

**VILLAGE OF DOWNERS GROVE**  
**Report for the Village**  
**7/18/2017**

<b>SUBJECT:</b>	<b>SUBMITTED BY:</b>
Adopt a 1% Food and Beverage Tax	David Fieldman Village Manager

**SYNOPSIS**

An ordinance has been prepared to adopt a 1% Food and Beverage Tax.

**STRATEGIC PLAN ALIGNMENT**

The goals for 2015-2017 include *Continual Innovation, Exceptional Municipal Services and Steward of Financial, Environmental and Neighborhood Sustainability*.

**FISCAL IMPACT**

The 1% Food and Beverage Tax is expected to generate \$1.5 million per year for the General Fund. The tax, if approved, would go into effect January 1, 2018.

**UPDATE & RECOMMENDATION**

This item was discussed at the July 11, 2017 Village Council meeting. Staff recommends approval at the July 18, 2017 Village Council meeting.

**BACKGROUND**

The Village, along with many other municipalities, is experiencing declining sales and income tax revenues. Sales and income taxes are a large portion of the Village's General Fund revenue base, 35% in 2016. The total decline represented by the loss of revenues in both sales and income tax is estimated at \$1.3 million for fiscal year 2017. Actions have been taken in both the short and long-term to address these declines. In the short term, the Village has implemented \$1.3 million in expense reductions for 2017 in order to maintain a balanced General Fund budget. These expense reductions if continued will eventually affect the Village's financial sustainability. In the long-term to achieve General Fund sustainability, the 1% Food and Beverage tax is being proposed.

This tax would apply to the purchase price of alcohol, packaged liquor, prepared foods and non-alcoholic beverages for immediate consumption. This tax is estimated to bring in about \$1.5 million every year and is a growing tax base. The table below represents what a 1% tax would have yielded over the most recent seven-year period based on the data provided by the State on drinking and eating establishments in the Village.

Drinking and Eating Establishments				
Year	Amount	Increase	% Increase	Revenue at 1%
2010	\$119,328,000			\$1,193,280
2011	\$125,270,000	\$5,942,000	4.98%	\$1,252,700
2012	\$128,369,000	\$3,099,000	2.47%	\$1,283,690
2013	\$132,809,000	\$4,440,000	3.46%	\$1,328,090
2014	\$137,168,000	\$4,359,000	3.28%	\$1,371,680
2015	\$143,236,000	\$6,068,000	4.42%	\$1,432,360
2016	\$150,194,000	\$6,958,000	4.86%	\$1,501,940

Review of sales of prepared foods over this time period shows a steady growth rate of 4.3% each year. This growth is expected to continue as trends in purchasing have shifted away from brick and mortar store purchases to experiences like dining out. Additionally, other nearby communities have implemented a similar tax: Lombard - 2%, Elmhurst - 1%, Westmont - 1.5% and Naperville - 1% (with 2% in the downtown).

The tax will be applied to any establishments licensed under Chapter 3 of the Village Municipal Code to sell alcohol. Other entities such as restaurants and coffee shops will be taxed. Additionally, the ordinance will exempt those entities that are exempt under the retailers' occupation tax. For more information on entities that will or will not be taxed, please see the attached FAQ document.

To collect the tax, a registration form will be mailed to all appropriate businesses. The form will require general ownership and address information for the business. This information will be entered into a database. A return form will also be mailed to all appropriate businesses. This return form will be used to submit the monthly tax revenues to the Village. The business will also need to return additional tax documents with their monthly submission. The first collection of revenues would be due in February for January 2018 sales.

The attached ordinance also updates and makes several housekeeping amendments to other portions of Chapter 21.

#### **ATTACHMENTS**

Ordinance  
 Food and Beverage FAQ  
 Food and Beverage Tax Registration Form  
 Food and Beverage Tax Return Form

# VILLAGE OF DOWNERS GROVE COUNCIL ACTION SUMMARY

**INITIATED:** Village Attorney **DATE:** July 18, 2017  
(Name)

**RECOMMENDATION FROM:** \_\_\_\_\_ **FILE REF:** \_\_\_\_\_  
(Board or Department)

**NATURE OF ACTION:**

**STEPS NEEDED TO IMPLEMENT ACTION:**

- Ordinance
- Resolution
- Motion
- Other

Motion to Adopt "AN ORDINANCE ESTABLISHING A FOOD AND BEVERAGE TAX", as presented.



