

ORDINANCE NO. 585

AN ORDINANCE TO PROVIDE REVENUE FOR THE BOROUGH OF MONROEVILLE BY IMPOSING A MERCANTILE LICENSE TAX ON PERSONS ENGAGING IN CERTAIN OCCUPATIONS AND BUSINESSES THEREIN; PROVIDING FOR ITS LEVY AND COLLECTION AND FOR THE ISSUANCE OF MERCANTILE LICENSES; AND CONFERRING AND IMPOSING POWERS AND DUTIES ON THE TAX COLLECTOR OF THE BOROUGH OF MONROEVILLE; AND IMPOSING PENALTIES FOR VIOLATION THEREOF.

The Council of the Borough of Monroeville under the authority of the Act of December 31, 1966, P. L. 511, hereby ordains and enacts as follows:

SECTION 1. DEFINITIONS. The following words and phrases when used in this Ordinance shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

(a) "Person" shall mean any individual, partnership, limited partnership, association or corporation.

(b) "Wholesale Dealer" or "Wholesale Vendor" shall mean any person who sells to dealers, in, or vendors of, goods, wares and merchandise and to no other persons.

(c) "Retail Dealer" or "Retail Vendor" shall mean any person who is a dealer or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor.

(d) The terms "person", "wholesale dealer", "wholesale vendor", "retail dealer", and "retail vendor" shall not include non-profit corporations organized for religious, charitable or educational purposes, any association organized for such purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof.

(e) "Place of amusement" shall mean any place indoors or outdoors where the general public or a limited or selected number thereof may upon payment of an established price, attend or engage in any amusement, contest, recreation, including among other places, theaters, opera houses, motion picture houses, amusement parks, stadia, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fair grounds, bowling alleys, billiard or pool rooms, nine or ten pin alleys, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges and other like places. The term does not include any exhibition, amusement performances or contest conducted by a non-profit corporation or association organized for religious, charitable or educational purposes.

(f) "License year" shall mean the calendar year of 1968 and each calendar year thereafter.

(g) "Gross volume of business" shall include both cash and credit transactions.

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(h) "Tax Collector" shall mean the Borough Manager of the Borough of Monroeville.

(i) "Temporary, seasonal or itinerant business" shall mean any business that it conducted at one location for less than sixty (60) consecutive days.

SECTION 2. LEVY AND COLLECTION OF TAX - For the license year 1968 and annually thereafter the Borough of Monroeville hereby imposes an annual mercantile license tax in the manner and at the rates hereinafter set forth.

SECTION 3. LICENSES - Beginning in the license year One Thousand Nine Hundred Sixty-eight, every person desiring to continue to engage in, or hereafter to begin to engage in the business of wholesale or retail vendor, or dealer in goods, wares and merchandise, and any person conducting a restaurant or other place where food, drink or refreshments are sold, or place of amusement, whether or not the same be incidental to some other business or occupation, shall on or before the 15th day of January of each license year, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Borough, from the Tax Collector as required by law; such license shall be conspicuously posted at the place of business or each of the places of business of every person at all times.

SECTION 4. IMPOSITION AND RATE OF TAX - Every person engaged in any of the following occupations or businesses in the Borough shall pay an annual mercantile license tax for each license year at the rate set forth:

(a) Wholesale vendors or dealers in goods, wares and merchandise, at the rate of one-half (1/2) mill on each dollar of the volume of the annual gross business transacted by him.

(b) Retail vendors or dealers in goods, wares and merchandise, all persons engaged in conducting restaurants or other places where food, drink or refreshment are sold, whether or not the same be incidental to some other business or occupation, and all persons conducting places of amusement, whether or not the same be incidental to some other business or occupation, at the rate of one (1) mill on each dollar of the volume of the annual gross business transacted by him, provided, however, that this tax shall not be imposed on admissions to motion picture theaters.

(c) Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of one-half (1/2) mill on each dollar of the annual gross wholesale business transacted by him, and one (1) mill on each dollar of the volume of the annual gross retail business transacted by him.

SECTION 5. COMPUTATION OF VOLUME OF BUSINESS.

(a) Every person subject to the payment of the tax hereby imposed who has commenced his business at least one (1) year prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than one (1) full year prior to the beginning of the license year, shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month he engaged in business multiplied by twelve (12).

(c) Every person subject to the payment of the tax hereby imposed who commences his business subsequent to the beginning of the license year, shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months he engaged in business in such license year.

(d) Every person subject to the payment of the tax hereby imposed who engaged in a business temporary, seasonal or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

(e) The Tax Collector is hereby authorized to accept payment under protest of the amount of mercantile 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.

