

MUNICIPALITY OF MONROEVILLE

ORDINANCE NO. 2238

AN ORDINANCE OF THE Municipality of Monroeville AMENDING THE BUSINESS LICENSE ORDINANCE NO. 417 AND ORDINANCE NO. 1166, AND THE SUBSEQUENT AMENDMENTS, IMPOSING A BUSINESS LICENSE ON PERSONS ENGAGED IN CERTAIN OCCUPATIONS AND BUSINESSES THEREIN; PROVIDING FOR ITS LEVY AND COLLECTION AND FOR THE ISSUANCE OF BUSINESS LICENSES; AND CONFERRING AND IMPOSING POWERS AND DUTIES ON THE TAX COLLECTOR OF THE Municipality of Monroeville; AND IMPOSING INTEREST AND PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the MUNICIPALITY OF MONROEVILLE currently has in place and Business License Ordinance; and

WHEREAS, the MUNICIPALITY OF MONROEVILLE wishes to amend the Business License Ordinance; and

The Council of the MUNICIPALITY OF MONROEVILLE, under the authority of the "Local Tax Enabling Act" No. 4511 of 1965, as amended, hereby enacts as follows:

**Section 1. Title.** This Ordinance shall be known and may be cited as the "Business License Ordinance."

**Section 2. Definitions and Word Usage.** As used in this Ordinance, unless the context indicates clearly a different meaning, the following words and phrases shall have the meanings set forth below:

**BUSINESS LICENSE YEAR** -- The twelve month period beginning on the first day of January and ending on the 31<sup>st</sup> day of December and each calendar year thereafter.

**MUNICIPALITY** -- The Municipality of Monroeville.

**PERSON** -- Any natural person, individual, partnership, association or corporation, nonprofit or otherwise. Whenever used in any provision prescribing a fine or a penalty, the word "person," as applied to partnerships, shall mean the partners thereof and, as applied to corporations and unincorporated associations, shall mean the officers thereof.

**PLACE OF AMUSEMENT** -- 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 or recreation, including, among other places, theaters, opera houses, motion-picture houses, amusement parks, stadiums, arenas, baseball or football parks or fields, skating rinks, circus or carnival tents or grounds, fairgrounds, bowling alleys, billiard or pool rooms, nine- or tenpin alleys, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges and other like places.

**RETAIL DEALER or RETAIL VENDOR** -- Any person who is a dealer or vendor of goods, wares and merchandise who is not a wholesale dealer or vendor.

TAX COLLECTOR -- The Monroeville Municipal Manager or such other person appointed by the Manager for the collection of the taxes imposed under this Article.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS -- Any business that is conducted at one (1) location for less than sixty (60) consecutive days.

WHOLESALE DEALER or WHOLESALE VENDOR -- Any person who sells to dealers in, or vendors of, goods, wares and merchandise and to no other persons.

**Section 3. Issuance of Licenses.** For the Mercantile license year 1968 and Business License year 1980 annually thereafter, the municipality shall issue a business license in the manner and for the fees hereinafter set forth.

**Section 4. License required; Fees; Posting.** For the Mercantile license year 1964 and Business License year 1980 annually thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in business, including 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 is incidental to some other business or occupation, shall, on or before the 15th day of January of each license year, procure a business license upon the payment of a fee of twenty-five dollars (\$25) for his place of business or if engaged in both wholesale and retail activities a fee of fifty dollar (\$50) for his place of business or, if more than one (1), for each of his places of business in the municipality from the Tax Collector as required by law. Such license shall be conspicuously posted at the place of business. A licensee maintaining more than one place of business within the city shall post a single license at his principal place of business in Monroeville for payment of all locations. Such license shall be valid only for the person to whom issued and shall not be transferable or assignable to any other person. Any person who is in default of payment of any tax, interest or penalty imposed hereunder shall forfeit such license until said tax, interest or penalty is paid in full.

**Section 5. Payment at time of filing return; Registration Required.** The person applying for the license shall at the time of filing pay the license amount as due thereon to the Tax Collector. Within 30 days of commencing business in Monroeville, every person shall forthwith register with the tax collector and set forth his name, address, business address, tax identification number, and the nature of the business activity in which he is engaged. Every person making a business registration shall certify the correctness thereof by affidavit. Such registration shall be made by the completion of an application furnished by the Tax Collector and the payment of a registration fee to be established by the Municipality. If an individual or business entity conducts business under a fictitious name, such individual or entity shall apply for registration in both the true and fictitious names of the individual and entity and shall list the fictitious name first on the application. Each separate individual or business entity shall apply for a separate registration.

