



**AGENDA**  
**FINANCE AND ADMINISTRATION COMMITTEE**  
**Monday, August 24, 2015**  
**5:30 PM**  
**Public Safety Building**

**I) Roll Call**

(Mike Bennett, Chairman, Jerry Albrecht, Vice-Chair, Gene McCoskey, Herb Roach, Ned Drolet, Bob Kueker, Matt Smallheer)

**II) Approval of Minutes from Previous Meeting June 22, 2015**

*Note: All recently approved committee minutes posted on official City website: <http://www.ofallon.org>*

**III) Items Requiring Council Action**

- A. Ordinance Amending Food and Beverage Ordinance # 3453

**IV) Other Business:**

- A. Council and Committee Meeting Rules
- B. Update on Bond Issuance
- C. Budget meetings starting September 28

**V) Informational Purposes Only- No Action/Discussion Required**

- A. Treasurer's Report as of 7/31/15

**VI) Adjournment**

**NEXT MEETING: September 28, 2015**

**General Citizen Comments:** The City of O'Fallon welcomes comments from our citizens. The Illinois Open Meetings Act provides an opportunity for citizens to speak at all committee and Board meetings. However, 5 ILCS 120/1 mandates that NO action shall be taken on matters not listed on the agenda. Please submit your name to the chairman and limit your comments so that anyone present has the opportunity to speak.

## Taxation

### § 35.072 APPLICATION.

This subchapter shall be liberally construed and administered to supplement all of the city's tax ordinances. To the extent that any tax ordinance is in conflict with or inconsistent with this subchapter, this subchapter shall be controlling.

(1999 Code, § 35.72) (Ord. 3039, passed 1-2-2001)

### **TAX ON SALE OF FOOD AND BEVERAGES PREPARED FOR IMMEDIATE CONSUMPTION**

### § 35.085 DEFINITIONS.

For purposes of this subchapter, the following definitions shall apply unless the context clearly indicates of or requires a different meaning.

**BUSINESS.** ~~Any commercial establishment who holds an F-1 or F-4 (F-4a through F-4f) county food service sanitation permit.~~

**FARM PRODUCE STAND.** ~~Those temporary and sometimes semi-permanent stands utilized by farmers and other produce growers to sell primarily their own products in season.~~

### **FOOD AND BEVERAGES PREPARED FOR IMMEDIATE CONSUMPTION.**

Unless otherwise exempted herein, any food and/or beverages prepared at any commercial food service establishment ~~who~~ which is required to hold a St. Clair county food service sanitation permit, as follows:

Such prepared food or beverage may be purchased for consumption within or upon the premises where it is sold or may be purchased for consumption off the premises. However, with respect to food and/or beverages purchased for consumption off the premises where same are sold at retail, "food and/or beverage" does not include any food and/or beverage which is sold, in a closed or sealed bottle, can, carton, or container of the manufacturer or wholesaler, or which has not been prepared for

immediate consumption. Notwithstanding any other provisions of this Section, "prepared food" also does not include any food sold through a coin operated automatic food item dispensing machine, or by wholesalers, churches, public or private schools, daycare centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered to and consumed at private residences of the elderly or the disabled.

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

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

~~(c) F-3. Carry out establishments, catering, drive-in window service, mobile or similar operations without seating; and~~

~~(d) F-4. Food service establishments with seating capacity:~~

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

**FARM PRODUCE STAND.** Those temporary and sometimes semi-permanent stands utilized by farmers and other produce growers to sell primarily their own products in season.

**SOLD AT RETAIL.** To sell for use or consumption in exchange for consideration, whether in the form of money, credits, barter or any other nature and not for resale, with said transaction being subject to either the Illinois Retailers Occupation Tax (35 ILCS

120/1 et. seq.) or the Illinois Service Occupation Tax (35 ILCS 115/1 et. seq.).

**FOOD SERVICE ESTABLISHMENT.** Any person which sells at retail, food prepared for immediate consumption, whether consumed on premises or not, and whether or not such food service establishment use is conducted along with any other use(s) in a common premise or business establishment including, but not limited to those establishments commonly described as a restaurant, eating place, drive in restaurant, buffet, bakery, banquet facility, cafeteria, café, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, ice cream parlor, delicatessen, quick shop, convenience store, mobile food or beverage vehicles, hospitals, hotel, motel, club or any other establishment which sells, at retail, food which has been prepared for immediate consumption.

The term Food Service Establishment does not include farm produce stands, coin operated automatic food item dispensing machines, wholesalers, churches, public or private schools, daycare centers, nursing homes, retirement centers or similar residential care facilities or programs for the central preparation of meals to be delivered to and consumed at private residences of the elderly or the disabled and those persons that are exempt from the Illinois Retailers Occupation Tax (35 ILCS 120/1 et. seq.) or the Illinois Service Occupation Tax (35 ILCS 115/1 et. seq.).

