

ORDINANCE NO. 2171-22

AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE VILLAGE OF
HAWTHORN WOODS BY THE ADDITION OF TITLE 3, CHAPTER 10, IMPOSING A FOOD
AND BEVERAGE TAX

BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods,
Lake County, Illinois, as follows:

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and
regulations that pertain to its government and affairs and that protect the public health, safety and
welfare of its citizens; and

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE
VILLAGE OF HAWTHORN WOODS AS FOLLOWS:

“SECTION ONE: 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 TWO: Adoption of Tax. Title 3, Business and License Regulations, of the
Municipal Code of the Village of Hawthorn Woods shall be amended by the addition of
Section 3-10 that will read as follows:

3-10-1: DEFINITIONS: For purposes of this chapter, the following words and phrases shall
have the following meanings:

ALCOHOLIC LIQUOR: Any spirits, wine, beer, ale, or other liquid containing more
than one-half of one percent of alcohol by volume, which is fit for beverage purposes.

FOOD AND BEVERAGE: Any and all material or commodities, whether solid,
semisolid, or liquid (including both alcoholic and nonalcoholic liquid) used or
intended to be used for human consumption, for enjoyment or nourishment of the
human body.

PURCHASE 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.

RETAIL FOOD FACILITY: Any place at which food items are served and/or prepared where said food items are intended to be, or are permitted to be, consumed on the premises, including, but not limited to those establishments commonly called an inn, restaurant, dine in or carryout restaurant, eating place, drive-in, restaurant, bakery, buffet, banquet facility, special event venue facility, cafeteria, cafe, lunch counter, fast food outlet, catering service, coffee shop, diner, sandwich shop, soda fountain, tavern, bar, mobile food or beverage [vehicle], cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, movie theatre, ice cream vehicle, hotel, motel, or club, where a facility only partially intended to permit on-site consumption of food (such as a grocery store with a prepared food service area), only that portion of the facility selling prepared food shall be considered a retail food facility. Retail food facilities shall not include coin operated automatic food item dispensing machines, confectionary stores, churches, public or private schools, boarding houses, hospitals, 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 invalids or the elderly nor to facilities operated by not-for-profit associations or corporations.

RETAIL LIQUOR FACILITY: Any establishment licensed under Chapter 3 of this title with respect to the sale of liquor where the liquor sold is intended to be consumed

on the premises.

RETAILER: A person who sells or offers for sale food, beverages, and alcoholic liquor for use or consumption and not for resale at a retail food facility or retail liquor facility. Includes an individual, corporation, partnership, limited partnership, or an officer or employee of any such entity, or such officer, employee or member is performing the act in respect of which any violation occurs.

3-10-2: TAX IMPOSED: Commencing on July 1, 2022, a tax, in addition to any and all other taxes is hereby levied and imposed, upon the privilege of the retail purchase of alcoholic liquor, food or beverages at any retail food facility or retail liquor facility, as herein defined, within the Village at the rate of one percent (1%) of the purchase price of such alcoholic liquor, food or beverage (“Food and Beverage Tax”), the ultimate incidence of and liability for payment of which shall be borne by the purchaser thereof.

3-10-3: COLLECTION OF TAX(ES) BY RETAILER: Each retailer within the Village shall jointly and severally have the duty to collect and account for said tax(es) from each purchaser at the time that the consideration for such purchase is paid.

3-10-4: BOOKS AND RECORDS: Each retailer within the Village shall jointly and severally have the duty to maintain complete and accurate books, records and accounts, showing the gross receipts for sales of food and beverage and alcoholic liquor and the taxes collected each day pursuant to the Food and Beverage Tax, which shall be made available in the Village for examination and audit.

