TOWNSHIP OF ANTRIM, FRANKLIN COUNTY, PENNSYLVANIA

ORDINANCE NO. 326 of 2012

AN ORDINANCE AMENDING THE "OCCUPATIONAL PRIVILEGE TAX" AND "AMUSEMENT TAX" ARTICLES OF CHAPTER 130 OF THE CODE OF THE TOWNSHIP OF ANTRIM, PENNSYLVANIA

WHEREAS, the Local Enabling Act (P.L. 1257, No. 511), which was enacted December 31, 1965, in part authorizes Second Class Townships to impose a tax for general revenue purposes upon the privilege of engaging in an occupation within the local municipality, known as an "Occupational Privilege Tax (OPT)"; and

WHEREAS, the Township of Antrim currently imposes an Occupational Privilege Tax at the rate of $5.00, in accordance with the Local Tax Enabling Act No. 511; and

WHEREAS, on December 1, 2004, the Local Tax Enabling Act No. 511 was amended by Act 222 of 2004, which established the Emergency and Municipal Services Tax and provided for changes to the administration, rate of collection, and title of the Occupation Privilege Tax; and

WHEREAS, Act 7 of 2007 amended the Local Tax Enabling Act (P.L. 1257, No. 511), by changing the name of the Emergency and Municipal Services Tax to Local Services Tax (LST); and

WHEREAS, on May 28, 1991, Antrim Township adopted an amusement tax as set forth in Article V of Chapter 130 of the Code of the Township of Antrim; and

WHEREAS, the Township of Antrim currently imposes an amusement tax at the rate of three percent (3%) of the admission price to each and every amusement; and

WHEREAS, the Township of Antrim desires to set the amusement tax rate at zero percent (0%).

NOW, THEREFORE, BE IT ORDAINED AND ORDAINED, by the Supervisors of the Township of Antrim, Franklin County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

SECTION I. The title of Article II in Chapter 130 of the Code of Township of Antrim shall be changed from "Occupational Privilege Tax" to "Local Services Tax" (LST).

SECTION II. Section 130-15 through and including 130-24 of Article II in Chapter 130 of the Code of the Township of Antrim are deleted in their entirety and replaced with the following:

SECTION 130-15. DEFINITIONS. The following words and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context or language clearly indicates or requires a different meaning:

1. Political Subdivision: The area within the corporate limits of the Township of Antrim.

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

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

4. Earned Income: Compensation as this term is defined in the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, No. 511, as amended.

5. 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.

6. He, His or Him: Indicates the singular and plural number, as well as male, female and neuter genders.

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

8. Net Profits: The net income from the operation of a business, profession; or other activity as this term is defined in the Local Tax Enabling Act, the Act of December 31, 1965, P.L. 1257, No. 511, as amended.

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

10. Tax: The local services tax at the rate fixed in Section 130-16 of this Article.

11. Tax Year: The period from January 1 until December 31 in any year; a calendar year.

SECTION 130-16. LEVY OF TAX: For specific revenue purposes, an annual Local Services Tax is hereby levied and assessed, commencing January 1, 2013; upon the privilege of engaging in an occupation with a primary place of employment within the Township of Antrim 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 $5.00, in accordance with the provisions of this Article. This tax may be used solely for the following purposes as the same may be allocated by the Township of Antrim from time to time: (1) emergency services, which shall include emergency medical services and/or fire and rescue services; (2) road and off-road construction and/or maintenance, which shall include storm water management plans and facilities; or (3) reduction of property taxes. The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than $5.00 on each person for each calendar year, irrespective of the number of political subdivisions within which a person may be employed.

SECTION 130-17. EXEMPTION AND REFUNDS:

A. Exemption. Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand ($12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:

1. Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service, if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.

2. Any person who serves as a member of a reserve component of the Armed Forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the Armed Forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

B. Procedure to Claim Exemption.

1. A person seeking to claim an exemption from the LST may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars ($12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision 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 political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision or the collector.

2. With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars ($12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars ($12,000) in that calendar year, an employer shall withhold the LST from the person under clause (3) below.

3. If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the

remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this Article.

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

C. Refunds. The Township of Antrim, 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 accordance with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. As a minimum, the LST Refund Application to be provided by the collector shall be the vehicle utilized by those persons who are eligible for exemption and are claiming a refund. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar ($1). The Township of Antrim or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

SECTION 130-18. DUTY OF EMPLOYERS TO COLLECT.

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

B. The employer of a person required to pay the LST shall collect the tax pursuant to the requirements contained in the Local Tax Enabling Act (53 P.S. 6924.301.1)

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

D. In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

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

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

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

SECTION 130-19. RETURNS. Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this Article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer.

SECTION 130-20. DATES FOR DETERMINING TAX LIABILITY AND PAYMENT. In each tax year, each employer shall use his or her employment

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

SECTION 130-21. SELF-EMPLOYED INDIVIDUALS. Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this Article and pay the tax due to the Collector on or before the thirtieth day following the end of each quarter.

SECTION 130-22. 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 LST shall be in the following order.

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

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

SECTION 130-23. NONRESIDENTS SUBJECT TO TAX. All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this Article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this Article, be considered a self-employed person, and in the event his or her tax is not paid, the political

subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided.

SECTION 130-24. ADMINISTRATION OF TAX.

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

B. The Collector is hereby charged with the administration and enforcement of this Article, and is hereby charged and empowered, subject to municipal approvals, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Article, including provisions for the examination of payroll records of any employer subject to this Article, the examination and correction of any return made in compliance with this Article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998.

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

SECTION 130-25. SUITS FOR COLLECTION.

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

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

remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection.

SECTION 130-26. VIOLATIONS AND PENALTIES. Whoever makes any false or untrue statement on any return required by this Article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this Article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than $600 and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this Article.

SECTION 130-27. INTERPRETATION.

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

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

SECTION III. Section 130-47 of the Code of the Township of Antrim is hereby amended by reducing the current Amusement Tax rate of three percent (3%) to zero percent (0%).

SECTION IV. REPEALER. Except as set forth hereafter, all Ordinances or parts of Ordinances and any Sections of the Code of the Township of Antrim inconsistent herewith are hereby repealed. Nothing herein shall be construed to repeal the imposition and collection of an Occupation Privilege Tax and Amusement Tax, plus applicable penalties and interest, for calendar year 2012 and all prior calendar years.

SECTION V. EFFECTIVE DATE: The LST tax imposed by this Ordinance and the amendment to the Amusement Tax Article shall become effective on January 1, 2013 and all calendar years thereafter unless repealed or modified by Ordinance of the Township of Antrim. In addition, nothing herein shall be construed to repeal the imposition of other taxes, plus applicable penalties and interest.

ENACTED AND ORDAINED into law by the Township of Antrim, Franklin County, Pennsylvania, this 11th day of December, 2012.

ATTEST:

TOWNSHIP OF ANTRIM BOARD OF SUPERVISORS

Jennifer Becknell
Jennifer Becknell
Township Secretary

Fred Young, III
Chairman