

AN ORDINANCE OF THE MUNICIPALITY )  
OF MONROEVILLE PROVIDING FOR )  
GENERAL REVENUE BY LEVYING A TAX )  
OF ONE AND ONE-HALF PERCENT )  
(1.5%) ON THE TRANSFER OF REAL )  
PROPERTY SITUATE IN MONROEVILLE, )  
OR ANY INTEREST THEREIN ON AND )  
AFTER NOVEMBER 11, 1986, AND )  
PROVIDING FOR THE ADMINISTRATION )  
COLLECTION, AND ENFORCEMENT )  
OF SAID TAX )

ORDINANCE NO. 1550

WHEREAS, the Municipality of Monroeville (hereinafter "the Municipality"), pursuant to the Local Tax Enabling Act of the Commonwealth of Pennsylvania, Act 511 of 1965 (53 P.S. 6901 et seq. and the Act of 1972, April 13, No. 62, as amended, 53 P.S. Sub-1-101, et seq., known as the Home Rule Charter and Optional Plans Law.) is empowered and authorized to impose a tax for general revenue purposes on transfers of Real Property; and

WHEREAS, the Municipality presently imposes a tax on Transfers of Real Property (Adopted January 9, 1979 as Ordinance No. 907 as amended); and

WHEREAS, effective July 1, 1986, the Governor of the Commonwealth of Pennsylvania signed into law Act 77 of 1986 (hereinafter "Act 77") providing for substantial changes to the Realty Transfer Tax Act; and

WHEREAS, it has been determined by the Council of the Municipality of Monroeville (hereinafter "Council") to reenact a Tax on Transfers of Real Property to replace Ordinance No. 907 as amended by Ordinance 1161 enacted January 9, 1979.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by Council in meeting assembled, and it is hereby ordained and enacted by and with the authority of the same, pursuant to the provisions of the Local Tax Enabling Act, and Act 77 of 1986, as follows:

#### Section 1

Definitions - The following words when used in this Ordinance shall have the meanings ascribed to them in this section:

Association - a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two (2) or more persons other than a private trust or decedent's estate.

Corporation - A corporation, joint-stock association, business trust, or banking institution which is organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory or foreign country or dependency.

Document - Any deed, instrument or writing which conveys, transfers, demises, vests, conforms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the guarantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty (30) years or instruments which solely grant, vest or confirm a public utility easement. Document shall also include a declaration of acquisition required to be presented for recording in accordance with Act 77 of 1986 or any amendments or reenactments thereof.

Real Estate - (1) any lands, tenements or hereditaments within the Municipality of Monroeville, including without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees, and other improvements, immovables or interests which by custom usage or law pass with a conveyance or land, but excluding permanently attached machinery and equipment in an industrial plant.

(2) A condominium unit

(3) A tenant-stockholders interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

Real Estate Company - A corporation or association which is primarily engaged in the business of holding selling or leasing real estate ninety percent (90%) or more of the ownership interest in which is held by thirty-five (35) or fewer persons and which:

(1) derives sixty percent or more of its annual gross receipts from the ownership or disposition of real estate; or

(2) holds real estate, the value of which comprises ninety percent (90%) or more of the value of its entire tangible asset holdings, exclusive of tangible assets which are freely transferable and actively traded on an established market.

Tax Collector - The Tax Collector of the Municipality.

Title to Real Estate - (1) Any interest in real estate which endures for a period of time to termination of which is not fixed or ascertained by a specific number of years, including without limitation an estate in fee simple, life estate, or perpetual leasehold; or

(2) Any interest in real estate enduring for a fixed period of years, but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group or rights approximateing those of an estate in fee simple, life estate or perpetual leasehold, including without limitation a

leasehold interest or possessory interest under a lease or occupancy interest or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

Municipality - The Municipality of Monroeville.

Transaction - The making, executing, delivering, accepting, or presenting for recording of a document.

