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Part 1

Earned Income Tax

§101. Incorporation of Statute.

The provisions of section 6913 of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901-24, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania, are incorporated herein by reference thereto; except to the extent that options are provided in said §6913, this Part designates the option selected, and except as and where hereinafter specifically provided otherwise.

(Ord. 4, 1/31/1994)

§102. Imposition of Tax.

1. A tax for the general revenue purposes of one percent (1) is hereby imposed on:
 - A. Salaries, wages, commissions and other compensation earned or paid on or after January 1, of any year by residents of the City of St. Marys; and on
 - B. The net profits earned on or after January 1 of any year, of businesses, professions or other activities conducted by such residents.
2. Imposition of Tax on Nonresidents. A tax for the general revenue purposes of one percent (1%) is hereby imposed on:
 - A. Salaries, wages, commissions and other compensation earned or paid on or after January 1, of any year, by nonresidents of the City of St. Marys for work done or services performed or rendered in the City; and on
 - B. Net profits earned on or after January 1 of any year, of businesses, professions or other activities conducted in the City of St. Marys by nonresidents.
3. The tax levied under subsections (1)A and (2)A of this Section shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. The tax levied under subsections (1)B and (2)B 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.

(Ord. 4, 1/31/1994)

§103. Declarations, Returns and Payment of Tax.

1. Every taxpayer whose net profits are subject to the tax imposed by this Part shall file a declaration of his estimated net profits for the current year and shall pay the tax due thereon in quarterly installments, all as provided in section 6913, III. A. (1)(ii) of the Local Enabling Act.
2. Every taxpayer whose earnings are subject to the tax imposed by this Part shall make and file final returns and pay to the officer the balance of the tax due, as provided in §6913, III., B., first paragraph of the Local Tax Enabling Act.
3. Every taxpayer whose earnings are not subject to collection at the source, shall make and file with the officer quarterly returns and shall pay quarter-annually the amount of tax shown as due on such returns all as provided in §6913, III., B. (2) of the Local Tax Enabling Act.
4. The officer is hereby authorized to provide by regulation, subject to the approval of the City Council, that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, or commissions of any employee, and paid by him or them to the officer shall be accepted as the return required of any employee whose sole income, subject to the tax or taxes under this Part, is such salary, wages or commissions.

(Ord. 4, 1/31/1994)

§104. Collection at Source.

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

(Ord. 4, 1/31/1994)

§105. Administration.

The earned income tax officer shall be selected from time to time by resolution of, and shall receive such compensation for his services and expenses as determined from time to time by the City Council. Such officer shall have the powers and duties, and shall be subject to the penalties as provided in §6913, V., VI., VII of the Local Tax Enabling Act.

(Ord. 4, 1/31/1994)

§106. Interest 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 (1/2) percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 4, 1/31/1994)

§107. Penalties for Violations.

1. Any person who fails, neglects, or refuses to make any declaration or return required by this Part, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects, or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the 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 Part, shall, upon conviction therefor before any district justice of the peace, or court of competent jurisdiction, 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, to be imprisoned for a period not exceeding thirty (30) days.
2. Any person who divulges any information which is confidential under the provisions of this Part, shall, upon conviction therefor, before any district justice of the peace, or court of competent jurisdiction, 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, to be imprisoned for a period not exceeding thirty (30) days.
3. The penalties imposed under this Section shall be in addition to any other penalty imposed by any other Section of this Part.
4. The failure of any person to receive or procure forms required for making the declaration or returns required by this Part shall not excuse him from making such declaration or return.

(Ord. 4, 1/31/1994)

§108. Effective Date.

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This Part shall become effective on January 1, 1994 and shall continue on a calendar year basis, without annual enactment.

(Ord. 4, 1/31/1994)

Part 2
Realty Transfer Tax

§201. Short Title.

This Part shall be known as the "Realty Transfer Tax Ordinance" of City of St. Marys.

(Ord. 4, 1/31/1994)

§202. Authority.

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

(Ord. 4, 1/31/1994)

§203. Definitions.