**SUMMARY OF ITEM:**

Adoption of the attached ordinance shall establish a 1% food and beverage tax effective January 1, 2018.

**RECORD OF ACTION TAKEN:**

---



---



---

## Food &amp; Bev Tax

## ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE ESTABLISHING A FOOD AND BEVERAGE TAX**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by **shading/underline**; deletions by ~~strikeout~~):

**Section 1. That Section 21.600SEC. is hereby amended to read as follows:****21.600SEC. Definitions.**

For the purpose of this Article, the following words as used herein shall be construed to have the meanings herein ascribed:

*Director.* ~~The Senior Director of Finance and Administrative Services~~ **Village Treasurer** for the Village of Downers Grove, or any person certified by him as his/her designee, deputy or representative.

*Hotel.* Any building or buildings in which the public may, for rent, obtain living quarters, sleeping or housekeeping accommodations. The term includes, inns, motels, hotels, clubs, tourist homes or courts, lodging houses, rooming houses and apartment houses.

*Hotel Room.* Any room or rooms with living quarters, sleeping or housekeeping accommodations and offered for rental on a daily or weekly basis, or any fraction thereof, including but not limited to hourly or half day rentals.

*Owner.* Any person having an ownership interest in or conducting the operation of a hotel or receiving the consideration for the rental of hotel rooms.

*Permanent Resident.* Any person who has occupied or has the right to occupy any hotel room in a hotel for at least thirty (30) consecutive days.

**Section 2. That Section 21.603. is hereby amended to read as follows:****21.603. Reporting; Transmittal; Delinquency; Penalty.**

1. Monthly Reporting: On or before the last day of each calendar month, the Owner or Owners of each Hotel within the Village shall file a monthly tax return showing tax receipts received with respect to each Hotel Room during the prior month. The return shall include:

- a. Name
- b. Location of Hotel
- c. Gross receipts during the prior month upon the basis of which the tax is imposed
- d. Amount of the tax
- e. Such other reasonable and related information as the Director may from time to time require

2. Monthly Payment: The tax shall be due on the day the monthly return is due as provided herein. At the time of filing such returns, the Owner shall pay to the Director all taxes, interest and penalties, if any, due for the period to which the return applies; provided, however, the establishment making the monthly return may retain an amount of money equal to three percent (3%) of the tax due as compensation for services rendered in the collection and payment of such tax.

3. Penalty: If for any reason any tax is not paid when due, a penalty at the rate of one percent (1%) per thirty (30) day period, or any portion thereof, shall be added and collected.

**(a) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) 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.**

**(b) Each day upon which a person shall continue any violation of this Article, or permit any such violation to**

## Food &amp; Bev Tax

~~exist after notification thereof, shall constitute a separate and distinct offense.~~

~~(c) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.~~

**Section 3. That Section 21.800ART. is hereby amended to read as follows:**

**21.800ART. Article VIII. Telecommunications Tax**

**Section 4. That Section 21.804. is hereby amended to read as follows:**

**21.804. Returns to Department.**

On or before the last day of August, 2003, and on or before the last day of every month thereafter, the tax imposed under this Ordinance on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to the Illinois Simplified Municipal Telecommunications Tax Act (~~Public Act 92-526, Section 5-5035~~ ILCS 635/1 *et seq.*) and any accompanying rules and regulations created by the Department to implement the Act.

**Section 5. That Section 21.806. is hereby amended to read as follows:**

**21.806. Reserved.**

~~Rebates and exemptions.~~

~~— This Article is optional and each subsection can be adopted or not allowing for the following rebates and exemptions which must be paid to the entity claiming the rebate by the municipality:~~

~~(1) — To the extent that the municipality's territory includes part of another unit of local government or a school district, the municipality may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by the other unit of local government or school district. Any such rebate shall be paid by the municipality directly to the other unit of local government or school district qualifying for the rebate as determined by the municipality's ordinance, which shall not be filed with the Department.~~

~~(2) — The municipality may, by separate ordinance, rebate some or all of the amount of the tax authorized by this Ordinance paid by persons 65 years of age or older. Any tax related to such rebate shall be rebated from the municipality directly to persons qualified for the rebate as determined by the municipality's ordinance, which shall not be filed with the Department.~~

