

ORDINANCE NO. 20-\_\_\_\_\_

**AN ORDINANCE AMENDING SECTION 11 (HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND HOME RULE MUNICIPAL SERVICE OCCUPATION TAX) AND SECTION 9 (FOOD AND BEVERAGE TAXES) OF CHAPTER 1 (MUNICIPAL OCCUPATION TAXES), TITLE 3 (BUSINESS AND LICENSE REGULATIONS), OF THE NAPERVILLE MUNICIPAL CODE**

**WHEREAS**, the City of Naperville is a home rule unit of local government pursuant to the provisions of Article VII, Section 6 of the Constitution of the State of Illinois; and

**WHEREAS**, pursuant to Article VII, Section 6(a), of the Illinois Constitution, the City of Naperville ("City") may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare which includes the broad general power to tax; and

**WHEREAS**, under the its home rule authority, the City has imposed a Home Rule Sales Tax and Food and Beverage Taxes for the purposes of funding certain functions specifically defined by City code; and

**WHEREAS**, the worldwide health emergency created by the COVID-19 virus has presented unforeseen fiscal challenges resulting from declining revenues across several City funds, and the City now seeks added flexibility in the expenditure of taxes collected under the Home Rule Sales Tax and Food and Beverage Taxes; and

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS**, in exercise of its home rule authority that:

**SECTION 1:** The Recitals set forth above are incorporated herein in their entirety by reference.

**SECTION 2:** Title 3 (Business and License Regulations), Chapter 1 (Municipal Occupation Taxes), Section 11 (Home Rule Municipal Retailers' Occupation Tax and Home Rule Municipal Service Occupation Tax) of the Naperville Municipal Code is hereby amended by deleting the stricken language and adding the underlined language as follows:

**3-1-11: - HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX AND HOME RULE MUNICIPAL SERVICE OCCUPATION TAX:**

1. Tax Imposed: A tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of the government of the State of Illinois, at retail in the City of Naperville at the rate of three-quarters of one percent (0.75%) of the gross receipts from such sales made in the course of such business while this section is in effect; and a tax is hereby imposed upon all persons engaged in the City of Naperville in the business of making sales of service, at the rate of three-quarters of one percent (0.75%) of the selling price of all tangible personal property transferred by such serviceman as an incident to a sale of service. This "Home Rule Municipal Retailers' Occupation Tax" and this "Home Rule Municipal Service Occupation Tax" shall not be applicable to the sales of food for human consumption which is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption) and prescription and non-prescription medicines, drugs, medical appliances and insulin, urine testing materials, syringes and needles used by diabetics.

~~The taxes imposed by this section shall terminate on January 1, 2020, unless extended by the City Council by October 1, 2019.~~ The taxes imposed by this section shall be used for the purpose of funding capital projects, reducing debt obligations, and replenishing cash reserves, except that during the 2020 and 2021 budget years, taxes may be used for other purposes as deemed necessary and appropriate by the City Council.

The imposition of these home rule taxes is in accordance with and subject to the provisions of Sections 8-11-1 and 8-11-5, respectively, of the Illinois Municipal Code (65 ILCS 5/8-11-1 and 5/8-11-5).

2. Illinois Department of Revenue to Administer: The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Department of Revenue shall have full power to administer and enforce the provisions of this section.

**SECTION 3:** Title 3 (Business and License Regulations), Chapter 1 (Municipal Occupation Taxes), Section 9 (Food and Beverage Taxes) is hereby amended by adding the underlined language as follows:

**3-1-9: - FOOD AND BEVERAGE TAXES:**

1. Definitions: through 3. Exemptions: \* \* \*
4. Collection Of Tax(es) By Retailer: The owner and the operator of each retail food facility and each retail liquor facility within the City shall jointly and severally have the duty to collect and account for said tax(es) from each purchaser at the time that the consideration for such purchase is paid.

Distribution of Collected Food and Beverage Taxes shall be as follows:

4.1. Recovery of the City's costs attributable to the collection of the food and beverage tax shall first be distributed, thereafter, seventy-five percent (75%) of the taxes collected pursuant to the food and beverage tax imposed herein, up to a maximum of one million nine hundred thousand dollars (\$1,900,000.00) a year shall be contributed to the Special Events and Cultural Amenities (SECA) Grant Program which will increase annually beginning in 2019 at the lesser of a two-percent (2%) flat rate or the Chicago-Naperville-Elgin, Ill.-Ind.-Wis. Consumer Price Index (CPI) rate; and at least twenty-five percent (25%) of the taxes collected pursuant to the food and beverage tax imposed herein shall be split equally and contributed to the Naperville Police Pension Fund and the Naperville Firefighters Pension Fund, and said contribution may be used to meet the City's legally required funding obligations or to exceed the City's legally required funding obligations for the Pension Funds in any given year. Any remaining revenue available shall be first used as additional funding for the City's Social Service Grant Program up to a maximum of five hundred thousand dollars (\$500,000.00); and any remaining revenue above that level will be used to reduce the City's long term debt obligations. During the 2020 and 2021 budget years, City Council may authorize an alternative distribution of taxes as deemed necessary and appropriate.

5. Book and Records: through 10. Violations: \* \* \*

**SECTION 4:** If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance or resolution.

**SECTION 5:** This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

AYES:

NAYS:

ABSENT:

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

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Steve Chirico  
Mayor

ATTEST:

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Pam Gallahue, Ph.D.  
City Clerk