

ORDINANCE NO. 24-_____

AN ORDINANCE
REPEALING AND REPLACING TITLE 3 (BUSINESS AND LICENSE
REGULATIONS), CHAPTER 1 (MUNICIPAL OCCUPATION TAXES),
SECTION 8 (REAL ESTATE TRANSFER TAX)
OF THE NAPERVILLE MUNICIPAL CODE

RECITALS

- A. **WHEREAS**, by and through the exercise of its home rule authority and as provided by law, the City of Naperville (City) previously enacted a local real estate transfer tax set forth in Section 3-1-8 of the Naperville Municipal Code (Transfer Tax).
- B. **WHEREAS**, by and through the exercise of its home rule authority the City desires to update the provisions of the Transfer Tax provisions set forth in Section 3-1-8 of the Naperville Municipal Code as provided herein without increasing the rate of the transfer tax or adding transactions on which the tax is imposed.
- C. **WHEREAS**, the City further desires to ratify real estate transfer stamps issued by the City on an interim basis where the form of the transfer stamp deviated from the form provided for in the City Code (Interim Period).

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NAPERVILLE, DUPAGE AND WILL COUNTIES, ILLINOIS, in exercise of its home rule authority, as follows:

SECTION 1: The Recitals set forth above are incorporated herein and made part hereof as though fully set forth in this Section 1.

SECTION 2: The City hereby ratifies City of Naperville Transfer stamps issued during the Interim Period set forth herein.

SECTION 3: Title 3 (Business and License Regulations), Chapter 1 (Municipal Occupation Taxes), Section 8 (Real Estate Transfer Tax) of the Naperville Municipal

Code is hereby amended by repealing Section 3-1-8 of the Naperville Municipal Code and replacing it with the following:

3-1-8: - REAL ESTATE TRANSFER TAX:

3-1-8-1: DEFINITIONS:

For the purposes of this Section 3-1-8 the following words shall have the meanings set forth below:

BENEFICIAL INTEREST:	Any interest, regardless of how small or minimal such interest may be, in a land trust, held by a trustee for the benefit of beneficiaries of such land trust.
CITY:	The City of Naperville.
DEED:	Any document or instrument transferring or reflecting the transfer of legal title to real property or a beneficial interest in a land trust.
DIRECTOR OF FINANCE:	The appointed Director of Finance (also known as Finance Director) for the City of Naperville, or their designee.
EXEMPT TRANSFER STAMP:	A digital print-out or other form of exempt transfer stamp issued by the Director of Finance as set forth in Section 3-1-8-2:3 indicating that a deed is exempt from payment of the transfer tax imposed by this Section.
PERSON:	Any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.
RECORDATION:	The recording of deeds by the Recorders of Deeds for either DuPage or Will Counties, Illinois.
TRANSFER TAX:	The tax imposed on the conveyance of real property and the conveyance of a beneficial interest in real property imposed by this Section.
TRANSFER STAMP:	A digital print-out or other form of transfer stamp issued by the Director of Finance as set forth in Section 3-1-

	8-2:3 indicating that payment of the transfer tax imposed by this Section has been made.
VALUE:	The amount of the full actual consideration for any transfer covered hereunder, including the amount of any lien or liens assumed by the grantee or purchaser.

3-1-8-2: - TRANSFER OF TITLE OR BENEFICIAL INTEREST IN REAL PROPERTY:

1. Imposition of Transfer Tax: A tax is hereby imposed on the transfer of title to real property within the corporate limits of the City of Naperville as evidenced by a deed that is filed for recordation, and on the transfer or assignment of a beneficial interest in real property within the corporate limits of the City of Naperville, at the rate of one dollar and fifty cents (\$1.50) for each five hundred dollars (\$500.00) of value or fraction thereof stated in the declaration or other documentation provided for in Section 3-1-8-2:7. The tax herein levied shall be in addition to any other tax imposed by the State of Illinois or any other political subdivision thereof.
2. Liability For Transfer Tax: Liability for payment of the transfer tax shall be borne by the grantee of any deed or beneficial interest subject to this Section.
3. Transfer Stamps and Exempt Transfer Stamps: The transfer tax imposed by this Section shall be collected on behalf of the city by the Director of Finance through the sale of transfer stamps prepared by the Director of Finance. If a deed or transfer of beneficial interest is exempt from said transfer tax for one or more of the reasons set forth in Section 3-1-8-2:8, an exempt transfer stamp shall be issued by the Director of Finance. The city transfer stamp or exempt transfer stamp, as applicable, may be comprised of a digital print-out or provided in such other form as designated by the Director of Finance, and shall indicate that the transfer tax has been paid or is exempt from the transfer tax.
4. Recordation of Deeds: No deed conveying real property located within the corporate limits of the City of Naperville shall be entitled to recordation by the Recorders of Deeds for DuPage or Will Counties unless a City of Naperville real estate transfer stamp in the amount required by this Section, or an exempt transfer stamp, is attached thereto prior to recordation.

