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PART 1

REALTY TRANSFER TAX

§24-101. Authority.

A realty transfer tax for general revenue purposes is hereby imposed upon the transfer of real estate or interest in real estate situated within the Borough of Aspinwall, regardless of where the documents making the transfer are made, executed or delivered or where the actual settlements on such transfer took place, as authorized by Article XI-D, "Local Real Estate Transfer Tax," 72 P.S. §8101-D *et seq.*

(*Ord. 811, 12/10/1986, §12311*)

§24-102. Definitions.

ASSOCIATION - a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

CORPORATION - a corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.

DOCUMENT - any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds or trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, and contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding 30 years, or instruments which solely grant, vest or confirm a public utility easement. "Document" also shall include a declaration of acquisition required to be presented for recording under §24-103.

FAMILY FARM CORPORATION - a corporation of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.

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- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

[Ord. 995]

FAMILY FARM PARTNERSHIP - a partnership of which at least 75% of its assets are devoted to the business of agriculture and at least 75% of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

- A. Recreational activities, such as but not limited to hunting, fishing, camping, skiing, show competition or racing.
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities.
- C. Fur farming.
- D. Stockyard and slaughterhouse operations.
- E. Manufacturing or processing operations of any kind.

[Ord. 995]

LIVING TRUST - any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor. [Ord. 995]

MEMBERS OF THE SAME FAMILY - any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half-blood or legal adoption shall be treated as if they were related by the whole-blood.

ORDINARY TRUST - any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee

or the beneficiaries, or continuity of life. [Ord. 995]

PERSON - every natural person, association or corporation. Whenever used in any Section prescribing and imposing a fine or imprisonment, or both, the term “person” as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE -

- A. All lands, tenements or hereditaments within this Borough including, without limitation buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder’s interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY - a corporation or association which is primarily engaged in the business of holding, selling, or leasing real estate, 90% or more of the ownership interest in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership of disposition of real estate.
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE -

- A. Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life estate or perpetual leasehold.
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION - the making, executing, delivering, accepting or presenting for recording

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of a document.

VALUE -

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed and ground rents, or a commensurate part thereof where such liens or encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale.
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange or properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations.
- C. In the case of an easement or other interest in real estate the value of which is not determinable under subsection (A) or (B), the actual monetary worth of such interest.
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 811, 12/10/1986, §12312; as amended by Ord. 995, 12/10/2003)

§24-103. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of 1% of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company.

2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the Recorder of Deeds whereon the date of payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
3. It is the intent of this Part that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 *et seq.*, so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the Borough under the authority of that Act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be $\frac{1}{2}$ of the rate and such $\frac{1}{2}$ rate shall become effective without any action on the part of the Borough; provided, however, that the Borough and any other political subdivision which imposes such tax on the same person or transfer may agree that, instead of limiting their respective rates to $\frac{1}{2}$ of the rate here in provided, that they impose respectively different rates, the total of which shall not exceed the maximum rate permitted under the "Local Tax Enabling Act."
4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(Ord. 811, 12/10/1986, §12313)

§24-104. Exempt Parties.

The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 811, 12/10/1986, §12314)

§24-105. Excluded Transactions.

1. The tax imposed by §24-103 shall not be imposed upon:
 - A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance is made within 1 year from the date of condemnation.
 - B. A document which the Borough is prohibited from taxing under the Constitution or statutes of the United States.

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- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer of division in kind for no or nominal actual consideration or property passed by testate or intestate succession and held by cotenants; however, if any of the parties takes shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or the spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within 1 year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries. [Ord. 995]
- I. A transfer for no or nominal actual consideration from a trustee of a living trust from settlor of the living trust. No such exemption shall be granted unless the Recorder of Deeds is presented with a copy of the living trust instrument. [Ord. 995]
- J. A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this Part as if

such a transfer were made directly from the settler to the grantee. [*Ord. 995*]

- K. A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed. [*Ord. 995*]
- L. A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor. [*Ord. 995*]
- M. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- N. A transfer for no or nominal actual consideration from trustee to successor trustee.
- O. A transfer:
 - (1) For no or nominal actual consideration between principal and agent or straw party.
 - (2) From or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part.

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

- P. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- Q. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than 2 years.
- R. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- S. A transfer from a nonprofit industrial development agency or authority to

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a grantee purchasing directly from it, but only if:

- (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing, or agriculture.
 - (2) The agency or authority has the full ownership interest in the real estate transferred.
- T. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- U. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- V. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities; or a transfer from such a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the Act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least 2 years immediately prior to the transfer. [*Ord. 995*]
- W. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof. [*Ord. 995*]
- X. A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family, which family directly owns at least 75% of the interests in the partnership. [*Ord. 995*]
- Y. A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate. [*Ord. 995*]
- Z. A transaction wherein the tax due is \$1 or less.
- AA. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

2. In order to exercise any exclusion provided in this Section, the true, full and complete value of the transfer shall be shown on the statement of value. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(*Ord. 811*, 12/10/1986, §12315; as amended by *Ord. 995*, 12/10/2003)

§24-106. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §22-105, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purpose of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(*Ord. 811*, 12/10/1986, §12316)

§24-107. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest of the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of 3 years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part. [*Ord. 995*]
3. A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm partnership or when, because of transfer of partnership interests or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm partnership under this Part. [*Ord. 995*]
4. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the reorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose.

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(*Ord. 811*, 12/10/1986, §12317; as amended by *Ord. 995*, 12/10/2003)

§24-108. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.
2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as considered for the builder of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
3. Where there is a transfer of real estate which is leased by the grantor, a credit for the amount of tax paid at the time of the lease shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(*Ord. 811*, 12/10/1986, §12318)

§24-109. Extension of Lease.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method of calculating the rental charge is established.

