

CITY OF VILLA GROVE  
DOUGLAS COUNTY, ILLINOIS

ORDINANCE NO. 2022-MC02

**AN ORDINANCE REVISING THE VILLA GROVE, ILLINOIS CODE OF ORDINANCES TO  
PROVIDE FOR A UTILITY TAX ON WATER AND WASTEWATER**

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PASSED BY THE CITY COUNCIL AND  
APPROVED BY THE MAYOR OF THE  
CITY OF VILLA GROVE, ILLINOIS  
THIS TWENTY-FIFTH DAY OF APRIL 2022

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PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE MAYOR AND CITY COUNCIL OF THE CITY OF  
VILLA GROVE, DOUGLAS COUNTY, ILLINOIS, THIS TWENTY-SIXTH DAY OF APRIL 2022

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DOUGLAS COUNTY, ILLINOIS

ORDINANCE NO. 2022-MC02

April 25, 2022

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**WHEREAS**, the City of Villa Grove, Douglas County, Illinois (the "City"), is a duly organized and existing City created under the provisions of the laws of the State of Illinois, and is now operating under the provisions of the Illinois Municipal Code, and all laws amendatory thereof and supplementary thereto with full powers to enact ordinances for the benefit of the residents of the City.

**WHEREAS**, 65 ILCS 5/8-11-2(4) of the Illinois Municipal Code authorizes the City to levy and collect taxes on the delivery and/or consumption of certain utilities, including water and wastewater; and

**WHEREAS**, the City of Villa Grove previously adopted its revised Code of Ordinances; and

**WHEREAS**, the City has contracted for the sale of its water and wastewater systems to Illinois American Water Company and after the closing on said sale, desires to levy the tax contemplated herein; and

**WHEREAS**, the Mayor and City Council hereby declare the levy of such a tax as necessary to support the operations of the City and does hereby levy a municipal utility tax in the manner herein described.

**NOW THEREFORE, BE IT ORDAINED** by the Mayor and the City Council of Villa Grove, Illinois as follows:

SECTION 1: Chapter 35: TAXATION of the Villa Grove, Illinois Code of Ordinances is hereby amended to include the following:

**“WATER AND WASTEWATER UTILITY TAX**

**1.** Imposition of Water & Wastewater Utility Tax. A tax is imposed on all persons engaged in the following occupations or privileges:

- A. Commencing May 1, 2022 or such other date as later amended by the Mayor and City Council, the privilege of using or consuming water and wastewater acquired in a Purchase at Retail and used or consumed within the corporate limits of the City shall be taxed at the rate of 2% of the gross receipts and calculated on a monthly basis for each Purchaser.

**2.** Exceptions; Exemptions.

- A. None of the taxes authorized by this Ordinance may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling, or using or consuming water and wastewater acquired in a Purchase at Retail, be subject to taxation under the provisions of this Ordinance for those transactions that are or may become subject to taxation under the provisions of the “Municipal Retailers’ Occupation Tax Act” authorized by Section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Ordinance be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the City, whether privately or municipally owned or operated, or exercising the same

privilege within the City. None of the within taxes shall be imposed on water and wastewater sold directly by the City but shall instead be imposed upon the sale of water and wastewater by any other entity not otherwise excluded by this ordinance.

- B. The City of Villa Grove and Villa Grove Community Unit School District #302 shall be exempted from the taxes imposed by this Ordinance for such accounts attributable to buildings and facilities located in the City.

**3. Additional Taxes.** Such taxes shall be in addition to other taxes levied upon the taxpayer or a Person Maintaining a Place of Business in this State. All of the taxes enumerated in this Ordinance are in addition to the payment of money, or value of products or services furnished to the City by the taxpayer or Person Maintaining a Place of Business in this State as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of equipment used in the operation of its business.

**4. Collection.** The tax authorized by this Ordinance shall be collected from the Purchaser by the Person Maintaining a Place of Business in this State who delivers the water and wastewater to the Purchaser. This tax shall constitute a debt of the Purchaser to the person who delivers the water and wastewater to the Purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the water and wastewater. Any tax collected by the Person Maintaining a Place of Business in this State delivering the water and wastewater shall constitute a debt owed to the City by such Person Maintaining a Place of Business in this State. Persons delivering the water and wastewater shall collect the tax from the Purchaser by adding such tax to the gross charge for delivering the water and wastewater. Persons delivering the water and wastewater shall also be authorized to add to such gross charge an amount equal to 2% of the tax to reimburse the person delivering the water and wastewater for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the City upon request. If the person delivering the water and wastewater fails to collect the tax from the Purchaser, then the Purchaser shall be required to pay the tax directly to the City in the manner prescribed by the City. Persons delivering the water and wastewater who file returns pursuant to this paragraph shall, at the time of filing such return, pay the City the amount of the tax collected pursuant to this Ordinance.

5. Reports To City. On or before the last day of each month, each Person Maintaining a Place of Business in this State who delivers the water and wastewater to the Purchaser, in the case of the tax imposed by this Ordinance, and each taxpayer shall make a return to the City for the preceding month stating:

- a) Its name.
- b) Its principal place of business.
- c) Its Gross Receipts, as applicable, during the month upon the basis of which the tax is imposed.
- d) Amount of tax.
- e) Such other reasonable and related information as the corporate authorities may require.

