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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. (Ordinance 331, October 2, 1978, §1; as reenacted and amended by Ordinance 348, January 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. (Ordinance 331, October 2, 1978, §2; as reenacted and amended by Ordinance 348, January 4, 1982)

**§103. Effective Date and Duration.**

This ordinance shall become effective 10 days after enactment and shall remain effective for all taxable years beginning with the 1979 tax year. (Ordinance 331, October 2, 1978, §3; as reenacted and amended by Ordinance 348, January 4, 1982)



## Part 2

### Real Estate Transfer Tax

#### **§201. Definitions.**

The following words or phrases when used in this Part 2 shall have the meaning ascribed to them in this section except when the context indicates a different meaning:

PERSON — every natural person, partnership, or corporation. Whenever used in any clause imposing a penalty, the term as applied to partnership shall mean the partners, and as applied to corporation or association shall mean the officers.

TRANSFER — Any transaction whereby any interest or transfer of lands, tenements, hereditaments or any real property, or any interest therein, situate wholly or in part within the boundaries of the Borough, shall be transferred or conveyed by deed or other conveyance for value, but shall not include leasehold interests or other transfers specifically exempt by the said Local Tax Enabling Act.

CONSIDERATION — The amount paid for the interest or title transferred or conveyed, which shall include the value of property or anything of value paid for the interest or title transferred; and shall include purchase money obligations assumed and the actual amount of all liens, mortgages or other encumbrances, subject to which the sale or transfer is made.

(Ordinance 166, February 26, 1951, §1; as reenacted and amended by Ordinance 348, January 4, 1982)

#### **§202. Imposition of Tax.**

A tax for general revenue purposes is hereby levied, assessed and imposed on the transfer of title of real property situate in the Borough of Fountain Hill, at the rate of 1% of the amount of consideration involved in the transaction or the assessed market value, whichever is greater, upon the grantee or purchaser in such transaction. (Ordinance 166, February 26, 1951, §2; as reenacted and amended by Ordinance 348, January 4, 1982)

#### **§203. Exemptions.**

This tax shall not apply to or be imposed upon transfers specifically exempt by the said Local Tax Enabling Act. (Ordinance 166, February 26, 1951, §4; as reenacted and amended by Ordinance 348, January 4, 1982)

**§204. Payment of Tax.**

Payment of tax imposed by this Part 2 shall be evidenced on the deed by stamp or stamps to be affixed to every deed and canceled with ink. The tax shall be due and payable, at the time of delivery, by the grantee or grantees or purchasers in the instrument. The Tax Collector or any other individual or firm appointed by Borough Council from time to time, is hereby charged with the collection of this tax and the enforcement of its provisions. The Recorder of Deeds of Lehigh County is hereby designated agent for the Borough of Fountain Hill to collect the within tax and to remit the same, less commissions for collection. (Ordinance 166, February 26, 1951, §5; as reenacted and amended by Ordinance 348, January 4, 1982; and as amended by Ordinance 596, February 3, 1997)

**§205. Penalty and Lien of Tax.**

All taxes imposed by this Part 2 which are not paid when due shall bear interest thereon at the rate of 1% per month until paid. This tax, when due and unpaid, shall become a lien on the lands, tenements, hereditaments or any interest therein, which are described in a deed, transfer or conveyance upon which this tax is due, and shall be collected as other taxes are collected. (Ordinance 166, February 26, 1951, §6; as reenacted and amended by Ordinance 348, January 4, 1982)

**§206. Violations.**

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this Part 2, or any regulation or requirement pursuant thereto and authorized thereby, shall, in addition to other penalties provided by law, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution, or to undergo imprisonment for not more than 30 days. Such fine imposed by this section shall be in addition to any other penalty imposed by any other section of this Part 2. (Ordinance 166, February 26, 1951, §7; as reenacted and amended by Ordinance 348, January 4, 1982)

**§207. Severability.**

The provisions of this Part 2 are severable, and if any section, clause, sentence, provision or exemption 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, provisions or exemptions of this Part 2. It is hereby declared to be the intent of Borough Council that this Part 2 would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, provision or exemption had not been included herein. (Ordinance 166, February 26, 1951, §8; as reenacted and amended by Ordinance 348, January 4, 1982)