(*Ord. 811*, 12/10/1986, §12319)

§24-110. Proceeds of Judicial Sale.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made except that state realty transfer tax, and the sheriff or other officer paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(Ord. 811, 12/10/1986, §12320)

§24-111. Duties of Recorder of Deeds.

1. As provided in 16 P.S. §11011-6, as amended by the Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax including any amount payable to the Borough based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the Borough.
2. In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each Borough.
3. On or before the 10th of each month, the Recorder shall pay over to the Borough all local realty transfer taxes collected, less 2% for use of the County, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The 2% commission shall be paid to the County.
4. Upon a redetermination of the amount of realty tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the State and local amounts and a rerecording or recording fee has been tendered.

(Ord. 811, 12/10/1986, §12321)

§24-112. Statement of Value.

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this subsection shall not apply to any excludable real estate transfers which from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this Part.

(Ord. 811, 12/10/1986, §12322)

§24-113. Penalties, Liens, Enforcement.

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1. **Civil Penalties.**

- A. If any part of any underpayment of tax imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
 - B. In the case of failure to record a declaration required under this Part on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50%, in the aggregate.
2. **Lien.** The tax imposed by this Part shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Borough, which lands, tenements, hereditaments or interest therein are described in or conveyed by or transferred by the document which is the subject of the tax imposed, assessed and levied by this Part, said lien to begin at the time when the tax under this Part is due and payable, and continue until discharge by payment or in accordance with the law. The Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Allegheny County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 *et seq.*, its supplements and amendments.
3. **Enforcement.** All taxes imposed by this Part together with interest and penalties prescribed herein shall be recoverable as other debts of like character are recovered.

(*Ord. 811, 12/10/1986, §12322A*)

§24-114. **Regulations.**

The Borough Manager is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C *et seq.* are incorporated into and made a part of this Part.

(*Ord. 811, 12/10/1986, §12322B*)

§24-115. **Duration.**

The provisions of this Part shall continue in full force on a calendar year basis without annual reenactment unless the rate of tax is changed.

(*Ord. 811, 12/10/1986, §12322D*)

PART 2

LOCAL SERVICES TAX

§24-201. Title.

This Part shall be known and cited as the “Local Services Tax Ordinance.”

(Ord. 1022, 11/14/2007, §1)

§24-202. Definitions.

As used in this Part, the following words and terms shall have the meanings set forth below, except where the context or language clearly indicates or requires a different meaning.

BOROUGH - the Borough of Aspinwall.

BOROUGH COUNCIL - the Council of the Borough of Aspinwall.

CALENDAR YEAR (TAX YEAR) - the 12-month period beginning the first day of January.

COLLECTOR - the person, persons, public or private agency, association and/or corporate entity designated by the Borough Council to collect the tax and to carry out and administer the provisions of this Part.

COMPENSATION - salaries, wages, commissions, tips, bonuses, fees, gross receipts or any other income.

DCED - the Pennsylvania Department of Community and Economic Development or any agency successor thereto.

EMPLOYER - any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency, or any other body engaged in business or situated in the Borough employing one or more employees engaged in any occupation, other than domestic servants.

OCCUPATION - any livelihood, job, trade, profession, business or enterprise of any kind, including services, domestic or other, for which monetary compensation is received or charged.

TAX - the tax imposed by this Part.

TAXPAYER - any natural person liable for the tax levied by this Part.

(Ord. 1022, 11/14/2007, §1)

§24-203. Tax Levy; Exemptions.

1. **Tax Levy.** For specific revenue purposes, a tax in the amount of \$52 is hereby levied upon the privilege of engaging in an occupation within the Borough in the calendar year 2008 and in each succeeding calendar year. Each natural person who exercises such privilege for any length of time shall pay the tax in accordance with the provisions of this Part. [*Ord. 1023*]
2. **Exemptions.** The tax hereby levied shall not be levied upon:
 - A. Any natural person whose total income during the subject calendar year is less than \$12,000.
 - B. 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 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 100% permanent disability.
 - C. 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. For purposes of this Section, "reserve component of the armed forces" shall mean 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.

(*Ord. 1022*, 11/14/2007, §1; as amended by *Ord. 1023*, 12/19/2007, §1)

§24-204. Collection through Employers.

1. Every employer shall, within 15 days after the effective date of this Part or within 15 days after first becoming an employer, register with the Collector by providing the employer's name, address and such other information deemed necessary or required by the Collector.
2. For each taxpayer employed for any length of time during a calendar year, each employer shall deduct a pro rata share of the tax from compensation payable to the taxpayer for each payroll period in which the taxpayer is engaging in the occupation. The pro rata share of the tax assessed on the taxpayer for a payroll period shall be determined by dividing total amount of the tax for the calendar year, \$52, 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 $\frac{1}{100}$ of a dollar. Collection of the tax levied under this Part shall be made on a payroll period basis for each payroll period in which the taxpayer is engaging in the occupation. [*Ord.*

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3. For each taxpayer employed for any length of time on or before March 31st of a calendar year, each employer shall file a return on a form prescribed by the Collector and pay the Collector the full amount of taxes deducted for such 3-month period on or before April 30th of the calendar year. Thereafter, as to each taxpayer for whom pro rata deductions have been made and who is employed for any length of time in any of the 3-month periods ending June 30th, September 30th, and December 31st of the calendar year, each employer shall deduct the tax from compensation payable to the taxpayer, file a return on a form prescribed by the Collector and pay to the Collector the full amount of all taxes deducted for each such 3-month period on or before July 31st and October 31st of the calendar year, or January 31st of the following calendar year, respectively.
4. Any employer who discontinues business or ceases operation before December 31st of the calendar year shall, within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the Collector.
5. The failure of any employer to deduct the tax shall not relieve the employee from the duty to file a return and pay the tax. Any employer who fails to deduct the tax as required by this Section, or who fails to pay such tax to the Collector, shall be liable for such tax in full, without deduction of any fees provided for in this Section, as though the tax had originally been levied against the employer.
6. As to employees who present official receipts evidencing prior payment of the tax either directly or by collection through other employers, the employer shall not deduct the tax but shall maintain adequate records concerning such employees.

