

Ord 72-3

Merchandise Tax

5/27/1972

ORDINANCE NO. 72-3

AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL, BEAVER COUNTY, PENNSYLVANIA, IMPOSING AN ANNUAL MERCANTILE LICENSE TAX UPON PERSONS ENGAGING IN CERTAIN OCCUPATIONS WITHIN THE CORPORATE TERRITORY LIMITS OF THE TOWNSHIP OF HOPEWELL; PROVIDING FOR THE ISSUANCE OF MERCANTILE LICENSES; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID LICENSE TAX AND THE IMPOSITION OF PENALTIES.

BE IT ORDAINED by the Board of Commissioners of the Township of Hopewell, a municipal corporation under The First Class Township Code situate in the County of Beaver and Commonwealth of Pennsylvania, AND IT IS HEREBY ORDAINED:

ENACTMENT

SECTION 1. This Ordinance is enacted pursuant to the authority conferred by The Local Tax Enabling Act [53 P.S. § 6901 ff.], as amended.

EFFECTIVE DATE

SECTION 2. This Ordinance shall be effective on July 1, 1972.

SHORT TITLE

SECTION 3. This Ordinance shall be known and may be cited as "The Mercantile License Tax Ordinance of the Township of Hopewell".

DEFINITIONS

SECTION 4. The following words when used in this Ordinance shall have the meanings ascribed to them in this Section, except in those instances where the context clearly indicates a different meaning.

(a) "Collector" shall mean the agent designated by the Board of Commissioners of the Township of Hopewell to collect the license tax imposed by this Ordinance and to administer the provisions thereof.

(b) "License Fee" shall mean the annual filing or registration fee imposed to administer the regulatory provisions of this Ordinance. The payment of such license fee shall not relieve the holder from payment of the tax imposed by this Ordinance.

(c) "Person" shall mean any individual, partnership, limited partnership, association or corporation engaging in any activity which is the subject of the excise tax imposed by this Ordinance. Whenever used in a section prescribing and imposing a fine or imprisonment, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

(d) "Retailer" shall mean a dealer, vendor or proprietor who sells to persons who are not engaged in the business of reselling.

(e) "Taxable Period" shall mean the period beginning July 1, 1972 and ending December 31, 1972 and each succeeding calendar year thereafter, commencing January 1, 1973.

(f) "Taxpayer" shall mean any person engaging in any taxable business activity within the corporate limits of the Township during the taxable period.

(g) "Temporary, Seasonal or Itinerate Business" shall mean any business that is conducted at one location for less than sixty (60) consecutive calendar days.

(h) "Township" shall mean the Township of Hopewell, a municipal corporation of the Commonwealth of Pennsylvania, being situate in the County of Beaver in said Commonwealth.

(i) "Whole Volume of Business" shall mean the gross receipts of the business activity during the taxable period, provided that the dollar volume of business derived from the resale of goods, wares and merchandise taken as a trade-in or a part payment for other goods shall not be included in computing the whole volume of business, except to the extent that the resale price may exceed the trade-in allowance. For taxpayers electing to employ the accrual method for bookkeeping purposes, gross receipts shall include cash transactions and accounts receivable; for taxpayers electing to employ the cash method for bookkeeping purposes, gross receipts shall include cash transactions only.

(j) "Wholesale" shall mean a dealer, vendor or proprietor who sells to persons who are engaged in the business of reselling.

#### IMPOSITION OF TAX

SECTION 5. An annual excise tax for general revenue purposes is hereby imposed upon any person engaging in the following business activities within the corporate limits of the Township:

(a) engaging in the sale of goods, wares and merchandise;

- (b) engaging in the sale of food, drink (alcoholic and non-alcoholic) and refreshments;
- (c) engaging in the sale of cigarettes and other tobacco products, carbonated beverages and soft drinks, and candy and confections from coin-operated mechanical devices;
- (d) engaging in amusement and/or entertainment produced by or derived from coin-operated mechanical and/or electronic devices;
- (e) engaging in amusements and/or entertainment whether indoors or outdoors and whether or not conducted in conjunction with any other activity subject to the tax imposed by this Ordinance; PROVIDED, however, that any non-profit corporation or association organized for religious, charitable or educational purposes engaging in such activity shall be exempt from the tax imposed by this Ordinance.
- (f) engaging in commission sales, except as a securities broker or real estate broker, including without limitation, merchandise brokers, freight brokers, factors and commission agents.

