

**CITY OF HARVEY
COOK CITY, ILLINOIS**

ORDINANCE NO. 3492

**AN ORDINANCE AMENDING THE CITY OF HARVEY'S MUNICIPAL CODE BY
AMENDING CERTAIN PROVISIONS OF TITLE 3 REVENUE AND TAXES,
CHAPTER 3-34 " EXCISE TAX ON THE SALE OF LIQUOR"**

**ADOPTED BY THE
CITY COUNCIL
CITY OF HARVEY**

THIS 8TH DAY OF JULY, 2024

Published in pamphlet form by authority of the City Council of the City of Harvey,
Cook City, Illinois, this 9th day of July, 2024.

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AMENDING CERTAIN PROVISIONS OF TITLE 3, "REVENUE AND TAXES,"
CHAPTER 3-34, " EXCISE TAX ON THE SALE OF LIQUOR"**

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of Harvey, Cook City, Illinois, in exercise of its home rule authority, as follows:

Section 1. Amendment. Title 3, "Revenue and Taxes," Chapter 3-34, "Excise Tax on the Sale of Liquor," of the Harvey Municipal Code is hereby stricken in its entirety and shall be replaced with the following:

1. Short title.

This Ordinance shall be known and cited as the "City of Harvey Liquor Tax Ordinance," and the tax imposed herein shall be known and cited as the "Harvey Liquor Tax."

2. Definitions.

- A. 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:
1. *Alcohol* means the product of distillation of any fermented liquid, whether rectified or diluted, whatever may be the origin thereof, and includes synthetic ethyl alcohol. The term does not include denatured alcohol or wood alcohol.
 2. *Alcoholic beverage* includes alcohol spirits, wine and beer and any liquid or solid, patented or not, containing alcohol, spirits, wine, or beer, and capable of being consumed as a beverage by a human being. The provisions of this Article shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated thereunder, nor to any liquid or solid containing one-half of one percent or less of alcohol by volume.
 3. *Beer* means a beverage obtained by the alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water, and includes, among other things, beer, ale, stout, lager, beer, porter and the like.

4. *Brewery or Brewpub* means an establishment where beer is brewed or manufactured and stored on the premises and can be served in an adjoining restaurant or tasting room.
5. *Department* means the Department of Revenue.
6. *Distillery* means an establishment that distills, ferments, brews, makes, mixes, concocts, processes, blends, bottles or fills an original package with any alcoholic liquor and can be tasted or purchased on the premises.
7. *Person* means any individual, corporation, Limited Liability Corporation, organization, government, governmental subdivision or agency, business trust, estate, trust, partnership, association and any other legal entity.
8. *Retail alcoholic beverage dealer* means any person who engages in the business of selling alcoholic beverages in the City to a purchaser for use or consumption, and not for resale in any form.
9. *Sale, resale and selling* mean any transfer of ownership or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatsoever for a valuable consideration.
10. *Spirits* means any beverage which contains alcohol obtained by distillation, mixed with water or other substances in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.
11. *Tasting room* means a room accessory to a brewery, brewpub, distillery, winery or other establishment where alcohol is created, fermented, brewed, processed, mixed, or blended and available on the premises for sampling and, or purchase.
12. *Wholesale alcoholic beverage dealer* means any person who engages in the business of selling or supplying alcoholic beverages to any person for resale in the City.
13. *Wine* means any alcoholic beverage obtained by the fermentation of the natural contents of fruits, or vegetables, containing sugar, including such beverages when fortified by the addition of alcohol or spirits, as above defined.
14. *Winery* means an establishment where wine is made by fermentation and fortified by the addition of alcohol or spirits and available for purchase or sampling on the premises.

