

MUNICIPALITY OF MONROEVILLE  
ALLEGHENY COUNTY, PENNSYLVANIA

ORDINANCE NO. 1610

AN ORDINANCE OF THE MUNICIPALITY OF MONROEVILLE, COUNTY OF ALLEGHENY, AND COMMONWEALTH OF PENNSYLVANIA, TO PROVIDE FOR THE GENERAL REVENUE BY IMPOSING A TAX, PURSUANT TO THE LOCAL TAX ENABLING ACT OF 1965, AS AMENDED, UPON THE PRIVILEGE OF ENGAGING IN THE LANDFILL BUSINESS, AS MEASURED BY THE TONNAGE OF DISPOSABLE MATERIAL RECEIVED BY THE OPERATORS THEREOF; PROVIDING FOR THE LEVY AND COLLECTION OF SUCH TAX; PRESCRIBING REQUIREMENTS FOR RETURNS AND RECORDS; CONFERRING POWERS AND DUTIES UPON THE TAX COLLECTOR; AND IMPOSING PENALTIES FOR THE VIOLATION OF THIS ORDINANCE.

WHEREAS, the Municipality of Monroeville is desirous of instituting a tax on the operation of landfills located within the Municipality; and

WHEREAS, the Council of the Municipality of Monroeville has the authority under the Local Tax Enabling Act, Act of 1965, P.L. 1257, No. 511, 53 P.S. §6901 et seq., to levy, assess and collect such a tax;

NOW THEREFORE, BE IT ORDAINED AND ENACTED by the Council of the Municipality of Monroeville, and IT IS HEREBY ORDAINED AND ENACTED by the authority of the same, that a tax for general revenue purposes be and is hereby levied upon the privilege of engaging in the landfill business within the

Municipality of Monroeville, Allegheny County, Pennsylvania, pursuant to authority granted by the Local Tax Enabling Act of 1965, as amended.

SECTION 1. Definitions:

As used in this Ordinance, unless the context clearly indicates a different meaning, the following shall have the meanings ascribed them in this Section.

A. The term "Municipality" shall mean the Municipality of Monroeville.

B. The term "Person" shall mean any natural person, partnership, unincorporated association, or corporation.

C. The term "Landfill" shall mean any place where disposable material is dumped, stored, treated, buried, or otherwise disposed of.

D. The term "Disposable Material" shall include garbage, rubbish, waste material, clean fill, ashes, and refuse.

E. The term "Operator" shall mean any person owning, conducting or operating a landfill.

F. The term "Customer" shall mean any person paying consideration to an Operator for the disposal of disposable material.

SECTION 2. Imposition of Tax:

A tax for general revenue purposes is hereby levied upon Operators for the privilege of engaging in the landfill business within the Municipality of Monroeville at the rate of \$1.50 per ton of disposable material brought to the premises of

the landfill from a site within or outside of the Commonwealth, from the effective date of this Ordinance during the year 1988, and thereafter, from year to year on a calendar year basis. No person shall engage in such business without complying with all of the provisions of this Ordinance and paying the tax hereby levied.

SECTION 3. Returns and Payments:

Each Operator, upon forms prescribed by the Municipality, shall file on or before April 30, July 31, October 31, of the current tax year, and each year thereafter, and January 31 of the following year, and each year thereafter, returns stating the weight of disposable material received with respect to each landfill during the respective three-month period ending on the last day of the month preceding the month in which the return due date occurs, and providing any other information deemed necessary by the Municipality. The return shall be signed by the Operator. At the time of filing the return, the Operator shall pay to the Tax Collector of the Municipality of Monroeville all tax due for the period to which the return applies.

Any Operator who, for the preceding quarterly period has failed to pay over the proper amount of tax to the Tax Collector, or has failed to make timely payment, may be required to file subsequent returns and pay the tax monthly. In such cases, payments of the tax shall be made to the Tax Collector on or before the last day of the month succeeding the month for which the tax is due.

SECTION 4.      Timeliness of Payment:

An Operator shall be deemed to have made a timely payment of the tax if all of the following are met:

1.) The enclosed payment is for the full amount owned pursuant to this Ordinance, and no further action is required for collection.

2.) The payment is accompanied by the required form, and such form is complete for collection.

