

TOWNSHIP OF NORTH FAYETTE

ORDINANCE NO. 361

AN ORDINANCE OF THE TOWNSHIP OF NORTH FAYETTE, ALLEGHENY COUNTY, PENNSYLVANIA, LEVYING, ASSESSING AND COLLECTING AN EMERGENCY AND MUNICIPAL SERVICES TAX ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE TOWNSHIP, ESTABLISHING REGULATIONS RELATED THERETO, AND REPEALING ORDINANCE NO. 106 IN ITS ENTIRETY.

WHEREAS, the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, authorizes the Board of Supervisors of North Fayette Township (the Township) to levy, assess and collect a tax on individuals for the privilege of engaging in an occupation within the Township, formerly known as an occupation privilege tax; and

WHEREAS, the Commonwealth of Pennsylvania recently enacted Act 222 of 2004, which amended the Local Tax Enabling Act to replace the occupation privilege tax with an emergency and municipal services tax and to establish regulations related to the same; and

WHEREAS, Township Ordinance No. 106, enacted on December 14, 1971, established the regulations for the Township's occupation privilege tax; and

WHEREAS, the Board of Supervisors of the Township desires to enact an ordinance to levy, assess and collect an emergency and municipal services tax on individuals for the privilege of engaging in an occupation within the Township, to establish regulations related to the same and to repeal Ordinance No. 106 in its entirety.

NOW, THEREFORE, the Board of Supervisors of the Township of North Fayette hereby ordains and enacts as follows:

SECTION 1: Title.

This Ordinance shall be known and cited as the ■Emergency and Municipal Services Tax Ordinance.●

SECTION 2: Definitions.

As used in this Ordinance, the following words and phrases shall have the meanings prescribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

COLLECTOR ■ the person, persons, agency, association and/or corporate entity designated by the Township Board of Supervisors to collect the tax and to carry out and administer the provisions of this Ordinance.

COMPENSATION ■ salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other income.

EMPLOYER ■ any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Township employing one or more employees engaged in any occupation, other than domestic servants.

OCCUPATION ■ any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX ■ the tax imposed by this Ordinance.

TAXPAYER ■ any natural person liable for the tax levied by this Ordinance.

TOWNSHIP ■ the Township of North Fayette.

TOWNSHIP BOARD OF SUPERVISORS ■ the Board of Supervisors of the Township of North Fayette.

SECTION 3: Tax Levy; Exception.

For those purposes referenced in §22.2 of the Local Tax Enabling Act, 53 P.S. §6922.2, as amended, a tax in the amount of \$52.00 is hereby levied upon the privilege of engaging in an occupation within the Township in the calendar year 2005 and in each succeeding calendar year. Each natural person who exercises such privilege for any length of time shall pay the tax in accordance with the provisions of this Ordinance; provided, the tax hereby levied shall not be levied upon any natural person whose total income during the subject calendar year is less than Zero (\$0.00) Dollars.

SECTION 4: Collection through Employers.

1. Every employer shall, within 15 days after the effective date of this Ordinance or within 15 days after first becoming an employer, register with the Collector by providing the employer's name, address and such other information deemed necessary or required by the Collector.
2. For each taxpayer employed for any length of time on or before March 31st of a calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Collector and pay the Collector the full amount of taxes deducted on or before April 30th of the calendar year. Thereafter, as to each taxpayer for whom no prior deduction has been made

and who is employed for any length of time in any of the three-month periods ending June 30th, September 30th, and December 31st of the calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Collector and pay to the Collector the full amount of all taxes deducted for each such three-month period on or before July 31st and October 31st of the calendar year, or January 31st of the following calendar year, respectively.

3. Any employer who discontinues business or ceases operation before December 31st of the calendar year shall, within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the Collector.
4. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the Collector, shall be liable for such tax in full, without deduction of any fees provided for in this Section, as though the tax had originally been levied against the employer.
5. As to employees who present official receipts evidencing prior payment of the tax either directly or by collection through other employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

SECTION 5: Direct Payment by Taxpayers.

Every taxpayer who is self-employed or whose tax for any other reason is not collected under *Section 4* of this Ordinance shall file a return on a form prescribed by the Collector

and shall pay the tax directly to the Collector. Each such taxpayer who first becomes subject to the tax on or before March 31st of the calendar year shall file the return and pay the tax on or before April 31st of that calendar year, and each such taxpayer who first becomes subject to the tax after March 31st shall file the return and pay the tax on or before July 31st or October 31st of the calendar year, or January 31st of the following calendar year, whichever of such payment dates first occurs, at least 30 days after the taxpayer becomes subject to the tax.

SECTION 6: Nonresident Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Township, be subject to the tax and the provisions of this Ordinance.

SECTION 7: Administration and Enforcement.

The Collector, on behalf of the Township, shall collect and receive the taxes, interests, fines and penalties imposed by this Ordinance and shall maintain records showing the amounts received and the dates such amounts were received. The Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Ordinance, including but not limited to requirements for collection through employers, requirements for evidence and records and provisions for the examination and correction of returns. The Collector and agents designated by the Collector may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due and verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Collector and any agent designated by

the Collector all means, facilities and opportunity for the examinations hereby authorized.

SECTION 8: Collection.

The Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Ordinance and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6% per year on the amount of unpaid tax and an additional penalty of one-half of one percent (. of 1%) of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The Collector may accept payment under protest of the tax claimed by the Township in any case where any person disputes the Township's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Collector, then the Collector shall refund the amount of the overpayment to the person who paid under protest.

SECTION 9: Violations and Penalties.

1. Any person, firm or corporation or entity who violates a provision of this Ordinance, or who fails to comply therewith, or with any of the requirements thereof, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Township, pay a civil penalty of not less than \$100 nor more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.
2. A separate offense shall arise for each day or portion thereof in which a violation is

found to exist or for each Section of this Ordinance found to have been violated. All fines and penalties collected for violation of this Ordinance shall be paid to the Township Treasurer.

3. The Township may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this Ordinance.
4. The initial determination of a violation of this Ordinance and the service of notice of violation are hereby delegated to the Township Secretary, the Collector and their designees and to any other officer or agent that the Board of Supervisors shall deem appropriate.

SECTION 10: Applicability and Severability.

The tax shall not apply to any subject of tax or person not within the taxing power of the Township under the Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania. If a final decision of a court of competent jurisdiction holds any provision of this Ordinance or the application of any provision to any circumstances, to be illegal or unconstitutional, then the other provisions of this Ordinance, or the application of such provision to other circumstances, shall remain in full force and effect. This Ordinance shall continue in effect on a calendar year basis without annual reenactment.

SECTION 11: Authority for Tax Imposition.

This Ordinance and the tax hereby imposed are adopted and levied pursuant to the authority conferred by the Local Tax Enabling Act, 53 P.S. 6901 *et seq.*, as amended.

SECTION 12: Repealer.

All prior ordinances, including but not limited to Ordinance No. 106, are hereby repealed in whole or in part to the extent inconsistent herewith.

SECTION 13: Effective Date.

This Ordinance shall take effect in accordance with applicable law.

ORDAINED and **ENACTED** this 28th day of December, 2004, by the Board of Supervisors of the Township of North Fayette in lawful session duly assembled.

ATTEST:

Robert T. Grimm
Township Secretary

TOWNSHIP OF NORTH FAYETTE

By: Daniel B. Fink
Chair, Board of Supervisors