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CHAPTER 9

FINANCIAL ADMINISTRATION

Part 1

General Provisions

§101. Tax Collector's Compensation. For his/her duties in connection with collection of those Borough taxes for which he or she is designated the tax collector shall receive a salary of \$1800.00 a year, which amount is not greater than ten percent (10%) of the amount of taxes collected. (Res. No. 3-2005, 1/24/05)

§102. Tax Collector's Monthly Report. The Tax Collector of the Borough shall on or before the tenth day of each month, make a true, verified statement, in writing, to the Secretary, of all taxes collected for the Borough during the previous month, giving the names of taxables, the amount collected from each and the total amount of taxes received. (Ord. of 12/7/1953, Sec. 1)

§103. Tax Collector's Monthly Returns. The tax collector shall pay over on or before the tenth day of each month, to the Borough Treasurer; all monies collected as Borough taxes during the previous month and take his/her receipt for the amount paid over. (Ord. of 12/7/1953, Sec. 2)

§104. Tax Discounts and Penalties.

(a) Every taxpayer subject to the payment of real estate tax as levied by the Borough shall be entitled to a discount of two percent (2%) from the amount of the tax upon making payment of the whole amount of the tax due from him or her within two (2) months after the date of the tax notice.

(b) Every taxpayer who fails to make payment of any real estate tax levied by the Borough for four (4) months after the date of the tax notice shall be charged a penalty of ten (10%), which penalty shall be added to the taxes by the tax collector and be collected by the tax collector.

Editorial Note: This Section is derived from the first section of the annual tax ordinances beginning with Ord. No. 1977-5, and up to and including the current tax ordinance.

§105. Tax Certifications and/or Duplicate Tax Bills. White Haven Borough Council hereby authorizes the Tax Collector of the Borough to provide tax certifications and/or duplicate tax bills upon request by members of the public, and hereby authorizes said Tax Collector to assess, collect and retain, as compensation for providing such additional service, a fee of ten (\$10.00) dollars, which fee, may be increased from time to time by resolution. (Ord. No. 2-2000, 10/19/08)

Part 2
Fixation of Tax Rate for the Fiscal Year 2011

§201. Fiscal Year 2011.

(a) That a tax be and the same is hereby levied on all property within the Borough of White Haven, subject to taxation for borough purposes for the fiscal year 2011 as follows:

(1) the tax rate for general purposes for the fiscal year 2011 of the Borough shall be set at a rate of 1.39 mills.

(2) the tax rate for street lighting for the fiscal year 2011 of the Borough shall be set at a rate of 0.37 mills.

(3) the tax rate for the purpose of making appropriations for the volunteer fire company for the fiscal year 2011 of the Borough shall be set at a rate of 0.14 mills.

(b) Every taxpayer subject to the payment of any real estate tax as levied by the borough shall be entitled to a discount of two percent (2%) upon making payment of the whole amount of that tax due from him within two (2) months after the date of the tax notice.

(c) Every taxpayer who shall fail to make payment of any real estate taxes levied by the borough for four months after the date of the tax notice shall be charged a penalty of ten percent (10%), which penalty shall be added to the taxes by the tax collector and be collected by him or her.

(Ord. No. 2-2010, Section 1)

§202. Taxes Levied. The following taxes are hereby levied under the authority of Act 511 or 1965, of the general assembly of Commonwealth of Pennsylvania, approved December 31, 1965 and known as the Local Tax Enabling Act.

(a) That a transfer tax of one-half of one percent (1/2 of 1%) be and is hereby levied on the privilege of transferring real estate or any interest therein situated within the borough.

(b) That an occupational privilege tax of five dollars (\$5.00) be and is hereby levied on the privilege of engaging in any occupation or profession within the corporate limits of the Borough of White Haven.

(c) That an earned income tax of one half of one percent (1/2 of 1%) be and is hereby levied on earned income, salaries, wages, commissions, and other compensation

and net profits earned during the period of January 1, 2011 and December 31, 2011 and continuing on a calendar year basis.

