

ORDINANCE NO. _____

AN ORDINANCE ESTABLISHING A PLACES FOR EATING TAX IN THE CITY OF CREST HILL AS CHAPTER 3.20 TAX ON THE GROSS RECEIPTS OF PLACES FOR EATING OF TITLE 3, REVENUE AND FINANCE OF THE CREST HILL CITY CODE OF ORDINANCES

WHEREAS, the City Council of the City of Crest Hill has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety, and welfare of its citizens; and

WHEREAS, the City Council of the City of Crest Hill has heretofore established, pursuant to its statutory authority, certain locally imposed and administered taxes in Title 3 of the City Code; and

WHEREAS, the Illinois Municipal Code, Section 11-42-5, authorizes a municipality to license, tax, and regulate, among other things, all places for eating within the municipality. (65 ILCS 5/11/42-5); and

WHEREAS, the City Council for the City of Crest Hill has determined that it is in the best interests of the City of Crest Hill and its residents to adopt a locally imposed and administered tax on places for eating within the City pursuant to the authority granted by Section 11-42-5 of the Municipal Code; and

WHEREAS, the City Council for the City of Crest Hill has determined that the amount of said places for eating tax to be levied shall be two percent (2%) on the gross receipts of places for eating located within the City of Crest Hill.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CREST HILL, WILL COUNTY, ILLINOIS, PURSUANT TO ITS STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1: The City Council hereby finds that all of the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2: There is hereby created and established as Chapter 3.20 Tax on the Gross Receipts of Places For Eating, of Title 3 Revenue and Finance, of the Crest Hill City Code of Ordinances, as follows:

3.20 TAX ON THE GROSS RECEIPTS OF PLACES FOR EATING

- 3.20.010 Definitions.
- 3.20.020 Tax imposed.
- 3.20.030 Books and records; inspection; contents.
- 3.20.040 Transmittal of tax revenue by owner; delinquency.

- 3.20.050 Transmittal of excess tax collections.
- 3.20.060 Registration.
- 3.20.070 Collection.
- 3.20.080 Suspension of licenses.
- 3.20.090 Penalties.

3.20.010 DEFINITIONS.

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

- (a) **Prepared food** means and includes any solid, liquid (including both alcoholic and non-alcoholic liquid), powder or item used or intended to be used for human internal consumption, whether simple, compound or mixed, and which has been prepared for immediate consumption.
- (b) **Person** or **persons** means any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, club, fraternal organization, or a receiver, executor, trustee, conservator or their representative appointed by order of any court.
- (c) **Sold at retail** means to sell 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 (35 ILCS 120/1 et. seq.) or the Illinois Service Occupation Tax (35 ILCS 115/1 et. seq.)
- (d) **Places for eating** or **place for eating**
 - (1) "Places for eating" or "place for eating" means all premises located within the corporate limits of the city where prepared food is sold at retail' for immediate consumption, with seating provided for consumption of said prepared food on the premises, whether consumed on premises or not, and whether or not such use as a place for consumption of prepared food is conducted along with any other use or users in a common premise or business establishment.
 - (2) "Places for eating" or "place for eating" includes, but is not limited to, those establishments commonly called a restaurant, eating place, drive-in restaurant, buffet, bakery, banquet facility, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, cocktail lounge, soft drink parlor, ice cream parlor, tearoom, delicatessen, hotel, motel, or club, or any other establishment which sells at retail prepared food for immediate consumption, but does not include vending machine sales.

- (e) **Gross receipts** means the consideration received, valued in money, whether received in money or otherwise, including cash, credits, property and services, at a place for eating for prepared food furnished at the place for eating. Gross receipts do not include amounts paid for federal, state and local taxes, including the tax levied by this chapter, and do not include amounts paid as gratuities for the employees of the place for eating.
- (f) **Owner** means any person having an ownership interest in or conducting the operation of a place for eating.

3.20.020 TAX IMPOSED.

- (a) There is hereby levied and imposed upon owners of places for eating a tax at the rate of two percent (2%) of gross receipts received for prepared food sold at retail by the owner on or after January 1, 2023.
- (b) The owner of a place for eating may collect an amount from persons who purchase prepared food at the place for eating which shall reimburse the owner for the tax imposed on the owner by this chapter.
- (c) The tax levied by this chapter shall be paid in addition to any and all other taxes and charges.
- (d) In the event the prepared food is sold at retail on credit, an owner shall not be liable for payment of the tax imposed by this chapter on such a sale until the owner receives payment for the sale.