5. Assignment of Beneficial Interest: No trustee of real estate, or agent thereof, shall accept an assignment of beneficial interest in real estate located within the corporate limits of the City of Naperville unless a transfer stamp in the amount as required by this Section, or an exempt transfer stamp, is attached thereto prior to acceptance thereof.

6. Required Completion of Statement of Open Accounts Prior to Issuance of a Transfer Stamp: Before submitting an application for a transfer stamp or an exempt transfer pursuant to 3-1-8-2:7, an applicant shall submit a request to the Director of Finance for a "Statement of Open Accounts" to be completed in order for the City to determine if there are any outstanding payments, debts, assessments, or monies due to the City related to the real property which is the subject of the application, including but not limited to utility bills. Transfer stamps and exempt transfer stamps will be issued only upon issuance of a completed Statement of Open Accounts that indicates that all known payments then due to the City have been made. These provisions apply to all deeds, including but not limited to deeds issued by a Sheriff's sale and deeds in lieu of foreclosure.
 - 6.1. The issuance of transfer stamps or exempt transfer stamps hereunder shall not relieve grantor or grantee of such transfer of title or beneficial interest from liability for:
 - 6.1.1. Payment of any monies owed to the City which accrued prior to issuance of the transfer stamp or exempt transfer stamp but which become due thereafter; or
 - 6.1.2. Payment of any monies which were due to the City prior to the issuance of transfer stamp or exempt transfer stamp, or which accrued prior thereto, but which for any reason were not collected at the time of issuance of the transfer stamp or exempt transfer stamp.

7. Applications for transfer stamps and exempt transfer stamps:
 - 7.1. The Director of Finance shall make applications available for City of Naperville transfer stamps and exempt transfer stamps. Applications must be completed in full by the applicant and signed by the grantor or grantee, or by an authorized representative of the grantor or grantee.

7.2. Each application for a transfer stamp or exempt transfer stamp shall be accompanied by one or more of the following as required by the Director of Finance:

7.2.1. A deed which shows the names of the grantor(s) and grantee(s), the legal description and property index number (PIN) of the real property to which it relates (except in the case of an assignment of beneficial interest, a facsimile thereof executed by agents or attorneys for each of the transferors and transferees but otherwise not containing as and the names or identities of the transferors and transferees, shall be acceptable).

7.2.2. A copy of the State of Illinois Real Estate Transfer Tax Declaration form signed by at least one of the grantors or their agent, or such other documentation as authorized by the Director of Finance, which evidences the full consideration to be paid for the real property in question, or beneficial interest therein, or which provides sufficient proof of all facts necessary to demonstrate that the conveyance is exempt from the transfer tax for one or more of the reasons set forth in Section 3-1-8-2:8.

7.2.3. Such other documentation as may be required by the Director of Finance regarding the consideration that is the basis of the transfer tax or the circumstances which warrant issuance of an exempt transfer stamp.

8. Exemptions:

8.1. Subject to submission of sufficient proof to the Director of Finance of all facts necessary to establish a claimed exemption, the following deeds shall be exempt from the tax levied by this Section:

8.1.1. Deeds to property acquired by any governmental body or from any governmental body or deeds to property between governmental bodies, or by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes. The exemption, however, shall not be granted where the transfer is made to or from a governmental body which leases or expresses an intent to lease a majority of the land, or in the case of a building, the structure, to a nongovernmental body.

