

## CHAPTER 24

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## ARTICLE I

### TAX COLLECTOR COMPENSATION AND FEES

#### **Section 101. Compensation of Tax Collector**

Commencing January 1, 2020, the compensation of the duly elected Tax Collector of the Township of Ontelaunee, Berks County, Pennsylvania for the collection of Township real estate tax bills shall be equal to Three and 00/100 Dollars (\$3.00) per real estate tax bill collected, inclusive of street light assessment, and Three and 00/100 Dollars (\$3.00) per interim tax bill collected; provided, however, that in no event shall such per bill compensation exceed ten percent (10%) of the amount of real estate taxes and interim taxes, collected by the Tax Collector of the Township. No compensation shall be paid on any unpaid Township real estate taxes, inclusive of street light assessment or interim taxes, returned by the Tax Collector to the Berks County Tax Claim Bureau.

Ord. 2014-4, 10/2/2014, §1; amended by Ord. 2019-2, 2/14/2019, §1.

#### **Section 102. Tax Certification Fee**

The duly elected or appointed Tax Collector of the Township of Ontelaunee is hereby authorized to charge the sum of Five and 00/100 Dollars (\$5.00) for any and all certifications issued by said Office. The Board of Supervisors of the Township of Ontelaunee shall have the authority to revise the fee imposed under this paragraph from time-to-time after the effective date of this paragraph by the adoption of a resolution for that purpose.

Ord. 2016-4, 10/6/2016, §5.

#### **Section 103. Duplicate Tax Bill Fee**

The duly elected or appointed Tax Collector of the Township of Ontelaunee is hereby authorized to charge mortgage companies a fee in the amount of Ten Dollars (\$10.00) per request for preparation of the first twenty (20) duplicate tax bill requested in a calendar year from said Tax Collector. The Tax Collector is further authorized to charge a fee in the amount of Five Dollars (\$5.00) per request for each additional duplicate tax bill requested in a calendar year by a mortgage company from the Tax Collector. The Board of Supervisors of the Township of Ontelaunee shall have the authority to revise the fee imposed under this paragraph from time-to-time after the effective date of this paragraph by the adoption of a resolution for that purpose.

Ord. 2016-4, 10/6/2016, §5.

**ARTICLE II**

**RESERVED**

Ord. 1995-8, 12/14/1995, §1; repealed by Ord. 2023-2, 5/4/2023, §1.

**ARTICLE III**  
**REAL ESTATE TAX; DISCOUNT AND PENALTIES**

**Section 301. Real Estate Tax\***

A tax be and hereby is levied for the years 2004 and following upon real property within the Township of Ontelaunee, Berks County, Pennsylvania, subject to taxation for Township purposes, at the rate of 3.8 mills on each dollar, or Thirty Eight Cents (\$0.38) on One Hundred Dollars (\$100.00) of assessed valuation, for road, bridge and general Township purposes.

Ord. 2003-6, 12/29/2003, §1.

\*The real estate tax rate has been superseded regularly by ordinance or resolution. Check Keys and Appendix F, Taxes, for annual tax rates.

**Section 302. Discount and Penalties**

The rates of discount and penalties for the aforesaid real property taxes for road, bridge and general Township purpose be and hereby are established as follows:

- A. All taxpayers subject to the payment of such taxes shall be entitled to a discount of two percent (2%) from the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice.
- B. All taxpayers, who shall fail to make payment of any such taxes charged against them for four months after the date of the tax notice, shall be charged a penalty of ten percent (10%) which penalty shall be added to the taxes by the Tax Collector and be collected by him.

Ord. 2003-6, 12/29/2003, §2.

**Section 303. Enabling Authority**

The above taxes are enacted under the provisions of "The Local Tax Enabling Act" 1965, December 31, P.L. 1275 §1, as amended.

Ord. 2003-6, 12/29/2003, §3.

## ARTICLE IV

### EARNED INCOME TAX

#### **Section 401. Definitions**

All terms defined in the Local Tax Enabling Act shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

- A. **COLLECTOR** – The person or entity appointed as tax officer pursuant to the Local Enabling Act to collect the Tax.
- B. **EFFECTIVE DATE** – January 1, 2012.
- C. **ENACTMENT** – This Ordinance.
- D. **GOVERNING BODY** – The Township of Ontelaunee Board of Supervisors.
- E. **LOCAL TAX ENABLING ACT** – The Local Tax Enabling Act as set forth in 53 P.S. § 6901 *et seq.*, while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. § 6924.101 *et seq.*, when such numbering and provisions become effective under Act 32, and as amended in the future.
- F. **TCD** – Any tax collection district to which the Taxing Authority or any part of the Taxing Authority is assigned under the Local Tax Enabling Act.
- G. **TCC** – The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.
- H. **TAX** – The tax imposed by this Enactment.
- I. **TAX RETURN** – A form prescribed by the Collector for reporting the amount of Tax or other amount owed or required to be withheld, remitted, or reported under this Enactment or the Local Tax Enabling Act.
- J. **TAX YEAR** – The period from January 1 to December 31.
- K. **TAXING AUTHORITY** – Ontelaunee Township.

Ord. 2011-4, 11/03/2011, §1.

#### **Section 402. Imposition of Tax**

- A. General Purpose Resident Tax – The Taxing Authority hereby imposes a Tax for general revenue at the rate of one percent (1%).