(*Ord. 1022*, 11/14/2007, §1; as amended by *Ord. 1023*, 12/19/2007, §2)

§24-205. Direct Payment by Taxpayers.

Every taxpayer who is self-employed or whose tax for any other reason is not collected under §24-204 of this Part shall file a return on a form prescribed by the Collector and shall pay the tax directly to the Collector. Taxpayers subject to the tax shall file the return and pay the tax on a quarterly basis on or before April 31st, July 31st, October 31st of the calendar year, and January 31st of the following calendar year.

(*Ord. 1022*, 11/14/2007, §1)

§24-206. Refunds and Exemption Claim Procedure.

1. A person seeking to claim an exemption from the tax may annually file an exemption certificate with the Borough and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the Borough of less than \$12,000 in the calendar year for which the exemption certificate is filed. The Borough shall provide a copy of the exemption

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- certificate to the Collector. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the Borough for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the Borough or as required by subsection .2 herein, the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which this exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. As per Act 7 of 2007, the DCED shall develop uniform exemption certificates and make the certificates available to the Borough and employers.
2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the Borough that the person has received earned income and net profits from all sources within the Borough equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the Borough in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the tax from the person in accordance with subsection .3 herein.
 3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under subsection .2 herein, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under subsection .2 herein, a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of the tax due and the Borough may pursue collection.
 4. Except as provided in subsection .2 herein, it is the intent of this Section that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the tax.
 5. The Borough Manager, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within 75 days of a refund request or 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The Borough Manager or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

(Ord. 1022, 11/14/2007, §1)

§24-207. Nonresident Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in an occupation within the Borough, be subject to the tax and the provisions of this Part.

(Ord. 1022, 11/14/2007, §1)

§24-208. Individuals Engaged in More than One Occupation or Employed in More than One Subdivision.

1. No person shall be subject to the payment of the tax by more than one political subdivision during each payroll period.
2. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within 2 weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.
3. The situs of the tax shall be the place of employment on the first day of the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of the claim to collect the tax shall be in the following order:
 - A. First, the political subdivision in which a person maintains his or her principal office or is principally employed.
 - B. Second, the political subdivision in which the person resides and works if the tax is levied by the 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.

(Ord. 1022, 11/14/2007, §1)

§24-209. Employer Liability.

No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the Borough if the failure to withhold taxes arises from incorrect

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information submitted by the employee as to the employee's place or places of employment, the employee's principal office or whether the employee is principally employed. Further, an employer shall not be liable for payment of the tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of §24-206.1 of this Part and remits the amount so withheld in accordance with this Part.

(Ord. 1022, 11/14/2007, §1)

§24-210. Administration and Enforcement.

The Collector, on behalf of the Borough, shall collect and receive the taxes, interests, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The Collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part including, but not limited to, requirements for collection through employers, requirements for evidence and records and provisions for the examination and correction of returns. The Collector and agents designated by the Collector may examine the records of any employer or supposed employer or of any taxpayer or supposed taxpayer in order to ascertain the tax due and verify the accuracy of any return. Every employer or supposed employer and every taxpayer or supposed taxpayer shall give the Collector and any agent designated by the Collector all means, facilities and opportunity for the examinations hereby authorized.

(Ord. 1022, 11/14/2007, §1)

§24-211. Collection.

The Collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6% per year on the amount of unpaid tax and an additional penalty of $\frac{1}{2}$ of 1% of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The Collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Collector, then the Collector shall refund the amount of the overpayment to the person who paid under protest.

(Ord. 1022, 11/14/2007, §1)

§24-212. Violations and Penalties.

1. Any person, firm or corporation or entity who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall, upon being found liable therefor in a civil enforcement proceeding commenced by the

- Borough, pay a civil penalty of not less than \$100 nor more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer.
 3. The Borough may also commence appropriate actions in equity, at law or other to prevent, restrain, correct, enjoin, or abate violations of this Part.
 4. The initial determination of a violation of this Part and the service of notice of violation are hereby delegated to the Borough Manager, the Collector and their designees and to any other officer or agent that the Borough Manager or Borough Council shall deem appropriate.

(Ord. 1022, 11/14/2007, §1)

§24-213. Applicability and Severability.

The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania. If a final decision of a court of competent jurisdiction holds any provision of this Part or the application of any provision to any circumstances, to be illegal or unconstitutional, then the other provisions of this Part, or the application of such provision to other circumstances, shall remain in full force and effect. This Part shall continue in effect on a calendar year basis without annual reenactment.

(Ord. 1022, 11/14/2007, §1)

§24-214. Authority for Tax Imposition.

This Part and the tax hereby imposed are adopted and levied pursuant to the authority conferred by the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, as amended.

(Ord. 1022, 11/14/2007, §1)

PART 3

WAGE AND INCOME TAX

§24-301. Definitions.

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

ASSOCIATION - a partnership, limited partnership or any other unincorporated group of two or more associated persons.

BUSINESS - an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, an association or any other person or entity other than a corporation.