(Ord. No. 2-2010, Sec.2)

§203. Repealer. That any ordinance conflicting with this ordinance be and the same is hereby repealed insofar as the same affects this ordinance.

(Ord. No. 2-2010, Sec. 3)

Part 3
Earned Income Tax

§301. Legal Authority, Short Title and Effective Date. This Part is enacted under authority granted by Act No. 511 of 1965, effective January 1, 1966 (known as the Local Tax enabling Act) and shall be known as the Earned Income Tax Ordinance. The provisions shall become effective July 1, 1968. (Ord No. 1967-5, 12/15/1967, Sec. 1)

§302. Incorporation of Statute. The provisions of Section 13 of the Local Tax Enabling Act (Act No. 511 of 1965), are incorporated into this Part by reference, except that where options are provided in that Section 13, this Part designated the option selected, and except as and where specifically provided otherwise in this Part (Ord. No. 1967-5, 12/15/1967, Sec. 2)

§303. Imposition of Tax. A tax for general revenue purposes in the amount of one-half of one percent (1/2 of 1%) is imposed on earned income and net profits earned by (a) non-residents within the Borough of White Haven and (b) by residents of the Borough of White Haven effective from July 1, 1968, and shall continue in effect on a calendar year basis without annual re-enactment unless the rate of tax is sub amended by Ord. No. 2-1988, 7/14/1988, Sec. 1.

Editorial Note: As enacted, this Ordinance established the tax on earned income and net profits earned by residents of the Borough only. The preamble to Ord. No. 3-1988 stated that Council was desirous of also imposing the tax on earned income and net profits earned by non-residents within the Borough, and Section 1 of that ordinance amended the Ordinance to do so. Section 2 of Ord. No. 2-1988 stated that it was the intention of Council that the ordinance become part of this Code of Ordinances and that the section of the Ordinance might be renumbered to accomplish that intention. Section 3 repealed all inconsistent ordinances and parts of ordinances.

Although not necessary to reenact the tax when the rate of the tax remains unchanged, it has been customary to do so in the annual tax-levying Ordinance, the most recent of which has been codified.

§304. Declaration, Return and Payment of Tax.

(a) Net profits. Every taxpayer making net profits in any year shall file a declaration of his estimated net profits for the current year, and shall pay the tax due thereon in quarterly installments, and shall file a final return and pay to the officer the balance of the tax due, all as provided in Section 13, III, A (1) of the Local Tax Enabling Act.

(b) Earned Income.

(1) For years succeeding the year 1968, every taxpayer shall make and file final returns and pay the taxes due all as provided in Section 13, III, B, first paragraph, of the Local Tax Enabling Act.

(2) Quarterly returns – Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall make and file with the officer quarterly returns and shall pay quarter – annually the amount of tax as due on such returns, all as provided in Section 13, III, B, (2) of the Local Tax Enabling Act.

(Ord. No. 1967-5, 12/15/1967, Sec. 4)

Editorial Note: In codifying this section Paragraph 1 of subsection (a), paragraph (1) of subsection (b) and the final clause of subsection (b-3) have been omitted since they dealt only with the taxes for the year 1968 and are therefore of no further interest.

§305. Collection at Source. Every Employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough shall deduct the tax imposed by this Part of earned income due to his/her employee or employees shall file quarterly returns and final returns and pay quarterly to the officer the amount of taxes deducted, all as set forth in Section 13, IV, of the Said Local Tax Enabling Act. (Ord. No. 1967-5, 12/15/1967, Sec. 5)

Editorial Note: In codifying this Section special provisions applicable only for the year 1968 and no longer applicable, and an exception for employers of domestic servants, an unnecessary duplication of the Local Tax Enabling Act, have been deleted.

