

**SPRING GARDEN TOWNSHIP
YORK COUNTY, PENNSYLVANIA**

ORDINANCE NO. 2004-13

AN ORDINANCE AMENDING PART IV, "OCCUPATION PRIVILEGE TAX," OF CHAPTER 24 OF THE CODE OF ORDINANCES OF SPRING GARDEN TOWNSHIP, YORK COUNTY, PENNSYLVANIA, BY AMENDING THE LANGUAGE OF SAID ARTICLE PURSUANT TO ACT 222 OF 2004, SIGNED INTO LAW DECEMBER 1, 2004.

WHEREAS, the Township currently has in effect an Occupation Privilege Tax by virtue of P.L. 1257, December 31, 1965 (53 P.S. §6901 et seq.), as amended, and otherwise known as the Local Tax Enabling Act; and

WHEREAS, the Local Tax Enabling Act was amended by Act 222 of 2004, signed into law December 1, 2004, providing for an Emergency and Municipal Services Tax in lieu of the Occupational Privilege Tax, as well as, among other things, increasing the maximum limit of such tax from \$10.00 to \$52.00; and

WHEREAS, the Township desires to amend Part 4 of Chapter 24 of its Code of Ordinances to reflect the amendments provided for in Act 222 of 2004.

NOW, THEREFORE, be it enacted and ordained by the Board of Commissioners of Spring Garden Township, York County, Pennsylvania, as follows:

Section 1. Part 4, "Occupation Privilege Tax," of Chapter 24 of the Code of Ordinance of Spring Garden Township is hereby amended by inserting the following language in lieu of the existing Part 4:

**Part 4
Emergency and Municipal Services Tax**

§401. Short Title. This Part 4 shall be known and may be cited as the "Emergency and Municipal Services Tax Ordinance."

§402. Definitions. The following words and phrases, when used in this Part 4 shall have the meanings ascribed to them in this section, except where the context or language clearly indicates or requires a different meaning:

EMERGENCY AND MUNICIPAL SERVICES TAX OFFICER – The person, public employee or private agency designated by resolution of the Board of Commissioners of Spring Garden Township to collect and administer the provisions of this Part.

EMPLOYER – an individual, partnership, association, corporation, governmental body, agency or other entity employing one (1) or more persons on salary, wage, commission or other compensation basis, including a self-employed person.

FISCAL YEAR – the twelve (12) month period beginning January 1 and ending December 31.

HE, HIS or HIM – the singular and plural number as well as male or female gender.

INDIVIDUAL – any person, male or female, engaged in any occupation, trade or profession within the corporate limits of Spring Garden Township.

OCCUPATION – 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 Spring Garden Township for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered.

SPRING GARDEN TOWNSHIP – the area within the corporate limits of Spring Garden Township.

TAX – the emergency and municipal services tax in the amount of Fifty-Two and 00/100 (\$52.00) dollars levied by this Part 4.

TREASURER – the Treasurer of Spring Garden Township, or his designated agent.

§403. Levy. Spring Garden Township hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 2005, and continuing annually thereafter, an occupation privilege tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by Spring Garden Township.

§404 Exemption. Any person whose total income from all sources is less than \$4,000.00 per year is exempt from the levy of this tax.

§405. Amount of Tax. Beginning with the first day of January, each occupation as hereinbefore defined, engaged in within the corporate limits of Spring Garden Township, shall be subject to an emergency and municipal services tax in the amount of Fifty-two and 00/100 (\$52.00) dollars per annum, said tax to be paid by the individual so engaged.

§406. Use of Funds. Funds derived from the emergency and municipal services tax may be used only for the following purposes, unless otherwise authorized by law:

- A. Police, fire and/or emergency services;

- B. Road construction and/or maintenance; or
- C. Reduction of property taxes.

§407. Duty of Employers. Each employer within Spring Garden Township as well as those employers situated outside Spring Garden Township, but who engage in business within Spring Garden Township, is hereby charged with the duty of collecting from each of his employees engaged by him and performing for him within Spring Garden Township, the said tax of Fifty-two and 00/100(\$52.00) dollars per annum and making a return and payment thereof to the Treasurer. 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 Spring Garden Township.

§408. Returns. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Emergency and Municipal Services Tax Officer. 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 Twenty (\$.20) cents per employee from whom such tax is collected and paid over to Spring Garden Township, 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.

§409. Dates for Determining Tax Liability and Payment. Each employer shall use his employment records from the first day of January to the 31st day of March for determining the number of employees from who said tax shall be deducted and paid over to the Treasurer on or before April 30. Each employer shall make a supplemental report no later than July 31, October 31 and January 31 of the following year of new employees as reflected on his employment records for each subsequent quarter. Payment on these supplemental reports shall be made due at the time of the filing of the report.

§410. Individuals Engaged in More than One Occupation.

1. Each individual who shall have more than one (1) occupation within Spring Garden Township 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 the Emergency and Municipal Services Tax Officer, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages, but to name an account number of the employer who deducted this tax.

