

AN ORDINANCE PROVIDING FOR THE ASSESSMENT, LEVYING AND COLLECTION OF A TAX FOR GENERAL TOWNSHIP PURPOSES OF ONE PERCENT (1%) ON SALES OR TRANSFERS INVOLVING THE TRANSFER OF TITLE TO REAL ESTATE SITUATE IN THE TOWNSHIP OF MONTGOMERY, WITH CERTAIN EXCEPTIONS, FROM AND AFTER APRIL 5, 1974; PROVIDING FOR THE COLLECTION AND PAYMENT OF SAID TAX AND PROVIDING FOR NON-PAYMENT OR VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Montgomery, Indiana County, Pennsylvania, in pursuance and by virtue of the authority granted to Townships by an Act of Assembly approved the 31st day of December, 1965, being Act No. 511 of 1965, and known as the "Local Tax Enabling Act", as follows:

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

A. The term "association" shall mean a partnership, limited partnership or any other form of unincorporated enterprise owned or conducted by two or more persons.

B. The term "corporation" shall mean any corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency, including, but not limited to banking institutions.

C. The term "document" shall mean any deed, instrument or writing whereby any lands, tenements or hereditaments within the Township of Montgomery, 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 the said child, sales or transfers between municipal political subdivisions, including municipal authorities created under the Authorities Act of 1945, or any other transfer which is not taxable under "The Realty Transfer Tax Act" of the Commonwealth of Pennsylvania, Act of 1951, December 27, P. L. 1742, as amended.

D. The term "person" shall mean 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 partner or members thereof, and as applied to corporations, the officers thereof.

E. The term "transaction" shall mean the making, executing, delivering, accepting or presenting for recording of a document.

F. The term "value" shall mean 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 therefor, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances thereon and ground rents for where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided that where such documents shall be

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. RATE OF TAX; WHEN PAYABLE. Every person who makes, executes, delivers or accepts any document, or in whose behalf any document is made, executed, delivered or accepted, shall be subject to pay for, and in respect to the transaction or any part thereof or for or in respect of the vellum, parchment or paper upon which said document is written or printed, a Township Tax at the rate of one percent (1%) of the value of the property represented by such document, which said Township Tax shall be payable at the time of making, executing, delivery or acceptance of such document.

SECTION 3. PAYMENT FROM PROCEEDS OF JUDICIAL SALE. The tax herein imposed shall be fully paid and have priority out of the proceeds out of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of sale, and of the rate upon which the sale is made, excepting only obligations and claims due the Commonwealth of Pennsylvania; and the Sheriff or other officer conducting such sale shall pay the tax herein imposed out of moneys paid to him in connection therewith.

SECTION 4. DOCUMENTARY STAMPS; AFFIXING; CANCELLATION. The payment of the tax imposed by this Ordinance shall be evidenced by affixing documentary stamp or stamps to every document transferring real estate, or an interest therein, within the Township of Montgomery, Indiana County, Pennsylvania, by the person making, executing, issuing or delivering said document. The stamps required to be affixed in accordance herewith shall be provided by the Recorder of Deeds of Indiana County in such denominations as it shall deem from time to time as necessary, and shall be available for sale and purchase by persons requiring the same in the Office of the Recorder of Deeds of Indiana County, Indiana County Courthouse, Indiana, Pennsylvania, or at such other place as may be hereinafter designated. Such stamps shall be affixed to documents in such manner that their removal will require continued application of steam or water and the person using or affixing such stamps shall write or stamp or cause to be written or stamped thereon the initials of his or her name and the date upon which such stamps are affixed or used, so that such stamps may not again be used.

SECTION 5. FAILURE TO AFFIX STAMPS. No document evidencing a sale or transfer of real estate situate in the Township of Montgomery, Indiana County, Pennsylvania, or any interest therein, upon which tax is imposed by this Ordinance shall be recorded in the Office of the Recorder of Deeds of Indiana County, Pennsylvania, or in any other County of the Commonwealth, unless and until the documentary stamp or stamps provided in this Ordinance have been affixed thereto.

