

**AN ORDINANCE AUTHORIZING A HOME RULE REAL ESTATE  
TRANSFER TAX PURSUANT TO 65 ILCS 5/8-3-19**

WHEREAS, 65 ILCS 5/8-3-19 provides for the imposition of a tax or other fee on the privilege of transferring title to real estate, on the privilege of transferring a beneficial interest in real property, and the privilege of transferring a controlling interest in a real estate entity, by a home rule municipality; and

WHEREAS, 65 ILCS 5/8-3-19 provides that prior to adopting a resolution to submit the question of imposing a real estate transfer tax, the question of a proposed real estate transfer tax the corporate authorities must give public notice on the intent to submit the question to referendum; and

WHEREAS, the corporate authorities of the Village of Romeoville have published notice of such public hearing and a true and correct copy of the certificate of publication is attached hereto as Exhibit "A"; and

WHEREAS, the proposed Ordinance has been made available to the public prior to the public hearing; and

WHEREAS, at the public hearing, the corporate authorities of the Village of Romeoville have explained the reasons for the proposed real estate transfer tax and have permitted persons desiring to be heard an opportunity to present testimony within reasonable time limits determined by the corporate authorities; and

WHEREAS, the resolution on the proposition has been submitted to the voters pursuant to 65 ILCS 5/8-3-19(e); and

WHEREAS, a majority of the electors voting on the proposition voted in favor of it; and

WHEREAS, the Village of Romeoville may now, as authorized by law, impose the municipal real estate transfer tax or fee.

NOW THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES FOR THE VILLAGE OF ROMEOVILLE, WILL COUNTY, ILLINOIS; THAT

**SECTION 1:** That the foregoing recitals are hereby incorporated into this Ordinance as if fully set forth herein.

**SECTION 2: DEFINITIONS:** For the purpose of this subchapter the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**DEED:** All documents transferring or reflecting or effecting the transfer of legal title, equitable title or both legal and equitable title to real property, or the beneficial interest in a land trust or a controlling interest in a real estate entity, as the terms "beneficial interest", "controlling interest", and "real estate entity" are defined in Article 31 of the Property Tax Code.. Delivery of any deed shall be deemed to have occurred when the transferee or purchaser, or his representative or agent, receives possession of the deed or in the case of a land trust when the trustee receives possession of a valid assignment of a beneficial interest.

**PERSON:** Any natural individual, receiver, administrator, executor, conservator, assignee, trust in perpetuity, trust, estate, firm, partnership, joint venture, club, company, business trust, municipal corporation, political subdivision of the state, domestic or foreign corporation, limited liability company, association, syndicate, society entity or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise, and the United States or any instrumentality thereof. Whenever the term *PERSON* is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners thereof, and as applied to corporations, the officers thereof.

**RECORDATION:** The recording of deeds with the office of the Will County Recorder.

**VALUE:** The amount of the full actual consideration for any transfer for the real property including the amount of any mortgage or other lien on the real property assumed by the grantee, purchaser or buyer.

### **SECTION 3: TAX IMPOSED.**

A tax is hereby imposed on the privilege of transferring of title to real estate, or the privilege of transferring a beneficial interest in real property, and on the privilege of transferring a controlling interest in a real estate entity as the terms, "beneficial interest", "controlling interest" and "real estate entity", are defined in Article 31 of the Property Tax Code, located in the Village of Romeoville as evidenced by the recordation of a deed by any person or by the delivery of any deed, assignment of interest in the real property, made after June 1, 2005, whether vesting the owner with the beneficial interest or controlling interest in or legal title to real estate. The tax imposed shall be \$1.75 for every \$500.00 of value, or fraction thereof, as stated in the declaration. The tax herein levied shall be in addition to any and all other taxes. Such a tax or other fee shall hereafter be referred to as a real estate transfer tax.

### **SECTION 4: LIABILITY FOR TAX.**

The liability for payment of the real estate transfer tax shall be borne by the grantee or buyer involved in any such transaction unless otherwise negotiated by contract. However, it shall be unlawful for the grantee or purchaser to accept a conveyance if the transfer tax has not been paid. The tax herein levied shall be in addition in any and all other taxes.

## **SECTION 5: DECLARATION FORMS.**

At the time the tax is paid, or an exemption is applied for, there shall also be presented to the Village Manager or his/her designee, on a form prescribed by the Village Manager, a declaration in substantial accordance with the Real Estate Transfer Tax Act as set forth in ILCS Ch. 35, Act 305 § 1 et seq. However, the execution by one of the grantors or sellers or their agents, and one of the grantees or buyers or their agents, shall be deemed sufficient under this section. The information required to be provided in the declaration shall be given under the oath of the person affixing his signature thereto that the matters contained therein are true and correct. The Village Manager shall prescribe the form on which the declaration shall be made.

