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VILLAGE OF MELROSE PARK  
COOK COUNTY, ILLINOIS

ORDINANCE NO. 2173

AN ORDINANCE ADOPTING AN ADDITIONAL FOOD AND  
BEVERAGE TAX, IN THE VILLAGE OF MELROSE PARK,  
COUNTY OF COOK, STATE OF ILLINOIS.

ADOPTED BY THE  
PRESIDENT AND BOARD OF TRUSTEES  
OF THE  
VILLAGE OF MELROSE PARK

THIS 13<sup>TH</sup> DAY OF NOVEMBER 2017

RONALD M. SERPICO, Village President  
MARY ANN PAOLANTONIO, Village Clerk

Board Of Trustees

ANTHONY J. PRIGNANO  
ARTURO J. MOTA  
MARY RAMIREZ TACONI  
JAIME ANGUIANO  
ANTHONY N. ABRUZZO  
LOUIS "SONNY" NICOTERA

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Published by authority of the  
President and Board of Trustees  
Of the Village of Melrose Park,  
Cook County, Illinois on  
This 14<sup>TH</sup> day of NOVEMBER 2017

**ORDINANCE NO. 2173**

**AN ORDINANCE ADOPTING AN ADDITIONAL FOOD AND BEVERAGE TAX, IN THE VILLAGE OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS.**

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**WHEREAS**, the Village of Melrose Park, County of Cook, State of Illinois (the “Village”) is a duly organized and existing home rule Village created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, the Constitution of the State of Illinois and all laws amendatory thereof and supplementary thereto; and

**WHEREAS**, the Village President (the “President”), the Honorable Ronald M. Serpico, the Village Clerk, the Honorable Mary Ann Paolantonio, having taken office on May 8, 2017 and the Board of Trustees of the Village (the “Village Board”), the Honorable Anthony J. Prignano, Arturo J. Mota, Mary Ramirez Taconi, Jaime Anguiano, Anthony N. Abruzzo, and Louis “Sonny” Nicotera, having taken office on May 8, 2017, constitute the duly elected, qualified and acting officials of the Village; and

**WHEREAS**, the President and the Village Board (collectively, the “Corporate Authorities”) are committed to ensuring the financial stability of the Village; and

**WHEREAS**, in connection with the foregoing, the Village recognizes the need to impose taxes on certain matters; and

**WHEREAS**, the Village recognizes that the taxes imposed by this Ordinance will be in addition to other taxes imposed under the Village of Melrose Park Municipal Code; and

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

**ARTICLE I.  
IN GENERAL**

**Section 01. Incorporation Clause.**

All of the recitals hereinbefore stated as contained in the preambles to this Ordinance are full, true and correct, and the Corporate Authorities do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

**Section 02. Purpose.**

The purpose of this Ordinance is to adopt and impose an additional tax under the Melrose Park Code.

**Section 03. Invocation of Authority.**

This Ordinance is enacted pursuant to the authority granted to the Village by the Constitution of the State of Illinois and the Illinois Compiled Statutes.

**Section 04. State Law Adopted.**

All applicable provisions of the Illinois Compiled Statutes, including the Illinois Municipal Code, as may be amended from time to time, relating to the purposes of this Ordinance are hereby incorporated herein by reference.

**Sections 05-09. Reserved.**

**ARTICLE II.  
AUTHORIZATION**

**Section 10.00 Authorization.**

The Village Board hereby approves and adopts the amendments to Title 3 of the Melrose Park Municipal Code as described in Exhibit "A".

That the Village Clerk is hereby authorized and directed to attest to and countersign the Agreement, the Application and any such other documentation as may be necessary to carry out

and effectuate the purpose of this Ordinance, and is further authorized and directed to affix the Seal of the Village to such documentation as is necessary.

That the Village Board hereby authorizes the officers, employees and/or agents of the Village to take all action necessary or reasonably required to carry out, give effect to and consummate the intent of this Ordinance and to take all action necessary in conformity therewith.

That the Village Board hereby ratifies any and all previous action taken to effectuate the intent of this Ordinance. Any applicable bidding requirements for the Services, the Agreement or collateral agreements entered into thereunder pursuant to this Ordinance are hereby waived.

**Section 11.00 – Section 15.00 Reserved.**

**ARTICLE III.  
SAVINGS CLAUSES,  
PUBLICATION, EFFECTIVE DATE**

**Section 16.00 Headings.**

The headings for the articles, sections, paragraphs and subparagraphs of this Ordinance are inserted solely for the convenience of reference and form no substantive part of this Ordinance nor should they be used in any interpretation or construction of any substantive provision of this Ordinance.

