

ORDINANCE NO. 98-2

AN ORDINANCE TO PROVIDE FOR THE LEVYING OF A TAX ON THE TRANSFER OF REAL PROPERTY WITHIN THE CORPORATE LIMITS OF THE TOWN OF BRIDGEVILLE.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED BY THE COMMISSIONERS OF BRIDGEVILLE AS FOLLOWS:

Section 1: Amount of Transfer Tax.

(a) Every person who makes, executes delivers, accepts or presents for recording any deed or lease, except as excluded by Section 7(e), 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 ONE AND ONE-HALF PERCENT (1-1/2%) 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 ONE HUNDRED DOLLARS (\$100.00).

Section 2: Judicial Sales. The tax imposed by this Ordinance 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. The payment of the tax imposed by this Ordinance 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 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 President of the Commissioners of Bridgeville 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 Ordinance. 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 President of the

Commissioners to such agents of ONE PERCENT (1%) of the face value of the tax.

Section 5. Prohibited Acts. 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; Refunds. In the event 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. Refunds shall likewise be determined and paid.

Section 7. Definitions.

(a) "Deed" shall mean and include 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.

(b) "Lease" shall mean and include 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:

- (1) A condominium unit or an property or properties subject to the Unit Property Act (25 Del.C. §2201, et seq.) for a determinable term of five (5) years or more;
- (2) 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 (5) years or more;
- (3) 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 (5) years or more.

(c) "Transaction" shall mean and include the making, executing, delivering, accepting or presenting for recording of a deed or lease as defined herein.

(d) "Value" shall mean and include in the case of a deed 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 thereon where such liens and encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided that where such documents shall set forth a small or nominal consideration, values shall be determined from the price set forth in, or actual consideration for, the contract of sale or lease, or, in the case of a gift or any other document without consideration, from the actual consideration for, the contract of sale or lease, or, in the case of a gift or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold or otherwise conveyed, which, in either event, shall not be less than the amount of the assessment of such lands, tenements or hereditaments as shown on the books of Sussex County.

(e) "Deed" and "Lease" shall not include any of the following:

- (1) Any conveyance by will;
- (2) Any mortgage;
- (3) Any lease other than those described or defined in Section 7(b);
- (4) Any conveyance between persons who were previously husband and wife but who have since divorced, provided such conveyance is made after the granting of the Final Decree in Divorce;
- (5) Any conveyance between husband and wife;
- (6) Any conveyance between parent and child or a spouse of such child;
- (7) Any conveyance to a trustee, nominee or straw party for the grantor as beneficial owner;
- (8) 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 Ordinance;
- (9) Any conveyance from a trustee, nominee or straw party to the beneficial owner;
- (10) Any conveyance between a parent corporation and a wholly owned subsidiary corporation, provided such conveyance is without actual consideration;
- (11) Correctional deed without actual consideration;
- (12) Any conveyance to or from the United States, the

State of Delaware, or any instrumentality, agency or political subdivision of the State;

(13) 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;

(14) Any conveyance by the owner of a previously occupied residential premises to a builder of new residential premises 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;

(15) Any conveyance to the lender holding a bonafide mortgage, which is genuinely in default either by a sheriff conducting a foreclosure sale or by the mortgagor in lieu of foreclosure;

(16) 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;

(17) Any conveyance made pursuant to a contract executed prior to the effective date hereof;

(18) Any conveyance made by or to an individual, a corporation or partnership when there is no change in beneficial interest;

(19) Any conveyance made by or to any organization exempt from ad valorem real estate taxes.

Section 8. Effective Date. This Ordinance shall become effective upon its adoption by a majority of the Commissioners of the Town of Bridgeville.

COMMISSIONERS OF BRIDGEVILLE

BY: _____

President

ATTEST: _____

Secretary

ADOPTED: 7-13-98