Said tax shall be effective July 1, 1972 and shall continue in force through December 31, 1972 and each succeeding calendar year.

#### RATE OF TAX

SECTION 6. Every person engaging as a wholesaler in any activity which is a subject of the tax imposed by this Ordinance shall pay a mercantile tax for the taxable period at the rate of one (1) mill on each dollar of the whole volume of business transacted by him. Every other person, not a wholesaler, engaging in any activity which is the subject of a tax imposed by this Ordinance shall pay a mercantile tax for the taxable period at the rate of one and one-half ( $1\frac{1}{2}$ ) mills. Persons engaging in both wholesale and retail activities which are taxable subjects hereunder shall pay one (1) mill on each dollar of the whole volume of business derived from his wholesale transactions and one and one-half ( $1\frac{1}{2}$ ) mills on each dollar of the whole volume of all remaining business transacted by him.

#### RETURNS AND PAYMENT

SECTION 7. Every person subject to the payment of the tax imposed by this Ordinance shall on or before the date hereinafter specified file a quarterly return, on a form prescribed and furnished

by the Collector, and shall concurrently therewith pay to the Collector the tax due upon the actual whole volume of business transacted by him during the applicable quarterly period.

<u>Quarterly Period</u>	<u>Return and Tax Due</u>
July - September 1972	October 31, 1972
October - December 1972	January 31, 1972
January - March current year	April 30, current year
April - June current year	July 31, current year
July - September current year	October 31, current year
October - December current year	January 31, succeeding year

#### REGISTRATION AND LICENSE

SECTION 8. (a) Every person presently engaging in any activity which is a subject of the tax imposed by this Ordinance shall file his initial registration statement with the Collector within fifteen (15) days after the effective date of this Ordinance; every person who shall engage in any such activity after the effective date of this Ordinance shall file his initial registration statement within fifteen (15) days after his commencement of such activity. All persons continuing to engage in any such activity shall annually file a registration statement on or before January 15 of each succeeding calendar year.

(b) Such registration statement shall be upon a form prescribed and furnished by the Collector and shall set forth the person's name, business address and such other information as the Collector may require to collect the tax and administer the regulatory provisions of this Ordinance.

(c) Such persons, concurrently with the filing of his initial registration statement and with every registration annually required to be made hereunder, shall pay to the Collector a license fee of \$2.00. The Collector's receipt of said license fee shall constitute the license during the taxable period to engage in any or all activities which are the subject of the tax imposed by this Ordinance. Provided, that each person who is required to file a registration fee hereunder shall file a separate registration statement and pay a license fee of \$2.00 for each business establishment, if any, in which such taxable activity is conducted.

#### POWERS AND DUTIES OF THE COLLECTOR

SECTION 9. (a) It shall be the duty of the Collector to collect and receive the taxes, fines and penalties imposed by this Ordinance for payment over to the Township Treasurer. It shall also

be his duty to keep a record showing the amount received by him from each person paying the tax and, if paid by such person in respect of another person, the name of such other person, and the date of such receipt.

(b) The Collector is hereby charged with the administration and enforcement of the provisions of this Ordinance, and is hereby empowered, subject to the approval of the Board of Commissioners of the Township 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 of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to prescribe forms necessary for the administration of this Ordinance.