Value - (1) in the case of any bona fide sale of real estate at arms length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; Provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the contract of sale;

(2) in the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, an exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate, which shall not be less than the assessment of such property made by the Allegheny County Board of Property Assessment, Appeals and Review.

(3) in the case of an easement or other interest in real estate the value of which is not determinable under clause (1) or (2), the actual monetary worth of such interest; or

(4) the actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principle of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

## Section 2

Imposition of Tax - Under and by virtue of authority contained in the Local Tax Enabling Act, Act 511 of 1965 (54 P.S. 6901 et seq.) and Act 77 of 1986, a tax is hereby imposed on the transfer of real estate situate within the Municipality of Monroeville, regardless of where the instruments making the transfer are made, executed or delivered or where the actual settlements on such transfers take place. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be

subject to pay a tax of one and one-half percent (1.5%) of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.

### Section 3

Exempt Parties - The United States, the Commonwealth of Pennsylvania, or any of their instrumentalities, or agencies including the Municipality shall be exempt from payment of the tax imposed by this Article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

### Section 4

Excluded Transactions - The tax imposed by Section 2 shall not be imposed upon:

(1) A transfer to the Commonwealth of Pennsylvania or the Municipality or any of their instrumentalities or agencies, by gift, dedication or deed in lieu of condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation.

(2) A document which the municipality is prohibited from taxing under the Constitution or statutes of the United States or the Commonwealth of Pennsylvania.

(3) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

(4) A transfer of division in kind for no or nominal actual consideration or property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

(5) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.

(6) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

(7) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.

(8) A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.

(9) A transfer for no or nominal actual consideration from trustee to successor trustee.

(10) A transfer:

(i) for no or nominal actual consideration between principal and agent or straw party; or

(ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Article.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

(11) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.

(12) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt or the grantee or a transfer to a nonprofit industrial development agency or authority.

(13) A transfer from a nonprofit industrial development agency or authority to a grantee purchased directly from it, but only if:

(i) the grantee shall directly use such real estate for the primary purpose or manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy

conversion, energy production, pollution control, warehousing or agriculture; and

(ii) the agency or authority has the full ownership interest in the real estate transferred.

(14) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

(15) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

(16) A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c) (3) of the Internal Revenue Code of 1954, (68A Stat. 3, 26 U.S.C. 501(c) (3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

(17) A transaction wherein the tax due is one dollar (\$1) or less.

(18) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such DOCUMENT is not subject to tax under this Article.

#### Section 5

Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.--Except as otherwise provided in Section 4, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

#### Section 6

##### Acquired Company

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however erected, if the change:

(1) Does not affect the continuity of the company; and

(2) Of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety percent or more of the total ownership interest in the company within a period of three (3) years.

### Section 7

#### Evidence of Payment of Tax

(a) The tax imposed by this Article shall be paid to the tax collector. The payment of taxes shall be evidenced by the affixing of a documentary stamp or stamps or a receipt of every document by the person making, executing, delivering or presenting for recording such document. The stamps or the receipt shall be affixed in such a manner that their removal will require the continued application of steam or water. The stamp or receipt affixed to the document shall be cancelled before the document is recorded.

(b) The use of documentary license meter impressions or similar indicia of payment in lieu of stamps as required by this Article may be permitted in the discretion of the MUNICIPAL Manager.

### Section 8

VALUE of DOCUMENT- Where the document does not set forth the true, full and complete value thereof, the value shall be set forth in the statement of value accompanying the document prepared for the purposes of calculating the real estate transfer tax payable to the Commonwealth of Pennsylvania in accordance with the Act of December 21, 1951, P.L. 1742 and Act 77 of 1986, or any amendments or reenactments thereof.

### Section 9

Enforcement and Administration; Authorization to Adopt Rules and Regulations - The MUNICIPAL Manager is hereby charged with enforcement of this Ordinance and is authorized and empowered to adopt rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including but not limited to the method used in evidencing payment of the tax.

### Section 10

#### Suits for Collection of Taxes

The Municipality may sue for the recovery of taxes due and unpaid under this Article.