2. In the event a person is engaged in more than one (1) occupation, or an occupation which requires his working in more than one (1) political subdivision during the calendar year, the priority of claim to collect such occupational privilege tax shall be in the following order:

A. First, the political subdivision in which a person maintains his principal office or is principally employed;

B. Second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision;

C. Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

3. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than Fifty-two and 00/100 (\$52.00) dollars in any calendar year as an emergency and municipal services tax, irrespective of the number of political subdivisions within which such person may be employed within any given calendar year. In case of dispute, a tax receipt of the taxing authority for the calendar year declaring that the taxpayer has made prior payment, which constitutes prima-facie certification of payment to all other political subdivisions.

4. Deduction or non-deduction and reporting by employers shall be in accordance with subsection 1 hereof.

§411. Self-Employed Individuals.

1. All self-employed individuals who perform services of any type or kind or who engage in any occupation or profession within Spring Garden Township, shall be required to comply with this Part 4 and pay the tax to the Treasurer on or before April 30 of that year, or as soon thereafter as he engages in an occupation.

2. In the event a self-employed person is engaged in more than one (1) occupation within or without the Township or an occupation which requires his working in more than one (1) political subdivision during the year, reporting priority of claims and prima-facie certification of payment shall be in accordance with §410(1) and (2).

§412. Employers and Self-Employed Individuals Residing Beyond the Corporate Limits of Spring Garden Township. All employers and self-employed individuals residing or having their place of business outside of Spring Garden Township, but who perform services of any type or kind, or engage in any occupation or profession within Spring Garden Township do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Part 4 with the same force and effect as though they were residents of

Spring Garden Township, and an employee of a nonresident employer may, for the purpose of this Part 4, be considered a self-employed person, and in the event this tax is not paid, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§413. Administration of Tax.

1. It shall be the duty of the Treasurer to accept and receive payments of this 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.

2. The Emergency and Municipal Services Tax Officer is hereby charged with the administration and enforcement of this Part 4 and is hereby charged and empowered to prescribe, adopt, promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part 4 including provisions for the examination of the payroll records of any employer subject to this Part 4; the examination and correction of any return made in compliance with this Part 4 and any payment alleged or found to be incorrect, or as to which overpayment is claimed or found to have occurred, or any payment made by a taxpayer who is engaged in a business or occupation or businesses or occupations within the corporate limits of Spring Garden Township, from which he derives in the aggregate less than one thousand (\$4,000.00) dollars per year gross income. Any person aggrieved by any decision of the Emergency and Municipal Services Tax Officer shall have the right to appeal to the Court of Common Pleas of York County as in other cases provided.

3. The Emergency and Municipal Services Tax Officer is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer, or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Township Secretary the means, facilities and opportunity for such examination.

§413. Suits for Collection.

1. In the event that any tax under this Part 4 remains due or unpaid thirty (30) days after the due dates above set forth, the Emergency and Municipal Services Tax Officer may sue for the recovery of any such tax due or unpaid under this Part 4 together with interest and penalty.

2. If for any reason the tax is not paid when due, interest at the rate of six (6%) percent on the amount of said tax shall be calculated beginning with the due date of said tax and a penalty of five (5%) percent shall be added to the flat rate of said tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

§414. Fine and Penalties. Whoever makes any false or untrue statement on any return required by this Part 4, 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 by this Part 4, shall upon conviction thereof, be sentenced to pay a fine of not more than six hundred (\$600.00) dollars and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than thirty (30) days. Provided: action to enforce the fine and penalty hereby provided may be instituted against any person in charge of the business of any employer who fails or refuses to file a return required by this Part 4, and each violation of any provision of this Part 4, and each day the same is continued, shall be deemed a separate offense.

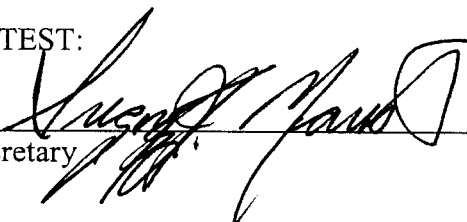
Section 2. In the event any section, subsection, sentence or clause of this ordinance is found to be invalid, for any reason, such decision or decisions shall not affect the validity of the remaining portions of this ordinance.

Section 3. Any ordinance or portion of ordinance that is inconsistent with this ordinance is hereby repealed to the extent of the inconsistency.

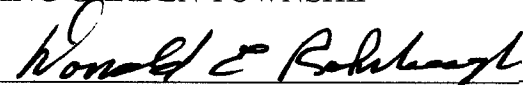
Section 4: This ordinance shall be effective as of 12:00 a.m. on January 1, 2005.

ENACTED AND ORDAINED this 29th day of December, 2004.

ATTEST:


Secretary

SPRING GARDEN TOWNSHIP

By: 
Vice-President, Board of Commissioners