§306. Administration. The income tax officer shall be selected from time to time by resolution of, and shall receive such compensation for his/her services and expenses as determined from time to time by Council. That officer shall have the powers and duties, and be subject to the penalties provided in The Local Tax Enabling Act. (Ord. No. 1967-5, 12/15/1967, Sec.6)

§307. Applicability. The tax imposed in Section 303 above shall not be levied on the net profits of any person, institution or organization as to whom or which it is beyond the power of the Borough to impose said tax under the Constitution of the United States of America or the Constitution and laws of the Commonwealth of Pennsylvania. (Ord. No. 1967-5, 12/15/1967, Sec. 7)

Part 4
Per Capita Tax

§401. Imposition of Tax. Under authority granted by the Local Tax Enabling Act, a per capita tax of Five (\$5.00) Dollars annually for general Borough purposes is hereby levied and assessed upon each resident or inhabitant of the Borough of the age of 18 years or over, which tax shall be in addition to all other taxes levied and assessed by the Borough pursuant to any other laws of the Commonwealth of Pennsylvania.

Editorial Note: By an Ordinance of 3/5/51, a \$3 per capita tax was levied on all persons over the age of 21, by authority of the Act of 1947 P.L. 1145. At that time taxes of this nature were levied annually as part of the tax-levying ordinance, the most recent being Section 201. The tax was increased to \$5 beginning in 1954 and the age reduced from 21 to 18 beginning in 1974. The law now provides that annual reenactment is not necessary unless that rate of the tax is changed.

§402. Collection by Tax Collector. The tax shall be collected by the duly elected or appointed tax collector of the Borough in the same manner as other Borough taxes are collected.

§403. Duplicate Constitutes Warrant for Collection. The entry of the per capita tax in the tax duplicate and the issuance of the duplicate to the tax collector shall constitute his/her warrant for the collection of the per capita tax levied and assessed under this Part.

§404. Expense of Collection, Collector's Compensation. The expense of collection and compensation of the tax collector shall be the same as shall be fixed from time to time for the collection of other Borough taxes.

Editorial Note: Section 35 of the Local Tax Collection Law (1945 P.L. 1050, as amended) provides that the respective taxing districts (including boroughs) allow the tax collector "actual and needful expenditures for printing, postage, books, blanks and forms."

§405. Authority of Collector. The tax collector shall have all rights and authority for the collection of this tax granted by existing law or laws hereafter passed.

Part 5
Real Estate Transfer Tax under The Local Tax Enabling Act

Introductory Note: This Part is derived from Ord. No. 1967-3 (5/1/1967), as amended by Ord. No. 1-1981 (2/10/1981), which levied a real estate transfer tax under the Local Tax Enabling Act of 1965 (P.L. 1257 No. 511) as amended.

By the Act of 1986 P.L. 318 No. 77, the Tax Reform Code of 1971 (P.L. 6 No. 2) was further amended, particularly in respect to the provisions on the State Realty Transfer Tax, as added by the Act of 1981 P.L. 36 No. 14. In addition, the Act of 1986 added provisions allowing various political subdivisions to impose a realty transfer tax to the extent that the transactions are subject to the State tax as imposed in article XI-C of the Tax reform Code as added by the Act of 1981 and amended by the Act of 1986-77. The tax was to be administered, collected and enforced under the Local Tax Enabling Act.

Section 1101-D of the Act of 1971, as added by the Act of 1986 also provided as follows: "In addition, such political subdivision may impose a local real estate transfer tax upon additional classes or types of transactions if the tax was imposed by the political subdivision under the act of December 31, 1965 (P.L. 1257, No. 511), known as The Local Tax Enabling Act, prior to the effective date of this part. A tax imposed under this part shall be subject to rate limitations provided by section 5 and section 17 of The Local Tax Enabling Act.

The tax imposed under Ord. No. 1967-3 and codified in this part, being enacted under the Local Tax Enabling Act prior to the effective date of the Act of 1986-77, meets the criteria stated in the quoted material in the paragraph directly above. It has been retained in this Code of Ordinances for possible continued applicability.

The new Ordinance enacted under the Act of 1986-77 is Part 7, Sections 701 – 718.

§501. Definitions. The following words or phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicated a different meaning:

(a) Association – means any partnership, limited partnership, or other form of unincorporated enterprise owned, operated or conducted by two or more persons.

