

CITY OF O'FALLON, ILLINOIS
ORDINANCE NO. _____

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

WHEREAS, the Illinois Secretary of State on April 7, 2006 certified the City of O'Fallon as a Home Rule Unit by population pursuant to 65 ILCS 5/1-7-2.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AS FOLLOWS:

Section 1. Tax on the Sale of Food and Beverages Prepared for Immediate Consumption.

A. Definitions. As used in this Ordinance, unless the context otherwise requires, the following words shall have the meaning ascribed to them:

1. "Person" means any individual, firm, unincorporated association, partnership, joint venture, limited partnership, corporation, representative, or other entity;
2. "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;
3. "Business" shall refer to any commercial establishment who holds an F-1 or F-4 (F-4a through F4f) St. Clair County Food Service Sanitation Permit.
4. "Food and beverages prepared for immediate consumption" shall mean any food and/or beverages prepared at any commercial establishment who holds a St. Clair County Food Service Sanitation Permit as follows:

F-1. Taverns and bars selling liquor only, prepackaged food and/or non-potentially hazardous foods*. (Taverns and bars with kitchens, see F4) *Potentially hazardous foods include milk or milk products, eggs, meat, poultry, fish, etc., in a form capable of supporting rapid growth of micro-organisms.

F-2. Ice cream parlors which sell ice cream, sherbet, and like products only, self-contained push carts.

F-3. Carry-out establishments, catering, drive-in window service, mobile or similar operations without seating.

F-4. Food service establishments with seating capacity:

F-4 a	1-9	F-4d	31-60
F-4b	10-20	F-4e	61-100
F-4c	21-30	F-4f	101 or more

“Food and beverages prepared for immediate consumption” shall exclude items sold at:

(a) 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 or total sales of food and beverages are less than \$5,000.00 per year.

(b) Places of business that are commonly referred to as “farm produce stands”.

(c) Those organizations that are exempt from Sales Tax by the Illinois Department of Revenue shall be exempt from the City’s Food and Beverage Tax. A copy of the Sales Tax Exemption letter issued by the Illinois Department of Revenue may be required as proof of status.

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 City of O'Fallon. Every person engaged in the retail business of selling food and beverages for immediate consumption within the City shall file with the City of O'Fallon, Finance Department, on or before the last day of each month following the period to which they apply a report in the form required by the Finance Department 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 120/3 of Chapter 35 of the Illinois Compiled Statutes, as amended, (commonly known as the sales tax return) showing the total retail sales made by such person for the preceding calendar month. Business will authorize release of sales tax information to the City.

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 Article, and to insure compliance with this Article. It shall be unlawful and a violation of this Article 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 ¼%) per month from the date of delinquency shall be added and collected.

Section 7. Violations. Any person found guilty of violating any provision of the Article, 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. Passage. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Upon its passage and approval, this Ordinance shall be in full force and effect ten (10) days after its publication in pamphlet form as required by law.

Passed by the City Council this _____ day of _____ 2006.

ATTEST:

Approved by the Mayor this _____ day

(seal)

of _____ 2006.

Philip A. Goodwin, City Clerk

Gary L. Graham, Mayor

ROLL CALL:	Grogan	Schmidt	True	Henry	Reckamp	Medford	Bequette	SUB TOTALS
Aye								
Nay								
Absent								

ROLL CALL:	Mouser	Renner	Bennett	Boone	Drolet	Albrecht	West	SUB TOTALS	SUM OF TOTALS
Aye									
Nay									
Absent									