

**MILL VILLAGE BOROUGH
ERIE COUNTY, PENNSYLVANIA
ORDINANCE NO. 40**

REALTY TRANSFER TAX ORDINANCE

AN ORDINANCE OF MILL VILLAGE BOROUGH, ERIE COUNTY PENNSYLVANIA PROVIDING FOR THE LEVYING, ASSESSMENT AND COLLECTION OF TAX FOR GENERAL REVENUE PURPOSES UPON A TRANSFER OF AN INTEREST IN REAL PROPERTY TO THE EXTENT THAT THE TRANSFERS ARE SUBJECT TO TAX IMPOSED BY THE COMMONWEALTH OF PENNSYLVANIA PURSUANT TO 72 P.S. §8107-C *ET SEQ.*, AUTHORIZED BY ARTICLE XI-D, "LOCAL REAL ESTATE TRANSFER TAX," 72 P.S. §8101-D *ET SEQ.* AND ADMINISTERED, COLLECTED AND ENFORCED UNDER THE "LOCAL TAX ENABLING ACT," 53 P.S. §6901, *ET SEQ.*; ESTABLISHING DEFINITIONS INCLUDING ACQUIRED COMPANIES; IMPOSING THE TAX AND SETTING THE AMOUNT OF INTEREST TO CHARGE UPON A DELINQUENCY; EXEMPTING CERTAIN PARTIES AND EXCLUDING CERTAIN TRANSACTIONS; REGULATING DOCUMENTS; PROVIDING FOR CREDITS AGAINST TAX, EXTENSIONS OF LEASES AND PROCEEDS AT JUDICIAL SALES; VESTING THE RECORDER OF DEEDS AS THE COLLECTION AGENT FOR THE TAX; REQUIRING A STATEMENT OF VALUE; PRESCRIBING CIVIL PENALTIES FOR ENFORCEMENT INCLUDING THE FILING OF LIENS; PROVIDING FOR THE ADMINISTRATION, ENFORCEMENT AND COLLECTION OF THE TAX; AUTHORIZING THE PENNSYLVANIA DEPARTMENT OF REVENUE TO COLLECT DELINQUENT TAX; REQUIRING THE PAYMENT OF A REFUND UPON THE OVERPAYMENT OF TAX; AUTHORIZING THE SHARING OF INFORMATION WITH THE PENNSYLVANIA DEPARTMENT OF REVENUE CONCERNING THE ADMINISTRATION AND COLLECTION OF THE TAX; AUTHORIZING ADDITIONAL REGULATIONS; PROVIDING FOR A SEVERABILITY CLAUSE; REPEALING ALL INCONSISTENT ORDINANCES AND PROVIDING FOR THE EFFECTIVE DATE TO BE APRIL 1, 2008.

WHEREAS, The State Legislature of the Commonwealth of Pennsylvania amended the Realty Transfer Tax law to authorize the Pennsylvania Department of Revenue to collect delinquent Realty Transfer Tax on behalf of local governments; and

WHEREAS, the Mill Village Borough Council believes it to be in the best interest of the citizens of the Borough of Mill Village to authorize such a collection program;

NOW THEREFORE on this 7th day of May, 2008, **IT IS HEREBY ENACTED AND ORDAINED** by the Borough Council of the Borough of Mill Village, Erie County, Pennsylvania as follows:

1. Short Title.

This ordinance shall be known as the "Realty Transfer Tax Ordinance" of the Borough of Mill Village.

2. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Mill Village, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer took place, as authorized by Article XI-D of the Tax Reform Code of 1971, "Local Real Estate Transfer Tax," 72 P.S. §8101-D *et seq.*

3. Definitions.

ASSOCIATION - a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

BOROUGH – the Borough of Mill Village, Erie County, Pennsylvania.

CORPORATION - a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.

DEPARTMENT - the Department of Revenue of the Commonwealth of Pennsylvania.

DOCUMENT - any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise of title of real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §8.

FAMILY FARM CORPORATION - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family or property which his directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- (a) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (b) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;

- (c) Fur farming;
- (d) Stockyard and slaughterhouse operations; or
- (e) Manufacturing or processing operations of any kind.