(b) Deed – means any document, instrument or writing, whereby any lands, tenements or hereditaments within the Borough or any estate or 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, transfers between a grandparent and grandchild or the spouse of such grandchild, or leases. Further, no real estate transfer tax shall be due under the provisions of this article, if the transfer of real estate is to a corporation, association, trust, community chest or foundation organized exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private persons.

(c) Grantee – means the person named in the deed as party grantee.

(d) Grantor – means the person named in the deed as party grantor.

(e) Tax – means the tax levied, assessed and imposed by this article.

(f) Transferring real estate – means the transfer or change of title and/or possession of real estate from the grantor to the grantee by the surrender of title and/or possession by the grantor and his or her agent, the entry or constructive entry into possession by the grantee or his or her agent, which transfer or change of possession takes place at the site of the real estate involved, regardless of where the deed is prepared, executed, delivered, accepted, recorded, or where settlement is consummated.

(g) Value – In the case of any document, granting, bargaining, selling or otherwise conveying any land, tenement or hereditament, or interest or estate 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 where those liens or other encumbrances also encumber or are charged against other lands, tenements, or hereditaments: Provided that where the document sets forth a small or nominal consideration, the “value” 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 otherwise conveyed, which in either event shall not be less than the amount of the highest assessment for those lands, tenements or hereditaments for local tax purposes.

Editorial Note: The enacting clause of Ord. No. 1967-3 stated that the Ordinance was enacted by authority of the Local Tax Enabling Act (1965 P.L. 1257). Section 13 contained severability provisions similar to those in Section 1-1005; Section 14 provided that the tax levied by the ordinance become effective 5/10/1967. Section 1 of Ord. No. 1-1981 deleted the definition of “Deed” as originally enacted in paragraph 2 of this section and section 2 of Ord. No. 1-1981 inserted a new paragraph 2. Section 5 of Ord. No. 1-1981 provided that all other sections and subsections of Ord. No. 1967-3, and any amendments to it, not inconsistent with Ord. No. 1-1981 were ratified and were to continue in full force and effect. Reenactment of the tax from year to year has not been necessary, but it has been customary to do so in the annual tax-levying ordinance, the most recent one being Section 201.

§502. Short Title; Applicability. Ordinance No. 1967-3 as amended, and this Part shall be cited as the “White Haven Borough Real Estate Transfer Tax Ordinance” and the tax herein and hereby imposed shall be designated as the “White Haven Borough Real Estate Transfer Tax.” This part shall not apply to any real estate transfers which are exempt from taxation by State Law based on family relationship, i.e. husband/wife, while married; parent/child, as long as all parties qualify as exempt; and grandparent/grandchild, provided that the nature of the specific relationship is noted on the deed. (Ord. No. 1967-3, 5/1/1967, Sec. 2, as amended by Ord. No. 1-1981, 2/10/81, Sec. 4)

Editorial Note: Section 3 of Ord. No. 1-1981 deleted section 2 of Ord. No. 1967-3 as enacted; Section 4 inserted the new Section 2.

§503. Imposition of Tax. An excise tax to provide revenue for general Borough purposes is imposed upon the privilege of transferring real estate or any interest or estate in real estate, situated wholly or partly within the Borough of White Haven, Luzerne County, Pennsylvania, at the rate of one-half (1/2) of one percent (1%) of the value of the real estate situated partly within and partly without the boundaries of the Borough, the tax so levied shall be only on that part of the value apportioned to the part of the real estate situated within the boundaries of the Borough. (Ord. No. 1967-3, 5/1/1967, Sec. 3)

§504. Grantee Liable for Payment of Tax; Exception. The tax shall become due from and be paid by the grantee except that if the grantee, for any reason shall not pay the tax, the grantor shall become liable and remain liable until the tax, penalty and interest have been discharged or paid according to the provisions of this part. (Ord. No. 1967-3, 5/1/1967, Sec. 4)

§505. Certificate to be attached to Deed; Deed not to be accepted for Recording without Stamp.

