

ORDINANCE NO. 2008-01

(Local Services Tax Ordinance)

AN ORDINANCE OF THE TOWNSHIP OF LOWER MOUNT BETHEL, NORTHAMPTON COUNTY, REPEALING ORDINANCE NO. 05-02, THE EMERGENCY AND MUNICIPAL SERVICES TAX ORDINANCE, AND REPLACING THE ORDINANCE WITH THIS LOCAL SERVICES TAX ORDINANCE WHICH PROVIDES FOR A TAX UPON PERSONS EMPLOYED WITHIN LOWER MOUNT BETHEL TOWNSHIP AND PROVIDES FOR DEFINITIONS, FOR RULES AND REGULATIONS FOR THE ADMINISTRATION AND COLLECTION OF THE LOCAL SERVICES TAX, FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS OF THIS ORDINANCE, FOR REFUNDS OF OVERPAYMENT OF TAX AND PROVIDING FOR A SPECIFIC AND GENERIC REPEALER, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

BACKGROUND:

- A. The Pennsylvania Local Tax Enabling Act, 53 P.S. §6901 et seq., P.L. 1257, No. 511, enacted on December 31, 1965, as amended (collectively "Act 511"), in part authorizes a second class township to impose a Local Services Tax for the privilege of engaging in an occupation within Lower Mount Bethel Township.
- B. On June 21, 2007, Act 511 was amended by the adoption of Act 7 of 2007, which replaced the Emergency and Municipal Services Tax with the Local Services Tax.
- C. The Township wishes to continue to provide revenue for police, fire and/or emergency services, for road construction and/or maintenance, and/or for the reduction of property taxes in accord with the amendment to the Local Tax Enabling Act.
- D. The Local Services Tax will be effective beginning with Lower Mount Bethel Township's 2008 fiscal year and each fiscal year thereafter. For the 2008 fiscal year and fiscal years thereafter, the annual Local Services Tax will be set at \$52 per person until changed by further ordinance enacted by the Township.

E. This Ordinance is enacted pursuant to the legislative authority set forth in the Local Tax Enabling Act, 53 Pac's. §6901, ET. seq., as amended.

BE IT ORDAINED AND ENACTED by the Board of Supervisors of Lower Mount Bethel Township, County of Northampton, Commonwealth of Pennsylvania, as follows:

ARTICLE 1. GENERAL PROVISIONS

Section 101. Title

This Ordinance, and any supplements and amendments thereto, shall be known and may be cited as the **“Lower Mount Bethel Township Local Services Tax Ordinance.”**

Section 102. Authority

This Ordinance is enacted under the authority of the Pennsylvania Local Tax Enabling Act, 53 P.S. §6901 et. seq., as amended by Act 7 of 2007.

Section 103. Definitions

The following words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in this subsection, except where the context or language clearly indicates or requires a different meaning:

- A. ACT 511 – The Pennsylvania Local Tax Enabling Act, 53 P.S. §6901 et seq., which was enacted on December 31, 1965, as amended.

- B. COLLECTOR – the person or agency appointed from time to time by the Lower Mount Bethel Township Board of Supervisors to assess and collect the tax imposed and to administer the provisions of this Ordinance.

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

- D. FISCAL YEAR – the twelve (12) month period beginning January 1 and ending December 31, and each twelve (12) month period thereafter.

- E. HE, HIS or HIM – indicates the singular and plural as well as male, female and neuter gender.
- F. INDIVIDUAL – any person, male or female, over the age of eighteen (18) years, engaged in any occupation, trade or profession within the corporate limits of Lower Mount Bethel Township for any length of time in any given fiscal year.
- G. 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 Lower Mount Bethel Township for which compensation is charged or received, whether by means of salary, wages, commission, barter or fees for services rendered.
- H. PRINCIPAL OCCUPATION – the occupation which provides an individual with his primary source of income.
- I. RESERVE COMPONENT OF THE ARMED FORCES – 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.
- J. TAX – the Local Services Tax in the amount of fifty-two and 00/100 Dollars (\$52.00) per individual per fiscal year levied by this Ordinance.
- K. TOWNSHIP – the area within the corporate limits of the Township of Lower Mount Bethel, Northampton County, Pennsylvania.

Section 104. Incorporation of Statute

The provisions of Act 511, as amended by Act 222 of 2004 and Act 7 of 2007 are incorporated in this Ordinance by reference, except as and where specifically and expressly provided otherwise.

ARTICLE 2. IMPOSITION OF TAX AND OBLIGATIONS

Section 201. Levy of Tax; Exemption

A. Beginning on the effective date hereof, Lower Mount Bethel Township hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year of 2008 and each fiscal year thereafter a local services tax in the amount of fifty-two dollars (\$52.00) per annum. Each individual who engages in an occupation shall pay the tax in the amount of fifty-two dollars (\$52.00) for the fiscal year in which the individual has engaged in the occupation, in accordance with the provisions of this Ordinance. This tax is in addition to all other taxes of any kind or nature previously or currently levied by the Township. This tax shall continue in force on a calendar year basis, without annual reenactment, unless the rate of the tax is subsequently changed or this Ordinance is repealed or amended.