FAMILY FARM PARTNERSHIP – a partnership of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- (a) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (b) The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- (c) Fur farming;
- (d) Stockyard and slaughterhouse operations; or
- (e) Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY - any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

MUNICIPALITY- the Borough of Mill Village, Erie County, Pennsylvania

ORDINARY TRUST - any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settler and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.

PERSON - every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE –

- (a) Any lands, tenements or hereditaments within the Borough of Mill Village, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- (b) A condominium unit.
- (c) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY - a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- (a) Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or
- (b) Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

RECORDER OF DEEDS - the Recorder of Deeds of Erie County.

TITLE TO REAL ESTATE –

- (a) Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including, without limitation, an estate in fee simple, life estate or perpetual leasehold; or
- (b) Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consist of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION - the making, executing, delivering, accepting or presenting for recording of a document.

VALUE -

- (a) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid,

including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against real estate: Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

- (b) In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
- (c) In the case of an easement or other interest in real estate, the value of which is not determinable under subsections (a) or (b), the actual monetary worth of such interest; or
- (d) The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

4. Imposition of Tax; Interest.

- A. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. The stamps shall be affixed in such a manner that their removal will require the continued application of steam or water, and the person using or affixing the stamps shall write, stamp or cause to be written or stamped thereon the initials of that person's name and the date upon which the stamps are affixed or used so that the stamps may not again be used, provided that

the Department may prescribe such other method of cancellation as it may deem expedient.

- C. It is the intent of this ordinance that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 *et seq*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough of Mill Village Borough Council under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be ½ of the rate and such ½ shall become effective without any action on the part of the Borough Council of the Borough of Mill Village provided, however, that the Borough of Mill Village and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."
- D. Any tax imposed under this Section that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P.S. §§ 7101, et seq.), as amended, known as "The Municipal Claims and Tax Liens Act". The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176)(72 P.S. §806), as amended, known as the "Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

5. Exempt Parties.

The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this ordinance. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

6. Excluded Transactions.

The tax imposed by §4 shall not be imposed upon:

- A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within 1 year from the date of condemnation.
- B. A document which the Borough of Mill Village is prohibited from taxing under the Commonwealth of Pennsylvania or United States Constitutions or statutes of the Commonwealth of Pennsylvania or the United States.

- C. A conveyance to a Municipality, Township, school district or County pursuant to acquisition by the Municipality, Township, school district or County of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identified the contingent beneficiaries by reference to the heirs of the trust settler as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration to a trustee of a living trust from the settler of the living trust. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the living trust instrument.
- J. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of

real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settler to the grantee.

- K. A transfer for no or nominal actual consideration from the trustee of a living trust after the death of the settler of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.
- L. A transfer for no or nominal actual consideration from the trustee of a living trust to the settler of the living trust if such property was originally conveyed to the trustee by the settler.
- M. A transfer for no or nominal actual consideration from trustee to successor trustee.
- N. A transfer (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this ordinance. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.
- O. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this ordinance.
- P. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.
- Q. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- R. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (i) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (ii) the agency or authority has the full ownership interest in the real estate transferred.

- S. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- T. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- U. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1986, (26 U.S.C.A §501(c)(3)) and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities; or a transfer from such a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least two years immediately prior to the transfer.
- V. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- X. A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership.
- Y. A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.
- Z. A transaction wherein the tax is \$1 or less.
- AA. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this ordinance.

7. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §6, documents which make, confirm or evidence any transfer or devise of title to real estate between associations or corporations and the members, partners,

shareholders or stockholders thereof are fully taxable. For the purposes of this Section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

8. Acquired Company

- A. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 3 years.
- B. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this ordinance.
- C. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this ordinance.
- D. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the Recorder of Deeds in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

9. Credits Against Tax.

- A. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as a consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

- C. Where there is a transfer of real estate which is devised by the grantor, a credit for the amount of tax paid at the time of the devise shall be given the grantor toward the tax due upon the transfer.
- D. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of the tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
- E. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

10. Extension of Lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

11. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made. The sheriff, or other officer conducting the sale, shall pay the tax herein imposed out of the first moneys paid to the sheriff or officer in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

12. Collection Agent.

The Recorder of Deeds shall be the collection agent for a tax imposed herein by the Borough of Mill Village. The Recorder of Deeds shall pay tax, interest and penalty collected pursuant to this Ordinance to the Borough of Mill Village in accordance with section 6(c) of the Act of November 1, 1971 (P.L. 495, No. 113), 16 P.S. §11011-6, as amended by Act of July 7, 1983, (P.L. 40, No. 21).

