

ORDINANCE NO. 9391

AN ORDINANCE TO ESTABLISH A PREPARED FOOD AND BEVERAGE & ALCOHOLIC BEVERAGE TAX, AS AMENDED

WHEREAS, the City of Quincy (the "City"), is an Illinois home rule municipal corporation organized and operating pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, 65 ILCS 5/8-11-5 of the State of Illinois Compiled Statutes authorizes the City of Quincy to impose, pursuant to its home rule authority, a tax on food, soft drinks, and alcoholic beverages that have been prepared for immediate consumption; and

WHEREAS, since fiscal diversification to expand the revenue base is in the best interest of the City of Quincy and the provision for a Prepared Food and Beverage & Alcoholic Beverage Tax provides for such diversification; and

WHEREAS, the City of Quincy is empowered to enact legislation pertaining to its local government affairs as is deemed necessary in the best interest of the City of Quincy.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF QUINCY, ADAMS COUNTY, ILLINOIS, the following:

Section 1. The foregoing recitals represent the purpose and intent of this Ordinance and as such shall be incorporated as though fully set forth herein. In the event of any ambiguity or invalidity regarding the enforcement of this ordinance it is the intent of the corporate authorities that this ordinance be liberally construed or reformed to accomplish the purpose and intent so described.

Section 2. There is hereby added to Chapter 45 (Finance), Sections 160 through Section 170, Prepared Food and Beverage & Alcoholic Beverage Tax, to the City of Quincy Municipal Code which is to read as follows:

SECTION 160 - 170

PREPARED FOOD AND BEVERAGE & ALCOHOLIC BEVERAGE TAX

Section 45.160	Definitions
Section 45.161	Tax Imposed
Section 45.162	Certificate of Registration
Section 45.163	Collection of Tax by Retailers
Section 45.164	Books and Records
Section 45.165	Transmittal of Tax Collection
Section 45.166	Late Payment Penalty
Section 45.167	Transmittal of Excess Tax Collections
Section 45.168	Enforcement-License Suspension- Revocation
Section 45.169	Proceeds of Tax
Section 45.170	Super majority to repeal or amend
Section 45.171	Renewal provision

45.160. **DEFINITIONS.** The words and phrases used in this Chapter shall have their normal and customary meanings except as otherwise defined in this Section.

(1) "Alcoholic Liquor" shall have the meaning ascribed thereto in the Illinois Liquor Control Act of 1934 (230 ILCS 5/1-1 et seq.), and any successor statute, and shall be construed as synonymous with the term "Alcoholic Beverage".

(2) "Liquor Facility" means any person or establishment licensed under the provisions of Chapter 111 of the Municipal Code.

(3) "Municipal Code" means the City of Quincy Municipal Code.

(4) "Prepared Food and Beverage & Alcoholic Beverage Facility" or " Prepared Food Facility" means any person or establishment subject to the licensing requirements of Chapter 111

which sells alcoholic liquor, and includes any place at which food or beverage items are served and/or prepared where said food and beverage items are intended to be, or are permitted to be, consumed on the premises, or where alcoholic liquor is sold at retail, including, but not limited to those establishments commonly called an inn, restaurant, eating place, drive-in restaurant, bakery, buffet, cafeteria, café, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, gaming lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, movie theater, mobile food or beverage or ice cream vehicle, hotel, motel or club. Where a facility is only partially intended to permit on-site consumption of food (such as a grocery store or convenience store with a prepared food service area), only that portion of the facility selling prepared food shall be considered a Prepared Food Facility.

A "Prepared Food and Beverage & Alcoholic Beverage Facility" does not include churches, public or private schools, public or private universities or colleges, boarding houses, day care centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered and consumed at private residences of invalids or the elderly, coin operated automatic food item dispensing machines, farm produce stands, grocery stores that do not serve food prepared for immediate consumption, confectionary stores that do not serve prepared food, government entities, and the facilities or events of not-for-profit associations or corporations.

(5) "Prepared for Immediate Consumption" means food or beverage prepared for or made readily available for immediate consumption within or upon the premises where it is sold or where such items may be purchased for consumption off the premises where it is sold, such as where such items are made available for carry out, drive through, delivery, or similar service.

(6) "Owner" or "operator" means any person or entity of any kind that has any ownership in, or is conducting the business or operation of, a Liquor Facility, a Prepared Food and Beverage & Alcoholic Beverage facility, or a Prepared Food Facility, including, without any limitation (a)

any person, (b) any firm, partnership, association, company, joint venture, corporation, limited liability company, club, organization, or other entity of any kind, and (c) any receiver, executor, trustee, conservator, or other representative appointed by law or by order of any court. The term "owner" includes one owner or multiple owners.

(7) "Person" means any individual, firm or corporation, representative or entity.

(8) "Purchase at Retail" means to obtain 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.

(9) "Retailer" means a person who sells or offers for sale for use or consumption and not for resale.

(10) "City" means the City of Quincy, Adams County, Illinois.

45.161. Tax Imposed. Commencing on this first day of May, 2020, a tax, in addition to any and all other taxes, is hereby imposed upon the use and privilege of purchasing alcoholic beverages at retail at any place within the City, and upon the use and privilege of purchasing beverage or food prepared for immediate consumption at any Prepared Food and Beverage and Alcoholic Beverage facility within the City, at the rate of ~~one~~ ^{one} percent (~~2%~~ ^{1%}) of the purchase price of such food or beverage, the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

45.162. Collection of Tax by Retailers. The owner and operator of each Prepared Food Facility and each Liquor Facility within the City shall jointly and severally have the duty to collect and account for said tax from each purchase at the time consideration for such purchase is paid and any amount so collected or required to be collected by the provisions hereof shall constitute a debt owed to the City by such owner and operator.

