

**VILLAGE OF OSWEGO
KENDALL AND WILL COUNTIES, ILLINOIS**

ORDINANCE NO. 22 - 24

**AN ORDINANCE ADOPTING A REAL ESTATE TRANSFER TAX AT A RATE OF \$3.00 PER
\$1,000 OF VALUE ON ALL PURCHASERS OF PROPERTY WITHIN THE VILLAGE OF
OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS**

**ADOPTED BY
THE PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF OSWEGO**

This 5th day of April 2022

Prepared by and Return to:
Village of Oswego
100 Parkers Mill
Oswego, IL 60543

Published in this pamphlet form by authority of the President
and Board of Trustees of the Village of Oswego on April 6, 2022.

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WHEREAS, the Village of Oswego (“Village”) has a population of more than 25,000 and is therefore a “Home Rule Unit” under the 1970 Illinois Constitution; and

WHEREAS, the Illinois Constitution of 1970 provides that a Home Rule Unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals, and welfare; to license, to tax; and to incur debt; and

WHEREAS, the Village has in full force and effect a codified set of those ordinances of the Village which are of a general and permanent nature, which said codified set is known and designated as the Village Code of the Village of Oswego, as amended; and

WHEREAS, the Village water supply will not be sufficient to serve the required demand by its residents in future years; and

WHEREAS, the Village Board was presented with options for securing a future water source and has decided to bring Lake Michigan water to the Village by connecting to the DuPage Water Commission’s distribution system; and

WHEREAS, the cost to connect to the DuPage Water Commission’s water system and required Village water system improvements costs are in the tens of millions of dollars; and

WHEREAS, implementing a real estate transfer tax on property purchased in the Village paid by the purchasers will lessen the impact on future water rate increases.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS IN THE EXERCISE OF THEIR HOME RULE, STATUTORY AND OTHER POWERS, as follows:

Section 1: That the recitals set forth above are incorporated here by reference, and a real estate transfer tax is hereby imposed on the transfer of real property within the Village of Oswego at a rate of \$3.00 per \$1,000 of value to be paid by the purchaser unless the purchase meets one of the exemptions as stated in Attachment A. Title III of the Village Code of Ordinances, Chapter 39, as set forth on

Attachment A of this Ordinance is hereby adopted. All definitions and procedures as depicted on Attachment A must be followed to receive the revenue stamp necessary for filing all deeds from real property transfers within the Village.

Section 2: SEVERABILITY

This ordinance and every provision thereof shall be considered severable. If any section, paragraph, subdivision, clause, sentence, or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate, or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

Section 3: REPEALER

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: EFFECTIVE DATE

This Ordinance shall be in full force and effect immediately upon its passage, approval, and publication in this pamphlet form, which is hereby authorized, as provided by law.

PASSED by the Board of Trustees of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of April 2022.

TOM GUIST	<u>AYE</u>	TERRY OLSON	<u>AYE</u>
KIT KUHRT	<u>AYE</u>	JENNIFER JONES SINNOTT	<u>AYE</u>
JAMES MARTER	<u>AYE</u>	BRIAN THOMAS	<u>ABSENT</u>

APPROVED by me, Troy Parlier, as President of the Village of Oswego, Kendall and Will Counties, Illinois this 5th day of April 2022.

TROY PARLIER, VILLAGE PRESIDENT

TINA TOUCHETTE, VILLAGE CLERK

STATE OF ILLINOIS)
)
COUNTY OF KENDALL) SS

CLERK'S CERTIFICATE
(ORDINANCE)

I, Tina Touchette, the duly qualified and acting Village Clerk of the Village of Oswego, Kendall and Will Counties, Illinois, do hereby certify that I am the keeper of its books and records and that the attached hereto is a true and correct copy of an Ordinance entitled:

AN ORDINANCE ADOPTING A REAL ESTATE TRANSFER TAX AT A RATE OF \$3.00 PER \$1,000 OF VALUE ON ALL PURCHASERS OF PROPERTY WITHIN THE VILLAGE OF OSWEGO, KENDALL AND WILL COUNTIES, ILLINOIS

which Ordinance was duly adopted by said Board of Trustees at a meeting held on the 5th day of April 2022, approved by the Village President on the 5th day of April 2022 and thereafter published in pamphlet form to the extent required by law.

