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[HISTORY: Adopted by the Board of Supervisors of the Township of Paradise as indicated in article histories. Amendments noted where applicable.]

ARTICLE I Earned Income Tax

[Adopted 2-3-87 as Ch. 24,Part 1, of the 1987 Code]

§ 136-1. Definitions.¹

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning.

§ 136-2. Imposition and rate of tax.

A tax for general revenue purposes is hereby imposed at the rate of 1% on the following:

- A. Earned income received in the current year by residents of the taxing district.
- B. Earned income received in the current year within the taxing district by nonresidents thereof.
- C. Net profits earned during the current year by residents of the taxing district.
- D. Net profits earned during the current year within the taxing district by nonresidents thereof.

§ 136-3. Applicability.

The tax levied under this article 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 reenactment, unless the rate of the tax is subsequently changed. Regardless of the fiscal year of any taxpayer, such taxpayer shall be liable for payment of the tax hereby imposed from January 1, 1971.

§ 136-4. Net profits.

Every taxpayer making net profits shall, on or before April 15 of the current year, make and file with the Officer on a form prescribed or approved by the Officer a declaration of his estimated net profits during the period beginning January 1 and ending December 31 of the current year and pay to the Officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

- A. Any taxpayer who first anticipates any net profit after April 15 of the current year shall make and file the declaration herein above required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the Officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

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- B. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.
- C. Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the Officer on or before January 31 of the succeeding year the final return as hereinabove required.
- D. The Officer is hereby authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits and for the payments 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.
- E. Every taxpayer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

§ 136-5. Earned income.

- A. Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Officer on a form prescribed or approved by the Officer a final return showing the amount of income received during the period beginning January 1 of the current year and ending December 31 of the current year the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.
- B. Every taxpayer who is employed for a salary, wage, commission or other compensation and who received any earned income not subject to the provisions relating to collection at source shall make and file with the Officer, on a form prescribed or approved by the Officer, a quarterly return on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively, and subject to the tax, together with

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such other information as the Officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the Officer the amount of tax shown as due thereon.

§ 136-6. Collection at source.

- A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, who has not previously registered shall, within 15 days after becoming an employer or within 15 days after the effective date of this article, whichever shall first occur, register with the Officer his name and address and such other information as the Officer may require.
- B. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the taxing jurisdiction who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the tax imposed by this article on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a return and pay to the Officer the amount of taxes deducted during the preceding three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Officer and employer, shall show the name and social security number of each such employee, the earned income of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total earned income of all such employees during such preceding three-month period and the total tax deducted therefrom and paid with the return.
- C. Any employer who for two of the preceding four 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 taxing authority may be required by the Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Officer on or before the last day of the month succeeding the month for which the tax was withheld.
- D. On or before February 28 of the succeeding year, every employer shall file with the Officer:
 - (1) An annual return showing the total amount of earned income paid, the total amount of tax deducted and the total amount of tax paid to the Officer for the

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period beginning January 1 of the current year and ending December 31 of the current year.

- (2) A return withholding statement for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and social security number, the amount of earned income paid to the employee during said period, the amount of tax deducted, the political subdivision imposing the tax upon such employee and the amount of tax paid to the Officer. Every employer shall furnish two copies of the individual return to the employees for whom it is filed.
- E. Every employer who discontinues business prior to December 31 of the current year shall, within 30 days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.
- F. Except as otherwise provided in Section 9 of Act 511, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employee.
- G. 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 the section relating to the filing of declarations and returns.
- H. If an employer makes a deduction of tax as required by this article, the amount deducted shall constitute in the hands of such employer a trust fund held for the account of the governing body as beneficial owner and the employee from whose earned income such tax was deducted shall be deemed to have paid such tax.

§ 136-7. Powers and duties of officer.

- A. It shall be the duty of the Officer to collect and receive the taxes, fines and penalties imposed by this article. 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 if paid by such taxpayer or employer in respect of another taxpayer, the name of such other taxpayer and the date of such receipt.
- B. The Officer is hereby charged with the administration and enforcement of the provisions of this article and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the reexamination and correction of declarations and returns and of payments alleged or

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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 forms necessary for the administration of this article. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.

