

ORDINANCE 89 -04

**AN ORDINANCE OF THE COUNCIL OF BENNER TOWNSHIP,
COMMONWEALTH OF PENNSYLVANIA, ENACTING A NON-
RESIDENT PATRON PARKING TAX.**

1. This Ordinance shall be known as the Benner Township Patron Parking Tax Ordinance.

2. **Definitions.**

The following words and phrases when used in this Ordinance shall have the meaning ascribed to them in this Section unless the context clearly indicates a different meaning:

COLLECTOR: The person or persons appointed by Ordinance of Council of Benner Township to collect all taxes imposed by this Ordinance.

CONSIDERATION: The payment or compensation of whatever nature, of whatever amount, and however stated or calculated, received by the operator from the patron, upon an express or implied contract, or under lease, or otherwise, whether or not separately stated, and whether paid in cash or credit to an account, for each parking or storing of a motor vehicle by a patron. The consideration shall not include the tax imposed and collected under this Ordinance. Whenever the consideration is not fixed in a cash amount or in a stated and bona fide cash equivalent, the Collector shall make a reasonable determination of its cash value.

When the consideration is expressed in combination with another product or service, it shall be presumed that the entire consideration is attributable to the parking activity.

HOTEL: A building designed for occupancy primarily as the temporary abiding place of individuals who are lodged with or without meals.

MOTEL: A building designed for occupancy primarily as the temporary abiding place of individuals who are lodged with or without meals and which is customarily designated as a motel.

MOTOR VEHICLE or VEHICLE: Every kind of vehicle used for transportation and conveyance and allowed for those uses on the highways of the Commonwealth.

NON-RESIDENT PARKING PLACE or PARKING PLACE: Any place within the Township, whether wholly or partially enclosed or open, at which motor vehicles are parked or stored for any period of time in return for a consideration, non including:

- (i) Any parking area or garage, to the extent that it is provided or leased to occupants of a residence on the same or other premises, for use only in connection with and as accessory to the occupancy of such residence; and
- (ii) Any parking area or garage operated exclusively by an owner or lessee of a hotel, motel, apartment hotel, tourist court or trailer park, to the extent that the parking area or garage is provided to guests or tenants of such hotel,

motel, apartment hotel, tourist court or trailer park for no additional consideration.

OPERATOR: Any person conducting the operation of a parking place and charging and collecting the consideration for the parking or storage of motor vehicles at such parking place including, without limiting the generality of the above, any governmental body, governmental subdivision, municipal corporation, public authority, nonprofit corporation, or any other person so performing as an agent of any of the above.

PATRON: Any natural person who drives a vehicle of his own or of another into and upon a non-residential parking place, as herein defined, for the purpose of having such vehicle parked or stored for any length of time.

TOURIST COURT: A group of attached or detached buildings containing only individual sleeping rooms or living units, designed for temporary use by automobile tourists or transients; including auto courts, motels, or motor lodges and the like.

TRAILER PARK: Any camp, trailer camp, trailer court, lot, parcel or tract of land designed, maintained or intended for the purpose of supplying a location or accommodation for two or more trailers. "Trailer Park" shall not include automobile or trailer sales lots upon which unoccupied trailers are parked for the purpose of inspection or sale.

TRANSACTION: The parking or storing on a unit per occurrence basis of a motor vehicle at a non-residential parking place, and such parking or storing on any other basis and the consideration for the parking or storing.

Pronoun references shall be read and construed as appropriate to the relevant circumstances.

3. **Imposition and Payment of Tax.**

Commencing on July 1, 2004 and on a calendar year basis from January 1 to each of the following December 31, a tax for general revenue purposes is hereby levied upon each and every patron for each and every parking transaction at the rate of ten (10%) percent on the consideration thereof. Every operator with each transaction shall add said tax from the patron as a condition for the allowance of the parking or storing, and the fact of such allowance shall, and the fact of collection of the consideration shall conclusively presume the collection of the tax.

4. **Parking Registration Certificates.**

(a) It shall be unlawful for any person and/or any operator to conduct, continue to conduct, or thereafter begin to conduct any parking transaction with reference to a nonresidential parking place within the Township until or unless a Parking Registration Certificate or Certificates shall have been issued to said operator, and unless the tax imposed

hereunder is accounted for in accordance with the provisions of this Ordinance.

(b) Every person and/or operator desiring to continue to conduct or to begin any parking transaction, with reference to a non-residential parking place within the Township shall file annually an application for Parking Registration Certificate or Certificates for each parking place with the Collector. Every application for such Certificate or Certificates shall be made upon a form prescribed and furnished by the Collector, and authorized by the Supervisors of the Township. Such application shall set forth the name under which the applicant conducts such parking transactions, the location of said parking place, the size and vehicle capacity of said parking place and other such pertinent information as may be required by the Collector. If the applicant has or intends to have more than one place of such parking within the Township, the applicant shall state the required information with respect to each and every place of parking. If the applicant is other than an individual, the names and addresses of the principal officers thereof, and any other reasonable information required by the Collector, shall be stated in the application. The application shall be signed and sworn by the applicant. The Collector may require that the application be verified by oath or affirmation.

