

## ORDINANCE NO. 64

AN ORDINANCE OF THE TOWNSHIP OF WASHINGTON, FRANKLIN COUNTY, PENNSYLVANIA, IMPOSING A TAX FOR GENERAL REVENUE PURPOSES AT THE RATE OF TEN DOLLARS FOR THE FISCAL YEAR ON INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN AN OCCUPATION WITHIN THE LIMITS OF THE TOWNSHIP; PROVIDING FOR ITS COLLECTION; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING & PAYING OVER THE SAME TO THE COLLECTOR OF SAID TAX; CONFERRING AND IMPOSING POWERS AND DUTIES OF COLLECTION AND ADMINISTRATION ON THE COLLECTOR OF SAID TAX; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF.

BE IT ENACTED AND ORDAINED, and it is enacted and ordained, by the Township of Washington, Franklin County, Pennsylvania, as follows:

SECTION 1. TITLE: This ordinance is enacted under the authority of the Act of Dec. 31, 1965, P.L. 1257, as amended, known as "The Local Tax Enabling Act," the provisions of which, except as otherwise specified, are incorporated herein by reference, and shall be known as the Washington Township Occupational Privilege Tax Ordinance of 1979.

SECTION 2. DEFINITIONS: The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this Section except where the context or language clearly indicates or requires a different meaning:

(A) "Occupation" shall mean any trade, profession, business, calling, undertaking or vocation of any type, kind, or character, including but not limited to services, domestic or otherwise, carried on or performed within the limits of Washington Township for which an aggregate total compensation of at least one thousand (\$1,000) dollars is charged or received in a Township fiscal year, whether of salary, wages, commission, or fees for services rendered.

(B) "Employer" shall mean an individual, partnership, association, corporation, governmental body, unity, or agency, or any other entity having a place of employment within the limits of Washington Township and employing one or more persons on a salary, wage, commission, fee or other compensation basis.

(C) "Tax" shall mean the occupation privilege tax levied by this Ordinance.

(D) "Collector" shall mean the Waynesboro Area Tax Bureau (an unincorporated agency organized and operated jointly by this Township and other political subdivisions).

(E) "He," "His", or "Him", shall include the singular and plural number, and the male, female and neuter gender.

(F) "Township" shall mean the Township of Washington, Franklin County, Pennsylvania.

SECTION 3. IMPOSITION OF TAX: A tax for general revenue purposes in the amount of Ten (\$10.00) dollars is hereby levied and imposed upon every individual for the privilege of engaging in an occupation within the limits of

the Township at any time and for any period during a Township fiscal year commencing with the Township fiscal one-half year starting on the first day of July, 1979 and ending on the 31st. day of December, 1979. Said tax shall continue on the fiscal year basis January 1 through December 31 of each year thereafter until or unless this Ordinance be repealed or the rate thereof changed.

At the time of the enactment of this Ordinance, the Waynesboro Area School District imposed a like ten (\$10.00) dollar occupational privilege tax. Due to the duplication of said tax as a result of the tax imposed by this Ordinance, the amount of the tax levied under this Ordinance shall be five (\$5.00) dollars for so long as said duplication exists.

SECTION 4. DUTY OF EMPLOYER: Each employer is hereby charged with the duty of collecting the tax from each of the employees engaged by him and performing for him within the Township, and making a return and payment thereof to the collector. Further, each employer is hereby authorized to deduct said tax from the salary, wages, commissions or fees paid each employee in his employ. Such deduction may, at the option of the employer, be spread over more than one pay period, but in any event shall be in such amount that the full amount of the tax shall be withheld by the due date for payment of the tax as set forth in Section 6 herein and paid to the collector within 31 days thereafter. Taxes deducted from compensation shall constitute a trust fund in the employer's hands until remitted to the collector; and the Township, constitute payment of the tax by the employee, regardless of any insolvency or failure to remit on the part of the employer.

SECTION 5. RETURNS: Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the collector. Each employer in filing this return and making payment of the tax withheld from his employee shall be entitled to retain a commission calculated at the rate of two percent of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the date hereinafter set forth. It is further provided that if the employer fails to file said return and pay said tax, whether or not he makes collection thereof from the salary, wages, commission or fees paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

SECTION 6. TIME OF PAYMENT: The tax imposed by Section 3 hereof upon employees subject to withholding shall be due and payable on or before December 31 of each Township fiscal year. The tax upon self-employed persons and employees not subject to withholding shall be due and payable on or before April 15 of the year following each Township fiscal year.

#### SECTION 7. ADMINISTRATION OF TAX:

(A) It shall be the duty of the collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.

(B) The collector is hereby charged with the administration and enforcement of this ordinance and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the examination of the payroll records of any employer subject to this ordinance; the examination and correction of any return made in compliance with this ordinance; and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any

decision of the collector shall have the right to appeal to the Court of Common Pleas of Franklin County as in other cases provided.

(C) The collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer; or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the collector the means, facilities and opportunity for such examination.

SECTION 8. LIMIT OF LIABILITY: No person shall be subject to a duplication of the tax by engaging in more than one occupation or being employed by more than one employer in any Township fiscal year. If any person contemporaneously engages in an occupation both within and without the limits of the Township, the tax shall be imposed only if said person is principally engaged within said limits. No person shall be subject to payment of tax under this Ordinance or under a similar ordinance of any other municipality or school district in excess of ten (\$10.00) dollars in any Township fiscal year.

SECTION 9. SUIT FOR COLLECTION:

(A) In the event any tax under this Ordinance remains due or unpaid thirty days after the due date above set forth, the collector may sue for the recovery of such tax due or unpaid together with interest and penalty.

(B) If for any reason the tax is not paid when due, interest at the rate of 1/2 of 1 percent per month on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of two per cent per month shall be added to the flat rate of said tax for non-payment thereof. Where suit is brought for the recovery of this tax the individual liable therefore shall in addition be responsible and liable for the costs of collection.

SECTION 10. FINE AND PENALTY: Whoever makes any false or untrue statement on any return required by this ordinance, or who refuses inspection of his books, records or accounts in his custody and control in order to determine the number of employees subject to this tax who are in his employment, or who fails or refuses to file any return required by the Ordinance, or fails or refuses to pay the tax herein levied, shall, upon conviction before any Justice of the Peace, be sentenced to pay a fine of not more than Three Hundred Dollars for each offense, and in default of payment of said fine be imprisoned for a period not exceeding thirty days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this Ordinance.

SECTION 11. VALIDITY: The provisions of this Ordinance are severable and if any of its provisions shall be held invalid or unconstitutional the decision of the Court shall not affect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this Ordinance would have been adopted if such illegal, invalid, or unconstitutional provision has not been included herein.

SECTION 12. SAVING CLAUSE:

(A) Nothing contained in this Ordinance shall be construed to empower Township of Washington to levy and collect the tax hereby imposed on any occupational privilege not within the taxing power of Washington Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(B) If the tax hereby imposed under the provisions of this Ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the Court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other individuals as herein provided.

SECTION 13. EFFECTIVE DATE: This Ordinance shall become effective July 1, 1979, and shall remain in force and effect for the fiscal one-half year beginning July 1, 1979 and ending December 31, 1979, and thereafter until amended, supplemented or repealed.

ENACTED AND ORDAINED this 7th. day of May 1979

ATTEST:

Shirley S. Grov  
Secretary

TOWNSHIP OF WASHINGTON, FRANKLIN COUNTY,  
PENNSYLVANIA

Mark C. Eigenbrode

Melvin T. Sease

Robert A. Nally

Shirley S. Grov