- C. The Officer 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.
- D. The Officer 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 Officer 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 Officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.
- E. Any information gained by the Officer, 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 article, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.
- F. The Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

§ 136-8. Suit for collection of tax.

- A. The Officer may sue in the name of the taxing district for the recovery of taxes due and unpaid under this article.
- B. Any suit brought to recover the tax imposed by this article shall be begun within three years after such tax is due or within three 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:

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- (1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this article, there shall be no limitation.
 - (2) 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 Officer reveals a fraudulent evasion of taxes, there shall be no limitation.
 - (3) In the case of substantial understatement or tax liability of 25% or more, and no fraud, suit shall be begun within six years.
 - (4) Where any person has deducted taxes under the provisions of this article, and has failed to pay the amounts so deducted to the Officer, or where any person has willfully failed or omitted to make the deductions required by this section, there shall be no limitation.
 - (5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this article or the Act.
- C. The Officer may sue for recovery of an erroneous refund, provided that such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

§ 136-9. Interest and penalties.

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 1/2 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 therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§ 136-10. Violations and penalties.

- A. Any person who fails, neglects or refuses to make any declaration or return required by this article, 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 Officer 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 the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax

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imposed by this article shall, upon conviction thereof before any District Justice or court of competent jurisdiction in the county, be sentenced to pay a fine of not more than \$300 for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding 90 days.

- B. Any person who divulges any information which is confidential under the provisions of this article shall, upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than \$300 for each offense, and costs, and/or to be imprisoned for a period not exceeding 90 days.
- C. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this article.
- D. The failure of any person to receive or procure forms required for making the declaration or returns required by this article shall not excuse him from making such declaration or return.

§ 136-11. Distress and sale of goods and chattels of taxpayer.

- A. The Officer shall have power, in case of the neglect or refusal of any person, copartnership, association or corporation to make payment of the amount of any tax due by him, after two months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed Constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least 10 days' public notice of such sale, by posting 10 written or printed notices and by one advertisement in a newspaper of general circulation published in the county.
- B. No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made or lien filed for nonpayment of taxes or any tax sale for the collection of taxes.

§ 136-12. Collection of delinquent earned income taxes from employers.

The Officer shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals employing persons owing delinquent earned income taxes or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent earned income taxes upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxpayer and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees, then owing or

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that shall within 60 days thereafter become due, or from any unpaid commissions or earnings of any such taxpayer in its or his possession, or that shall within 60 days thereafter come into his or her possession, a sum sufficient to pay the amount of the delinquent earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the Officer within 60 days after such notice shall have been given. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding 2% of the amount of money so collected and paid over to the Officer. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the Officer, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxpayer whose taxes are not withheld and paid over or that are withheld and not paid over together with a penalty of 10% added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the Officer or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution of exemption law.

§ 136-13. Payment of tax to other political subdivisions or states; withholding tax.

- A. Payment of any like tax to any other political subdivision pursuant to an ordinance or resolution passed or adopted prior to the effective date of the Act shall be credited to and allowed as a deduction from the liability of taxpayers for any like tax imposed under this article.
- B. Payment of any tax on salaries, wages, commission, other compensation or net profits of business, professions or other activities to any other political subdivision by residents thereof pursuant to any ordinance or resolution passed or adopted under the authority of the Act shall be credited to and allowed as a deduction from the liability of such persons for any tax imposed under this article.
- C. Payment of any tax on income to any other political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of the Act shall, to the extent that such income includes salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities, but in such proportion as hereinafter set forth, be credited to and allowed as a deduction from the liability of such persons for any tax imposed under this article.
- D. Payment of any tax on income to any state or to any other political subdivision thereof by residents thereof, pursuant to any state or local law, shall, to the extent

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- that such income includes salaries, wages, commissions or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any tax imposed under this article, if residents of the political subdivision in Pennsylvania receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivisions thereof.
- E. Payment of any tax on income to any state other than Pennsylvania or to any political subdivision located outside the boundaries of this commonwealth by residents of a political subdivision located in Pennsylvania shall, to the extent that such income includes salaries, wages, commission or other compensation or net profits of businesses, professions or other activities, but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any tax imposed under this article.
- F. Where a credit or a deduction is allowable in any of the several cases hereinabove provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by other state or respective political subdivisions, but not in excess of the amount previously paid for a concurrent period.

