

## **ORDINANCE NO. 270**

AN ORDINANCE TO PROVIDE REVENUE BY IMPOSING A TOWNSHIP TAX, PAYABLE BY THE TRANSFEROR, UPON THE TRANSFER OF ANY INTEREST IN ANY REAL PROPERTY WITHIN THE TOWNSHIP AT THE RATE OF ONE-HALF OF ONE PERCENT VALUE THEREOF, REGARDLESS OF WHERE SUCH TRANSFER IS MADE; DEFINING CERTAIN WORDS USED THEREIN, PROVIDING FOR THE COLLECTION OF SAID TAX AND PENALTIES FOR FAILURE TO PAY THE SAME, AND FOR THE SEVERABILITY OF THE PROVISIONS HEREIN.

BE IT ENACTED AND ORDAINED by the Township Supervisors of the Township of Penn, Cumberland County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same.

Section 1 – The following words when used in this Ordinance shall have meaning ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

“Association” – A partnership, limited partnership, or any other form of unincorporated enterprise, owned or conducted by two or more persons.

“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 dependency, including, but not limited to, banking institutions.

“Document” – Any deed, instrument or writing whereby any lands, tenements or hereditaments within the Township of Penn or any interest therein shall be granted, bargained, sold or otherwise conveyed to the grantee, purchaser, or any other person, but does not include wills, mortgages, transfers, between husband and wife, transfers between parent and child or the spouse of such child, and leases.

“Person” – Every natural person, association, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both the term “person” as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

“Transaction” – The making, executing, delivering, accepting or presenting for recording of a document.

“Value” – In the case of any document granting, bargaining, selling, or otherwise conveying any land, tenement, or hereditament, or interest therein, the amount of the actual consideration therefore, including liens or other encumbrances thereon and ground rents also encumber or are also charged against other lands, tenements or hereditaments; provided, that where such document shall set forth a small or nominal consideration, the “value” thereof shall be determined from the price set forth in or actual consideration for

the contract of sale, 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 highest assessment of such lands, tenements or hereditaments for local tax purposes.

Section 2 – This Ordinance is enacted under the authority of the Act of December 31, 1965, P.L. 1257, known as the “Local Tax Enabling Act”.

Section 3 – There is hereby levied and assessed, for general revenue purposes, to be paid by the transferor, a tax of one-half of one percent (1/2 of 1%) of the value as herein defined, upon every transaction transferring real property or any interest in real property situated within the Township of Penn, regardless of where the instrument making the transfer is made, executed or delivered or where the actual settlement on such transfer takes place, by any document as herein defined, which tax shall be paid at the time such document is made, executed and delivered and prior to the recording of such document.

Section 4 – Where lands laying partly within the boundaries of said Township and partly without said boundaries are transferred, the tax herein imposed shall be calculated upon such portion of the value which shall be represented by the portions of said lands lying within the boundaries of the Township of Penn, such apportionment of value to be evidenced by the affidavit of value hereinafter provided for, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of property value within the Township of Penn.

Section 5 – Every document affecting a transfer of title to real property or interest therein, located in the said Township, shall set forth as part of said document the full, complete and actual consideration for the transfer of real property described therein, or shall be accompanied by an affidavit executed by a responsible person connected by the transaction showing the connection and setting forth the true, full, complete and actual consideration thereof, and if the privilege of making the transfer is not taxable thereunder, the facts by reason of which such non-taxability exist.

Section 6 – The tax imposed by this Ordinance shall be payable to the Commissioners of Cumberland County, Court House, Carlisle, Pennsylvania, or at such other place or places and to such agent or agents as the Supervisors of Penn Township may by motion regularly adopted establish and authorize. The Supervisors of Penn Township by motion duly adopted may fix the fee of any agent or agents authorized to collect this tax, and may adopt and enforce rules and regulations relating to the registration and notation of all transactions under this Ordinance including the payment and receipt of this tax, and all other matters pertaining to the administration and enforcement of the provisions of this Ordinance.

Section 7 – Payment of the tax imposed by this Ordinance shall be evidenced by a notation thereof upon the subject document which notation shall include the amount of the tax paid and the date of payment, which shall be over the signature of the agent of the

Township collecting the tax on its behalf. To facilitate carrying out the provisions of this section the collecting agent may use a rubber or metal stamp, to be prescribed by the Board of Supervisors and supplied to the collecting agent by the Township.

Section 8 – All taxes imposed by this Ordinance which are not paid when due shall be liens on the real property described in the document on which this tax is imposed, and shall bear interest at the rate of one-half of one percent (1/2 of 1%) per month, and shall be collected at others debts of like character are collected. The Solicitor of the Township is authorized to file a municipal or tax claim in the Court of Common Pleas of Cumberland County for the collection of any unpaid tax and interest under this Ordinance.

Section 9 –m Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance or of any regulations or requirements pursuant hereto and authorized hereby shall in addition to other penalties provided by law, be liable to a penalty net exceeding One Hundred (\$100.00) Dollars for each offense and further shall be required to pay the amount of the tax, together with interest as hereinbefore provided, and upon default for ten (10) days in the payment of the same, shall be subject to thirty days (30) imprisonment.

Section 10 – Should any section or part or provision of any section of this Ordinance be declared invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this Ordinance as a whole, or any other part or provision thereof; and the sections, or parts or provisions of any sections remaining, shall be and remain in full force and effect as though the section, part or provision thereof declared invalid or unconstitutional had never been part of this Ordinance.

Section 11 – All ordinances or resolutions, or parts of ordinances or resolutions, inconsistent herewith shall be, and the same are, hereby repealed.

ENACTED and ORDAINED and APPROVED this 2<sup>nd</sup> day of February, 1970.