

ORDINANCE NO. O-2026-03

**AN ORDINANCE AMENDING CERTAIN SECTIONS OF ARTICLE XI (MUNICIPAL GAS USE TAX),
CHAPTER 66 (TAXATION) OF THE CODE OF ORDINANCES OF THE CITY OF WHEATON**

WHEREAS, the City of Wheaton ("City") is an Illinois Home Rule Municipality pursuant to provisions of Article VII, Section 6 of the Illinois Constitution, and as such the City may exercise any power and perform any function pertaining to its government and affairs, including taxation; and

WHEREAS, the subject matter of this ordinance pertains to the government and affairs of the City and its residents; and

WHEREAS, in furtherance of its home rule powers, it is necessary and desirable for the City to amend its ordinances regarding taxation by increasing the municipal gas use tax rate.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois by its home rule authority, that the Wheaton City Code is hereby amended to provide as follows:

SECTION 1: That Section 66-292 (Tax) of Chapter 66 (Taxation), Article XI (Municipal Use Gas Tax), is hereby amended as follows:

Sec. 66-292. - Tax.

- (a) Except as otherwise provided by this article, a tax is imposed on the privilege of using or consuming gas in the city that is purchased in a sale at retail at the rate of \$0.05 per therm.
- (b) The ultimate incidence of and liability for payment of the tax is on the retail purchaser, and nothing in this article shall be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.
- (c) The retail purchaser shall pay the tax, measured by therms of gas delivered to the retail purchaser's premises, to the public utility designated to collect the tax pursuant to section 66-293 on or before the payment due date of the public utility's bill first reflecting the tax, or directly to the city on or before the 15th day of the second month following the month in which the gas is delivered to the retail purchaser if no public utility had been designated to collect the tax pursuant to said section 66-293 or if the gas is delivered by a person other than a public utility so designated.
- (d) Nothing in this article shall be construed to impose a tax upon any person, business or activity which, under the Constitutions of the United States or State of Illinois, may not be made the subject of taxation by the city.
- (e) A person who purchases gas for resale and, therefore, does not pay the tax imposed by this article with respect to the use or consumption of the gas but who later uses or consumes part or all of the gas, shall pay the tax directly to the city on or before the 15th day of the second month following the month in which the gas is used or consumed.
- (f) The tax shall apply to gas for which the delivery to the retail purchaser is billed by a public utility on or after May 1, 2010.

- (g) If it shall appear that an amount of tax has been paid which was not due under the provisions of this article, whether as a result of mistake of fact or an error of law, then such amount shall be (i) credited against any tax due, or to become due, under this article from the taxpayer who made the erroneous payment or (ii) subject to a refund if no such tax is due or to become due; provided that no amounts erroneously paid more than three years prior to the filing of a claim therefor shall be so credited or refunded.

SECTION 2: That Section 66-293 (Collection of gas use tax) of Chapter 66 (Taxation), Article XI (Municipal Use Gas Tax), is hereby amended as follows:

Sec. 66-293. Collection of gas use tax.

The city manager or director of finance is authorized to enter into a contract for collection of the tax imposed by this article with any public utility providing gas service in the city. The contract shall include and substantially conform with the following provisions:

- (1) The public utility will collect the tax from retail purchasers as an independent contractor;
- (2) The public utility will remit collected taxes to the city no more often than once each month;
- (3) The public utility will be entitled to withhold from tax collections a service fee equal to three percent of the amounts collected and timely remitted to the city ;
- (4) The public utility shall not be responsible to the city for any tax not actually collected from a retail purchaser; and
- (5) Such additional terms as the parties may agree upon.

(Code 1996, § 66-293; Ord. No. F-1477, § 2, 3-15-2010)

Editor's note(s)—Ord. No. F-1477, § 2, repealed the former § 66-293 and enacted a new § 66-293 as set out herein. The former § 66-293 pertained to similar subject matter and derived from Ord. No. F-0756, § 2, adopted Sept. 3, 2002.

Note(s)—For the purpose of this ordinance, the terms "retail purchaser" and "public utility" have the same meaning as in section 66-291 of the Wheaton City Code, as amended.

SECTION 3: In all other respects, the terms and provisions of the Wheaton City Code are ratified and remain in full force and effect.

SECTION 4: All ordinances or parts of ordinances in conflict with these provisions are hereby repealed.

SECTION 5: In the event that any section, clause, provision, or part of this ordinance shall be found and determined to be invalid by a court of competent jurisdiction, all valid parts that are severable from the invalid parts shall remain in full force and effect.

SECTION 6: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law, and shall apply to any amounts billed on or after March 1, 2026; provided, however, that any amounts due or payable for any tax periods ending prior to March 1, 2026 are nevertheless to remain payable as if this Ordinance had not been adopted.


Philip J. Suess

Mayor

ATTEST:


Andrea Roodale

City Clerk

Roll Call Vote:

Ayes: Councilwoman Robbins
Councilman Weller
Councilwoman Bray-Parker
Councilwoman Brice
Councilman Brown
Mayor Suess
Councilman Clousing

Nays: None
Absent: None
Motion Carried Unanimously

Passed: January 20, 2026

Published: January 21, 2026

