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Part 1

Tax Delinquent Penalty

§101. Tax Collector Shall Collect Penalty.

The Tax Collector for the Borough of Fountain Hill, Commonwealth of Pennsylvania, shall, commencing with the taxable year beginning January 1, 1979, charge a penalty of 10% on all taxpayers who shall fail to make payment of any such taxes aforesaid charged against them for four months after the date of the tax notice, said penalty shall be added to the taxes by the Tax Collector and shall be collected by him.

(Ord. 331, 10/2/1978, §1; as reenacted and amended by Ord. 348, 1/4/1982)

§102. Taxes Subject to Penalty.

The penalty hereby imposed directed to be collected shall become effective upon all such taxes aforesaid, commencing with the taxable year beginning January 1, 1979.

(Ord. 331, 10/2/1978, §2; as reenacted and amended by Ord. 348, 1/4/1982)

§103. Effective Date and Duration.

This Part 1 shall become effective 10 days after enactment and shall remain effective for all taxable years beginning with the 1979 tax year.

(Ord. 331, 10/2/1978, §3; as reenacted and amended by Ord. 348, 1/4/1982)

Part 2

Real Estate Transfer Tax

§201. Imposition of Tax.

The Borough of Fountain Hill (hereinafter, the "Borough") adopts the provisions of Article XI-D of the Tax Reform Code of 1971 and imposes a realty transfer tax as authorized under that Article, subject to the rate limitations therein. The tax imposed under this section shall be at the rate of 1%.

(Ord. 727, 12/20/2006)

§202. Administration.

The tax imposed under §201 and all applicable interest and penalties shall be administered, collected and enforced under the Act of December 31, 1965 (P.L. 1257, No. 511, as amended, known as "the Local Tax Enabling Act"); provided that, if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Borough, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P. S. §8102-D), authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax, interest and penalties.

(Ord. 727, 12/20/2006)

§203. Interest.

Any tax imposed under §201 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923 (P.L. 207, No. 153) (53 P. S. §7101 et seq.), as amended, known as "the Municipal Claims and Tax Liens Act." The interest rate shall be the lesser of the interest rate imposed upon delinquent commonwealth taxes as provided in Section 806 of the Act of April 9, 1929 (P.L. 343, No. 176) (72 P.S. §806), as amended, known as "the Fiscal Code," or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.

(Ord. 727, 12/20/2006)

§204. Repealer; Continuation of Effectiveness.

1. As of the effective date of this Part 2, the following ordinances and resolutions are repealed: Chapter 24, §201 et al, entitled "Real Estate Transfer Tax."

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2. The repealed ordinances enumerated in Subsection 1 remain effective for documents that became subject to tax prior to the effective date of this Part 2.

(Ord. 727, 12/20/2006)

§205. When Effective; Applicability.

The provisions of this Part 2 shall become effective on and be applicable to any document made, executed, delivered, accepted or presented for recording immediately.

(Ord. 727, 12/20/2006)

Part 3

Local Services Tax

§301. Short Title.

This Part 3 shall be known and may be cited as the "Local Services Tax."

(Ord. 732, 12/19/2007)

§302. Definitions.

As used in this Part 3, unless the context clearly indicates a different meaning, the following words shall have the meanings set forth below:

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

EARNED INCOME — compensation, as this term is defined in Section 13 of the Local Tax Enabling Act of December 31, 1965, P.L. 1257, Section 13, as amended, 53 P.S. §6913, as amended.

EMPLOYER — any person, partnership, limited liability partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Borough of Fountain Hill, employing one or more employees engaged in any occupation, other than domestic servants.

LOCAL SERVICE TAX COLLECTOR or TAX COLLECTOR — the person, public employee, private agency, or other entity designated by the Council to collect and administer the tax imposed herein.

MUNICIPALITY — the Borough of Fountain Hill.

NET PROFITS — the net income from the operation of a business, profession, or other activity, as this term is defined in Section 13 of the Local Tax Enabling Act of December 31, 1965, P.L. 1257, Section 13, as amended, 53 P.S. §6913, as amended.

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

TAX — the local services tax imposed by this Part 3.

TAXPAYER — any natural person liable for the tax levied by this Part 3.