ARTICLE II

Realty Transfer Tax

Adopted 2-3-1987 as Ch. 24, Part 2, of the 1987 Code
Amended 12-30-2007; Ordinance 162

§ 136-14. Short title.

The short title of this article shall be the "Real Estate Transfer Tax Ordinance of 1967 of the Township of Paradise."

§ 136-15. Definitions.²

Except as defined in this Code (see Chapter 1, General Provisions, Article II, Definitions), all words shall carry the customary meaning.

§ 136-16. Imposition of Tax.

Paradise Township hereby adopts the provisions of Article XI-D of the Tax Reform Code of 1971, as amended, and imposes a realty transfer tax as authorized under that Article subject to the rate limitations therein. The tax imposed under this Section shall be at the rate of one (1%) percent.

²Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

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§ 136-17. Administration.

- A. The tax imposed under Section 1 and all applicable interest and penalties shall be administered, collected, and enforced under the Act of December 31, 1965, P.L. 1257, No. 511, as amended, known as "The Local Tax Enabling Act;" provided that if the correct amount of the tax is not paid by the last date prescribed for timely payment, Paradise Township, pursuant to Section 1102-D of the Tax Reform Code of 1971, found at 72 P.S. § 8102-D, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect, and enforce the tax, interest and penalties.
- B. The Collector shall receive a commission of 2% of the amount of tax so collected and, within 10 days after the end of each calendar month, shall furnish a written report to, and in the form to be prescribed by, the township, showing as to each document the date of recording, name of grantor, seller or transferor, name of grantee, purchaser or transferee, the value of the transfer and the amount of tax collected, and pay over to the Treasurer of the township the total amount of taxes collected under this article during the preceding calendar month, less the amount of commission due the Collector thereon.
- C. The Collector shall give bond to the township secured and conditioned for the collection, accounting for and paying over of such taxes, in an amount to be fixed by the township by resolution. Such bond shall have thereon as surety at least one bonding company which is on the list of approved bonding companies in the office of the Prothonotary of Monroe County, Pennsylvania, in accordance with Rule XXXIII of the Court of Common Pleas of said county. The premium on said bond shall be paid by the township. Said bond shall be filed with the Secretary of the township.
- D. The Secretary of the Township is hereby authorized and directed to have the necessary stamp, report forms and any other supplies necessary for the collection of the tax imposed by this article manufactured or prepared and delivered to the Collector from time to time.

§ 136-18. Value of transfer.

Every document when lodged with or presented to the Collector shall set forth therein and as a part of such document the true, full and complete value of the transfer or shall be accompanied by an affidavit executed by the person required to pay the tax imposed by this article or the agent or attorney of such person, showing the connection of such person with the transfer and setting forth the true, full and complete value of the transfer, or the reason, if any, why such transfer is not subject to said tax. The provisions of this section shall not apply to any real estate transfers which are exempt from taxation based on family relationship.

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§ 136-19. Interest.

Any tax imposed under Section 1 that is not paid by the date the tax is due shall bear interest as prescribed for interest on delinquent municipal claims under the Act of May 16, 1923, P.L. 207, No. 153, found at 53 P.S. § 7101, *et seq.*, as amended, known as “The Municipal Claims and Tax Liens Act.” The interest rate shall be the lesser of the interest rate imposed upon delinquent Commonwealth taxes as provided in Section 806 of the Act of April 9, 1929, P.L. 343, No. 176, found at 72 P.S. § 806, as amended, known as “The Fiscal Code,” or the maximum interest rate permitted under the Municipal Claims and Tax Liens Act for tax claims.³

§ 136-20. Violations and penalties.

