

ORDINANCE NO. 1040

AN ORDINANCE TO PROVIDE FUNDS FOR GENERAL REVENUE PURPOSES FOR THE BOROUGH OF DONORA, WASHINGTON COUNTY, PENNSYLVANIA, BY IMPOSING, ASSESSING AND LEVYING A TAX UPON EVERY DEED, TRANSACTION, TRANSFER OR PRIVILEGE EXERCISED THEREBY OR ARISING THEREFROM, WHEREBY ANY LANDS, TENEMENTS, HEREDITAMENTS OR ANY INTEREST THEREIN, LYING, BEING AND SITUATE, WHOLLY OR IN PART, WITHIN THE BOUNDARIES OF SAID BOROUGH OF DONORA, WASHINGTON COUNTY, PENNSYLVANIA, AND SHALL BE GRANTED, BARGAINED, SOLD OR OTHERWISE CONVEYED, REGARDLESS OF WHERE THE INSTRUMENTS MAKING THE TRANSFERS ARE MADE, EXECUTED OR DELIVERED, OR WHERE THE ACTUAL SETTLEMENTS ON SUCH TRANSFERS TAKE PLACE: PROVIDING FOR THE PAYMENT OF SAID TAX: CREATING THE OFFICE OF DEED TRANSFER TAX COLLECTOR; IMPOSING DUTIES AND POWERS UPON SAID COLLECTOR; PRESCRIBING THE METHOD AND MANNER OF COLLECTING THE TAX IMPOSED, ASSESSED AND LEVIED; PROVIDING CERTAIN EXEMPTIONS AND IMPOSING PENALTIES FOR THE NON-PAYMENT OF SAID TAX.

WHEREAS, the Council of the Borough of Donora, Washington County, Pennsylvania, finds it necessary to raise additional funds for general revenue purposes due to the increased cost of the general operation of said Borough; and

WHEREAS, said Council of the Borough of Donora is of the opinion that a portion of the additional cost of the operation of the said Borough should be imposed upon the privilege of transferring the title of real estate within the limits of said Borough; and

WHEREAS, the Act of General Assembly of the Commonwealth of Pennsylvania, approved the 25th day of June, A. D. 1947, P. L. 1145, and its amendments, authorizes and empowers said borough to levy and collect said tax.

NOW, THEREFORE, be it enacted and ordained by the said Council of the Borough of Donora, Washington County, Pennsylvania, in regular meeting assembled, and it is hereby ordained and enacted by and with the authority of the Act of General Assembly for the Commonwealth of Pennsylvania, approved the 25th day of June, A. D. 1947, P. L. 1145, and its amendments, as follows:

SECTION I. This Ordinance shall be known and may be cited as the "Deed Transfer Tax Ordinance."

SECTION II. The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning:

- (a) "Association" - A partnership, limited partnership, or any other form of unincorporated enterprise owned by two or more persons.
- (b) "Person" - Every natural person, co-partnership, association or corporation. Whenever used in any clause prescribing or imposing a penalty, or both, the term "person", as applied to co-partnership or association shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
- (c) "Deed Transfer Tax Collector" - The person designated by the Council of the Borough of Donora to enforce and administer this Ordinance.
- (d) "Deed" - Any deed, document, instrument or writing, other than a lease, agreement of sale, mortgage, ground rent or testamentary writing, whereby the legal title to any lands, tenements or hereditaments, or any real interest therein, shall be granted, bargained, sold, transferred, conveyed, assigned, or otherwise vested in the grantee, purchaser, or any other person or corporation.
- (e) "Value" - In the case of any transaction, transfer, or privilege, "value" shall be the actual monetary worth or value of the property granted, bargained, sold or otherwise conveyed at the time of said grant, bargain, sale or conveyance. The actual consideration for the said sale or conveyance shall be prima facie evidence of the actual monetary worth or value of the property granted, bargained, sold or otherwise conveyed and the said monetary value shall include all liens, mortgages, or other encumbrances on the property granted, bargained, sold or otherwise conveyed. The said actual consideration which is prima facie evidence of the actual monetary

