ORDINANCE NO. 12

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE BOROUGH OF SEVEN FIELDS ADOPTED BY ORDINANCE 925 AND THEREAFTER AMENDED, WITH RESPECT TO CHAPTER 24, TAXATION, SPECIAL, TO REPEAL PART 5, EMERGENCY AND MUNICIPAL SERVICES TAX AND TO ENACT A NEW PART 5 TO BE ENTITLED LOCAL SERVICES TAX.

IT IS HEREBY ENACTED AND ORDAINED by the Borough Council of the Borough of Seven Fields, Butler County, Pennsylvania, as follows:

SECTION 1: The title and text of Part 5 [Emergency and Municipal Services Tax] of Chapter 24 [Taxation] of the Code of Ordinances of the Borough of Seven Fields are hereby amended to state in entirety as follows:

PART 5

LOCAL SERVICES TAX

§ 24-501. Short Title.

This Ordinance [this Part 5] shall be known and may be cited as "The Borough of Seven Fields Local Services Tax Ordinance."

§ 24-502. 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 or language clearly indicates or requires a different meaning:

BOROUGH OF SEVEN FIELDS or BOROUGH – The area within the corporate limits of the Borough of Seven Fields.

COLLECTOR – The person, public employee or private agency designated by the Borough of Seven Fields to collect and administer the tax herein imposed.

DCED – The Department of Community and Economic Development of the Commonwealth of Pennsylvania.

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.

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.

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

INDIVIDUAL – Any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the Borough of Seven Fields.

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. 1257, § 13, as amended, 53 P.S. § 6913, as amended.

OCCUPATION – Any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the Borough of Seven Fields for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.

TAX – The local services tax at the rate fixed in § 24-503 of this part.

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

§ 24-503. 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 employment within the Borough of Seven Fields 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 $52, assessed on a *pro rata* basis, in accordance with the provisions of this part. This tax may be used solely for the following purposes as the same may be allocated by the Borough Council 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 Borough 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 Borough of Seven Fields. The tax shall be no more than fifty-two dollars on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

§ 24-504. Exemption and refunds.

A. Exemption. Any person whose total earned income and net profits from all sources within the Borough is less than twelve thousand ($12,000.00) 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 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 twelve thousand dollars ($12,000) in the calendar year for

which the exemption certificate is filed. In the event the Borough utilizes a tax collection officer, it shall 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 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 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 Borough.

(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 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 Borough 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 Borough may pursue collection under this act.

(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 a local services tax.

C. Refunds. 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.[1] 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 Borough Manager or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

§ 24-505. Duty of employers to collect.

A. Each employer within the Borough of Seven Fields, as well as those employers situated outside the Borough of Seven Fields but who engage in business within the Borough of Seven Fields is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the Borough of Seven Fields and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax from 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 Borough of Seven Fields.

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 combined 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

[1] With respect to refunds, see 53 Pa. C.S. § 8425; with respect to interest, see 53 Pa.C.S. § 8426.

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 Borough.

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 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 may be employed. The Borough 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 Borough 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 24-504 of this part and this section and remits the amount so withheld in accordance with this Part.

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

§ 24-506. 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 part, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

§ 24-507. 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.

§ 24-508. 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 Borough of Seven Fields shall be required to comply with this part 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.

§ 24-509. Individuals engaged in more than one occupation or employed in more than one political subdivision.

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.

§ 24-510. Nonresidents subject to tax.

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

§ 24-511. Administration of tax.

A. The Collector shall be appointed by resolution of the Borough Council. 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 or self-employed person, together with the date the tax was received.

B. The Collector is hereby charged with the administration and enforcement of this part and is hereby charged and empowered, subject to Borough Council approval, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this part, including provisions for the examination of payroll records of any employer subject to this part, the examination and correction of any return made in compliance with this part 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 to the Court of Common Pleas of Butler County as in other cases provided.

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.

§ 24-512. Suits for collection.

A. In the event that any tax under this part 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 part, 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.

§ 24-513. Violations and penalties.

Whoever makes any false or untrue statement on any return required by this part, 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 part 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 part.

§ 24-514. Interpretation.

A. Nothing contained in this part shall be construed to empower the Borough of Seven Fields to levy and collect the tax hereby imposed on any occupation not within the taxing power of the Borough 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 part shall be held by any court 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 2006 and all prior calendar years, or of an emergency and municipal services tax for calendar year 2007, as the same existed prior to this amendment.

SECTION 3: The tax imposed by this Ordinance shall be effective on January 1, 2008 and all calendar years thereafter unless repealed or modified by Ordinance of the Borough Council.

SECTION 4: In all other respects, Chapter 24 [Taxation, Special] of the Code of Ordinances of the Borough of Seven Fields shall remain as heretofore enacted, ordained and amended, which said Chapter, as amended, is hereby re-enacted in its entirety herein.

ENACTED AND ORDAINED this _10th_ day of December, 2007.

ATTEST:

/s/ Thomas B. Smith
Thomas B. Smith,
Borough Manager and Secretary

BOROUGH OF SEVEN FIELDS

By: /s/ John White
John White, President