

ORDINANCE NO. 254

PROVIDING FOR THE LEVY, ASSESSMENT AND COLLECTION OF A PER CAPITA TAX FOR  
GENERAL REVENUE PURPOSES FOR THE YEAR 1968, OF FIVE DOLLARS ON EACH AND EVERY  
INHABITANT OF THE BOROUGH OF THE AGE OF 21 YEARS OR OVER.

IT IS ORDAINED BY the Council of the Borough of Southmont, Cambria County, Pennsylvania, that the following Ordinance be enacted under the authority of the Act of Assembly, December 31, 1965, Act No. 511, known as the Local Tax Enabling Act, and its amendments as follows:

SECTION 1; IMPOSITION OF TAX: There is hereby levied, assessed and imposed a tax to be known as the Borough Per Capita Tax for general Borough purposes for the year 1968, of Five Dollars (\$5.00) upon each and every inhabitant of the Borough of the age of 21 years and over.

SECTION 2; DEFINITIONS:

(a) Inhabitant of the Borough of the age of 21 years and over for the purposes of this Ordinance shall mean any person whose residence is within the Borough of Southmont and who has reached his or her 21st birthday on the date this Ordinance goes into effect. Any person whose name is on or whose name is added in accordance with law to, the general tax duplicate for the Borough occupation tax for the year 1968 shall be presumed to be an inhabitant for the purposes of this Ordinance.

(b) Residence for the purpose of this Ordinance shall mean dwelling place, either permanent, for the time being or for an extended period of time. A person who maintains a home or sleeping quarters within the Borough of Southmont permanently or for a period of ninety (90) days or more, shall be presumed to be a person whose residence is within the Borough for the purposes of this Ordinance.

SECTION 3: The general Borough Tax Collector is designated as the collector of the tax imposed by this Ordinance, whose compensation shall be 3% of the amount collected. The collector shall furnish a receipt for all such taxes received, and keep a record of the amount received from each taxable inhabitant under this Ordinance and the date of such receipt. The collector is authorized hereby to enforce payment and collection of this tax under the methods provided by law for the collection of other taxes.

SECTION 4: The Borough Per Capita Tax imposed hereby shall be payable at the same time, and under the same terms as to abatement and penalty as the Borough Real Estate and Occupation Taxes, and the Borough Tax Collector shall notify every inhabitant taxable under this Ordinance in the same manner as provided for notice of the Borough Real Estate and Occupation Tax, but failure to receive notice shall not relieve any taxpayer from the payment of the tax imposed hereby and all inhabitants taxable hereunder shall be charged with the tax as though he or she had received notice.

SECTION 5: This Ordinance shall be construed and enforced so as to comply with the limitation as to per capita and other taxes set forth in the Act No. 511, Known as the "Local Tax Enabling Act."

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SECTION 6: This Ordinance shall take effect January 1, 1968.

ALSO PROVIDING FOR THE IMPOSITION OF A BOROUGH LICENSE FEE FOR GENERAL BOROUGH PURPOSES UPON PIN BALL MACHINES, AND OTHER MECHANICAL COIN OPERATED AMUSEMENT DEVICES.

Be it enacted and ordained by the Borough of Southmont in Council assembled, and it is hereby enacted and ordained by authority granted the Boroughs in the Commonwealth of Pennsylvania by Act of Assembly, 31st day of December, 1965, Act No. 511, known as the Local Tax Enabling Act and its amendments as follows:

SECTION 1: The following words and phrases when used in the Ordinance shall have the meaning ascribed to them in this section except where the context clearly requires otherwise:

"Borough" - The Borough of Southmont

"Secretary" - Secretary of the Borough Council.

"Owner" - Any person conducting a place of business or amusement where the general public or a limited or selected number thereof upon payment of an established price may operate or offer for use of the public any of the specified types of amusement devices hereinafter set forth whether or not such person is the title holder of such amusement devices for amusement or otherwise.

"Amusement Devices" - Any one or more or combination of pin ball machines, bowling machines, and other similar mechanical coin operated devices for amusement or otherwise.

SECTION 2: There is hereby imposed for the purpose of providing revenue for the general fund a license fee upon amusement devices as hereinabove defined, upon each and every machine the sum of \$20.00 per year.

SECTION 3: On and after the effective date of this Ordinance it shall be unlawful for any owner to continue to operate, offer for use of the public, or to begin to operate or offer for the use of the public any amusement device unless he shall have first obtained for each such amusement device a license permit as hereinafter prescribed.