**(2) 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 10% of the total sales of the business on an annual basis or total sales of food and beverages are less than \$5,000 per year;~~

(b) ~~Places of business that are commonly referred to as FARM PRODUCE STANDS; and~~

(c) ~~Those organizations that are exempt from sales tax by the State 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 State Department of Revenue may be required as proof of status.~~

**PERSON.** Any individual, firm, unincorporated association, partnership, joint venture, limited partnership, corporation, limited liability company, representative or other entity.

(1999 Code, § 35.75) (Ord. 3453, passed 6-19-2006)

#### § 35.086 IMPOSITION OF TAX.

A tax is hereby ~~un~~imposed upon all retail sales of food and beverages that have been prepared for immediate consumption within the city at the rate of 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.

(1999 Code, § 35.76) (Ord. 3453, passed 6-19-2006)

#### § 35.087 SALES TAX RETURNS TO CITY.

Every person engaged in the retail business of selling food and beverages for immediate consumption within the city shall file with the City 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.

(1999 Code, § 35.77) (Ord. 3453, passed 6-19-2006)  
Penalty, see § 35.999

#### § 35.088 SALES TAX RETURNS TO STATE.

Every report filed under § 35.087 of this subchapter 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 State Department of Revenue pursuant to ILCS Ch. 35, Act 120, § 3, as amended, (commonly known as the sales tax return) showing the total retail sales made by such person for the preceding calendar month. ~~If more than one location is reflected on the sales tax return, the multi-jurisdictional form must also be submitted. Business~~ The person will authorize release of sales tax information to the city.

Deleted: B

(1999 Code, § 35.78) (Ord. 3453, passed 6-19-2006)  
**§ 35.089 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 State Department of Revenue for retail sales generally. The City ~~Treasurer~~ Director of Finance 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 subchapter, and to ensure compliance with this subchapter. It shall be unlawful and a violation of this subchapter for any person to hinder, interfere with or prevent the City ~~Treasurer~~ Director of Finance or authorized representative from performing his or her duties hereunder.

(1999 Code, § 35.79) (Ord. 3453, passed 6-19-2006)  
Penalty, see § 35.999

*Cross reference:*

*Food industry, see Cll. 112*

**§ 35.090 LATE PAYMENT PENALTY.**

If any tax imposed by this Section is not paid when due, a late payment penalty equal to five percent (5.0%) of the unpaid tax shall be added for each month or any portion thereof, that the tax remains unpaid and the late payment penalty shall be paid along with the tax imposed.

**§ 35.091 SUSPENSION OF LICENSES.**

In addition to any other penalties provided for in the O'Fallon Code of Ordinances, if the Mayor, after a hearing held by him or for him by his designee, shall find that any person has willfully avoided the payment of any tax imposed by this Chapter, he or she shall suspend or revoke all Municipal licenses held by such person. The person shall have an opportunity to be heard at such hearing to be held not less than five (5) days after being notified of the hearing by registered or certified mail, at the person's address on record with the City. The notice shall state the date, time and place of the hearing. Any suspension or revocation of any license(s) shall not release or discharge the person from civil liability for payment of the tax nor from prosecution for such offense.

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## Council and Committee Rules

1. Speakers will be acknowledged by the Mayor/Committee Chairman and shall address the City Council/Committee in a respectful manner from the podium and not approach the City Council/Committee. Speakers will begin their statement by first stating their name and whether or not they are a resident of the City of O'Fallon. A speaker who represents an organization or other person, must identify the organization or person.
2. The opportunity to speak to the City Council/Committee is provided for those who have a question or comment on an agenda item or City related matter. However the Mayor/Committee Chairman retains the right to stop any speaker who addresses matters that are not on the agenda.
3. Statements are to be directed to the City Council/Committee as a whole and not to individual Council/Committee members or individual City staff.
4. A speaker shall speak no longer than three (3) minutes on any subject matter and shall only speak once on the same subject matter. A speaker may not donate any portion of his/her unused time to another speaker.
5. After a speaker has made his/her statement, he/she shall be seated with no further debate, dialog or comment.
6. Public comment is not intended to require the City Council/Committee members or City staff to provide any answer to the speaker.
7. If the Mayor, an Alderman, Committee Chairman or Committee Member ~~an Alderman~~ has a question of any person who has previously addressed the Council/Committee, that person may answer and address the specific question even though he or she has previously address the Council/Committee.