COLLECTOR - the person or persons appointed or elected by ordinance of the Borough Council to collect all taxes imposed by this Part and to carry out and administer the provisions of this Part.

CORPORATION - a corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other State, territory, foreign country or dependency.

CURRENT YEAR - the period beginning January 1 and ending December 31 of the current calendar year.

DOMICILE - the place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME - compensation as determined under §303 of the Act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," 72 P.S. §7303, as amended, and regulations in 61 Pa.Code §101.1 *et seq.*, as amended (relating to personal income tax). Employee business expenses are allowable deductions as determined under Article III of the "Tax Reform Code of 1971." The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income. [*Ord. 995*]

EMPLOYER - an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more residents for a

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salary, wage, commission or other compensation.

INDIVIDUAL - shall mean a natural person.

NET PROFITS - the net income from the operation of a business, profession, or other activity, except corporations, determined under §303 of the Act of March 4, 1971 (P.L. 6, No.2), known as the "Tax Reform Code of 1971," 72 P.S. §7303, as amended, and regulations in 61 Pa.Code §101.1 *et seq.*, as amended (relating to personal income tax). The term does not include income which is not paid for services provided and which is in the nature of earnings from an investment. For taxpayers engaged in the business, profession or activity of farming, the term shall not include:

- (1) Any interest earnings generated from any monetary accounts or investment instruments of the farming business.
- (2) Any gain on the sale of farm machinery.
- (3) Any gain on the sale of livestock held 12 months or more for draft, breeding or dairy purposes.
- (4) Any gain on the sale of other capital assets of the farm.

[*Ord. 995*]

NONRESIDENT - an individual, association or other entity domiciled outside the Borough of Aspinwall.

RESIDENT - an individual, association or other entity domiciled in the Borough of Aspinwall.

SUCCEEDING YEAR - the calendar year following the current year.

TAXPAYER - a person, whether an individual, association or other entity, required hereunder to file a return of earnings or net profits or to pay a tax thereon.

(*Ord. 636*, 12/14/1966, §12301; as amended by *Ord. 995*, 12/10/2003)

§24-302. Scope.

1. A tax for general revenue purposes of 1% is hereby imposed on the following under the authority of the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, as amended: [*Ord. 995*]
 - A. Earned income earned during the current year by residents of the Borough. [*Ord. 995*]
 - B. Earned income earned during the current year by nonresidents of the

Borough from employment within the Borough. [*Ord. 995*]

- C. Net profits earned during the current year of businesses, professions and other activities conducted by residents of the Borough.
 - D. Net profits earned during the current year of businesses, professions, and other activities conducted by nonresidents of the Borough when such activities are conducted within the Borough.
2. The tax levied under this Part shall be applicable to earned income received and to net profits earned in the period beginning January 1 of the current year, and ending December 31 of the current year, or for taxpayer fiscal years beginning in the current year, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual re-enactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

(*Ord. 636*, 12/14/1966, §12302; as amended by *Ord. 995*, 12/10/2003)

§24-303. Declaration and Payment.

1. Net Profits.

- A. Every taxpayer who anticipates any net profits shall, on or before April 15 in the current year, make and file with the collector on a form prescribed by the collector, a declaration of his estimated net profits during the current year, setting forth the estimated amount of net profits anticipated by him during the current year and subject to the tax, the amount of tax imposed by this Part on such estimated net profits and such other information as the collector may require. The taxpayer making the declaration shall, at the time of filing thereof, pay to the collector the estimated amount of tax shown as due thereon; provided, however, that the taxpayer shall have the right to pay the estimated tax in equal quarterly installments on or before April 15, June 15 and September 15 of the current year and February 15 of the succeeding year. [*Ord. 657*]
- B. On or before April 15 of the succeeding year, each taxpayer shall make and file with the collector, on a form prescribed by him, a final return showing all of his net profits for the current year, the total amount of tax due for the current year, the amount of such tax theretofore paid by him to the collector and the balance of tax due for the current year.
- C. Any taxpayer whose fiscal year is not the same as the calendar year may file the declaration and return and may make the payments which are required by subsections (A) and (B), above, to be filed and made on April 15 of the current year and April 15 of the succeeding year, respectively, on or before the 15th day of the fourth month of his fiscal years, and if he elects to pay the tax in quarterly installments, he shall make this quarterly payments on

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or before the corresponding dates in his fiscal years, all under such rules and regulations as the collector may prescribe. Such rules and regulations shall be so drawn as to assure the collection of the entire tax on account of each entire current year during which the tax shall be in effect.

- D. Any taxpayer who first anticipates any net profits after April 15 in the current year shall make and file the declaration hereinabove required on or before June 15 or September 15 of the current year or February 15 of the succeeding year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to the collector the estimated amount of tax shown as due thereon, provided, however, that the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment dates which remain after the filing of the declaration. [*Ord. 657*]
 - E. Every taxpayer who discontinues business during the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.
 - F. The collector is hereby authorized to provide, by regulation, for the making and filing of adjusted declarations of estimated net profits, and for the payment of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.
 - G. The collector shall have authority to grant extensions of time for the filing of any of the final returns required to be filed hereinunder, upon the written request of the taxpayer filed with the collector on or before the date hereby fixed for the filing of such return; provided, however, that no extension in excess of 60 days shall be granted; and, provided further, that in the case of any such extension, the taxpayer shall pay, upon the filing of said return, interest at the rate of 6% on the amount of tax thereby shown to be due from the date herein fixed for the filing of said return to the date of the actual filing thereof.
2. **Earned Income.** Every taxpayer who has any earned income in the current year which is not subject to the provisions of §24-304 of this Chapter, relating to the collection at source, shall on or before April 15, June 15 or September 15 in the current year and on or before February 15 of the succeeding year, as the case may be, make and file with the collector on a form prescribed by the collector, a return setting forth the aggregate amount of salaries, wages, commissions and other compensation earned by him during the 3-month periods ending March 31, June 30, September 30 and December 31 of the current year, respectively, and subject to the tax, together with such other information as the collector may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the collector the amount of tax shown as due thereon. [*Ord. 657*]

(*Ord. 636*, 12/14/1966, §12303; as amended by *Ord. 657*, 2/12/1969, §1)

§24-304. Collection at Source.

1. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough, who employs one or more residents for a salary, wage, commission or other compensation, other than domestic servants shall, on or before January 15 in the current year, or within 15 days after becoming an employer, register with the collector his name and address and such other information as the collector may require.
2. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the Borough, who employs one or more residents for a salary, wage, commission or other compensation, other than domestic servants, shall deduct monthly, or more often than monthly, at the time of payment thereof, the tax imposed by this Part on the earned income due to his resident employee or employees and shall, on or before April 30, July 31 and October 31 in the current year, and on or before January 31 of the succeeding year, file a return of taxes so deducted on a form prescribed by the collector and pay to the collector the amount deducted during the preceding 3 month periods ending March 31, June 30, September 30 and December 31 in the current year respectively.
3. Any employer who for any two of the four preceding quarterly periods has failed to deduct the proper tax or any part thereof, or has failed to pay over the proper amount of tax to the collector, may be required by the collector to file his return and pay the tax monthly. In such cases, returns shall be filed with, and payments of tax shall be made to, the collector, on or before the last day of the month succeeding the month for which the tax was withheld.
4. On or before February 28 in the succeeding year, every such employer shall file with the collector on forms prescribed by him:
 - A. An annual return showing the total amount of salaries, wages, commissions and other compensation paid, the total amount of tax deducted and the total amount of tax paid to the collector for the current year.
 - B. A return for each employee for the current year, setting forth such employee's name, address and Social Security number, the amount of earned income paid to such employee during said period, the amount of tax deducted, the amount of tax paid to the collector and such other information as the collector may require. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.
5. Every employer who discontinues business during the current year shall, within 30 days after the discontinuance of business, file the returns hereinabove required and pay the tax due.
6. Except as otherwise provided in §9 of the Local Tax Enabling Act, 53, P.S. §6909,

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as amended, every employer who willfully or negligently fails, refuses omits to make the deductions required by this Section shall be liable for payment of the taxes which he was required to withhold, together with interest and penalties as provided in this Part, to the extent that such taxes, interest and penalties have not been recovered from the employee. [*Ord. 995*]

7. The failure or omission of any employer to make the deductions required by this Section shall not relieve any employee from the payment of the tax or from complying with the requirements of this Part relating to the filing of declarations and returns.

(*Ord. 636*, 12/14/1966, §12304; as amended by *Ord. 995*, 12/10/2003)

§24-305. Powers and Duties of Collector.

1. It shall be the duty of the collector to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax, and the date of such receipt.
2. Each collector, before entering upon his official duties, shall give and acknowledge a bond to the Borough.
 - A. Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.
 - B. Each bond shall be conditioned upon the faithful discharge by the collector, his clerks, assistants and appointees, of all trusts confided in him by virtue of his office, upon the faithful execution of all duties accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by virtue of his office and upon delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.
 - C. Each such bond shall be taken in the name of the Borough, and shall be for the use of the Borough, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.
 - D. The Borough or any person may sue upon the said bond in its or his own name for its or his own use.
 - E. Each such bond shall contain the name or names of surety company or companies bound thereon. The Borough shall fix the amount of the bond at any amount equal to the maximum amount of taxes which may be in the

possession of the officer at any given time.

- F. The Borough may, at any time, upon cause shown and due notice to the collector and his surety or sureties, require or allow the substitution or addition of a surety company acceptable to the Borough, for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.
 - G. The Borough shall designate the custodian of the bond required to be given by the collector.
3. The collector charged with the administration and enforcement of the provisions of this Part is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the reexamination and correction of declarations and returns, and of payments, alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to make refunds in cases of overpayment for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe form necessary for the administration of this chapter. No rule or regulation of any kind shall be enforceable unless it has been approved by ordinance by the Borough Council. A copy of such rules and regulations currently in force shall be available for public inspection.
 4. The collector shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.
 5. The collector and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the collector reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the collector reasonably believes to be an employer or taxpayer is hereby directed and required to give to the collector, or any agent designated by him, the means, facilities and opportunity for such examination and investigations, as hereby authorized.
 6. Any information gained by the collector, his agents or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
 7. The collector is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(Ord. 636, 12/14/1966, §12305)

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§24-306. Compensation of Collector.

The collector shall receive such compensation for his services and expenses as determined by the Borough Council.

(Ord. 636, 12/14/1966, §12306)

§24-307. Suit for Collection.

1. The collector may sue in the name of the taxing district for the recovery of taxes due and unpaid under this Part.
2. Any suit brought to recover the tax imposed by this Part shall be begun within 3 years after such tax is due, or within 3 years after the declaration or return has been filed, whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:
 - A. Where no declaration or return was filed by any person, although a declaration or return was required to be filed by him under provisions of this Part, there shall be no limitation.
 - B. Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the collector, reveals a fraudulent evasion of taxes, there shall be no limitation.
 - C. In the case of substantial understatement of tax liability of 25% or more, and no fraud, suit shall be begun within 6 years.
 - D. Where any person has deducted taxes under the provisions of this Part and has failed to pay the amounts so deducted to the collector, or where any person has willfully failed or omitted to make the deductions required, there shall be no limitation.
3. This Section shall not be construed to limit the Borough from recovering delinquent taxes by any other means provided by this Part.
4. The collector may sue for recovery of an erroneous refund, provided such suit is begun 2 years after making such refund, except that the suit may be brought within 5 years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

(Ord. 636, 12/14/1966, §12307)

§24-308. Interest and Late Payment Fees.