Any person, firm or corporation who or which shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$300 and/or to imprisonment for a term not to exceed 90 days.

ORDINANCE NO. 161

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE TOWNSHIP OF PARADISE, ADOPTED BY ORDINANCE 148, AND THEREAFTER AMENDED, TO REPEAL ARTICLE III, EMERGENCY AND MUNICIPAL SERVICES TAX AND TO ENACT A NEW ARTICLE III TO BE ENTITLED LOCAL SERVICES TAX.

IT IS HEREBY ENACTED AND ORDAINED by the SUPERVISORS of the TOWNSHIP OF PARADISE, MONROE COUNTY, PENNSYLVANIA, as follows:

SECTION I: The title and text of Article III [Emergency and Municipal Services Tax] of Chapter 136 [Taxation] of the Code of the TOWNSHIP OF PARADISE are hereby amended to state in entirety as follows:

ARTICLE III LOCAL SERVICES TAX [Adopted 1/1/08; Ordinance 161]

§ 136-21. Authority of Enactment.

§ 136-22. Definitions.

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

³Editor's Note: See 53 P.S. § 7101 *et seq.*

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A. **POLITICAL SUBDIVISION:** The area within the corporate limits of the Township of Paradise.

B. **COLLECTOR:** The person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.

C. **DCED:** The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

D. **EARNED INCOME:** Compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

E. **EMPLOYER:** An individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self employed person.

F. **HE, HIS or HIM:** Indicates the singular and plural number, as well as male, female and neuter genders.

G. **INDIVIDUAL:** Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.

H. **NET PROFITS:** The net income from the operation of a business, profession; or other activity, as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.

I. **OCCUPATION:** Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.

J. **TAX:** The local services tax at the rate fixed in §136-23 of this article.

K. **TAX YEAR:** The period from January 1 until December 31 in any year; a calendar year.

§ 136-23. Levy of Tax.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of

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employment within the Township of Paradise during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of \$30.00, assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the Paradise Township Board of Supervisors from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than \$52.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 136-24. Exemption and refunds.

A. EXEMPTION: Any person whose total earned income and net profits from all sources

within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

(1) Any person who has 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 one hundred percent disability.

(2) 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 the purposes of this subparagraph, "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.

B. PROCEDURE TO CLAIM EXEMPTION.

(1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less

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than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. As long as Paradise Township utilizes a tax collection officer, the person claiming exemption shall also provide a copy of the exemption certificate to that officer. 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 political subdivision 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 political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall 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. The exemption certificate form shall be the uniform form provided by the political subdivision.

(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 political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$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 municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).

(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 clause (2), 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 clause (2), 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 tax due, and the political subdivision may pursue collection under this article.

(4) Except as provided in clause (2), it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

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C. REFUNDS.

The Supervisors of Paradise Township, 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 seventy-five days of a refund request or seventy-five 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 one dollar (\$1): The Tax Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 136-25. Duty of employers to collect.

A. Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

B. A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section, For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

C. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

D. 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 the 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

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in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

E. The tax shall be no more than fifty-two dollars (\$52) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

F. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Paragraph B of Section 136-24 of this article and this section and remits the amount so withheld in accordance with this article.

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

§ 136-26. Returns.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 136-27. Dates for determining tax liability and payment.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year.

§ 136-28. Self-employed individuals.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter.

§ 136-29. Individuals engaged in more than one occupation or employed in more than one political subdivision.

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A. The situs of the tax shall be the place of employment on the first day 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 claim to collect the local services tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions.

§ 136-30. Nonresidents subject to tax.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

§ 136-31. Administration of tax.

A. The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer of self-employed person, together with the date the tax was received.

B. The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination

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of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

C. The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination.

§ 136-32. Suits for collection.

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

B. If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.

§ 136-33. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

§ 136-34. Interpretation.

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

B. If the tax hereby imposed under the provisions of this article shall be held by any court

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of competent jurisdiction to be in violation of the Constitution of the United States or of the laws of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said tax or the validity of the tax so imposed on other persons or individuals as herein provided.

