

ORDINANCE NO. 15-16

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, KANE AND COOK COUNTIES, ILLINOIS, APPROVING A THIRD AMENDMENT TO THE ILLINOIS ROUTE 72 AND ILLINOIS ROUTE 25 BUSINESS DISTRICT DEVELOPMENT PLAN AND INCREASING THE RATE OF THE RETAILERS' OCCUPATION TAX AND THE SERVICE OCCUPATION TAX IMPOSED IN THE ILLINOIS ROUTE 72 AND ILLINOIS ROUTE 25 BUSINESS DISTRICT, AS AMENDED**

**WHEREAS**, pursuant to the Business District Development and Redevelopment Law of the State of Illinois, 65 ILCS 5/11-74.3-1 *et seq.*, as from time to time amended (the "*BDD Act*") the President and Board of Trustees (the "*Corporate Authorities*") of the Village of East Dundee, Kane and Cook Counties, Illinois (the "*Village*"), are empowered to establish and to amend business district plans for business districts within the municipal limits and to alter the rate of the retailers' occupation tax and the service occupation tax imposed within the boundaries of a business district; and,

**WHEREAS**, pursuant to the BDD Act, on September 29, 2008, the Corporate Authorities, after public hearings, passed Ordinance No. 08-57 designating the Village of East Dundee Illinois Route 72 and Illinois Route 25 Business District (the "*BD District*"), approving the Illinois Route 72 and Illinois Route 25 Business District Development Plan (the "*BD Plan*"), and imposing a retailers' occupation tax and a service occupation tax in the amount of one-half of one percent (0.5%) on all commercial operations within the boundaries of the BD District for the planning, execution and implementation of the BD Plan, to pay for business district project costs as set forth in the BD Plan, and to pay for obligations of the Village issued to provide for the payment of business district project costs; and,

**WHEREAS**, the Corporate Authorities amended the BD District and the BD Plan (the "*Amended Plan*") on March 7, 2011, pursuant to Ordinance No. 11-12, and amended the Amended Plan on March 18, 2013, pursuant to Ordinance No. 13-05; and,

**WHEREAS**, the Corporate Authorities now desire to further amend the BD Plan, as approved in 2008 and amended in 2011 and 2013, to increase the rate of the retailers' occupation tax and the service occupation tax imposed on all commercial operations within the boundaries of the BD District, as amended in 2011 and 2013, from one-half of one percent (0.5%) to three-fourths of one percent (0.75%); and,

**WHEREAS**, the boundaries of and the addresses in the BD District, as amended in 2011 and 2013, have not changed since the Corporate Authorities amended the BD District pursuant to Ordinance No. 13-05; and,

**WHEREAS**, the Corporate Authorities pursuant to Ordinance No. 15-13, adopted by the Corporate Authorities on March 16, 2015, fixed a time and a place for a public hearing (the "*Public Hearing*") to consider the approval of a proposed third amendment to the BD Plan, as amended in 2011 and 2013, and gave notice of the Public Hearing by publishing said notice twice in the *Daily Herald*, a newspaper of general circulation within the Village, on March 17, 2015 and March 18, 2015; and,

**WHEREAS**, the Public Hearing was held by the Corporate Authorities on the 30<sup>th</sup> day of March, 2015, at 6:00 p.m. at the Village Hall, 120 Barrington Avenue, East Dundee Illinois; and,

**WHEREAS**, at the Public Hearing, all interested persons were given an opportunity to be heard on the question of the approval of the third amendment to the BD Plan, as amended in 2011 and 2013; and,

**WHEREAS**, after considering the information presented to the Corporate Authorities at the Public Hearing, the Corporate Authorities find that it is in the best interests of the Village and of the residents and property owners within the BD District, as amended in 2011 and 2013, to approve the proposed third amendment to the BD Plan, as amended in 2011 and 2013.

**NOW THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois, as follows:

*Section 1.* The above recitals are incorporated and made a part of this Ordinance.