If for any reason the tax is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of ½ of 1% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(*Ord. 636*, 12/14/1966, §12308)

§24-309. Violations and Penalties.

1. Any person who fails, neglects or refuses to make any declaration or return required by this Part; any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees; any person who refuses to permit the collector or any agent designated by him to examine his books, records and papers; and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of that amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Part shall, upon conviction thereof before any District Magistrate, or court of competent jurisdiction, in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not less than \$100 nor more than \$500 for each offense and costs and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding 30 days. [*Ord. 995*]
2. Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof before any District Magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not less than \$100 nor more than \$500 for each offense and costs and, in default of payment of said fines and costs, shall be imprisoned for a period not exceeding 30 days.
3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this Part.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part shall not excuse him from making such declaration or return.

(*Ord. 636*, 12/14/1966, §12309; as amended by *Ord. 995*, 12/10/2003)

§24-310. Authority for Imposition.

This Part and the tax imposed hereby are adopted and levied pursuant to the authority conferred by the Local Tax Enabling Act, Act No. 511, 53 P.S. §6901, of the General Assembly of the Commonwealth of Pennsylvania, approved December 31, 1985, as amended. This Part shall continue in effect on a calendar year basis without annual

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reenactment.

(*Ord. 636*, 12/14/1966, §12310; as amended by *Ord. 995*, 12/10/2003)

PART 4

PROPERTY TAX RELIEF

A. Property Tax Gentrification Program

§24-401. Short Title.

This Subpart shall be known as the “Aspinwall Borough Property Tax Gentrification Program.”

(*Ord. 995*, 12/10/2003; as amended by *Ord. 1016*, 12/13/2006, §1)

§24-402. Definitions.

ACT 77 - the Act of December 22, 1993, P.L. 529, No. 77, codified as the Allegheny Regional Asset District Law, 16 P.S. § 6101-B *et seq.*, as amended.

ALLEGHENY REGIONAL ASSET DISTRICT LAW - same as Act 77 above.

BOROUGH - the Borough of Aspinwall.

BOROUGH COUNCIL - the Council of the Borough of Aspinwall.

ELIGIBLE TAXPAYER - a long-term owner/occupant residing in the Borough who is: (1) a single person aged 60 or older during a calendar year in which Borough real estate taxes are assessed and due and whose household income does not exceed \$30,000; or (2) married person, if either spouse is 60 or older during a calendar year in which Borough real estate taxes are assessed and due and whose household income does not exceed \$30,000.

HOUSEHOLD INCOME - all income received by an eligible taxpayer during a calendar year.

INCOME - all income from whatever source derived including, but not limited to, salaries, wages, bonuses, commissions, interest, dividends, IRA distributions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities, including 50% of railroad retirement benefits, 50% of all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under state unemployment insurance laws and veteran’s disability payments, all interest received from the Federal or any state government or any instrumentality or political subdivision thereof, realized capital gains, net income from rentals, workers’ compensation, the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first \$5,000 of the total of death benefit payments), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of \$300, but shall not include surplus food or other relief in kind supplied by governmental agency or property tax or rent rebate or inflation dividend.

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LONG-TIME OWNER/OCCUPANT - any person who for at least 10 continuous years has owned and occupied a dwelling place within the Borough as a principal residence and domicile, or any person who for at least 5 years has owned and occupied a dwelling place within the Borough as a principal residence and domicile if that person received assistance in the acquisition in the property as a part of a government or non-profit housing program.

PERSON - a natural person.

PRINCIPAL RESIDENCE - the dwelling place of a person, including the principal house and lot, and such lots as are used in connection therewith which contribute to its enjoyment, comfort and convenience; or a building with a maximum of one (1) commercial establishment and a maximum of three (3) residential units of which one (1) residential unit must be a principal residence of the property owner/occupant.

PROGRAM - the Aspinwall Borough Property Tax Gentrification Program enacted pursuant to Act 77 of 1993, as amended. [*Ord. 1016*]

(*Ord. 995*, 12/10/2003; as amended by *Ord. 1016*, 12/13/2006, §1)

§24-403. Term of Limitation/Benefit.

All eligible taxpayers in Aspinwall Borough shall be entitled to receive a discount limited to a maximum of 10% on Borough real estate taxes for each year taxpayer(s) is/are eligible.

(*Ord. 995*, 12/10/2003)

§24-404. Application for Participation in the Program.

1. An application for the above-described limitation/benefit for Aspinwall Borough shall be filed with the Borough Manager by February 1 of the year which limitation/benefit is being sought.
2. Which application shall be filed under oath and may request the following information:
 - A. Name of the property owner(s).
 - B. Address of the property owner(s).
 - C. Location of the property, which is the subject of the application.
 - D. A statement as to whether the property is utilized as the principal residence.
 - E. The date of purchase of the property.
 - F. A statement as to whether any portion of the property is used for commercial purposes. For any property which is used for commercial purposes, the

application must include an explanation of the use of the space and a floor plan, if any.