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- B. General Purpose Municipal Non-resident Tax – The Taxing Authority also imposes a Tax for general revenue purposes at the rate of one percent (1%) on earned income and net profits derived by an individual who is not a resident of the Taxing Authority from any work, business, profession, or activity, of any kind engaged in within the boundaries of the Taxing Authority.
- C. Ongoing Tax – The Tax shall continue at the above rates during the current Tax Year and each Tax Year thereafter, without annual re-enactment, until this Enactment is repealed or the rate is changed.
- D. Combined Tax Rate Applicable to Residents – Currently the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides, is one percent (1%).
- E. Municipal Tax Rate Applicable to Non-residents – Currently the total rate applicable to non-residents working within the Taxing Authority based on the municipal non-resident tax rate is one percent (1%).
- F. Local Tax Enabling Act Applicable – The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this Enactment upon the effective date of such amendment without the need for formal amendment of this Enactment, to the maximum extent allowed by 1 Pa. C.S.A. § 1937.
- G. Applicable Laws, Regulations, Policies and Procedures – The Tax shall be collected and administered in accordance with:
  - 1. All applicable laws and regulations; and
  - 2. Policies and procedures adopted by the TCC or by the Collector.

This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa. C.S.A § 1937.

Ord. 2011-4, 11/03/2011, §2.

### **Section 403. No Exemption from Tax**

Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from Tax based on age, income, or other factors.

Ord. 2011-4, 11/03/2011, §3.

#### **Section 404. Individual Tax Returns and Payments**

Every individual receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act.

Ord. 2011-4, 11/03/2011, §4.

#### **Section 405. Employer Withholding, Remittance and Tax Returns**

Every employer shall register, withhold, and remit Tax and file Tax Returns in accordance with the Local Tax Enabling Act.

Ord. 2011-4, 11/03/2011, §5.

#### **Section 406. Tax Collector**

The Tax will be collected from individuals and employers by the Collector.

Ord. 2011-4, 11/03/2011, §6.

#### **Section 407. Interest, Penalties, Costs and Fines**

Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with the Local Tax Enabling Act.

Ord. 2011-4, 11/03/2011, §7.

#### **Section 408. Severability**

The provisions of this Enactment are severable and if any of its provisions are ruled by a court invalid or unconstitutional, such decision shall not affect or impair any of the remaining provisions of this Enactment. It is declared to be the intention of the Governing Body that this Enactment would have been adopted if such invalid or unconstitutional provision had not been included.

Ord. 2011-4, 11/03/2011, §8.

#### **Section 409. Purpose/Amendment and Restatement/Repeal**

The primary purpose of this Enactment is to conform the earned income and net profits tax currently imposed by the Local Tax Enabling Act, as amended and restated by Act 32

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of 2008, and to do so within the time frame required by Act 32. Any prior Enactment imposing a tax on earned income or net profits of individuals is amended and restated in its entirety to read as stated in this Enactment. Any other prior Enactment or part of any Enactment conflicting with the provisions of this Enactment is rescinded insofar as the conflict exists. To the extent the same as any Enactment in force immediately prior to adoption of this Enactment, the provisions of this Enactment are intended as a continuation of such prior Enactment and not as a new Enactment. If this Enactment is declared invalid, any prior Enactment levying a similar tax shall remain in full force and effect and shall not be affected by adoption of this Enactment. If any part of this Enactment is declared invalid, the similar part of any prior Enactment levying a similar tax shall remain in effect and shall not be affected by adoption of this Enactment. The provisions of this Enactment shall not affect any act done or liability incurred, nor shall such provisions affect any suit or prosecution pending or to be initiated to enforce any right to penalty or to punish offense under the authority of any Enactment in force prior to adoption of this Enactment. Subject to the foregoing provisions of this Section, this Enactment shall amend and restate on the Effective Date any Enactment levying a tax on earned income or net profits in force immediately prior to the Effective Date.

Ord. 2011-4, 11/03/2011, §9.

## ARTICLE V

### LOCAL SERVICES TAX

#### **Section 501. Repeal of Occupational Privilege Tax**

The Occupational Privilege Tax Ordinance of the Township of Ontelaunee is hereby repealed.

Ord. 1971-1, 12/30/1971, §1-20, as amended by Ord. 1972-1, 2/10/1972, §1-20; repealed by Ord. 2007-7, 12/16/2007, §1.

#### **Section 502. Local Services Tax**

A Local Services Tax as set forth herein is hereby enacted.

Ord. 2007-7, 12/16/2007, §2.

#### **Section 503. Authority of Enactment**

This Article is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

Ord. 2007-7, 12/16/2007, §3.

#### **Section 504. Definitions**

As used in this Article, the following terms shall have meanings indicated, unless a different meaning clearly appears from the context:

- A. **COMPENSATION** – Salaries, wages, commissions, tips, bonuses, fees or any other earned income and net profits.
- B. **EMPLOYER** – Any person, partnership, limited partnership, unincorporated association, institution, trust, corporation, governmental agency or any other body engaged in business or situated in the Township of Ontelaunee, Berks County, Pennsylvania, employing one (1) or more employees engaged in any occupation.
- C. **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.
- D. **LOCAL SERVICES TAX COLLECTOR** – Berks Earned Income Tax Bureau.