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TAX YEAR — the period from January 1 until December 31 in any year; a calendar year.

(Ord. 732, 12/19/2007)

§303. Imposition and Levy of Tax.

A tax for general revenue purposes, in the amount of \$52, is hereby imposed and levied upon the privilege of engaging in an occupation within the Borough from the effective date of this Part 3 and in each following calendar year. Each natural person who exercises such privilege for any length in any calendar year, beginning January 1, 2008, shall pay the tax in accordance with the provisions of this Part 3. The Borough Council may adopt regulations for the processing of claims for exemptions.

(Ord. 732, 12/19/2007)

§303.1. Exemptions.

1. Exemptions. The following persons are exempt from payment of the tax:
 - A. Any person whose total earned income and net profits from all sources within the municipality is less than \$12,000 per annum.
 - B. Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total 100% disability.
 - C. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For purposes of this subsection, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
2. A person seeking to claim an exemption from the local services tax may annually file an exemption certificate on a form developed by the Department of Community and Economic Development with Borough, with copy to the Tax Collector, and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. The exemption certificate shall have attached to it a copy of all of the employee's last pay

stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the local services tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or Tax Collector, except as required by Subsection 3 below, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring.

3. With respect to a person who claimed an exemption for a given calendar year from the local services tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection 4 below.
4. If a person who claimed an exemption for a given calendar year from the local services tax becomes subject to the tax for the calendar year under Subsection 3, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the that payroll period after receipt of the notification under Subsection 3, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per-payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the Borough may pursue collection under this Part 3.
5. Except as provided in Subsection 3 above, employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from a local services tax.
6. The municipality and/or Tax Collector shall determine eligibility for exemption under this section.

(Ord. 732, 12/19/2007)

§303.2. Restricted Use of the Local Services Tax.

1. Any municipality deriving funds from the local services tax may only use the funds for:

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- A. No less than 25% of the funds derived shall be used for emergency services, which shall include emergency medical services, police services and/or fire services.
- B. Road construction and/or maintenance.
- C. Reduction of property taxes.

(Ord. 732, 12/19/2007)

§303.3. Employer Collection Through Payroll.

1. If a local services tax is levied at a combined rate exceeding \$10 in a calendar year, a person subject to the local services tax shall be assessed a pro-rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro-rata share of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro-rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth dollar. Collection of the local services tax levied under this subsection shall be made on a payroll-period basis for each payroll period in which the person is engaging in an occupation, except as provided below in Subsection 3. No person shall be subject to the payment of the tax by more than one political subdivision during each payroll period, as established by Subsection 2. The Borough and/or Tax Collector shall provide a taxpayer a receipt of payment of the tax upon request by the taxpayer.
2. With respect to a person subject to the local services tax at a combined rate exceeding \$10, the situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order: first, the political subdivision in which a person maintains the person's principal office or is principally employed; second, the political subdivision in which the person resides and works, if the tax is levied by the political subdivision; and third, the political subdivision in which a person is employed and which imposed the tax nearest in miles to the person's home.
3. In the case of concurrent employment, an employer shall refrain from withholding the local services tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the local services tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and

the employee will notify the other employers of a change in principal place of employment within two weeks of its occurrence.

(Ord. 732, 12/19/2007)

§303.4. Regulations for the Processing of Refund Claims.

The Borough of Fountain Hill, in consultation with the Tax Collector and the Department of Community and Economic Development, shall establish procedures by resolution for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be consistent with 53 Pa.C.S.A. §§8425 and 8426, of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The municipality or Tax Collector shall determine eligibility and provide refunds to exempt persons under §303.1.

(Ord. 732, 12/19/2007)

§304. Collection Through Employers.

