

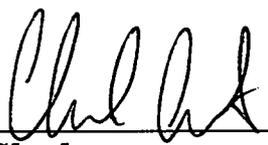
City of St. Charles, Illinois

Ordinance No.: 2019-M-26

An Ordinance Amending Title 3, "Revenue and Finance", Chapter 3.42 "Alcohol Tax", of the St. Charles Municipal Code

**Adopted by the
City Council
of the
City of St. Charles
September 3, 2019**

Published in pamphlet form by
authority of the City Council
of the City of St. Charles,
Kane and Du Page Counties,
Illinois, **September 10, 2019**



City Clerk



(SEAL)

City of St. Charles, Illinois
Ordinance No. 2019-M-26

**An Ordinance Amending Title 3, “Revenue and Finance”, Chapter 3.42
“Alcohol Tax”, of the St. Charles Municipal Code**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,
KANE AND DUPAGE COUNTIES, ILLINOIS AS FOLLOWS:

Section 1. That Title3, “Revenue and Finance”, Chapter 3.42 “Alcohol Tax”, of the St. Charles Municipal Code be and is hereby amended . Chapter 3.42 “Alcohol Tax be deleted in its entirety and replaced with the following language:

Chapter 3.42

ALCOHOL TAX

Sections:

3.42.010	Title.
3.42.020	Definitions.
3.42.030	Imposition of tax.
3.42.040	Liability for payment.
3.42.050	Collection.
3.42.060	Notices.
3.42.070	Rules and regulations.
3.42.080	Filing of return; payment of tax.
3.42.090	Late payment and/or filing; failure to pay and/or file.
3.42.100	Schedule of certain rates.
3.42.110	Records.
3.42.120	Exemptions.
3.42.130	Suspension of revocation of licenses for failure to pay tax; hearing.
3.42.140	Disposition of proceeds.
3.42.150	Notice of tax liability; demand for payment of tax; period of limitations; suit.
3.42.160	Hearings.
3.42.170	Preparation; service of citations.

3.42.010 Title.

This chapter shall be known and cited as the "St. Charles Alcohol Tax Ordinance". The tax imposed in this chapter shall be known and cited as the "St. Charles Alcohol Tax".

3.42.020 Definitions.

For the purposes of this chapter whenever any of the following words, terms or phrases are used, they shall have the meaning ascribed to them in this section.

- A. Alcoholic liquor is defined in the same manner as the term is defined in section 5.08.010 of this code.
- B. Event means any occurrence or gathering of people which is convened for social, professional, fund raising, fellowship, product sampling, discussion of common interest, performance, picnic, cookout, barbeque, food tasting, etc. which is convened and at which alcoholic liquor is served. Events can be regularly scheduled or one-time in occurrence and this definition shall broadly construed for the purpose of this section.
- C. Liquor Establishment means any premises required to obtain a retail liquor license pursuant to chapter 5.08 of this code.
- D. Owner means any person having a sufficient proprietary interest in conducting the operation of a restaurant or liquor establishment so as to entitle such a person to all or a portion of the net receipts thereof.
- E. Person means any natural person, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, co-partnership, joint venture, club, company, business trust, domestic or foreign corporation, association, syndicate, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise; whenever the term "person" is used any clause prescribing and imposing a penalty, the term as applied to corporations, the officers thereof.

(Ord. 2016-M-30 § 1)

3.42.030 Imposition of tax.

- A. There is levied and imposed upon the privilege of purchasing alcoholic liquor served or prepared at a liquor establishment in the city, a tax of three percent (3%) of the purchase price, exclusive of any other tax imposed on such alcoholic liquor.
- B. There is levied and imposed upon the privilege of purchasing alcoholic liquor in original packages only for consumption off the premises at retail at any liquor establishment in the city, a tax of three percent (3%) of the purchase price, exclusive of any other tax imposed on such alcoholic liquor at retail.
- C. There is levied and imposed a tax of three percent (3%) upon the admission price or ticket price to any Event at which alcoholic liquor is served and the price of said alcoholic liquor is included in the admission and/ or ticket price to the event, exclusive of any other tax imposed on such alcoholic liquor. In the event that tickets, punch cards, or similar methods are utilized to allow or to limit purchase of alcoholic beverages, the tax of three percent (3%) shall apply to the price of the ticket(s) or punch card(s) issued. The Finance Director of the City shall make the determination of the applicability of the tax imposed by this section.

(Ord. 2018-M-31 § 1, Ord. 2016-M-30 § 2)

3.42.040 Liability for payment.

- A. The ultimate incidence of and liability for payment of the tax imposed by this chapter shall be borne by the person who seeks the privilege of purchasing alcoholic liquor served at such liquor establishment or the privilege of purchasing alcoholic liquor at retail at any liquor establishment, such person hereinafter referred to as "consumer."
- B. The tax levied in this chapter shall be paid in addition to any and all other taxes and charges. It shall be the duty of the owner, manager or operator of every liquor establishment to collect the tax from the consumer and pay the tax to the city under the rules and regulations prescribed by the mayor and as otherwise provided in this chapter.

3.42.050 Collection.

Every person required to collect the tax levied by this chapter shall collect the tax from the consumer at the time he collects payment for the service of alcoholic liquor the sale of alcoholic liquor at retail, the admission and/or ticket to an event or a "punch card" utilized at an event where alcoholic liquor is to be consumed. The amount due under the tax imposed in this chapter shall be stated separately on the invoice receipt or other statement or memorandum of the payment given to the consumer at the time of payment.

3.42.060 Notices.

Any notice or other written communication from the city regarding the tax imposed by this chapter shall be sent to the owner at the address provided in the liquor license application form.

