of business where the percentage of food and beverages prepared for immediate consumption is less than ten (10%) of the total sales of the business on an annual basis and total sales of food and beverages are less than \$5,000.00 per year.
  - (2) Places of business that are commonly referred to as "farm produce stands".

SECTION 2. TAX. A tax is hereby imposed upon all retail sales of food and beverages that have been prepared for immediate consumption within the City at the rate of one percent (1%) of the selling price of such food and/or beverages. This tax is imposed in addition to any other tax imposed by the City or any other governmental entity with respect to such food and beverages. The purchaser of such food and beverages shall be liable for the payment of the tax imposed, but the person engaged in the business of selling such food and beverages at retail assumes the responsibility of collecting and paying said tax to the City.

SECTION 3. SALES TAX RETURNS TO FAIRVIEW HEIGHTS. Every person engaged in the retail business of selling food and beverages for immediate consumption within the City shall file with the City Collector, on or before the last day of each calendar month, a report in the form required by the City Collector, and the report shall be accompanied by a check or other form of payment in the amount of the tax due and payable upon such taxable sales made during the preceding month.

SECTION 4. SALES TAX RETURNS TO ILLINOIS. Every report filed under the preceding section shall be accompanied by a photocopy or other copy of the sales tax return filed by the person engaged in the business of selling such food and beverages at retail with the Illinois Department of Revenue pursuant to Section 442 of Chapter 120 of the Illinois Revised Statutes, as amended, (commonly known as the sales tax return) showing the total retail sales made by such person for the preceding calendar month.

SECTION 5. BOOKS AND RECORDS. Every person engaged in the business of selling food and beverages prepared for immediate consumption at retail shall keep complete and accurate books and records of all such retail sales according to standards adopted by the Illinois Department of Revenue for retail sales generally. The City Treasurer or authorized representative may enter the premises of every such person at reasonable times and upon reasonable advance notice to inspect the books and records of such person in order to effectuate the proper administration of the tax imposed by this Ordinance, and to insure compliance with this Ordinance. It shall be unlawful and a violation of this Ordinance for any person to hinder, interfere with or prevent the City Treasurer or authorized representative from performing his duties hereunder.

SECTION 6. PENALTY. If for any reason tax is not paid when due, a penalty at the rate of ten percent (10%) of the amount of tax owed shall be applied, plus interest at the rate of one and one-quarter percent (1.25%) per month from the date of delinquency shall be added and collected.

SECTION 7. VIOLATIONS. Any person found guilty of violating any provision of this Ordinance, including the late filing of a return or the late payment of the tax, shall be fined an amount not to exceed Five Hundred Dollars (\$500.00) for each offense. A separate offense is committed upon each day that a violation exists.

SECTION 8. ADDITIONAL REMEDIES FOR COLLECTION. In addition to the penalties imposed for late filing, late payment and violation of this Ordinance, the City may elect to file civil proceedings for collection of the tax, plus penalties which in the event of such civil proceedings shall include the City's reasonable counsel fees, or the City may elect to file a lien upon the real estate upon which the violator's business is conducted and may foreclose such lien pursuant to the applicable statute. The City may pursue any and all of such remedies contemporaneously or concurrently.

SECTION 9. USE OF PROCEEDS. All proceeds resulting from the imposition of the tax imposed by this Ordinance, including interest and penalties collected in association therewith, shall be paid to retire a certain \$8,000,000 Bond issue for police station, sewers and storm sewers, and thereafter, as the Council directs thereby avoiding and abating any real estates tax.

SECTION 10. INVALIDITY. If any provisions of this Ordinance or the application thereof to any person or circumstances is held invalid, the remainder of this Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.

SECTION 11. PASSAGE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

READ FIRST TIME: August 15, 2000

READ SECOND TIME: September 5, 2000

READ THIRD TIME: September 19, 2000

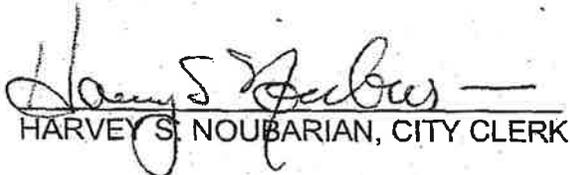
PASSED: September 19, 2000 - Reconsidered and Passed on October 3, 2000.

APPROVED: October 4, 2000



GAIL D. MITCHELL, MAYOR  
CITY OF FAIRVIEW HEIGHTS

ATTEST:



HARVEY S. NOUBARIAN, CITY CLERK

Sponsored By: Finance Committee

Roll call of Aldermen voting "Yea":

Roger Lowry	Richard Briddell
Pat Baeske	Dale Sauer
Carol Warner	E. Scott Rich
	S. Kent Rataj
	Dennis Baricevic

Aldermen Robert Hinkle and Lydia Cruz were absent.

Reconsideration Roll call of Aldermen voting "Yea" as amended:

Lydia Cruz	E. Scott Rich
Pat Baeske	S. Kent Rataj
Carol Warner	Roger Lowry
Richard Briddell	Robert Hinkle
Dale Sauer	

Alderman Dennis Baricevic voted "Nay".