1. Every employer shall, within 15 days after the effective date of this Part 3 or within 15 days after first becoming an employer, register with the Tax Collector the employer's name, address, and such other information as the Tax Collector may require.
2. As to each taxpayer who is employed for any length of time after the effective date of this Part 3 and on or before March 31 of any year in which the tax is imposed, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to said Tax Collector the full amount of all such taxes on or before April 30 of the current tax year. Thereafter, as to each taxpayer for whom no prior deduction has been made, who is employed for any length of time in any of the three-month periods ending June 30, September 20, and December 31, of the current tax year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Tax Collector, and pay to the Tax Collector the full amount of all taxes deducted for each such three-month period on or before July 31 or October 31 of the current tax year, and January 31 of the following year, respectively.
3. Any employer who discontinues business or ceases operation before December 31 of any year during which this tax is in effect shall, within 15 days after discontinuing business or ceasing operations, file the return hereinabove required and pay the tax to the Tax Collector.

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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 Tax Collector, shall be liable for such tax in full, without deduction of the commission hereinafter provided, as though the tax had originally been levied against such 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.

(Ord. 732, 12/19/2007)

§304.1. Tax Collector Demand.

The Tax Collector shall demand, receive and collect delinquent tax from all employers employing persons owing delinquent tax, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct, and which contains the name of the taxable individual or spouse and the amount of tax due. Upon the presentation of such written notice and demand, it is the duty of employer to deduct from the wages, commissions or earnings of such individual employees then owing or that shall, within 60 days thereafter, become due, or from any unpaid commissions or earnings of any such taxable earnings in its or his possession or that shall, within 60 days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent tax and to pay the same to the Tax Collector within 60 days after such notice has been given. No more than 10% of the wages, commission or earnings of the delinquent taxpayer may be deducted at any one time for the delinquent tax. The employer shall be entitled to deduct from the monies collected from each employee the cost incurred from the extra bookkeeping necessary to record such transaction, but not exceeding 2% of the amount of monies so collected and paid over to the Tax Collector. Upon the failure of the employer to deduct the amount of taxes or to pay the same over to the Tax Collector, less the cost of the bookkeeping involved in such transaction, the employer shall forfeit and pay the amount of such tax for each taxpayer whose taxes are not withheld and paid over, or that are withheld and not paid over, together the penalty of 10% added thereto, to be recovered by an action of assumpsit and a suit to be instituted by the Tax Collector, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. The Tax Collector shall not proceed against a spouse or his employer until he has pursued collection remedies against the delinquent taxpayer and his employer under this Part 3.

(Ord. 732, 12/19/2007)

§305. Direct Payment by Taxpayers.

Every taxpayer who is self-employed or whose tax for any other reason is not collected under §304 of this Part shall file a return on a form prescribed by the Tax Collector and

shall pay the tax directly to said Collector. Each such taxpayer who first becomes subject to the tax after the effective date of this Part, and on or before March 31 of the current tax year, shall file the return and pay the tax on or before April 30 of the current tax year; and each such taxpayer who first becomes subject to the tax after March 31 of the current tax year shall file the return and pay the tax on or before July 31 or October 31 of the then-current year, or January 31 of the following year, whichever of such payment dates first occurs at least 30 days after the taxpayer becomes subject to the tax.

(Ord. 732, 12/19/2007)

§306. Nonresident Taxpayers.

Both residents and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough of Fountain Hill, be subject to the tax and the provisions of this Part 3.

(Ord. 732, 12/19/2007)

§307. Administration and Enforcement.

The Tax Collector, on behalf of the Borough, shall collect and receive the taxes, interest, fines and penalties imposed by this Part and shall maintain records showing the amounts received, from whom received, and the date such amounts were received. The Tax 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 Part, including but not limited to requirements for collection through employers, requirements for deductions, requirements for evidence and records, and provisions for the examination and correction of returns. The Tax Collector and agents designated by him may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Tax Collector and any person designated by him all means, facilities and opportunity for the examinations hereby authorized.

(Ord. 732, 12/19/2007)

§308. Collection.

The Tax Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part 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 1/2 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 Tax Collector may accept

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payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, the Tax Collector shall refund the amount of the overpayment to the person who paid under protest.

(Ord. 732, 12/19/2007)

§309. Bond and Compensation of Tax Collector.

1. The Tax Collector, before entering upon his official duties, shall give and acknowledge a bond to the Borough. If the Borough shall designate any bond previously given by the Tax Collector as adequate, such bond shall be sufficient to satisfy the requirements of this section.
2. The Tax Collector shall receive such compensation for his services and expenses as shall be determined by the Council from time to time.

