

AN ORDINANCE IMPOSING A TAX TO PROVIDE A REVENUE FOR GENERAL BOROUGH PURPOSES FOR FAWN GROVE BOROUGH, YORK COUNTY, PENNSYLVANIA, UPON CERTAIN DOCUMENTS TRANSFERRING TITLE TO REAL PROPERTY, UPON THE PRIVILEGE OF TRANSFERRING TITLE TO REAL PROPERTY, AND UPON THE TRANSFER OF TITLE TO AND THE ACCEPTANCE OF POSSESSION OF REAL PROPERTY SITUATE IN PART OR IN WHOLE WITHIN SAID FAWN GROVE BOROUGH, IMPOSING A TAX UPON THE GRANTOR, THE TRANSFEROR, AND THE PARTY ACCEPTING POSSESSION DESCRIBING THE DUE DATE; MAKING EXEMPTIONS; IMPOSING DUTIES ON THE SECRETARY AND TAX COLLECTOR OR THE SAID FAWN GROVE BOROUGH; PRESCRIBING PENALTIES AND INTEREST FOR NONPAYMENT AND PRESCRIBING PENALTIES FOR VIOLATION OF PROVISIONS THEREOF.

BE IT RESOLVED by the Borough Council of Fawn Grove Borough of York County, Pennsylvania, and it is hereby resolved by authority of the same that a tax for general borough purposes be and hereby is imposed, assessed and levied pursuant to the authority granted by the Act of Assembly as approved the 25th day of June, A.D., 1947, P. L. 1145, as amended, as is hereinafter provided:

SECTION 1. Short Title. This Ordinance shall be known and may be cited as "Fawn Grove Borough Realty Transfer Tax Ordinance."

SECTION 2. Definitions. The following words and phrases, when used In this Ordinance, shall have the meanings ascribed to them In this Section, except in those instances where the context clearly indicates a different meaning.

- (a) "Association" - Any partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons.
- (b) "Corporation" - A corporation or joint-stock association, organized under the laws of this Commonwealth, the United States, or any other state, territory,

or foreign country, or dependence, including, but not limited to, banking institutions.

- (c) "Person" - Every natural person, association or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" shall be applied to associations and to corporations and the officers thereof.
- (d) "Transaction" - Any act, settlement, proceeding or process whereby title to any lands, tenements or hereditaments or other real property, or any interest therein, situate wholly or in part within the boundaries of the said Borough shall by document be granted, bargained, sold, transferred, conveyed, assigned, or otherwise vested.
- (e) "Document" - Any deed, instrument or writing whether or not executed, acknowledged or delivered within the said Borough whereby any lands, tenements, hereditaments with the said Borough or any interest therein, shall be granted, bargained, sold, transferred, conveyed, assigned, accepted or otherwise vested in the grantee, purchaser, or any other person, but does not include leases, agreements of sale or purchase, wills or mortgages.
- (f) "Privilege" - Any vested or contingent right, advantage, power or interest divesting from any grantor or seller, and/or accruing to any grantee or purchaser, as a direct result of any transaction.
- (g) "Value" - In the any transaction, privilege or transferring of real estate, or otherwise conveying any land, tenement or hereditament or interest therein, or of which possession is taken, the gross amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances thereon and ground rents where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements, or hereditaments; provided, that here such document shall set forth a small or nominal consideration,

the value thereof shall be determined from the set forth in or the actual consideration for the contract of sale, or, In the case of a gift, from the actual monetary worth of the property, or interest therein, granted, bargained, sold or otherwise conveyed, or of which possession is taken, which, in either event, shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes .

- (h) "Tax" - The tax imposed, assessed and levied by this Ordinance .
- (i) "Council" - The Borough Council of the Borough of Fawn Grove, York County, Pennsylvania.
- (j) "Borough" - The Borough of Fawn Grove, York County, Pennsylvania.
- (k) "Secretary" - The Secretary of the Borough Council of Fawn Grove Borough, York County, Pennsylvania.
- (l) "Treasurer" - The duly elected and acting Treasurer of the Borough Council of the Borough of Fawn Grove, York County, Pennsylvania.
- (m) Throughout this Ordinance' the singular shall include the plural, and the masculine shall include the feminine and neuter.
- (n) "Accepts Possession" - The transfer or change of possession of real estate from the grantor to the grantee by the surrender of possession by the grantor or his agent, the entry or constructive entry into possession by the grantee or his agent, which transfer or change of possession takes place at the site of real estate involved, regardless of where the deed is prepared, executed, delivered, accepted, recorded or where settlement is consummated.
- (o) "Recorder of Deeds" - The duly elected and acting Recorder of Deeds in and for the County of York, Pennsylvania.

