

TOWNSHIP ORDINANCE NO. 24

WESTFALL TOWNSHIP REALTY TRANSFER TAX ORDINANCE

TO AUTHORIZE THE IMPOSITION OF A TAX FOR GENERAL REVENUE PURPOSES ON THE TRANSFER OF REAL PROPERTY, (OR INTEREST THEREIN), SITUATE WITHIN THE TOWNSHIP OF WESTFALL, COUNTY OF PIKE AND COMMONWEALTH OF PENNSYLVANIA, PROVIDING FOR THE COLLECTION OF SAID TAX, AND FOR CERTAIN EXEMPTIONS AND PENALTIES

The Supervisors of the Township of Westfall, County of Pike, and Commonwealth of Pennsylvania, hereby ordain:

SECTION 1. By virtue and in pursuance of the authority vested in them by "The Local Tax Enabling Act" of December 31, 1965, being Act No. 511, a tax for general revenue purposes is hereby levied and assessed, the same to be collected upon the transfer of real property, (or of any interest in real property), situate within the Township of Westfall, County of Pike, and Commonwealth of Pennsylvania, at the rate of per cent (1%) of the amount of the value of said real property or interest therein.

SECTION 2. The tax levied in Section 1 hereof shall become payable on each transfer of real property, or of any interest in real property, situate within the Township of Westfall, County of Pike aforesaid, regardless of where the instruments making the transfer are made, executed or delivered, or where the actual settlements on such transfer take place, beginning Sept 1, 1968. 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 for and in respect to the transaction or any part thereof, or in respect of the paper upon which such document is written or printed, the tax levied in Section 1

hereof, of the value of the property represented by such document, which tax shall be payable at the time of making, execution, delivery, acceptance or presenting for recording of such document, In the event either party to the transfer shall be exempt from said tax and the other party is not exempt, and the tax in such case shall be due and payable by the non-exempt party, at the time of the transfer. The transferee shall remain liable for any unpaid realty transfer tax imposed by virtue of this ordinance unless otherwise exempt from this tax.

SECTION 3. The following words 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.

"Association": A partnership limited partnership or any other unincorporated group of two or more persons.

"Corporation": A 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 banks and savings and loan associations, but not being limited thereto.

"Document": The instrument whereby a transfer is effected.

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

"Recorder": The Recorder of Deeds in and for the County of Pike, in the Commonwealth of Pennsylvania, and the respective Deputies or Assistant Deputies thereof.

"Township of Westfall": Is the area embraced within the territorial limits of the Township of Westfall, County of Pike and Commonwealth of Pennsylvania, as the same exists on the date of the adoption of this ordinance.

"Transfer": Any transaction whereby any lands, tenements, or hereditaments, or any real property, within the Township of Westfall aforesaid, or any interest therein, shall be quitclaimed, bargained, sold or otherwise conveyed to the grantee, purchaser, or transferee, regardless of where the instrument making such transfer is made, executed or delivered, or where the actual settlement on such transfer takes place; BUT does not include transfers by will or mortgage or the intestate laws of this Commonwealth or on a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied single family residential premises, or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer between persons who were previously husband and wife but who have since been divorced; provided such transfer is made within three months of the date of the granting of the final decree of divorce and 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, or on a transfer between parent and child or the spouse of such a child, or between parent and trustee for the benefit of a child or the spouse of such child, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or 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 the condemnation, leases, or a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee.

"Value": The amount of the actual consideration for a transfer, 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, or other real property: PROVIDED, That where the 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 or other real property, for local tax purposes.

SECTION 4. (a) The tax imposed by this ordinance shall be collected by the Recorder or his authorized deputies or assistants, hereinafter designated as Collector, who is hereby appointed as the agent of township for collection of said tax.