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- E. **RESERVE COMPONENT OF THE ARMED FORCES** – The United States Army Reserve, United State Navy Reserve, United State Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.
- F. **TAXPAYER** – Any natural person liable for the tax levied by this Article.
- G. **TOWNSHIP** – Township of Ontelaunee, Berks County, Pennsylvania.

Ord. 2007-7, 12/16/2007, §4.

### **Section 505. Imposition of Tax**

A local services tax for emergency services (which shall include emergency medical services, police services, and/or fire services), road construction and/or maintenance, reduction of property taxes and property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa. C.S. Ch. 85 Subch. F., in the amount of Fifty-Two Dollars (\$52.00), is hereby imposed upon a taxpayer engaging in an occupation within the Township, in the year 2008 and in each succeeding calendar year in which this tax shall remain in effect. Each natural person who exercises such privilege for any length of time in any calendar year beginning with the year 2008 shall pay the tax in accordance with the provisions hereof.

Ord. 2007-7, 12/16/2007, §5.

### **Section 506. Non-resident Taxpayer**

Both residents and non-resident Taxpayers shall, by virtue of engaging in an occupation with the Township of Ontelaunee, shall be subject to the tax and the provision of this Article.

Ord. 2007-7, 12/16/2007, §6.

### **Section 507. Exemptions**

The following persons may apply and shall be eligible for an exemption from the imposition of Local Services Tax:

- A. All Taxpayers whose total Compensation from all sources is less than Twelve Thousand Dollars (\$12,000.00) per annum.
- 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 and 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 (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.

Ord. 2007-7, 12/16/2007, §7.

### **Section 508. Exemption Application**

Taxpayers seeking to claim an exemption from the Local Services Tax shall annually file an Exemption Certificate with the Township and the Employer.

Ord. 2007-7, 12/16/2007, §8.

### **Section 509. Collection Through Employers**

- A. Each employer shall register with the Local Services Tax Collector ("Tax Collector") the employer's name, address, and other information the Tax Collector may require with fifteen (15) days after the effective date of this part or within fifteen (15) days after becoming an employer.
- B. Each employer shall assess each Taxpayer a pro-rata share of the tax for each payroll period. The pro-rata share shall be determined by dividing the tax levied by the number of payroll periods established by the employer for the calendar year.
- C. For each Taxpayer employed for any length of time after the effective date of this Article, each Employer shall deduct the tax from compensation payable to the Taxpayer, file a return on a form prescribed by the Tax Collector and pay to such Tax Collector the amount of taxes deducted on a quarterly basis as follows: April 30, July 30, October 30 and January 30 for the preceding quarter of the current tax year. For each Taxpayer for whom no prior deduction has been made, who is employed after the effective date of this Article, each Employer shall withhold from the Taxpayer, for the first payroll period after employment, a lump sum equal to the amount of tax that was not withheld from the Taxpayer, 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 Taxpayer subject to withholding of the tax under this Article is subsequently severed in that calendar year, the Taxpayer shall be liable for any outstanding balance of tax due and the Township may pursue collection under this Article part and the Act.
- D. As to Taxpayers who present official receipts evidencing prior payment of the tax imposed hereby either directly or by collection through Employers, the Employer shall not deduct that pro-rata share of the tax but the Employer shall withhold from the Taxpayer, from the first payroll period, a lump sum equal to the amount

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of tax that was not withheld from the Taxpayer to date to equal what all other employees have paid, plus the per payroll amount due for the 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.

- E. If a Taxpayer who claimed an exemption for a given calendar year from the tax levied under this Article becomes subject to the tax for the calendar year under this Article, the Employer shall withhold the tax for the remainder of that calendar year. The Employer shall withhold from the Taxpayer, for the first payroll period after receipt of notification, a lump sum equal to the amount of tax that was not withheld from the Taxpayer due to the exemption claimed by the Taxpayer, 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.
- F. Any Employer who discontinues business or ceases operation before December 31 of any year during which this tax is in effect, shall file the return hereinabove required and pay the tax to the Tax Collector, within fifteen (15) days after discontinuing business or ceasing operations.
- G. The failure of any Employer to deduct the tax as required in this Article shall not relieve the Taxpayer from the duty to file a return and pay the tax. Any Employer who fails to deduct the tax as required by this Article, or who fails to pay such tax to the Tax Collector, shall be liable for such tax in full, without deduction of the commission hereinafter provided, as though the tax had originally been levied against such Employer.
- H. Each Employer may deduct and retain a commission equal to two percent (2%) of the total amount of tax collected through the Employer pursuant to this Article.

Ord. 2007-7, 12/16/2007, §9.

### **Section 510. Direct Payment by Taxpayers**

Every Taxpayer who is self-employed or whose tax for any other reason is not collected under Section 509 of this Article shall file a return on a form prescribed by the Tax Collector and shall pay the tax directly to such Collector. Each such Taxpayer who first becomes subject to the tax after the effective date of this Article, shall file a return on a form prescribed by the Tax Collector and pay to such Tax Collector the amount of taxes due and owing on a quarterly basis as follows: April 30, July 30, October 30, and January 30 for the preceding quarter of the current tax year.

Ord. 2007-7, 12/16/2007, §10.