Words and terms used in this Part shall be defined by the "Local Real Estate Transfer Tax" Law, and amendments thereto, 72 P.S. §8101 et seq., and the Local Tax Enabling Act, and amendments thereto, 53 P.S. §6101 et seq.

(Ord. 4, 1/31/1994)

§204. Imposition of Tax; Interest.

1. Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one (1) percent of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within thirty (30) days of acceptance of such document or within thirty (30) days of becoming an acquired company.
2. The payment of the tax imposed herein shall be evidenced by the affixing of an official stamp or writing by the recorder of deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

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3. It is the intent of this ordinance that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in the Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the City Council under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half (1/2) of the rate and such one-half (1/2) shall become effective without any action on the part of the City Council provided, however, that the City of St. Marys 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 (1/2) 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."
4. If for any reason the tax is not paid when due, interest at the rate in effect at the time the tax is due, shall be added and collected.

(Ord. 4, 1/31/1994)

§205. 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 ordinance. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 4, 1/31/1994)

§206. Excluded Transactions.

The tax imposed by §204 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 or 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 City of St. Marys 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 or division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.
- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister, and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one (1) year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, 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 (i) for no or nominal actual consideration between principal and agent or straw party; or (ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this Part. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this subsection.

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- 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 determine that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- 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 in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two (2) years.
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if: (i) 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 (ii) 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 transferrer for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1986, 68A Stat. 3, 26 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 (75) percent 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 wherein the tax 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. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. For leases of coal, oil, natural gas or minerals, the Statement of Value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 4, 1/31/1994)

§207. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.

Except as otherwise provided in §206, 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 purposes of this Section, corporations and associations are entities separate from their members, partners, stockholders and shareholders.

(Ord. 4, 1/31/1994)

§208. Acquired Company.

1. 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 (90) percent or more of the total ownership interest in the company within a period of three (3) years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within thirty (30) days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder 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. 4, 1/31/1994)

§209. Credits Against Tax.

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

(Ord. 4, 1/31/1994)

§210. 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. 4, 1/31/1994)

§211. 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 said 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. 4, 1/31/1994)

§212. Duties of Recorder of Deeds.

1. 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 City of St. Marys 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 City of St. Marys.
2. In order to ascertain the amount of the 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.
3. On or before the tenth of each month, the recorder shall pay over to the City of St. Marys all local realty transfer taxes collected, less two (2) percent for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two (2) percent commission shall be paid to the county.
4. 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. 4, 1/31/1994)

§213. Statement of Value.

Every document lodged with or presented to the recorder of deeds for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this ordinance. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this section 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 Part.

(Ord. 4, 1/31/1994)

§214. Civil Penalties.

1. If any part of any underpayment of taxes imposed by this ordinance is due to fraud, there shall be added to the tax an amount equal to fifty (50) percent of the underpayment.
2. In the case of failure to record a declaration required under this ordinance 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 (5) percent of the amount of such tax if the failure is for not more than one (1) month, with an additional five (5) percent for each additional month or fraction thereof during which such failure continues, not exceeding fifty (50) percent in the aggregate.

(Ord. 4, 1/31/1994)

§215. Lien.

The tax imposed by this ordinance shall become a lien upon the lands, tenements or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the City of St. Marys, 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 Part 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 Elk 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. 4, 1/31/1994)

§216. Enforcement.

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

(Ord. 4, 1/31/1994)

§217. Regulations.

The Recorder of Deeds of Elk County 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 Pennsyl-

vania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this Part.

§218. Effective Date.

This Part shall become effective January 1, 1994 and shall continue in effect on a calendar year basis, thereafter, without annual reenactment.

(Ord. 4, 1/31/1994)

Part 3
Per Capita Tax

§301. Authority for Enactment.

This Part is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(Ord. 4, 1/31/1994)

§302. "Resident" Defined.

The word "resident" as used in this Part shall mean every adult eighteen (18) years of age or older who lives within the City of St. Marys.

(Ord. 4, 1/31/1994)

§303. Imposition of Tax.