**Section 6. That Section 21.808. is hereby amended to read as follows:**

**21.808. through 21.899. Reserved**

~~Effective Date.~~

~~This Ordinance shall be in full force and effect from and after its passage and approval and publication as required by law, provided, however, that (1) Section 2 and Section 3 shall take effect for all bills issued on or after January 1, 2003, (2) the tax provided for herein shall take effect for all bills issued on or after the first day of July, 2003 and (3) any amounts due or payable to the municipality for any tax periods ending prior to the first day of January, 2003, shall nevertheless remain payable as if this Ordinance had not been adopted. Copies of this Ordinance shall be certified and sent to the Illinois Department of Revenue prior to April 1, 2003.~~

**Section 7. Section 21.809. is hereby repealed in its entirety**

**21.809. through 21-899. Reserved.**

## Food &amp; Bev Tax

**Section 8. Section 21.900SEC. is hereby repealed in its entirety**

**21.900SEC. Reserved.**

**Section 9. That Section 21.900ART. is hereby amended to read as follows:**

**21.900ART. Article IX. FOOD AND BEVERAGE TAX**

**Section 10. That Section 21.901. is hereby amended to read as follows:****21.901. General.**

This Article 21.900 shall be known and cited as the Village of Downers Grove Food and Beverage Tax Ordinance. The tax imposed by this Article 21.900 shall be known as the "Downers Grove Food and Beverage Tax" and is imposed in addition to all other taxes imposed by the Village of Downers Grove, the State of Illinois, or any other municipal corporation or political subdivision thereof.

**Section 11. That Section 21.902. is hereby amended to read as follows:****21.902. Definitions.**

For purposes of this Article, the following definitions shall apply:

*Beverages.* All alcoholic and non-alcoholic beverages.

*Owner.* Any person having an ownership interest in or conducting the operation of a Retail Food Facility and/or Retail Liquor Facility.

*Person.* Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of court, or other legally recognized entity.

*Prepared food.* Any and all commodities, whether solid, semi-solid, or liquid (including both alcoholic and non-alcoholic liquid) used or intended to be used for human consumption, enjoyment or nourishment of the human body, whether simple compound or mixed and which has been prepared for immediate consumption.

*Purchase/Sale at Retail.* To obtain food, beverages and alcoholic liquor 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, with said transaction being subject to either the Illinois retailers' occupation tax or the Illinois service occupation tax.

*Retail Food Facility.* Includes any place at which food items or beverages are served and/or prepared for immediate consumption by a business which provides for on premise consumption of said food or beverages, including, but not limited to, those establishments commonly called an inn, restaurant, eating place, drive-through restaurant, bakery, confectionery, buffet, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tearoom, delicatessen, banquet facility, movie theater, hotel, motel or club. Where a facility is only partially intended to permit on site consumption of food (such as a grocery store with a prepared food service area), only that portion of the facility selling prepared food shall be considered a Retail Food Facility.

*Retail Liquor Facility.* Any establishment licensed under Chapter 3 of the Downers Grove Municipal Code with respect to the sale of liquor.

## Food &amp; Bev Tax

Retailer. A person who sells, or offers for sale, food, beverages and alcoholic liquor for use or consumption and not for resale.

**Section 12. That Section 21.903. is hereby amended to read as follows:****21.903. Tax Imposed.**

(A) Commencing on January 1, 2018, a tax is hereby imposed upon the privilege of the retail purchase of alcoholic liquor, food or beverages at any "Retail Food Facility" or "Retail Liquor Facility", as herein defined, within the Village of Downers Grove, at the rate of one percent (1%) of the purchase price of such alcoholic liquor, food or beverage, the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

(B) The tax herein levied shall be paid in addition to any and all other taxes and charges.

(C) The owner and operator of each Retail Food Facility and each Retail Liquor Facility within the Village shall be entitled to withhold from tax collections a service fee of two percent (2%) of the amounts collected and timely remitted to the Village. No service fee may be claimed or withheld by any owner or operator for taxes not timely remitted to the Village.

**Section 13. That Section 21.904. is hereby amended to read as follows:****21.904. Exemptions.**

No such tax shall be levied or imposed upon purchasers for the privilege of purchasing:

(A) Food and beverages which are exempt from tax under the provisions of the retailers' occupation tax or the Illinois service occupation tax, as amended from time to time.

(B) Prepared food items for immediate consumption purchased in hermetically sealed containers and not reasonably expected or intended by the seller for immediate on-premise consumption.