**Section 17.00 Severability.**

The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, subparagraph, section or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision, clause, sentence, paragraph, subparagraph, section or part shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is

hereby declared to be the legislative intent of the Village Board that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, subparagraph, section or part thereof been included.

**Section 18.00 Superseder.**

All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith are, to the extent of such conflict, hereby superseded.

**Section 19.00 Publication.**

A full, true and complete copy of this Ordinance shall be published in pamphlet form or in a newspaper published and of general circulation within the Village as provided by the Illinois Municipal Code, as amended.

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**Section 20.00 Effective Date.**

This Ordinance shall be in full force and effect ten (10) days from its passage, approval and publication, as provided by law.

On The Individual Poll And Voice Vote Of The Board Of Trustees:

AYE VOTES: Trustee Prignano, Trustee Mota, Trustee Taconi,  
Trustee Abruzzo, Trustee Nicotera

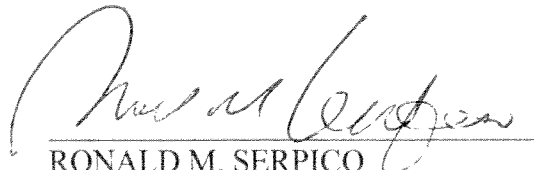
NAY VOTES:

ABSTAIN:

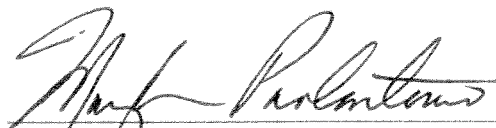
ABSENT: Trustee Anguiano

SO PASSED, ADOPTED, APPROVED AND ENACTED IN AND AT THE VILLAGE  
OF MELROSE PARK, COUNTY OF COOK, STATE OF ILLINOIS, THIS THIRTEENTH  
DAY OF NOVEMBER, 2017, A.D.

APPROVED:

  
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RONALD M. SERPICO  
VILLAGE PRESIDENT

ATTEST:

  
\_\_\_\_\_  
Mary Ann Paolantonio  
Village Clerk

(SEAL)

Recorded in the Municipal Records: November 13, 2017  
Published in Pamphlet Form: November 14, 2017

## EXHIBIT A

That a new Chapter 3.14 is added to Title 3 of the Village of Melrose Park Municipal Code:

### (a) **Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Alcoholic liquor* means any alcohol, spirits, wine or beer, and every liquid or solid containing more than one-half (0.5) percent by volume of alcohol, spirits, wine or beer, and capable of being consumed as a beverage by a human being, except medicine and drugs other than ethanol.

*Package Liquor Establishments* means a place of business in which all or a portion of the premises are used for the retail sale of alcoholic liquor in original package for consumption off the premises where sold.

*Prepared Food Item(s) for Immediate Consumption* means any and all material, whether solid, semi-solid or liquid, used or intended to be used primarily for human consumption and for nourishment of the human body which is capable of consumption without further preparation, except alcoholic liquor. The term shall include and be limited to:

(i) Food items purchased at establishments where facilities are provided for on-premises consumption, but the term shall not include food items purchased from other areas of any such establishment where such other areas utilize a separate means of collecting receipts from food purchased for immediate on-premises consumption and are physically separated from facilities provided for on premises consumption in the establishment: and

(ii) Food items purchased from concession stands, snack shops and other licensed establishments which sell food items primarily (more than fifty (50) percent of gross revenue of such establishments) in individual sized servings, such as but not limited to, ice cream cones, candy bars and individually served sandwiches, for immediate on-premises or off-premises consumption: and

(iii) Food items which are purchased hot or are otherwise purchased prepared from establishments such as, but not limited to, catering establishments or food takeout/delivery establishments, for immediate on-premises or off-premises consumption.

*Retailer* means any person, firm or entity having a sufficient proprietary interest in conducting a business which sells prepared food items for immediate consumption or alcoholic liquor so as to entitle such person, firm or entity to any part of the net receipts from the sale thereof.

### (b) **Imposition; Exemption.**

1. A tax, in addition to all other taxes, is hereby levied and imposed upon the privilege of purchasing prepared food items for immediate consumption and alcoholic liquor, including the

purchase of alcoholic liquor at retail at any Package Liquor Establishment, at the rate of two percent (2%) of the purchase price, exclusive of any other tax, charged for such food item or alcoholic liquor. The imposition of this tax shall be in addition to and not exclude any other taxes collected pursuant to the Village of Melrose Park Municipal Code.