### **Section 511. Administration and Enforcement**

The Tax Collector shall collect and receive the taxes, interest, fines and penalties imposed by this Article and shall maintain records showing the amounts received and the dates such amounts were received. The Tax 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 Article. The Tax Collector and agents designated by him/her may examine the records of any Employer and/or supposed Employer or of any Taxpayer in order to ascertain the tax due or verify the accuracy of any return. Every Employer or supposed Employer and every Taxpayer or supposed Taxpayer shall give the Tax Collector and any agent designated by him/her all means, facilities, and opportunities for the examination hereby authorized.

Ord. 2007-7, 12/16/2007, §11.

### **Section 512. Collection**

The Tax Collector shall collect by suit or otherwise, all taxes, interest, costs, fines and penalties due under this Article and unpaid. If for any reason, any tax is not paid when due, penalty at the rate of six percent (6%) per year on the amount of unpaid taxes and additional interest of one-half of one percent (1/2 of 1%) of the amount of the 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 cost of collection as well as for interest and penalties. The Tax Collector may accept payment under protest of the tax claimed by the Township, in any case where any person disputes the Township's claim for the tax. If a court of competent jurisdiction thereafter decides that there has been overpayment to the Tax Collector, such Tax Collector shall refund the amount of the overpayment to the person who paid under protest. Any action instituted for such judicial determination shall be instituted within two (2) years of the last day of the period for which the tax is disputed or claim made. All refunds shall be made in conformity with the procedure prescribed by the Board of Supervisors of the Township.

Ord. 2007-7, 12/16/2007, §12.

### **Section 513. Refunds**

All requests for the refund of overpaid Local Services Tax shall be made in writing to the Tax Collector and shall contain sufficient written evidence, including copies of pay stubs, to establish to the Tax Collector that an overpayment has occurred. The Tax Collector shall make a determination on the request for a refund within seventy-five (75) days of the request. All refunds shall be made within seventy-five (75) days of the request. Any appeal of the Tax Collector's determination shall be made directly to the Board of Supervisors of the Township within thirty days (30) of the Tax Collector's decision.

Ord. 2007-7, 12/16/2007, §13.

**Section 514. Penalties**

- A. Any person who fails, neglects or refuses to make any declaration or return required by this Article, as amended, 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 imposed by this Article, as amended, shall, upon conviction thereof before any district justice or court of competent jurisdiction in Berks County, Commonwealth of Pennsylvania, be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) for each offense, and costs, and in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days (30).
- B. The failure of any person to receive or procure forms required for making the declaration or returns required by this Article, as amended shall not excuse him from making such declaration or return.

Ord. 2007-7, 12/16/2007, §14.

## ARTICLE VI

### REALTY TRANSFER TAX

#### **Section 601. Short Title**

This Ordinance shall be known and may be cited as the "The Realty Transfer Tax Ordinance of Ontelaunee Township."

Ord. 1987-2, 6/11/1987, §1.

#### **Section 602. Authority**

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

Ord. 1987-2, 6/11/1987, §2.

#### **Section 603. Definitions**

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

- A. **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.
- B. **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.
- C. **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 of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land 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 thirty (30) years, or instruments which solely grant, vest or confirm a public utility easement. Document shall also include a declaration of acquisition required to be presented for recording under Section 602 of this Ordinance.

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D. **FAMILY FARM CORPORATION** – A corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

1. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
2. 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;
3. Fur farming;
4. Stockyard and slaughterhouse operations; or
5. Manufacturing or processing operations of any kind.

E. **MEMBERS OF THE SAME FAMILY** – Any individual, such individual's brothers or 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.

F. **PERSON** – Every natural person, association, or corporation. Whenever used in any clause 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.

G. **REAL ESTATE** –

1. All lands, tenements or hereditaments within the Township, 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, but excluding permanently attached machinery and equipment in an industrial plant.
2. A condominium unit.
3. A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

H. **REAL ESTATE COMPANY** – A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent

(90%) or more of the ownership interest which is held by thirty-five (35) or fewer persons and which:

1. Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate; or
2. Holds real estate, the value of which comprises ninety percent (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.

**I. TITLE TO REAL ESTATE**

1. 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; or
2. 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 thirty (30) years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

**J. TRANSACTION** – The making, executing, delivering, accepting, or presenting for recording of a document.

**K. VALUE** -

1. 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 lien 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 other 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;
2. In the case of a gift, sale or 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

## TAXATION

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;

3. In the case of an easement or other interest in real estate the value of which is not determinable under clause (1) or (2) above, the actual monetary worth of such interest; or
4. The actual consideration for or actual monetary worth of any executory agreement for the construction of building, 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 principle of the grantor of a related corporation, association or partnership and the grantee existing before or effective with the transfer.

Ord. 1987-2, 6/11/1987, §3.

### **Section 604. Imposition of Tax; Interest**

- A. 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 one percent (1%) of the value of the real estate represented by such document, which tax shall be payable the earlier of the time the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.
- B. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.
- C. It is the intention of this Ordinance that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitation prescribed The Local Tax Enabling Act, Act of December 31, 1965, P.C. 1257, 53 P.S. § 6901 *et seq.*, so that if any other political subdivision shall impose or hereinafter shall impose such tax on the same person or transfer then the tax levied by the Township under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action of the part of the Township provided, however, that the Township and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose

respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."

D. 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. 1987-2, 6/11/1987, §4.

### **Section 605. 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 Article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

Ord. 1987-2, 6/11/1987, §5.