*Section 2. Approval of the Third Amendment to the Village of East Dundee, Kane and Cook Counties, Illinois, Illinois Route 72 and Illinois Route 25 Business District Development Plan.* There has heretofore been presented to the Corporate Authorities and considered at the Public Hearing the Third Amendment to the Illinois Route 72 and Illinois Route 25 Business District Development Plan, attached as *Exhibit A* hereto and by this reference incorporated herein and made a part hereof (the "*Third Amendment*"), which amendment increases the retailers' occupation tax and the service occupation tax imposed upon commercial operations within the boundaries the BD District, as amended in 2011 and 2013, from one-half of one percent (0.5%) to three-fourths of one percent (0.75%). The Third Amendment is found to conform to the requirements of the BDD Act and to promote the public interest. The Third Amendment is hereby approved.

*Section 3. Imposition of Retailers' Occupation Tax.* Pursuant to the BDD Act, a tax is hereby imposed upon all persons engaged in the business of selling tangible personal property, other than an item of tangible personal property titled or registered with an agency of this State's government, at retail within the boundaries of the BD District, as amended in 2011 and 2013, at the rate of three-fourths of one percent (0.75%) of the gross receipts from such sales made in the course of such business while this Ordinance is in effect. Such tax shall not be imposed on the sales of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. The proceeds of this tax shall be used for the planning, execution and implementation of the BD Plan, as amended in 2011 and 2013; the payment of business district project costs as set forth in the BD Plan, as amended in 2011 and 2013; and the payment of obligations of the Village issued or to be issued to provide for the payment of business district project costs. The proceeds of such tax shall be deposited into a special fund of the Village which was created by Ordinance No. 08-57 and designated the "Illinois Route 72 and Illinois Route 25 Business District Tax Allocation Fund." The tax imposed under this Section and all civil penalties that may be assessed as an

incident thereto shall be collected and enforced by the Illinois Department of Revenue. The Department of Revenue shall have full power to administer and enforce the provisions of this Section.

*Section 4. Imposition of Service Occupation Tax.* Pursuant to the BDD Act, a tax is hereby imposed upon all persons engaged within the boundaries of the BD District, as amended in 2011 and 2013, in the business of making sales of service, at the rate of three-fourths of one percent (0.75%) of the selling price of all tangible personal property transferred within the BD District, as amended in 2011 and 2013, by such serviceman either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. Such tax may not be imposed on the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics, for human use. The proceeds of this tax shall be used for the planning, execution and implementation of the BD Plan, as amended in 2011 and 2013; the payment of business district project costs as set forth in the BD Plan, as amended in 2011 and 2013; and the payment of obligations of the Village issued or to be issued to provide for the payment of business district project costs. The proceeds of such tax shall be deposited into the "Illinois Route 72 and Illinois Route 25 Business District Tax Allocation Fund." The tax imposed under this Section and all civil penalties that may be assessed as an incident thereto shall be collected and enforced by the Illinois Department of Revenue. The Department of Revenue shall have full power to administer and enforce the provisions of this Section.

*Section 5. Filing.* A certified copy of this Ordinance shall be filed with the Department of Revenue immediately following its passage and shall be considered filed on or before April 1, 2015.

*Section 6. Supersede Conflicting Ordinance.* All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are repealed to the extent of such conflict.

*Section 7. Effective Date.* This Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law and the Illinois Department of Revenue and Village shall proceed to administer and enforce Sections 3 and 4 of this Ordinance on the first day of July next following the adoption and filing of this Ordinance with the Illinois Department of Revenue.

*Passed by the Village President and the Board of Trustees of the Village of East Dundee, Kane and Cook Counties, Illinois, this 30<sup>th</sup> day of March, 2015, pursuant to a roll call vote, as follows:*

AYES: Trustees Gorman, Lynam, Selep, Wood and Mahony

NAYS: Trustee Skillicorn

**ABSENT:**

**APPROVED** by me, as Village President of the Village of East Dundee, Kane and Cook Counties, Illinois, this 30<sup>th</sup> day of March, 2015.

