

**VILLAGE OF BENSENVILLE
12 S. CENTER STREET
BENSENVILLE, ILLINOIS 60106**

Ordinance No. 52-2025

**An Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Amending
Title Three of the Bensenville Village Code to Impose a Places for Eating Tax**

**ADOPTED BY THE
VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF BENSENVILLE
THIS 18th DAY OF NOVEMBER 2025**


Published in pamphlet form by authority of the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois this 19th day of November, 2025

STATE OF ILLINOIS)
COUNTIES OF COOK)
SS AND DUPAGE)

I, Corey Williamsen, do hereby certify that I am the duly appointed Deputy Village Clerk of the Village of Bensenville, DuPage and Cook Counties, Illinois, and as such officer, I am the keeper of the records and files of said Village; I do further certify that the foregoing constitutes a full, true and correct copy of Ordinance No. 52-2025 entitled An Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Amending Title Three of the Bensenville Village Code to Impose a Places for Eating Tax.

IN WITNESS WHEREOF, I have hereunto affixed my official hand and seal on this 19th day of November, 2025.




Corey Williamsen
Deputy Village Clerk

ORDINANCE NUMBER 52-2025

AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND COOK COUNTIES, ILLINOIS AMENDING TITLE THREE OF THE BENSENVILLE VILLAGE CODE TO IMPOSE A PLACES FOR EATING TAX

WHEREAS, the Village of Bensenville, DuPage and Cook Counties, Illinois (the "*Village*") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

WHEREAS, Section 11-42-5 of the Illinois Municipal Code (65 ILCS 5/11-42-5) authorizes the President and Board of Trustees of the Village of Bensenville (the "*Corporate Authorities*") to tax and regulate all places for eating; and

WHEREAS, the Corporate Authorities are charged with the responsibility of protecting the health, safety, and welfare of the residents of the Village; and

WHEREAS, the Corporate Authorities have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret, and amend Village ordinances, rules, and regulations; and

WHEREAS, pursuant to the authority contained in 65 ILCS 5/11-42-5, as from time to time supplemented and amended, the Corporate Authorities have determined it necessary to amend the Bensenville Village Code to impose a municipal tax at a rate of two-percent (2%) on places for eating within the entirety of the corporate boundary of the Village to compensate the Village for additional services and infrastructure and property repair, maintenance, and installation, and find that such amendment furthers the public health, safety, and welfare of the Village, and is in the best interests of the Village, its residents, and the public.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. The Corporate Authorities find and determine that it is necessary and desirable to amend the Bensenville Village Code for the purpose set forth herein and that the adoption of this Ordinance is in the best interests of the Village.

Section 3. Title Three ("*Business Regulations*") of the Bensenville Village Code is hereby amended by adding the following new Chapter to read, as follows:

CHAPTER 25 PLACES FOR EATING TAX

3-25-1: DEFINITIONS:

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

ALCOHOLIC LIQUOR: Any spirits, wine, beer, ale, or other liquid containing more than one-half of one percent of alcohol by volume, which is capable of being consumed as a beverage by a human being.

BAR: An establishment for the serving of alcoholic liquor.

GROSS RECEIPTS: The consideration received, valued in money, whether received in money or otherwise, including cash, credits, property and services, at a place for eating for prepared food furnished at the place for eating. Gross receipts do not include amounts paid for federal, state and local taxes, including the tax levied by this chapter, and do not include amounts paid as gratuities for the employees of the place for eating.

OWNER: Any person having an ownership interest in or conducting the operation of a place for eating.

PERSON or PERSONS: Any natural individual, firm, partnership, association, joint stock company, joint venture, public or private corporation, limited liability company, club, fraternal organization, syndicate, business trust, institution, agency, or a receiver, executor, trustee, conservator or other representative appointed by order of any court.

