

ORDINANCE 2017-047 POSTPONED: DECEMBER 11, 2017

REPEALING CHAPTER 39 "MUNICIPAL OCCUPATION TAXES", SECTION 39.01 "MUNICIPAL RETAILERS' OCCUPATION TAX", AND SECTION 39.02 "MUNICIPAL SERVICE OCCUPATION TAX", AND AMENDING CHAPTER 57 "CITY SALES TAX", SECTION 57.03 "TAX IMPOSED", TO REPEAL A ONE-HALF PERCENT INCREASE AS ADOPTED BY ORDINANCE 2003-100.

WHEREAS, the City of DeKalb is a home-rule municipality with the power and authority conferred thereupon by virtue of the Illinois Constitution and Illinois Municipal Code; and,

WHEREAS, as a home rule unit of local government, the City may exercise any power and perform any function pertaining to its government except as limited by Article VII, Section 6; and,

WHEREAS, as a home rule municipality, pursuant to Sections 8-11-1 and 8-11-5 of the Illinois Municipal Code, 65 ILCS 5/8-11-1 and 5/8-11-5, the City may impose a tax upon all persons engaged in the business of selling tangible personal property at retail and upon all persons engaged in the business of making sales of service, respectively, in the City; and,

WHEREAS, the City has previously adopted Ordinance 2003-100 which implemented a 0.5% increase on all such persons in accordance with Sections 8-11-1 and 8-11-5 of the Illinois Municipal Code ("the 2003 Sales Tax Increase"); and,

WHEREAS, the City has previously agreed, pursuant to the terms of a certain 2004 Intergovernmental Agreement with DeKalb County, Illinois, to share in the revenues generated by the 2003 Sales Tax Increase; and,

WHEREAS, pursuant to that 2004 Agreement and as consideration for the City's agreement to share in the 2003 Sales Tax Increase, the County agreed: 1) to pay a City debt of approximately \$2,300,000 on behalf of the City; and, 2) to restrict the purposes for which County shared sales tax proceeds could be used. The City agreed that if it ever repealed the 2003 Sales Tax Increase, the City obligation to repay the \$2,300,000 debt would be accelerated and payable within 30 days; and,

WHEREAS, the City has now fully repaid the \$2,300,000 debt and under the 2004 Intergovernmental Agreement, there is no longer a City Reimbursement Obligation to the County; and,

WHEREAS, under the Illinois Municipal Code, the City may increase or decrease home rule sales taxes in 0.25% increments; and,

WHEREAS, the City Council has determined that it is in the best interests of the City and public welfare to repeal Ordinance 2003-100 and the related 2003 Sales Tax Increase, to trigger the City's accelerated repayment obligation under the 2004 Intergovernmental Agreement and to terminate the City's payments thereunder; and,

WHEREAS, the City Council has determined that the rate contemplated by City Code Section 57.03 should be reduced from 1.75% to 1.25% based upon the reduction authorized herein, and the errant information included in Chapter 39 should be repealed;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb, DeKalb County, Illinois, as follows:

Section 1. Chapter 39 Amended.

Chapter 39, "Municipal Occupation Taxes", shall be amended with the deletion of Sections 39.01 and 39.02, it being recognized that such taxes are presently included in Chapter 57 of the City Code and that the Chapter 39 references do not reflect City actions taken subsequent to 2001.

Section 2. Ordinance 2003-100 Repealed.

Ordinance 2003-100, "Amending the Municipal Code of the City of DeKalb, Illinois, Chapter 57, "City Sales Tax", Section 57.03, "Tax Imposed", Subsection a), by Increasing Tax Amount to One and One-Quarter Percent Effective January 1, 2004", is hereby repealed in its entirety, effective as of January 1, 2018. The City acknowledges that the effective date of such ordinance shall be July 1, 2018 for purposes of the Illinois Department of Revenue adjustments in collection schedule. The repeal of this Ordinance shall not affect the validity of past payment of sales taxes nor the future collection of sales tax liability for taxes accruing prior to the effective date of the change in Illinois Department of Revenue collection rates. Based upon such repeal, the City Manager is authorized and directed to send notice to DeKalb County, advising that the City Sales Tax Increase as defined in the above-referenced 2004 Agreement has been repealed, that past payments from the sharing of such revenue shall be applied as a dollar-for-dollar reduction of the principal balance owed from the City to the County, and that such principal balance has been repaid in full.

Section 3. Chapter 57 "City Sales Tax", Section 57.03, "Tax Imposed" Amended.

City Code Section 57.03(a) shall be amended as follows:

Except as provided in Chapter 57.04 every retailer of tangible personal property through a sale at retail in the City from August 1, 1987 through December 31, 2003 shall be liable for a tax on the sale of tangible personal property at the rate of three-fourth (3/4) of one percent (1%) and

commencing January 1, 2004 through June 30, 2008 shall be liable for a tax on the sale of tangible personal property at the rate of one and one-quarter percent (1¼ %) and commencing July 1, 2008 ~~through June 30, 2018 and thereafter~~ shall be liable for tax on the sale of tangible personal property at the rate of one and three-quarters per cent (1¾ %); ~~commencing July 1, 2018 and thereafter shall be liable for tax on the sale of tangible personal property at the rate of one and one-quarter per cent (1 1/4%).~~ Every person making sales of service in the City and transferring tangible personal property incident to the sale shall be liable for tax rate of three-fourth (3/4) of one percent (1%) through December 31, 2003 and commencing January 1, 2004 shall be liable for a tax on the sale of tangible personal property at the rate of one and one-quarter percent (1¼ %) through June 30, 2008; commencing July 1, 2008 ~~through June 30, 2018 and thereafter~~ the tax on the such sales of tangible personal property shall be at the rate of one and three-quarters per cent (1¾ %); ~~commencing July 1, 2018 and thereafter shall be liable for tax on the sale of tangible personal property at the rate of one and one-quarter per cent (1 1/4%).~~ (65 ILCS 5/8-11-1 and 65 ILCS 5/8-11-5)

Section 4. City Home Rule Sales Tax Reduced.

The effect of this Ordinance shall be to reduce the City's effective home rule sales taxes, pursuant to 65 ILCS 5/8-11-1 and 5/8-11-5 from 1 ¾% to 1 ¼%.

Section 5. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed. The City Manager is hereby authorized and directed to file a certified copy of this Ordinance with the State of Illinois, Illinois Department of Revenue, immediately hereafter, and to subsequently take all such action as shall be necessary to effectuate the prompt collection and enforcement of the taxes imposed herein by the State of Illinois. The Illinois Department of Revenue shall have the full power to administer and enforce the provisions of this Ordinance.

Section 6. Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

Section 7. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: _____, 2017. Effective date: _____, 2017.

POSTPONED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a Regular meeting thereof held on the 11th day of December, 2017. First Reading November 27, 2017. Tabled on December 11, 2017, by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Fagan, Noreiko, Verbic, Faivre, Smith. Nay: None.