- 8.1.2. Deeds which secure debt or other obligation.
- 8.1.3. Deeds, which, without additional consideration, confirm, correct, modify or supplement a deed previously recorded.
- 8.1.4. Deeds where the actual consideration is less than one hundred dollars (\$100.00).
- 8.1.5. Tax deeds.
- 8.1.6. Deeds of release of property which is security for a debt or other obligation.
- 8.1.7. Deeds of partition.
- 8.1.8. Deeds made pursuant to mergers, consolidations or transfers or sales of substantially all of the assets of corporations pursuant to plans of reorganization.
- 8.1.9. Deeds made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.
- 8.1.10. Deeds wherein there is an actual exchange of real estate except that the money difference or money's worth paid from one to the other shall not be exempt from the tax.
- 8.1.11. Deeds representing transfers subject to the imposition of a documentary stamp tax imposed by the government of the United States, except that such deeds shall not be exempt from filing the declaration.
- 8.1.12. Deeds issued to a holder of a mortgage, as defined in 735 Illinois Compiled Statutes 5/15-1201 et seq., pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure.

3-1-8-3: - PROCEEDS OF TAX:

All proceeds resulting from the collection of the transfer tax imposed by this Section 3-1-8, including interest and penalties, shall be paid into the city treasury and shall be credited to and deposited in the general fund of the city.

3-1-8-4: - INTEREST AND PENALTIES:

If the transfer tax required hereunder is not paid to the Director of Finance when the same shall be due as provided in this Section 3-1-8, interest shall accumulate and be due upon said tax at the rate of three percent (3%) per month commencing as of the first day following the day when the deed was recorded or the assignment of beneficial interest was accepted by the trustee. In addition, a penalty of fifty percent (50%) of the tax and interest due shall be assessed and collected against the grantee for failure to pay the transfer tax imposed by this Section 3-1-8. The city may bring an action to collect such tax, interest, and penalties in any court of competent jurisdiction, and if the city prevails in such action, grantee shall also be liable to pay the city's reasonable attorney's fees (whether in-house or outside counsel) incurred in the investigation, preparation, and implementation of such action. Payment of all amounts shall be due to the city within thirty calendar days of issuance of an invoice by the city.

3-1-8-5: - FINE FOR VIOLATION:

Any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting or refusing to comply with any provision of this Section 3-1-8, including but not limited to falsification of the full amount of consideration to be paid for the transfer stamp or a false claim as to the exempt status of a deed, shall be punished by a fine of not less than five hundred dollars (\$500.00) for each offense upon conviction thereof. Each day that the transfer tax is not paid shall be considered a separate offense. Payment shall be due to the city within thirty calendar days of a finding of guilty.

3-1-8-6: - LIEN RIGHT:

If a payment of any transfer tax, interest, fine, penalty, and attorney's fees is not made to the city as provided in this Section 3-1-8, the city may record a lien against the real property which is the subject of said transfer tax for the amount of the transfer tax that should have been paid plus interest and any applicable fine or penalties and attorneys' fees (whether in-house or outside counsel). Said lien may be foreclosed upon as a mortgage in case of default.

3-1-7: - REMEDIES CUMULATIVE:

The city's rights and remedies set forth in this Section 3-1-8 shall be cumulative, and the exercise by the city of one or more rights hereunder, or otherwise available at law or in equity, shall not preclude enforcement of other rights and remedies nor waive other rights and remedies the city may elect to pursue.

SECTION 4: If any section, paragraph, or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision, shall not affect any of the remaining provisions of this Ordinance or any other City ordinance, resolution, or provision of the Naperville Municipal Code. Technical and minor substantive revisions as deemed acceptable to the City Attorney may be made to this Ordinance and to the exhibits hereto prior to recordation with the DuPage County Recorder.

SECTION 5: The City Clerk is hereby authorized and directed to file a certified copy of this Ordinance with the DuPage County Recorder and the Will County Recorder.

SECTION 6: This Ordinance shall be in full force and effect upon its passage and approval.

PASSED this _____ day of _____, 2024.

AYES:

NAYS:

ABSENT:

APPROVED this _____ day of _____, 2024.

Scott A. Wehrli
Mayor

ATTEST:

Dawn C. Portner
City Clerk