Every resident shall pay ten dollars (\$10.00) for the present calendar year and each year hereafter; provided, the tax hereby imposed shall not be levied upon any resident whose total income during the taxable year, from all sources, is any figure less than or equal to five thousand dollars (\$5,000.00).

(Ord. 4, 1/31/1994)

§304. Collection.

All taxes, interests, costs and penalties imposed by this ordinance shall be collected by the City tax collector.

(Ord. 4, 1/31/1994)

§305. Penalty.

Any resident or inhabitant who fails or refuses to pay the tax or to render accurate information to an assessor concerning his residence or age, shall, upon conviction thereof, be sentenced to pay a fine not more than six hundred dollars (\$600) and in default of payment, to imprisonment for a term not to exceed thirty (30) days.

(Ord. 4, 1/31/1994)

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§306. Effective Date.

This Part shall become effective on January 1, 1994 and shall continue in effect on a calendar year basis without annual reenactment.

(Ord. 4, 1/31/1994)

Part 4

Local Services Tax

§401. Short Title.

This Part shall be known and may be cited as the "City of St. Marys Local Services Tax Ordinance."

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§402. 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:

CITY OF ST. MARYS — the area within the corporate limits of the City of St. Marys.

COLLECTOR — the person, public employee or private agency designated by the City of St. Marys 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 December 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 City of St. Marys.

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 December 31, 1965, P.L. 1257, §13, as amended, 53 P.S. §6913, as amended.

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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 City of St. Marys for which compensation is charged or received, whether by means of salary, wages, commission or fees for services rendered.

TAX — the focal services tax at the rate fixed in §403 of this Part.

TAX YEAR — the period from January 1 until December 31 in any year, a calendar year.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§403. Levy of Tax.

1. 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 City of St. Marys 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 City Council from time to time:
 - A. Emergency services, which shall include emergency medical services, police services and/or fire services.
 - B. Road construction and/or maintenance.
 - C. Reduction of property taxes.
 - D. Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S.A. Chapter 85, Subchapter F (relating to homestead property exclusion).
2. The City shall use no less than 25% of the funds derived from the tax for emergency services.
3. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City of St. Marys.
4. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§404. Exemption and Refunds.

1. Exemption. Any person whose total earned income and net profits from all sources within the City is less than \$12,000 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:
 - A. 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 100% disability.
 - B. 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 subsection, "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.
2. Procedure to Claim Exemption.
 - A. A person seeking to claim an exemption from the local services tax shall annually file an exemption certificate with the City and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the City of less than \$12,000 in the calendar year for which the exemption certificate is filed. In the event the City 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 City 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 City or except as required by Subsection 2B, 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.
 - B. 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 City that the person has received earned income and net profits from all sources within the City equal to or in excess of \$12,000 in that calendar year or that the person is otherwise ineligible for the tax exemption for that cal-

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endar year, or upon an employer's payment to the person of earned income within the City in an amount equal to or in excess of \$12,000 in that calendar year, an employer shall withhold the local services tax from the person under Subsection 2C.

- C. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under Subsection 2B, the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under Subsection 2B, 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 subsection is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the City may pursue collection under this Part.
 - D. Except as provided in Subsection 2B, 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.
3. Refunds. The City 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 75 days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed \$1. The City Manager or the Collector shall determine eligibility for refunds to exempt persons and provide refunds.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§405. Duty of Employers to Collect.

1. Each employer within the City of St. Marys, as well as those employers situated outside the City of St. Marys but who engage in business within the City of St. Marys, is hereby charged with the duty of collecting the tax from each of his em-

¹ NOTE: With respect to refunds, see 53 Pa.C.S.A. §8425; with respect to interest, see 53 Pa.C.S.A. §8426.

ployees engaged by him or performing for him within the City of St. Marys 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 City of St. Marys.

2. 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 employer shall round down the amount of the tax collected each payroll period to the nearest 1/100 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 Subsection 4 of this Section. For purposes of this subsection, "combined rate" shall mean the aggregate annual rate of the tax levied by the school district and the City.
3. No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.
4. 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 the DCED.
5. The tax shall be no more than \$52 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed. The City shall provide a taxpayer with a receipt of payment upon request by the taxpayer.
6. No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the City 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 §404, Subsection 2, of this Part and this section and remits the amount so withheld in accordance with this Part.
7. Employers shall be required to remit the local services taxes 30 days following the end of each quarter of a calendar year.

