

AN ORDINANCE

IMPOSING A TAX FOR GENERAL REVENUE PURPOSES ON ALL INDIVIDUALS FOR THE PRIVILEGE OF ENGAGING IN OCCUPATIONS WITHIN THE CORPORATE LIMITS OF THE BOROUGH OF FREEPORT, AT THE RATE OF FIVE (\$5.00) DOLLARS PER YEAR; PROVIDING FOR ITS COLLECTION; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING SAID TAX FROM EVERY INDIVIDUAL IN THEIR EMPLOY SUBJECT TO SAID TAX AND REMITTING AND PAYING OVER THE SAME TO THE COLLECTOR OF TAX, CONFERRING AND IMPOSING POWERS AND DUTIES OF ADMINISTRATION ON THE BOROUGH COUNCIL; AND IMPOSING PENALTIES FOR THE VIOLATION THEREOF, UNDER THE PROVISIONS OF ACT 511 OF 1965, as amended.

BE IT ORDAINED AND ENACTED by the Council of the Borough of Freeport and it is hereby ordained and enacted by authority of the same.

SECTION 1. 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 or language clearly indicates or requires a different meaning.

(a) Individual shall mean any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Freeport, Armstrong County, Pennsylvania.

(b) Occupation shall mean any trade, profession, business or undertaking of any type, kind, or character, including services domestic or other, carried on or performed within the corporate limits of the Borough of Freeport, for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered provided that the total earnings of the taxpayer exceed \$1,000.00.

(c) Employer shall mean an individual, partnership, association, corporation, governmental body, agency, or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.

178

- (d) Tax shall mean the Occupation Privilege Tax in the amount of Five (\$5.00) Dollars levied by this Ordinance.
- (e) Collector shall mean the person authorized to receive payment of the tax imposed herein.
- (f) Council shall mean the Town Council of the Borough of Freeport under whose direction this tax shall be enforced.
- (g) Fiscal Year shall mean the Calendar twelve (12) month period commencing the first day of January in each year.
- (h) Borough shall mean the Borough of Freeport, Armstrong County, Pennsylvania.
- (i) He, His, or Him shall mean and indicate the singular and plural member as well as male, female and neuter gender.

SECTION 2. LEVY

Pursuant to the provisions of Act 511 of 1965, as amended, known as "The Local Tax Enabling Act", Borough hereby levies and assess a tax in the amount of Five (\$5.00) Dollars per annum on all individuals for the privilege of engaging in an occupation, the earnings of which exceed \$1,000.00 within the corporate limits of Borough commencing the first day of July 1968 for the fiscal year of 1968 and for each fiscal year commencing the first day of January thereafter. This tax is in addition to all other taxes of any kind or nature levied by Borough.

SECTION 3. DUTY OF EMPLOYERS

Each employer within Borough and each employer outside Borough who engages in business within Borough is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within Borough the said Tax of Five (\$5.00) Dollars per annum and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this Tax from each employee in his employ, whether said employee is paid by salary wages or commission and whether or not part or all such services are performed within Borough.

139

SECTION 4. RETURNS

Each employer shall prepare and file a monthly return showing a computation of the Tax on forms to be supplied to him by Collector. Each employer in filing this return and making payment of the Tax withheld from his employees shall be entitled to retain a commission calculated at the rate of two per centum (2%) of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. It is further provided that if the employer fails to file said return and pay said Tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to said employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

SECTION 5. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT

Each employer shall use his employment records from the first day of January and as modified throughout the year to determine the number of employees from whom said tax shall be deducted and paid over to the Collector. Reports shall be made monthly on each employee who qualifies for tax liability and shall be filed with the Collector on or before the 15th day following the completion of each month.

SECTION 6. INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION

Each individual who shall have more than one occupation within the Borough of Freeport shall be subject to the payment of this Tax on his principal occupation and his principal employer shall deduct this Tax and deliver to him evidence of deductions on a form to be furnished to the employer by Collector, which form shall be evidence of deduction having been made; and when presented to any other employer shall be authority for such employer not to deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this Tax.

116

SECTION 7. SELF-EMPLOYED INDIVIDUALS

All self-employed individuals who perform services of any type or kind, engage in any occupation or profession within the limits of Borough shall be required to comply with this ordinance and pay the tax of Five (\$5.00) Dollars to the Collector on or before the 15th day of the month following the month in which the tax liability has been established.

SECTION 8. EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS RESIDING BEYOND THE CORPORATE LIMITS OF THE BOROUGH OF FREEPORT.

All employers and self-employed individuals residing or having their places of business outside the Borough, but who perform services of any type or kind or engage in any occupation or profession within the Borough do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated herein with the same force and effect as though they were residents of Borough. Further, any individual engaged in an occupation within the Borough and an employee of a nonresident employer, may for the purpose of this ordinance, be considered a self-employed person, and in the event this tax is not paid, Borough shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 9. ADMINISTRATION OF TAX

(a) Council shall by resolution appoint a collector of the tax imposed herein to be known as the "Collector", and shall fix his compensation therefor.

(b) It shall be the duty of the collector to collect, accept and receive payments of the said tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received and to pay over the tax collected to the Borough Treasurer.

(c) Council is hereby charged with the administration and enforcement of this ordinance and is hereby charged and empowered to prescribe adopt, promulgate rules and regulations relating to any matter pertaining to

, 61

administration and enforcement of this ordinance including provisions for the examination of the payroll records of any employer subject to this ordinance and the examination and correction of any return made in compliance with this ordinance and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by a decision of the Council shall have the right to appeal to the Court of Common Pleas of Armstrong County as in other cases provided.

(d) The Collector is hereby authorized to examine the books and payroll records of any employer or taxpayer in order to verify the accuracy of any return or, if no return was made, to ascertain the tax due. Each employer and taxpayer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

#### SECTION 10. DELINQUENCIES

The Collector, or other appropriate officer, agent or employee of Borough is authorized to use all legal means to collect any tax imposed herein which becomes delinquent by the means provided in Act 511 of 1965, as amended, and particularly sections 19, 20, and 21 thereof, together with interest at the rate of 6% per annum and all penalties and costs as provided in said act.

#### SECTION 11. FINE AND PENALTY

Whoever makes any false or untrue statement on any return required by this ordinance, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or, whoever fails or refuses to file any return required herein, shall, upon conviction before the Mayor or any Justice of the Peace or Magistrate, be sentenced to pay a fine not to exceed One Hundred (\$100.00) Dollars for each offense and in default of payment of said fine be imprisoned in the County Jail for a period not to exceed thirty (30) days for each offense. It is further provided that the action to enforce the fine and penalty herein provided may be instituted against any person in charge of the business of any employer who has failed or refuses to file a return required herein.

117

SECTION 12. VALIDITY

The provisions of this ordinance are severable and if any of its provisions shall be held invalid or unconstitutional the decisions of the Court shall not effect or invalidate any of the remaining provisions. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

SECTION 13. REPEALER

All other Ordinances or parts of Ordinances inconsistent herewith are hereby repealed.

DONE, ORDAINED and ENACTED at a Regular Meeting of the Town Council of the Borough of Freeport the 14th day of February 1968.

BOROUGH OF FREEPORT

Alfred A. Atkinson  
President of Council

ATTEST:

Elizabeth J. Antonina  
Borough Secretary

Examined and approved this 16<sup>th</sup> day of Feb., 1968

James H. Stolf  
Mayor