13. Statement of Value.

Every document lodged with or presented to the Recorder of Deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this ordinance. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this Section shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and

setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this ordinance.

14. Civil Penalties.

- A. If any part of any underpayment of tax imposed under this ordinance is due to fraud, an amount equal to 50% of the underpayment shall be added to the tax.
- B. In the case of failure to record a declaration required under this ordinance on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than 1 month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

15. Lien.

Any tax that the Department determines to be due under this Ordinance and remains unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the Borough of Mill Village upon the property, both real and personal, of the person but only after the lien has been entered and docketed of record by the Erie County Prothonotary.

16. Administration, Collection, and Enforcement.

Effective April 1, 2008 and thereafter, the tax levied under this ordinance shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as the "Local Tax Enabling Act," provided, however, that if the correct amount of the tax is not paid by the last date prescribed for timely payment as provided for in Section 1102-C of the Tax Reform Code of 1971, 72 P.S. §8102-C, the Pennsylvania Department of Revenue is authorized and directed, on behalf of the Borough of Mill Village, to determine the tax, interest and penalty as provided for in Section 1109-D of the Tax Reform Code of 1971, 72 P.S. §8109-D, and is also authorized and directed to collect and enforce the tax, interest and penalty in the same manner as tax, interest and penalty imposed by the Commonwealth of Pennsylvania pursuant to Article X-C of the Tax Reform Code of 1971, 72 P.S. §8101-C *et seq.*

17. Refund

- A. Whenever the amount due upon determination, redetermination or review is less than the amount paid on account thereof, the Borough of Mill Village shall refund the difference.
- B. Where there has been no determination of unpaid tax, application for refund shall be made to the Borough of Mill Village in the manner prescribed by the act of December 31, 1965 (P.L. 1257, No. 511), known as "The Local Tax Enabling Act," 53 Pa.C.S. Ch 84 Subchapter C (relating to local taxpayers bill of rights) or as otherwise provided by law.

18. Sharing Information.

Notwithstanding the provisions of any other ordinance pertaining to confidentiality, the Borough of Mill Village may divulge to the Pennsylvania Department of Revenue any information concerning the administration or collection of the tax imposed under this ordinance.

19. Regulations.

The Recorder of Deeds is charged with collection of the tax imposed under this ordinance and is empowered to promulgate and enforce reasonable regulations for collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8107-C *et seq.* are incorporated into and made a part of this ordinance.

20. Severability.

If any sentence, clause, section or part of this ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this ordinance. It is hereby declared as the intent of the Borough Council of the Borough of Mill Village that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

21. Repealer.

All ordinances inconsistent herewith, and specifically Ordinance No. 21, passed on or about January 14, 1988, as amended if applicable, are hereby repealed.

22. Effective Date.

The provisions of this ordinance shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording on or after May 13, 2008.

DULY ORDAINED AND ENACTED this 7th day of May, 2008, by the Borough Council of the Borough of Mill Village, Erie County, Pennsylvania, in lawful session duly assembled.

ATTEST:

Selma H. Peters
Borough Secretary

Theodore Szall
President of Borough Council

APPROVED this 7th day of May, 2008.

Joseph Sam
Mayor of Mill Village Borough

I certify that the above is a true copy of the Borough of Mill Village, Erie County, Pennsylvania, Ordinance No. 40 adopted by the Mill Village Borough Council on May 7, 2008 and advertised in the Erie Times News on April 7, 2008, April 14, 2008 and April 21, 2008.

Selma H. Peters
Mill Village Borough Secretary

767429