(Ord. 732, 12/19/2007)

§310. Continuation of Tax.

The tax levied and imposed shall continue in force on a calendar-year basis following January 1, 2008, without annual reenactment, until such time as the Borough Council shall change the rate of tax or by appropriate ordinance repeal such tax.

(Ord. 732, 12/19/2007)

§311. Violations and Penalties.

Any person who violates any provision of this Part 3 or any regulation adopted pursuant hereto shall, upon conviction thereof, be sentenced to pay a fine of not more than \$500, and costs of prosecution, or to undergo imprisonment for not more than 30 days.

(Ord. 732, 12/19/2007)

Part 4

Business Privilege and Mercantile Tax

§401. Title.

This Part 4 shall be known as the “Business Privilege Tax and Mercantile Tax Ordinance.”

(Ord. 323, 12/9/1976, §1; as reenacted and amended by Ord. 348, 1/4/1982)

§402. Definitions.

The following words and phrases, when used in this Part 4, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

1. Business – any activity carried on or exercised for gain or profit in the Borough of Fountain Hill including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services. As to those taxpayers having their principle place of business within the Borough of Fountain Hill, business shall include all activities carried on within the Borough of Fountain Hill as well as those carried on outside of the Borough of Fountain Hill. As to those taxpayers which do not have a place of business within the Borough of Fountain Hill there shall be included only those activities carried on within the Borough of Fountain Hill. As to those taxpayers having a place of business other than their principle one, within the Borough of Fountain Hill, business shall include all activities carried on within the Borough of Fountain Hill and those carried on outside the Borough of Fountain Hill attributed to the place of business within the Borough.
2. Borough shall mean the Borough of Fountain Hill.
3. License year – “License Year” shall be the calendar year.
4. Person – any individual, partnership, limited partnership, association, firm, or corporation. Whenever used in any clause prescribing or imposing a penalty, the term “person” as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.
5. Taxpayer – “Taxpayer” shall mean a person subject to the payment of the tax imposed by this ordinance.
6. Tax year – “Tax Year” shall be the calendar year.
7. Tax collector – shall mean the Tax Collector of the Borough of Fountain Hill.

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(Ord. 323, 12/9/1976, §2; as reenacted and amended by Ord. 348, 1/4/1982)

§403. Levy of Tax.

There is hereby levied for the tax year 1977 and annually thereafter a tax for general revenue purposes on the privilege of doing business as herein defined in the Borough of Fountain Hill, as follows:

1. Rate and Basis of Tax – the rate of tax on every dollar of the whole or gross volume of business transacted within the territorial limits of the Borough of Fountain Hill shall be calculated as follows:
 - A. On receipts attributable to the performance of services the rate shall be 1 1/2 mills or \$1.50 per \$1,000 of gross volume of business.
 - B. On receipts attributable to wholesale sales of merchandise the rate shall be one mill or \$1 per \$1,000 of gross volume of business.
 - C. On receipts attributable to retail sales of merchandise the rate shall be 1 1/2 mills or \$1.50 per \$1,000 of gross volume of business.
2. Computation of Volume of Business -
 - A. Every person subject to the payment of the tax hereby imposed who has commenced his business prior to the full calendar year prior to the tax year shall compute his annual estimated gross volume of business upon the actual gross amount of business transacted by him during said immediately preceding calendar year.
 - B. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business before the beginning of the tax year but after the beginning of the full calendar year prior to the tax year, shall compute his estimated annual gross volume of business for the tax year upon the gross volume of business transacted by him during prior calendar year, taking the monthly average during said period and multiplying the same by 12. In the event that he shall be in business fewer than 90 days in the prior calendar year, he shall be permitted to use sufficient days in calendar year in which the tax year begins to equal 90 successive days after commencement of business, to take a monthly average thereon, and to multiply the average by 12.
 - C. Every person subject to the payment of the tax hereby imposed who has commenced or commences his business subsequent to the beginning of the tax year, if there shall be less than three months from the commencement of his business to the end of the tax year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the tax year; if there shall be more than three months from the

commencement of his business to the end of the tax year he shall compute his estimated gross volume of business transacted by him during the period from the commencement of his business to the end of the tax year, taking the monthly average during the first three months of business and multiplying the same by the number of months from the commencement of business to the end of the tax year.