3. Tax imposed.

- (a) A tax is hereby imposed on the retail sale in the City of all alcoholic beverages. Such tax is to be paid by the purchaser, and nothing in this Article shall be construed to impose a tax upon the occupation of retail or wholesale alcoholic beverage dealers, breweries, brewpubs, distilleries, or wineries. This tax shall be levied according to the following schedule:
 - (1) Alcoholic beverages other than beer, containing 14 percent or less alcohol by volume, a tax at the rate of \$0.54 per gallon or the pro rata portion thereof.
 - (2) Alcoholic beverages containing more than 14 percent and less than 20 percent alcohol by volume, a tax at the rate of \$1.48 per gallon or the pro rata portion thereof.
 - (3) Alcoholic beverages containing 20 percent or more alcohol by volume, a tax at the rate of \$4.24 per gallon or the pro rata portion thereof.
 - (4) Beer, a tax at the rate of \$0.34 per gallon or the pro rata portion thereof.
- (b) The ultimate incidence of and liability for payment of the tax levied in this Article is to be borne by the consumer of the alcoholic beverages.
- (c) It shall be deemed a violation of this Article for a retail alcoholic beverage dealer, and/or any brewery, brewpub, distillery, or winery selling alcoholic beverages at retail, to fail to include the tax imposed in this Article in the sale price of the alcoholic beverage or to otherwise absorb such tax. The tax levied in this Article shall be in addition to any and all other taxes.
- (d) Except as otherwise provided in this Article, the tax levied in this Article shall be collected by each wholesale dealer of alcoholic beverages who sells alcoholic beverages to a retail dealer of alcoholic beverages doing business in the City.
- (e) Any wholesale alcoholic beverage dealer who shall pay the tax levied by this Article to the Department shall collect the tax from any retail alcoholic beverage dealer to whom the sale of the alcoholic beverages is made, and any retail alcoholic beverage dealer shall in turn then collect the tax from the purchaser of the alcoholic beverages. The tax shall be paid to the person required to collect it as trustee for and on account of the City.
- (f) Except as otherwise provided in this article, the tax levied in this Article shall be collected by each brewery, brewpub, distillery, and winery upon the sale of alcoholic beverages to a retail alcoholic beverage dealer and/or upon sale of alcoholic beverages at retail to a purchaser. The retail alcoholic beverage dealer shall in turn then collect the tax from the purchaser of the alcoholic beverages.

4. Exceptions.

The tax imposed by this Article shall not apply to sales of alcoholic beverages wherein:

- (a) imposition of the tax would violate the United States Constitution or the Constitution of the State of Illinois;
- (b) the purchaser is a passenger on an interstate carrier;
- (c) the sale is for wine intended for use and used by any church or religious organization for sacramental purposes, provided that such wine shall be purchased legally under the laws of Illinois and the United States, but no exemption from this tax is permitted with respect to wine sold to private persons for such purposes;
- (d) the seller is a registered wholesale alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery, and the sale is to:
 - (1) another wholesale alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery registered with the Department;
 - (2) another wholesale alcoholic beverage dealer, retail alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery where the seller or its agent delivers the alcoholic beverage to a location outside of the City;
 - (3) the United States of America, the State, or their other instrumentalities.

5. Wholesaler and retailer registration.

- (a) Any wholesaler who engages in the business of selling alcoholic beverages in the City must register with the Department, in accordance with procedures prescribed by the Department prior to engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the City.
- (b) Wholesale alcoholic beverage dealers shall file each month with the Department a report of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report of sales must be ~~mailed in sufficient time to be postmarked~~ filed electronically or as otherwise directed by the Department on or before the 20th day from the last day of the month for which the return is due. Each report of sales of alcoholic beverages shall be accompanied by a remittance of the appropriate amount of tax applicable to the sales reported. The remittance shall be made electronically and/or by other payment method payable to the City Collector. Registered wholesale alcoholic beverage dealers must file a monthly return even if no tax is due.
- (c) Any brewery, brewpub, distillery, and/or winery who engages in the business of selling

alcoholic beverages in the City must register with the Department, in accordance with procedures prescribed by the Department prior to engaging in the business of supplying or selling alcoholic beverages for resale, use or consumption in the City.

(d) Breweries, brewpubs, distilleries, and/or wineries shall file each month with the Department a report(s) of sales of alcoholic beverages in such form as prescribed and furnished by the Department. Such report(s) of sales must be submitted electronically or as otherwise directed by the Department in accordance with subsections (1) and (2) below. The appropriate amount of tax applicable to the sales reported shall be remitted electronically and/or by other payment method payable to the City Collector in accordance with subsections (1) and (2) below. Breweries, brewpubs, distilleries, and/or wineries must file a monthly return even if no tax is due.

(1) A report of sales of alcoholic beverages sold to any retail alcoholic beverage dealer, brewery, brewpub, distillery, and/or winery must be filed with the Department and remittance of the appropriate amount of tax must be made to the Department on or before the 20th day from the last day of the month for which the return is due.

(2) A report of sales of alcoholic beverages sold to any purchaser at retail must be filed with the Department and remittance of the appropriate amount of tax must be made to the Department

~~on or before the 20th day from the last day of the month in which the alcoholic beverages were sold at retail.~~

(e) A retail alcoholic beverages dealer who receives alcoholic beverages upon which no tax has been collected by the distributor or supplier shall file a return with the Department, electronically or as otherwise directed by the Department, and remit the tax directly to the Department on or before the 20th day of the month following the month in which the alcoholic beverages were received.