3.42.070 Rules and regulations.

The mayor of the city may promulgate rules and regulations not inconsistent with the provisions of this chapter concerning the enforcement and application of this chapter. The term "rules and regulations" includes, but is not limited to, a case-by-case determination whether or not the tax imposed by this chapter applies.

3.42.080 Filing of return; payment of tax.

The owner of each liquor establishment within the city shall file tax returns showing tax receipts received during each monthly period on forms prescribed by the mayor. The returns shall be due on or before the last day of the calendar month next succeeding the end of the monthly filing period. Said tax return shall be filed monthly even if no tax is due to the City.

At the time of filing such returns, the owner shall pay to the city all taxes due for the period to which the tax return applies, less a commission of one percent (1%) of the amount of the tax, which is allowed to reimburse the owner for the expenses incurred in keeping records, billing, preparing and filing returns, remitting the tax and supplying data to the city upon request. No commission may be claimed by an owner for taxes not timely remitted to the city.

3.42.090 Late payment and/or filing; failure to pay and/or file.

A. If for any reason a tax return required by this chapter is not filed, or a tax imposed under this chapter is not paid when due, a penalty shall be added and collected as follows. For the first offense, \$50.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; for the second offense, \$100.00 or five percent (5%) on the amount of tax which remains unpaid, whichever is greater; and for the third and subsequent offenses, \$150.00 or five percent (5%) on the amount tax which remains unpaid, whichever is greater.

Whenever any person shall fail to pay any tax as provided in this chapter, the city attorney, upon the request of the Finance Director, shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the city and reasonable attorney's fees incurred in bringing such action in any court of competent jurisdiction. (Ord. 2014-M-6 § 1.)

3.42.100 Interest.

Interest shall accrue on any late payment, underpayment or nonpayment of tax at the rate of one and one-quarter percent (1.25%) added per month to the amount of tax unpaid and uncollected.

3.42.110 Records.

- A. Every owner, manager or operator of a liquor establishment in the city shall keep books and records for a period of at least forty-eight (48) months, unless otherwise authorized by the city, which at a minimum shall include a daily sheet showing:
 - 1. The amount of taxable receipts within the twenty-four-hour period;
 - 2. The actual liquor establishment tax receipts collected for the date in question.
- B. The mayor or his designee shall at all reasonable times have full access to such books and records, and such books and records may be audited to verify the amount of tax due.
- C. To the fullest extent permitted by law, the financial records of any liquor establishment submitted pursuant to this chapter or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy.

3.42.120 Exemptions.

The tax imposed under this chapter shall not apply to or be imposed upon any federal, state or local governmental bodies.

3.42.130 Suspension or revocation of licenses for failure to pay tax; hearing.

If the mayor or other city official responsible for the issuance of a city license, permit or other approval, including, but not limited to, a liquor license, after hearing held by or for him, shall find that any person has willfully evaded payment or collection and remittance of the tax imposed by this chapter, he may levy a fine on the licensee, and/or suspend or revoke such city license, permit or other approval held by such tax evader, in accordance with Section 5.08.320 of this code. The person shall have an opportunity to be heard at such hearing to be held not less than three (3) days after notice is given to him of the time and place of the hearing to be held, addressed to him at his last known place of business as provided in the liquor license application form. Pending said notice, hearing and finding, any license, permit or other approval issued by the city to the person may be temporarily suspended. No suspension or revocation hereunder shall release or discharge said person from his civil liability for the payment or collection and remittance of the tax, nor from prosecution for such offense. Notwithstanding the foregoing, any fines levied or suspension or revocation of a liquor license shall follow the procedures set forth in, and otherwise comply with, the provisions of chapter 5.08.320 of this code.

3.42.140 Disposition of proceeds.

All proceeds resulting from the imposition of the tax under this chapter, including penalties, shall be paid into the treasury of the city, and shall be credited to and deposited in the corporate fund of the city.

Section 2. That after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with general circulation within the City of St. Charles.

Section 3. That this Ordinance shall be in full force and effect ten (10) days from and after its passage, approval and publication as provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois this 3rd day of September, 2019.

PASSED by the City Council of the City of St. Charles, Illinois this 3rd day of September, 2019.

APPROVED by the Mayor of the City of St. Charles, Illinois this 3rd day of September, 2019.



Daniel Stellato, Mayor Pro Tem

ATTEST:



City Clerk

COUNCIL VOTE:

Ayes: 8

Nays: 0

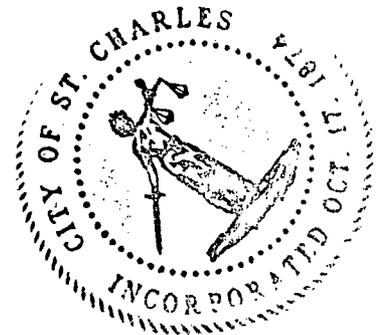
Abstain: 1

Absent: 0

APPROVED AS TO FORM:

City Attorney

DATE: Sept 3, 2019



State of Illinois)
) ss.
Counties of Kane and DuPage)

Certificate

I, CHUCK AMENTA, certify that I am the duly elected and acting Municipal City Clerk of the City of St. Charles, Kane and DuPage Counties, Illinois.

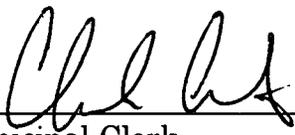
I further certify that on **September 3, 2019**, the Corporate Authorities of such municipality passed and approved Ordinance No. **2019-M-26** entitled:

An Ordinance Amending Title 3, "Revenue and Finance", Chapter 3.42 "Alcohol Tax", of the St. Charles Municipal Code

which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. **2019-M-26**, including the Ordinance and a cover sheet thereof was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on **September 10, 2019**, and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the municipal clerk.

DATED at St. Charles, Illinois, this **3rd** day of **September 3, 2019**.



Municipal Clerk

(S E A L)

