

ORDINANCE NO. 14

AN ORDINANCE OF THE TOWNSHIP OF THOMPSON, COUNTY OF SUSQUEHANNA, COMMONWEALTH OF PENNSYLVANIA, TO PROVIDE FOR THE GENERAL REVENUE BY IMPOSING A TAX OF SIX PERCENT (6%) UPON THE PRIVILEGE OF ENGAGING IN THE SANITARY LANDFILL BUSINESS, AS MEASURED BY THE GROSS RECEIPTS RECEIVED THEREFROM BY THE OPERATORS THEREOF, PROVIDING FOR THE LEVY AND COLLECTION OF SUCH TAX, PROVIDING FOR THE DETERMINATION OF GROSS RECEIPTS, PRESCRIBING REQUIREMENTS FOR RETURNS AND RECORDS, CONFERRING POWERS AND DUTIES UPON THE TAX COLLECTOR, AND IMPOSING PENALTIES.

SANITARY LANDFILL OPERATIONS TAX

BE IT ORDAINED AND ENACTED by the Supervisors of the Township of Thompson, and IT IS HEREBY ORDAINED AND ENACTED by the authority of the same, that a tax for general revenue purposes be and is hereby levied upon the privileges of engaging in the sanitary landfill business within the Township of Thompson, Susquehanna County, Pennsylvania, pursuant to the authority granted by the Local Tax Enabling Act of 1965, as amended.

SECTION I. DEFINITIONS

As used in this Ordinance, unless the context clearly indicates a different meaning, the following words shall have the meanings ascribed them in this section.

- A. The term "Township" shall mean the Township of Thompson.
- B. The term "Person" shall mean any natural person, partnership, unincorporated association or corporation.
- C. The term "sanitary landfill" shall mean any place where disposable material is dumped, stored, treated, buried or otherwise disposed of.
- D. The term "disposable material" shall include garbage, rubbish, waste material, ashes, and refuse.
- E. The term "operator" shall mean any person operating a sanitary landfill.
- F. The term "customer" shall mean any person paying consideration to an operator for the disposal of disposable material.

- G. The term "inside customer" shall mean a customer who transports his disposable material to the sanitary landfill site.
- H. The term "outside customer" shall mean a customer for whom the operator performs substantial additional services, such as collection of transportation of disposable material, off the premises of the sanitary landfill.
- I. The term "gross receipts" shall include the total of the landfill receipts received by an operator during a taxable period.
- J. The term "landfill receipts" shall include:
 - 1. The total consideration paid by an inside customer; and
 - 2. The portion of the consideration paid by an outside customer which is allocated to landfill operations as is hereinafter set forth.
- K. The term "standard unit rates" shall mean the standard rates paid by paying inside customers per truckload, ton, yard or other measures, during the taxable period. Quantity discounts actually given to inside customers during the taxable period may be considered in determining the standard unit rate to be applied to an outside customer when the quantity of disposable material handled for the outside customer equals or exceeds the quantity for which an inside customer has received the discount.

SECTION II. IMPOSITION OF TAX

A tax for general revenue purposes is hereby levied upon operators for the privilege of engaging in the sanitary landfill business within the Township of Thompson at the rate of six percent (6%) of the gross receipts from such business, from the effective date of this Ordinance during the year 1989, and thereafter, from year to year on a calendar year basis. No person shall engage in such business without complying with all of the provisions of this Ordinance and paying the tax hereby levied.

SECTION III. RETURNS AND PAYMENTS

Each operator, upon forms prescribed by the Township Supervisors, shall file on or before April 30, July 31, October 31, of the current tax year, and January 31 of the following

year, returns showing gross receipts received with respect to each sanitary landfill during the respective three month period ending on the last day of the month preceeding the month in which the return due date occurs. At the time of filing the return, the operator shall pay to the Tax Collector of the Township all tax due for the period to which the return applies.

Any operator who, for the preceding quarterly period, has failed to pay over the proper amount of tax to the Township Tax Collector may be required by the Tax Collector to file subsequent returns and pay the tax monthly. In such cases, payments of the tax shall be made to the Tax Collector on or before the last day of the month succeeding the month for which the tax is due.

