

**AN ORDINANCE AMENDING  
CHAPTER 12, ENTITLED “VILLAGE TAXATION,” OF TITLE 1, ENTITLED  
“ADMINISTRATIVE”  
OF THE VILLAGE CODE OF THE  
VILLAGE OF GLENDALE HEIGHTS, DUPAGE COUNTY, ILLINOIS AND  
REPEALING ORDINANCE NO. 2010-36 OF THE VILLAGE OF  
GLENDALE HEIGHTS, DUPAGE COUNTY, ILLINOIS**

WHEREAS, the Village of Glendale Heights, DuPage County, Illinois (the “*Village*”), is a home rule unit of government pursuant to Section 6 of Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, pursuant to its home rule powers and Section 8-11-6a of the Illinois Municipal Code, the Village deems it necessary and desirable to implement a Food and Beverage Tax within the Village.

BE IT ORDAINED by the President and Board of Trustees of the Village of Glendale Heights, DuPage County, Illinois, as follows:

Section 1: That Ordinance No. 2010-36 of the Village of Glendale Heights, DuPage County, Illinois is hereby repealed in its entirety.

Section 2: That Chapter 12 entitled, “*Village Taxation*”, of Title 1 entitled, “*Administrative*,” of the Village Code of Glendale Heights, DuPage County, Illinois, is amended by adding Section 1-12-8, entitled “*Food and Beverage Tax*,” as follows:

**1-12-8: DEFINITIONS**

As used in this Section, the following terms shall have the following meanings:

**ALCOHOLIC LIQUOR:** Any alcohol, spirits, wine, beer, ale or other liquid containing more than one-half of one percent of alcohol by volume, which is intended for internal consumption by humans.

**PREPARED FOOD:** Includes any solid, liquid including both alcoholic liquor and nonalcoholic liquids, except “*soft drink*” as hereinafter defined, powder or item used or intended to be used for human internal consumption, 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. However, with respect to food purchased for consumption off the premises where it is sold, the term “*prepared food*” does not include any food which is taxed pursuant to 35 ILCS 120/2-10 or is sold in a closed or sealed bottle, can, carton or container of the manufacturer or wholesaler or which has not been prepared for immediate consumption. Notwithstanding any other provisions of this Section, “*prepared food*” does not include any food or drink sold through a vending machine regardless of the location of the vending machine.

**PREPARED FOOD FACILITY:** Any person, business, or establishment which sells at retail prepared food that has been prepared for immediate consumption with seating provided for consumption of the prepared food, whether or not such prepared food facility use is conducted along with any other use in a common establishment commonly described as an inn, restaurant, eating place, drive-in restaurant, buffet, bakery, cafeteria, cafe, lunchcounter, grocery store, convenience store, fast food outlet, catering service, coffeeshop, diner, sandwich shop, soda fountain, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, hotel, motel, or club, or any other establishment which sells at retail food which has been prepared for immediate consumption. The term “prepared food facility” does not include churches, public or private schools, boardinghouses, day care centers, nursing homes, retirement centers or similar residential care facilities, or programs for the central preparation of meals to be delivered and consumed at private residences of the elderly or disabled, or other facilities of non-for-profit associations or corporations.

**PURCHASE AT RETAIL:** To obtain for use or consumption and not for resale, in exchange for consideration, whether in the form of money, credits, barter or any other nature.

**RETAIL LIQUOR FACILITY:** Any premises required to obtain a retail liquor license pursuant to Title 3, Chapter 2.

**RETAILER:** A person or entity who/which sells or offers for sale for use or consumption and not for resale.

**SOFT DRINKS:** Any complete, finished, ready-to-use, nonalcoholic drink, whether carbonated or not, including but not limited to soda water, cola, fruit juice, vegetable juice, carbonated water, and all other preparations commonly known as soft drinks of whatever kind or description that are contained in any closed or sealed bottle, can, carton, or container, regardless of size. “*Soft drink*” does not include coffee, tea, noncarbonated water, infant formula, milk or milk products as defined in the Grade A Pasteurized Milk and Milk Products Act, or drinks containing 50 percent or more natural fruit or vegetable juice.

