

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF  
GALESBURG, ILLINOIS, AS FOLLOWS:

SECTION ONE: That Chapter 27 of the Galesburg Municipal Code be, and the same hereby is amended, by adding thereto the following Article:

ARTICLE VI

PREPARED FOOD AND LIQUOR TAX

Sec. 27-220. Definitions.

For the purposes of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them this section:

- (1) Liquor: Any alcoholic beverage, spirits, wine or beer which is sold at retail either for consumption on the premises where sold, or for consumption off the premises.
- (2) Prepared Food: Any food substance used, or intended to be used, for human consumption, and which has been prepared for immediate consumption on and/or off the premises. With respect to food purchased for consumption off premises, "prepared food" or "prepared foods" shall not mean or include any food, except liquor, which is sold in a closed or sealed bottle, can, carton, container or wrapper of the manufacturer or wholesaler.
- (3) Purchase at Retail: To obtain for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or otherwise, and not for resale.
- (4) Retailer: Any person who sells or offers for sale, prepared food and/or liquor for use and not for resale.

- (5) Prepared food facility: Establishments which sell prepared food at retail for immediate consumption and which provide for on and/or off premises consumption whether or not such facility is conducted along with any other use(s) in a common premises or business establishment.

A prepared food facility does not include food stores (except facilities therein which sell prepared food and liquor), employee cafeterias, churches, public or private schools, 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, hospitals (except facilities therein subject to the State of Illinois Retailer Occupation Tax pertaining to food sales) and not-for-profit associations or corporations.

- (6) Liquor facility: Any establishment licensed under the provisions of Chapter 3 of the Galesburg Municipal Code.

**Sec. 27-221. Tax Imposed.**

(a) There is hereby levied and imposed a tax, in addition to any and all other taxes, upon the purchase of prepared food and liquor, at retail in any prepared food facility or liquor facility with the City of Galesburg, at the rate of two percent (2%) of the sales price of such prepared food and liquor.

(b) The ultimate incidence of and liability for payment of, said tax is to be borne by the retail purchaser.

(c) It shall be the duty of every retail prepared food facility or liquor facility within the City of Galesburg to secure said tax from the purchaser at the time said facility collects the purchase price, and to pay over said tax to the City of Galesburg finance department as provided in this article.

**Sec. 27-222. Tax and Report Transmittal.**

(a) The owner and operator of each prepared food facility or liquor facility within the City of Galesburg shall transmit

to the finance department of the City of Galesburg for receipt by said department, no later than the last day of each calendar month, the tax owing for the previous month, accompanied by a report upon forms supplied by said finance department, indicating the gross receipts from the facility along with payment to the City of all taxes imposed by this article which are due and owing.

(b) The prepared food and liquor tax form shall be accompanied by a copy of the form filed with the Illinois Department of Revenue for sales within the City of Galesburg.

#### **Sec. 27-223. Records, Inspections.**

(a) Every prepared food facility and liquor facility shall keep complete and accurate records, including a daily sheet showing receipts for each day and the amount of prepared food and liquor tax collected.

(b) For the purpose of administering and enforcing this article, the finance department shall have the right to inspect all books, records and reports of gross receipts for the sale of prepared food and liquor, which shall be made available to the City upon reasonable notice, during customary business hours.

#### **Sec. 27-224. Transmission of Excess Tax Collections.**

If any person collects an amount upon a sale not subject to the tax imposed hereby, but which 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 imposed herein and does not for any reason return it to the purchaser who paid it before filing the return for the period in which it occurred, that person shall account for and pay over those amounts to the City along with the tax properly collected.

#### **Sec. 27-225. Late payment penalty, Enforcement.**

(a) If any person operating a prepared food facility or a liquor facility within the City fails or omits to pay any tax when due, a one and one half percent (1½%) penalty shall be calculated on the unpaid tax and shall be added each month until such time as the delinquent tax is paid.

(b) Payment and collection of the tax and late payment penalty may be enforced by action in any court of competent

jurisdiction, and failure to collect, account for and pay over the tax and any late payment penalty, shall be cause for suspension or revocation of any City license issued for any liquor facility applicable to the premises thereof, all in addition to any other penalties in this chapter.

(c) Any person failing to maintain or allow examination of the books and records provided herein or elsewhere by law or ordinance, upon conviction, shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each offense.

**SECTION TWO:** All ordinances, or parts of ordinances, in conflict with this ordinance are, to the extent of such conflict, hereby repealed.

**SECTION THREE:** If any one or more provisions of this article, or any clause, sentence or paragraph thereof, or the application thereof to any person or circumstance is held invalid, the remainder of this article and the application of such provisions or clause, sentence or paragraph thereof as to other persons or circumstances shall not be affected thereby.

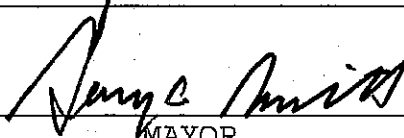
**SECTION FOUR:** The City Clerk is hereby authorized and directed to publish this Ordinance in pamphlet form as provided by law.

**SECTION FIVE:** This ordinance is enacted pursuant to the home rule authority granted to the City of Galesburg.

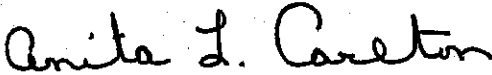
**SECTION SIX:** This ordinance shall become effective on April 1, 2007.

PASSED: February 5, 2007

APPROVED: February 5, 2007

  
MAYOR

ATTEST:

  
CITY CLERK

Roll Call #7: Ayes: Council Members Spah, Kendall, Vasquez, Payton, Lafferty,  
Paulsgrove and Mayor Smith, 7  
Nays: Alderman Allen, 1  
Absent: None