I do further certify, in my official capacity, that a quorum of said Board of Trustees was present at said meeting and that the Board complied with all requirements of the Illinois Open Meetings Act.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of April 2022.

Tina Touchette, Village Clerk
Village of Oswego

(Seal)

ATTACHMENT A

REAL ESTATE TRANSFER TAX

TITLE 3 – BUSINESS

Chapter 39 - Real Estate Transfer Tax

Sec. 3-39-1. Definitions.

For the purpose of this Chapter, the following words shall have the meanings herein ascribed to them:

“Affixed” means physically or electronically indicated.

“Recordation” includes the issuance of certificates of title by Registrars of Title under the Registered Titles (Torrens) Act pursuant to the filing of deeds or trust documents for that purpose, as well as the recording of deeds or trust documents by recorders. Recordation means the recording of deeds or other transfer documents with the office of the Recorders of Deeds of Kendall or Will Counties, Illinois.

“Person” means any natural individual, firm, partnership, association, Joint, Stock company, joint adventure, public or private corporation, limited liability Company, or a receiver, executor, trustee, guardian, or other representative Appointed by order of any court.

“Revenue Stamp” means physical, electronic, or alternative indicia that Indicates the amount of tax paid.

“Value” means the amount of the full actual consideration for the real Property or the beneficial interest in real property located in the Village of Oswego, including the amount of any lien on the real property assumed by The transferee.

“Trust Document” means a document required to be recorded under the Land Trust Recordation and Transfer Tax Act and, beginning June 1, 2005, Also means any document relating to the transfer of a taxable beneficial interest Under this Chapter.

“Beneficial Interest” includes, but is not limited to:

- (1) The beneficial interest in an Illinois land trust;

- (2) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired; or
- (3) the indirect interest in real property as reflected by a controlling interest in a real estate entity.

“Controlling Interest” means more than 50% of the fair market value of all ownership interests or beneficial interests in a real estate entity.

“Real estate entity” means any person including, but not limited to, any partnership, corporation, limited liability company, trust, other entity, or multi-tiered entity, that exists or acts substantially for the purpose of holding directly or indirectly title to or beneficial interest in real property. There is a rebuttable presumption that an entity is a real estate entity if it owns, directly or indirectly, real property having a fair market value greater than 75% of the total fair market value of all the entity’s assets, determined without deduction for any mortgage, lien, or encumbrance.

Sec. 3-39-2. Imposition of Tax on Transfer by Deed.

A tax is imposed on the privilege of transferring title to real property or beneficial interest in real property within the corporate limits of the Village, as represented by the deed or other transfer document that is filed for recordation, at the rate of three dollars and zero cents (\$3.00) for each one thousand dollars (\$1,000.00) of value or fraction thereof stated in the declaration provided for in this Chapter. The tax herein levied shall be in addition to any and all other taxes.

Sec. 3-39-3. Liability for Tax.

The ultimate incidence of and liability for payment of the tax imposed by this Chapter shall be borne by the grantee, assignee, or transferee of any instrument conveying the beneficial interest in real estate or purchaser of any deed or trust document subject to this Chapter.

Sec. 3-39-4. Purchase of Revenue Stamps.

The tax levied by this Chapter shall be paid by purchase of Revenue Stamps from the Director of Finance or his designated agent. The payment of such tax shall be denoted by Revenue Stamps affixed to the face of the deed or instrument transferring the beneficial interest. Such stamps shall be available for sale at and during the regular business hours of the Village offices and the offices of such agent as the Village may designate. Upon payment of the tax herein levied and imposed, the stamps so purchased shall be affixed to the deed or other instrument of conveyance as required by this ordinance. Any person so using and affixing a stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his initials and the day, month, and year when the affixing occurs. Such marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch; however, the stamp(s) shall not be so defaced as to prevent ready determination of its denomination and genuineness. The Oswego real estate revenue stamp shall be of a design substantially as shown below.

