

FINANCE DEPARTMENT

# Village of Niles



"Where People Count"

1000 Civic Center Drive, Niles Illinois 60714 Telephone (847)588-8000

June 1, 2007

RE: Village of Niles Prepared Food & Beverage<sup>1</sup> Tax:

Dear Sir or Madam:

The Village Board of Trustees has approved a one percent tax (1%) on the retail sale of prepared food and beverages as set forth in Ordinance 07-22. You can view the entire ordinance at [www.vniles.com](http://www.vniles.com). The effective date of this tax is **August 1, 2007**. You should collect the tax beginning August 1, 2007 and submit the attached tax remittance form, ST-1 and payment before the 20<sup>th</sup> of the following month (or the next business day thereafter if the 20<sup>th</sup> falls on a weekend or Illinois state-recognized holiday).

Attached you will find the tax remittance form that you must complete and return to the Village each month. We have included one copy of the remittance form; please reproduce as many copies as you need.

Should you have any questions regarding this tax or need further information, please call the Finance Department, 847-588-8000.

Yours truly,

Scot Neukirch  
Finance Director/Treasurer

<sup>1</sup> *Prepared food means* and includes any solid, liquid (including both alcoholic and non-alcoholic liquid), 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 where it is sold.

*Prepared food* does not mean or include any food which 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.





## ORDINANCE 2007-22

### AN ORDINANCE ADDING A NEW ARTICLE TO CHAPTER 94 OF THE MUNICIPAL CODE TO BE TITLED, “MUNICIPAL PREPARED FOOD AND BEVERAGE TAX”

**WHEREAS**, the Village of Niles (“Village”), located in Cook County, Illinois, is a home rule unit of government as defined and set forth in the Constitution of the State of Illinois, can exercise any power and perform any function pertaining to its governmental affairs, including but not limited to the power to tax and incur debt; and

**WHEREAS**, in furtherance of its home rule powers, it is necessary and desirable for the Village of Niles to amend its ordinance regarding taxation by creating a municipal prepared food and beverage tax; and

**WHEREAS**, implementation of a municipal prepared food and beverage tax will further diversify the Village’s revenue base and reduce dependency on property tax; and

**WHEREAS**, implementation of the municipal prepared food and beverage tax will provide additional resources to keep pace with the rising costs of Village operations; and

**WHEREAS**, the Village is desirous of imposing a municipal prepared food and beverage tax within the corporate limits to accommodate these objectives; and

**WHEREAS**, the Village President and the Board of Trustees find the tax rate provided for in this ordinance lawful and in full compliance with limitations set forth in the Illinois Municipal Code.

**NOW, THEREFORE, BE IT ORDAINED** by the President and Board of Trustees of the Village of Niles, Cook County, Illinois as follows:

**SECTION 1:** The Corporate Authorities do hereby incorporate the foregoing **WHEREAS** clauses into this Ordinance as though fully set forth therein thereby making the findings as hereinabove set forth.

**SECTION 2:** The Village of Niles Municipal Code is hereby amended by adding a new Chapter 94, Article XI, entitled, “*Municipal Prepared Food and Beverage Tax*”, to read as follows:

**CHAPTER 94  
TAXATION**

**ARTICLE XI. MUNICIPAL PREPARED FOOD AND BEVERAGE TAX**

\* \* \*

94-250:	Definitions
94-251:	Imposition of Tax
94-252:	Collection of Tax by Retailer
94-253:	Books and Records
94-254:	Transmittal of Tax Collection
94-255:	Late Payment Penalty
94-256:	Transmittal of Excess Tax Collection
94-257:	Enforcement, License Suspension, Revocation
94-258:	Penalty for Violation
94-259:	Effective Date

\* \* \*

**Sec. 94-250. DEFINITIONS:**

*Alcoholic liquor* means spirits, wine, beer, ale or other liquid containing more than one-half of one percent (0.5%) of alcohol by volume, which is fit for beverage purposes.

*Alcoholic liquor facility* means any establishment licensed under the provisions of the Municipal Code of the Village of Niles and that sells alcoholic liquor at retail.

*Person* means any individual, firm or corporation, representative, or entity.

*Prepared food:*

- A. Means and includes any solid, liquid (including both alcoholic and non-alcoholic liquid), 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.
- B. "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 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.

