

VILLAGE OF VERNON HILLS

ORDINANCE NO. 2018-050

AN ORDINANCE ADOPTING A HOME RULE FOOD AND BEVERAGE TAX AND
AMENDING THE CODE OF ORDINANCES FOR
THE VILLAGE OF VERNON HILLS, ILLINOIS

THE 17th DAY OF APRIL 2018

Published in pamphlet form by the Authority of the
President and Board of Trustees of the Village of
Vernon Hills, Lake County, Illinois, this
17th Day of April, 2018

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

CERTIFICATE

I, MARK FLEISCHHAUER, CERTIFY THAT I AM THE DULY APPOINTED AND ACTING VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS. I FURTHER CERTIFY THAT ON APRIL 17, 2018, THE CORPORATE AUTHORITIES OF SUCH MUNICIPALITY PASSED AND APPROVED ORDINANCE NO. 2018-050 - AN ORDINANCE ADOPTING A HOME RULE FOOD AND BEVERAGE TAX AND AMENDING THE CODE OF ORDINANCES FOR THE VILLAGE OF VERNON HILLS, ILLINOIS

THE PAMPHLET FOR ORDINANCE NO. 2018-050, INCLUDING THE ORDINANCE AND A COVER SHEET THEREOF, WAS PREPARED, AND A COPY DATED APRIL 17, 2018 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 VILLAGE CLERK.

DATED IN VERNON HILLS, ILLINOIS, THIS 17th DAY OF APRIL 2018



Mark Fleischhauer

Mark Fleischhauer
Village Clerk

SEAL

AFFIDAVIT OF SERVICE

STATE OF ILLINOIS)
)
COUNTY OF LAKE)

I, MARK FLEISCHHAUER, BEING FIRST DULY APPOINTED, DEPOSES AND SAYS ON OATH THAT AS VILLAGE CLERK OF THE VILLAGE OF VERNON HILLS, HE DID CAUSE THE FOREGOING CERTIFICATE FOR ORDINANCE NO. 2018-050 - AN ORDINANCE ADOPTING A HOME RULE FOOD AND BEVERAGE TAX AND AMENDING THE CODE OF ORDINANCES FOR THE VILLAGE OF VERNON HILLS, ILLINOIS, FROM APRIL 18, 2018 TO APRIL 30, 2018

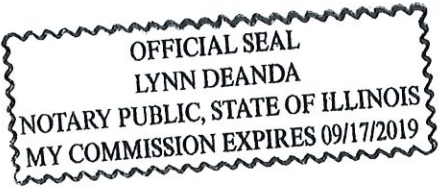


Mark Fleischhauer
Village Clerk

SUBSCRIBED AND SWORN TO BEFORE
THIS 18th DAY OF APRIL, 2018



Notary Public



VILLAGE OF VERNON HILLS

ORDINANCE NO. 2018-050

AN ORDINANCE ADOPTING A HOME RULE FOOD AND BEVERAGE TAX AND AMENDING THE CODE OF ORDINANCES FOR THE VILLAGE OF VERNON HILLS, ILLINOIS

WHEREAS, the Village of Vernon Hills, County of Lake, State of Illinois (*“the Village”*) is a duly organized and existing municipality and unit of local government created under the provisions of the laws of the State of Illinois, and is operating under the provisions of the Illinois Municipal Code; and

WHEREAS, as a result of the population increase certified in the 2010 federal census, the Village of Vernon Hills is now a Home Rule Unit under subsection (a) of Section 6 of article VII of the Illinois Constitution of 1970; and

WHEREAS, as a result of its Home Rule Authority, it is necessary and desirable for the Village of Vernon Hills to impose a 1.0% Home Rule Food and Beverage Tax to provide revenues to sustain the current levels of Village Services, effective September 1, 2018; and

WHEREAS, the Village Board now desires to update the Village’s Code of Ordinances for the Village of Vernon Hills to reflect this change.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF VERNON HILLS, LAKE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: AMENDMENT OF THE VILLAGE OF VERNON HILLS’ CODE OF ORDINANCES: The Village of Vernon Hills Code of Ordinances is hereby amended by adding a new Article XI to Chapter 21 as follows:

CHAPTER 21 TAXATION

“ARTICLE XI. – HOME RULE FOOD AND BEVERAGE TAX

Sec. 21-240 Imposition of Home Rule Food and Beverage Tax.