Revenue Stamp

Date: Amount: Village logo in background

Village of Oswego, Illinois

Sec. 3-39-5. Filing of Declaration.

At such time as the tax levied by this Chapter is paid, there shall be filed with the Director of Finance a fully executed and completed copy of the "real estate transfer declaration" required by the provisions of 35 ILCS 200/31-25 or for the transfer of beneficial interest, the declaration shall be on a form provided by the Director of Finance and executed by the person liable for the tax.

Sec. 3-39-6. Exemptions.

(A) The following shall be exempt from the tax levied by this Chapter:

(1) Deeds to or trust documents relating to property acquired by any governmental body or from any governmental body or deeds to or documents relating to property or interests transferred between governmental bodies, or by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious or educational purposes; except that such deeds or trust documents grantee pursuant to a foreclosure proceeding shall not be exempt from filing the declaration.

(2) Deeds or trust documents which secure debt or other obligation.

(3) Deeds or trust documents which, without additional consideration, confirm, correct, modify, or supplement a deed or trust document previously recorded.

(4) Deeds or trust documents where the actual consideration is less than one hundred dollars (\$100.00).

(5) Tax deeds.

(6) Deeds or trust documents of release of property which is security for a debt or other obligation.

(7) Deeds of partition.

(8) Deeds or trust documents made pursuant to mergers, consolidations, or transfers or sales of substantially all the assets of corporations pursuant to plans of reorganization.

(9) Deeds or trust documents made by a subsidiary corporation to its parent corporation for no consideration other than the cancellation or surrender of the subsidiary's stock.

(10) Deeds wherein there is an actual exchange of real estate and trust documents wherein there is an actual exchange of beneficial interests, with no monetary exchange from one to the other.

(11) Deeds representing transfers subject to the imposition of a documentary stamp tax imposed by the government of the United States.

(12) Deeds issued to a holder of a mortgage, as defined in Section 15-103 of the Code of Civil Procedure, pursuant to a mortgage foreclosure proceeding or pursuant to a transfer in lieu of foreclosure.

(13) A deed or trust document related to the purchase of a principal residence by a participant in the program authorized by the Home Ownership Made Easy Act.

(14) A deed wherein the grantee(s) thereof have contemporaneously sold an owner-occupied, single-family, detached or attached dwelling or condominium within the boundaries of the Village of Oswego, in which the grantee(s) had resided for at least one (1) year prior to the date of said deed. Proof, to the Village's reasonable satisfaction, of the one (1) year residence period shall be provided by the grantee(s) claiming the exemption.

(B) Every deed or trust document which is tax exempt pursuant to this section shall be presented to the Director of Finance to be appropriately marked by said Director of Finance as exempt and eligible for recordation without the payment of tax. When a deed or trust document is presented to the Director of Finance pursuant to this section, the facts which justify the exemption shall be on a form provided by the Director of Finance. The applicant for exemption must submit a fifty and no/100 dollar (\$50.00) administrative fee for review of the application and issuance of the exempt revenue stamp.

3-39-7. Recordation of Deeds.

After the effective date of this Chapter, no deed conveying real property within the corporate limits of the Village shall be entitled to recordation by the recorder of deeds for Kendall or Will County unless such deed shall bear either an Oswego revenue tax stamp in the amount required by this Chapter, or an exemption revenue stamp from the Oswego Director of Finance.

Sec. 3-39-8. Filing of Certification of No Expired Building Permits, Code Violations and Unpaid Multi-Family License/Reinspection Fees.