### **Section 606. Excluded Transactions**

The tax imposed by Section 604 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 may include property line adjustments provided said reconveyance is made within one (1) year from the date of condemnation.
- B. A document which the Township is prohibited from taxing under the Constitution or statutes of the United States.
- 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 of property passed by testate or intestate succession and held cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due in the excess.

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- 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 and 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 such child, between brother or sister or spouse of a brother or sister and brother or sister 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 one year (1) 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 a decedent's devisee or heir.
- H. A transfer of 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, 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.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer:
  - 1. For no or nominal actual consideration between principal and agent or straw party; or
  - 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 Article.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 is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- L. 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 Article.
- M. 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

or ownership in 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 two (2) years.

- N. A transfer from a non-profit 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.
- O. A transfer from a non-profit industrial development agency or authority to 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; and
  - 2. The agency or authority has the full ownership interest in the real estate transferred.
- P. 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.
- Q. 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.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code of 1954 (68A Stat. 3, U.S.C. § 501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open-space opportunities.
- S. 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 seventy-five percent (75%) of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.
- U. A transaction where the tax due is One Dollar (\$1.00) or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

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. For leases

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of coal, oil, natural gas or minerals, the statement of value is not subject to tax under this Article.

Ord. 1987-2, 6/11/1987, §6.

### **Section 607. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof**

Except as otherwise provided in Section 606, 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 Article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

Ord. 1987-2, 6/11/1987, §7.

### **Section 608. Acquired Company**

- A. A real estate company is an acquired company upon a change in the ownership interest in 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, ninety percent (90%) or more of the total ownership interest in the company within a period of three years (3).
- B. 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 corporation under this Ordinance.
- C. Within thirty (30) days after becoming an acquired company, the company shall present a Declaration of Acquisition with the Recorder of Deeds 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.

Ord. 1987-2, 6/11/1987, §8.

### **Section 609. Credits Against Tax**

- A. 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.

- B. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase 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.
- C. Where there is a transfer of real estate which is demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given to the grantor toward the tax due upon the transfer.
- D. 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 to the grantor toward the tax due upon the deed.
- E. 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. 1987-2, 6/11/1987, §9.

#### **Section 610. 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 for calculating the rental charge is established.

Ord. 1987-2, 6/11/1987, §10.

#### **Section 611. 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 the state realty transfer tax, and the sheriff, or other officer, conducting such sale, shall pay the tax herein imposed out of the first moneys 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. 1987-2, 6/11/1987, §11.

#### **Section 612. Duties of Recorder of Deeds**

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- A. As provided in 16 P.S. § 11011-6, as amended by 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 Township 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 Township.
- B. 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 municipality.
- C. On or before the tenth of each month, the Recorder shall pay over to the Township all local realty transfer taxes collected, less two percent (2%) for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collection of Pennsylvania realty transfer tax. The two percent (2%) commission shall be paid to the county.
- D. Upon a redetermination of the amount of realty transfer 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. 1987-2, 6/11/1987, §12.

### **Section 613. Statement of Value**

Every document lodged with or presented to the Recorder of Deeds for recording shall set forth therein as 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 reasons, if any, why such document is not subject to tax under this Article. 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 are exempt 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 Ordinance.

Ord. 1987-2, 6/11/1987, §13.

### **Section 614. Civil Penalties**

- A. If any part of any underpayment of tax imposed by this Article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.
- B. In the case of failure to record a declaration required under this Article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.

Ord. 1987-2, 6/11/1987, §14.

### **Section 615. Lien**

The tax imposed by this Ordinance shall become a lien upon the lands, tenants, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the Township, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this Ordinance, said lien to begin at the time when the tax under this Ordinance is due and payable, and continue until discharged by payment, or in accordance with the law, and the solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Berks 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.

Ord. 1987-2, 6/11/1987, §15.

### **Section 616. Enforcement**

All taxes imposed by this Ordinance together with interest and penalties prescribed herein, shall be recoverable as other debts of like character are recovered.

Ord. 1987-2, 6/11/1987, §16.

### **Section 617. Regulations**

The Secretary of the Board of Supervisors of the Township of Ontelaunee, Berks County, Pennsylvania 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 Ordinance.

Ord. 1987-2, 6/11/1987, §17.

**Section 618. Administration**

The real estate transfer tax imposed by Ordinance No. 1987-2 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, however, that, if the correct amount of the tax is not paid by the last date prescribed for timely payment, the Township, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72. P.S. § 8102-D) and Act 40 of 2005, authorizes and directs the Department of Revenue of the Commonwealth of Pennsylvania to determine, collect and enforce the tax.

Ord. 2008-3, 5/15/2008, §1.

**Section 619. Ratification and Repeals**

- A. All Ordinances and/or parts of Ordinances inconsistent with the provisions of this Ordinance are hereby repealed in so far, but only in so far as the same are inconsistent therewith, and except as herein provided, Ordinance No. 1987-2 is hereby ratified and confirmed.
- B. The repealed Ordinances and/or parts thereof enumerated in Subsection A. remain effective for documents that become subject to the tax prior to the effective date of this Ordinance.

Ord. 2008-3, 5/15/2008, §2.