PLACES FOR EATING or PLACE FOR EATING: All premises located within the corporate limits of the Village of Bensenville where prepared food is sold at retail for immediate consumption, with indoor or outdoor seating or similar accommodations provided for consumption of said prepared food on the premises, whether consumed on premises or not, and whether or not such places for eating use is conducted along with any other use(s) in a common premise or business establishment. Places for eating or place for eating includes, but is not limited to, those establishments commonly called a restaurant, eating place, drive-in restaurant, buffet, bakery, banquet facility, cafeteria, café, lunch counter, concession stand, fast food outlet, catering service, coffee shop, diner, sandwich shop, snack shop, soda fountain, bar, cocktail lounge, soft drink parlor, ice cream parlor, tea room, delicatessen, hotel, motel, or club, or any other establishment which sells at retail prepared food for immediate consumption. Prepared food sold for immediate consumption through a drive-through window or carry-out counter co-located within a restaurant or similar establishment shall be considered part of the place for eating.

PREPARED FOOD: 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.

RESTAURANT: Any public place kept, used, maintained, advertised, and held out to the public, as a place at which prepared food is served and/or prepared, whether or not consumed or intended to be consumed on the premises, but shall not include coin-operated automatic food dispensing machines.

SOLD AT RETAIL: To sell for use or consumption in exchange for a consideration, whether in the form of money, credits, barter or any other nature, and not for resale, with said transaction being subject to either the Illinois Retailers' Occupation Tax (35 ILCS 120/1 et seq.) or the Illinois Service Occupation Tax (35 ILCS 115/1 et seq.)

3-25-2: IMPOSITION OF TAX:

A. There is hereby levied and imposed upon owners of places for eating a tax at the rate of two percent (2%) of gross receipts received for prepared food sold at retail by the owner on or after March 1, 2026. Exempt from the tax imposed are:

1. Prepared food purchased in hermetically sealed containers and not reasonably expected or intended by the seller for immediate on-premises consumption;
2. Prepared food purchased at employee cafeterias, when entrance to such cafeteria is limited to employees and guests of employees;
3. Prepared food 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; or
4. Prepared food from coin-operated automatic food dispensing machines.

B. The owner of a place for eating may collect an amount from persons who purchase prepared food at the place for eating which shall reimburse the owner for the tax imposed on the owner by this chapter.

C. The tax levied by this chapter shall be paid in addition to any and all other taxes and charges.

D. In the event the prepared food is sold at retail on credit, an owner shall not be liable for payment of the tax imposed by this chapter on such a sale until the owner receives payment for the sale.

3-25-3: TRANSMITTAL OF TAX REVENUE BY OWNER; DELINQUENCY:

A. The owner of each place for eating shall file tax returns showing the gross receipts received and the amount of tax collected during each calendar month period upon forms prescribed by the Village Finance Director. Returns for each calendar month shall be due on or before the 20th day of the next calendar month, (e.g. the return for January shall be due on or before the 20th day of February; the return for February shall be due on or before the 20th day of March; etc.). Notwithstanding the foregoing, in the event that the owner of the place for eating is allowed to file Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns with the Illinois Department of Revenue at intervals which are greater than monthly, said owner shall be allowed to file tax returns relative to the tax imposed by this chapter with the village at said greater intervals. At the time of the filing of said tax returns, the owner shall pay to the Village Finance Director all taxes due for the period to which the tax return applies.

B. If, for any reason, any tax return due pursuant to this chapter is not filed by the date due, or any tax due pursuant to this chapter is not paid by the date due, penalties and interest on the amount of the tax due shall be imposed in accordance with the provisions of chapter 23 of this code.

3-25-4: TRANSMITTAL OF EXCESS TAX COLLECTIONS:

If any person collects an amount upon a sale not subject to the tax imposed by this chapter, 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, said person shall account for and pay over those amounts to the village along with the tax properly collected.