Each person in the Municipality who leases property, products or services used by a business, as defined in this article, shall file a form with the Municipality on or before January 15 of each tax year that sets forth the names and present addresses of each of the lessees in the Municipality during both the preceding tax year and the current tax year. Any person who owns or leases any facility or property used for the purpose of conducting an itinerant business shall supply the Business Tax Receiver with the name and address of every itinerant merchant or promoter leasing or using such property or

facility, together with such other information as the Business Tax Receiver may request to establish the nature of the goods or services to be displayed or sold, and the duration of the show. Such information must be provided to the Business Tax Receiver, in writing, 45 days prior to the opening of a show.

#### **Section 6. Powers and duties of Tax Collector.**

A. It shall be the duty of the Tax Collector to collect and receive the licenses, fines, interest, 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 license 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 reexamination and correction of forms and payments alleged or found to be incorrect or as to which an overpayment 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 compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of Monroeville business activity.

D. 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 payment made or, if no payment was made, to ascertain the license 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.

E. The tax collector is further authorized to delegate any of his authority herein established or contained to other employees of the Municipality of Monroeville or to accountants, auditors or collectors retained by the Municipality of Monroeville for the purpose of assisting in the administration of this Ordinance and the enforcement and collection of the license imposed hereunder and of the auditing of the accounts of the taxpayers and persons licensed hereunder.

F. 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 license imposed hereunder and the auditing of accounts shall be borne by the Municipality of Monroeville.

#### **Section 7. Confidential nature of returns.**

Any information gained by the Tax Collector or any other officer, official, agent or employee of the municipality 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 8. Violations and penalties.**

Whoever fails to comply with the provisions of this ordinance or makes any false or untrue statement on his registration application 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 shall, upon conviction in any court of competent jurisdiction, be sentenced to pay a fine of not more than six hundred dollars (\$600), plus costs of prosecution for each offense and, in default of payment of said fine and costs, 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. Each day on which any person violates this Article shall be considered as a separate offense and shall be punishable as such as hereinbefore provided.

**Section 9. Construal of provisions; severability.**

A. Nothing contained in this Ordinance shall be construed to empower the Municipality of Monroeville to levy and collect the taxes or licenses hereby imposed on any person or any business or any portion of any business not within the taxing power of the Municipality of Monroeville under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

B. If the license, or any portion thereof, imposed upon any 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 license or taxes or the validity of the license or taxes so imposed upon other persons as herein provided.

C. If a final decision of a court of competent jurisdiction holds any provision of this Ordinance, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions of this Ordinance, or the application of such provision to other circumstances, shall remain in full force and effect. The intention of the Council is that the provision of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provisions had not been included.

**Section 10. Payment under protest; refunds.**

A. The Tax Collector is hereby authorized to accept payment under protest of the amount of business license claimed by the municipality in any case where the taxpayer disputes the validity or amount of the municipality's claim for the license. If it is thereafter judicially determined by a court of competent jurisdiction that the municipality 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.

B. Claims for refunds of licenses erroneously withheld or paid may be filed with the Tax Collector. A claim for refund must be filed within three (3) years of the due date of the return or within one (1) year of payment, whichever is later, which allegedly was filed or paid in error. A claim must be prepared in a manner to be designated by the Tax Collector and must be accompanied by a true copy of the claimant's federal income tax

return. The burden of proof of earning is on the taxpayer and must be submitted to the satisfaction of the Tax Collector.

**Section 11. Effective Date.**

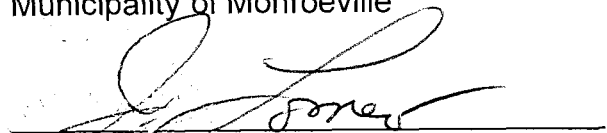
This Ordinance shall become effective January 1, 2003 and shall remain in effect thereafter from year to year on a calendar basis.

**Section 12. Repealer.**

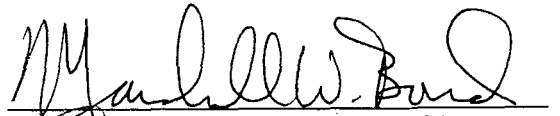
Any Ordinance or part of ordinance conflicting with any of the provisions of this Ordinance shall be and the same is hereby repealed insofar as the same affects this Ordinance.

ORDAINED AND ENACTED this 10<sup>th</sup> day of December, 2002.

Municipality of Monroeville

  
James Lomeo, Mayor

Attest:

  
Marshall W Bond, Municipal Manager

Entered into the Legal Book: December 20, 2002