

REAL ESTATE TRANSFER ORDINANCE #122

Section 1. The following words when used in this ordinance shall have the meaning ascribed to them in this section except where the context clearly indicates or requires a different meaning:

(a) Association: every partnership, limited partnership or other form of unincorporated enterprise owned by two or more persons.

(b) Corporation: every cooperative, joint stock association or corporation, whether organized under the laws of the Commonwealth, the United States or any other state, territory, or foreign country or dependency.

(c) Deed: every contract, agreement, document, deed, decree, order, instrument or writing whereby any lands, tenements or hereditaments, or any interest therein, shall be aliened, granted, bargained, sold, transferred, conveyed, assigned, released or otherwise disposed of to any person excepting, however:

(1) Transfer by will, or mortgage or the intestate laws of this Commonwealth.

(2) Transfers by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken by such builder as part of the consideration from the purchaser of a new previously unoccupied single-family residential premises.

(3) Transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law and the shareholders thereof.

(4) Transfers to non-profit industrial development agencies.

(5) Transfers between husband and wife.

(6) Transfers 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 husband and wife, or husband or wife, prior to the granting of the final decree in divorce.

(7) Transfers between parent and child or the spouse of such child.

(8) Transfers between parent and trustee for the benefit of a child or spouse of such child.

(9) Transfers between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises.

(10) Transfers constituting a correctional deed without consideration.

(11) Transfers 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.

(12) Deeds of confirmation in connection with condemnation proceedings.

(13) Deeds of reconveyance by the condemning body of the property condemned to the owner of record at the time of the condemnation which reconveyance may include property line adjustments provided such reconveyance is made within one year from the date of condemnation.

(14) Leases.

(15) Conveyances 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.

(d) Person: every natural person, association and corporation including such persons, associations and corporations when acting in a representative or fiduciary capacity. Whenever used in any clause prescribing or imposing a penalty, or both, the term "person" shall include the partners in any partnership or limited partnership, the members of an unincorporated enterprise and the officer of any cooperative, joint stock associations, or corporation.

(e) Transfer: every transfer of real property by deed, as herein defined, or of any interest in real property situate wholly or partly within the Borough of Union Dale, Susquehanna County, Pennsylvania, regardless of where the instruments making the transfers are made, executed or delivered, or where the actual settlement on such transfers take place.

(f) Interest: every vested or contingent title, right, privilege, power, benefit or advantage accruing to any person as the result of any transaction.

(g) Value: the actual pecuniary worth of any interest which constitutes the subject matter of a transfer at the time the said transfer is consummated. Any actual monetary consideration for a transaction shall be prima-facie, but not conclusive, evidence of actual pecuniary worth or value and shall be considered to include any sums of cash or articles of value agreed to be paid or exchanged, the face value of all mortgages, notes, judgments, liens or encumbrances given in connection with the transaction, together with any other evidence of indebtedness on premises, whether oral or written, given as full or part consideration for the transaction: Provided that which is the subject matter of a transaction shall, in no event, be valued at less than the amount of the highest assessment of such interest for local tax purposes, if such interest has been so assessed.

(h) Tax Collector: the duly elected or appointed Tax Collector of the Borough of Union Dale, Susquehanna County, Pennsylvania.

Throughout this ordinance, the singular shall include the plural and the masculine shall include the feminine and neuter.

Section 2. (Levy of Tax:) From and after the effective date of this ordinance there is hereby levied and assessed upon every transfer as herein defined a tax at the rate of one-half of one percent of the total value or fraction thereof, of every interest which constitutes the subject matter of a transfer. Provided, that where any lands, tenements, or hereditaments, or any interest therein, are located partly within and partly without the boundaries of the Borough of Union Dale aforementioned, said tax is levied and assessed only upon the value of that portion of such lands, tenements or hereditaments, or interest therein, which lies within the boundaries of the Borough aforementioned.

Section 3. (Payment of Tax:) This tax shall be paid to the Collector or his agent by the transferor named in the deed at the time of the delivery or recording of the deed.

Section 4. (Payment Evidenced by Stamp:) The payment of the tax herewith imposed by this ordinance shall be evidenced by affixing an adhesive stamp or stamps of proper denomination, or a proper rubber stamp, which shall be furnished or affixed by the Tax Collector or his agent upon receipt of the payment of said tax, to the deed, and the person so affixing the same shall cancel the same by causing to be written or stamped with permanent ink upon the same the initials of his name and the date upon which the stamp was affixed. The stamp or stamps shall be affixed to the deed immediately upon the receipt thereof from the Tax Collector or his agent.

