

AN ORDINANCE FOR PROVIDING REVENUE FOR GENERAL REVENUE PURPOSES: PROVIDING FOR THE LEVY AND ASSESSMENT OF A TAX PAYABLE BY THE TRANSFEROR UPON TRANSFERS BY DEED OF LANDS, TENEMENTS OR HEREDITAMENTS, OR ANY INTEREST THEREIN, SITUATE WHOLLY OR PARTLY WITHIN THE BOROUGH OF NEW MILFORD, SUSQUEHANNA COUNTY, PENNSYLVANIA, PRESCRIBING THE RATE AND THE METHOD AND MANNER OF COLLECTING SAID TAX: IMPOSING DUTIES AND CONFERRING POWERS UPON THE BOROUGH TAX COLLECTOR: AND PROVIDING CERTAIN EXEMPTIONS AND IMPOSING PENALTIES.

BE IT ORDAINED AND ENACTED by the Borough of New Milford, Susquehanna County, Pennaylvania, in special meeting assembled, and it is hereby ordained and enacted by and with the authority of the same, that:

Section I: 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 in trade by such builder as part of the consideration from the Purchaser of a new previously unoccupied single family residential premises.

ORDINANCE NO. 122 (cont'd)

(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 the 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) Deed 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 New Milford, 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 New Milford, Susquehanna County, Pennsylvania.

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

ORDINANCE NO. 122 (cont'd)

Section II: 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 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 New Milford, 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 III: This tax shall be paid to the "Tax Collector" or his agent by the transferor named in the deed at the time of the delivery or recording of the deed..

Section IV: The payment of the tax herewith imposed by this Ordinance shall be evidenced by affixing as 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 a 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 V: The Borough of New Milford shall prescribe, prepare and furnish the stamps to the Tax Collector, who shall account to the said Borough Council for the value of said stamps, and said Tax Collector may appoint persons within or without the Borough of New Milford, 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.

ORDINANCE NO. 122 (cont'd)

Section VI: The Tax Collector is hereby charge 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 transfer and payment of taxes.
- (b) The denomination and sale of stamps including use of rubber stamp.
- (c) Any other matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance.

Section VII: 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 VIII: 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 willfully 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 IX: All taxes imposed by this Ordinance not paid when due shall bear interest from the due date at the rate of one half percent (005%) per month until paid.

ORDINANCE NO. 122 (cont'd)

Section X: 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 XI: The tax imposed by this Ordinance shall, when due and unpaid, be and become a lien upon all alnds, tenements or hereditaments, or any interest therein, lying within the boundary of the Borough of New Milford, Susquehanna County, Pennsylvania, which lands, tenements, hereditaments, or interest therein, are the subject matter of a transfer within th 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 XII: 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 proceedings, 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 XIII: 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 the intent of the Borough Council of the Borough Of New Milford, Susquehanna County, Pennsylvania, that this Ordinance would have veed adopted if such illegal, invalid or unconstitutional sections, clauses, sentences, parts or provisions had not been included herein.

Section XIV: This Ordinance shall go into effect April 1, 1972 and the tax levied hereby is imposed for the year 1972 and thereafter on a calendar year basis from each January 1st through each December 31st of each year thereafter withou annual reenactment.

ORDINANCE NO. 122 (cont'd)

Section XV: 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 and ordained this 3rd day of March 1972.

Carlton Bailey President

Paul R. Walworth Mayor

Agnes M. Jones Secretary