### Section 11

#### Interest and Penalties on Unpaid Taxes

If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per year on the amount of said tax and an

additional penalty of one-half of one percent (1/2 of 1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of the tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

### Section 12

#### Payment under Protest; Refunds

The tax collector is hereby authorized to accept payment under protest of the amount of tax claimed by the municipality in any case where a person disputes the validities or amount of the municipality's claim for the tax. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the tax collector, the amount of the overpayment shall be refunded to the person who paid under protest.

### Section 13

#### Unlawful Acts - It shall be unlawful for any person to:

(a) Make, execute, deliver, present for recording or cause to be made, executed, delivered or presented for recording, any document without the full amount of the tax thereon being duly paid.

(b) Fraudulently cut, tear or remove from a document any documentary stamp, receipt or other evidence of payment.

(c) Fraudulently affix to any document upon which a tax is imposed by this Article any:

(1) Documentary stamp, receipt or other evidence of payment which has been cut, torn or removed from any other document upon which a tax is imposed by this Article.

(2) Documentary stamp of insufficient value.

(3) Forged or counterfeited stamp or receipt.

(4) Impression of any forged or counterfeited stamp, receipt, die, plate or other article.

(d) Willfully remove or alter the cancellation marks of any documentary stamp or receipt; or restore any such documentary stamp or receipt 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 stamp or receipt to any person for use or knowingly use the same.

(e) Knowingly have in his possession any altered or restored documentary stamp or receipt which has been removed from any document upon which a tax is imposed by this Article, provided that the



possession of such stamp or receipt shall be prima facie evidence of an intent to violate the provisions of this Subsection.

(f) Knowingly or willfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps or receipts.

(g) Fail, neglect or refuse to comply with or violate the rules and regulations adopted by the Municipal Manager.

#### Section 14.

Violations and Penalties - Any person who violates any of the provisions of this Article shall be subject to the provisions of Chapter 5, Enforcement of Ordinances; Penalties. The Penalties imposed under this Section shall be in addition to any other penalty imposed by any other section of this Article.

#### Section 15.

Severability - It is hereby declared to be the intent of the Council of the Municipality that if any word, words, part, parts, provisions, section, sentence, clause or exception of this Ordinance and its regulations shall be illegal or invalid under the Local Tax Enabling Act or Act 77 of 1986, the Ordinance shall be deemed enacted pursuant to the "Home Rule Charter and Options Plans Law", Act of April 13, 1972, No. 62, as amended.

The provisions of this Article and its regulations are severable and if any word, words, part, parts, provisions, section, sentence, clause or exception shall be illegal, invalid or unconstitutional, such illegality, invalidity or unconstitutionality shall not affect or impair any of the remaining words, parts, provisions, sections, clauses, sentences, or exceptions of this Ordinance or the Regulations. It is hereby declared to be the intent of Municipal Council that this Ordinance and its Regulations would have been ordained and enacted as if such illegal, invalid, or unconstitutional part had not been included therein.

#### Section 16

Effective Date - The provisions of this Ordinance shall become effective November 11, 1986.


#### Section 17

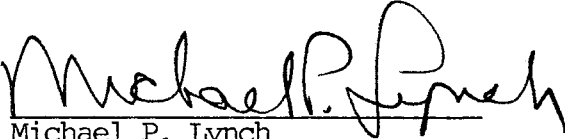
Conflicting Ordinances - Any Ordinance, Regulation, part of Ordinance, or part of Regulation conflicting with the provisions of this Ordinance or its Regulations be and the same is hereby repealed to the extent of such conflict.

ORDAINED AND ENACTED THIS 11th day of November, 1986.

ATTEST:

MUNICIPALITY OF MONROEVILLE

  
\_\_\_\_\_  
Carol Thomas Young  
Acting Municipal Manager

  
\_\_\_\_\_  
Michael P. Lynch  
Mayor

Entered into  
Legal Book 11-21-86