**§208. Authority for Enactment.**

This Part 2 is enacted under the authority of the Local Tax Enabling Act, Act 511 of 1965, December 31, P.L. 1257, as amended. (Ordinance 166, February 26, 1951, §9; as reenacted and amended by Ordinance 348, January 4, 1982)



### Part 3

## Occupational Privilege Tax

### §301. Short Title.

This ordinance shall be known, and may be cited as the “Emergency and Municipal Services Tax Ordinance.” (Ordinance 247, March 12, 1964, §1; as reenacted and amended by Ordinance 348, January 4, 1982; as amended by Ordinance 704, December 29, 2004, §1)

### §302. Definitions.

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

1. “(Municipality)” shall mean the Borough of Fountain Hill.
2. “Compensation” shall mean salaries, wages, commission, tips, bonuses, fees, gross receipts, or any other earned income.
3. “Employer” shall mean any person, partnership, limited 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.
4. “Occupation” shall include any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which any compensation is received.
5. “Emergency and Municipal Services Tax Collector” or “Tax Collector” shall mean the person, public employee, private agency, or other entity designated by the Council to collect and administer the tax imposed herein.
6. “Tax” shall mean the tax imposed by this ordinance.
7. “Taxpayer” shall mean any natural person liable for the tax levied by this ordinance.

(Ordinance 247, March 12, 1964, §2; as reenacted and amended by Ordinance 348, January 4, 1982; and amended by Ordinance 510, February 10, 1993; and by Ordinance 704, December 29, 2004, §1)

**§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, and in each following calendar year. Each natural person who exercises such privilege for any length in any calendar year, beginning with the year 2005, shall pay the tax in accordance with the provisions of this Part; provided, however, that the funds derived from this tax shall be used solely for road construction and/or maintenance. The Borough hereby exempts any person whose total income from all sources is less than \$12,000 per annum from this tax. Borough Council may adopt regulations for the processing of claims for exemptions.

(Ordinance 247, March 12, 1964, §3; as reenacted and amended by Ordinance 348, January 4, 1982; and by Ordinance 704, December 29, 2004, §2)

**§304. Collection Through Employers.**

1. Every employer shall, within 15 days after the effective date of this Part 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 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.
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.
6. Each employer may deduct and retain a commission equal to 2% of the total amount of tax collected through the employer pursuant to this section.

(Ordinance 247, March 12, 1964, §4; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§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, 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. (Ordinance 247, March 12, 1964, §5; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§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. (Ordinance 247, March 12, 1964, §6; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§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

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him all means, facilities and opportunity for the examinations hereby authorized. (Ordinance 247, March 12, 1964, §7; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§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 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. (Ordinance 247, March 12, 1964, §8; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§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.

(Ordinance 247, March 12, 1964, §9; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§310. Continuation of Tax.**

The tax levied and imposed shall continue in force on a calendar-year basis following January 1, 2005, without annual re-enactment, until such time as Borough Council shall change the rate of tax or by appropriate ordinance repeal such tax.

(Ordinance 247, March 12, 1964, §10; as reenacted and amended by Ordinance 348, January 4, 1982; as amended by Ordinance 704, December 29, 2004, §3)

**§311. Violation.**

Any person who violates any provision of this ordinance or any regulation adopted pursuant hereto shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and costs of prosecution, or to undergo imprisonment for not more than 30 days. (Ordinance 247, March 12, 1964, §11; as reenacted and amended by Ordinance 348, January 4, 1982)



## Part 4

### Business Privilege and Mercantile Tax

#### §401. Title.

This ordinance shall be known as the “Business Privilege Tax and Mercantile Tax Ordinance.” (Ordinance 323, December 9, 1976, §1; as reenacted and amended by Ordinance 348, January 4, 1982)

#### §402. 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 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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(Ordinance 323, December 9, 1976, §2; as reenacted and amended by Ordinance 348, January 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.

(Ordinance 323, December 9, 1976, §3; as reenacted and amended by Ordinance 348, January 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

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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).

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. [Ord. 481]
8. Receipt – the Tax Collector shall, upon payment to him of the Business Privilege Tax, give the person paying the same a receipt therefor.