**ARTICLE VII**  
**PER CAPITA TAX**

**Section 701. Repeal of Per Capita Tax**

Under authority of the Local Tax Enabling Act, 53 P.S. § 6924.101 *et seq.*, and other applicable law, that Ontelaunee Township Resolution No. 1962-4, as amended, and as codified at Chapter 24, Article VII of the Code of Ordinances of Ontelaunee Township, is hereby repealed in full, effective as of January 1, 2019.

Res. 1962-4, 12/27/1962, §1; as repealed by Ord. 2018-9, 9/6/2018, §1.

**ARTICLE VIII**  
**COLLECTION OF DELIQUENT TAXES**

**Section 801. Definitions**

The following terms shall have the meanings set forth herein:

- A. **COLLECTOR** – The Berks County Earned Income Tax Collection Bureau.
- B. **ENACTMENT** – Ordinance 2016-6 enacted May5, 2016.
- C. **GOVERNING BODY** – The Board of Supervisors of the Township of Ontelaunee, Berks County, Pennsylvania.
- D. **TAX** – All local earned income taxes, other taxes, penalties, interest, and costs that the Collector collects on behalf of the Taxing Authority under the Local Tax Enabling Act, 53 P.S. §6924.101 et. seq., or other statutory law.
- E. **TAXPAYER** – An employer or taxpayer that is liable for Tax.
- F. **TAXING AUTHORITY** – The Township of Ontelaunee, Berks County, Pennsylvania.

Ord. 2016-1, 5/5/2016, §1.

**Section 802. Authorization**

The Taxing Authority acknowledges that the Collector may engage one or more third-party collection agencies to pursue and collect delinquent Tax in situations where the amount of delinquent Tax owed is relatively small and it is therefore cost-prohibitive for the Collector to dedicate the upfront resources necessary to pursue such delinquent Tax. The Taxing Authority hereby approves of the imposition on and collection of a fee from any delinquent Taxpayer by any third-party collection agency engaged by the Collector, provided such fee does not exceed twenty-five percent (25%) of the amount of the Tax collected from any such Taxpayer.

Ord. 2016-1, 5/5/2016, §2.

**Section 803. Notice**

Promptly after adoption of this Enactment, the Taxing Authority will provide a copy of the Enactment to the Collector. If the Taxing Authority later rescinds, limits, or changes the scope of the authorization set forth in this Enactment, then the Taxing Authority will immediately notify the Collector.

Ord. 2016-1, 5/5/2016, §3.

**ARTICLE IX**  
**ECONOMIC STIMULUS TAX EXEMPTION**

**Section 901. Definitions.**

Except as otherwise specifically provided to the contrary, the following terms shall have the meanings set forth below:

Greater Berks – Greater Berks Development Fund.

County – County of Berks.

Exemption – exemption from taxation established and obtained pursuant to 72 P.S. §4727, as the Local Economic Revitalization Tax Assistance Act.

LERTA District – a Deteriorated Area established by this Ordinance pursuant to 72 P.S. §4722, et seq. known as the Local Economic Revitalization Tax Assistance Act.

School District – Schuylkill Valley School District.

Township – Ontelaunee Township, Berks County, Pennsylvania.

Other terms shall have the meaning set forth in the Act.

Ord. 2020-2, 3/18/20, §1.

**Section 902. LERTA District Established.**

The Township hereby establishes the following LERTA District in accordance with 72 P.S. §4722, et seq., known as the Pennsylvania Local Economic Revitalization Tax Assistance Act after consultation with the County Planning Commission, the Ontelaunee Township Planning Commission, the Schuylkill Valley School District, and the Greater Berks Development Fund:

ALL THAT CERTAIN tract of land being known as Parcel ID Number 68540010370422, situate in Ontelaunee Township, Berks County, Pennsylvania, as shown on a Preliminary Land Development Plan dated December 6<sup>th</sup>, 2019 prepared by Bogia Engineering, Inc. of Wyomissing, PA being fully bounded and described as follows, to wit:

BEGINNING AT A POINT at the intersection of the easterly right-of-way of State Route 0061 (Variable Width) also known as Pottsville Pike, also known as Centre Avenue and the southerly right-of-way of State Route 0073 (50' Wide) also known as Lake Shore Drive

THENCE along the southerly right-of-way of said State Route 0073 also known as Lake Shore Drive the following Six (6) courses, viz;

1. In a northeasterly direction on a line bearing North Eighty degrees, Seven minutes, Nineteen seconds East (N 80°07'19" E), a distance of Twenty feet and Eighty-one hundredths of a foot (20.81'), to a point;
2. In a northeasterly direction on a line bearing North Seventy-three degrees, Seven minutes, Twenty-eight seconds East (N 73°07'28" E), a distance of Twenty-four feet and Sixty-six hundredths of a foot (24.66'), to a point;
3. In a northeasterly direction on a line bearing North Eighty-three degrees, Fifty-five minutes, Nineteen seconds East (N 83°55'19" E), a distance of Fifty feet (50.00'), to a point;
4. In a northeasterly direction on a line bearing Seventy-two degrees, Thirty-six minutes, Forty-three seconds East (N 72°36'43" E), a distance of Fifty feet and Ninety-nine hundredths (50.99'), to a point;
5. In a northwesterly direction on a line bearing North Six degrees, Four minutes, Forty-one seconds West (N 06°04'41" W), a distance of Five feet (5.00'), to a point;
6. In a northeasterly direction on a line bearing North Eighty-three degrees, Fifty-five minutes, Nineteen seconds East (N 83°55'19" E), a distance of One thousand Seven hundred sixty-nine feet and Seventy-nine hundredths of a foot (1769.79'), to a point of curvature, said point being the intersection of the southerly right-of-way of State Route 0073 also known as Lake Shore Drive and the westerly right-of-way of Township Road T-0752 (50' Wide), also known as Ontelaunee Drive;