SECTION IV. CALCULATION OF GROSS RECEIPTS

In calculating the gross receipts from the sanitary landfill business, the operator shall include the total consideration received from the inside customers and shall include such portion of the consideration received from outside customers as shall be allocated to landfill receipts pursuant to the following section.

SECTION V. ALLOCATION OF RECEIPTS

Where a landfill operator performs substantial off-the-premises services, such as collection or transportation of disposable material for a customer, an allocation of the total consideration paid by the customer shall be made so as to impose the tax levied by this Ordinance on the on-site operations as follows:

- A. Any operator who serves inside customers and outside customers may apply his standard unit rates to the quantity of material handled for outside customers and allocate that sum to the landfill receipts for such outside customers.
- B. Any operator who does not serve inside customers may apply the average standard unit rates charged by the other operators in the Township to the quantity of material he handles for outside customers and allocate that sum to this landfill receipts for such outside customers.
- C. If the applicable formula set forth in Paragraph A or Paragraph B does not fairly allocate the total receipts between an operator's landfill operation and his other services, such operator shall present

satisfactory evidence thereof to the Tax Collector. If the Tax Collector is satisfied by such evidence, he shall then establish a formula which does fairly allocate such receipts, but in such event, the Tax Collector must notify all other operators in Thompson Township, and such other operators shall have the option of having their receipts from outside customers allocated in the same manner. The new formula shall be effective for the operator who requested its establishment as of the date of his request, and shall be effective as of the same date for all other operators who notify the Tax Collector in writing of their election to have their receipts allocated thereby within thirty (30) days of receipt of notice from the Tax Collector. If an operator elects at some later time to have his receipts allocated according to the new formula, his election shall be effective as of the date the Tax Collector receives his election in writing.

SECTION VI. RECORDS

Each operator shall maintain, separately with respect to each sanitary landfill, complete and accurate records of all transactions, gross receipts, contracts, and landfill receipts. Each operator shall allow the Tax Collector and his designated employees and agents access to all such records and evidence at all reasonable times and shall provide verification of same, as the Tax Collector may require. The Tax Collector and agents designated by him are hereby authorized to examine the books, papers and records of each operator in order to verify the accuracy of any return made, or if no return has been made, to ascertain the tax due.

SECTION VII. CONFIDENTIALITY

Any information gained by the Tax Collector, his agents or any other official or agent of the Township pursuant to the administration of this Ordinance shall be confidential and shall not be disclosed except for official purposes or in accordance with proper judicial order or for purposes expressly authorized by this Ordinance. The Tax Collector and his agents shall have the duty to disclose the average standard unit rates, on request, to any operator having a proper use of them and any change in formula allowed by the Tax Collector to any operator shall be disclosed to all operators.

SECTION VIII. PAYMENT UNDER PROTEST

The Tax Collector is hereby authorized to accept payment under protest of any taxes claimed by the Township in any case where the taxpayer disputes the validity or amount of the Township's claim to tax. If it is thereafter judicially determined that the Township has been overpaid, the amount of the overpayment shall be refunded to the taxpayer.

SECTION IX. COLLECTION OF DELINQUENT TAXES

The Tax Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Ordinance and unpaid. If, for any reason, any tax is not paid when due, interest at the rate of 10 percent (10%) per year on the amount of unpaid tax and an additional penalty of one half of one percent (1/2%) per month shall be added to the tax and collected. The taxpayer shall also be liable for all costs of collection.

SECTION X. FINES AND PENALTIES FOR VIOLATION

Any person failing to comply with or violating any provisions of this Ordinance shall, upon conviction thereof before a District Justice, be fined not more than \$300.00 and, in default of payment of such fine and costs, be committed to the Susquehanna County Jail or Workhouse for a period not exceeding thirty (30) days.

SECTION XI. APPLICABILITY AND SEVERABILITY

If a final decision of a court of competent jurisdiction holds any provision of this Ordinance or the application of any provision to any person or circumstances to be illegal or unconstitutional, the other provisions of the Ordinance and the application to other persons and circumstances shall remain in full force and effect. It is hereby declared to be the intent of the Township Supervisors of Thompson Township that the Ordinance would have been adopted if such unconstitutional, illegal or invalid provision had not been included herein.

SECTION XII. EFFECTIVE DATE

This Ordinance shall become effective in thirty (30) days.

Gerald Sheldon
SUPERVISOR