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(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§406. 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.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§407. 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 30th day following the end of each calendar quarter of each such tax year.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§408. 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 City of St. Marys 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 30th day following the end of each quarter.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§409. Individuals Engaged in More Than One Occupation or Employed in More Than One Political Subdivision.

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:

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

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§410. Nonresidents Subject to Tax.

All employers and self-employed individuals residing or having their places of business outside of the City of St. Marys but who perform services of any type or kind or engage in any occupation or profession within the City of St. Marys 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 City of St. Marys. Further, any individual engaged in an occupation within the City of St. Marys 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 City shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§411. Administration of Tax.

1. The collector shall be appointed by resolution of the City 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.
2. The collector is hereby charged with the administration and enforcement of this Part and is hereby charged and empowered, subject to City Council's 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 Elk County as in other cases provided.

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3. 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.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§412. Suits for Collection.

1. 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.
2. 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.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§413. 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 or any employer who shall have failed or who refuses to file a return required by this Part.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

§414. Interpretation.

1. Nothing contained in this Part shall be construed to empower the City of St. Marys to levy and collect the tax hereby imposed on any occupation not within the

taxing power of the City under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

2. 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.

(Ord. 4, 1/31/1994; as amended by Ord. 191, 12/20/2004; by Ord. 214, 11/21/2005; and as amended in its entirety by Ord. 236, 11/5/2007)

Part 5

Economic Revitalization/Tax Exemptions

§501. Definitions.

Certain words and phrases, as used in this Part are defined as follows:

ASSESSMENT AGENCY — the Elk County Tax Assessment Office.

CITY — the City of St. Marys, Pennsylvania.

DETERIORATED PROPERTY — any industrial, commercial or other business property located in a deteriorated area, as defined in this Part, or any such property which has been the subject of an order of a government agency requiring the structure to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations. No residential property, whether a single- or multiple-family dwelling, shall be included in this definition.

IMPROVEMENT — repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement. Unless otherwise stated, "improvement" shall include the new construction of any industrial, commercial or business building or structure.

(Ord. 233, 6/18/2007)

§502. Boundaries of Deteriorated Areas.

The boundaries for each and every deteriorated area within the City of St. Marys are determined to be every zoning district, as described on the Zoning Map of the City, designated as a CB Central Business District, MI Medical Institutional District, HC Highway Commercial District, I Industrial District, and LI Limited Industrial District.

(Ord. 233, 6/18/2007)

§503. Exemptions.

There is hereby exempted from real property taxation, according to the exemption schedule set forth under §505 of this Part, the assessed valuation of improvement to deteriorated property in any deteriorated area, provided that the owner of such property makes application to the City for exemption prior to commencement of the work and certification by Elk County that such property is eligible for exemptions.

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(Ord. 233, 6/18/2007)

§504. Limitation of Exemption.

1. In the case of reconstruction or replacement of deteriorated property damaged, destroyed or demolished by any cause or for any reason, the exemption shall be limited to that portion of the new assessment that is attributable to the actual cost of improvements or construction in excess of the original property tax assessment that existed prior to the damage, destruction or demolition.
2. In all cases, the exemption shall be limited to that portion of the property tax assessment attributable to the improvement or new construction, as the case may be, and for which a separate assessment has been made by the assessment agency.

(Ord. 233, 6/18/2007)

§505. Exemption Schedule.

1. For the first four calendar years following the completion of the improvement, the following percentage of the assessed valuation of the improvement shall be exempted from real property taxation:

Calendar Year	Percentage Exempt
First	100%
Second	100%
Third	75%
Fourth	50%

2. After the fourth year, the exemption shall terminate.
3. The exemption shall not be affected by sale, transfer or exchange of the property.

(Ord. 233, 6/18/2007)

§506. Modification of Use.