(c) The Collector and agents designated in writing by him are hereby authorized to examine the books, papers and records of any person in order to verify the accuracy of any return, or, if no return was filed, to ascertain the tax due. Every person is hereby directed and required to give to the Collector and to any agent so designated in writing by him the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Collector is hereby authorized to compel the production of books, papers and records and the attendance of all persons, whether as parties or as witnesses in order to verify the accuracy of any return, or, if no return was filed, in order to ascertain the tax due.

(d) Any information gained by the Collector, his agents, or by any other official, agent or employee of the said Township of Hopewell as a result of any return, investigation or hearing required or authorized by this Ordinance shall be confidential and shall not be disclosed to any person except for official use in connection with the administration or enforcement of this Ordinance or as otherwise provided by law.

#### SUIT FOR COLLECTION OF TAX

SECTION 10. (a) The Collector shall sue in the name of the Township of Hopewell for the recovery of taxes due and unpaid under this Ordinance.

(b) Any suit brought to recover the tax imposed by this Ordinance shall be begun within five (5) years after such tax is due or within five (5) years after a return has been filed, whichever date is later, provided, however, that this limitation shall not prevent the institution of suit for collection of any tax due or determined to be due in the following cases: (i) where no return was filed by any person although a return was required to be filed by him under the provisions of this Ordinance; and (ii) where a false or fraudulent return was filed with the intent to evade payment of the tax imposed by this Ordinance.

### INTEREST AND PENALTIES

SECTION 11. If for any reason the tax is not paid when due, interest at the rate of six per centum (6%) per annum of the amount of said tax, and an additional penalty of one-half of one per centum (.005) 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 the interest and penalties herein imposed.

### APPLICABILITY

SECTION 12. The tax imposed by this Ordinance shall not apply to any non-profit institution or organization operated for public, religious, educational or charitable purposes.

### FINES AND PENALTIES FOR VIOLATION OF ORDINANCE

SECTION 13. (a) Any person who fails, neglects or refuses to file any return required by this Ordinance; any person who refuses to permit the Collector or a duly authorized agent of the Collector to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return to avoid payment of the whole or any part of the tax imposed by this Ordinance shall, upon conviction thereof before a District Magistrate, be sentenced to pay a fine of not more than THREE HUNDRED DOLLARS (\$300) for each offense and the costs of prosecution, and, in default of the payment of said fine and costs, to undergo imprisonment for a period not exceeding thirty (30) days.

(b) Any person who, except as permitted by the provisions of this Ordinance, divulges any information which is confidential under the provisions of sub-section (d) of Section 9 hereof shall, upon conviction thereof before a District Magistrate, be sentenced to pay a fine of not more than THREE HUNDRED DOLLARS (\$300) for each offense and the cost to undergo imprisonment for a period not exceeding thirty (30) days.

(c) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Ordinance.

(d) The failure of any person to receive or procure the forms required for the filing of any return required by this Ordinance shall not excuse him from filing such return.

SEVERABILITY

SECTION 14. The provisions of this Ordinance are severable. If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared to be the intent of the Board of Commissioners of the Township of Hopewell that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

1972. ENACTED AND ORDAINED this 27<sup>th</sup> day of May <sup>June</sup>

TOWNSHIP OF HOPEWELL

(SEAL)

by James Albert  
Chairman of the Board of  
Commissioners

ATTEST:

Charlotte M. Buffington  
Secretary



PROOF OF PUBLIC

The **Beaver County Times**, a daily newspaper of general publication published by BEAVER NEWSPAPERS, INC., a Pennsylvania corporation, 400 Fair Avenue, West Bridgewater, Beaver County, established in 1946, and has been issued regularly, except on holidays, since said date.

The attached advertisement, which is exactly as printed and appeared in the regular issue on **7/06**

BEAVER NEWS

STATE OF PENNSYLVANIA, }  
COUNTY OF BEAVER, } SS:

By Jam

Before me, a Notary Public in and for such county as shown on the attached certificate of appointment, **JAMES R. MILLER**, who being duly sworn

**SECRETARY-TREASURER** of BEAVER NEWS, a Pennsylvania corporation, nor said corporation is interested in the subject matter of the advertisement that all of the allegations of the foregoing statement including the character of publication are true.