Commencing on the first day of September, 1, 2018, a tax, in addition to any and all other taxes, is hereby imposed upon the purchase of prepared food and beverages, and packaged liquor at retail at any Prepared Food Facility or Retailer Liquor Facility within the Village, at the rate of 1% 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. Each owner and each operator of a Retail Food Facility and/or a Retail Liquor Facility within the Village shall be authorized to collect, and shall collect a tax Food and Beverage Tax equal one percent (1%) of the gross sales amounts for Covered Food and Alcohol Items, as defined in Section 21-241 of the Village of Vernon Hills Code. No service fee may be claimed or withheld by any owner or operator for taxes imposed by this Section.

Sec. 21-241 Definitions.

For the purposes of this Article, the following definitions shall apply:

Alcoholic Liquor. Any alcohol, spirits, wine or beer as regulated in the Municipal Code, which is sold at retail either for consumption on the premises where sold or is sold in its original package for consumption off the premises.

Beverages. All alcoholic and non-alcoholic beverages.

Covered Food and Alcohol Items shall include *Alcoholic Liquor, Beverages and Prepared Food* as defined elsewhere in this Section.

Owner / Operator. The terms *Owner* and *Operator* shall be used interchangeably and shall mean any person having an ownership interest in or conducting the operation of a Retail Food Facility and/or Retail Liquor Facility.

Person. Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of court, or other legally recognized entity.

Prepared food. Any and all commodities, whether solid, semi-solid, or liquid (including both alcoholic and non-alcoholic liquid) used or intended to be used for human consumption, enjoyment or nourishment of the human body, whether simple compound or mixed and which has been prepared for immediate consumption. Prepared food may be purchased for consumption within or upon the premises where it is sold or it may be purchased for consumption off the premises where it is sold. Prepared food does not mean or include any food which has not been prepared for immediate consumption.

Purchase/Sale at Retail. To obtain food, beverages and alcoholic liquor 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 or the Illinois service occupation tax.

Retail Food Facility. Includes any place at which food items or beverages are served and/or prepared for immediate consumption by a business which provides for on and/or off premise consumption of said food or beverages, whether or not such facility is conducted along with any other use(s) in a common premise or business establishment. Retail Food Facilities include, but not limited to, those establishments commonly called an inn, restaurant, eating place, drive-through restaurant, bakery, confectionery, buffet, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, cocktail lounge, soft drink parlor, ice cream parlor, tearoom, delicatessen, banquet facility, movie theater, hotel, motel or club.

Retail Liquor Facility. Any establishment licensed under Chapter 3 of the Vernon Hills Municipal Code with respect to the sale of liquor.

Retailer. A person who sells, or offers for sale, food, beverages and alcoholic liquor for use or consumption and not for resale.

Sec. 21-242 Collection of taxes by Retailer.

Each owner and/or operator of a Retail Food Facility and/or a Retail Liquor Facility within the Village shall have the duty to collect and account for said tax(es) from each purchaser at the time the consideration for such purchase is paid. Each such owner and/or operator shall be jointly and severally liable for the collection and remittance to the Village of such taxes.

Sec. 21-243 Books and Records.

Each owner and/or operator of a Retail Food Facility and/or a Retail Liquor Facility within the Village shall have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for the sale of Covered Food and Alcohol Items and the taxes 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. Each owner and each operator shall have an obligation to maintain such records independent of each other.