#### SECTION 6. RETURNS.

(a) 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.

(b) Every person subject to the tax imposed by this Ordinance who commenced his business at least one (1) full year prior to the beginning of any license year shall on or before the 15th day of April file with the Tax Collector a return, setting forth his name, his business and 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.

(c) Every person subject to the tax imposed by this Ordinance who has commenced his business less than one (1) full year prior to the beginning of any license year shall on or before the 15th day of April of the current license year 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 the tax due.

(d) Every person subject to the tax imposed by this Ordinance who commences business subsequent to the beginning of any license year shall within forty (40) days from day 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 actual gross amount of business transacted by him during his first month of business and the amount of the tax due.

(e) 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 within seven (7) days from the day he completes such business file a return with the Tax Collector setting forth his name, his business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of tax due.

SECTION 7. PAYMENT. At the time of filing the return, the person making the same shall pay the amount of the tax shown as due thereon to the Tax Collector.

SECTION 8. POWERS AND DUTIES OF TAX COLLECTOR.

It shall be the duty of the Tax Collector to collect and receive the taxes, fines and penalties imposed by this Ordinance; it shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of each receipt.

(b) The Tax Collector is hereby charged with the administration and enforcement of the provisions of this Ordinance, and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, including provisions for the re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an over-payment is claimed, or found to have occurred. Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to a Court or Courts of competent jurisdiction as in other cases provided.

(c) The Tax Collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer, in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such taxpayer, or supposed taxpayer, is hereby directed and required to give to the Tax Collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) The Tax Collector is further authorized to delegate any of his authority herein established or contained to other employees of the Borough of Monroeville or to accountants or auditors retained by the Borough of Monroeville for the purpose of assisting in the administration of this Ordinance and the enforcement and collection of the taxes imposed hereunder and of the auditing of the accounts of the taxpayers and persons licensed hereunder.

(e) The Tax Collector shall not receive any additional compensation for acting as such under the provisions of this Ordinance, but all expenses for the administration of this Ordinance, the enforcement and collection of the taxes imposed hereunder, and for the auditing of accounts shall be borne by the Borough of Monroeville.

SECTION 9. CONFIDENTIAL NATURE OF RETURNS, ETC.

Any information gained by the Tax Collector, or any other officer, 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, and divulgence of any information so gained is hereby declared to be a violation of this Ordinance, which may be punished by dismissal from office or employment.

SECTION 10. SUIT ON COLLECTION, PENALTY.

(a) The Tax Collector may sue for the recovery of taxes due and unpaid under this Ordinance and may enter such suit in the name of the Borough of Monroeville.

(b) If for any reason the tax is not paid when due in each year, interest at the rate of six per centum (6%) per annum on the amount of said tax, and an additional penalty of one per centum (1%) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the cost of collection and interest and penalties herein imposed.

SECTION 11. FINE AND PENALTIES - Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody, when the right to make such inspection by the Tax Collector is requested, and whoever fails or refuses to file a return required by this Ordinance, and whoever fails or refuses to procure a mercantile license when so required under this Ordinance, or fails to keep his license conspicuously posted at his place of business as herein required, shall, upon conviction before any Justice of the Peace or the Mayor, be sentenced to pay a fine of not more than Three Hundred (\$300.00) Dollars for each offense, and in default of payment of said fine, to be imprisoned in Allegheny County Jail for a period not exceeding thirty (30) days for each offense. Where the taxpayer is a firm or association, the fine or penalty may be imposed upon any of the partners or members thereof, and in the case of corporations, upon any of the officers thereof.

SECTION 12. SAVINGS AND SEVERABILITY CLAUSES.

(a) 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 any business not within the taxing power of

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the Borough under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(b) If the tax or any portion thereof, imposed upon a person under the provisions of this Ordinance shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania, the decision 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.

(c) 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 Monroeville that this Ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

SECTION 13. REPEALER - Any Ordinance or part of an Ordinance conflicting with the provisions of this Ordinance be and the same is hereby repealed, insofar as the same affects this Ordinance.

SECTION 14. EFFECTIVE DATE - The provisions of this Ordinance shall become effective January 1, 1968.

ORDAINED AND ENACTED into law in Council this 14th day of November, 1967.

BOROUGH OF MONROEVILLE

ATTEST:

By S/ Frank A. Witt  
President of Council

S/ Carrol F. Pickens  
Secretary

EXAMINED AND APPROVED by me this 14th day of November, 1967.

S/ John J. Duncan  
Mayor