SECTION 4: Every owner of any such amusement device within this Borough shall file an application for a license permit upon a form prescribed, prepared and furnished by the Secretary and shall set forth the name which the applicant transacts or intends to transact business, the location of his place of business in this Borough, the number and type of each such amusement device he intends to operate or offer for use of the public, and such other information as the Borough may require. If the applicant is an association, the application shall set forth the names and addresses of the persons constituting the association, and if a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Borough for the purpose of identification.

SECTION 5: At the time of making such application, the applicant shall pay to the Secretary the license fee hereinbefore prescribed for each such amusement

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device for which a license permit is sought.

SECTION 6: Upon approval of the application and the payment of the license permit fee or fees herein required, the Borough shall grant and issue to each applicant a license permit for each such amusement device operated or offered for use of the public within the Borough set forth in the application.

The license permits herein required shall not be assignable and shall be valid only for the persons in whose names issued and for the particular amusement device for which issued.

SECTION 7: Each amusement device made taxable by this Ordinance shall have affixed thereto the license permit issued by the Borough evidencing the payment of such license fee.

SECTION 8: All license permits shall expire on the thirty-first day of December next succeeding the date upon which they are issued unless sooner suspended, surrendered or revoked for cause by the Borough.

License permits issued under the provisions of this Ordinance may be renewed annually before the first day of January upon application made to the Borough and the payment of the license fee required for the original licensure of each type of amusement device.

Whenever any license permit issued under the provisions of this Ordinance is defaced, destroyed, or lost, the Borough may issue a duplicate thereof to the holder of the defaced, destroyed, or lost license permit upon the payment of a fee of fifty cents (\$.50).

SECTION 9: Any person who shall operate or offer for use of the public any amusement device without being the holder of a license permit for such amusement device as required by this Ordinance shall upon conviction thereof in a summary proceeding before the Burgess or a Justice of the Peace, be sentenced to pay a fine of not less than Ten Dollars, not more than One Hundred Dollars, and costs of prosecution, or undergo imprisonment for a term of not more than ten days or both.

SECTION 10: Any Ordinance or part of Ordinance conflicting with this Ordinance is hereby repealed insofar as the same affects this Ordinance.

SECTION 11: If any sentence, clause or section or part of this Ordinance is for any reason found to be unconstitutional, Illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections or parts of this Ordinance. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid

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sentence, clause section or part thereof not be included herein.

SECTION 12: This Ordinance shall go into effect January 1, 1968.

ALSO IMPOSING A TAX ON TRANSFERS OF REAL ESTATE IN THE BOROUGH OF SOUTHMONT,  
FOR THE YEAR 1968: PROVIDING FOR ASSESSMENT AND COLLECTION OF SAID TAX AND  
IMPOSING PENALTIES FOR VIOLATIONS.

BE IT ENACTED AND ORDAINED by the Council of the Borough of Southmont, Cambria County, Pennsylvania, and it is hereby enacted and ordained pursuant to authority granted to Boroughs in the Commonwealth of Pennsylvania by an Act of General Assembly, approved the 31st day of December, 1965, Act No. 511, as amended, as follows:

SECTION 1. A tax for the purpose of providing revenue for general Borough purposes is hereby levied, assessed and imposed on the transaction of transferring title to real property lying within said Borough of Southmont or of interests in such real property, at the rate of one 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 upon each transfer of title, to the real estate or interest therein without regard to the place where the making, executing, delivery, or acceptance of the instrument of transfer shall have been done, and shall be paid by the transferer, and for this purpose title shall be deemed to be transferred when the Deed or other instrument conveying the real estate or interest therein is recorded.

SECTION 3. Definitions. The following words, when used in this Ordinance, shall have the meanings ascribed to them, in this Section, except where the context clearly indicates a different meaning.

A. "Person" - Any natural person, corporation, partnership, association, or unincorporated enterprise. As applied to any association or partnership, the term "Person" shall include the partners or members thereof and as applied to corporations, the officers thereof. The singular shall include the plural and the masculine shall include the feminine and neuter.