2. No such tax shall be levied or imposed upon purchasers for the privilege of purchasing:

(A) Prepared food items for immediate consumption purchased in hermetically sealed containers and not reasonably expected or intended by the seller for immediate on-premises consumption:

(B) Prepared food items for immediate consumption purchased at employee cafeterias, when entrance to such cafeteria is limited to employees and guests of employees:

(C) Prepared food items for immediate consumption purchased from non-profit, inpatient medical, educational, philanthropic or public service institutions such as churches, day care establishments, residential halls, fraternities, sororities, schools, government entities, hospitals, nursing homes and other medical treatment centers and transitional shelters:

(D) Food items purchased from vending machines.

3. The ultimate incidence of and liability for payment of such tax shall be borne by the purchaser of taxable food items or alcoholic liquor.

**(c) Collection by Retailers.**

1. All retailers shall jointly and severally have the duty to collect, and shall collect and account for the tax imposed in subsection (b) hereof from each purchaser at the time that the consideration for such purchase is paid. Such retailers shall be the trustee for the Village in the collection and remittance of such taxes.

**2. Books and Records.**

The owner and the operator of each retail food facility and each retail liquor facility, including without limitation Package Liquor Establishments, 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, which shall be made available in the Village for examination and for audit by the Village upon reasonable notice and during customary business hours.

**(d) Inaccurate Collection.**

If any retailer collects an amount upon a sale not subject to the tax imposed in subsection (b) hereof but which amount is purported to be the collection of such tax, or if a retailer collects an amount upon a sale greater than the amount of the tax so imposed thereon and does not for any reason refund the same to the purchaser who paid the same before filing the return for the period in which such improper collection occurred, such retailer shall account for and pay over all such



amounts to the Village along with the tax accurately collected without entitlement to refund of inaccurate collection thereafter. It is the duty of the retailer to refund any inaccurately collected amounts to purchasers prior to the filing of a return; the filing of the return shall otherwise be deemed admission that the collection reported therein is properly remitted under this Chapter and such admission shall not be disturbed by amendment of returns thereafter. This Chapter shall not create any liability to the purchaser in relation to returns which include inaccurate collection.

**(e) Late Payment Penalty.**

If any tax imposed by this article is not paid when due, a late payment penalty equal to 5% of the unpaid tax shall be added for each successive thirty (30) day-period, or any portion thereof without proration, that such tax remains unpaid or underpaid and the total of such late payment penalty shall be paid along with the tax imposed hereby. In addition to the penalty herein provided, there shall be paid over to the Village \$50 for each day a representative of the Village attempts to make an in-person collection of the late payment in the event that attempted in-person collection of the late payment is required. Such attempted in-person collection by a Village officer or employee is required and shall be undertaken if the payment of the tax has not been received by the Village within ten (10) days beyond the due date.

**(f) Transmittal of Tax Revenue; Credits and Refunds.**

All retailers shall pay to the Village all taxes collected pursuant to this article. A sworn monthly return shall be filed with the Comptroller by all retailers in the Village in a format prescribed by the Comptroller, containing such information as the Comptroller may reasonably require, including all receipts from taxable purchases of food items and alcoholic liquor and the tax collected therewith, which return shall be filed by the twentieth (20<sup>th</sup>) day of the calendar month next succeeding the month for which the return is made and shall be accompanied by payment of all taxes due and owing for the month covered by such return.

**(g) Enforcement; License Suspension or Revocation.**

In addition to required in-person collection attempts, payment and collection of said tax and any late payment penalty may be enforced by commencing an action in any court of competent jurisdiction. In addition, the failure to collect, account for and pay over said tax and any late payment penalty shall be cause for suspension or revocation of any Village license issued for such retail facility or applicable to the premises thereof, all in addition to any other penalties in this article.

**(h) Violations; Penalties.**

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this article, shall upon conviction be subject to a fine of not less than Seventy-five Dollars (\$75.00) nor more than One Thousand Dollars (\$1,000.00) for the first offense, and not less than One Hundred Fifty Dollars (\$150.00), nor more than One Thousand Dollars (\$1,000.00) for the second and subsequent

purchase of alcoholic liquor at retail at any Package Liquor Establishment, at the rate of two percent (2%) of the purchase price, exclusive of any other tax, charged for such food item or alcoholic liquor. The imposition of this tax shall be in addition to and not exclude any other taxes collected pursuant to the Village of Melrose Park Municipal Code.

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offenses. Each act of violation and each day upon which a violation occurs constitutes a separate offense.