SECTION 2: Except as set forth hereafter, all ordinances or parts of ordinances inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an occupation privilege tax, plus applicable penalties and interest, for calendar year 2005 and all prior calendar years, or of an emergency and municipal services tax, plus applicable penalties and interest, for calendar years 2006 and 2007, as the same exist prior to this amendment.

SECTION 3: The tax imposed by this Ordinance shall be effective on January I, 2008 and all calendar years thereafter unless repealed or modified by Ordinance of the Township of Paradise.

SECTION 4: In all other respects, Chapter 136 [Taxation] of the Code of the Township of Paradise shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.

ARTICLE IV

Earned Income Tax Open Space

[Adopted 2-5-2007 by Ord. No. 154 and 7-18-2007 by Ord. No. 155]

§ 136-35. Title.

This ordinance shall be known and may be cited as the Paradise Township Open Space Referendum Ordinance.

§ 136-36. Provision Authorizing Referendum Question Vote on Imposition of an Earned Income Tax for Open Space.

The Board of Supervisors of Paradise Township hereby directs and provides for a referendum on the question of the imposition of an earned income tax on the residents of Paradise Township at the rate of 1/4 of 1% for open space at the next election. The referendum shall be governed by the provisions of the Act of June 3, 1937 (P.L. 1333, No. 320), known as the Pennsylvania Election Code and by those relevant provisions of 32 P.S. '5007.1, *et seq.* The Monroe County Board of Elections is hereby authorized and directed to cause the question hereinafter set forth to be submitted to the electors of Paradise Township at the next election following the filing of the within ordinance with the County Board of Elections. The question to be placed upon the ballot shall be framed substantially in the following form:

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“Do you favor the imposition of an additional Earned Income Tax at the rate of .25% (1/4 of 1%) by Paradise Township to be used for financing the acquisition of open space, the purpose of acquiring agricultural conservation easements, and for the purpose of acquiring recreation or historic lands?”

YES or NO

Plain English Version

The ballot question asks the voters of Paradise Township whether the Township should impose an additional Earned Income Tax at the rate of .25% (1/4 of 1%) on an annual basis to purchase land or interests in land for preservation and conservation of open, undeveloped land in Paradise Township. The Township would use the money to do one (1) or more of the following:

- A. Acquire agricultural conservation easements. The Township could purchase agricultural conservation easements, or participate in State or County land preservation programs that acquire agricultural conservation easements. An agricultural conservation easement allows the landowner to retain his/her land and use it for farming or other agricultural purposes.
- B. Finance for the acquisition of open space. The Township could purchase undeveloped land from landowners in the Township in order to protect sensitive natural areas such as woodlands, stream valleys, or other unique natural resources or habitats.
- C. Finance the acquisition of recreation or historic land. The Township could purchase undeveloped land from landowners in the Township for the purpose of developing additional recreational facilities for residents or for historic preservation purposes.
- D. Acquire property development rights. Under this option, a landowner would sell the development rights of a property under the Township. The landowner would retain the property, but the property could not be developed. The developmental rights could be transferred to a more appropriate site.

A vote of YES to the ballot question approves the imposition of a tax at the rate of 1/4 of 1% on all residents of Paradise Township for the foregoing purposes.

§ 136-37. Ordinance to be Filed with Monroe County Board of Elections.

Immediately upon enactment, a certified copy of this Ordinance shall be filed with the Monroe County Board of Elections, which is hereby authorized to cause the referendum question to be submitted to the voters of Paradise Township as in accordance with the Pennsylvania Election Code and those relevant provisions of 32 P.S. '5007.1, *et seq.*

§ 136-38 Incorporation of Statutes

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The provisions of the Open Space Land Act, Act No. 153 of 1996, P.L. 994, found at 32 P.S. 5001 et seq., as amended, supplemented, modified or reenacted by reference hereto. Additionally, the provisions of Section 6913 of the Local Tax Enabling Act, P.L. 127, No. 511, enacted December 31, 1965, found at 53 P.S. 6901 et seq., as amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference thereto.