SECTION 3.

- (a) Every person who makes, executes, issues, delivers or accepts any document, or in whose behalf any document is made, executed, issued, delivered or accepted, shall be subject to pay for and in respect thereof,

or for or In respect of the vellum, parchment or paper upon which such document is written or printed, a tax at the rate of one-half of one per cent of the value of the property represented by such document, which tax shall be payable at the time of making, execution issuance, delivery or acceptance of such document. Provided that where any lands, tenements or hereditaments, or any interest therein, situate partly within and partly without the said Borough are conveyed by a document, the tax herein Imposed shall be calculated on the valuation of that portion only of the lands, tenements or hereditaments, or any Interest therein, lying within the Borough.

- (b) Every person who transfers title to any lands, tenements or hereditaments, or any interest therein, within the said Borough shall pay for and in respect of the privilege of making such transfer, a tax at the rate of one-half of one per cent of the value of such property, unless (1) the tax provided for or intended to be provided for in subsection (a) of this section shall have been paid with respect to the document evidencing such transfer, or (2) such document or such transfer is exempt pursuant to the provisions herein contained. Where the lands, tenements or hereditaments so transferred are situate partly within and partly without the said Borough, the tax herein imposed shall be calculated on the valuation of that portion only thereof lying within the Borough.

The tax provided for by this subsection shall be due and payable at the time of such transfer.

- (c) Every person who accepts possession of any lands, tenements or hereditaments situate within the said Borough, or any interest therein, pursuant to or in connection with a transfer of title thereof effected by means of a document, shall pay for and in respect of the privilege of such acceptance of possession a tax at the rate of one-half of one per cent of the value of such property, unless (1) the tax provided for or intended to be provided for In subsection (a) of this section, or the tax provided for or intended to be provided for in subsection (b) of this section shall have been paid, or (2) such document or the transfer effected thereby Is exempt pursuant to the provisions herein contained. Where the lands, tenements or hereditaments of which possession is so accepted are situate

partly within and partly without the said Borough, the tax herein Imposed shall be calculated on the valuation of that portion only thereof lying within the said Borough. Such tax shall be due and payable at the time of such acceptance of possession.

SECTION 4. The tax herein imposed Is subject to the following:

- (a) A tax shall NOT be collected in documents between husband and wife, between parent and child, and between parent and spouse of a child.
- (b) A tax shall not be collected on documents from agent to principal of real estate purchased for and with funds of the principal.
- (c) A tax shall not be collected on documents that are merely confirmatory, unless the grantor receives some consideration for the execution and delivery of such deed In such cases, the tax is based not upon the value of the real estate, but upon the value of the consideration actually paid to the grantor.
- (d) A tax shall not be collected on the documents from trustees to the beneficiaries in discharge of the terms of the trust instrument, except In the amount of actual consideration, if any, paid by the beneficiary.
- (e) A tax shall not be collected on documents in partition, unless a consideration passes between the parties by reason of one or more of the parties receiving a share of the real estate of a greater value than that party's undivided interest, in which event a stamp should be affixed to the deed conveying such greater share based upon the additional consideration received by the grantor.
- (f) A tax shall not be collected on documents to burial sites which do not convey title to land, but only a right to sepulcher, to erect monuments, etc.
- (g) A tax shall not be collected on documents by an executor to devisees, conveying specific parcels of real estate, unless consideration passes between the devisees because some of . them are receiving a greater share in the real estate than to which the will entitled them, in which event, the tax shall be computed upon the

value of such consideration.

- (h) A tax shall not be collected on documents from County Treasurers.
- (i) A tax shall not be collected from the United States or the following:

Federal Land Banks
The Federal Farm Mortgage Corporation
Federal Intermediate Credit Banks The
Central Bank of Cooperatives
Banks for Cooperatives
Production Credit Corporations
Production Association
Regional Agricultural Credit Corporations
Home Owners! Loan Corporation
Governor of the Farm Credit Administration
National Banks and Receivers of National
Banks
Reconstruction Finance Corporation
Veterans' Administration
Federal Home Loan Banks
Federal Savings and Loan Associations and
other similar Federal Agencies

on documents by or to the United States or said agencies, but the person, corporation, partnership, or association to whom or by whom such documents made, executed, issued or delivered are required to pay the tax, unless the transaction is between exempt agencies.