B. All persons deriving less than twelve thousand (\$12,000.00) dollars per year in earned income and net profits from all sources within the Township are hereby exempt from such local services tax. A person seeking to claim an exemption from the Local Services Tax shall execute a Low Income Exemption Certificate annually and file it with Lower Mount Bethel Township and the person's employer. The exemption certificate shall have attached to it a copy of all of the employee's last pay stubs or W-2 forms from employment within the Township for the year prior to the fiscal year for which the employee is requesting an exemption. Upon receipt of the exemption certificate and until otherwise instructed by the Township, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall have exemption certificate forms available at all times and shall provide them to new employees at the time of hiring.

C. 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 shall be exempt from paying the local services tax 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 percent permanent disability.

D. 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 shall be exempt from paying the local services tax.

Section 202. Duties of Employers

A. Each employer who engages in business within the Township is hereby charged with the duty of collecting from each of his employees engaged by him and performing any part of his occupation within the Township the tax of fifty-two dollars (\$52.00) per annum on a payroll based deduction basis and making a return and payment thereof to the Collector.

B. If the employer fails to file the return provided for elsewhere in this Ordinance and pay the tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to the employee, the employer shall be responsible for payment of the tax in full without deducting a commission and as though the tax had originally been levied against the employer.

Section 203. Withholding by Employer; Employer's Returns and Commissions; Annual Report and Payment; Exemptions

A. Each employer in the Township is hereby required to deduct this tax from each employee in his employ, whether the employee is paid by salary, wages or commission and whether or not part or all of such services are performed within the Township.

B. Taxes deducted from wages by an employer shall at all times be and remain the property of the Township and shall constitute a trust fund in the employer's hands until remitted to the Collector. Deduction of taxes from wages shall, as between the employee and the Township, constitute payment of the tax by the employee, regardless of any insolvency or failure to remit on the employer's part.

C. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied by the Collector.

D. Each employer shall assess a pro rata share of the Local Services Tax for each payroll period in which the person is engaging in occupation in the Township. The pro rata share

of the tax assessed on the person for a payroll period shall be determined by dividing the combined rate of the local services tax levied for the calendar year 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 local services tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation in the Township.

E. Employers shall be required to remit the local services taxes to the Township within thirty days of the end of each quarter of a calendar year.

F. Employers who withhold the local services tax shall deliver to an individual employed in more than one jurisdiction evidence of deductions on a form to be furnished to the employer by the Collector which form shall be evidence of deductions 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 include such employee on his return by setting forth his name, address and the name and address of the employer who deducted this tax.

Section 204. Individuals Engaged in more than one Occupation

Each individual who shall have more than one (1) occupation shall be subject to the payment of this tax in only one jurisdiction per payroll period. If an individual works in more than 1 taxing area, the priority of the claim to collect the local services tax shall be in the following order: first, the municipality in which a person maintains the person's principal occupation or is principally employed; second, the municipality in which the person resides and works, if the tax is levied by that municipality; third, the municipality in which a person is employed and which imposes the tax nearest in miles to the person's home. Employers who withhold the local services tax shall deliver to an individual employed in more than one jurisdiction evidence of deductions on a form to be furnished to the employer by the Collector which form shall be evidence of deductions 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 include such employee on his return by setting forth his name, address and the name and address of the employer who deducted this tax.

Section 205. Self-Employed Individuals

All self-employed individuals who perform services of any type or kind or engage in any occupation or profession within the Township shall be required to comply with this Ordinance within thirty days of the end of each quarter of a calendar year.

Section 206. Collection of Taxes

A. The Collector shall accept and receive payments of this tax and shall maintain a record showing the amount received by him from each employer, together with the date on which the tax was received.

B. The Collector shall provide a taxpayer a receipt of payment upon request by the taxpayer.

Section 207. Recovery of Unpaid Tax; Interest and Penalty; Examinations

A. In the event that any tax under this Ordinance remains due or unpaid thirty (30) days after the due dates set forth in this Ordinance, the Township or Collector may sue for the recovery of any such tax due or unpaid under this Ordinance together with interest and penalty.

B. If for any reason the tax is not paid when due, interest at the rate of six percent (6%) per annum on the amount of the tax shall be calculated beginning with the due date of the tax, and an additional penalty of one half of one percent (0.5%) of the amount of the unpaid tax shall be added and collected for each month or fraction thereof during which the tax remains unpaid. 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, including reasonable attorneys' fees.

Section 208. Nonresident Employers

All employers and self-employed individuals residing or having their place of business outside the Township but who perform services of any type or kind, or engage in any occupation or profession within the Township do by virtue thereof agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Ordinance with the same force and effect as though they were residents of the Township. Any individual engaged in an occupation within the Township 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, the Township shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

ARTICLE 3. ENFORCEMENT AND PENALTIES

Section 301. Examination; Violations and Penalties

A. The Collector or his duly authorized representative or agent 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 Collector or his duly authorized representative or agent the means, facilities and opportunity for such examinations.

