

AN ORDINANCE AMENDING CHAPTER 11 OF THE
MUNICIPAL CODE OF THE VILLAGE OF ARLINGTON HEIGHTS
REGARDING THE FOOD AND BEVERAGE TAX

WHEREAS, the Village of Arlington Heights is a home rule municipal corporation in accordance with Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs; and

WHEREAS, pursuant to Article VIII of Chapter 11 of the Municipal Code of Arlington Heights, Illinois, 1995, as amended ("*Village Code*"), the Village imposes a tax upon the retail purchase of certain prepared foods and liquor anywhere in the Village ("*Food & Beverage Tax*"); and

WHEREAS, on February 1, 2020, the Village President and Board of Trustees approved the "*Arlington Alfresco*" seasonal program, whereby the Village permits restaurants, bars, and similar business establishments located within the downtown area to offer outdoor dining adjacent to and within Village rights-of-way; and

WHEREAS, restaurants, bars, and other businesses in downtown Arlington Heights uniquely and directly benefit from Arlington Alfresco through increased sales and visibility; and

WHEREAS, in order to safely and effectively manage Arlington Alfresco, the Village provides equipment, personnel, and enhanced services that cannot be fully funded through the existing Food & Beverage Tax; and

WHEREAS, the Village desires to facilitate Arlington Alfresco on an annual basis by increasing the rate of the Village's Food & Beverage Tax along the following Village streets: (i) Campbell Street, east of Highland Avenue and west of Dunton Avenue; and (ii) Vail Avenue, south of the intersection of Wing Street and Davis Street and north of the property commonly known as 88 South Vail Avenue; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interests of the Village to amend the Village Code in accordance with this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. FOOD & BEVERAGE TAX. Article VIII, titled "Prepared Food and Liquor Tax," of Chapter 11, titled "Food and Food Establishments," of the Village Code is hereby amended further to read as follows:

"Article VIII Prepared Food and Liquor Tax

Section 11-801 Definitions. For the purpose of this Article, unless the context otherwise requires, the following words or terms shall have the meanings respectively applied to them:

* * *

Additions are bold and double-underlined; ~~deletions are struck through.~~

f. ~~Retailer~~ Liquor Facility. Any establishment licensed under the provisions of Article II of Chapter 13 of the Municipal Code of the Village of Arlington Heights.

g. Food & Beverage Tax. The taxes described in Section 11-802.

h. Alfresco Area. All properties fronting along the following Village streets: (i) Campbell Street, east of Highland Avenue and west of Dunton Avenue; and (ii) Vail Avenue, south of the intersection of Wing Street and Davis Street and north of the property commonly known as 88 South Vail Avenue.

Section 11-802 Tax Food & Beverage Tax Imposed.

a. Commencing on the first day of July, 1990, a tax, in addition to any and all other taxes, is imposed upon the purchase of prepared foods and liquor at retail at any Prepared Food Facility or Liquor Facility within the Village. The rate of said tax shall be 1-1/4 percent of the purchase price of such prepared food and liquor, the ultimate incidence of any liability for payment of which shall be borne by the purchaser.

b. Commencing on the first day of February, 2022, an additional tax, in addition to the tax imposed pursuant to Section 11-802.a of this Code and any and all other taxes, is imposed upon the purchase of prepared foods and liquor at retail at any Prepared Food Facility or Liquor Facility located within the Alfresco Area. The rate of said tax shall be 3/4 percent of the purchase price of such prepared food and liquor, the ultimate incidence of any liability for payment of which shall be borne by the purchaser.

Section 11-803 Collection of Tax by Retailer. The owner and operator of each Prepared Food Facility and each Liquor Facility within the Village shall jointly and severally, have the duty to collect and account for the tax **any applicable Food & Beverage Tax** from each purchase at the time that the consideration for the purchase is paid.

Section 11-804 Books and Records. The owner and operator of each Prepared Food Facility and each Liquor Facility within the Village shall jointly and severally have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sale of prepared food and liquor and the tax **Food & Beverage Tax** collected each day, which shall be made available to the Village for examination and for audit by the Village upon reasonable notice and during customary business hours.

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Section 11-806 Late Payment Penalty. If any tax **Food & Beverage Tax** imposed by this Article is not paid when due, a late payment penalty equal to 10% of the unpaid tax shall be added for each month, or any portion thereof, that the tax remains unpaid and the late payment penalty shall be paid along with the tax **Food & Beverage Tax** imposed.

Section 11-807 Transmittal of Excess Tax Collections. If any person collects an amount upon a sale not subject to the tax **a Food & Beverage Tax** imposed hereby, but which amount is purported to be the collection of the **a Food & Beverage Tax**, or if a person collects an amount upon a sale greater than the amount of the tax **Food &**

Additions are bold and double-underlined; deletions are struck through.

Beverage Tax imposed herein and does not for any reason return it to the purchaser who paid it before filing the return for the period in which it occurred, that person shall account for and pay over those amounts to the Village along with the ~~tax~~ **Food & Beverage Tax** properly collected.

Section 11-808 Enforcement License Suspension, Revocation. Payment and collection of ~~the tax~~ **any Food & Beverage Tax** and any late payment penalty may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over ~~the tax~~ **any Food & Beverage Tax** and any late payment penalty shall be cause for suspension or revocation of any Village license issued for the Prepared Food Facility or Liquor Facility applicable to the premises thereof, all in addition to any other penalties in this Chapter.

Section 11-809 Penalty. Any person operating a Prepared Food Facility or a Liquor Facility within the Village failing or omitting to pay ~~the tax~~ **any Food & Beverage Tax** when due, or failing or omitting to collect, or to account for, or to pay over ~~the tax~~ **any Food & Beverage Tax** and any late payment penalty, or failing to maintain or allow examination of the penalty provided herein or elsewhere by law or ordinance, upon conviction, shall be fined not less than \$200 dollars nor more than \$1,000 dollars for each offense, and each day a violation continues shall be considered a separate violation.”

SECTION 3. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and are to be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 4. PUBLICATION. The Village Clerk is hereby directed to publish this Ordinance in pamphlet form pursuant to the Statutes of the State of Illinois.

SECTION 5. EFFECTIVE DATE. This Ordinance will be in full force and effect from and after its passage, approval, and publication in the manner provided by law.

AYES:

NAYS:

PASSED AND APPROVED THIS 18th day of January, 2022

Village President

ATTEST:

Village Clerk

Additions are bold and double-underlined; ~~deletions are struck through.~~

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