ORDINANCE NO. 1969-1

BOROUGH OF LILLY
CAMBRIA COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF LILLY OF CAMBRIA COUNTY, PENNSYLVANIA, TO PROVIDE REVENUE BY IMPOSING A ONE-HALF PER CENT (1/2%) REALTY TRANSFER TAX RELATING TO CERTAIN DOCUMENTS AND TRANSACTIONS: PRESCRIBING AND REGULATING THE METHOD AND MANNER OF EVIDENCING THE PAYMENT OF SUCH TAX; CONFERRING POWERS AND IMPOSING DUTIES UPON CERTAIN PERSONS; AND PROVIDING FOR THE COLLECTION OF SAID TAX AND FOR CERTAIN EXEMPTIONS AND PENALTIES.

BE IT ORDAINED, and it is hereby ordained by the Borough of Lilly of Cambria County, Pennsylvania, under and by virtue of the authority vested in it by the Local Tax Enabling Act, Act No. 511 of the General Assembly of Pennsylvania approved December 31, 1965.

SECTION 1. Short Title. This Ordinance shall be known and may be cited as "The Borough of Lilly Realty Transfer Tax Ordinance".

SECTION 2. 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 indicated 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 Borough of Lilly or any interest therein shall be granted, bargained, sold or otherwise conveyed to the grantee, purchaser or any other person, but does not include leases, mortgages, agreements of sale, transfers by Wills or by operation of the intestate laws; transfers between husband and wife, "straw" transfers whereby title passes temporarily to a third person for no valuable consideration; transfers between parent and child or the spouse of such a child, or between the parent and trustee for the benefit of a child or the spouse of such child; by and between a principal and

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"straw" party for the purpose of placing a mortgage or ground rent upon the premises; correctional deeds without consideration; transfers to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gifts, dedication or deed of confirmation in connection with condemnation proceedings, or conveyances to a trustee under a recorded trust agreement for the 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.

"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 therefor, 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 thereon and ground rents also encumber or are charged against other lands, tenements or hereditaments; provided that where such documents 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 3. Every person who is the grantor, transferor or other person making, executing or delivering any document or in whose behalf any document is made, executed or delivered, shall be subject to pay a tax of one-

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half per cent (1/2%) of the value of the property represented by such document, which said tax shall be due and payable at the time of delivery of such document, provided that a portion of One Hundred ($100.00) Dollars shall be regarded as One Hundred ($100.00) Dollars.

SECTION 4. The tax herein imposed shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, and the sheriff or other officer, conducting the said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith.

SECTION 5. Where lands lying partly within the Borough of Lilly and partly in the boundaries of other municipalities are transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the portion of such lands lying within the said Borough, and the other municipality or municipalities, such apportionment of value to be evidenced by an affidavit or certificate of value, but shall in no event be less than the highest assessed valuation for local tax purposes placed upon the same in the assessment of the property within the Borough of Lilly and the other municipality or municipalities.

SECTION 6. The payment of the tax imposed by this Ordinance shall be evidenced by a stamp impressed upon or affixed to every document, and the Special Tax Collector of the Borough of Lilly, or his agent, using such stamp indelibly write thereon his name, the amount of the tax paid and the date of payment.

SECTION 7. Every document affecting a transfer of title to real property or interest therein located in the Borough of Lilly, shall set forth as part of such document, the true, full and complete value thereof, or shall be accompanied by a certificate of any attorney at law or an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof, and if the privilege of making such transfer is not taxability exists.

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SECTION 8. The Special Tax Collector designated by the Borough Council for the time the tax is due and payable, is hereby charged with the enforcement of the provisions of this Ordinance, and is hereby authorized and empowered to prescribe, adopt and enforce rules and regulations relating to the registration and notation of such transactions and the payment and receipt of such taxes and any other matters pertaining to the administration and enforcement of the provisions of this Ordinance.

SECTION 9. The Special Tax Collector designated by the Borough Council, shall prescribe, prepare and furnish the stamp of metal or rubber which shall clearly show that the tax assessed under this Ordinance has been paid. The Special Tax Collector may appoint one or more persons within or without the Borough of Lilly as his agent to affix or impress said stamp mark and collect the tax imposed hereunder.

SECTION 10. All taxes imposed by this Ordinance which are not paid when due shall bear interest at the rate of one-half of one per cent (1/2 of 1%) per month until paid. The tax when due and unpaid shall become a lien on the real property or interest in real property which is described in the document on which this tax is imposed, and shall be collected as other debts of like character are collected. The solicitor of the Borough of Lilly is authorized to file a municipal or tax claim in the Prothonotary's Office of Cambria County for the collection of any unpaid tax under this Ordinance.

SECTION 11. Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance, or of any regulation or requirement pursuant thereto and authorized thereby, shall, in addition to other penalties provided by law, be liable to a penalty not 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 same shall be subject to thirty (30) days imprisonment.

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SECTION 12. The provisions of this Ordinance are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provision shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of the Borough of Lilly that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause or sentence had not been included therein.

SECTION 13. This Ordinance and tax herein levied shall be effective beginning July 1, 1969 and continuously thereafter from year to year until repealed.

SECTION 14. ENACTED AND ORDAINED, this 28th day of February 1969.

BOROUGH OF LILLY

By Blair A. McGonigle
President

ATTEST:

Joseph P. McCabe
Secretary

Approved this 28th day of February 1969.

Michael D. Krumenaker
Mayor

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