If the use of the property is modified, terminated or changed at any time during the exemption period in such a way that the property would not have qualified for exemption had it been so used at the time the exemption was originally granted, or the City determines that continuing the exemption would be inconsistent with the purpose of this Part, the City may terminate the exemption as of the date that the use was modified, changed or terminated.

(Ord. 233, 6/18/2007)

§507. Application Procedure.

1. Any person desiring a tax exemption under this Part shall apply to the City in writing prior to commencing construction of the improvement. No application shall be received or processed after construction commences.
2. The application shall be made on a form provided by the City and shall set forth the following information:
 - A. The date construction is intended to commence.
 - B. The location of the property to be improved.
 - C. The nature of the property to be improved: industrial, commercial or other business property.
 - D. A description of the improvement.
 - E. The projected cost of the improvement.
 - F. Such additional Information as the City may require.
3. Assessment.
 - A. A copy of the exemption request shall be forwarded by the municipal governing body to each local taxing authority having jurisdiction, as well as to the assessment agency, which agency shall, after completion of the improvement:
 - (1) Determine whether the exemption shall be granted.
 - (2) Assess separately the improvements and calculate the amounts of the assessment eligible for the tax exemption in accordance with the limits established by this Part.
 - (3) Notify the taxpayer and local taxing authorities of the reassessment and the amounts of the assessment eligible for tax exemption.
 - B. In cases of new construction, the assessment agency shall assess separately the unit and the land upon which the new construction stands and shall otherwise perform its duties as above provided for construction of improvements to properties.
 - C. No exemption shall be granted for land under this Part.

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4. The assessment agency shall, after completion of the improvement, assess separately the exempted improvement and calculate the amount of the assessment eligible for tax exemption. The assessment agency shall then notify the taxpayer and the City of the reassessment and the amounts of the assessment eligible for exemption. In cases of new construction, the assessment agency shall assess separately the structure and the land upon which the structure stands. No exemption shall be granted for land under this Part.
5. Appeals from the establishment of the exemption amount may be taken by the taxpayer or the City in the manner provided by law.

(Ord. 233, 6/18/2007)

§508. Exemption Conditioned on Approval of Other Taxing Authorities.

No exemption shall be effective under this Part unless a similar exemption has been granted by the County of Elk and by the St. Marys Area School District.

(Ord. 233, 6/18/2007)

§509. Continuation of Existing Exemptions.

No exemption granted by the Borough of St. Marys, the Township of Benzinger or the City of St. Marys under any prior ordinance granting a similar exemption shall not be affected by the adoption of this Part.

(Ord. 233, 6/18/2007)

Part 6

Local Taxpayers Bill of Rights

§601. Authority.

This Part is adopted to comply with the Local Taxpayers Bill of Rights, Act No. 1998-50, 53 Pa.C.S.A. §8421 et seq.

(Ord. 92, 1/18/1999)

§602. Application.

The provisions of this Part shall apply to all eligible taxes, as defined under Act No. 1998-50, which currently includes the per capita, occupational privilege, earned income and realty transfer taxes imposed by the City. This Part does not apply to real estate taxes.

(Ord. 92, 1/18/1999)

§603. Bill of Rights.

The City hereby adopts a Taxpayers Bill of Rights, as more specifically set forth in Exhibit "A" attached to this Part. Copies of the Taxpayers Bill of Rights will be available at City Hall or, upon reasonable request, will be mailed at no expense to the taxpayer.

(Ord. 92, 1/18/1999)

§604. Regulations.

Except as provided in §605 following, the procedures contained in Act No. 1998-50 are hereby adopted as the procedures to implement the Taxpayers Bill of Rights in the City. The City Manager is authorized to develop such additional procedures as may be deemed necessary to further implement the Taxpayers Bill of Rights.

(Ord. 92, 1/18/1999)

§605. Administrative Appeals.