- D. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his estimated gross amount of business to be transacted by him for the period said person engages in such temporary, seasonal or itinerant business within the Borough by a method to be determined by the Tax Collector.
- E. The Tax Collector is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough in any case where the taxpayer disputes the validity or amount of the Borough's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Borough has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this Section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction.

3. Persons, Business and Receipt Exempted -

- A. Persons and Businesses – persons employed for a wage or salary, nonprofit corporations, organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this ordinance.
- B. No such tax shall be assessed and collected on a privilege, transaction, subject, or occupation which is subject to a state tax or license fee, and which tax or license fee has been held by the Courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a municipality.
- C. Utilities – no such tax shall be assessed and collected on the gross receipts from utility service are fixed and regulated by the Pennsylvania Public Utility Commission; or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- D. State Tax on Tangible Property – no such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.

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- E. Production and Manufacture – no such tax shall be assessed and collected on goods, articles, and products, or on by-products of manufacture, or on minerals, timber, natural resources, and farm products, manufactured, produced, or grown in the Borough of Fountain Hill, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers, and by farmers with respect to the goods, articles and products of their own manufacturer, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacturer, or on the transportation loading, unloading or dumping or storage of such goods, articles, products or by-products.
4. Determination of Gross or Whole Volume of Business – gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions.
 - A. The dollar volume of business transacted by wholesale and retail dealers, derived from the resale of goods, wares, and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
 - B. Refunds, credits, or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned.
 - C. Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
 - D. Bad debts, where the deduction is also taken in the same year for Federal Income Taxation purposes.
 - E. Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Borough of Fountain Hill.
5. Partial Exemptions – where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this ordinance by reason of the provisions of the Constitution of the United States, or any other provision of law, the Tax Collector under the direction of the Mayor shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the Borough shall be taxed hereunder.
6. Rate When Same Tax is Imposed by Two Taxing Bodies – if any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act 1965, December 31, Pamphlet Law 1257 and its amendments, to the Borough and

one or more political subdivisions of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the said Enabling Act permitting the imposition of such taxes.

7. Records – the taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of his business so as to show clearly, accurately, and separately the amount of such sales and services as are excluded from the tax and the amounts of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided.

(Ord. 323, 12/9/1976, §3; as reenacted and amended by Ord. 348, 1/4/1982)

§404. Returns.

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.
2. Every person subject to the tax imposed by this ordinance who commenced his business on or before January 1 of the full calendar year previous to the beginning of any tax year shall on or before the 1st Monday of May of the tax year file with the Tax Collector a return setting forth his business, business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due.
3. Every person subject to the tax imposed by this ordinance who has commenced his business less than one full year prior to the beginning of any license year shall on or before the 1st Monday of May, 1977 file with the Tax Collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the first month of business and the amount of tax due.
4. Every person subject to the tax imposed by this ordinance who commences business subsequent to the beginning of any tax year shall within 100 days from date of commencing such business file a return with the Tax Collector setting forth his name, his business and business address and such information as may be necessary in arriving at the estimated or actual gross amount of business transacted by him as calculated under §403 (2-C) hereof and the amount of the tax due.
5. Every person subject to the payment of the tax imposed by this ordinance who engages in a business temporary, seasonal or itinerant by its nature shall at the time application is made for the business privilege license file a return with the Tax Collector setting forth his name, his business, his business address and such information as may be necessary in arriving at the estimated gross amount of business to be transacted by him as calculated in accordance with §403(2-D).

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6. Any person going out of or ceasing to do business shall within seven days from the date of ceasing to do business, file a return showing the actual gross volume of business conducted and done by such person during that tax year in which said person ceased doing business, and pay the tax due as computed thereon at the rate herein provided for at the time of filing said return. If such tax has been previously paid based upon estimated gross receipts, the taxpayer shall be entitled to a refund of any excess tax paid for the tax year in which business was terminated.
7. Payment of Tax and Penalties for Late Payment – The business privilege tax levied pursuant to this Part shall be due and payable on the date on which the taxpayer is required to file a return as set forth above and if the same is not paid on said date, penalty at the rate of 6% per annum on the amount of said tax, and an additional interest of 1% per month or fractional part of a month until paid.
8. Receipt – the Tax Collector shall, upon payment to him of the Business Privilege Tax, give the person paying the same a receipt therefor.