## **SECTION 6: DEEDS; EXEMPTIONS.**

(A) Every deed shall show the date of the transaction which it evidences, the names of the grantor and grantee, and a legal description of the property to which it relates.

(B) The following deeds or trust documents shall be exempt from the provisions of this subchapter except as hereinafter provided:

(1) Deeds or trust documents representing real estate transfers made on or before June 1, 2005. In addition to the foregoing, a transfer shall be considered to have been made prior to June 1, 2005, if a valid written contract of sale therefore was executed by the buyer and seller prior to May 1, 2005, and the property transferred, if in a subdivision, was a lot of record on May 1, 2005 and a declaration therefor is filed on or before July 1, 2004.

(2) Deeds to or trust documents relating to (1) property acquired by any governmental body or from any governmental body, (2) property or interests transferred between governmental bodies, or (3) property acquired by or from any corporation, society, association, foundation or institution organized and operated exclusively for charitable, religious, educational and other not for profit purposes. However, deeds or trust documents, other than those in which the Administrators of Veterans' Affairs of the United States of America is the grantee pursuant to a foreclosure proceeding, shall not be exempt from filing the declaration.

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

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

(5) Deeds or trust documents where the actual consideration is less than \$100.00.

(6) Tax deeds.

(7) Deeds or trust documents that release property that is security for a debt or other obligation.

(8) Deeds of partition.

(9) Deeds or trust documents made pursuant to mergers, consolidations, or transfers or sales of substantially all of the assets of corporations under plans of reorganization under the Federal Internal Revenue Code or Title 11 of the Federal Bankruptcy Act.

(10) 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.

(11) Deeds when there is an actual exchange of real estate and trust documents when there is an actual exchange of beneficial interests, except that money difference or money's worth paid from one to the other is not exempt from the tax. These deeds or trust documents, however, shall not be exempt from filing the declaration.

(12) Deeds issued to a holder of a mortgage, as defined in Illinois Code of Civil Procedure (735 ILCS 5/15-1207) pursuant to mortgage foreclosure proceedings 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, except that those deeds and trust document shall not be exempt from filing the declaration.

#### **SECTION 7: REVENUE STAMPS REQUIRED**

The real estate transfer tax herein levied and imposed shall be collected by the Village Manager or his/her designee through the sale of a revenue stamp(s), which shall be caused to be prepared by the Village Manager in such quantities, denominations and/or description as the Village Manager may from time to time prescribe. Such revenue stamp(s) shall be available for sale at and during the regular business hours of the Village office or at other locations designated by the Village Manager. Upon payment of the real estate transfer tax herein levied and imposed, the revenue stamps so purchased shall be affixed to the deed or other instrument of conveyance. Any person so using and affixing a revenue stamp or stamps shall cancel it and so deface it as to render it unfit for use by marking it with his initials and the day, month and year when the affixing occurs. Such markings shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the revenue stamp(s) shall not be so defaced as to prevent ready determination of its denomination and genuineness.

#### **SECTION 8: TRANSFER IN TRUST OR TRANSFER OF CONTROLLING INTEREST IN A REAL ESTATE ENTITY OWNING PROPERTY WITHIN THE VILLAGE.**

No person shall accept or acknowledge the transferring of a beneficial interest in a real property located in the Village of Romeoville or the transfer of a controlling interest in a real estate entity owning property located in the Village of Romeoville, without first obtaining a real estate transfer declaration from the transferor and transferee and unless revenue stamps in the required amount, as set forth in this section, have been affixed to the deed or transfer document.

**SECTION 9: RECORDATION OF DEEDS.**

After the June 1, 2005, no deed conveying real property within the corporation limits of the Village of Romeoville shall be entitled to recordation by the Recorder of Deeds for Will County unless such deed shall bear either a Village of Romeoville Real Estate Transfer Tax stamp in the amount required by this Ordinance, or a duly certified statement of exemption.

**SECTION 10: PROCEEDS OF TAX.**

All proceeds resulting from the imposition of the tax under this Ordinance, including interest and penalties, shall be paid to the Village and shall be credited to and deposited in the general fund of the village for the use for the preservation of open space and capital improvements.