B. Any person who 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 by this Ordinance commits a violation of this Ordinance.

C. If the Township or the Collector determines that a person has committed or permitted the commission of a violation of this Ordinance, the Township may institute summary criminal proceedings and/or may seek equitable relief. In the event summary criminal proceedings are instituted, the fine for the first offense shall be not less than \$100 and not more than \$600. The fine for a second offense shall not be less than \$300 and not more than \$600. The fine for a third or greater offense shall not be less than \$500 and not more than \$600. Each day or portion thereof in which a violation exists shall be considered a separate violation of this Ordinance. Each Section of this Ordinance which is violated shall be considered a separate violation.

D. The amount of any fine imposed by a magisterial district judge or a court shall be in addition to any other fine which may be imposed under any other provisions of the Code of

Ordinances of the Township or under any statute. In default of payment of any fine, such person shall be liable to imprisonment for not more than thirty (30) days.

E. The action to enforce the provisions of this Ordinance may be instituted against any person in charge of the business of any employer who shall have failed or refused to file a return required by this Ordinance.

ARTICLE 4. REFUNDS OF OVERPAYMENT

Section 401. Refunds, Minimums and Interest.

A. An individual who has overpaid the local services tax to the Collector may file a written request with the Collector for a refund or credit of the local services tax. A request for a refund shall be made within one year after actual payment of the local services tax.

B. The Collector shall assess all written requests for refund of the local services tax and provide a refund within seventy five days of the receipt of the written request to an individual who is due such refund. The Collector shall only provide refunds for amounts overpaid in a calendar year that exceed one dollar (\$1).

C. A refund provided pursuant to this Section shall not be subject to interest so long as the refund is provided within seventy five days of the receipt of the written request for the refund. Any refund provided seventy five days or more after the receipt of a written request for refund shall bear interest in accord with 53 Pa.C.S. §8426.

ARTICLE 5. MISCELLANEOUS

Section 501. Applicability; Validity

A. Nothing contained in this Ordinance shall be construed to empower the Township to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Township under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

B. If the tax hereby imposed under the provisions of this Ordinance shall be held to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, such decision shall not affect or impair the right to impose or collect the tax, or the validity of the tax so imposed, on other persons or individuals as herein provided.

C. It is the intent of this Ordinance that the entire burden of the tax imposed on an occupation by the Township and the Easton and Bangor School Districts shall not exceed the limitations prescribed in Act 7 of 2007, and therefore the Easton and Bangor School Districts shall be entitled to their respective share of the tax in accordance with the provisions of Act 7 of 2007.

D. In accord with Act 7 of 2007, the Township shall use no less than twenty-five percent of the funds derived from the local services tax for emergency services, which include, emergency medical services, police services and/or fire services. The remainder of the funds, if any, shall be used for road construction and/or maintenance, reduction of property taxes or property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85 Subch. F.

Section 502. Repeal

This Ordinance specifically repeals and replaces Lower Mount Bethel Township Ordinance No. 05-02, known as the Lower Mount Bethel Township Emergency and Municipal Services Tax Ordinance as of the effective date hereof. In addition, all inconsistent provisions of all other Ordinances and Resolutions of Lower Mount Bethel Township, Northampton County, Pennsylvania are hereby repealed to the extent of the inconsistency. All other provisions of the Ordinances and Resolutions of Lower Mount Bethel Township, Northampton County, Pennsylvania shall remain in full force and effect.

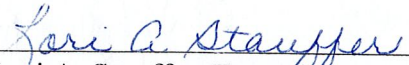
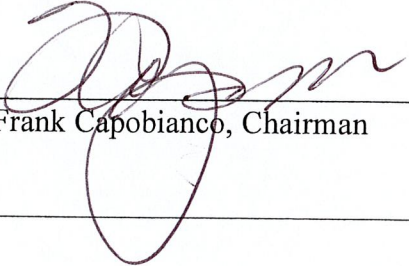
Section 503. Severability

The provisions of this Ordinance are declared to be severable. If any provision of this Ordinance is declared to be invalid or unconstitutional by a court of competent jurisdiction, such determination shall have no effect on the remaining provisions of this Ordinance.

Section 504. Effective Date

This Ordinance shall take effect thirty (30) days from the date of enactment by the Lower Mount Bethel Township Board of Supervisors. This tax shall be effective for the fiscal year 2008 and for each fiscal year thereafter until revised, amended or revoked by action of the Lower Mount Bethel Township Board of Supervisors.

DULY ENACTED and ORDAINED as an Ordinance by the Board of Supervisors of Lower Mount Bethel Township this 21st day of January, 2008 at a duly advertised meeting of the Board of Supervisors at which a quorum was present. As part of this Ordinance, the Board of Supervisors has directed that the Chairman, or Vice-Chairman, in the absence of the Chairman, execute this Ordinance on behalf of the Board...

<p>ATTEST:</p>  _____ Lori A. Stauffer, Township Secretary	<p>BOARD OF SUPERVISORS Lower Mount Bethel Township</p>  _____ Dr. Frank Capobianco, Chairman
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