

OFFICIAL

**BOROUGH OF FOREST HILLS
ORDINANCE NO. 973**

AN ORDINANCE OF THE BOROUGH OF FOREST HILLS, ALLEGHENY COUNTY, PENNSYLVANIA, AMENDING PART 3 OF CHAPTER 24 OF THE FOREST HILLS BOROUGH CODE OF ORDINANCES, SPECIAL TAXATION, TO CONFORM WITH ACT 7 OF 2007.

WHEREAS, the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, authorizes the Council of the Borough of Forest Hills (the “Borough”) to levy, assess and collect a tax on individuals for the privilege of engaging in an occupation within the Borough, formerly known as the occupation privilege tax and more recently the emergency and municipal services tax; and

WHEREAS, the Commonwealth of Pennsylvania recently enacted Act 7 of 2007, which amended the Local Tax Enabling Act to revise the requirements and regulations for the emergency and municipal services tax and to change the name of the tax to the local services tax; and

WHEREAS, Part 3 of Chapter 24 of the Forest Hills Borough Code of Ordinances, Special Taxation, established the regulations for the Borough’s emergency and municipal services tax; and

WHEREAS, the Council of the Borough desires to amend Part 3 of Chapter 24 of the Forest Hills Borough Code of Ordinances, Special Taxation, to conform with Act 7 of 2007.

NOW, THEREFORE, the Council of the Borough of Forest Hills hereby ordains and enacts as follows incorporating the above recitals by reference:

SECTION 1. Part 3 of Chapter 24 of the Forest Hills Borough Code of Ordinances, Special Taxation, is amended and restated in its entirety as follows:

**PART 3
LOCAL SERVICES TAX**

§24-301. Title.

This Part shall be known and cited as the “Local Services Tax Ordinance.”

§24-302. Definitions.

As used in this Part, the following words and terms shall have the meanings set forth below, except where the context or language clearly indicates or requires a different meaning.

BOROUGH – the Borough of Forest Hills.

BOROUGH COUNCIL – the Council of the Borough of Forest Hills.

CALENDAR YEAR (TAX YEAR) – the twelve-month period beginning the first day of January.

COLLECTOR – the person, persons, public or private agency, association and/or corporate entity designated by the Borough Council to collect the tax and to carry out and administer the provisions of this Part.

COMPENSATION – salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other income.

DCED – the Pennsylvania Department of Community and Economic Development or any agency successor thereto.

EMPLOYER – any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body

engaged in business or situated in the Borough employing one or more employees engaged in any occupation, other than domestic servants.

OCCUPATION – any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX – the tax imposed by this Part.

TAXPAYER – any natural person liable for the tax levied by this Part.

§24-303. Tax Levy; Exemptions.

1. **Tax Levy.** For specific revenue purposes, a tax in the amount of \$52.00 is hereby levied upon the privilege of engaging in an occupation within the Borough in the calendar year 2008 and in each succeeding calendar year. Each natural person who exercises such privilege for any length of time shall pay the tax in accordance with the provisions of this Part.
2. **Exemptions.** The tax hereby levied shall not be levied upon:
 - A. Any natural person whose total income during the subject calendar year is less than \$12,000;
 - B. Any person who served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred (100%) percent permanent disability; or
 - C. Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For purposes of this section, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

§24-304. Collection through Employers.

1. Every employer shall, within 15 days after the effective date of this Part or within 15 days after first becoming an employer, register with the Collector by providing the employer's name, address and such other information deemed necessary or required by the Collector.
2. For each taxpayer employed for any length of time during a calendar year, each employer shall deduct a pro rata share of the tax from compensation payable to the taxpayer for each payroll period in which the taxpayer is engaging in the occupation. The pro rata share of the tax assessed on the taxpayer for a payroll period shall be determined by dividing total amount of the tax for the calendar year, \$52.00 dollars, by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax levied under this Part shall be made on a payroll period basis for each payroll period in which the taxpayer is engaging in the occupation.
3. For each taxpayer employed for any length of time on or before March 31st of a calendar year, each employer shall file a return on a form prescribed by the Collector and pay the Collector the full amount of taxes deducted for such three-month period on or before April 30th of the calendar year. Thereafter, as to each taxpayer for

whom pro rata deductions have been made and who is employed for any length of time in any of the three-month periods ending June 30th, September 30th, and December 31st of the calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Collector and pay to the Collector the full amount of all taxes deducted for each such three-month period on or before July 31st and October 31st of the calendar year, or January 31st of the following calendar year, respectively.