(f) The tax required in this Article to be collected by any wholesale alcoholic beverages dealer, brewery, brewpub, distillery, and/or winery pursuant to this Article shall constitute a debt owed by the wholesale alcoholic beverages dealer, brewery, brewpub, distillery, and/or winery to the City.

(g) Retailers shall register and provide information as provided by rules and regulations promulgated by the Department of Revenue.

6. Additional to other taxes.

The tax imposed by this Article is in addition to all other taxes imposed by the Government of the United States, the State, or by any unit of local government.

7. Documents; books; records.

- (a) It shall be the duty of every wholesale and retail alcoholic beverage dealer, brewery, brewpub, distillery, and winery to keep and maintain accurate documents, books and records used to process taxable and nontaxable sales and purchase transactions from start to completion, and make them available for inspection, audit, or copying during regular business hours. These documents, books and records shall be kept for the taxable time period as stated in the statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III, Section 34-60 et seq.
- (b) It shall be the duty of every retail alcoholic beverage dealer to keep and maintain accurate documents, books and records for every alcoholic beverage purchased by the retail alcoholic beverage dealer and to make them available for inspection, audit, or copying during regular business hours. These documents, books and records shall be kept on the retail premises for a period of 90 days. Documents, books and records shall be kept by wholesale and retail alcoholic beverages dealers, for the taxable time period as listed in the statute of limitations section of the Uniform Penalties, Interest and Procedures Ordinance, Article III Section 34-60 et seq.

8. Tax assessment penalties and interest.

Cook City Code of Ordinances, Article III, Chapter 34, Uniform Penalties, Interest and Procedures Ordinance shall apply to violations of this Ordinance.

9. Seizures.

Whenever any duly authorized representative of the Department discovers any alcoholic beverages subject to the tax levied in this Article and upon which the tax has not been paid in accordance with provisions of this Article, such representative is hereby authorized and empowered forthwith to seize and take possession of such alcoholic beverages, which shall be deemed to be forfeited to the City. Such seizure shall not be deemed to relieve any person from fine or imprisonment provided in this Article for violation of any provision of this Article.

10. Violation penalties.

Any person determined to have violated this Article, as amended, shall be subject to a fine of \$1,000.00 for the first offense, and a fine of \$2,500.00 for the second and each subsequent offense. Separate and distinct offense shall be regarded as committed each day upon which said person shall continue any such violation, or permit any such violation to exist after notification thereof. It shall be deemed a violation of this Article for any person to knowingly furnish false or inaccurate information to the Department. Criminal prosecution pursuant to this Article shall in no way bar the right of the City to institute civil proceedings to recover delinquent taxes, interest and penalty due and owing as well as costs incurred for such proceeding.

Reserved.

11. Application of uniform penalties, interest and procedures ordinance.

Whenever not inconsistent with the provisions of this Article or whenever this Chapter is silent, the provisions of the uniform penalties, interest and procedures ordinance, Article III, Chapter 34 of the Cook City Code of Ordinances shall apply and supplement this Article.

Rulemaking.

The Department shall prescribe reasonable rules, definitions, and regulations to carry out the duties imposed upon it by this Article. Such rules, definitions, and regulations shall include, but not be limited to, reasonable procedures consistent with existing practices in the wholesale and retail liquor industry, for collection and remittance of the tax levied in this Article upon the consumer of alcoholic beverages.

Section 3. Severability. This ordinance and every provision thereof shall be considered severable. If any word, phrase, clause, sentence, paragraph, provision, section, or part of this ordinance is found to be void, unconstitutional, or otherwise unenforceable, all remaining portions of this ordinance not so declared void, unconstitutional, or unenforceable shall remain in full force and effect.

Section 4. Repealer. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.


Section 5. Effective Date. This Ordinance will be in full force and effect upon passage, approval and publication in pamphlet form in the manner provided by law.

PASSED by the Mayor and City Council of the City of Harvey, Cook City, Illinois on the 8th day of July, 2024 by the following roll call vote:

	YES	NO	ABSENT	PRESENT
Drewenski	X			

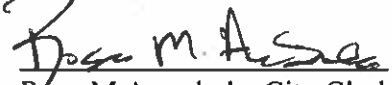
Chapman	X			
Smith	X			
Key		X		
Randle El			X	
Rogers	X			
Mayor Clark				

Approved by the Mayor on this 8th day of July, 2024.



Christopher J. Clark, Mayor

ATTEST:



Rosa M. Arambula, City Clerk

