

ORDINANCE NO. 2012-03

AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL, A FIRST CLASS TOWNSHIP UNDER THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, ENACTING AN OFF-PREMISES ADVERTISING TAX IN THE AMOUNT OF TWO (2%) PERCENT OF THE CONSIDERATION PAID FOR THE PURCHASE, LEASE OR RENTAL OF OFF-PREMISES ADVERTISING IN HOPEWELL TOWNSHIP

WHEREAS, the Board of Commissioners of Hopewell Township are desirous of repealing Ordinance No. 2009-03 which will be replaced in its entirety by this Ordinance.

NOW THEREFORE, the Board of Commissioners of Hopewell Township, Beaver County, Pennsylvania, under and by the authority granted by the First Class Township Code and the Local Tax Enabling Act, do hereby enact and ordain:

Section 1. Title. - This Ordinance shall be known as the “ Off-Premises Advertising Tax.”

Section 2. Purpose. – The purpose of this off-premises advertising tax is for raising general revenue as provided in the Local Tax Enabling Act and is imposed without regard to the content of the message contained in said advertising. Signs containing off-premises advertising are of considerable size and bare no direct relationship to the activities on the property on which they are located, the messages contained on such signs generally change on a frequent basis and through leasing and rental fees, such signs have the capacity to generate income for the owners, i.e., they are a business in and of themselves. Off-premises advertising by its very nature has an impact on the aesthetics of Hopewell Township and increases the volume of traffic and costs associated with police, fire and emergency management services. These concerns do not similarly exist with regard to on-premises advertising.

Section 3. Definitions. - The following words and phrases as used in this Ordinance shall have the meanings ascribed to them in this Section, unless the context clearly indicates a different meaning:

(a) Collector: Manager of the Township of Hopewell and/or any Township designated agent.

(b) Consideration: Monies or any other things exchanged for in-kind value.

(c) Off-Premises Advertising: A message on a billboard or free-standing sign (as defined by the Hopewell Township Zoning Ordinance) which is unrelated to a business or profession conducted upon the premises where such sign is located or which is unrelated to a commodity, activity, person, service or entertainment sold or offered upon the premises where

such sign is located or which directs attention to a business, industry, profession, commodity, service organization, activity, institution, product or entertainment neither sold, located nor offered upon the property where the sign is situated.

(d) Township: The Township of Hopewell

Section 4. Imposition of Tax. – The owner/lessee/licensee of any billboard or free-standing sign structure, situate in Hopewell Township, that contains off-premises advertising shall pay an off-premises advertising tax which shall be calculated as Two (2%) Percent the total consideration paid for the purchase, lease or rental price of advertising space on a billboard or free-standing sign. Consideration shall not include the price paid by the owner/lessee/licensee of the real property for the construction or erection of a sign support structure or repairs or maintenance made thereto.

Section 5. Reports, Returns, Payment and Collection of Tax.

(a) All taxes collected by the owner/lessee/licensee of the real property and/or sign structure in accordance with this Chapter shall constitute a trust fund for the Township and such trust fund shall be enforceable against such person and any person receiving any part of such fund without consideration, or knowing that the owner/lessee/licensee is committing a breach of trust; provided, however, that any person receiving payment of a lawful obligation of the owner/lessee/licensee from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust.

(b) Every owner/lessee/licensee of the real property and/or sign structure in accordance with this Chapter shall collect the tax imposed by this Chapter from the renter or purchaser of advertising space at the time the space is rented or purchased, and shall pay it over to the Township as provided hereinafter. If an owner/lessee/licensee of the real property and/or sign structure fails to collect the tax or pay it to the Township when due, the owner/lessee/ licensee of the real property and/or sign structure shall be liable to the Township for the payment of the tax plus penalties and interest as hereinafter set forth.