(C) Prepared food items for immediate consumption purchased at employee cafeterias, when entrance to such cafeteria is limited to employees and guests of employees.

(D) Prepared food items for immediate consumption purchased from institutions such as churches, day care establishments, residential halls, fraternities, sororities, schools, government entities, hospitals, nursing homes and other medical treatment centers and transitional shelters.

(E) Food or beverages purchased from vending machines or mobile food vendors.

(F) Food and beverages purchased from vendors at community wide festivals and events.

**Section 14. That Section 21.905. is hereby amended to read as follows:****21.905. Collection of taxes by Retailer.**

The owner and operator of each Retail Food Facility and each Retail Liquor Facility within the Village shall jointly and severally have the duty to collect and account for said tax(es) from each purchaser at the time the consideration for such purchase is paid.

**Section 15. That Section 21.906. is hereby amended to read as follows:****21.906. Books and Records; Inspections; Content.**

(A) Each person required to pay the tax provided for hereunder shall, personally or through his/her authorized agents, maintain complete books and records covering the operation of the Retail Food Facility and Retail Liquor Facility so taxed, indicating therein all receipts from the operation of said facilities. Said records shall include the gross receipts for sales of food, beverages and alcoholic liquor and taxes collected each day pursuant to the food and beverage tax, purchase orders, invoices and receipts, and other documents listing, summarizing or pertaining to the transactions that gave rise, or may have given rise, to the tax liability or

## Food &amp; Bev Tax

exemption that may be claimed and copies of the Illinois retailers' occupation tax and Illinois service occupation tax returns filed with the Illinois Department of Revenue (IDOR). Such books shall be maintained on the premises and shall be subject to inspection by the Village and its duly authorized agents at all reasonable hours during business hours of the day.

(B) No person shall prevent, hinder or interfere with the Village and its duly authorized agent(s) in the discharge of his/her duties in the performance of this Article.

**Section 16. That Section 21.907. is hereby amended to read as follows:**

**21.907. Filing of Return.**

The owner and the operator of each Retail Food Facility and Retail Liquor Facility within the Village shall jointly and severally file a sworn return with the Village Treasurer for each such facility. Said return shall be prepared and submitted on forms prescribed by the Village. Said return shall be filed or postmarked (either of which shall constitute timely payment) and on or before the twenty-fifth (25th) day of each calendar month. Said return shall also be accompanied by payment to the Village of all taxes imposed by this Article which are due and owing for the period covered by said return. Said return shall also be accompanied with a copy of the retailers' occupational tax form, form ST-1 filed with IDOR covering the same reporting period.

**Section 17. That Section 21.908. is hereby amended to read as follows:**

**21.908. Late Payment and Other Penalties.**

(A) If the tax imposed herein is not paid when due, a late payment penalty at the rate of one percent (1%) per thirty (30) day period, or portion thereof, shall be imposed and added and collected.

(B) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) 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.

(C) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(D) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

**Section 18. That Section 21.909. is hereby amended to read as follows:**

**21.909. Transmittal of Excess Tax Collection.**

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

**Section 19. That Section 21.910. is hereby added to read as follows:**

**21.910. Registration.**

Every owner and operator of any Retail Food Facility and Retail Liquor Facility within the Village shall register with the Village Treasurer on a form prescribed by the Village no later than October 1, 2017, or the date of becoming such an owner and operator, whichever is later. In addition, the failure to collect, account for and pay over said tax and any penalty shall be cause for suspension or revocation of any

## Food &amp; Bev Tax

Village license or permit issued for such Retail Food Facility or Retail Liquor Facility or applicable to the premises thereof, all in addition to any other penalties. Pending notice, hearing and finding, in accordance with Article 21.1200, any license possessed by the person may be temporarily suspended. Any suspension or revocation of any license or permit shall not release or discharge the owner or operator from any liability for the payment of the tax nor from prosecution for such offense.

**Section 20. That Section 21.911. is hereby added to read as follows:**

**21.911. Collection of Tax.**

Whenever any person shall fail to pay any tax as herein provided, the Village Attorney shall have the right to bring, or cause to be brought, an action to enforce the payment of the tax(es) on behalf of the Village in any court having competent jurisdiction.

**Section 21. That Section 21.912. is hereby added to read as follows:**

**21.912. Severability.**

If any provision of this Article, the application of any provision of this Article, or the imposition of this tax on any particular transaction, person or item of tangible personal property is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Article or their application to other transactions, persons or items of tangible personal property. It is the express intention of the corporate authorities that each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Article. It is also the express intention of the corporate authorities that if any exemption contained in this Article is held unconstitutional or otherwise invalid, then this Article shall be applied as if such exemption had not been enacted.