3-10-5: FILING OF RETURN: The owner and the operator of each retail food facility and each retail liquor facility within the Village shall jointly and severally have the duty to cause

to be filed a sworn return(s) with the Chief Financial Officer for each retail facility located in the Village. Said return shall be prepared and submitted on forms prescribed by the Village. Said return shall be filed by the filing date or postmarked the filing date (either of which shall constitute timely payment), and at the same time intervals and frequencies as the retailers' occupational tax return, form ST-1, is due to be filed with the Illinois Department of Revenue. Said return shall be remitted to the Village by the end of the month that said return is processed. Said return shall also be accompanied by payment to the Village of all taxes imposed by this chapter which are due and owing for the period covered by said return. Said return shall also be accompanied with a copy of the return filed with the Illinois Department of Revenue covering the same reporting period.

A. Any retailer participating in community festivals or event must file a sworn return and pay the taxes due within 30 days of the last day of participation in the event. A retailer at such event may request an extension to file a sworn return, but pay a good faith estimate of the taxes due no later than 30 days of the last day of the event.

1. Any such extension may only be granted for up to 90 days. On or before the last day of the extension, a final sworn return must be filed by the retailer with the Village which reflects actual taxes due. At the time the final sworn return is filed, the retailer shall pay the balance of the taxes due, if any. In the event of overpayment, a refund in the amount of the overpayment shall be sent to the retailer by the Village.

2. This section will not apply to any retailer who also maintains a retail food facility or retail liquor facility in the Village of Hawthorn Woods and

files returns in accordance with this chapter.

3-10-6: AMENDMENT TO FOOD AND BEVERAGE TAX RETURNS: In the event the retailer which has made payment of any Food and Beverage Tax to the Village and believes that said payment was in excess of what was legally required to be paid, that retailer shall have a period of 60 days from the date of payment to amend its Food and Beverage Tax returns. The Village shall issue a refund in the amount of the overpayment within 60 days of the retailer's submission of the amendment and the Village's confirmation of overpayment.

3-10-7: LATE PAYMENT PENALTY: If any tax imposed herein is not paid when due, a late payment penalty equal to five percent of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains underpaid and the total of such late payment penalty shall be paid along with the tax imposed herein. In addition to the five percent penalty imposed above, any retailer participating in community festivals which does not timely file or pay the Food and Beverage Tax, will be denied necessary permits to participate in any future community festivals or events.

3-10-8: TRANSMITTAL OF EXCESS TAX COLLECTIONS: If any person collects an amount upon a sale not subject to the tax imposed herein, but which amount is purported to be the collection of said tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same to the purchaser who paid the same before filing the return for the period in which such occurred, said person shall account for and pay over those amounts to the Village along with the tax properly collected.

3-10-9: AGENT DESIGNATION: Each and every retailer within the Village of Hawthorn

Woods shall designate an individual, either by name or job title, to receive any written communication from the Village regarding the Food and Beverage Tax. Each person so designated shall be employed at a facility located within the Village of Hawthorn Woods and for purposes of this section may be referred to as "agent." Each owner and operator of each facility may additionally designate an individual, either by name or job title, outside of the corporate limits of the Village of Hawthorn Woods to receive the same information or inquiries provided to the person so designated within the Village. It shall be the obligation of each owner or operator of the facility to notify the Village's Chief Financial Officer in writing via certified mail of any change of person so designated within ten days of any change.

3-10-10: VIOLATIONS: Any person, firm, corporation or business entity who or which violates any provision of this Chapter 10 shall be subject to a fine as provided in Section 1-4-1 not less than one hundred dollars (\$100) and not more than seven hundred and fifty (\$750) for each separate offense. A separate offense shall be deemed committed on each day a violation occurs or continues to occur."

SECTION THREE: That all ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of such conflict, superseded by this Ordinance.

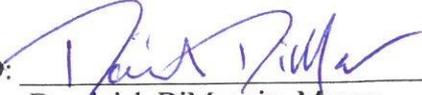
The foregoing Ordinance was adopted by a roll call vote as follows:

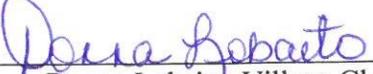
AYES: Kaiser, Rios, Bayer, McCarty, Reschler

NAYS: David

ABSTENTIONS: 0

ABSENT: 0

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

PASSED: April 25, 2022

APPROVED: April 25, 2022

PUBLISHED: April 26, 2022