



**VILLAGE OF PINGREE GROVE**

**ORDINANCE NO. 2010. 05**

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**AN ORDINANCE AMENDING OR ESTABLISHING A  
SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX  
FOR THE VILLAGE OF PINGREE GROVE,  
KANE COUNTY, ILLINOIS**

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PASSED BY THE PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF PINGREE GROVE, KANE COUNTY, ILLINOIS  
THIS 15<sup>TH</sup> DAY OF March, 2010.

PUBLISHED IN PAMPHLET FORM BY AUTHORITY  
OF THE PRESIDENT AND BOARD OF TRUSTEES  
OF THE VILLAGE OF PINGREE GROVE, KANE COUNTY, ILLINOIS  
ILLINOIS, THIS 16<sup>TH</sup> DAY OF March, 2010.

ORDINANCE NO. 2010-05

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SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS TAX  
FOR THE VILLAGE OF PINGREE GROVE,  
KANE COUNTY, ILLINOIS**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Pingree Grove, Kane County, Illinois, as follows;

WHEREAS, the Village Board of Trustees have determined that it is in the public interest and supports the public health, welfare, safety and morals to establish or adjust the rate of imposition for a Simplified Municipal Telecommunications Tax for the Village of Pingree Grove, pursuant to the provisions of 35 ILCS 636/1, *et. seq.*,

NOW, THEREFORE, BE IT ORDAINED by the Board of Trustees in the Village of Pingree Grove, Kane County, Illinois, that:

**SECTION ONE: Ordinance Established:** Chapter 11, Article II of the Village Code of Ordinances is hereby established as follows:

**Chapter 11, Article II: Simplified Municipal Telecommunications Tax**

11.201 DEFINITIONS.

The definition of those terms defined at 35 ILCS 636/5-7 (as such statute may be modified, amended or updated) are adopted by reference, as if restated in full herein. Any future amendment to that section shall be considered to have been adopted in full, by reference. "Municipality" shall refer to the Village of Pingree Grove, Kane County, Illinois.

11.202 SIMPLIFIED MUNICIPAL TELECOMMUNICATIONS ACT IMPOSED.

A tax is hereby imposed upon any and all the following acts or privileges:

- A. The act or privilege of originating in the municipality or receiving in the municipality intrastate telecommunications by a person at a rate of one percent (1%) of the gross charge for such telecommunications purchased at retail from a retailer.
- B. The act or privilege of originating in the municipality or receiving in the municipality interstate telecommunications by a person at a rate of one percent (1%) of the gross charge for such telecommunications purchased at retail from a retailer. To prevent actual multi-state taxation of the act or privilege that is subject to taxation under this subsection, any taxpayer, upon proof that the taxpayer has paid a tax in another state on such event, shall be allowed a credit against any tax enacted pursuant to or authorized by this Section to the extent of the amount of such tax properly due and paid in such other state which was not previously

previously allowed as a credit against any other state or local tax in this State.

The tax imposed by this Section is not imposed on such act or privilege to the extent such act or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by the municipality.

#### 11.203 COLLECTION OF TAX BY RETAILERS.

A. The tax authorized by this Section shall be collected from the taxpayer by a retailer maintaining a place of business in this State and shall be remitted by such retailer to the Department. Any tax required to be collected pursuant to or as authorized by this Section and any such tax collected by such retailer and required to be remitted to the Department shall constitute a debt owed by the retailer to the State. Retailers shall collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use, in the manner prescribed by the Department. The tax authorized by this Section shall constitute a debt of the taxpayer to the retailer until paid, and, if unpaid, is recoverable at law in the same manner as the original charge for such sale at retail. If the retailer fails to collect the tax from the taxpayer, then the taxpayer shall be required to pay the tax directly to the Department in the manner provided by the Department.

B. Whenever possible, the tax authorized by this Section shall, when collected, be stated as a distinct item separate and apart from the gross charge for telecommunications.

#### 11.204 RETURNS TO DEPARTMENT.

On or before the last day of May 2010, and on or before the last day of every month thereafter, the tax imposed under this Section on telecommunication retailers shall be returned with appropriate forms and information as required by the Department pursuant to Section 5-50 of the Illinois Simplified Municipal Telecommunications Tax Act (35 ILCS 636/5-50) and any accompanying rules and regulations created by the Department to implement the Act.