(a) On and after the effective date of this Ordinance, every grantee or his or her agent in any transfer taxable under this part, shall, prior to the delivery or acceptance of the deed, place on it a certificate signed by him or her or for him or her, which shall set forth the value of the real estate transferred, the amount of real estate transfer tax imposed by this Part, that the tax has been paid, and the date of payment. No grantee or his or her agent shall offer for recording or record any deed in the Office of the Recorder of Deeds of Luzerne County, Pennsylvania, which deed does not contain that certificate nor unless the tax shall first have been paid.

(b) No Recorder of Deeds shall accept for recording any deed that is not properly stamped in accordance with the provisions of this Part.

(Ord. No. 1967-3, 5/1/1967, Sec. 5)

Editorial Note: "The Effective Date of This Ordinance" applies to Ord. No. 1967-3, and not to this code of ordinances. See note following Section 501.

§506. Form of Certificate; Collection of Tax.

(a) The certificate to be attached to the document shall be in substantially the following form:

CERTIFICATE OF VALUE

Now, (date), it is hereby certified that the value (as defined by the White Haven Borough Real Estate Transfer Tax Ordinance) of the real estate transferred by this deed as described herein is \$ _____. The amount of the transfer tax is \$ _____ and has been paid.

Receipt of \$ _____ is hereby acknowledged (date).

Secretary or Agent

(b) The real estate transfer tax shall be paid to the Secretary or the Recorder of Deeds, who shall account for the tax collected to the Secretary. In the event the tax is collected by the Recorder of Deeds, a commission, to be agreed upon by the Recorder of Deeds and the Council will be paid to the Recorder of Deeds.

(Ord. No. 1967-3, 5/1/1967, Sec. 6)

§507. Authority of Secretary.

(a) The tax, interest and penalties, if any, shall be paid to the Secretary, who is charged with its collection, from the Recorder of Deeds.

(b) The Secretary shall collect on behalf of the Borough, all taxes, interest and penalties received, collected, or recovered under this Part, in the same manner as other taxes are collected by the Borough. All payments made by the Secretary to the Borough shall be accompanied by an accurate written report of the collections transmitted by the Recorder of Deeds.

(c) The Secretary is authorized and empowered to prescribe, adopt, and promulgate rules, regulations, and forms relating to any manner or thing pertaining to the administration and enforcement of this Part and the collection of the taxes, interest and penalties imposed by this Part, subject to the approval of Council. (Ord. No. 1967, 5/1/1967, Sec. 7)

§508. Interest and Penalty added to Unpaid Tax. All taxes imposed by this Part not paid within then (10) days after due date shall bear interest from the due date at the rate of one-half of one per cent (1/2%) per month until paid, and in addition a penalty of ten per cent (10%) of the tax is hereby imposed for failure to pay the tax within ten (10) days after the due date (Ord. No. 1967-3, 5/1/1967, Sec. 8)

§509. Recovery of Taxes, Interest and Penalties. All taxes, interest and penalties imposed by this Part shall be recoverable as other debts of like character are now by law recoverable. (Ord. No. 1967-3, 5/1/1967, Sec. 8)

§510. Tax, Interest and Penalties constitute Lien on Property. The tax, together with interest and penalties imposed by this Part, when due and unpaid, shall be a lien upon the real estate within the boundaries of the Borough, which is the subject of the transfer, the lien shall continue until discharged by payment or as provided by law. The Solicitor is authorized and empowered by law to file a lien or claim, or otherwise proceed according to law, for the collection of any unpaid tax, interest or penalty under this article. (Ord. No. 1967-3, 5/1/1967, Sec. 10)

§511. Prohibited Acts. It shall be unlawful for any person falsely or fraudulently to do any act or make any return, statement or certificate under this part or to fail to pay the tax, interest, and penalty, if any, imposed by this Part. (Ord. No. 1967-3, 5/1/1967, Sec. 11)

§512. Penalty for Violation. Any person, who shall fail, neglect or refuse to comply with any provision of this Part in addition to any other penalty provided in this Part, upon summary conviction, shall be sentenced to pay a fine not to exceed \$300 and costs of prosecution for each offense, and further shall be required to pay the amount of the tax, together with all interest and penalties, which should have been paid on the transfer taxed under this Part, to undergo imprisonment for not more than 30 days for this non-payment of fine and costs within ten (10) days from imposition. (Ord. No. 1967-3, 5/1/1967, Sec. 12)