- (j) A tax shall not be collected on documents by or to the Commonwealth of Pennsylvania or its political subdivisions, but the person, corporation, partnership, or association to whom or by whom such documents are made, executed, issued, or delivered, are required to pay the tax, unless transaction is between exempt agencies.
- (k) A tax shall be collected on documents by a mortgagor to a mortgagee of the mortgaged premises in consideration of the cancellation of the obligations of the mortgagor under the mortgage bond, based upon the amount owing by the mortgagor to the mortgagee.
- (l) A tax shall be collected on documents where the parties exchange between themselves two properties, the deeds transferring title to each are subject to the tax computed on the basis of the actual value of the interest in each property conveyed, including the amount of any liens or encumbrances.

- (m) A tax shall be collected on documents in consideration of maintenance for life, based or computed upon the value of the property or interest conveyed.
- (n) A tax shall be collected on documents in the nature of quitclaim deeds, computed upon the basis of the consideration actually given for such deed.
- (o) A tax shall be collected on documents transferring real estate to a corporation in consideration of the issuance by the corporation to such grantor of the capital stock of the corporation, computed upon the value of the property so transferred .
- (p) A tax shall be collected on documents of easements based upon the actual consideration.
- (q) A tax shall be collected on documents creating a ground rent. The consideration upon which the tax is determined is the price paid by the tenant to the landlord, j.1st as the tax upon the instrument releasing or extinguishing the ground rent is based upon the sum paid by the tenant for such redemption. In an assignment of the Interest of the tenant or the ground landlord, the tax is based upon the price paid by the respective assignee of such tenant or landlord, unless such assignment be a gift, in which event, the actual value of the interest so transferred is the basis upon which the tax is determined .
- (r) Where the consideration for a conveyance of land or other interest in real property is to be fixed by future contingencies, the actual value of the interest so conveyed at the time of the conveyance is the basis upon which the amount of tax is determined.
- (s) A conveyance of property subject to an equity of redemption is taxable when made and not when the equity of redemption has expired.
- (t) Deeds of an escrow, agent or straw man, if taxable at all under the facts of the particular case, are taxable at the time the deed is delivered by the escrow, agent or straw man to the grantee, rather than at the time of the delivery of the deed by the grantor to the escrow, agent or straw man.

SECTION 5. The payment of the tax Imposed in this ordinance shall be evidenced by the affixing of a rubber stamp

of the design set forth below and whereon the date of payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth:

Fawn Grove Borough
Realty Transfer Tax
Amount of Tax -
Received Payment _____
Recorder of Deeds, Collector

(a) The Recorder of Deeds of York, York County, Pennsylvania, shall be and hereby is appointed the collecting agent of this Borough for the collection of the tax.

(b) That said collecting agents shall submit a written report to the Secretary of this Council on or before the fifth day of each month setting forth the total amount of tax collected during the preceding month, and forward a check along with said report payable to this Borough for the amount of the tax collected less compensation hereinbefore provided.

SECTION 6. The Secretary shall furnish said collecting agent with a rubber stamp designed as above: and shall keep accurate record of the amount of remittance received from said collecting agent and make monthly reports to the Borough.

SECTION 7.

- (a) The tax, interest and penalties, if any, shall be paid to the Secretary of the Borough who is hereby charged with the collection thereof as hereinbefore provided.
- (b) The Secretary shall pay to the said Borough all taxes, interest and penalties received, collected or recovered hereunder. All payments made by the Secretary to the said Borough shall be accompanied by an accurate written report of the collections transmitted.

(c) The Secretary is authorized and empowered to prescribe, adopt and promulgate rules, regulations and forms relating to any matter or thing pertaining to the administration and enforcement of this Resolution and the collection of the taxes, interest and penalties hereby Imposed, subject to the approval of the Borough.

SECTION 8. Every document, when lodged with or presented to any Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full, complete and actual value thereof or shall be accompanied by either a certificate from a title company or by an affidavit, executed by a responsible person connected with the transaction or privilege showing such connection and setting forth the true, full, complete and actual value thereof .

SECTION 9. All taxes imposed by this Ordinance not paid when due shall bear interest from the due date at the rate of one-half of one per centum (1/2 %) per month until paid.