worth or value of the property granted, bargained, sold or conveyed shall be construed to mean, for the purposes of this Ordinance, the cash agreed to be paid or paid for the execution and delivery of the deed, together with the face value of all liens, mortgages, or other encumbrances secured on the lands, tenements or hereditaments, or interest therein, conveyed or transferred by the said deed, together with any other evidence of indebtedness or promise, either oral or written, given by or on behalf of the grantee or grantor or anyone on his behalf, as full or part consideration for the said deed: Provided, that where such deed shall set forth a small or nominal consideration, the "Value" thereof shall be determined from the price set forth in, or actual consideration for, the contract or agreement of sale, or in the case of a gift, from the actual monetary worth or value of the property granted, bargained, sold, or otherwise conveyed, at the time of such grant, bargain, sale or conveyance, which in either event shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

(f) "Transaction", "Transfer" - Any act, settlement, proceedings, or process whereby the legal title to any lands, tenements or hereditaments or other real property, or any real interest therein, situate wholly or in part within the boundaries of said Borough of Donora, shall by deed be granted, bargained, sold, transferred, conveyed, assigned, or otherwise vested, regardless of where the deed is prepared, executed, delivered, accepted, recorded, or where settlement is consummated, provided, however, that any transfer of title from an individual either directly or through a straw party, to himself and another person as tenants by the entirety, or as joint tenants with right of survivorship, or any transfers between parent and child shall not be considered a transaction or transfer within the meaning of this Ordinance, and further provided, that any transfer of title by an agent to his principal, where nothing has been done to the tenement, or hereditaments, or

other real property or real interest, to increase the value thereof since the agent took title, and an affidavit to that effect is attached to the deed transferring title to the principal, shall not be considered a transaction or transfer within the meaning of this Ordinance.

SECTION III. On and after the effective date of this Ordinance, on every deed, transaction, transfer or privilege exercised thereby or arising therefrom whereby any lands, tenements or hereditaments, or any interest therein, lying, being and situate wholly or in part within the boundaries of the Borough of Donora, shall be granted, bargained, sold or otherwise conveyed, regardless of where the instruments making the transfers are made, executed or delivered, or where the actual settlements on such transfers take place, a tax for general revenue purposes at the rate of one per cent (1%) of the total value, is hereby imposed, assessed and levied; PROVIDED, that in the case of any lands, tenements or hereditaments or any interest therein, located partly within and partly without the boundaries of the Borough of Donora, such tax is imposed, assessed and levied only upon the value of that portion of such lands, tenements or hereditaments, or any interest therein, lying within the boundaries of the said Borough of Donora.

SECTION IV. (a) This tax shall be due and payable and shall be paid by the grantor or grantors named in the deed at the time of the making and executing of said deed, provided, however, it shall be the duty of the grantee or grantees named in the said deed to ascertain that the said tax has been paid by the grantor or grantors before accepting delivery of said deed, and it is further provided that if said grantee or grantees accept delivery of a deed which does not reflect by official stamp or writing that the tax has been paid, then the grantee or grantees shall become jointly liable with grantor or grantors for the payment of the said tax.

SECTION V. The payment of the tax imposed by this Ordinance

shall be evidenced by an official stamp and/or writing affixed to every deed indicating the amount of the tax paid, the date paid and the signature of the Deed Transfer Tax Collector.

SECTION VI. The Deed Transfer Tax Collector may prescribe, prepare and furnish adhesive stamps of such denominations and quantities as may be necessary for the payment of the tax imposed and assessed by this Ordinance, or, he may prescribe, prepare and furnish a manual method of marking the amount of tax paid upon the instrument to be recorded.

SECTION VII. The Borough of Donora, or the Deed Transfer Tax Collector, by and with the consent of the Council of the Borough of Donora, may, from time to time, provide such other means of collecting said tax or of evidencing the payment thereof to the Deed Transfer Tax Collector as may be considered appropriate, and in order to facilitate and expedite the payment and collection of said tax, the Deed Transfer Tax Collector, by and with the consent of the Council of the Borough of Donora, may appoint one or more responsible persons or his agent or agents. The Deed Transfer Tax Collector shall receive a commission of five per cent (5%) of the taxes collected by him or his agent, for which commission an itemized statement shall be rendered at periodic intervals coinciding with his remittance, to the Borough Clerk of the taxes collected during the period covered by such statement.