Part 6
Realty Transfer Tax

§601. Imposition of Tax. The Borough of White Haven adopts the provision of Article XI-D of the tax Reform Code of 1971 and imposes a realty tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of one percent (1%) of the value of the real estate represented by the document. (Ord. No. 1-2007, 1/22/07, Sec. 1)

§602. Administration. The tax imposed under Section 601 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511), as amended, known as "The Local Tax Enabling Act"; provided, that if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough of White Haven, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. 8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties. (Ord. No. 1-2007, 1/22/07, Sec. 2)

§603. Interest. Any tax imposed under Section 601 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53. P.S. §§ 7101, et seq.), as amended, known as "The Municipal Claims and Tax Liens Act". The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806, as amended, known as "The Fiscal Code", or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims. (Ord. No. 1-2007, 1/22/07, Sec. 3)

§604. Repeal.

(a) As of the effective date of this Ordinance, all ordinances or parts thereof, inconsistent with this Ordinance are hereby repealed.

(b) The repealed ordinances, or parts thereof, remain effective for documents that became subject to tax prior to the effective date of this Ordinance.

(Ord. No. 1-2007, 1/22/07, Sec. 4)

§605. Effective Date. The provisions of this ordinance shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording five days after the enactment of this Ordinance, the same being 1/27/07. (Ord. No. 1-2007, 1/22/07, Sec. 5)

Part 7
Realty Transfer Tax under Act 1986-77

§701. Short Title. This part shall be known as the “Realty Transfer Tax Ordinance of the Borough of White Haven.” (Ord. No. 3-1987, 4/8/1987, Sec. 1)

Editorial Note: The title of Ord. No. 301987 states that the ordinance provides “for the levying, assessment and collection of a tax for general revenue purposes upon a transfer of an interest in real property to the extent that the transfers are subject to tax imposed by the Commonwealth of Pennsylvania pursuant to 72 P.S. Section 8101-C, et seq., authorized by Article XI-D, “Local Real Estate Transfer Tax,” 72 P.S. Section 8101-D et seq and administered, collected and enforced under the “Local Tax Enabling Act,” 53 P.S. Section 6901 et seq; providing a severability clause; and providing an effective date. Section 19 of Ord. No. 3-1987 repealed all ordinances resolutions or parts thereof inconsistent or in conflict with Ord. No. 3-1987. Following Section 19 was a provision that the ordinance was to become effective at the earliest date permitted by law.

§702. Authority. A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of White Haven, regardless of where the documents making the transfer are made, executed or delivered, or where the actual settlements on such transfer are made, executed or delivered, or where the actual settlements on such transfer took place as authorized by Article XI-D, “Local real Estate Transfer Tax,” 72 P.S. Section 8101-D et seq. (Ord. No. 3-1987, 4/8/87, Sec. 2)

§703. Definitions.

(a) Association – means 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 of decedent’s estate.

(b) Corporation – means a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth , the United States, or any other state, territory, foreign country or dependency.

(c) Document – means any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise to title to real estate, but does not include wills, mortgages, deeds of trust or other instruments or 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 grantee 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 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 under Section 708 (c).

(d) Governing Body – means the Borough of White Haven.

(e) Family farm Corporation – means a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business or agriculture shall not be deemed to include:

(1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;

(2) The raising, breeding, or training of game animals or game birds, cats, fish, dogs or pets or animals intended for use in sporting or recreational activities;

(3) Fur farming;

(4) Stockyard and slaughterhouse operations; or

(5) Manufacturing or processing operations of any kind.

(f) Members of the same family – includes an individual, such individual's brothers and sisters, the brothers and sister of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

(g) Real estate

(1) includes all lands, tenements or hereditaments within this governing body, 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) includes a condominium unit.

(3) includes a tenant-stockholder's interest in an cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

(h) Real estate company – means a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

(1) derives 60% 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 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.