(c) Every owner/lessee/licensee of the real property and/or sign structure in accordance with this Chapter shall transmit to the Collector on the 15th of July and the 15th of January of every year a return for the preceding six (6) months in which the return is made, which return shall report the amount of consideration received for off-premises advertising transactions during the preceding six (6) months, the amount of the tax due from off-premises advertising transactions for those six (6) months and such other information as the Collector may require. This tax is to be collected by the owner/lessee/licensee of the real property and/or sign structure each and every time that consideration is paid for off-premises advertising.

(d) Every report or return shall be made upon a form furnished by the Collector.

(e) Every owner/lessee/licensee of the real property and/or sign structure, at the time of filing every return required by this Chapter, shall compute and pay to the Collector the taxes shown as due on the return for the period for which the return is made.

(f) Every owner/lessee/licensee of the real property and/or sign structure in accordance with this Chapter shall maintain records, which shall be made available to the Collector upon request, which shall include, but not be limited to, the number of advertising transactions on a daily or weekly basis, the rate(s) charged for each transaction, the consideration received from all transactions during the six (6) months for which each return is made, as well as such other information as the Collector may require.

Section 6 Duties of Collector.

(a) It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this Ordinance. It shall also be the duty of the Collector to keep a record showing the amount of tax received and the date of payment.

(b) The Collector, or any agent designated by the Collector, is hereby authorized to examine the books, papers and records of any taxpayer or of any person whom the Collector reasonably believes to be a taxpayer, in order to ascertain the tax due. Every taxpayer and every person whom the officer reasonably believes to be a taxpayer is hereby directed and required to give to the Collector, or any agent designated by the Collector, the means, the facilities and opportunity for such examination and investigations as are hereby authorized.

(c) The Collector is hereby authorized and directed to make and keep such records, prepare such forms and take such other measures as may be necessary or convenient to carry this Ordinance into effect.

(d) If any person shall neglect or refuse to make payment of the tax required by this Ordinance, the Collector shall determine the amount due for taxes, penalties and interest thereon.

(e) The burden is hereby imposed upon any person claiming an exemption from the payment of the tax hereby imposed to prove by clear and convincing evidence the legal right of such exemption to the satisfaction of the Collector.

(f) Any information obtained as a result of the examination of the books and records of the taxpayer through investigations, hearings or verifications shall be confidential except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

(g) The Collector is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the Ordinance, including provisions for all payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred and to make refunds in case of overpayment, for any period of time not to exceed three (3) years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the

Ordinance. A copy of such rules and regulations currently enforced shall be available for a public inspection.

Section 7. Method of Recovery.

(a) All taxes due and unpaid under this Ordinance shall be recoverable by the Township Solicitor as other debts due the Township are now by law recoverable. Persons liable for tax hereunder which remains unpaid when due shall be liable for the cost of collection and interest and penalties herein imposed including reasonable attorney fees incurred by the Township relative thereto.

(b) All taxes due under this Ordinance shall bear interest at the rate of one and one half (1- 1/2%) percent per month or a fractional part of a month from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any payment as herein required, an additional ten (10%) percent of the amount of the tax shall be added by the Collector and collected.

(c) All taxes, interests and penalties received, collected or recovered under the provisions of this Ordinance shall be paid into the treasury of the Township for the use and benefit of the Township.

Section 8. Limitations. - Nothing contained in this Ordinance shall be construed to empower the Township 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 the Township under the Constitution of the United States and the Constitution and Laws of the Commonwealth of Pennsylvania.

Section 9. Severability. - The provisions of this Ordinance are severable, and if any of its provisions or exemptions shall be held to be illegal, invalid or unconstitutional, or invalid or unconstitutional as to any part of the period designated herein as the tax year, the decisions of any court shall not affect or impair any of the remaining provisions of this Ordinance or affect or impair its application as to any other part of the said tax year, and the requirements as to the tax shall operate as of the effective date of this Ordinance and the computation of tax in payment thereof shall be applied and adjusted accordingly.