Each person making the return herein provided for shall, at the time of making such return, pay to the City, the amount of tax herein imposed; provided that in connection with any return, the person may, if he or she so elects, report and pay an amount based upon a reasonable estimate of the total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings.

6. Credit for Over-Payment. If it shall appear that an amount of tax has been paid which was not due under the provisions of this Article, whether as the result of a mistake of fact or an error of law, then such amount shall be credited to the extent permitted by law.

7. Definitions. For the purpose of this Ordinance the following terms shall have the meanings ascribed to them herein:

“Gross Receipts” The consideration received for distributing, supplying, or selling water and wastewater for use or consumption and not for resale, and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith, and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that “Gross Receipts” shall not include (i) any amounts specifically excluded from the definition of gross

receipts in Section 8-11-2(d) of the Illinois Municipal Code and (ii) that portion of the consideration received for the distributing, supplying, furnishing or selling water and wastewater to the City of Villa Grove.

“Person” Any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian, or other representative appointed by order of any court.

“Person Maintaining a Place of Business in this State” Any person having or maintaining within this State, directly or by a subsidiary or other affiliate, an office, generation facility, distribution facility, transmission facility, sales office or other place of business, or any employee, agent, or other representative operating within this State under the authority of the person or its subsidiary or other affiliate, irrespective of whether such place of business or agent or other representative is located in this State permanently or temporarily, or whether such person, subsidiary or other affiliate is licensed or qualified to do business in this State.

“Public Utility” Shall have the meaning ascribed to it in Section 3-105 of the Public Utilities Act, but shall include alternative retail water and wastewater suppliers as defined in Section 16-102 of that Act.

“Purchaser” Any person who uses or consumes, within the corporate limits of the City, water and wastewater acquired in a Purchase at Retail, excluding any local governmental body or school district whose territory includes the municipality.

“Purchase at Retail” Any acquisition of water and wastewater by a Purchaser for purposes of use or consumption, and not for resale.”

SECTION 2: Limitation of Liability. If the provisions of this Ordinance with respect to the exemption of the City of Villa Grove from the taxes imposed by this Ordinance or the application thereof are held unconstitutional or otherwise invalid, the amount of tax due as a consequence of such holding shall be limited to the amount that the taxpayer is authorized to charge and collect from such

school districts and units of local government pursuant the provisions of Section 9-221 of the Public Utilities Act or any successor thereto.

SECTION 3: Notice; Address List. The City Clerk is hereby directed to send a certified copy of this Ordinance to all utilities which provide service to customers within the City and to cooperate with such utilities in determining addresses of premises subject to the taxes herein described, including but not limited to the names and addresses of each school district and unit of local government which own facilities within the corporate limits of the City.

SECTION 4: Prior Ordinances. To the extent that the within Ordinance conflicts with any prior Ordinances relating to the taxation of water and wastewater in the City, the within Ordinance shall prevail.

SECTION 5. Headings. The headings for the articles, sections, paragraphs and sub-sections of this ordinance are inserted solely for the convenience of reference and form no substantive part of this ordinance nor should they be used in any interpretation or construction of any substantive provisions of this ordinance.

SECTION 6: Severability. The provisions of this Ordinance are hereby declared to be severable and should any provision, clause, sentence, paragraph, sub-paragraph, section, or part of this Ordinance be determined to be in conflict with any law, statute or regulation by a court of competent jurisdiction, said provision shall be excluded and deemed inoperative, unenforceable, and as though not provided for herein, and all other provisions shall remain unaffected, unimpaired, valid and in full force and effect. It is hereby declared to be the legislative intent of the City Council that this Ordinance would have been adopted had not such unconstitutional or invalid provision, clause, sentence, paragraph, sub-paragraph, section, or part thereof had not been included.

SECTION 7: Superseder and Publication. All code provisions, ordinances, resolutions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded. A full, true and complete copy of this Ordinance shall be published in pamphlet form as provided by the Illinois Municipal Code, as amended.

SECTION 8: Effective Date. This Ordinance shall be in full force and effect, following its passage, approval and publications as required by law and shall be effective with respect to (i) the use or consumption of water and wastewater and (ii) Gross Receipts actually paid to the taxpayer for services billed on or after the adoption of this ordinance.

**PRESENTED, PASSED, APPROVED AND ADOPTED** BY THE MAYOR AND CITY COUNCIL OF THE CITY OF VILLA GROVE, ILLINOIS, at its regular meeting on this twenty-fifth day of April, A.D., 2022, by a roll call vote as follows:

Blaney, Thelma I. yea

Hooker, Anthony L. yea

Cheely, Kerry s. yea

Johnson, Derek S. yea

Eversole-Gunter, Cassandra A. —

Pangburn, Matthew M. yea

Garrett, Ryan P. absent

APPROVED:

Cassandra A. Eversole-Gunter

CASSANDRA A. EVERSOLE-GUNTER  
Mayor

ATTEST:

Michelle L. Osborne

MICHELLE L. OSBORNE  
City Clerk

SEAL