B "Transfer" - A transaction whereby all or part of the interest of any person in lands, tenements, hereditaments, or any real property situate within the Borough of Southmont passes to another person by deed or other instrument of conveyance, except:

- (1). by lease, agreement of sale, mortgage, or testamentary writing; or
- (2). where the transfer is a "straw" transaction whereby title passes to a third person temporarily and for no valuable consideration; or
- (3). where the interest passes to or from a corporation, association or organization limited to religious, charitable, or educational purposes only; or
- (4). where the passing of the interest is a transfer taxed by the Commonwealth of Pennsylvania under the Transfer Inheritance Tax Law.

C. "Value" - The actual monetary worth or value of the property transferred at the time of the transfer. The actual consideration for the transfer shall be prima facie evidence of the actual monetary worth or value of the property transferred, and the monetary value shall include all liens, mortgages or other encumbrances on the property so transferred. The term "actual consideration" as used herein shall be construed to mean the amount of money agreed to be paid, or paid, for the execution and delivery of the instrument effecting the transfer, together with the face value of all liens, mortgages or other encumbrances secured on the real property transferred by said instrument together with any other evidence of indebtedness or promise either oral or written, given by the grantee to the grantor, his nominee, or anyone in his behalf, as full or part consideration for said instrument; provided that where said instrument shall set forth a small or nominal consideration, the "value" shall be determined from the price set forth in, or the actual consideration for, the contract or agreement of sale, which shall not be less than the amount of the highest assessment of said real property or interest in real property for local tax purposes.

SECTION 4. Where lands lying partly within the boundaries of the Borough of Southmont and partly without said boundaries are transferred, the tax herein imposed shall be calculated upon such portion of the value as shall be represented by the

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portion of such lands lying within the boundaries of the Borough of Southmont, such apportionment of value to be evidenced by the affidavit or certificate of value hereinafter provided for, but shall in event be less than the highest assessed valuation for local purposes placed upon the same in the assessment of property within the Borough of Southmont.

SECTION 5. The tax levied hereunder shall be due and payable and shall be paid by the grantor or transferor named in the instrument of conveyance at the time of recording of the said instrument of transfer.

SECTION 6. Every instrument of conveyance effecting a transfer of title to real property or interest therein, located in Southmont Borough shall set forth as part of said instrument the full, complete and actual consideration for the transfer of real property described therein, 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, complete and actual value thereof, and if the privilege of making such transfer is not taxable, hereunder, the facts by reason of which such non-taxability exists.

SECTION 7. In the event of question as to whether a specific transfer of real estate or of an interest therein is subject to tax under this Ordinance, the Regulations issued by the Pennsylvania Department of Revenue under the Authority of the Realty Transfer Tax Act, as amended, shall be used in making a determination thereof.

SECTION 8. The payment of tax imposed by this ordinance shall be evidenced by a stamp impressed upon or affixed to every instrument or deed of conveyance, and the Borough of Southmont, by its agent, using such stamp shall indelibly write thereon his name, the amount of the tax paid and the date of payment. Said stamp shall read substantially as follows:

Southmont Borough, Cambria County,  
Realty Transfer Tax-Ordinance No.  
Effective  
Date \_\_\_\_\_ Amount Paid \_\_\_\_\_  
\_\_\_\_\_, Borough Treasurer

SECTION 9. The Secretary of the Borough of Southmont 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 Borough Council may appoint one or more persons as agents to affix or impress said stamp mark and collect the tax imposed herein, and may provide for his term of office and compensation, not in excess of 5% of the amount of the tax collected hereunder.

SECTION 10. All taxes imposed by this Ordinance which are not paid when due shall bear interest at the rate of 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 deed or instrument of conveyance on which this tax is imposed, and shall be collected as other debts of like character are collected. The solicitor of the Borough of Southmont is authorized to file a municipal or tax claim in the Court of Common Pleas 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 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 \$100.00 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.

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 provisions shall not affect or impair any the the remaining sections, clauses or sentences. It is hereby declared to be the intent of the Council of Southmont Borough that this ordinance would have been adopted if such illegal, invalid or unconstitutional sections, clause or sentences had not been included therein.

SECTION 13. This Ordinance shall take effect January 1, 1968, and shall be effective during the calendar year of 1968.

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ORDAINED the 11th Day of December 1967.

BOROUGH OF SOUTHMONT

By Paul J. Weir  
President of Council

ATTEST:

APPROVED:

Carole DeBenedictis  
Secretary

James Moore  
Mayor

APPROVED THIS 11th day of December, 1967

Carl Blade  
Solicitor