Section 5. (Appointment of Agents to Collect Tax; Compensation of Tax Collector and Agents:) The Borough of Union Dale shall prescribe, prepare and furnish the stamps to the Tax Collector, who shall account to said Borough Council for the value of said stamps, and said Tax Collector may appoint persons within or without the Borough of Union Dale, as agents to furnish the stamps and collect the tax. The Tax Collector shall be allowed a commission of six percent (6%) of all taxes collected pursuant to this ordinance, for the collecting of this tax. Provided, that where said tax has been collected by an agent appointed by the Tax Collector, said agent shall be entitled to a commission of five percent (5%) of all taxes so collected and the Tax Collector shall be entitled to a commission of one percent (1%) of all taxes so collected.

Section 6. (Enforcement:) The Tax Collector is hereby charged with the enforcement of the provisions of this ordinance and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

- (a) The registration and notation of all transfers and payment of taxes.
- (b) The denomination and sale of stamps including use of a rubber stamp.
- (c) Any other matter or thing pertaining to the administration and enforcement of the provisions of this ordinance.

Section 7. (Deed to Set Forth Value of Property or be Accompanied by Affidavit or Certificate:) Every deed relating to any transfer taxable under this ordinance, when lodged with or presented to any Recorder of Deeds for recording, shall set forth therein and as part of such deed, the true, full, complete, and actual value thereof, or shall be accompanied by either a certificate by an attorney-at-law or by 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.

Section 8. (Prohibited Acts:) It shall be unlawful for any person to:

(a) Make use of any stamp to denote payment of any tax imposed by this ordinance, unless authorized by the Tax Collector as required by this ordinance.

(b) Fraudulently cut, tear, deface, or remove a stamp from any deed.

(c) Fraudulently affix to any deed any stamp which has not been authorized by the Tax Collector or which has been previously used.

(d) Fraudulently fail or omit to cancel as herein prescribed any stamp authorized by the Tax Collector.

(e) Knowingly or wilfully prepare, keep, sell, offer for sale, have or possess any forged or counterfeited stamp.

(f) Make a fraudulent statement as to the true, full, complete and actual value of any transfer as herein defined.

Section 9. (Interest Added to Unpaid Tax:) All taxes imposed by this ordinance not paid when due shall bear interest from the due date at the rate of one-half of one percent (.005) per month until paid.

Section 10. (Recovery); All taxes imposed by this ordinance, together with interest from the due date, may be recovered as other debts of like character are recovered.

Section 11. (Liens:) The tax imposed by this ordinance shall when due and unpaid, be and become a lien upon all lands, tenements or hereditaments, or any interest therein, lying within the boundary of the Borough of Union Dale, Susquehanna County, Pennsylvania, which lands, tenements, hereditaments, or interest therein, are the subject matter of a transfer within the meaning of this ordinance, said lien to commence at the time when the tax imposed under this ordinance is due and payable and to continue until discharged by payment or in accordance with the law.

Section 12. (Penalty for Violation:) Any person violating any of the provisions of this ordinance shall, upon conviction thereof by a District Magistrate or Justice of the Peace in a summary proceeding, be sentenced to pay a fine of not less than \$25.00 nor more than \$100.00 and costs of prosecution, or to undergo imprisonment for not more than thirty (30) days, and further shall be required to pay the amount of the tax together with the interest thereon.

Section 13. (Severability:) The provisions of this ordinance are severable and if any sections, clauses, sentences, parts or provisions thereof shall be held illegal, invalid or unconstitutional, invalidity or unconstitutionality shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions hereof. It is hereby declared to be intent of the Borough Council of

of the Borough of Union Dale, Susquehanna County, Pennsylvania, that this ordinance would have been adopted if such illegal, invalid or unconstitutional sections, clauses, sentences, parts or provisions had not been included herein.

Section 14. (Effective Date and Duration:) This ordinance shall go into effect the first day of January, 1981, and the tax levied hereby is imposed for the remainder of the year 1981 and thereafter on a calendar-year basis from each January 1st through each December 31st of each year thereafter without annual reenactment.

Section 15. (Authority for Enactment:) This tax is imposed under the authority of the Act of December 31, 1965, P.L. 1257, entitled the "Local Tax Enabling Act," as amended.

Enacted into an Ordinance this 8 day of December 1980

Robert L. Jones
President of Council

Attest;

Ronald E. Foster
Borough Secretary

Approved this 8 day of December 1980

Robert O. Baileys
Mayor

Passed Dec 8, 1980

Ronald E. Foster Secretary