Sworn to and subscribed before me this **26TH** day of **JULY 1972**

Merril Z. Hayes

The costs have been

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ORDINANCE NO. 72-3  
AN ORDINANCE OF THE TOWNSHIP OF HOPEWELL, BEAVER COUNTY, PENNSYLVANIA, IMPOSING AN ANNUAL MERCANTILE LICENSE TAX UPON PERSONS ENGAGING IN CERTAIN OCCUPATIONS WITHIN THE CORPORATE TERRITORY LIMITS OF THE TOWNSHIP OF HOPEWELL; PROVIDING FOR THE ISSUANCE OF MERCANTILE LICENSES; PROVIDING FOR THE PENALTIES OF VIOLATION AND ENFORCEMENT OF SAID ORDINANCE.

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... his Soviet citizenship and training because he had ...

PROOF OF PUBLICATION

The **Beaver County Times**, a daily newspaper of general circulation, published by BEAVER NEWSPAPERS, INC., a Pennsylvania corporation, 400 Fair Avenue, West Bridgewater, Beaver County, Pennsylvania, was established in 1946, and has been issued regularly, except legal holidays since said date.

The attached advertisement, which is exactly as printed and published, appeared in the regular issue on **6/06 6/13 6/20**

BEAVER NEWSPAPERS, INC.

By James R. Miller

STATE OF PENNSYLVANIA, }  
COUNTY OF BEAVER, } SS:

Before me, a Notary Public in and for such county and state, personally known to me, **JAMES R. MILLER**, who being duly sworn according to law

**SECRETARY-TREASURER** of BEAVER NEWSPAPERS, INC.; that nor said corporation is interested in the subject matter of the attached advertisement and that all of the allegations of the foregoing statement including those as to the character of publication are true.

Sworn to and subscribed before me this **26TH** day of **JUNE 1972**

Muriel L. Hupp

The costs of advertising and has been paid.

NOTICE OF INTENTION TO ENACT A MERCANTILE LICENSE TAX

NOTICE is hereby given that the Board of Commissioners of the TOWNSHIP OF HOPEWELL, a municipal corporation under The First Class Township Code situate in the County of Beaver and Commonwealth of Pennsylvania, INTENDS TO ADOPT AN ORDINANCE imposing an annual mercantile license tax upon persons engaging in certain occupations within the corporate limits of the Township of Hopewell.

The rates of the excise tax to be imposed by said Ordinance are:

- (a) One (1) mill on each dollar of the whole volume of business transacted by wholesalers;
- (b) One and one-half (1 1/2) mills on each dollar of the whole volume of business transacted by retailers;

The license fee to be imposed by said Ordinance is TWO DOLLARS (\$2.00); a separate license shall be required for each separate business establishment in which taxable activity is conducted.

Said tax is to be imposed pursuant to the authority and in conformity with the limitations of The Local Tax Enabling Act (53 P.S. § 6901 ff.), as amended; said tax shall be effective as of July 1, 1972, or as soon thereafter as may be permitted by law, and shall continue in force through December 31, 1972 and each succeeding calendar year.

In the judgment of the Board of Commissioners, the governing body of said Township, the increasing costs and expenses of providing and continuing to provide proper governmental services necessitate the imposition of said tax.

It is estimated that the revenue to be derived from said tax, anticipated to be collected at one-half of the rates above set forth, during the period July 1, 1972 through December 31, 1972, will be the sum of \$10,000.00.

Said Ordinance will be considered at a special meeting of the Board of Commissioners of the Township of Hopewell to be held on Tuesday, June 27, 1972 at 4:00 o'clock P.M., prevailing time, in the Municipal Building, Clark Boulevard, Hopewell Township, Beaver County, Pennsylvania.

THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF HOPEWELL  
EUGENE MORRIS, Esq.  
2501 Chestnut Street