SECTION 6. VALUE TO BE STATED IN DOCUMENT OR AFFIDAVIT. Every document when presented to the Recorder of Deeds of Indiana County or of any County of this Commonwealth for recording therein shall set forth in said document, and as a part thereof, the true, full and complete consideration or value of said transfer, or, in lieu thereof, shall be accompanied by an Affidavit to be executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete consideration or value thereof, or the

A. It shall be unlawful for any person to:

(1) Make, execute, deliver, accept or 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; or

(2) Make use of any documentary stamp to denote payment of any tax imposed by this Ordinance without cancelling such stamp as required by this Ordinance.

Any person convicted before any Justice of the Peace for the violation of subsection "A" hereof shall be sentenced to pay a fine of not less than Twenty-five Dollars (\$25.00), nor more than One Hundred Dollars (\$100.00), and costs for each such offense, or to undergo imprisonment for not more than thirty (30) days, or both, at the discretion of the magistrate.

B. It shall be unlawful for any person to:

(1) Fraudulently cut, tear or remove from a document any documentary stamp; or

(2) Fraudulently affix to any document upon which tax is imposed by this Ordinance, any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed by this Ordinance, or any documentary stamp of insufficient value, or any forged or counterfeit stamp, or any impression of any forged or counterfeit stamp, die, plate or other article; or

(3) Wilfully remove or alter the cancellation mark of any documentary stamp, or restore any such documentary stamp with the 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 to any person for use, or knowingly use the same; or

(4) Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax has been imposed by this Ordinance, or knowingly or wilfully prepare, keep, sell or offer for sale or have in his possession any forged or counterfeit documentary stamp; provided that the possession of such stamps shall be prime facie evidence of intent to violate the provisions of this Ordinance.

Any person convicted before any Justice of the Peace for the violation of subsection "B" hereof shall be sentenced to pay a fine of not less than Fifty Dollars (\$50.00), nor more than One Hundred Dollars (\$100.00), and costs for each such offense, or to undergo imprisonment for not more than thirty (30) days, or both, at the discretion of the magistrate.

SECTION 8. INTEREST: In addition to all other fines and penalties imposed by this Ordinance, all taxes imposed herein, if not paid when due, shall bear interest at the rate of one-half of

SECTION 9. SUITS FOR COLLECTION. All taxes imposed by this Ordinance, together with interest and penalties as provided herein, may be recovered as other taxes or debts due or owing to the Township are now recoverable by law.

SECTION 10. LIENS. The tax levied and assessed by this Ordinance, together with interest and penalties imposed hereby if not paid, shall become a lien upon the lands, tenements, hereditaments or any part thereof, or interest therein within the limits of the Township of Montgomery, Indiana County, Pennsylvania, transferred or conveyed in accordance with the provisions hereof, which liens shall be effective at the time when the taxes are due and payable in accordance with the provisions of this Ordinance, and shall continue until discharged by payment to the Township of Montgomery, and the said Township of Montgomery may file a municipal or tax claim in the Court of Common Pleas of Indiana County, Pennsylvania, against the transferor or transferee, or both, in accordance with the provisions of the laws of the Commonwealth of Pennsylvania relating to the filing of municipal or tax claims.

SECTION 11. SEVERABILITY. If any sentence, clause or part of this Ordinance shall, for any reason, be found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any of the remaining provisions, sentences, clauses or parts of this Ordinance; it is hereby declared to be the legal intent of the Board of Supervisors of the Township of Montgomery that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid sentence, clause, section, or part thereof not been included herein.

SECTION 12. REPEALER. All Ordinances or parts of Ordinances conflicting with this Ordinance be and the same are hereby repealed.

ORDAINED AND ENACTED by the Board of Supervisors of the Township of Montgomery this 5th day of April, 1974.

BOARD OF SUPERVISORS
MONTGOMERY TOWNSHIP

BY Garlon Snyder
BY Jack R. Henry
BY Charles Smith