Section 10. Violations and Penalties. - Any person or any officer, agent, servant or employee thereof who shall fail, neglect or refuse to comply with any of the terms or provisions of this Ordinance shall, upon conviction before a District Justice, be sentenced to pay a fine of not less than Twenty Five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) and costs of prosecution for each offense to be collected as other fines and costs are now by law collectible, or imprisonment not exceeding ninety (90) days, if the amount of said fine and costs shall not be paid. The fine imposed by this Section shall be in addition to any other penalty

imposed by any other Section of this Ordinance. Each day on which such person violated the Ordinance will be considered as a separate offense and punishable as provided herein.

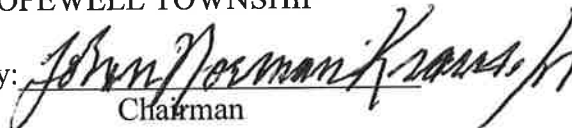
Section 11. Effective Date. - This Ordinance and the taxes levied hereby shall become effective Thirty (30) days following passage. The repeal of Ordinance No. 2009-03 shall be effective immediately.

ENACTED AND ORDAINED by the Board of Commissioners of Hopewell Township, Beaver County, Pennsylvania, this 11th day of JUNE, 2012.

Attest:


Secretary

BOARD OF COMMISSIONERS OF
HOPEWELL TOWNSHIP

By: 
Chairman

**TOWNSHIP OF HOPEWELL
Beaver County, Pennsylvania
BOARD OF COMMISSIONERS
WORKSHOP MINUTES**

June 11, 2012
Meeting in Session at 6:30 p.m.

6:30pm: Workshop Meeting Called to Order by Mr. Kraus and that the meeting will be recorded

ROLL CALL

President

Norm Kraus Jr.

Vice President

Rich Bufalini

Commissioners

Nick DiPietro

Joe Kusnir Arrived at 6:35pm

Brian Rohm

Others Present

Andy Brunette, Township Manager/Controller

Marie Stratakis-Hartman, Township Engineer

Mike Jones Township Solicitor

6:30pm ENGINEERS REPORT Marie Stratakis-Hartman (Report on File)

7:39pm CITIZEN COMMENTS PERTAINING TO THE BUSINESS AGENDA NONE

7:39pm BUSINESS AGENDA

Mr. Bufalini Motion to approve the Workshop Minutes of May 14, 2012

Mr. Kusnir Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Rohm Motion to approve the list of bills dated for June 11, 2012

Mr. Kusnir Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes (except for page 2 of the General Fund list of bills invoice for Bufalini's Plumbing Solution
Mr. Bufalini abstained)

Mr. Kraus Yes

Motion Carried

Page 2, June 11, 2012 Workshop Meeting Minutes

Mr. Kusnir Motion to approve the maintenance agreement between the residents of Robin Street and Hopewell Township
Mr. Rohm Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. Bufalini Motion to approve Ordinance 2012-03 an ordinance of the Township of Hopewell Beaver County Pennsylvania, a First class Township under the law of the Commonwealth of Pennsylvania, enacting an off-premises advertising tax in the amount of two (2%) of the consideration paid for the purchase, lease or rental of off-premises advertising in Hopewell Township
Mr. Kusnir Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. Bufalini Motion to accept Chief Eugene Ungarean's retirement into the deferred retirement option program effective June 9, 2012. Chief Ungarean will be paid out all retirement benefits on June 22, 2012
Mr. Rohm Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. DiPietro Motion to approve Beaver County Beverage the vendor for the provision of beer, wine coolers, soda, water, plastic cups and the beer draft wagon for Park Fest 2012 in the amount of \$4,126.98 per budget line item 1-454-470 as recommended by the Park Board
Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. DiPietro Motion to approve G.C. Supply, Inc. for the rental of a six (6) passenger golf cart for four (4) days for Park Fest 2012 in the amount of \$500.00 per budget line item 1-454-470 as recommended by the Park Board unanimously

Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. DiPietro Motion to approve the rental of six (6) portable toilets and two (2) sinks from Royal Flush in the amount of \$759.00 for Park Fest 2012 per budget line item 1-454-470 as recommended by the Park Board unanimously

Mr. Rohm Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Kusnir Motion to approve the Township Engineer to advertise for bid the Raccoon Plant Aeration Project

Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Kraus Motion to approve the removal of two (2) stop-signs along Yale Avenue in accordance with Pennsylvania's uniform vehicle code during the 2012 Road Paving Program and all cost associated with the expense of the removal

Mr. Rohm Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir No

Mr. Rohm Yes

Mr. Bufalini No

Mr. Kraus Yes

Motion Carried

7:46pm **ITEMS FOR DISCUSSION**

Mike Jones and the engineer are still working on revising the grading and filling ordinance and also the property maintenance ordinance. Mr. Jones passed out a letter that would be sent to Shadow Lakes Country Club in response to the malfunctioning storm sewer inlet. Mr. Jones and the Township Engineer discussed the Westfield Towers maintenance bond and that they are still in need of additional information from Westfield Towers in order to complete the bond. The Manager advised the Board that he is waiting to hear back from First Energy and Direct Energy on residential generation rate proposals. The Manager updated the Board on the progress of picking a company to assist the Township in marketing Township assets to developers as well as looking to move forward in redeveloping the Township website. The Manager also updated the Board on a meeting that Mr. Brunette and Mr. Kraus attended with the Beaver County Commissioners in regards to the movement of the Magistrate Office. The county agreed to have an appraisal done on the property so that the Township would be able to let developers know what the cost up front would be to move and buy the property.

Mr. Kusnir Motion to approve the advertisement of the proposed property maintenance ordinance
incorporating Hopewell Township's zoning officer's comments
Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. Kusnir Motion to approve the advertisement of the proposed Hopewell Township parking tickets and
procedure ordinance
Mr. DiPietro Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. Kusnir Motion to approve the advertisement of the 2013 Hopewell Township Garbage bid
Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes
Mr. Kusnir Yes
Mr. Rohm Yes
Mr. Bufalini Yes
Mr. Kraus Yes

Motion Carried

Mr. Rohm Motion to approve Ordinance 2012-03 an ordinance of the Township of Hopewell Beaver County Pennsylvania, a First class Township under the law of the Commonwealth of Pennsylvania, enacting an off-premises advertising tax in the amount of two (2%) of the consideration paid for the purchase, lease or rental of off-premises advertising in Hopewell Township

Mr. DiPietro Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Bufalini Motion to accept the highest bidder of Brown's Auto Salvage in the amount of \$2,650.00 for the sale of the 1997 Ford F-350 Turbo Diesel Dump Truck

Mr. Kusnir Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Kusnir Motion to accept the highest bidder of Sandra Samovoski in the amount of \$6,000.00 for the sale of Township property located at 634 Monaca Road

Mr. Rohm Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

Mr. Kusnir Motion to Hopewell Township's Clerical Contract with local union IBEW 385 effective January 1, 2103 expiring December 31, 2016

Mr. Bufalini Second the motion

Roll Call Vote:

Mr. DiPietro Yes

Mr. Kusnir Yes

Mr. Rohm Yes

Mr. Bufalini Yes

Mr. Kraus Yes

Motion Carried

8:38pm CITIZENS FORUM

Jim Maclaren 1089 Croxall Ave

Mr. Maclaren wanted to thank the Board for having the double lines painted outside of the municipal building on Circle Drive to the School District property

8:38pm **NEW BUSINESS** **None**

8:38pm **OLD BUSINESS** **None**

8:42pm **EXECUTIVE SESSION** **None**

8: 43pm **ADJOURNMENT**

Mr. Bufalini Motion to adjourn
Mr. Rohm Second the motion
Voice Vote: All in favor
Motion Carried

Minutes Recorded by: Andy J. Brunette 06/11/12
Minutes Prepared by: Andy J. Brunette 06/12/12