45.163 Certificate of Registration. No person shall operate or maintain a prepared food facility or liquor facility within the City without obtaining a certificate of registration for the same from the authorized city office, application for which shall be made upon forms provided by the

City Treasurer's Office, requiring the furnishing of such pertinent information regarding such facility and the ownership and operation thereof as is reasonably necessary or desirable to facilitate the enforcement and administration of the provisions hereof.

45.164 Books and Records. The owner and operator of each Prepared Food Facility and each Liquor Facility within the City shall jointly and severally have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sale of Prepared Food and Beverage and Alcoholic Liquor and the taxes collected each month, which shall be made available to the City for examination and for audit by the City upon reasonable notice and during customary business hours.

45.165 Transmittal of Tax Collection. The owner and operator of each Prepared Food Facility and each Liquor Facility with the City shall jointly and severally have the duty to cause to be filed, a sworn return with the City Treasurer for each Prepared Food Facility and/or Liquor Facility located in the City. Said return shall be prepared and submitted on forms prescribed by the City. Said return shall be filed no later than the twentieth day, or postmarked by the twentieth day, of the calendar month next succeeding the month for which the return is made (either of which shall constitute timely payment), and at the same time intervals and frequencies as the Retailer's Occupational Tax Return, Form ST-1 (or ST-2), is due to be filed with the Illinois Department of Revenue. Said return shall also be accompanied by payment to the City of all taxes imposed by this Chapter which are due and owing for the period covered by said return. Said return shall also be accompanied with a copy of the return filed with the Illinois Department of Revenue covering the same reporting period.

(b) Any person filing a timely return pursuant to this Section may retain Two (2.00) percent of the tax they collect to be remitted with that return. This retention is allowed for the purpose of compensating for the costs incurred in complying with the duties and obligations set forth under this Chapter. If the return is not timely filed, no retention shall be allowed.

(c) Any Prepared Food Facility or Liquor Facility which is allowed by the Illinois Department of Revenue to file their Retailer's Occupational Tax Return, Form ST-1 (or ST-2), on a quarterly basis, may provide proof of such filing periods to the City Treasurer who may then allow the Facility to file their return Quarterly.

45.166. Late Payment Penalty. If for any reason any tax is not paid when due, a late payment penalty at the rate of five percent (5%) of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains unpaid, plus any collection costs, and the total of such late payment shall be paid along with the tax imposed hereby.

If, for any reason, any tax due pursuant to this chapter is not paid when due, penalties and interest thereon shall be imposed in accordance with the provisions of this code. If any owner is late in paying this tax three (3) or more times within any twelve (12) month period, owner shall, upon the third failure to pay this tax when due, become liable for all costs incurred by the city in collecting such tax for this late payment and for all subsequent late payments, including, but not limited to staff time, attorney fees, and the costs of notice, publication, and court costs and fees.

45.167 Transmittal of Excess Tax Collections. If any retailer collects an amount upon a sale not subject to the tax imposed hereby but which amount is purported to be the collection of said tax, or if a retailer collects an amount upon a sale greater than the amount of the tax so imposed thereon and does not for any reason refund the same to the purchaser who paid the same before filing the return for the period in which such occurred, said retailer shall account for and pay over those amounts to the City along with the tax properly collected.

45.168 Enforcement-License Suspension-Revocation. Payment and collection of said tax and any late payment penalty may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over said tax and any late payment penalty shall be cause for suspension or revocation of any City license issued for such Prepared Food Facility or Liquor

Facility applicable to the premises thereof all in addition to any other penalty provided in this ordinance.

45.169 Proceeds of Tax. All tax collected must be deposited in and used in accordance with the Economic Growth Fund.

45.170 Super majority to repeal or amend any provisions of the Prepared Food and Beverage & Alcoholic Beverage Tax. In order to amend or repeal sections 45.160 through 45.170, or any portion thereof, of the Municipal Code of the City of Quincy, a super majority vote of 2/3 of the Corporate Authorities then holding office is required.

45.171 Renewal Provision. This ordinance is effective from May 1, 2020, through April 30, 2025. The City Council shall consider the renewal of the provisions of this Ordinance prior to April 30, 2025.

Section 3. That Section 45.999 of the Municipal Code of the City of Quincy is amended by adding thereto the following:

(E) Prepared Food and Beverage & Alcoholic Beverage Tax. Any owner and operator of a Prepared Food Facility or a Liquor Facility within the City found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with any of the provisions of this chapter shall be punished, upon conviction thereof, by a fine of not less than two hundred dollars (\$200.00) nor more than five hundred dollars (\$500.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) for the second and each subsequent offense in any one hundred and eight (180) day period. A Separate and distinct offense shall be deemed committed each day upon which said violation shall continue.

Section 4. All ordinances and parts of ordinances in conflict with the provisions of this ordinance shall be and the same are, to the extent of such conflict, hereby repealed.

Section 5. That this Ordinance shall be in full force and effect from and after its passage, approval, and Publication. This ordinance shall be published in pamphlet form in accordance with law and will be effective as of May 1, 2020.

ADOPTED 11-18-2019 _____ Jenny Hayden
City Clerk

APPROVED 11-19-2019 _____ [Signature]
Mayor

Officially published in pamphlet form this 21st day of November 2019.