SECTION 10. A penalty of ten per centum (10%) is hereby imposed upon all taxes which are unpaid at the time they are due and payable in accordance with the provisions of this Ordinance.

SECTION 11. All taxes imposed by this Ordinance together with interest from the due date and the penalty thereon may be recovered as other debts of like character are now by law recoverable.

SECTION 12. The tax imposed by this Ordinance shall become a lien upon the lands, tenements or hereditaments or any interest therein, situate wholly or partly within said Borough, which are described in or conveyed by the document which is the

Subject of tax imposed under subsection (a) of SECTION 3 hereof and as to which the transfer of title is subject to the tax imposed under subsection (b) of SECTION 3 hereof and as to which the acceptance of possession is subject to tax imposed under subsection (c) of SECTION 3 hereof, the said lien to begin at the time when the tax is due and payable, and continue until the discharge by payment, or in accordance with law, the Solicitor of said Borough is authorized to file a tax claim for said tax in accordance with the provisions of the Municipal Lien Act of 1923, the amendments and supplements thereto .

SECTION 13. It shall be unlawful for any person to:

- (a) Make, execute, Issue, deliver or accept, or cause to be made, executed, issued, delivered or accepted, any document without the full amount of tax thereon being duly paid; or,
- (b) Make use of any rubber stamp to denote payment of any tax imposed by this Ordinance without having paid the tax as required by this Ordinance or as prescribed by the Secretary; or,
- (c) Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the Board under the provisions of this Ordinance; or
- (d) Fraudulently cut, tear or remove from a document any rubber stamp impression; or,
- (e) Fraudulently affix to any document upon which tax is imposed by this Ordinance any rubber stamp impression which has been cut, torn or removed from any other document upon which tax is imposed by this Ordinance, or any rubber stamp impression of insufficient value, or any forged or counterfeited rubber stamp impression or any Impression of any forged or counterfeited rubber stamp, or other article; or,
- (f) Willfully remove or alter the rubber stamp impression or restore any such rubber stamp impression with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored rubber stamp impression to any person for use, or knowingly use the same; or,

- (g) Knowingly have in his possession any altered or restored rubber stamp impression which has been removed from any document upon which tax is imposed by this Ordinance; Provided, that the possession of such rubber stamp Impression be prima facie evidence of an intent to violate the provisions of this clause; or
- (h) Knowingly or willfully prepare, keep, sell, offer for sale, or have in his possession any forged or counterfeited rubber stamp or rubber stamp impression.
- (i) Forge, enter or alter the date of payment of the tax, amount of the tax, or signature of any collecting agent to be inserted in the spaces therefor provided in the rubber stamp on any document.

Any person convicted before a Justice of the Peace of the Borough of Fawn Grove of violating any of the provisions of this Section shall be liable to a penalty not exceeding \$300.00 for each and every offense, and, further, shall be required to pay the amount of the tax, together with interest as is otherwise provided for herein, which should have been paid upon the document or documents, and upon default in the payment of the same shall be subject to thirty (30) days' imprisonment.

SECTION 14. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid or unconstitutional the decision of the Court shall not affect or impair any of the remaining sections, clauses, sentences, parts, or provisions of this Ordinance. It is hereby declared to be the intent of the Borough Council of the Borough of Fawn Grove that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provisions had not been included therein.

SECTION 15. The tax levied under this section shall

become effective on July 9 , 1962, for the balance of the calendar year, 1962.

Enacted and adopted by the Borough Council of Fawn Grove Borough, this 7th day of June , A. D., 1962.

Attest:

FAWN GROVEBOROUGH COUNCIL

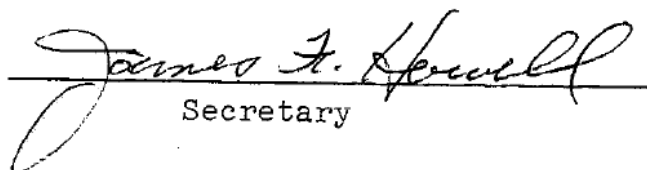
James F. Howell
Secretary

By Herbert C Jones
President

Approved by me this 8th day of June , 1962.

David P. Anderson
Chief Burgess

I hereby certify that the foregoing Ordinance is a full, true and correct copy of an ordinance adopted by the Borough Council of Fawn Grove Borough, York County, Pennsylvania, at a meeting held on *June 7*, 1962, and that the said Ordinance has not been altered, amended, or repealed since its adoption.


Secretary