SECTION VIII. The Deed Transfer 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 method and means to be used in affixing or cancelling of stamps in substitution for, or in addition to, the method and means provided in this Ordinance.
- (b) The denomination and sale of stamps.

- (c) Any other matter or thing pertaining to the administration and enforcement of the provisions of this Ordinance.

SECTION IX. Every deed upon which a tax is imposed by this Ordinance, when lodged with or presented to the Recorder of Deeds for recording, shall set forth therein, and as a part of such deed, the true, full, complete and actual value thereof, or shall be accompanied 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 X. It shall be unlawful for any person to:

- (a) Fail to pay the tax imposed by this Ordinance;
- (b) Make use of any stamps to denote payment of any tax, imposed by this Ordinance, without cancelling such stamps, as required by this Ordinance or as prescribed by the Deed Transfer Tax Collector; or
- (c) Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted, and promulgated by the Deed Transfer Tax Collector under the provisions of this Ordinance; or
- (d) Fraudulently cut, tear, or remove a stamp from any deed; or
- (e) Fraudulently affix to any deed, upon which said tax is imposed by this Ordinance, any stamps which have been cut, torn or removed from any other deed upon which a tax is imposed by this Ordinance, or any deed stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or
- (f) Wilfully remove or alter the cancellation marks of any deed stamp, or restore any such deed stamp with intent to use, or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away, any such altered or restored stamp to any person for use, or knowingly use the same; or

(g) Knowingly have in his possession any altered or restored deed stamp which has been removed from any deed, upon which tax is imposed by this Ordinance: PROVIDED, that the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or

(h) Knowingly or wilfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited deed stamps; or

(i) Knowingly or willingly affixing or causing to be affixed, to any deed, any impression, stamp, certificate or writing purporting to signify the payment of the tax imposed by this Ordinance when such person knows or has reason to know that the said tax has not been paid.

SECTION XI. All taxes imposed by this Ordinance not paid when due shall bear interest thereon at the rate of one-half of one per centum (1/2%) per month until paid.

SECTION XII. All taxes imposed by this Ordinance, together with interest from the due date shall be recovered as other debts of like character are recovered.

SECTION XIII. The tax imposed by this Ordinance shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being, and situate wholly or in part within the boundaries of the Borough of Donora, which lands, tenements, hereditaments, or interest therein are described in or conveyed or transferred by the deed which is the subject of the tax 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 discharged by payment or in accordance with the law, and the Solicitor of the Borough is authorized to file a Municipal or Tax Claim in the Court of Common Pleas of Washington County, in accordance with the provisions of the Municipal Lien Act of 1923, its supplements and amendments.

SECTION XIV. Any person violating any of the provisions of this Ordinance shall be liable to a penalty not exceeding One Hundred Dollars (\$100.00) for each and every offense, and further shall be required to pay the amount of the tax, together with interest as is otherwise provided for in this Ordinance, which should have been paid on the said deed or deeds, and upon default in the payment of the same for ten (10) days, shall be subject to thirty (30) days' imprisonment.

SECTION XV. The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held illegal, invalid, or unconstitutional, the decision of the Court shall not affect or impair any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of the Council of the Borough of Donora that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional section, clause, sentence, part or provision had not been included herein.

SECTION XVI. This Ordinance shall go into effect on the first day of January, 1965, and the tax levied hereunder shall be imposed for one (1) year only.

SECTION XVII. ENACTED AND ORDAINED this 3rd day of November, 1964, by the Council of the Borough of Donora, Pennsylvania.

James W. Stewart
President of Council

ATTEST:

Thomas E. Petrus
Borough Secretary

EXAMINED AND APPROVED by me this 16th day of November, 1964.

Albert P. Delandis
Mayor

ATTEST:

Thomas E. Petrus
Borough Secretary