(c) Upon a proper application being made, the Collector shall charge a registration and certificate fee for each certificate which shall be

paid by the applicant and the Collector shall grant and issue to such applicant a Parking Registration Certificate for each place of non-residential parking as set forth in the application. A Parking Registration Certificate shall not be assignable and shall be valid only for the person and/or operator in whose name it is issued, and it shall be valid only for the conducting of non-residential parking at the place designated therein. Said Parking Registration Certificate shall at all times be conspicuously displayed at the place for which issued.

(d) The Collector may suspend, or after hearing, revoke a Parking Registration Certificate whenever the Collector finds that the holder thereof has failed to comply with any provision of this Ordinance. Upon suspending or revoking any Parking Registration Certificate, the Collector shall request the holder thereof to surrender immediately all Parking Registration Certificates and duplicates thereof. Whenever the Collector suspends a Parking Registration Certificate, he shall notify the holder thereof immediately of such action and shall afford the holder a hearing, if one is desired and has not already been afforded. After such hearing, the Collector may either rescind his order of suspension, continue said suspension or revoke the Registration Certificate or Certificates.

5. **Records.**

(a) Each operator shall maintain, separately with respect to each parking place, complete and accurate records of all transactions, of the total amount of consideration received from all transactions, and the total amount of tax collected on the basis of such consideration, and the same shall be done on a uniform daily basis. Each operator shall issue to the person paying the consideration such written evidence of the transaction as the Collector may prescribe by regulations.

(b) As to all transactions otherwise than in a unit per occurrence basis, the operator shall make, have and keep segregated records of all such transactions, or if oral, then do so by a record of relevant data as adequately describes each such transaction for calculation of the proper tax. Records shall be made at the time of the transactions. They shall be kept in chronological order.

(c) Each operator shall afford the Collector and his designated agents and employees access to all such records and evidence at all reasonable times and shall provide verification of the same as the Collector may require. The Collector and his agents are hereby authorized at reasonable times and in reasonable manner to examine the books, papers and records of any operator in order to verify the accuracy of any return made.

(d) If no return has been made, or if a false return has been made, or if the operator's records are not properly made or kept, or if the operator or anyone under his control in any way obstructs an orderly audit or investigation relating to the determination of the proper tax due, then the Collector may make such assessment of what he reasonable determines to be the proper tax due, and in addition to the penalty and interest thereon as may be due, may add a liquidated damages assessment of up to one hundred (100%) percent of the proper tax, and any fine as may be imposed shall be in addition to the liabilities hereunder.

6. **Returns and Payments.**

Each operator in collecting the tax shall do so as the agent and trustee for the Township under the provisions and for the purposes hereof; and, on the form prescribed by the Collector, shall file with him by the 15th day of each month, returns on all transactions of the operator in the preceding calendar month. With such filing, the operator shall pay to the Collector all taxes due hereunder for such preceding month, such "taxes due" being the full tax that the operator was charged hereunder to obtain from his patrons, less two (2%) percent thereof as compensation to the operator for his services. Every operator who fails to comply with the provisions hereof shall be deemed to have acknowledged his

intentional failure of consideration and of his voluntary surrender of such compensation.

7. **Collector's Powers and Duties.**

The Collection, on behalf of the Township, shall receive and collect the taxes, interest, fines and penalties imposed hereunder and shall have the power, in the event that any operator has, in the judgment of the Collector, failed to pay over the amount of the tax due, to collect the tax directly from the patron and charge the cost of collection to the operator and shall maintain records showing the amounts received and the date such amounts were received. The Collector shall, with the approval of Council of the Township, adopt and enforce regulations relating to the administration of this Ordinance, such regulations including but not limited to, those relating to evidence, records, forms, applications, registration certificates and returns.

8. **Collection, Penalty and Interest.**

All taxes, assessments, penalties and interests due from the operators under this Ordinance shall be paid to the Collector. Any operator who fails to file a proper report as due or who fails to make proper payment as due, shall pay also a penalty of an additional ten (10%) percent of the amount of the tax, and in addition, shall pay interest on the tax at the rate of one (1%) percent per month or fraction thereof from the due date, the same being in addition to liabilities.

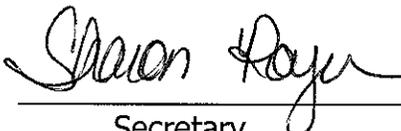
9. **Penalties.**

Any person who violates any provision of this Ordinance or any regulations pursuant to it, shall be subject to a fine of \$500.00 per day. Each day shall constitute a separate violation.

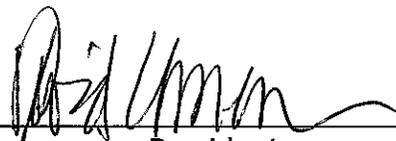
ORDAINED this 1st day of July, 2004.

ATTEST:

BENNER TOWNSHIP



Secretary

By 

President