(Ordinance 323, December 9, 1976, §4; as reenacted and amended by Ordinance 348, January 4, 1982; and by Ordinance 481, July 1, 1991)

### **§405. License.**

After the effective date of this ordinance, 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. (Ordinance 323, December 9, 1976, §5; as reenacted and amended by Ordinance 348, January 4, 1982)

### **§406. Penalty.**

Any person who shall conduct, transact or engage in any of the business subject to the tax imposed by this ordinance, 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. (Ordinance 323, December 9, 1976, §6; as reenacted and amended by Ordinance 348, January 4, 1982)

**§407. Continuing Offense.**

Each day on which such person violated the ordinance may be considered as a separate offense and punishable as such as afore-provided. (Ordinance 323, December 9, 1976, §7; as reenacted and amended by Ordinance 348, January 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.

(Ordinance 323, December 9, 1976, §8; as reenacted and amended by Ordinance 348, January 4, 1982)

**§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. (Ordinance 323, December 9, 1976; as added by Ordinance 596, February 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.

(Ordinance 323, December 9, 1976, §9; as reenacted and amended by Ordinance 348, January 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 ordinance.
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.

(Ordinance 323, December 9, 1976, §10; as reenacted and amended by Ordinance 348, January 4, 1982)

**§411. Savings and Severability Clauses.**

1. Nothing contained in this ordinance 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 ordinance 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 ordinance 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. (Ordinance 323, December 9, 1976, §11; as re-enacted and amended by Ordinance 348, January 4, 1982)

**§412. Effective Date and Authority.**

This ordinance is enacted pursuant to the authority of the Local Tax Enabling Act, 1965 December 31, Pamphlet Law 1257, and shall become effective 30 days after it has been passed by Council and signed by the Mayor. (Ordinance 323, December 9, 1976, §12; as reenacted and amended by Ordinance 348, January 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.

(Ordinance 202, December 22, 1956; as reenacted and amended by Ordinance 348, January 4, 1982; and by Ordinance 353, April 9, 1982)

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

(Ordinance 202, December 22, 1956; as reenacted and amended by Ordinance 348, January 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

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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. (Ordinance 202, December 22, 1956; as reenacted and amended by Ordinance 348, January 4, 1982; and amended by Ordinance 511, February 10, 1993; and by Ordinance 596, February 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. (Ordinance 202, December 22, 1956; as reenacted and amended by Ordinance 348, January 4, 1982)

## **Part 6**

### **Per Capita Tax**

#### **§601. “Resident” Defined.**

The word “resident” as used in this ordinance 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. (Ordinance 165, February 26, 1951; as reenacted and amended by Ordinance 348, January 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. (Ordinance 165, February 26, 1951; as reenacted and amended by Ordinance 348, January 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. (Ordinance 165, February 26, 1951; as reenacted and amended by Ordinance 348, January 4, 1982)

#### **§604. Recovery of Taxes, Interest and Penalties.**

All taxes imposed by this ordinance, 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. (Ordinance 165, February 26, 1951; as reenacted and amended by Ordinance 348, January 4, 1982; and as amended by Ordinance 580, August 5, 1996, §604)

##### **§604.1. Compensation of Tax Collector.**

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. (Ordinance 165, February 26, 1951; as added by Ordinance 596, February 2, 1997)

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**§605. Applicability.**

This ordinance 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. (Ordinance 165, February 26, 1951; as reenacted and amended by Ordinance 348, January 4, 1982)

## **Part 7**

### **Flat Rate Occupation Tax**

#### **§701. “Inhabitant” Defined.**

The word “inhabitant” as used in this Part 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. (Ordinance 415, December 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. (Ordinance 415, December 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. (Ordinance 415, December 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. (Ordinance 415, December 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. (Ordinance 415, December 30, 1987; as added by Ordinance 596, February 3, 1997)

#### **§705. Applicability.**

This Part 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. (Ordinance 415, December 30, 1987)

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**§706. Effective Date.**

This Part shall take effect January 1, 1988. (Ordinance 415, December 30, 1987)

**Part 8<sup>1</sup>**

**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. (Ordinance 479, March 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. (Ordinance 479, March 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. (Ordinance 479, March 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. [Res. 97-04]

(Ordinance 479, March 5, 1991; as amended by Resolution 97-04, 2/3/1997)

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