

AN ORDINANCE TO THE TOWN OF BLADES CHARTER § 43 AND IN ACCORDANCE WITH TITLE 22 CHAPTER 16 §1601 OF THE DELAWARE CODE REGARDING THE REALTY TRANSFER TAX

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE TOWN COUNCIL OF THE TOWN OF BLADES:

Section 1: Amount of Tax

- A. Every person who makes, executes, delivers, accepts, or presents for recording any deed or lease, except as excluded by the definition of “deed and lease”, or in whose behalf any deed or lease is made, executed, delivered, accepted, or presented for recording shall be subject to pay for and in respect of the transaction or any part thereof a realty transfer tax at the rate of 1 ½% of the value of the property represented by such deed or lease. Such tax shall be payable at the time of making, execution, delivery, acceptance, or presenting of such document for recording.
- B. The transfer tax shall be apportioned equally between the parties to the transaction in the absence of an agreement to the contrary.
- C. No tax shall be imposed on any conveyance when the actual value of the property being transferred is less than \$100.00.

Section 2: Judicial Sales

- A. The tax imposed by this article shall be paid from the proceeds of any judicial sale of real estate as part of the costs of such judgment or estate and of the writ upon which the sale is made.

Section 3: Affixing of notation of payment

- A. The payment of the tax imposed by this article shall be evidenced by a notation of payment on the document. The collector shall note on the document the payment of the tax, the amount of payment, the date of payment and the initials of the person receiving the payment and his or her office. Such notation shall be conclusive evidence of payment as to any subsequent purchaser relying thereon.

Section 4: Appointment of collection agent; commission

- A. The Town Council of The Town of Blades may appoint the Recorder of Deeds in and for Sussex County and such other persons within or without the county as agents for the collection of the tax imposed by this article. Each such agent shall be provided with an official stamp to be used on the document on which the tax is paid.
- B. A commission shall be allowed by the Town Council to such agents of 1% of the face value of the tax.

Section 5: Prohibited acts

- A. No person shall make, execute, deliver, accept, or present for recording or cause to be made, executed, delivered, accepted or presented for recording any document without the full amount of tax thereon being duly paid.

Section 6: Additional tax

- A. In the event that the State of Delaware determines that additional taxes are due under Title 30 of the Delaware Code, Chapter 54, then additional taxes shall be due to the town in accordance with the valuation of the transfer as determined by the state, together with interest thereon at the legal rate.

Section 7: Definitions

As used in this article, the following terms shall have the meanings indicated:

Construction Contracts

- A. For the purposes of this article, the definition of the term “deed” shall include any contract or other agreement or undertaking for the construction of all or a part of any building all or a portion of which contract, agreement or undertaking (or any amendment to the foregoing) is entered into, or labor materials are supplied, either prior to the date of the transfer of the land on which the building is to be constructed or within one (1) year from the date of the transfer to the grantee.

- B. The Town shall not issue a building permit for any such building unless and until the person or persons (including corporations or other associations) requesting such permit shall demonstrate, in whatever form may be specified by the Town, including, at its discretion, a form of affidavit, that:
 - a. No transfer as described in this article has occurred.
 - b. No portion of the contract for construction for which the permit is being requested was entered into and no materials or labor with respect to the building have been provided.
 - c. There has been paid a realty transfer tax on the document as defined in this article.

- C. In addition, the Town shall not issue a certificate of occupancy relative to any building on which a tax is provided by this article unless and until the owner recertifies the actual cost of the building and pays any additional tax due as a result of such recertification.

- D. A “building”, for purposes of this article, shall mean any structure having a roof supported by columns or walls which structure is intended for supporting or sheltering any use or occupancy but shall not include any alteration of or addition to an existing building where the cost of said alteration or addition is less than 50% of the value of the property transferred.

DEED

Includes any instrument or writing pursuant to which title or possession of any real estate situate within the corporate limits of the town which shall be quitclaimed, granted, bargained, sold, conveyed or transferred by a seller, vendor, grantor, assignor or transferor to any purchaser, buyer, vendee, grantee, assignee, or transferee, except as provided in Section 1: Amount of tax.