8. Discussions between speakers and members of the audience will not be allowed.
9. There shall be no applause, ~~or~~ verbal or vocal response by members of the audience as to any comment or statement made a speaker, Council member, Mayor or member of the City Administration.
10. There shall be no floor discussions between members of the audience.
11. Speakers shall be courteous and shall not make statements that are personally disrespectful ~~on~~ or condescending to the Mayor, City Council or member of the City administration.
12. The Mayor/Committee Chairman reserves the right to stop or remove, from the Council chambers/committee meeting room, any speaker who uses profanity, makes threats or is otherwise abusive or disruptive.
13. The public has the right to distribute written materials, including copies of comments which material shall be presented to the City Clerk. If the speaker presents comments in writing to the City Council, he/she shall not read the comments.
14. The general public shall not be permitted to bring signs, banners or other display materials into the ~~City~~ Council chambers or Committee meeting room.
15. Cellular telephones, electronic beepers and pagers that emit a paging or telephone sound, shall be allowed in the Council chambers/Committee meeting room, provided the device is turned off or on "silent" mode.
16. Other than as provided herein, no person other than the Mayor, Council member, City Clerk, City Administrator or City Attorney, shall address the Council/Committee during a Council/Committee meeting.
17. The Mayor or the City Council, by majority vote, reserves the right to override the above rules in the case of an emergency or other unforeseen circumstances.



Treasurer's Report  
Cash Reserve Balance of Major Funds

**General Fund**

Cash on Hand as of 7/31/15	\$ 10,645,940.08
3 mos. operating reserve	\$ (3,940,916.25)
10% emergency reserve	\$ (1,064,594.01)
Obligated Transfers Budget 2016	\$ (1,893,400.00)
	<u>\$ 3,747,029.82</u>

**Ambulance**

Cash on Hand as of 7/31/15	\$ 3,427,392.02
3 mos. operating reserve	\$ (624,338.75)
10% emergency reserve	\$ (342,739.20)
	<u>\$ 2,460,314.07</u>

**Fire**

Cash on Hand as of 7/31/15	\$ 3,061,698.57
3 mos. operating reserve	\$ (480,190.00)
10% emergency reserve	\$ (306,169.86)
Obligated Transfers Budget 2016	\$ (177,295.00)
	<u>\$ 2,098,043.71</u>

**Parks**

Cash on Hand as of 7/31/15	\$ 1,469,532.29
3 mos. operating reserve	\$ (955,886.25)
10% emergency reserve	\$ (146,953.23)
Obligated Transfers Budget 2016	\$ (272,235.00)
	<u>\$ 94,457.81</u>

**Prop S**

Cash on Hand as of 7/31/15	\$ 3,362,858.37
3 mos. operating reserve	\$ (457,250.00) *
10% emergency reserve	\$ (336,285.84)
Obligated Transfers Budget 2016	\$ (991,360.00)
	<u>\$ 1,577,962.53</u>

**MFT**

Cash on Hand as of 7/31/15	\$ 3,772,056.54
3 mos. operating reserve	\$ (473,750.00)
10% emergency reserve	\$ (377,205.65)
Obligated Transfers Budget 2016	\$ (1,094,000.00)
	<u>\$ 1,827,100.89</u>

**Water**

Cash on Hand as of 7/31/15	\$ 5,417,212.58
3 mos. operating reserve	\$ (2,486,265.00) *
10% emergency reserve	\$ (541,721.26)
Obligated Transfers Budget 2016	\$ (1,220,065.00)
	<u>\$ 1,169,161.32</u>

**Sewer**

Cash on Hand as of 7/31/15	\$ 3,309,363.05
3 mos. operating reserve	\$ (1,425,037.50) *
10% emergency reserve	\$ (330,936.31)
Obligated Transfers Budget 2016	\$ (1,678,150.00)
	<u>\$ (124,760.76)</u>

**Library**

Cash on Hand as of 7/31/15	\$ 1,979,716.75
3 mos. operating reserve	\$ (285,767.50) *
10% emergency reserve	\$ (197,971.68)
Obligated Transfers Budget 2016	\$ (1,250,000.00)
	<u>\$ 245,977.58</u>

**Hotel/Motel**

Cash on Hand as of 7/31/15	\$ 970,912.30
3 mos. operating reserve	\$ (234,057.50)
10% emergency reserve	\$ (97,091.23)
Obligated Transfers Budget 2016	\$ (195,930.00)
	<u>\$ 443,833.57</u>

**Park Land Fund Subdivision**

Cash on Hand as of 7/31/15	\$ 268,833.60
3 mos. operating reserve	\$ (7,512.50)
10% emergency reserve	\$ (26,883.36)
	<u>\$ 234,437.74</u>

**Annex Fees**

Cash on Hand as of 7/31/15	\$ 815,074.63
3 mos. operating reserve	\$ (37,500.00)
10% emergency reserve	\$ (81,507.46)
	<u>\$ 696,067.17</u>

**Strategic Plan Fund\*\*\***

Cash on Hand as of 7/31/15	\$ 777,345.38
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\*\*\*Includes proceeds from Ameren's settlement, sale of cell tower, Kyle Road property & \$200K Menards

Note: 3 mos operating reserve calculated by using FY 2016 budget

\*(Some 3 mos reserve amounts adjusted to reflect "normal" expenses, not extraordinary- reduced by transfer from reserve amount)