#### 11.205 RESELLERS.

A. If a person who originates or receives telecommunications claims to be a reseller of such telecommunications, such person shall apply to the Department for a resale number. Such applicant shall state facts which will show the Department why such applicant is not liable for the tax authorized by this Article on any of such purchases and shall furnish such additional information as the Department may reasonably require.

B. Upon approval of the application, the Department shall assign a resale number to the applicant and shall certify such number to the applicant. The Department may cancel any number which is obtained through misrepresentation, or which is used to send or receive such telecommunication tax-free when such actions in fact are not for resale, or which no longer applies because of the person's having discontinued the making of resales.

C. Except as provided hereinabove in this Section, the act or privilege of originating or receiving telecommunications in this State shall not be made tax-free on the ground of being a sale for resale unless the person has an active resale number from the Department and furnishes that number to the retailer in

connection with certifying to the retailer that any sale to such person is non-taxable because of being a sale for resale.

#### 11.206 SEVERABILITY.

If any provision of this Section, or the application of any provision of this Section, is held unconstitutional or otherwise invalid, such occurrence shall not affect other provisions of this Section, or their application, that can be given effect without the unconstitutional or invalid provision or its application. Each unconstitutional or invalid provision, or application of such provision, is severable, unless otherwise provided by this Section.

#### **SECTION TWO: GENERAL PROVISIONS:**

**REPEALER:** All ordinances or portions thereof in conflict with this ordinance, expressly including but not limited to any ordinance which previously established a Simplified Municipal Telecommunications Tax and expressly including Village Ordinance 98-01 (Telecommunications Infrastructure Maintenance Fee), are hereby repealed.

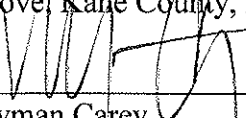
**SEVERABILITY:** Should any provision of this Ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions will remain in full force and affect the same as if the invalid provision had not been a part of this Ordinance.

**EFFECTIVE DATE:** This Ordinance shall be in full force and effect on and after its approval, passage and publication in pamphlet form as provided by law, provided, however, that Section 11.202 and Section 11.203 shall take effect for all bills issued on or after May 1, 2010; (2) the tax provided for herein shall take effect for all bills issued on or after the first day of May 1, 2010; and (3) any amounts due or payable to the municipality for any tax periods ending prior to the first day of June 1, 2010, shall nevertheless remain payable as if this Section had not be adopted.

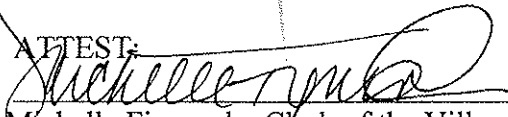
**DISTRIBUTION TO DEPARTMENT:** The Village Clerk shall be authorized and directed to distribute certified copies of this Ordinance to the Illinois Department of Revenue prior to March 20, 2010.

**CODIFICATION:** The Village of Pingree Grove is presently undergoing codification of its ordinances into a unified Code Book. To that end, the chapter numbers identified above have been selected based upon the Village's estimation of what the actual chapter number shall be. That said, the Village Manager and Village Clerk shall be expressly authorized to change or amend the identifying chapter numbers as shall be necessary to conform such numbering to the codification of the Village's Ordinances, provided that the text of the ordinances (other than the numbering) shall not be changed. This ordinance shall remain in full force and effect without regard to the renumbering or relabeling of the paragraphs.

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Pingree Grove, Kane County, Illinois this 15 day of March, 2010.

  
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Wyman Carey,  
President of the Board of Trustees of the Village of Pingree Grove

ATTEST:  
  
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Michelle Figuerola, Clerk of the Village of Pingree Grove

	Aye	Nay	Absent	Abstain
Trustee Steve Wiedmeyer	<u>X</u>	_____	_____	_____
Trustee Ricky Popilek	<u>X</u>	_____	_____	_____
Trustee Stephanie Mette	<u>X</u>	_____	_____	_____
Trustee Greg Marston	<u>X</u>	_____	_____	_____
Trustee Joshua Cossiboon	<u>X</u>	_____	_____	_____
Trustee Larry Gillie	<u>X</u>	_____	_____	_____
Village President Wyman Carey	_____	_____	_____	_____