- G. If the property contains more than one living unit, the application shall also state the number of units and whether or not the units are made available for rental purposes.
 - H. The age(s) and marital status of the applicant(s).
 - I. Reasonable proof of household income.
 - J. Any other reasonable information and/or conditions as may be necessary to operate the program.
3. **One-Time Filing.** Once approved, qualified applicant continues to receive the limitation/benefit as long as applicant is the property owner/occupant and is eligible for the program.
 4. Any property owner/occupant participating in the program must notify the Borough of ownership changes or any other changes that affect his/her eligibility for the program;
 5. The period of tax relief shall be for the tax year applied for which the applicant(s) remains qualified and eligible for these guidelines.

(Ord. 995, 12/10/2003)

§24-405. Administration of Program; Rules and Regulations.

The Borough Manager shall be the sole administrator of the program and shall have the exclusive authority to issue rules and regulations with respect to the administration of the limitations of the program established under this Subpart. The Borough Manager shall promptly process the application and shall notify the applicant accordingly. The Borough Manager may also require the applicant to supply such other documentation as may be required to properly consider the application. Any person aggrieved by the decision of Borough Manager has the right to file an appeal to the Borough Council.

(Ord. 995, 12/10/2003; as amended by Ord. 1016, 12/13/2006, §1)

§24-406. Dates of Collection.

All Aspinwall Borough taxpayers are eligible to receive a 2% discount by paying annual Borough real estate taxes within 2 months after the date of the Borough real estate tax notice, while the gross or face amount of the Borough real estate taxes is due within 4 months after the date of the Borough real estate tax notice. Said payments not received by established collection dates will become delinquent and subsequently lien as all other unpaid real estate taxes.

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(Ord. 995, 12/10/2003)

§24-407. Construction Rules.

The guidelines, rules and regulations intended as aids to govern the application and disposition of appeals of the Property Tax Gentrification Program pursuant to Act 77 of 1993, as amended, may be amended at any time unless such action results in depriving a party of substantial rights.

(Ord. 995, 12/10/2003; as amended by Ord. 1016, 12/13/2006, §1)

B. Homestead Property Exclusion Program.

§24-410. Title.

This Subpart shall be known and cited as the “Homestead Property Exclusion Program.”

(Ord. 1016, 12/13/2006, §1)

§24-411. Definitions and Construction.

The definitions of terminology contained in the Homestead Property Exclusion Program Act, 53 Pa.C.S.A. §8581 *et seq.*, as amended, (the “Homestead Property Exclusion Program Act”) are incorporated herein by reference. All terminology contained in this Subpart and all provisions of this Subpart shall be construed in accordance with the Homestead Property Exclusion Program Act.

(Ord. 1016, 12/13/2006, §1)

§24-412. Homestead Property Exclusion.

A homestead property exclusion is hereby created and established pursuant to the Homestead Property Exclusion Program Act in order to exclude a certain amount of the assessed value of any homestead property in the Borough from Borough real estate taxes. The amount of this homestead property exclusion may be set from time to time by resolution of the Borough Council.

(Ord. 1016, 12/13/2006, §1)

§24-413. Farmstead Property Exclusion.

A farmstead property exclusion is hereby created and established pursuant to the Homestead Property Exclusion Program Act in order to exclude a certain amount of the assessed value of any farmstead property in the Borough from Borough real estate taxes. The amount of this farmstead property exclusion may be set from time to time by resolution of the Borough Council. The exclusion for farmstead property is in addition to any exclusion for homestead property for which the dwelling on a subject farm may qualify.

(Ord. 1016, 12/13/2006, §1)

§24-414. Administration and Regulations.

The Allegheny County Office of Property Assessments, or its successor, and the Borough Manager or his/her designee shall be responsible for administering this Subpart. The Allegheny County Office of Property Assessments and the Borough Manager shall have the authority to issue regulations with respect to the administration and implementation of

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this Subpart provided that such regulations comply with the Homestead Property Exclusion Program Act.

(Ord. 1016, 12/13/2006, §1)

§24-415. Applicability.

The homestead and farmstead property exclusions established under this Subpart may apply to the 2007 Borough real estate tax year and all succeeding Borough real estate tax years.

(Ord. 1016, 12/13/2006, §1)

PART 5

DISCOUNTS AND PENALTIES

§24-501. Discount for Payment of Taxes within Specified Time.

All taxpayers subject to the payment of taxes assessed by a taxing district shall be entitled to a discount of 2% from the amount of such tax upon making payment of the whole amount thereof within 2 months after the date of the tax notice.

(Res. 77-2, 2/9/1977, §12334)

§24-502. Penalty for Failure to Pay Taxes within Specified Time.

All taxpayers who shall fail to make payment of any such taxes charged against them for 4 months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by him.

(Res. 77-2, 2/9/1977, §12335)

PART 6

BUSINESS PRIVILEGE TAX

§24-601. Title.

This Part shall be known and cited as the "Business Privilege Tax Ordinance."

(Ord. 1006, 12/30/2004, §1)

§24-602. Definitions.

As used in this Part, the following words and phrases shall have the meanings prescribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

BOROUGH - the Borough of Aspinwall.

BOROUGH COUNCIL - the Council of the Borough of Aspinwall.

BUSINESS, TRADES, OCCUPATIONS, PROFESSIONS AND OTHER COMMERCIAL ACTIVITY - any activity carried on or exercised for gain, or profit, or otherwise in the Borough, including, but not limited to: the sale of merchandise or other personalty and/or realty; the performance of a service; and the rental of personalty or realty. This definition shall not include the following: (1) employees or agencies of the government of the United States of America, Commonwealth of Pennsylvania, County of Allegheny, Borough or similar political subdivision or governmental entity; and (2) non-profit corporations or associations organized solely and exclusively for religious, educational or charitable purposes and not conducting any type of regular or established business which competes commercially with any other person subject to the tax.

