

ORDINANCE NO. 25 - _____

**AN ORDINANCE ESTABLISHING AND IMPOSING A MUNICIPAL GROCERY
RETAILERS' OCCUPATION TAX AND A MUNICIPAL GROCERY SERVICE
OCCUPATION TAX AND AMENDING TITLE 3 (BUSINESS AND LICENSE
REGULATIONS), CHAPTER 1 (MUNICIPAL OCCUPATION TAXES)
OF THE NAPERVILLE MUNICIPAL CODE**

RECITALS

1. **WHEREAS**, the Illinois Municipal Code, 65 ILCS 5/1-2-1, provides that the corporate authorities of each municipality may pass all ordinances and make all rules and regulations proper or necessary to carry into effect the powers granted to municipalities, with such fines or penalties as may be deemed proper; and,
2. **WHEREAS**, the City of Naperville ("City") is a home rule Illinois municipality pursuant to the Constitution of the State of Illinois of 1970, as amended; and,
3. **WHEREAS**, Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24) provides that, beginning on January 1, 2026, all Illinois municipalities may impose a tax "upon all persons engaged in the business of selling groceries at retail in the municipality" (the "Municipal Grocery Tax") (65 ILCS 5/8-11-24); and,
4. **WHEREAS**, the Municipal Grocery Retailers' Occupation Tax may be imposed "at the rate of 1% of the gross receipts from these sales" (65 ILCS 5/8-11-24); and,
5. **WHEREAS**, any Municipal Grocery Retailers' Occupation Tax shall be administered, collected and enforced by the Illinois Department of Revenue; and,
6. **WHEREAS**, Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24) requires any municipality imposing a Municipal Grocery Retailers' Occupation Tax under Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24) to also impose a Service Occupation Tax at the same rate, "upon all persons engaged, in the

municipality, in the business of making sales of service, who, as an incident to making those sales of service, transfer groceries” as “an incident to a sale of service” (the “Municipal Grocery Service Occupation Tax”) (65 ILCS 5/8-11-24); and,

7. **WHEREAS**, any Municipal Grocery Service Occupation Tax shall be administered, collected and enforced by the Illinois Department of Revenue; and,
8. **WHEREAS**, the City Council believes that it is appropriate, necessary and in the best interests of the City and its residents that the City levy a Municipal Grocery Retailers’ Occupation Tax as permitted by Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24); and,
9. **WHEREAS**, the City Council believes that it is appropriate, necessary and in the best interests of the City and its residents that the City levy a Municipal Grocery Service Occupation Tax as permitted by Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24); and,

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. Incorporation of Recitals. The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

Section 2. Municipal Grocery Retailers’ Occupation Tax Imposed. A tax is hereby imposed upon all persons engaged in the business of selling groceries at retail in this municipality at the rate of one percent (1.00%) of the gross receipts from such sales made in the course of such business while this Ordinance is in effect. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24).

Section 3. Municipal Grocery Service Occupation Tax Imposed. A tax is hereby imposed upon all persons engaged in this municipality in the business of making sales of service, who, as an incident to making those sales of service, transfer groceries as an incident to a sale of service. The rate of this tax shall be the same rate identified in Section 2, above. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24).

Section 4. Illinois Department of Revenue to Administer Both Taxes. The taxes hereby imposed, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Department of Revenue of the State of Illinois. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Ordinance.

Section 5: Codification of Tax. Title 3 (Business and License Regulations), Chapter 1 (Municipal Occupation Taxes) of the Naperville Municipal Code is hereby amended by the addition of Section 13 - Municipal Grocery Retailers' Occupation Tax and Municipal Grocery Service Occupation Tax that will read as follows:

3-1-13: MUNICIPAL GROCERY RETAILERS' OCCUPATION TAX AND MUNICIPAL GROCERY SERVICE OCCUPATION TAX:

1. Tax Imposed; Rate.
 1. A tax is hereby imposed upon all persons engaged in the business of selling groceries at retail in the City of Naperville at the rate of one percent (1.00%) of the gross receipts from such sales made in the course of such business while this section is in effect; and a tax is hereby imposed upon all persons engaged in the City of Naperville in the business of making sales of service, at the rate of one percent (1.00%) of the selling price of groceries transferred by such servicemen as an incident to a sale of service.
 2. The imposition of this tax is in accordance with and subject to the provisions of Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24).

2. Collection of tax by retailers.

1. The tax imposed by this Ordinance shall be remitted by such retailer to the Illinois Department of Revenue. Any tax reimbursement collected by such retailer and required to be remitted to the Illinois Department of Revenue shall constitute a debt owed by the retailer to the State of Illinois. Retailers may reimburse themselves for their seller's tax liability hereunder by separately stating that tax as an additional charge, which charge may be stated in combination, in a single amount, with any State of Illinois tax that sellers are required to collect.

3. The Illinois Department of Revenue to administer:

1. The tax imposed by this Ordinance, and all civil penalties that may be assessed as an incident thereto, shall be collected and enforced by the Illinois Department of Revenue. The Illinois Department of Revenue shall have full power to administer and enforce the provisions of this Ordinance.

Section 6. Clerk to file Ordinance with Illinois Department of Revenue. As required under Section 8-11-24 of the Illinois Municipal Code (65 ILCS 5/8-11-24), the Clerk is hereby directed to file a certified copy of this Ordinance with the Illinois Department of Revenue on or before October 1, 2025.

Section 7. Effective Date. The taxes imposed by this Ordinance shall take effect on the later of: (i) January 1, 2026; (ii) the first day of July next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding April 1st; or, (iii) the first day of January next following the adoption and filing of this Ordinance with the Department of Revenue, if filed on or before the preceding October 1st.

Section 8. Repeal of Conflicting Provisions. All ordinances, resolutions and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

Section 9. Severability. If any provision of this Ordinance or application thereof

to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

Section 10. Headings/Captions. The headings/captions identifying the various sections and subsections of this Ordinance are for reference only and do not define, modify, expand or limit any of the terms or provisions of the Ordinance.

Section 11. Publication. The Clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.

PASSED this ____ day of _____, 2025.

AYES:

NAYS:

ABSENT:

APPROVED this ____ day of _____, 2025.

Scott A. Wehrli, Mayor

ATTEST:

Dawn Portner, City Clerk