Sec. 21-244 Transmission of Tax Collection.

Each owner and each operator of a Retail Food Facility and/or a Retail Liquor Facility within the Village shall have the duty to cause to be filed, a sworn return with the Village for each facility and for each licensed premises located in the Village. The return shall be prepared and submitted on forms prescribed by the Village and filed with the Village by the filing date and at the same time intervals or frequencies as the Sales Use Tax Return, form, ST-1 or ST-2, is due to be filed with the Illinois Department of Revenue. The return shall also be accompanied by payment to the Village of all taxes imposed by this article, which are due and owing for the period covered by the return. The return shall also be accompanied by a copy of the return filed with the Illinois Department of Revenue for sales within the Village of Vernon Hills covering the same reporting period.

Sec. 21-245 Late Payment Penalty

If any tax imposed by this Article is not paid when due, a late payment penalty equal to two percent (2%) of the unpaid tax shall be added each month, or any portion thereof, that the tax remains unpaid and the late payment penalty shall be paid along with the tax imposed.

Sec. 21-246 Transmittal of Excess Tax Collections

If any person collects an amount upon a sale not subject to the tax imposed hereby, but which amount is purported to be the collection of the tax, or if a person collects an amount upon a sale greater than the amount of the 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 an pay over those amounts to the Village along with the tax properly collected.

Sec. 21-247 Enforcement License Suspension, Revocation

Payment and collection of the tax and any late payment penalty may be enforced by action in any court of competent jurisdiction and failure to collect, account for an pay over the tax and any late payment penalty shall be cause for suspension or revocation of any Village license issued for the Retail Food Facility or Retail Liquor Facility applicable to the premises thereof, all in addition to any other penalties in this Section. In addition to the amount of tax due and any penalties, the Village shall be entitled to recover its costs of collection, including a reasonable attorney's fee and court costs.

Sec. 21-248 Penalty

Each owner and/or operator of a Retail Food Facility and/or Retail Liquor Facility within the Village failing or omitting to pay the tax when due or failing or omitting to collect, to maintain accurate records or to account for, or to pay over the 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 two hundred dollars (\$200) nor more than

one thousand dollars (\$1,000) for each offense, and for each day a violation continues shall be considered a separate violation.

SECTION 3: SEVERABILITY: In the event that any section, clause, provision, or part of this Ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts are severable from the invalid parts and shall remain in full force and effect. If any part of this Ordinance is found to be invalid in any one or more of its several applications, all valid applications that are severable from the invalid applications shall remain in effect.

SECTION 4: REPEAL AND SAVINGS CLAUSE: All Ordinances or parts of Ordinances in conflict herewith are hereby repealed, provided, however, that nothing herein contained shall affect any rights, actions or causes of action which shall have accrued to the Village of Vernon Hills prior to the effective date of this ordinance.

SECTION 5: EFFECTIVE DATE: This Ordinance shall be in full force and effect from its passage and approval.

SECTION 6: ORDINANCE NUMBER: This Ordinance shall be known as Ordinance Number 2018-050.


Dated this 17th day of April 2018

Adopted by roll call votes as follows:

AYES: 4 – Oppenheim, Hebda, Schultz, Marquardt

NAYS: 1 - Koch

ABSENT AND NOT VOTING: 1 - Takaoka

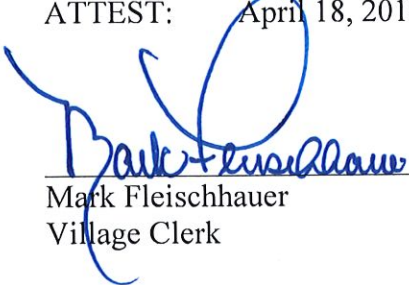


Roger L. Byrne
Village President

PASSED: April 17, 2018

APPROVED: April 17, 2018

ATTEST: April 18, 2018



Mark Fleischhauer
Village Clerk