DEED and LEASE

Shall not include any of the following:

- A. Any conveyance by will.
- B. Any mortgage.
- C. Any lease other than those described or defined in the definition of "lease" herein.
- D. Any conveyance between persons who were previously husband and wife but who have since divorced provided that such conveyance is made after the granting of the final decree in divorce.
- E. Any conveyance between husband and wife.
- F. Any conveyance between parent and child or a spouse of such child.
- G. Any conveyance to a trustee, nominee or straw party for the grantor as beneficial owner.
- H. Any conveyance for the beneficial ownership of a person other than a grantor where, if such person were the grantee, no tax would be imposed upon the conveyance pursuant to this article.
- I. Any conveyance from a trustee, nominee or straw party to the beneficial owner.
- J. Any conveyance between a parent corporation and wholly owned subsidiary corporation provided that such conveyance is without actual consideration.
- K. Correctional deed without actual consideration.
- L. Any conveyance to or from the United States, the State of Delaware or any instrumentality, agency or political subdivision of the state.

- M.** Any conveyance to or from a corporation or a partnership where the grantor or grantee owns stock of the corporation or an interest in the partnership in the same proportion as his interest in or ownership of the real estate or interest therein being conveyed.
- N.** Any conveyance by the owner of previously occupied residential premises to a builder of new residential premise when such previously occupied residential premises were taken in trade by such builder as a part of the consideration from the purchaser of new, previously unoccupied premises.
- O.** Any conveyance to the lender holding a bona fide mortgage, which is genuinely in default either by a sheriff conducting a foreclosure sale or by the mortgagor in lieu of foreclosure.
- P.** Any conveyance to a religious organization or other body or person holding title to real estate for a religious organization, if such real estate will not be used following such transfer by the grantee or by any privy of the grantee for any commercial purpose.
- Q.** Any conveyance made pursuant to a contract executed prior to the effective date hereof.
- R.** Any conveyance made by or to an individual, a corporation or partnership when there is no change in beneficial interest.
- S.** Any conveyance made by or to any organization exempt from ad valorem real estate taxes.
- T.** Any conveyance to a nonprofit conservation organization when the property is purchased for open space preservation purposes.
- U.** Any conveyance between siblings, half siblings, or step siblings.

LEASE

Includes any document or instrument in writing transferring or purporting to transfer a title or possessory interest by a seller, vendor, lessor, assignor, or transferor to any purchaser, buyer, vendee, lessee, assignee, or transferee in or to any of the following:

- A. A condominium unit or a property or properties subject to the Unit Property Act (25 Delaware Code §2201 et seq.) for a determinable term of five years or more.
- B. An interest in land owned by another and/or improvements owned by another located on land owned by another for a determinable term of five years or more.
- C. The exercise of any right or option to renew or extend the title possessory interest in an existing document or instrument in writing when such renewal or extension is for a period of five years or more.

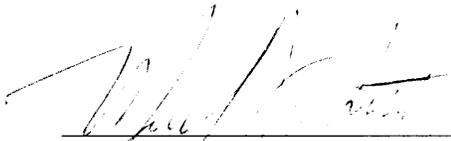
TRANSACTION

Includes the making, executing, delivering, accepting, or presenting for recording of a document, deed, or lease as defined herein.

VALUE

“Value” means, in the case of any document granting, bargaining, selling or otherwise conveying any real estate or interest or leasehold interest therein, the amount of the actual consideration thereof, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances and ground rents which encumber the interest in real estate and any other interest in real estate conveyed; provided, that in the case of a transfer for an amount less than the highest appraised full value of said property for local real property tax purposes, “value” shall mean the highest such appraised value unless the parties or one of them can demonstrate that fair market value is less than the highest appraised value, in which case “value” shall mean fair market value, or actual consideration, whichever is greater. A demonstration that the transaction was at arm’s length between unrelated parties shall be sufficient to demonstrate that the transaction was at fair market value.

PASSED AND ADOPTED, at a Public Meeting of the Town Council, Town of Blades, Sussex County, Delaware, held on the 11 day of May, 2009 and shall become effective upon its adoption by majority of the members elected to the Council.



Mayor

5-11-2009

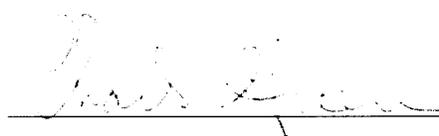
Date

Attest: 

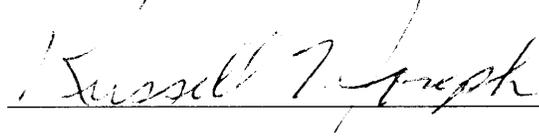
Town Administrator

5-11-2009

Date







First reading 03/09/2009

Second reading 4/13/2009

Third & Final reading 5/11/2009