4. Any employer who discontinues business or ceases operation before December 31st of the calendar year shall, within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the Collector.
5. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the Collector, shall be liable for such tax in full, without deduction of any fees provided for in this Section, as though the tax had originally been levied against the employer.
6. As to employees who present official receipts evidencing prior payment of the tax either directly or by collection through other employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

§24-305. Direct Payment by Taxpayers.

Every taxpayer who is self-employed or whose tax for any other reason is not collected under § 24-304 of this Part shall file a return on a form prescribed by the Collector and shall pay the tax directly to the Collector. Taxpayers subject to the tax shall file the return and pay the tax on a quarterly basis on or before April 31st, July 31st, October 31st of the calendar year, and January 31st of the following calendar year.

§24-306. Refunds and Exemption Claim Procedure.

1. A person seeking to claim an exemption from the tax may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than twelve thousand (\$12,000) dollars in the calendar year for which the exemption certificate is filed. The Borough shall provide a copy of the exemption certificate to the Collector. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or as required by § 24-306.2 herein, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which this exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. As per Act 7 of 2007, the DCED shall develop uniform exemption certificates and make the certificates available to the Borough and employers.
2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of twelve thousand (\$12,000) dollars in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of twelve thousand (\$12,000) dollars in that calendar year, an employer shall withhold the tax from the person in accordance with § 24-306.3 herein.
3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under § 24-306.2 herein, the employer shall withhold the tax for the remainder of that calendar year. The

employer shall withhold from the person, for the first payroll period after receipt of the notification under § 24-306.2 herein, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of the tax due and the Borough may pursue collection.

4. Except as provided in § 24-306.2 herein, it is the intent of this § 24-306 that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the tax.
5. The Borough Manager, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1). The Borough Manager or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

§24-307. Nonresident Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax and the provisions of this Part.

§24-308. Individuals Engaged in More than One Occupation or Employed in More than One Political Subdivision.

1. No person shall be subject to the payment of the tax by more than one political subdivision during each payroll period.
2. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
3. The situs of the tax shall be the place of employment on the first day of the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of the claim to collect the tax shall be in the following order:
 - A. First, the political subdivision in which a person maintains his or her principal office or is principally employed;
 - B. Second, the political subdivision in which the person resides and works if the tax is levied by the political subdivision; and
 - C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

§24-309. Employer Liability.

No employer shall be held liable for failure to withhold the tax or for the payment of the

withheld tax money to the Borough if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or whether the employee is principally employed. Further, an employer shall not be liable for payment of the tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of § 24-306.1 of this Part and remits the amount so withheld in accordance with this Part.

§24-310. Administration and Enforcement.

The Collector, on behalf of the Borough, shall collect and receive the taxes, interests, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part, including but not limited to requirements for collection through employers, requirements for evidence and records and provisions for the examination and correction of returns. The Collector and agents designated by the Collector may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due and verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Collector and any agent designated by the Collector all means, facilities and opportunity for the examinations hereby authorized.

§24-311. Collection.

The Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6% per year on the amount of unpaid tax and an additional penalty of one-half of one percent ($\frac{1}{2}$ of 1%) of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The Collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Collector, then the Collector shall refund the amount of the overpayment to the person who paid under protest.

§24-312. Violations and Penalties.

1. Any person, firm or corporation or entity who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough, pay a civil penalty of not less than \$100 nor more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this Part.
4. The initial determination of a violation of this Part and the service of notice of violation are hereby delegated to the Borough Manager, the Collector and their designees and to any other officer or agent that the Borough Manager or Borough Council shall deem appropriate.

§24-313. Applicability and Severability.

The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania. If a final decision of a court of

competent jurisdiction holds any provision of this Part or the application of any provision to any circumstances, to be illegal or unconstitutional, then the other provisions of this Part, or the application of such provision to other circumstances, shall remain in full force and effect. This Part shall continue in effect on a calendar year basis without annual reenactment.

§24-314. Authority for Tax Imposition.

This Part and the tax hereby imposed are adopted and levied pursuant to the authority conferred by the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, as amended.

SECTION 2: All prior ordinances, including but not limited to Ordinance No. 951, are hereby repealed in whole or in part to the extent inconsistent herewith. Nothing herein shall be construed to repeal the imposition and collection of an emergency and municipal service tax for calendar year 2007 and all prior calendar years, as the same existed prior to this ordinance.

SECTION 3: This Ordinance shall take effect on January 1, 2008.

ORDAINED and **ENACTED** this 21st day of November, 2007, by the Council of the Borough of Forest Hills in lawful session duly assembled.

ATTEST:

BOROUGH OF FOREST HILLS

Steven J. Morus
Borough Manager/Secretary
(Seal)

By:_____
Michael M. Belmonte
President, Borough Council

EXAMINED and **APPROVED** this 21st day of November, 2007

Raymond Heller, Jr. Mayor