Payment of said tax shall be made to said Collector who shall evidence the payment of said tax by stamping upon the document a receipt for said tax, as follows: Westfall Township Realty Transfer Tax Ordinance. Amount of Tax _____
Received Payment _____
Collector

(b) The said Collector shall receive a commission of five (5) per centum of the amount of tax collected, and within ten (10) days after the end of each calendar month shall furnish a written report to, and in form to be prescribed by the Supervisors of the Township of Westfall aforesaid, showing as to each Document the date of recording, name of grantor, seller or transferor, name of grantee, purchaser or transferee, the Value of the Transfer, and the amount of tax collected, and pay over to the Treasurer of the said Supervisors the total amount of taxes collected under this ordinance during the preceding calendar month, less the amount of commission due the Collector thereon.

(c) Said Collector shall give bond to the Supervisors of the Township of Westfall secured and conditioned for the

Collection, accounting for, and paying over of such taxes, in an amount to be fixed by said Supervisors by resolution. Such bond shall have thereon as surety at least one corporate bonding company which is authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth. The premium of said bond shall be paid by said township. Said bond shall be filed with the Secretary of said township.

(d) The Secretary of said township is hereby authorized and directed to have the necessary stamps, report forms and any other forms and supplies necessary for the collection of said tax imposed by this ordinance manufactured or prepared and delivered to the said Collector from time to time.

SECTION 5. Every Document when lodged with or presented to the Recorder shall set forth therein and as a part of such Document the true, full and complete value of the Transfer, or shall be accompanied by an affidavit executed by the person required to pay the tax imposed by this ordinance, or the agent or attorney of such person, showing the connection of such person with the transfer and setting forth the true, full and complete Value of the Transfer, or the reason, if any, why such Transfer is not subject to said tax.

SECTION 6. All taxes imposed by this ordinance which are not paid when due shall bear interest thereon at the rate of one-half of one (1/2 of 1) per centum per month until paid. Such taxes, when due and unpaid shall become a lien in favor of the Township of Westfall, on the lands, tenements, hereditaments, or other real property, or any interest therein, which are described in the Document, and shall be collected by said township as other taxes are collected. The Secretary of the Township Supervisors is hereby authorized and directed to file a municipal or tax claim

for said tax and interest thereon in the Court of Common Pleas of Pike County, Pennsylvania, in accordance with the Municipal Claims Act of May 16, 1923, P. L. 207, as amended and supplemented.

SECTION 7. Any person who shall fail, neglect or refuse to comply with any of the provisions of this ordinance shall, in addition to other penalties provided by law, upon summary conviction before a Justice of the Peace be sentenced to pay a fine not to exceed One Hundred (\$100.00) Dollars, and the costs of prosecution for each such offense and in default of payment thereof, to undergo imprisonment for not more than thirty (30) days. The fine imposed by this Section shall be in addition to any other penalty imposed by any other Section of this ordinance.

SECTION 8. Any ordinance of the Township of Westfall, or part thereof, conflicting with or in any manner contrary to this ordinance, is hereby repealed insofar as such ordinance or part thereof, may affect the provisions of this ordinance.

SECTION 9. If any section, provision, sentence, clause or part of this ordinance shall for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining section, provisions, sentences, clauses, or parts of this ordinance. It is hereby expressly declared by the Supervisors of said township that this ordinance would have been adopted, passed and approved has such unconstitutional, illegal or invalid section, provision, sentence, clause or part not been included herein.

SECTION 10. Should any political subdivision lying wholly or partly within the area of the Township of Westfall have in force and effect at the time of adoption of this ordinance a realty transfer tax under the authority of the Local Tax Enabling Act of 1965, No. 511, the tax levied under this ordinance shall be reduced to the extent that the combined taxes on the same

transaction, exceed the one (1%) per cent, limit under the provisions of said Act. In subh case the tax levied hereunder shall become effective in accordance with said Act at the end of the fiscal year for which the prior tax was levied.

SECTION 11. This ordinance shall be known as the Westfall Township Transfer Tax Ordinance of 1968. This ordinance shall take effect the 6th day of September, 1968.

Approved the 6th day of August, 1968.

TOWNSHIP OF WESTFALL

George O. Campbell

John H. Hanrahan

Carlton LeRoy Shay

Supervisors

*This is to Certify this is a true Copy
of Township Ordinance no 2 of*

dated:

8/6/68

*Kenneth A. Sawyer
Treas.*