(i) Title to real estate:

(1) means any interest in real estate which endures for a period of time, the 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) means any interest in real estate enduring for a fixed period of years but which, whether 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 of rights approximately those of an estate in fee simple, life estate or perpetual leasehold, an estate in fee simple, life estate or perpetual leasehold, including without limitation a leasehold interest or possessory interest under a lease 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.

(j) Transaction – means the making, executing, delivering, accepting, or presenting for recording of a document.

(k) Value

(1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefore, 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 price set forth in or actual consideration for 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, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level

ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania Realty Transfer Tax base calculations;

(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 work of such interest; or

(4) The actual consideration for or actual monetary worth of an 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 between the grantor, the agent or principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer. (Ord. No. 3-1987, 4/8/1987, Sec. 3)

§704. Imposition of Tax; Interest.

(a) 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, a tax at the rate of one percent of the value of the real estate represented by such documents, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

(b) The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds or his or her designee whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

(c) It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. Section 6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the governing body under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the governing body provided, however, that the governing body and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the "Local Tax Enabling Act."

(d) If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected. (Ord. No. 3-1987, 4/8/1987, Sec. 4)

§705. Exempt Parties. The United States, the Commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax. (Ord. No. 3-1987, 4/8/1987, Sec. 5).

§706. Excluded Transactions. The tax imposed by Section 704 shall not be imposed on:

(a) A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with 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 fine adjustments provided said reconveyance is made within one year from the date of condemnation.

(b) A document which the governing body is prohibited from taxing under the Constitution or statutes of the United States.

(c) A conveyance to a municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

(d) A transfer for no or nominal actual consideration which does not extend or limit existing record legal title or interest.

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

(f) 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 and wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, 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.

(g) 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.

(h) 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.

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

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

(k) A transfer (1) for no or nominal actual consideration between principal and agent or straw party, or (2) from or to an agent or straw party where, if the agent or straw party were his or her principal, no tax would be imposed under this Part.

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 grantee from, or for the benefit of, his or her principal, there is a rebuttable presumption that the property is the property of the grantee in his or her individual capacity if the grantee claims an exemption from taxation under this clause.

(l) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.

(m) A transfer from a corporation or association of real estate held of record in the name of the corporation where the grantee owns stock of the corporation or an interest in the association in the same proportion as his or her 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.

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

(o) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (1) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and (2) the agency or authority has the full ownership interest in the real estate transferred.

(p) 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.

(q) 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.

(r) 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. Section 501(c)(3)) and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities.

(s) A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.

(t) A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

(u) A transaction wherein the tax due is one dollar (\$1.00) or less.

(v) 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. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas, or minerals, the statement of value may be limited to an explanation of the reason for such document. (Ord. No. 3-1987, 4/8/87, Sec. 6)

§707. Documents relating to Associations or Corporations and Members, Partners, Stockholders, or Shareholders thereof. Except as otherwise provided in Section 706, 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 purpose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders. (Ord. No. 3-1987, 4/8/1987, Sec. 7)

§708. Acquired Company.

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three (3) years.

(b) With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.

(c) Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

§709. Credits against Tax.

(a) Where there is a transfer of residential property by a licensed real estate broker which property was transferred to him/her within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him/her shall be given to him/her toward the amount of the tax upon transfer.

(b) Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

(c) Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given to the grantor toward the tax due upon the transfer.

(d) Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

(e) If the tax due upon the transfer is greater than the credit given under this section; the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

§710. Extension of Lease. In determining the a term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. No. 3-1987, 4/8/87, Sec. 10)

§711. Proceeds of Judicial Sale. 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 except the state realty transfer tax, and the sheriff, or other officer, conducting the said sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. No. 3-1987, Sec. 11)

§712. Duties of Recorder of Deeds.

(a) As provided in 16 P.S. Section 11011-7, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to governing body based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania Realty Transfer Tax, without compensation from the governing body.

(b) In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

(c) On or before the tenth of each month, the Recorder shall pay over to governing body all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collection of the Pennsylvania Realty Transfer Tax. The two percent (2%) commission shall be paid to the county.