*Prepared Food Facility:*

- A. Any person or establishment subject to licensing pursuant to the Municipal Code of the Village of Niles which sells at retail food which has been prepared for immediate consumption and whether or not such prepared food facility use is conducted along with any other use(s) in a common premises or business establishment.
- B. A “prepared food facility” includes, but is not limited to, those establishments commonly called an inn, restaurant, eating place, drive-in restaurant, buffet, bakery, cafeteria, café, 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, movie theater, mobile food or beverage or ice cream vehicle, hotel, motel, or club, or any other establishment which sells at retail food which has been prepared for immediate consumption.
- C. A “prepared food facility” does not include churches, public or private schools, boarding houses, 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, or other facilities of not-for-profit associations or corporations.

*Purchase at Retail* means to obtain for use or consumption in exchange for consideration, whether in the form of money, credits, barter or any other nature, and not for resale.

*Retailer* means any person who sells or offers for sale, for use or consumption and not for resale.

**Sec. 94-251. IMPOSITION OF TAX:** Effective as of August 1, 2007, a tax, in addition to any and all other taxes, is imposed upon the purchase of prepared foods and alcoholic liquor at retail at any prepared food facility or alcoholic liquor facility within the Village, at a rate of one percent (1.0%) of the purchase price of such prepared food and alcoholic liquor, the ultimate incidence of any liability for payment of which shall be borne by the purchaser.

**Sec. 94-252. COLLECTION OF TAX BY RETAILER:** The owner and the operator of each prepared food facility and each alcoholic liquor facility within the Village shall have the duty to collect and account for the Municipal Prepared Food and Beverage Tax from each purchaser at the time the purchase is made.

**Sec. 94-253. BOOKS AND RECORDS:** The owner and the operator of each prepared food facility and each alcoholic liquor facility within the Village shall have the duty to maintain complete and accurate books, records, and accounts showing the gross receipts for sales of prepared food and alcoholic liquor 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.

**Sec. 94-254. TRANSMITTAL OF TAX COLLECTION:** The owner and the operator of each prepared food facility and each alcoholic liquor facility within the Village shall have the duty to file a sworn Return with the Director of Finance/Treasurer for each such facility and for each such licensed premises located in the Village. The Return shall be prepared and submitted on forms prescribed by the Village, and shall be filed with the Village by the filing date and at the same time intervals or frequencies as the retailers occupation 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 article which are due and owing for the period covered by the Return, and be accompanied with a copy of the Return filed with the Illinois Department of Revenue for sales within the Village of Niles covering the same reporting period.

**Sec. 94-255. LATE PAYMENT PENALTY:** In the event of failure by any person to collect and pay to the Director of Finance the tax required hereunder when the same shall be due, interest shall accumulate and be due upon said tax at the rate of one and one-half percent (1 ½%) per month commencing as of the first day following the day when the tax becomes due. In addition, a penalty of ten percent (10%) of the tax and interest due shall be assessed and collected against any person who shall fail to pay the tax imposed by this Chapter.

**Sec. 94-256. TRANSMITTAL OF EXCESS TAX COLLECTION:** 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 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, the person shall account for and pay over those amounts to the Village along with the tax properly collected.

**Sec. 94-257. LICENSE SUSPENSION, REVOCATION:** Payment and collection of the Municipal Prepared Food and Beverage Tax and any payment penalty may be enforced by action in any court of competent jurisdiction and failure to collect, account for and pay over said tax shall be cause for suspension or revocation of any Village license issued for such prepared food facility or alcoholic liquor facility applicable to the premises thereof, all in addition to any other penalties in this Article.

**Sec. 94-258. PENALTY FOR VIOLATION:** In addition to the remaining provisions of this Chapter, any person found, in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with or resisting or opposing the enforcement of any provision of this Chapter, shall be fined not less than fifty dollars (\$50.00) nor more than one thousand dollars (\$1000.00)

**Sec. 94-259. EFFECTIVE DATE:** The effective date for the municipal prepared food and beverage tax is August 1, 2007.

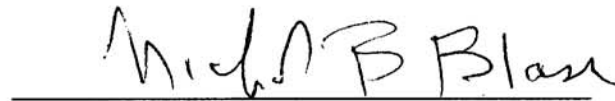
**SECTION 3:** That this Ordinance shall be in full force and effect from and upon its passage and approval.

**SECTION 4:** That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of any such conflict.

**PASSED:** This 22nd day of May 2007.  
**AYES:** 5 Biederman, Blase, Callero, Murphy, Preston  
**NAYS:** 1 LoVerde  
**ABSENT:** 0  
**ABSTAIN:** 1 Przybylo

  
Village Clerk

**APPROVED** by me this 22nd day of May 2007.

  
President of the Village of Niles  
Cook County, Illinois

**ATTESTED AND FILED** in my office this 22nd day of May 2007, and published in pamphlet form as provided by law in the Village of Niles, Illinois.

  
Village Clerk