**Section 22. That Section 21.913. is hereby added to read as follows:**

**21.913. through 21.999. Reserved.**

**Section 23. That Section 21.1000ART. is hereby amended to read as follows:**

**21.1000ART. Article X. Electricity Tax**

**Section 24. That Section 21.1002. is hereby amended to read as follows:**

**21.1002. Collection of tax.**

Except as provided in Section ~~21-63~~21.1003, the tax authorized by this Article shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any tax required to be collected pursuant to this Article and any such tax collected by a person delivering electricity shall constitute a debt owed to the Village by such person delivering the electricity, provided that the person delivering the electricity shall be allowed a credit for such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier shall be obligated to remit such tax. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to three percent (3%) of the tax to reimburse the person delivering electricity for the expense incurred in keeping records,

## Food & Bev Tax

billing customers, preparing and filing returns, remitting the tax and supplying data to the Village upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the Village in the manner prescribed by the Village. Person delivering electricity who file returns pursuant to this Section shall, at the time of filing such return, pay the Village the amount of the tax collected pursuant to this Article. For purposes of this Article, any partial payment of a billed amount not specifically identified by the purchaser shall be deemed to be for the delivery of electricity.

### **Section 25. That Section 21.1003. is hereby amended to read as follows:**

#### **21.1003. Tax remittance and return.**

(a) On or before the last day of each month, each taxpayer who has not paid the tax imposed by this Article ~~IX~~ to a person delivering electricity as set forth in Section ~~21-62~~21.1002, and who is not otherwise exempted from paying such tax, shall make a return to the Village Treasurer for the preceding month stating:

- (1) Name.
- (2) Principal place of business.
- (3) Gross receipts and/or kilowatt-hour usage during the month upon the basis of which the tax is imposed.

(4) Amount of tax.

(5) Such other reasonable and related information as the Village Treasurer may require.

(b) The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village of Downers Grove, the amount of tax herein imposed. Provided, in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his/her total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings, and the taxable gross receipts.

### **Section 26. That Section 21.1004. is hereby amended to read as follows:**

#### **21.1004. Books and Records.**

Every tax collector, and every taxpayer required to pay the tax imposed by this Article ~~IX~~ shall keep accurate books and records of its business or activity, including contemporaneous books and records denoting the transactions that gave rise, or may have given rise, to any tax liability under this Article ~~IX~~. The books and records shall be subject to and available for inspection by the Village at all times during business hours of the day.

### **Section 27. That Section 21.1006. is hereby amended to read as follows:**

#### **21.1006. Penalty.**

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Article shall be subject to penalty as provided in the Downers Grove Village Code. In addition, shall be liable in a civil action for the amount of tax due.

(A) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) 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.

(B) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(C) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

## Food &amp; Bev Tax

**Section 28. That Section 21.1101. is hereby amended to read as follows:****21.1101. Tax Imposed.**

(a) There is hereby imposed and levied a tax upon the retail purchase within the Village of motor fuel, at the rate of two and one-half cents (\$0.025) per gallon or fraction thereof for so long as the Village shall maintain a commuter bus transportation system and upon cessation of such transportation system, the tax shall be reduced to one and one-half cents (\$0.015) per gallon or fraction thereof. Notwithstanding the foregoing, on January 1, 2015, the tax shall be reduced to one and one-half cents (\$0.015) per gallon or fraction thereof.

(b) This tax shall be in addition to any and all other taxes.

(c) The ultimate incidence and liability for payment of such tax shall be upon the retail purchaser of motor fuel. Nothing herein shall be construed to impose a tax upon the occupation of selling motor fuel.

**Section 29. That Section 21.1104. is hereby amended to read as follows:****21.1104. Use of Motor Fuel Tax Receipts.**

Monies collected pursuant to this Article shall be used for capital improvements or any other Village operational needs, including street construction and rehabilitation, curb and gutter work, storm sewer, sidewalk and other street-related improvements, and to provide revenues to support the Transportation Fund; specifically, one cent (\$0.01) per gallon of such monies collected shall be exclusively used for the commuter bus transportation system, until the Village discontinues said system or until January 31, 2015, whichever comes first.