3-25-5: BOOKS AND RECORDS; INSPECTION; CONTENTS:

The Village Finance Director, the Village Treasurer, or any person designated by either of them as their deputy or representative, may enter the premises of any place for eating for inspection, examination, copying, and auditing of books and records including, but not limited to, Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns filed with the Illinois

Department of Revenue, in order to effectuate the proper administration of this chapter, and to assure the enforcement of the collection of the tax imposed by this chapter. To the extent reasonably possible, said entry shall be done in a manner that is least disruptive to the business of the place for eating. It shall be unlawful for any person to prevent, hinder, or interfere with the Village Finance Director, the Village Treasurer, or their duly designated deputies or representatives in the discharge of their duties in the performance and enforcement of this chapter. It shall be the duty of every owner to keep accurate and complete books and records to which the Village Treasurer, the Village Finance Director, or their duly designated deputies or representatives shall at all times have full access, which records shall include a daily sheet showing the amount of gross receipts received during the day.

3-25-6: REGISTRATION:

A. Every owner maintaining a place for eating in the village shall register with the Finance Department no later than thirty (30) days after the effective date of the ordinance imposing the tax or the date of becoming such an owner, whichever is later.

B. The registration shall be submitted to the Finance Department on forms provided by the Finance Department, which shall contain such information as reasonably required by the village to impose, collect, and audit all amounts related to the tax imposed by this chapter.

3-25-7: RULES AND REGULATIONS:

The Village Treasurer or other person designated by the Village President, with the advice and consent of the village, may adopt, promulgate, and enforce rules and regulations not inconsistent with any and all laws, ordinances, rules, and regulations concerning the interpretation, collection, administration, and enforcement of this chapter. The term "rules and regulations" includes, but is not limited to, a case-by-case determination of whether or not the tax imposed by this chapter applies.

3-25-8: SUIT FOR COLLECTION:

Whenever any person fails to pay the tax imposed by this chapter, the Village Attorney or Village Prosecutor shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment of said tax on behalf of the village in any court of competent jurisdiction, with costs of such enforcement to be borne by the defendant.

3-25-9: SUSPENSION OF LICENSES:

If the Village President, after a hearing held by the Village President or for the Village President by the Village President's designee, shall find that any owner has willfully avoided the payment of any tax imposed by this chapter, the Village President may suspend or revoke all village licenses held by such tax evader. The owner shall have an opportunity to be heard at such hearing to be held not less than fifteen (15) days after being mailed notice of the time when and the place where the hearing is to be held, addressed to the owner at the owner's last known place of business. Any

suspension or revocation of any license(s) shall not release or discharge the owner from the owner's civil liability for the payment of the tax nor from prosecution for such offense.

3-25-10: PENALTIES:

A. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or unlawfully resisting or opposing the enforcement of any of the provisions of this chapter, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for the second and each subsequent offense in any 180-day period.

B. Each day upon which a person shall continue any violation of this chapter, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

C. Any owner subjected to the penalties provided for by this section shall not be discharged or released from the payment of any tax due.

D. It shall be deemed a violation of this chapter for any person to knowingly furnish false or inaccurate information to the village.

3-25-11: SEPARABILITY:

If any subsection, sentence, clause, or phrase of this chapter, or the application thereof to any person or circumstance, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter, or the application of such portion to other persons or circumstances.

Section 4. This Ordinance, and its parts, are declared to be severable and any section, paragraph, clause, provision, or portion of this Ordinance that is declared invalid shall not affect the validity of any other provision of this Ordinance, which shall remain in full force and effect.

Section 5. The findings and recitals herein are declared to be prima facie evidence of the law of the Village and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Section 6. All ordinances, resolutions, motions, or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

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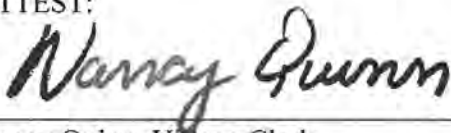
PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this 18th day of November, 2025, pursuant to a roll call vote, as follows:

APPROVED:



Frank DeSimone Village President

ATTEST:



Nancy Quinn, Village Clerk

AYES: Carmona, Franz, Lomax, Panicola, Perez

NAYES: None

ABSENT: None