Petitions from taxpayers relating to the assessment, determination or refund of an eligible tax shall be administered according to the following procedure:

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- A. This process shall not be governed by the Local Agency Law (2 Pa.C.S.A., Chapter 5, Subchapter B – relating to practice and procedures of local agencies) and Chapter 7, Subchapter B (relating to judicial review of local agency action).
- B. All forms will be used as noted in the Local Taxpayer Bill of Rights and/or statutes.
- C. All filings are due when noted in the Local Taxpayer Bill of Rights and/or on the appropriate forms or as noted in the statute.
- D. A Petition for Administrative Appeal will be considered timely filed if the letter transmitting the petition is postmarked by the United States Postal Service on or before the final day on which the petition is required to be filed. Otherwise, a Petition for Administrative Appeal will be deemed to be filed on the date received in the City Manager's office.
- E. All appropriate documentation shall be submitted with the relevant form and all forms set forth information that the taxpayers must provide.
- F. In the absence of agreement of the Hearing Officer and the taxpayer, no information will be considered that was not presented either with the petition or at the hearing.
- G. The administrative appeals process shall be as follows:
 - (1) All hearings will be informal in nature and technical rules of evidence will not be applicable, nor will the Local Agency Law. The Hearing Officer may take testimony under oath or affirmation.
 - (2) All information provided by the taxpayer prior to the hearing shall be provided to the City Manager.
 - (3) All hearings will be scheduled by and through the City Manager's office.
 - (4) All hearings will be held at the offices of the City unless noted otherwise.
 - (5) A hearing may be continued upon the request of the taxpayer. If a hearing is continued at the request of a taxpayer, the taxpayer must first agree that the sixty (60) days period for deciding the petition will not begin to run until the date of the hearing. Should the taxpayer seek a continuance and not agree to an extension of the sixty (60) days time period, a decision will be made within the sixty (60) days period regardless of when or if the hearing was held.

- (6) A hearing notice will be sent to the taxpayer as soon as possible after receipt of the petition.
- (7) No stenographic record of a hearing will be made unless a party so requesting agrees to pay for the cost of a stenographer and the party's copy of the record.
- (8) The taxpayer may represent himself/herself or may be represented by another person. A taxpayer may be represented only by a person possessing appropriate education, training or experience to represent taxpayers in tax appeals. A representative need not be an attorney nor a certified public accountant. A taxpayer must authorize a representative in writing.
- (9) Any information to be sent to the taxpayer may be sent to the authorized representative of the taxpayer and any information or notice shall have the same effect as if given to the taxpayer. Any action taken by the authorized representative shall have the same force and effect as it taken by the taxpayer.
- (10) At the hearing, the taxpayer may present any reasonable evidence of a relatively probative value and shall provide one or more copies of all documentation to the Hearing Officer. The burden of proof on all issues is on the taxpayer.
- (11) A taxpayer may present witnesses, as can the City. All witnesses shall be subject to cross-examination.
- (12) A petition will not be considered as filed for purposes of tolling the sixty (60) day period within which the City must act until a complete and accurate petition has been received by the City.
- (13) All decisions shall be in writing and dated.
- (14) The Hearing Officer may use any relevant information provided at the hearing or for use at a hearing deemed necessary to make a decision. Where a hearing is not held, a decision will be based on the information provided.
- (15) All decisions by the Hearing Officer will be issued within sixty (60) days of receipt (unless waived as noted in paragraph (5), of a complete and accurate petition. Failure to issue a decision within this time period shall result in the petition being approved.
- (16) All decisions by the Hearing Officer will contain a written explanation for the granting, in whole or in part, or the denial of an appeal.

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- (17) All decisions will be mailed or sent to the last known address of the taxpayer.
- (18) All information obtained by the Hearing Officer and his/her employees or representatives shall be treated as confidential information.
- (19) Any appeal taken from the decision of the Hearing Officer shall be filed in the Elk County Court of Common Pleas within thirty (30) days of receipt of the decision.

(Ord. 92, 1/18/1999)

§606. Hearing Officer.

The City Manager is hereby appointed as the Hearing Officer under this Part. The City Manager shall receive no additional compensation for the performance of his duties as Hearing Officer.

(Ord. 92, 1/18/1999)