**Section 30. That Section 21.1106. is hereby amended to read as follows:****21.1106. Penalty.**

~~In addition to any other penalty, any person or licensee violating any provisions of this Article upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for each such offense. Each failure to collect the tax imposed hereby and each failure to pay such tax over to the Village shall constitute a separate violation hereof.~~

(A) Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this article shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) 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.

(B) Each day upon which a person shall continue any violation of this Article, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

(C) Any person subjected to the penalties provided for in this Article, shall not be discharged or released from the payment of any tax due hereunder.

**Section 31. That Section 21.1200ART. is hereby amended to read as follows:****21.1200ART. Article XII. Locally Imposed and Administered Tax Rights and Responsibilities****Section 32. That Section 21.1210. is hereby amended to read as follows:****21.1210. Interest and Penalties.**

In the event a determination has been made that a tax is due and owing, through audit, assessment or other bill sent, the tax must be paid within the time frame otherwise indicated.

## Food & Bev Tax

(a) Interest. The Village hereby provides for the amount of interest to be assessed on a late payment, underpayment, or nonpayment of the tax, to be one percent (1%) per annum, based on a year of three hundred sixty-five (365) days and the number of days elapsed.

(b) Late Filing and Payment Penalties. If a tax return is not filed within the time and manner provided by the controlling tax ordinance, a late filing penalty, of fiveone percent (51%) of the amount of tax required to be shown as due on a return shall be imposed; ~~and a late payment penalty of five percent (5%) of the tax due shall be imposed.~~ If no return is filed within the time or manner provided by the controlling tax ordinance and prior to the Village issuing a notice of tax delinquency or notice of tax liability, then a failure to file penalty shall be assessed equal to twenty-five percent (25%) of the total tax due for the applicable reporting period for which the return was required to be filed.

A late filing or payment penalty shall not apply if a failure to file penalty is imposed by the controlling ordinance.

**Section 33.** That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 34.** That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

\_\_\_\_\_  
Mayor

Passed:

Published:

Attest: \_\_\_\_\_  
Village Clerk



**The Village of Downers Grove plans to enact a 1% Food & Beverage Tax effective on January 1, 2018. The tax would apply to sales of prepared food and beverages and packaged liquor. This action is designed to re-establish revenues at budgeted levels by filling the revenue shortfall brought on by declining sales tax and income tax revenue. Enacting the Food & Beverage Tax will help the Village continue to achieve financial sustainability. The Village Council will discuss the Food & Beverage Tax at their July 11, 2017 meeting.**

### **Revenue Decline**

The Village, like many other municipalities in the State and throughout the nation, is experiencing a significant decline in sales tax and income tax revenue. These revenues are particularly important to Downers Grove as they accounted for approximately 35% of all General Fund revenue in 2016. Sales tax revenue for 2017 is projected to be about \$400,000 lower than 2016 and \$800,000 short of the FY17 budget. Similarly, 2017 income tax revenue is projected to be \$400,000 lower than FY17 budget. The projected budget gap for FY17 is \$1.3 million.

### **Village Actions**

The Village is taking actions to address this revenue shortfall in the short and long term. We are implementing \$1.3 million in expense reductions for FY17 in hopes of maintaining a balanced General Fund budget. The majority of these cuts come from withholding transfers to other funds that are used to replace equipment and to maintain the Village's vehicle fleet. These cost cutting measures will be effective in 2017. Continuing with these expenses reductions efforts in 2018 will not be effective as they will, over time, negatively affect the Village's financial sustainability.

### **Proposed Food & Beverage Tax**

To bring revenues up to budgeted amounts in 2018 and to keep future years' revenues consistent with expenses, the Village plans on enacting a 1% Food & Beverage tax. This tax is being considered for the following reasons:

- **Amount of Revenue** - The tax is expected to generate about \$1.5 million annually.
- **Growing Tax Base** - Sales of prepared foods has been growing steadily for the past seven years, increasing at over 4.3% per year. This growth is projected to continue.
- **Minimal Impact on Downers Grove Businesses** - The tax is comparable to nearby communities like Lombard (2%), Elmhurst (1%), Westmont (1.5%) and Naperville (1%, 2% in Downtown). It appears that the tax in these towns has not negatively affected sales.

The Village Council will discuss the proposed Food & Beverage Tax at their July 11, 2017 meeting. Please see the FAQ for more details.