**SECTION 11: VIOLATION OF PROVISIONS.**

(A) In the event of failure by any person to pay the tax required in this Ordinance when the same shall be due, simple interest shall accumulate and be due upon the tax at the rate of 1 ½% 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 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.

(B) In the event of failure by any person to pay the Village of Romeoville the tax required herein when the same shall be due, said person shall be liable to the Village of Romeoville 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.

(C) In addition to any other provision of this article, any person found in violation of this Ordinance in a court of competent jurisdiction of violating, disobeying, omitting, neglecting, or refusing to comply with any provisions of this Ordinance shall be punished by a fine of not more than \$750.00. The imposition of any fine shall not relieve any person from the liability to pay the tax and any penalty or interest imposed herein.

**SECTION 12: PAYMENT OF OTHER MUNICIPAL CHARGES AND ACCOUNTS.**

(A) No real estate transfer tax stamps shall be issued for any parcel of land located within the Village unless any and all debts and other obligations due the Village with respect to said parcel or transferors or transferees have been paid in full or obligations to the Village satisfied, including without limitation, water use charges, sewer use charges, water connection fees, sewer connection fees, license fees, permit fees, application fees, inspection fees, certificate fees, board-up fees, weed cutting fees, demolition fees and judgments in favor of the Village and against transferors or transferees, grantors or grantees, and other beneficial owners or persons having a controlling interest therein, whether or not such fees, accounts or obligations are secured by liens or other securities and whether or not the Village may have other remedies at law or in equity.

(B) Any person liable for the payment of the tax imposed herein, or authorized representative thereof, upon written request may obtain from the Village Manager or his/her designee a statement of debts that may be due the Village with respect to the parcel.

**SECTION 13: REFUND OF TAX.** Any person who has paid the tax provided for in this Ordinance shall be entitled to a refund of the amount of such tax which he/she had paid on a purchase of a subsequent residential dwelling, as hereinafter provided if, and only if, all of the following conditions are satisfied:

(A) The person has previously been a grantor, transferor, or seller in conjunction with the sale of a single family attached or detached dwelling or condominium unit within the corporate limits of the Village of Romeoville which he/she has owned and occupied solely as a principal residence immediately prior to the sale and a real estate transfer tax under this Ordinance has been paid to the Village; and

(B) The person has purchased, and paid a subsequent real estate transfer tax provided for in this Ordinance in conjunction with the purchase of one single-family attached or detached dwelling or condominium unit (residential dwelling) within the corporate limits of the Village of Romeoville, which is his/her new principal residence within one year of the date of the aforesaid previous sale and occupies the residence on the date of application for refund; and.

(C) The person makes the application for refund not later than one year after the payment has been made on the subsequent residential dwelling and provides adequate evidence of the fulfillment of the requirements of the refund.

Provided that the foregoing conditions are satisfied, the person shall be entitled to a refund of the amount of the taxes paid on the purchase of the subsequent residential dwelling, which were actually paid by the person as a consequence of the subsequent purchase of one single-family dwelling in the Village of Romeoville;

**SECTION 14: REPEALER** - All Ordinances or parts of Ordinances in conflict with any of the provisions of this Ordinance shall be, and the same are hereby repealed.

**SECTION 15: CONFLICTS.** All prior Ordinances and Resolutions, or parts thereof in conflict or inconsistent with this Ordinance are hereby expressly repealed only to the extent of such conflict or inconsistency.

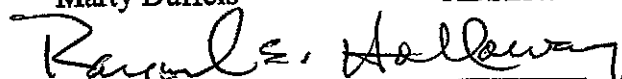
**SECTION 16: SEVERABILITY** - In the event any word, phrase, clause, sentence, paragraph, provision, or section of this Ordinance or any portion thereof shall be held to be unconstitutional, unenforceable, or void, the same shall not affect the validity or enforceability of any remaining words, phrases, clauses, sentences, paragraphs, provisions, or sections thereof.

**SECTION 17: EFFECTIVE DATE** - This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law

PASSED this 20th day of April, 2005, with 4 members voting aye, 0 members voting nay, the President N/A voting, with 2 members abstaining or passing and said vote being:


Linda S. Palmiter                    ABSENT  
Dennis Veselsky                    AYE  
Thomas Weinrick, Sr.                AYE

Dr. Edward McCartan                AYE  
Steve Spandonidis                    AYE  
Marty Duffels                        ABSENT

  
Raymond E. Holloway, Village Clerk

APPROVED THIS 20<sup>TH</sup> DAY OF APRIL, 2005.

ATTEST:   
Raymond E. Holloway, Village Clerk

  
FRED P. DEWALD, JR., Village President