(Ord. 323, 12/9/1976, §4; as reenacted and amended by Ord. 348, 1/4/1982; and by Ord. 481, 7/1/1991)

§405. License.

After the effective date of this Part 4, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the Borough of Fountain Hill shall file with the Tax Collector an application for a business privilege license and shall pay a fee of \$2 for each renewal thereof. The license shall be conspicuously posted in the place of business for which the such license is issued and shall remain in effect for the license year or fraction of year for which said license was issued. In cases where more than one place of business is conducted, a separate license shall be issued for each place of business. Any taxpayer who is in default in payment of tax due hereunder shall be refused a license until such tax is paid in full.

(Ord. 323, 12/9/1976, §5; as reenacted and amended by Ord. 348, 1/4/1982)

§406. Penalty.

Any person who shall conduct, transact or engage in any of the business subject to the tax imposed by this Part 4, without having first secured a business privilege license for the year, or any person who shall fail to file a tax return as required by the provisions of this ordinance, or any person who shall willfully file a false return, shall, upon summary conviction before a District Justice be sentenced to pay a fine not to exceed the sum of \$300 for any one offense, recoverable with costs, or imprisonment one day for each \$10 of the balance of unpaid fine and costs.

(Ord. 323, 12/9/1976, §6; as reenacted and amended by Ord. 348, 1/4/1982)

§407. Continuing Offense.

Each day on which such person violated this Part 4 may be considered as a separate offense and punishable as such as afore-provided.

(Ord. 323, 12/9/1976, §7; as reenacted and amended by Ord. 348, 1/4/1982)

§408. Duties of the Tax Collector.

1. The Tax Collector is charged with the duties of collecting and receiving the taxes, fines and penalties imposed by this ordinance. It shall be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.
2. The Tax Collector is also empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this ordinance, including provisions for the examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this ordinance and any rules and/or regulations promulgated pursuant hereto.
3. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Collector shall assess said person or persons on such an amount of whole or gross volume of business as the Tax Collector deems reasonable and appropriate. In all cases of assessment, the Tax Collector shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the business privilege tax imposed or levied.
4. The taxpayer shall maintain such records and books of account as will enable him to make a true and accurate return in accordance with the provisions of the ordinance. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and must be sufficiently complete to enable the Tax Collector to verify all transactions. The Tax Collector is hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this ordinance, in order to verify the accuracy of the return made, or if no return was made, ascertain the tax due.
5. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to the Court of Common Pleas, as in other cases.

(Ord. 323, 12/9/1976, §8; as reenacted and amended by Ord. 348, 1/4/1982)

TAXATION, SPECIAL

§408.1. Compensation of Tax Collector.

The Tax Collector shall receive such compensation for his services and expenses as shall be determined by Council from time to time.

(Ord. 323, 12/9/1976; as added by Ord. 596, 2/3/1997)

§409. Confidential Nature of Returns, Etc.

Any information gained by the Tax Collector, or any other official, agent or employee of the Borough as a result of any returns, investigations, hearings, or verifications required or authorized by this ordinance, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

(Ord. 323, 12/9/1976, §9; as reenacted and amended by Ord. 348, 1/4/1982)

§410. Suit on Collection and Penalty.

1. The Tax Collector shall have the power in the name of the Borough to institute proceedings against any and all persons who violate the provisions of this Part 4.
2. If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefore, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

(Ord. 323, 12/9/1976, §10; as reenacted and amended by Ord. 348, 1/4/1982)

§411. Savings and Severability Clauses.

1. Nothing contained in this Part 4 shall be construed to empower the Borough to levy and collect the taxes hereby imposed on any person, or any business, or any portion of all business not within the taxing power of the Borough under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.
2. If the tax, or any portion thereof, imposed upon any person under the provisions of this Part 4 shall be held by any court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.
3. The provisions of this Part 4 are severable, and if any of its provisions shall be held illegal, invalid, or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this ordinance. It is hereby declared

to be the intention of the Council of the Borough of Fountain Hill that this ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

(Ord. 323, 12/9/1976, §11; as reenacted and amended by Ord. 348, 1/4/1982)

§412. Effective Date and Authority.

