

First Reading: 8/6/19
Second Reading: 9/3/19
Ord. No.: C-7A

GREENWOOD ORDINANCE NO. C-7A

**AN ORDINANCE AMENDING ORDINANCE C-7 TO CLARIFY THE
RESPONSIBILITY OF GRANTORS TO PAY TRANSFER TAX EVEN WHEN A
GRANTEE IS A FIRST-TIME HOME BUYER**

WHEREAS, the Town of Greenwood is authorized by 22 *Del. C.* § 1601 to establish a real property transfer tax by ordinance, which the Town did by adopting Ordinance C-7 entitled “An Ordinance Establishing a Transfer Tax on Real Estate Transactions Involving Property Within the Corporate Limits of the Town of Greenwood and Providing Penalties for Violations Thereof”;

WHEREAS, in the opinion of the Town Council, it is in the best interest of the public health, safety, and welfare to amend Ordinance C-7 to clarify that grantors must pay their portion of the transfer tax even when all the grantees qualify as first-time home buyers.

NOW THEREFORE, be it hereby enacted by the Town Council of the Town of Greenwood, a majority thereof concurring in Council duly met, as follows:

Section 1. Ordinance C-7, Section 1, is hereby amended by making insertions as shown by underline and deletions as shown by strike-through as follows:

Section 1. Imposition

There is hereby imposed upon the transfer of all real property located within the town limits, as they now or hereafter exist, a tax of one and one-half percent (1 ½%) of the value of the property conveyed in conformance with the definitions and exceptions governing the state realty transfer tax as contained within 30 Del. C. Section 5401 *et seq.*, and all amendments heretofore or hereafter adopted. No realty transfer tax shall be imposed on the grantee’s portion of any realty transfer tax when all the grantees qualify as first-time home buyers. A “first-time home buyer”, for purposes of this section, shall mean a natural person who, individually, or as a tenant by the entireties, joint tenant or co-tenant, has at no time held any interest in residential real estate wherever located and which has been occupied as their principal residence, and who intends to occupy the property being conveyed as his or her principal residence within ninety (90) days following recordation. The first-time home buyer exception shall apply only to the grantee’s portion of the transfer tax and shall not relieve the grantor from payment of the grantor’s portion of the transfer tax, which equals three-fourths percent (3/4%) of the value of the property conveyed.

Section 2. - Severability. The provisions of this Ordinance shall be severable. If any provisions of this Ordinance are found by any court of competent jurisdiction to be unconstitutional or void, the remaining provisions of this Ordinance shall remain valid, unless the court finds that the valid provisions of this Ordinance are so essentially and inseparably connected with, and so dependent upon, the unconstitutional or void provision that it cannot be presumed that Town Council would have enacted the remaining valid provisions without the unconstitutional or void provision; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and incapable of being executed in accordance with Town Council's intent.

Section 3. - Effective Date. This Ordinance shall become effective immediately upon its adoption by the Town Council.

SYNOPSIS

This Ordinance establishes that grantors are always responsible for paying realty transfer taxes, even when a grantee is exempt from paying realty transfer tax as a first-time home buyer.

This shall certify that this is a true and correct copy of the Ordinance duly adopted by the Town Council of the Town of Greenwood at a duly-noticed and convened meeting at which a quorum was present on September 3, 2019.

Attest: 
Council Secretary

So certifies: 
Mayor