3.20.030 BOOKS AND RECORDS; INSPECTION; CONTENTS.

The Finance Director, the City Treasurer or any person designated by either of them as their deputy or representative, may enter the premises of any place for eating for inspection, examination, copying and auditing of books and records including, but not limited to, Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns filed with the Illinois Department of Revenue, in order to effectuate the proper administration of this chapter and to assure the enforcement of the collection of the tax imposed by this chapter. To the extent reasonably possible, said entry shall be done in a manner that is least disruptive to the business of the place for eating. It shall be unlawful for any person to prevent, hinder, or interfere with the Finance Director, the City Treasurer or their designees in the discharge of their duties in conformance with this subsection. It shall be the duty of every owner to keep accurate and complete books and records to which the Finance Director, the City Treasurer or their designees shall at all times have full access, which records shall include a daily sheet showing the amount of gross receipts received for that day. In the event of a significant discrepancy, the City may, in its discretion, hire an independent party to conduct an audit of said books and records. The costs of such audit shall be borne by the owner.

**3.20.040 TRANSMITTAL OF TAX REVENUE BY OWNER;
DELINQUENCY.**

- (a) The owner or owners of each place for eating shall file tax returns showing the gross receipts received during each calendar month period upon forms prescribed by the Finance Director. Returns for each calendar month shall be due on or before the twentieth (20th) day of the next calendar month, (e.g., the return for January shall be due on or before the twentieth day of February; the return for February shall be due on or before the twentieth day of March; etc.). Notwithstanding the foregoing, in the event that the owner of the place for eating is allowed by the Illinois Department of Revenue to file Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns at intervals which are greater than monthly, said owner shall be allowed to file tax returns relative to the tax imposed by this chapter with the City at said greater intervals. At the time of the filing of said tax returns, the owner shall pay to the city all taxes due for the period to which the tax return applies.
- (b) Any tax due pursuant to this chapter which is not paid when due shall accrue interest at the rate of one percent (1%) monthly. In the event of collection proceedings are initiated by the City, the owner shall be responsible for paying all such collection costs incurred by the City, including but not limited to reasonable attorney fees and court costs and expenses. In addition, the owner shall be subject to suspension of licenses and penalties as set forth in Sections 3.20.080 and 3.20.090.

3.20.050 TRANSMITTAL OF EXCESS TAX COLLECTIONS.

If any person collects an amount upon a sale not subject to the tax imposed by this chapter, 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 City along with the tax properly collected.

3.20.060 REGISTRATION.

Every owner maintaining a place for eating in the City shall register with the Finance Department by October 1, 2022 or within thirty (30) days of becoming such an owner, whichever is later.

3.20.070 COLLECTION.

Whenever any person shall fail to pay the tax imposed by this chapter, the City Attorney or City Prosecutor may, upon request of the City Administrator, bring or cause to be brought an

action to enforce and/or collect the payment of said tax on behalf of the City in any court of competent jurisdiction.

3.20.080 SUSPENSION OR REVOCATION OF LICENSES.

The Mayor or the Mayor's designee, after a hearing held on the issue of nonpayment or noncompliance with this chapter, may suspend or revoke all City licenses held by such owner if it is determined that the owner has willfully avoided the payment of any tax imposed by this chapter. The owner shall have an opportunity to be heard at such hearing, which shall be held not less than ten (10) days after being mailed notice of the time and location of the hearing. Said notice shall be sent to the owner at its last known place of business. Any suspension or revocation of licenses shall not release or discharge the owner from the obligation to pay the tax established by this chapter, nor shall it relieve the owner of any civil liability for the payment of the tax or prosecution for same.

3.20.090 PENALTIES.

- (a) Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or unlawfully resisting or opposing the enforcement of any of the provisions of this chapter, except when otherwise specifically provided, upon conviction thereof 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 each offense.
- (b) Each day upon which a person shall continue any violation of this chapter, or permit any such violation exist after notification thereof, shall constitute a separate and distinct offense.
- (c) Any owner subjected to the penalties provided for by this subsection shall not be discharged or released from the payment of any tax due.

SECTION 3: In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 4: That all ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Ordinance, are hereby repealed to the extent of the conflict.

SECTION 5: That the City Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 6: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

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PASSED THIS _____ DAY OF _____, 2022.

	Aye	Nay	Absent	Abstain
Alderman John Vershay	_____	_____	_____	_____
Alderman Scott Dyke	_____	_____	_____	_____
Alderwoman Claudia Gazal	_____	_____	_____	_____
Alderman Darrell Jefferson	_____	_____	_____	_____
Alderperson Tina Oberlin	_____	_____	_____	_____
Alderman Mark Cipiti	_____	_____	_____	_____
Alderman Nate Albert	_____	_____	_____	_____
Alderman Joe Kubal	_____	_____	_____	_____
Mayor Raymond R. Soliman	_____	_____	_____	_____

Christine Vershay-Hall, City Clerk

APPROVED THIS _____ DAY OF _____, 2022.

Raymond R. Soliman, Mayor

ATTEST:

Christine Vershay-Hall, City Clerk