

BOROUGH OF AVALON
ORDINANCE NO. 1213

AN ORDINANCE OF THE BOROUGH OF AVALON, COUNTY OF ALLEGHENY AND COMMONWEALTH OF PENNSYLVANIA, CREATING A BOROUGH BUDGETARY RESERVE ACCOUNT FOR THE DEPOSIT OF CERTAIN FUNDS RECEIVED FROM THE STATE TREASURER PURSUANT TO THE AUTHORITY PROVIDED BY ACT 77 OF 1993 AND PROVIDING FOR REGULATION OF THE USE OF SUCH CERTAIN FUNDS IN UNANTICIPATED FISCAL EMERGENCIES AND PROVIDING FOR SEVERABILITY.

WHEREAS, Act 77 of 1993 provides authorization to certain counties and cities to create the Allegheny Regional Asset District as a special purpose area wide unit of local government and to impose an additional one (1%) percent tax on the sale and use of tangible personal property and services; and

WHEREAS, pursuant to the dictates of Act 77 of 1993, the Allegheny County Board of Commissioners, adopted on March 31, 1994, an ordinance creating the Allegheny Regional Asset District and enacting the aforesaid additional sales tax; and

WHEREAS, Act 77 of 1993 provides that local municipalities may become "qualified" to receive disbursements from the revenues produced by such additional sales tax provided they meet certain financial and tax requirements and also, provided they adopt a timely municipal resolution urging the County to create the regional asset district and adopt the additional sales tax; and

WHEREAS, Council of the Borough of Avalon did timely adopt Resolution No. 832 on March 15, 1994, urging the County of Allegheny to create the regional asset district and adopt the additional sales tax, thus establishing the Borough of Avalon as qualified to receive disbursements under Act 77 of 1993; and

WHEREAS, 16 P.S. § 6156-B and § 6157-B, Section 3156-B and 3157(B)(b) of Act 77 of 1993, provide that if the additional sales tax is implemented after January 1 of any year, then disbursements of revenue from same received by qualified municipalities for such first calendar year shall be deposited into budgetary reserve accounts and either:

1. budgeted for use in next full fiscal year period of the qualified municipality for the purposes set forth in Act 77 of 1993, 16 P.S. §6101-B; or
2. retained by qualified municipalities in such budgetary reserve accounts, without lapsing, for use at any time during unanticipated fiscal emergencies as determined and defined by the qualified municipality by ordinance; and

WHEREAS, the Borough of Avalon, as a qualified municipality, expects to receive disbursements of funds in accordance with Act 77 of 1993 for the first calendar year in which the additional 1% sales tax is in effect and desires to retain such funds in a budgetary reserve account for use during unanticipated fiscal emergencies.

NOW, THEREFORE, the Borough of Avalon hereby ordains and enacts as follows:

SECTION 1:

There is hereby created for the Borough of Avalon a Budgetary Reserve Account.

SECTION 2:

The Borough Manager is hereby directed to deposit all funds received from the State Treasurer pursuant to Act 77 of 1993,

16 P.S. §6101-B, for the period of the first calendar year in which the additional 1% sales tax is in effect into such Budgetary Reserve Account.

SECTION 3:

Such Budgetary Reserve Account created by this Ordinance shall be maintained by the Borough of Avalon and the funds therein shall be retained by the Borough until such time as the Borough's Council shall by Resolution direct their expenditure, for use in paying for or reimbursing the costs incurred, whether total or partial, in connection with an unanticipated fiscal emergency of the Borough of Avalon.

SECTION 4:

An unanticipated fiscal emergency as set forth in Section 3 hereof shall be defined to include all appropriate costs related to adverse snowstorms and weather conditions, specifically including those in which emergencies are declared by the Governor of Pennsylvania or Allegheny County Commissioners, as well as landslides in the Borough and shall also include, and not be limited to, an unbudgeted or under-budgeted expense relating to:

- 1) the construction or extension of public water or public sewer lines to serve residents within the Borough;
- 2) the construction, repair or maintenance (including winter maintenance during unanticipated fiscal emergency) of public roads within the Borough as well as excess purchases of materials and equipment or rental thereof, and overtime pay related thereto;
- 3) the purchase, lease, repair or maintenance of vehicles or other equipment necessary to protect the public health, welfare and safety; or

- 4) such other unanticipated fiscal emergency as may be defined by Council of the Borough of Avalon in a Resolution.

SECTION 5:

If a final decision of a court of competent jurisdiction holds any provision of this Ordinance, or the application of any provision to any circumstances, to be illegal or unconstitutional, all the other provisions to other circumstances, shall remain in full force and effect. The intention of the Borough is that the provisions of this Ordinance shall be severable and that this Ordinance would have been adopted if any such illegal or unconstitutional provisions had not been included.

SECTION 6:

All Ordinances or parts of ordinances conflicting herewith be and the same are hereby repealed insofar as they conflict herewith.

SECTION 7:

This Ordinance shall become effective when it is recorded in the Ordinance Book of the Borough.

ORDAINED AND ENACTED into law this 18th day of October,
1994.

ATTEST:

BOROUGH OF AVALON

Joan A. Welsh
Joan A. Welsh,
Secretary
(SEAL)

By

Harry W. Dilmore
Harry W. Dilmore,
President of Council

Examined and Approved by me this 18th day of
October, 1994.

Daniel K. Bricmont
Daniel K. Bricmont
Mayor