3.) The letter transmitting the payment to the Tax Collector is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

SECTION 5.      Records:

Each Operator that is required to pay the landfill tax shall keep daily records of all deliveries of disposable material to the landfill, as required by the Municipality, including, but not limited to, the name and address of the hauler, the source of the material, the kind of material received and the weight or volume of the material. Such records shall be maintained in Pennsylvania by the Operator for no less than five years and shall be made available to the Municipality for inspection upon request. Each Operator shall allow the Municipality and its designated employees and agents access to all such records and evidence at all reasonable times and shall provide verification of same, as the Municipality may require. The Tax Collector and designated agents are hereby authorized to examine the books,

papers and records of each Operator in order to verify the accuracy of any return made, or if no return has been made, to ascertain the tax due.

SECTION 6.            Exemptions:

Landfill operations involving the filling of property with clean common earth or rock on a site of one acre or less and containing less than 5000 tons are hereby exempt from the provisions of this Ordinance. However, the Operator must comply with all other ordinances of the Municipality pertaining to grading or excavation. This Ordinance shall not apply to the movement about of clean earth or rock on any one site or property. Such practices include the terms "balanced out and fill" or "on-site grading," and include special material delivered to a site for building construction, road or pavement construction or utility construction.

SECTION 7.            Confidentiality:

Any information gained by the Tax Collector, its agents, or any other official or agent of the Municipality pursuant to the administration of this Ordinance shall be confidential and shall not be disclosed except for official purposes or in accordance with proper judicial order or for purposes expressly authorized by this Ordinance. The Tax Collector and its agents shall have the duty to disclose the average standard unit rates, on request, to any Operator having a proper use of them and any change in formula allowed by the

Municipality to any Operator shall be disclosed to all Operators.

SECTION 8. Payment Under Protest:

The Tax Collector is hereby authorized to accept payment under protest of any taxes claimed by the Municipality in any case where the taxpayer disputes the validity or amount of the Municipality's claim to tax. If it is thereafter judicially determined that the Municipality has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

SECTION 9. Collection of Delinquent Taxes:

The Tax Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Ordinance and unpaid. If, for any reason, any tax is not paid when due, interest at the rate of six percent (6%) per year on the amount of unpaid tax shall be added to the tax and collected. The taxpayer shall be liable for all costs of collection. The remedies provided in this section are in addition to any other remedies provided at law or in equity.

SECTION 10. Fines and Penalties for Violation:

In addition to the interest provided in Section 9, if an Operator fails to make timely payment of the landfill tax, there shall be added to the amount of fee actually due, 5 percent of the amount of such fee, if the failure to file a timely payment is for not more than one month, with an additional 5 percent for each additional month, or fraction thereof, during

which such failure continues, not exceeding 25 percent in the aggregate.

SECTION 11.      Assessment Notices:

If the Municipality determines that any Operator of a landfill has not made a timely payment of the landfill tax, it will send a written notice for the amount of the deficiency to such Operator within 30 days from the date of determining such deficiency. When the Operator has not provided a complete and accurate statement of the weight or volume of disposable material received at the landfill for the payment period, the Municipality may estimate the weight or volume in its deficiency notice.

SECTION 12.      Constructive Trust:

All landfill tax collected by an Operator and held by such Operator prior to payment to the host Municipality shall constitute a trust fund for the Municipality, and such trust shall be enforceable against such Operator, its representatives and any person receiving any part of such fund without consideration or with knowledge that the Operator is committing a breach of the trust. However, any person receiving payment of lawful obligation of the Operator from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

SECTION 13. Applicability and Severability:

If a final decision of a court of competent Jurisdiction holds any provisions of this Ordinance or the application of any provision to any person or circumstance to be illegal or unconstitutional, the other provisions of the Ordinance and the application to other persons and circumstances shall remain in full force and effect. It is hereby declared to be the intent of the Municipal Council of the Municipality of Monroeville that the Ordinance would have been adopted if such unconstitutional, illegal, or invalid provision had not been included herein.

SECTION 14. Effective Date:

This Ordinance shall become effective in thirty (30) days.

ORDAINED AND ENACTED into law this 12 day of

January, 19 88.

ATTEST:

Washington C. Alton

THE MUNICIPALITY OF MONROEVILLE

BY

Michael P. Lynch