This Part 4 is enacted pursuant to the authority of the Local Tax Enabling Act, 1965 December 31, P.L. 1257, and shall become effective 30 days after it has been passed by Council and signed by the Mayor.

(Ord. 323, 12/9/1976, §12; as reenacted and amended by Ord. 348, 1/4/1982)

Part 5

Earned Income and Net Profits

§501. Imposition of Tax.

A tax for general revenue purposes of 1% is hereby imposed on:

1. earned income received by residents of the Borough of Fountain Hill;
2. earned income received by nonresidents for work done or services performed or rendered in the Borough of Fountain Hill;
3. the net profits earned by residents of the Borough of Fountain Hill; and
4. the net profits earned from the operation of businesses, professions or other activity, except as corporations, conducted in the Borough by nonresidents of the Borough of Fountain Hill; during each calendar year, without annual reenactment, unless the rate of tax is subsequently changed.

(Ord. 202, 12/22/1956; as reenacted and amended by Ord. 348, 1/4/1982; and by Ord. 353, 4/9/1982)

§502. §13 of Local Tax Enabling Act Incorporated by Reference with Certain Options.

Section 13 of the Local Tax Enabling Act of 1965, P. L. 1257, is hereby incorporated by reference into and made a part of this ordinance, to the same extent as if the full text of the said section had been set out verbatim herein, except that:

1. in the case of net profits, the Borough elects to operate under the option set forth in Subsection III-A(1)ii, requiring an annual declaration of net profits and quarterly payments thereof, rather than annual payments of the tax due on net profits for the preceding year, as provided in Subsection III-A(1)i.
2. in the case of earned income not subject to withholding the Borough elects to operate under the option set forth in Subsection III-B(2) requiring quarterly returns and quarterly payments, rather than the option set forth in Subsection III-B(1) requiring an annual return and payment of the tax for the preceding year.

(Ord. 202, 12/22/1956; as reenacted and amended by Ord. 348, 1/4/1982)

§503. Income Tax Officer.

The Income Tax Officer shall be the person, public employee, private agency or other entity designated by Council from time to time by resolution or motion. The bond of the Income Tax Officer shall be filed with the Borough Secretary. The Income Tax Officer shall receive such compensation for his services and expenses as shall be determined by Borough Council from time to time.

(Ord. 202, 12/22/1956; as reenacted and amended by Ord. 348, 1/4/1982; and amended by Ord. 511, 2/10/1993; and by Ord. 596, 2/3/1997)

§504. Authority of Enactment.

This ordinance is enacted under the authority of the Local Tax Enabling Act, Act 511 of 1965, December 31, P.L. 1257, as amended.

(Ord. 202, 12/22/1956; as reenacted and amended by Ord. 348, 1/4/1982)

Part 6
Per Capita Tax

§601. “Resident” Defined.

The word “resident” as used in this Part 6 shall mean every adult person of the age of 18 years or over who resides within the Borough of Fountain Hill, County of Lehigh and Commonwealth of Pennsylvania.

(Ord. 165, 2/26/1951; as reenacted and amended by Ord. 348, 1/4/1982)

§602. Levy.

A tax in the amount of \$5 per person is hereby imposed on all residents and inhabitants of the Borough of Fountain Hill, County of Lehigh and Commonwealth of Pennsylvania, for the period from January 1, to and including December 31 of the present year and each year thereafter.

(Ord. 165, 2/26/1951; as reenacted and amended by Ord. 348, 1/4/1982)

§603. Penalties for Failure to Pay Tax.

Any resident or inhabitant who fails, neglects or refuses to pay the tax levied by this ordinance shall be subject to such penalties as are prescribed by the laws of the Commonwealth of Pennsylvania for failure to pay such tax.

(Ord. 165, 2/26/1951; as reenacted and amended by Ord. 348, 1/4/1982)

§604. Recovery of Taxes, Interest and Penalties.