(A) Upon receipt of an application for the issuance of revenue stamps, the Director of Finance, or his designee, shall promptly cause a compliance check to be initiated by request to the Director of Development Services. The compliance check shall be solely for the purpose of ascertaining whether there are outstanding building, property maintenance or housing code issues with respect to the property for which stamps have been requested. The Director of Development Services, or his designee, shall determine:

(1) whether the property has been cited for Code violations and, if so, whether those Code violations have been remedied:

(2) whether work performed pursuant to a building permit issued by the Village has been completed and has been inspected and given final approval by the Village;

(3) whether any building or inspection-related fees, including multi-family license or inspection fees, are due and owing the Village; and

(4) whether costs incurred by the Village related to all outstanding multi-family license fees, reinspection fees, fines, penalties, and costs related to the property maintenance code violations are due and owing to the Village.

(B) If the Director of Development Services issues a certificate of compliance, the Director of Finance shall issue the revenue stamps, provided all other requirements of this Chapter are met.

(C) If the Director of Development Services issues a certification of noncompliance, revenue tax stamps shall not be issued unless:

(1) the purchaser of the property signs an agreement to correct all Code violations and to complete, have inspected and have approved all building permit related work within sixty (60) days; and

(2) either the owner or the seller has paid all outstanding multi-family license fees, reinspection fees, fines,

penalties, and costs related to the property maintenance code violations.

Sec. 3-39-9. Duty of Trustee.

No trustee of real estate shall accept an assignment of beneficial interest in real estate located in the Village unless tax revenue stamps in the required amounts, as set forth in this Ordinance have been affixed to the assignment.

Sec. 3-39-10. Proceeds of Tax.

All proceeds resulting from the collection of the tax imposed by this Ordinance, including interest and penalties, shall be paid into the treasury of the Village and shall be credited to and deposited in the Water & Sewer Fund of the Village.

Sec. 3-39-11. Interest and Penalties.

In the event of failure by any person to pay to the Director of Finance the tax required hereunder when the same shall be due, interest shall accumulate and be due upon said tax at the rate of one percent (1%) per month commencing as of the first day following the day when the deed was recorded or the assignment of beneficial interest was accepted by the trustee. In addition, a penalty of fifty percent (50%) of the tax and interest due shall be assessed and collected against any person who shall fail to pay the tax imposed by this Ordinance.

Sec. 3-39-12. Civil Liability for Tax.

In the event of failure by any person to pay to the Director of Finance the tax required hereunder when the same shall be due, said person shall be liable to the Village for such tax, together with interest and penalties. The Village may bring an action to collect such tax, interest, and penalties in any court of competent jurisdiction.

Sec. 3-39-13. Fine for Violation.

In addition to the remaining provisions of this Ordinance, any person found guilty in a court of competent jurisdiction of violating, disobeying, omitting, neglecting, or refusing to comply with any provision of this Ordinance, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00) for each offense.

Sec. 3-39-14. Payment of Various Outstanding Accounts

The Director of Finance shall issue no revenue stamps, including “no tax due” revenue stamps, unless all outstanding building code fines, alarm fees, escrow development fees, any and all other miscellaneous fees, economic development loans, property maintenance invoices, liens related to the subject property and real estate transfer taxes due from any prior conveyance including a sheriff’s, judicial or other deed arising from a judicial proceeding that is not otherwise exempt by state, local or federal laws have been paid in full.

Sec. 3-39-15. Outstanding Water and Sewer Charges.

At the time that application is made for revenue stamps hereunder, the Director of Finance shall determine whether there are any outstanding water and sewer charges due to the Village with respect to the subject property. If there are outstanding charges, prior to the issuance of the revenue stamps hereunder, the grantor shall provide a statement, signed by the prospective grantee,

acknowledging that said grantee is aware of the existence of said outstanding charges and his liability therefor.

Sec. 3-39-16. Effective Date

These provisions shall be in full force and effect upon passage of the Referendum on June 28, 2022.

Sec. 3-39-17. Severability.

If any clause, sentence, section, provision or part of this Chapter 39 or the application thereof to any person or circumstance shall be adjudged to be unconstitutional or unenforceable, the remainder of this Chapter or its application to persons or circumstances other than those to which it is held invalid shall not be affected thereby.