## **Proposed Food & Beverage Tax FAQ**

### **1. What is the tax?**

The Downers Grove Food and Beverage Tax is a 1% tax on the purchase price of alcohol, packaged liquor, prepared foods and non-alcoholic beverages for immediate consumption.

### **2. This tax is not imposed on the following:**

- Food and beverages that are exempt from tax under the provisions of the retailers' occupation tax
- Churches, hospitals, nursing home facilities and other medical treatment facilities
- Daycare establishments
- Schools, residential halls, sororities and fraternities
- Government entities
- Ice Cream and Food trucks
- Festival vendors
- Vending machines
- Employee cafeterias

### **3. Where are these items sold?**

Any establishment licensed under Chapter 3 of the Downers Grove Municipal Code with respect to the sale of liquor. Additionally:

- Restaurant or eating place, drive-in restaurant, fast food outlet
- Cafeteria (open to the public), cafe, lunch counter, delicatessen, sandwich shop, coffee shop, buffet
- Soft drink parlor, ice cream parlor, tearoom
- Inn, hotel or motel
- Grocery 'eat-in' and prepared take-out
- Banquet facilities, catering facilities
- Bakeries and confectioners
- Movie theatres, bowling alleys, billiards halls
- Convenience store/gas station 'take-out'

### **5. How will the businesses selling these items be notified?**

The Village will send businesses a registration form which will require the following information:

- Name of business
- Address and ownership information (Owner Name and address, Driver's License number)

A sample form is attached.

**6. How will payment be submitted?**

Collections will be submitted to the Village on a monthly basis via the Food and Beverage Tax form plus additional ST1 documents (State tax filing form). A sample form is attached.

**7. Will there be penalties for late-payment?**

Yes, a 5% penalty will be issued for late-payments.

The Village will apply a 2% discount to all businesses which pay on time (on or before the 25th of the subsequent month.) This discount will serve as a service fee to reimburse businesses for expenses incurred in keeping of records, data, billing, preparing and filing returns and submitting data to the Village.

**8. When will this tax take effect?**

January 1, 2018.

**9. How will this tax be applied to a food or beverage purchase?**

Below are three examples of some common transactions in the Village where the food and beverage tax would apply:

- A purchase of \$50 is made at a restaurant: \$0.50 is added to the total bill
- A cup of coffee is purchased for \$3.00 at a coffee shop: \$0.03 is added to the total bill
- A case of beer is purchased for \$15.00 at a liquor store: \$0.15 is added to the total bill



## FOOD & BEVERAGE TAX REGISTRATION FORM

1. \_\_\_\_\_ Business Telephone \_\_\_\_\_  
 \_\_\_\_\_  
 Business Location Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 \_\_\_\_\_  
**Date Open for Business** \_\_\_\_\_
2. \_\_\_\_\_ Corporate Telephone \_\_\_\_\_  
 \_\_\_\_\_  
 Mailing Address (Company/Corporate) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
 (Must be different than Business Location Address)
3. \_\_\_\_\_ Owner Telephone \_\_\_\_\_  
 (Must be different than business phone #)  
 \_\_\_\_\_  
 Owner Driver License Number (Required) \_\_\_\_\_ E-Mail Address \_\_\_\_\_
4. Nature of Business: (i.e. restaurant, tavern, liquor store, etc.) \_\_\_\_\_  
 \_\_\_\_\_  
 Check any which applies to your business location:  
 Liquor (On-premise consumption)  
 Packaged Liquor  
 Food and non-alcoholic beverages
5. Estimated Annual Sales Subject to Food & Beverage Tax: \_\_\_\_\_
6. Illinois Retailer Occupation Tax Number (IBT): \_\_\_\_\_
7. Federal Taxpayer ID Number or Social Security Number: \_\_\_\_\_
8. Name of Food and Beverage Tax Return Preparer: \_\_\_\_\_  
 Preparer's Telephone: \_\_\_\_\_

I declare that I have examined this registration form, and to the best of my knowledge, the information entered on this form is true, correct, and complete.

\_\_\_\_\_  
 Signature of Applicant

\_\_\_\_\_  
 Date

**Please return the completed form to: Village of Downers Grove  
 801 Burlington Avenue**

**Downers Grove, IL 60515  
 Attn: Finance Dept., Food & Beverage Tax  
 Phone: 630-493-8875/ Fax: 630-434-5571  
 Email: Foodandbeveragetax@downers.us**