§ 136-39. Imposition of Tax

- A. A tax for the purpose of acquiring interests in real property in order to secure open space pursuant to the Open Space Lands Act, Act No. 153 of 1996, enacted December 18, 1996, P.L. 994, found at 32 P.S. 5001 et seq., of 0.25% (one quarter of one percent) is hereby imposed, levied and assessed upon the following:
- (1) Salaries, wages, commissions and other compensation earned or paid on or after May 16, 2006, by residents of Paradise Township; and upon
 - (2) The net profits earned on or after January 1, 2007, of businesses, professions or other activities conducted by such residents.
- B. The tax levied under Subsection A(1) of this section shall relate to and be imposed upon salaries, wages, commissions, and other compensation paid by an employer or on their behalf to any person who is employed by or renders services to them. The tax levied under Subsection A (2) of this Section will relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or proprietor, either individually or in association with some other person or persons.

§ 136-40. Declarations, Returns and Payment of Tax

- A. Every taxpayer whose net profits are subject to the tax imposed by this Ordinance shall file a declaration of their net profits for the current year and shall pay the tax due thereon in annual installments, all as provided in Section 6913 III A (1) (i) of the Local Tax Enabling Act, or estimated net profits for the current year and pay the tax thereon in quarterly installments, all as provided in Section 6913 III A (1) (ii) of the Local Tax Enabling Act.
- B. Every taxpayer whose earnings are subject to the tax imposed by this Ordinance shall make and file final returns and pay to the Income Tax Officer the balance of the tax due, as provided in Section 6913 III B of the Local Tax Enabling Act.

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- C. Every taxpayer whose earnings are not subject to collection at the source, shall file with the Income Tax Officer quarterly returns and shall pay quarter-annually the amount of tax due on such returns, as provided in Section 6913 III B (2) of the Local Tax Enabling Act.
- D. The Income Tax Officer is hereby authorized to provide by regulation, subject to the approval of the Paradise Township Board of Supervisors, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from salaries, wages or commissions of an employee, and paid by them to the Income Tax Officer shall be accepted as the return required of an employee whose sole income, subject to the tax or taxes under this Ordinance, is such salary, wages or commissions.

§ 136-41. Collection At Source

Every employer having an office, factory, workshop, branch, warehouse, or other place of business within Paradise Township who employs one or more persons, other than domestic servants, for a salary, wage, commission or other compensation, shall register with the Income Tax Officer, deduct the tax imposed by this Ordinance on the earned income of their employee or employees, and shall make and file quarterly returns and pay quarterly to the Income Tax Officer the amount of taxes deducted, all as provided in Section 6913 IV of the Local Tax Enabling Act.

§ 136-42. Administration

The Income Tax Officer shall be the same person or corporation appointed by the Board of Supervisors of Paradise Township to collect the existing general revenue earned income tax.

§ 136-43. Interests And Penalties For Late Payment

If for any reason the tax is not paid when due, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one-half of one percent (0.50%) of the amount of the unpaid tax for each month or fraction thereof which the tax remains unpaid, shall be added and collected. Where suit is brought for recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

§ 136-44. Penalties For Violation

- A. Any person who fails, neglects or refuses to make any declaration or return required by this Ordinance, any employer who fails, neglects or refuses to register or to pay the tax deducted from their employees, or fails, neglects or refuses to deduct or withhold the tax from their employees, any person who refuses to permit the Income Tax

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Officer to examine their books, records, and papers, and any person who knowingly makes an incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of their net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Ordinance, shall upon conviction thereof before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars for each offense, and costs, and in default of payment, to be imprisoned for a period not to exceed thirty (30) days.

- B. Any person who divulges any information that is confidential under the provisions of this Ordinance, or the Local Tax Enabling Act, shall, upon conviction thereof, before any District Justice or court of competent jurisdiction, be sentenced to pay a fine of not more than Five Hundred (\$500.00) Dollars for each offense, and costs, and in default of payment, to be imprisoned for a period not exceeding thirty (30) days.
- C. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this or any other Ordinance.
- D. The failure of any person to receive or procure forms required for making declaration or returns required by this Ordinance shall not excuse them from making such declaration or return.