THENCE along the westerly right-of-way of said Township Road T-0752 the following Twelve (12) courses:

1. In a southeasterly direction on a curve to the right having a radius of Forty feet (40.00'), a curve length of Sixty-nine feet and Sixty-four hundredths of a foot (69.64'), a chord bearing of South Forty-six degrees, Twelve minutes, Two seconds East (S 46°12'02" E), a chord length of Sixty-one feet and Seventeen hundredths of a foot (61.17'), to a point;
2. In a southwesterly direction on a line bearing South Three degrees, Forty minutes, Thirty-eight seconds West (S 03°40'38" W), a distance of Seven hundred forty-two feet and Twenty-six hundredths of a foot (742.26'), to a point;
3. In a southwesterly direction on a line bearing South Five degrees, Twenty-two minutes, Seventeen seconds West (S 05°22'17" W), a distance of Seventy-two feet and Fifty-nine hundredths of a foot (72.59'), to a point of curvature;
4. In a southwesterly direction on a curve to the right having a radius of Four hundred twenty-three feet (423.00'), a curve length of Forty-six feet and Thirty-four hundredths of a foot (46.34'), a chord bearing of South Eight degrees, Nineteen minutes, Fifty-three seconds

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West (S 08°19'53" W), a chord length of Forty-six and Thirty-one hundredths of a foot (46.31'), to a point;

5. In a southwesterly direction on a line bearing South Eleven degrees, Twenty-eight minutes, Eleven seconds West (S 11°28'11" W), a distance of Seventy-one feet and Fifty-nine hundredths of a foot (71.59'), to a point of curvature;

6. In a southwesterly direction on a curve to the left having a radius of Four hundred seventy-three feet (473.00'), a curve length of Seventy-two feet and Fifty-eight hundredths of a foot (72.58'), a chord bearing of South Seven degrees, Four minutes, Twenty-five seconds West (S 07°04'25" W), a chord length of Seventy-two feet and Fifty-one hundredths of a foot (72.51'), to a point;

7. In a southwesterly direction on a line bearing South Two degrees, Forty minutes, Forty seconds West (S 02°40'40" W), a distance of Seven feet and Thirty-one hundredths of a foot (7.31'), to a point;

8. In a southwesterly direction on a line bearing South Nine degrees, Thirty-one minutes, Fourteen seconds West (S 09°31'14" W), a distance of One hundred nine feet and Eleven hundredths of a foot (109.11'), to a point;

9. In a southwesterly direction on a line bearing South Two degrees, Forty-minutes, Forty seconds West (S 02°40'40" W), a distance of Two hundred seventy-seven feet and Three hundredths of a foot (277.03'), to a point;

10. In a southeasterly direction on a line bearing South Eighty-seven degrees, Seven minutes, Seventeen seconds East (S 87°07'17" E), a distance of One hundred four feet and Eighty-nine hundredths of a foot (104.89'), to a point of curvature;

11. In a southeasterly direction on curve to the right having a radius of Two hundred seventy feet (270.00'), a curve length of Ninety-six feet and thirty nine hundredths of a foot (96.39'), following a chord bearing of South Seventy-six degrees, Fifty-three minutes, Thirty-eight seconds East (S 76°53'38" E), a chord length of Ninety-five feet and Eighty-eight hundredths of a foot (95.88'), to a point;

12. In a southeasterly direction on a line bearing South Sixty-six degrees, Forty minutes, Zero seconds East (S 66°40'00" E), a distance of Sixty-two feet and four hundredths of a foot (62.04') to a point of curvature, said point being the intersection of the westerly right-of-way of Ontelaunee Drive and the westerly right-of-way of Pillar Drive (50' Wide);

THENCE along the westerly right-of-way of Pillar Drive (50' Wide) the following two (2) courses:

1. In a southeasterly direction on a curve to the right having a radius of Twenty-five feet (25.00'), a curve length of Thirty-four feet and Forty-nine hundredths of a foot (34.49'), a chord bearing of South Twenty-seven degrees, Eight minutes, Fifty-six seconds East (S

27°08'56" E), a chord length of Thirty-one feet and Eighty-two hundredths of a foot (31.82'), to a point;

2. In a southwesterly direction on a line bearing South Twelve minutes, Twenty-two minutes, Eight seconds West (S 12°22'08" W), a distance of Two hundred sixty-four feet and Fifteen hundredths of a foot (264.15'), to a point marked with an iron pin;

THENCE in a southwesterly direction on a line bearing South Eighty-nine degrees, Fifty-four minutes, Forty-three seconds West (S 89°54'43" W), a distance of One thousand Seven hundred seventy-four feet and Twenty-two hundredths of a foot (1774.22') to a point, said point being located on the easterly right-of-way line of said State Route 0061 also known as Pottsville Pike also known as Centre Avenue;

THENCE along the easterly right-of-way line of said State Route 0061 the following Seven (7) courses, viz:

1. In a northwesterly direction on a line bearing North Six degrees, Seven minutes, Four seconds West (N 06°07'04" W), a distance of Six hundred Eighty-three feet and Five tenths of a foot (683.50'), to a point;

2. In a northwesterly direction on a line bearing North Five degrees, Forty-four minutes, Twenty-five seconds West (N 05°44'25" W), a distance of Fifty feet and Seventy-two hundredths of a foot (50.72'), to a point of spiral curvature;

3. In a northwesterly direction on a spiral arc being parallel to and Sixty-two feet (62.00') from the centerline, as shown on Instrument 2009049661 as recorded in the Berks County Recorder of Deeds, having a chord bearing of North Seven degrees, Eighteen minutes, Fifty-one seconds West (N 07°18'51" W), a distance of Three-hundred four feet and Sixty-seven hundredths of a foot (304.67'), to a point of curvature;

4. In a northwesterly direction on a curve to the left having a radius of One thousand Nine hundred Seventy-two and Four tenths of a foot (1972.04'), having a curve length of Three hundred Eighty-six feet and Forty-four hundredths of a foot (386.44'), a chord bearing of North Sixteen degrees, Thirteen minutes, Forty-four seconds West (N 16°13'44" W), having a chord length of Three hundred Eighty-five feet and Eighty-two hundredths of a foot (385.82'), to a point;

5. In a northeasterly direction on a line bearing North Sixty-eight degrees, Twelve minutes, Forty-five seconds East (N 68°12'45" E), a distance of Five feet (5.00'), to a point;

6. In a northwesterly direction on a line bearing North Twelve degrees, Four minutes, Thirty-eight seconds West (N 12°04'38" W), a distance of Seventy-nine feet and Forty-three hundredths of a foot (79.43'), to a point of spiral curvature;

7. In a northwesterly direction on a spiral arc being parallel to and Eighty-two feet (82.00') from the centerline, as shown on Instrument 2009049661 as recorded in the Berks

## TAXATION

County Recorder of Deeds, having a chord bearing of North Twenty-five degrees, Four minutes, Forty-nine seconds West (N 25°04'49" W), a distance of Seventy-seven feet and Four hundredths of a foot (77.04'), to a point, said point is the POINT OF BEGINNING.

CONTAINING IN AREA Sixty-seven acres and Nine hundred Twenty-six thousandths of one acre (67.926 ac.) of land.

Subject to compliance with all of the terms, covenants and conditions of this Ordinance and upon Application and approval of a request for exemption, the value of improvements erected and constructed within the above-described boundaries of (the LERTA District), shall be exempt from real estate taxation as described in this Ordinance.

Ord. 2020-2, 3/18/20, §1.

### **Section 903. Exemption Schedule.**

#### **A. Assessment.**

The Tax Exemption provided for in this Ordinance shall be based upon assessed value attributable to the actual costs of new construction or improvements up to any maximum costs uniformly established by the Township based on the Assessment determined by the Berks County Assessment Office.

#### **B. Length and Amount.**

The length and the amount of the Tax Exemption for taxes imposed by the Township of Ontelaunee provided for herein shall be a declining percentage over a seven (7) year period as follows:

Year 1 – 100%
Year 2 - 100%
Year 3 - 80%
Year 4 - 60%
Year 5 - 40%
Year 6 - 20%
Year 7 - and thereafter - 0%

#### **C. Limitation.**

Exemption from taxation is expressly limited to any additional assessed valuation attributable to the actual costs of new constructions or improvements directed and constructed after the Effective Date of this Ordinance.

Ord. 2020-2, 3/18/20, §1.

**Section 904. Term of Tax Exemption.**

This Ordinance shall become effective on the Effective Date set forth below and shall be applicable within the LERTA District for a period of seven (7) calendar years thereafter, at which time it shall automatically expire.

Ord. 2020-2, 3/18/20, §1.

**Section 905. Exemption Procedure.**

Any person desiring a Tax Exemption in accordance with this Ordinance shall complete and submit in writing at the time of Application for any building permit or construction permit on forms provided by the Township a request for Tax Exemption. Failure to timely apply for the Tax Exemption shall disqualify the improvement from the exemption provided for in this Ordinance.

Upon Application by any person, a copy of the exemption request shall be forwarded to the Berks County Board of Assessment and read “Berks County Board of Assessment shall after completion of the new construction or improvements separately assess the same and calculate the amounts of the assessment eligible for tax exemption in accordance with the limits established by the Township (if any).” Upon notification of the assessment and/or reassessment, the amounts eligible for exemption, the exemption may be taken in accordance with the schedule set forth in Section 903 above on a declining basis over a seven (7) year period, as provided for herein.

The Township is hereby authorized at any time and from time to time to adopt, promulgate, amend and implement reasonable regulations by Resolution to carry out the terms of this Ordinance.

Ord. 2020-2, 3/18/20, §1.

**Section 906. Exemption After Ordinance Termination.**

Any landowner timely applying for and receiving an exemption shall be entitled to the exemption in accordance with the schedule set forth herein, even if said schedule extends beyond the termination of the Ordinance and for this purpose, the Ordinance shall continue in full force and effect until the last such exemption amount granted hereto has expired. In the event of any dispute concerning the timeliness or completion of any such applications, the determination of the Supervisors held at a public meeting shall be final and binding.