CALENDAR YEAR (TAX YEAR) - the 12-month period beginning the first day of January.

COLLECTOR - the person, persons, public or private agency, association and/or corporate entity designated by the Borough Council to collect the tax and to carry out and administer the provisions of this Part.

PERSON - any individual, partnership, limited partnership, association or corporation.

SERVICE - any act or instance of helping or benefiting another for a consideration.

TAX - the tax imposed by this Part.

TAXPAYER - any person liable for the tax levied by this Part.

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(Ord. 1006, 12/30/2004, §1)

§24-603. Tax Levy; Exception.

An annual business privilege tax in the amount of \$100 is hereby levied upon any person who engages in any business, trade, occupation, profession or other commercial activity in the Borough and maintains a place of business in the Borough in calendar year 2005 and in each succeeding calendar year. Each person who exercises such privilege for any length of time shall pay the tax in accordance with the provisions of this Part; provided, the tax hereby levied shall not be levied upon any person whose total gross receipts from the subject business, trade, occupation, profession or other commercial activity during the subject calendar year is less than \$2,000.

(Ord. 1006, 12/30/2004, §1)

§24-604. Collection from Taxpayers.

1. Every taxpayer shall, within 15 days after the effective date of this Part or within 15 days after first becoming a taxpayer, register with the collector by providing the taxpayer's name, address, business address and such other information deemed necessary or required by the collector.
2. Each taxpayer who first becomes subject to the tax on or before March 31 of the calendar year shall file a return on a form prescribed by the collector and pay the collector the full amount of the tax on or before April 31 of that calendar year, and each such taxpayer who first becomes subject to the tax after March 1 shall file a return on a form prescribed by the collector and pay the collector the full amount of the tax on or before July 31 or October 31 of the calendar year, or January 1 of the following calendar year, whichever of such payment dates first occurs, at least 30 days after the taxpayer becomes subject to the tax.
3. Any taxpayer who discontinues business or ceases operation before December 31 of the calendar year shall, within 15 days after discontinuing business or ceasing operation, file the return hereinabove required and pay the tax to the collector.

(Ord. 1006, 12/30/2004, §1)

§24-605. Nonresident Taxpayers.

Both resident and nonresident taxpayers shall, by virtue of engaging in any business, trade, occupation, profession or other commercial activity in the Borough and maintaining a place of business in the Borough, be subject to the tax and the provisions of this Part.

(Ord. 1006, 12/30/2004, §1)

§24-606. Administration and Enforcement.

The collector, on behalf of the Borough, shall collect and receive the taxes, interests, fines and penalties imposed by this Part and shall maintain records showing the amounts received and the dates such amounts were received. The collector shall prescribe and issue all forms necessary for the administration of the tax and may adopt and enforce regulations relating to any matter pertaining to the administration of this Part, including but not limited to requirements for collection from taxpayers, requirements for evidence and records and provisions for the examination and correction of returns. The collector and agents designated by the collector may examine the records of any taxpayer or supposed taxpayer in order to ascertain the tax due and verify the accuracy of any return. Every taxpayer or supposed taxpayer shall provide the collector and any agent designated by the collector with all means, facilities and opportunity for the examinations hereby authorized.

(Ord. 1006, 12/30/2004, §1)

§24-607. Collection.

The collector shall collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Part and unpaid. If for any reason any tax is not paid when due, interest at the rate of 6% per year on the amount of unpaid tax and an additional penalty of $\frac{1}{2}$ of 1% of the amount of unpaid tax, for each month or fraction of month during which the tax remains unpaid, shall be added and collected. Whenever suit is brought for the recovery of unpaid tax, the taxpayer shall, in addition, be liable for the costs of collection as well as for interest and penalties. The collector may accept payment under protest of the tax claimed by the Borough in any case where any person disputes the Borough's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the collector, then the collector shall refund the amount of the overpayment to the person who paid under protest.

(Ord. 1006, 12/30/2004, §1)

§24-608. Violations and Penalties.

1. Any person who violates a provision of this Part, or who fails to comply therewith, or with any of the requirements thereof, shall be, upon conviction thereof, sentenced to pay a fine of not less than \$100 nor more than \$600 for each violation, plus costs and reasonable attorney fees incurred by the Borough in the enforcement proceedings, and in default of payment of said fine and costs, to imprisonment to the extent permitted by law for the punishment of summary offenses.
2. A separate offense shall arise for each day or portion thereof in which a violation is found to exist or for each Section of this Part found to have been violated. All fines and penalties collected for violation of this Part shall be paid to the Borough Treasurer.
3. The Borough may also commence appropriate actions in equity, at law or other to

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prevent, restrain, correct, enjoin or abate violations of this Part.

4. The initial determination of a violation of this Part and the service of notice of violation are hereby delegated to the Borough Manager, the collector and their designees and to any other officer or agent that the Borough Manager or the Borough Council shall deem appropriate.

(Ord. 1006, 12/30/2004, §1)

§24-609. Applicability.

1. Any person who advertises a business address or telephone number located in the Borough or who maintains a place of business within the Borough shall be deemed to be doing business within the Borough for the purposes of this Part.
2. The tax shall not apply to any subject of tax or person not within the taxing power of the Borough under the Constitution of the United States of America and the laws and Constitution of the Commonwealth of Pennsylvania.

(Ord. 1006, 12/30/2004, §1)

§24-610. Authority for Tax Imposition.

This Part and the tax hereby imposed are adopted and levied pursuant to the authority conferred by the Local Tax Enabling Act, 53 P.S. §6901 *et seq.*, as amended.

(Ord. 1006, 12/30/2004, §1)