**1-12-8-1: IMPOSITION OF TAX**

A tax, in addition to any and all other taxes imposed, is hereby levied and imposed upon the retail purchase of alcoholic liquor and prepared foods at any food facility or retail liquor facility, within the Village, at the rate of one percent (1.0%) of the purchase price of such alcoholic liquor and prepared foods, excluding other taxes imposed thereon, the ultimate incidence of and the liability for payment of which shall be borne by the purchaser.

**1-12-8-2: COLLECTION OF TAX**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to collect and account for the tax imposed on each purchaser at the time the consideration is paid by the purchaser.

**1-12-8-3: BOOKS AND RECORDS**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sale of prepared foods and alcoholic liquor and the tax collected each business 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.

**1-12-8-4: TRANSMISSION OF TAX COLLECTION**

The retailer of each prepared food facility and each retail liquor facility shall have the duty to cause to be filed, a sworn prepared food and beverage tax return with the Director of Finance of Village for each prepared food facility and retail liquor facility located within 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 quarterly time intervals or frequencies as the Sale and Use Tax Return, Form ST-1, 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 Chapter which are due and owing for the time period covered by the return, except that one percent (1%) of the amount due may be deducted and retained by the retailer as an administrative fee if payment is made in a timely manner. The return shall also be accompanied by a copy of the Sale and Use Tax Return, Form ST-1, filed with the Illinois Department of Revenue for sales within the Village during the same time period. All taxes collected by the Village pursuant this Chapter are general revenues of the Village and may be used by the Village for any lawful corporate purpose.

**1-12-8-5: LATE PAYMENT PENALTY**

If any tax imposed by this Section is not paid when due, a late payment penalty equal to five percent (5.0%) 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 imposed.

**1-12-8-6: TRANSMITTAL OF EXCESS TAX COLLECTIONS**

If any retailer 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 retailer 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 and pay over those amounts to the Village along with the tax properly collected.

**1-12-8-7: 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 and pay over the tax and any late payment penalty shall be cause for suspension or revocation of any Village license issued for the prepared food facility or retail liquor facility, if any, and all in addition to any other penalties provided for the Glendale Heights Municipal Code.

**1-12-8-8: PENALTY**

Any retailer operating a prepared food facility or retail liquor facility within the Village who fails or omits to collect, account for, pay over to the Village the tax and any late payment penalty, if any, imposed by this Section, or fails to maintain or allow examination of the books and records required in Sub section 3 of this Section, upon conviction, shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000.00) for each offense. Each day a violation of this Chapter continues shall be considered a separate violation.

Section 3: This Ordinance and each of its terms shall be the effective legislative act of a Home Rule municipality without regard to whether this Ordinance: (a) contains terms contrary to the provisions of current or subsequent non-preemptive state law, or (b) legislates in a manner or regarding a matter not delegated to municipalities by state law. It is the intent of the Corporate Authorities of the Village of Glendale Heights that to the extent that the terms of this Ordinance should be inconsistent with any non-preemptive state law, that this Ordinance shall supersede state law in that regard within its jurisdiction.

Section 4: That this Ordinance shall be in full force and effect on and after August 1, 2010.

AYES:

NAYS:

ABSENT:

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Village President

PASSED: This 3<sup>rd</sup> day of June, 2010.

APPROVED: This 3<sup>rd</sup> day of June, 2010.

PUBLISHED: This 3<sup>rd</sup> day of June, 2010.

ATTEST:

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Village Clerk

Published in pamphlet form  
This 3<sup>rd</sup> day of June, 2010

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Village Clerk

ORDINANCE NO. 2010 - \_\_\_\_\_

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REPEALING ORDINANCE NO. 2010-36 OF THE VILLAGE OF  
GLENDALE HEIGHTS, DUPAGE COUNTY, ILLINOIS**

PASSED AND APPROVED BY  
THE PRESIDENT AND BOARD OF TRUSTEES  
THIS 3<sup>RD</sup> DAY OF JUNE, 2010.

Published in pamphlet form by authority of the  
corporate authorities of the Village of Glendale  
Heights, Illinois, the 3<sup>rd</sup> day of June, 2010.