(d) Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax only when both the state and local amounts and rerecording or recording fee has been tendered. (Ord. No. 3-1987, 4/8/1987, Sec. 12)

§713. Statement of Value. Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section shall not apply to any excludable real estate transfer which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. (Ord. No. 3-1987, 4/8/1987, Sec 13)

§714. Lien. The tax imposed by this Part shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, being situated, wholly or in part within the boundaries of the governing body, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the taxes imposed, assessed and levied by this Ordinance, said lien to begin at the time

when the tax under this Ordinance is due and payable, and continue until discharge by payment, or in accordance with the law, and the solicitor is authorized to file a claim under the Municipal Claims and Liens Act of 1923, 53 P.S. Section 7101 et seq., its supplements and amendments. (Ord. No. 3-1987, 4/8/1987, Sec. 15)

§715. Enforcement. All taxes imposed by this Part together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered. (Ord. No. 3-1987, 4/8/1987, Sec. 16)

§716. Regulations. The governing body is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. Section 8101-C et seq., are incorporated into and made a part of this article. (Ord. No. 3-1987, 4/8/1987, Sec. 17)

§717. Severability. Should any section, subsection, sentence clause or phrase of this Part be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance in its entirety or of any part thereof other than that declared to be invalid. (Ord. No. 3-1987, 4/8/1987, Sec. 18)

§718. Civil Penalties.

(a) If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to Fifty Percent (50%) of the underpayment.

(b) In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding Fifty Percent (50%) in the aggregate. (Ord. No. 3-1987, 4/8/1987, Sec. 14)

Part 8
Investment of Idle Funds

§801. Borough becomes Settlor in Pennsylvania Local Government Investment Trust. This municipality shall join with other municipalities in accordance with the Pennsylvania Intergovernmental Cooperation Act by becoming a settlor of the Pennsylvania Local Government Investment Trust (the trust) and entering into the Declaration of Trust, which is adopted by reference with the same effect as if it had been set out verbatim in this section and a copy of which shall be filed with the minutes of the meeting at which Ordinance No. 1-1982 was adopted. (Ord. No. 1-1982, 1/7/1982, Sec. 1)

Editorial Note: The preamble to Ord. No. 1-1982 stated that the Pennsylvania Local Government Investment Trust had been formed in accordance with the authorization contained in the Intergovernmental Cooperation Act (1972 P.L. 762 No. 180), initially by the Boroughs of Chambersburg and Emmaus; and that agreement has been adopted by ordinance by all cooperating municipalities. Section 5 of Ord. No. 1-1982 provided that the ordinance become effective at the earliest date permitted by law.

§802. Authority to Purchase and Redeem Shares in the Trust. This municipality is authorized to purchase shares in the trust from time to time with available municipal funds, and to redeem some or all of those shares from time to time as funds are needed for municipal purposes. These actions are to be taken by the officers designated for this purpose, pursuant to general or specific instructions by Council. (Ord. No. 1-1982, 1/7/1982, Sec. 2)

§803. Custody of Borough's Invested Funds. The trustees of the trust are designated as having official custody of this municipality's funds which are invested by the purchase of shares in the trust. (Ord. No. 1-1982, 1/7/1982, Sec. 3)

§804. Findings and Determinations. As required by the Intergovernmental Cooperation Act, the following matters are specifically found and determined:

(a) The conditions of the agreement are set forth in the Declaration of Trust referred to in Section 901;

(b) This municipality's participation in the trust shall be terminable at any time by ordinance;

(c) The Declaration of Trust and the purchase of its shares are for the purpose of investing this municipality's funds in obligations which are otherwise legal investments as part of a pooled arrangement with other governmental units, thereby achieving economic and other advantages of pooled investments;

(d) It is not necessary to finance the agreement authorized herein from municipal funds except through the purchase of shares in the trust;

(e) The trust shall be managed by a board of trustees as set forth in the Declaration of Trust and the by-laws provided for therein; and

(f) Shares may be purchased and redeemed from time to time as this municipality may determine to be necessary or appropriate to meet its cash investment requirements. (Ord. No 1-1982, 1/7/1982, Sec. 4)