  
\_\_\_\_\_  
Village President

*Attest:*

  
\_\_\_\_\_  
Village Clerk

**EXHIBIT A**

**Third Amendment to the Illinois Route 72 and Illinois Route 25  
Business District Development Plan**

(see attached)

**VILLAGE OF EAST DUNDEE  
KANE AND COOK COUNTIES, ILLINOIS**

**THIRD AMENDMENT TO THE  
ILLINOIS ROUTE 72 AND ILLINOIS ROUTE 25  
BUSINESS DISTRICT DEVELOPMENT PLAN**

*March 12, 2015*

*Prepared by:*

*Kathleen Field Orr & Associates  
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Chicago, Illinois 60604*

**VILLAGE OF EAST DUNDEE  
KANE AND COOK COUNTIES, ILLINOIS**

**THIRD AMENDMENT TO THE  
ILLINOIS ROUTE 72 AND ILLINOIS ROUTE 25  
BUSINESS DISTRICT DEVELOPMENT PLAN**

**I. *Introduction.***

The Business District Development and Redevelopment Law enacted in 1973 has been significantly amended from time to time amended (65 ILCS 5/11-74.3-1 *et seq.*) (the “*BDD Act*”), to expand and enhance the powers of municipalities to revitalize and redevelop commercial areas. The BDD Act has been most successfully used in aging central downtown districts which lack the structures, parking and improvements mandated by modern retailing and business operations.

On September 29, 2008, by Ordinance No. 08-57, the Village of East Dundee, Kane and Cook Counties, Illinois (the “*Village*”) designated the “Village of East Dundee Illinois Route 72 and Illinois Route 25 Business District” (the “*Original BD District*”); approved the Illinois Route 72 and Illinois Route 25 Business District Plan (the “*Original Plan*”); and, imposed a one-half of one percent (1/2%) retailers’ occupation tax and service occupation tax, after public hearings pursuant to notices, all as required by the BDD Act in effect as of said date. On March 7, 2011, by Ordinance No. 11-12, the Corporate Authorities amended the Illinois Route 72 and Illinois Route 25 Business District by altering its exterior boundaries to include additional properties, and amended the Original Plan by changing land uses, changing the proposed developer or proposed tenants of properties therein, and

establishing the estimated business district project costs (the "*Amended Plan*"). On March 18, 2013, by Ordinance No. 13-05, the Corporate Authorities amended the Amended Plan (the "*Second Amendment*") to further alter the exterior boundaries of the Original BD District, as amended, to include properties located in the Village's "downtown" district and to include new projects to further reduce the existence of blight in the Village's commercial areas and increased estimated project costs as mandated by the addition of new projects. The Corporate Authorities have now determined that the Illinois Route 72 and Illinois Route 25 Business District Development Plan, as approved in 2008, as amended in 2011 and 2013, should be further amended to increase the retailers' occupation tax and service occupation tax upon businesses in the Original BD District as amended in 2011 and 2013 from  $\frac{1}{2}$  of 1% to  $\frac{3}{4}$  of 1%.



II. *Amendment to Section VIII of the Original Plan, as amended in 2011 and 2013.*

Upon designation of the Original BD District, as amended in 2011 and 2013, the Village imposed a retailers= occupation tax and a service occupation tax (the “*Taxes*”) at a rate of one-half of one percent ( $1/2\%$ ) of the gross receipts from sales made in the course of any business within the Original BD District, as amended in 2011 and 2013. Such Taxes are not applicable to the sale of food for human consumption that is to be consumed off the premises where it is sold (other than alcoholic beverages, soft drinks, and food that has been prepared for immediate consumption), prescription and nonprescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person, and insulin, urine testing materials, syringes, and needles used by diabetics for human use.

In order to continue with the implementation of the Original Plan as amended in 2011 and 2013, it is necessary to increase the Taxes as originally imposed from  $\frac{1}{2}$  of 1% to  $\frac{3}{4}$  of 1%.

The proceeds of these Taxes shall continue to be used during the term of the designation of the Original BD District, as amended in 2011 and 2013 for the planning, execution and implementation of the Original Plan, as amended in 2011 and 2013, the payment of business district project costs as permitted by the BDD Act and the payment of any obligations of the Village may have issued or shall issue to provide for the payment of business district project costs.

III. *Affirmation of the Provision of the Original Plan, as amended in 2011 and 2013.*

Other than the increase in the Taxes as hereinabove set forth, all other terms, conditions, provisions and covenants stated in the Original Plan, as amended in 2011 and 2013, are hereby affirmed as if fully restated in this Third Amendment.

DUNDEE CROSSING BUSINESS DEVELOPMENT DISTRICT  
AND  
DUNDEE GATEWAY BUSINESS DEVELOPMENT DISTRICT  
IN THE  
VILLAGE OF EAST DUNDEE