All taxes imposed by this Part 6, together with any interest and penalty, shall be recoverable by the Borough Tax Collector, as other taxes of a like nature are recoverable under the laws of the Commonwealth of Pennsylvania. Borough Council may, from time to time, designate a person and/or an agency, firm, for the collection of only delinquent taxes.

(Ord. 165, 2/26/1951; as reenacted and amended by Ord. 348, 1/4/1982; and as amended by Ord. 580, 8/5/1996, §604)

§604.1. Compensation of Tax Collector.

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The per capita tax shall be collected by the Tax Collector of the Borough of Fountain Hill. The Tax Collector shall receive such compensation for his services and expenses as shall be determined by Borough Council from time to time.

(Ord. 165, 2/26/1951; as added by Ord. 596, 2/2/1997)

§605. Applicability.

This Part 6 shall not apply to any person as to whom it is beyond the legal power of the Borough Council to impose the tax herein provided for.

(Ord. 165, 2/26/1951; as reenacted and amended by Ord. 348, 1/4/1982)

Part 7

Flat Rate Occupation Tax

§701. “Inhabitant” Defined.

The word “inhabitant” as used in this Part 7, shall mean every adult person of the age of 18 years or over who resides within the Borough of Fountain Hill, County of Lehigh and Commonwealth of Pennsylvania.

(Ord. 415, 12/30/1987)

§702. Levy.

A flat rate occupation tax for general revenue purposes at the rate of \$5 per year is hereby levied on all inhabitants of the Borough of Fountain Hill above the age of 18 years.

(Ord. 415, 12/30/1987)

§703. Penalties for Failure to Pay Tax.

Any resident or inhabitant who fails, neglects or refuses to pay the tax levied by this Part shall be subject to such penalties as are prescribed by the laws of the Commonwealth of Pennsylvania for failure to pay such a tax.

(Ord. 415, 12/30/1987)

§704. Recovery of Taxes, Interest and Penalties.

All taxes imposed by this Part, together with any interest and penalty, shall be recoverable by the Borough Tax Collector, as other taxes of a like nature are recoverable under the laws of the Commonwealth of Pennsylvania.

(Ord. 415, 12/30/1987)

§704.1. Compensation of Tax Collector.

The flat rate occupation tax shall be collected by the Tax Collector of the Borough of Fountain Hill. The Tax Collector shall receive such compensation for his services and expenses as shall be determined by Borough Council from time to time.

(Ord. 415, 12/30/1987; as added by Ord. 596, 2/3/1997)

TAXATION, SPECIAL

§705. Applicability.

This Part 7 shall not apply to any person as to whom it is beyond the legal power of the Borough Council to impose the tax herein provided for.

(Ord. 415, 12/30/1987)

§706. Effective Date.

This Part 7 shall take effect January 1, 1988.

(Ord. 415, 12/30/1987)

Part 8¹

Tax Certifications

§801. Requests for Certification.

All request for tax certification shall be made in writing. The request shall include the name of the current property owner, the property designation as per Lehigh County tax map, the required fee and a self-addressed envelope for return of the certification.

(Ord. 479, 3/5/1991)

§802. Designated Municipal Official.

The municipal official empowered to provide certifications and collect the required fee shall be the locally elected Tax Collector.

(Ord. 479, 3/5/1991)

§803. Form of Certification.

The requested tax certification shall be provided on a form approved by Borough Council. Tax certifications shall be provided for the current calendar year only. Prior years taxes may be verified only by the Tax Claim Bureau of Lehigh County.

(Ord. 479, 3/5/1991)

§804. Fee.

1. The fee charged for a tax certification shall be initially established at \$10 per certification. This fee may be altered by resolution of Borough Council. The fee officially established shall be collected by the designated municipal official and retained by that individual as compensation for providing the additional service of tax certification.
2. Effective February 3, 1997, the fee charged for a tax certification shall be increased to \$15 per certification.

(Ord. 479, 3/5/1991; as amended by Res. 97-04, 2/3/1997)

¹ Editor's Note: Enacted by Ord. 479 as Chapter 24, Part 7, but codified as Part 8 because of the existing Part 7.