

**TOWNSHIP OF UPPER SAUCON
LEHIGH COUNTY, PENNSYLVANIA**

ORDINANCE NO. 174

**AN ORDINANCE IMPOSING AN ADDITIONAL 0.10% EARNED INCOME
TAX TO FUND THE PRESERVATION OF OPEN SPACE PURSUANT TO THE
OPEN SPACE LANDS ACQUISITION AND PRESERVATION ACT AND TO
INCORPORATE AS APPLICABLE THE PROVISIONS OF ORDINANCE NO.
73, AS AMENDED, WITH RESPECT TO THE ADMINISTRATION,
COLLECTION AND ENFORCEMENT OF SAID TAX**

Section 1. Legislative History and Background

WHEREAS, Upper Saucon Township is a Second Class Township organized and operating under the laws of the Commonwealth of Pennsylvania (hereinafter, "Township"); and

WHEREAS, the Commonwealth of Pennsylvania has adopted the Local Tax Enabling Act, 53 P.S. Section 6924.101, et. seq. which, among other things, authorizes the Township to levy a tax on the earned income of Township residents (hereinafter, "LTEA"); and

WHEREAS, Pursuant to the LTEA, on November 26, 1985, the Township Board of Supervisors (hereinafter, "Supervisors") enacted Ordinance No. 73 imposing a 1% earned income tax; and

WHEREAS, Ordinance No. 73 was amended by Ordinance No. 73-A, enacted December 9, 2003, and Ordinance 73-B, enacted October 3, 2011, both to address amendments to the LTEA; and

WHEREAS, the Commonwealth of Pennsylvania has adopted the Open Space Lands Acquisition Act, 32 P.S. Section 5001, et. seq. (hereinafter, "Open Space Act") which, among other things, authorizes the imposition of an additional tax on earned income to finance and otherwise preserve open space through the purchase of land and interests in land; and

WHEREAS, it is a pre-condition to the imposition of the additional tax under the Open Space Act, that the registered electors authorize the same by referendum; and

WHEREAS, by Ordinance No. 173, enacted July 30, 2021, the Township Board of Supervisors (hereinafter, "Supervisors") authorized a referendum posing the following question:

Do you favor the imposition of an additional Earned Income Tax
at the rate of 0.10% by Upper Saucon Township to be used to
finance the acquisition of real property or interests in real property
to preserve open space?

(hereinafter, "Referendum"); and

WHEREAS, in the General Election occurring on November 2, 2021, the registered electors of the Township voted to approve the Referendum; and

WHEREAS, Section 5007.1 of the Open Space Act requires the Supervisors to provide for the levy of the additional earned income tax by ordinance; and

WHEREAS, the Supervisors desire to impose an additional earned income tax at the rate of 0.10% to finance the preservation of open space through the acquisition of real property or interests in real property all in accordance with the requirements and procedures set forth in the Open Space Act; and

WHEREAS, the Supervisors desire to provide for the administration of the additional earned income tax by incorporating the provisions of Ordinance No. 73, as amended, to the extent that the same are not inconsistent with the Open Space Act.

Section 2. Ordinance Text

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is enacted and ordained by the Board of Supervisors of Upper Saucon Township, Lehigh County, Pennsylvania, as follows:

1. Pursuant to 53 P.S. Section 6924.301.1(a) and 32 P.S. Section 5007.1, the Upper Saucon Township Board of Supervisors hereby adopts, in addition to the existing 1% earned income tax, an additional earned income tax of 0.10% on the earned incomes of individuals residing in Upper Saucon Township (hereinafter, "Additional Tax").

2. The Additional Tax of 0.10% shall become effective January 1, 2023, and shall continue, without annual reenactment, until repealed or amended, all in accordance with 53 P.S. 5007.1.

3. The Additional Tax of 0.10% shall be used solely for purposes described in 53 P.S. Section 5007.1, including, among other things, retiring indebtedness incurred in purchasing interests in real property and making additional acquisitions of real property under the provisions of the Open Space Act or the Agricultural Area Security Law.

4. As a pre-condition to the use of the revenue from the Additional Tax, the Township shall comply with all procedures mandated by the Open Space Act.

5. The administration of the Additional Tax shall be governed by, as applicable, the LTEA, the Open Space Act, all other applicable laws of the Commonwealth of Pennsylvania and Ordinance No. 73 (as amended).

6. The Township Manager is hereby directed to forward a true and correct copy of the within Ordinance to Lehigh County, Berkheimer Tax Innovations and the Pennsylvania Department of Community and Economic Development.

7. This Ordinance is enacted pursuant to the authority of the Local Tax Enabling Act and the Open Space Lands Acquisition and Preservation Act.

8. The foregoing Background and Legislative History is incorporated herein by reference and made a part hereof.

Section 3. Severability

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of Upper Saucon Township that this Ordinance would have been adopted had the unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 4. Repealer

All ordinances, resolutions or parts thereof which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 5. Effective Date

This Ordinance shall become effective five (5) days after adoption in accordance with the Second Class Township Code.

Duly Enacted and Ordained this 14th day of March, 2022 by the Board of Supervisors of the Township of Upper Saucon, Lehigh County, Pennsylvania in lawful session duly assembled.

[Signatures Follow]

UPPER SAUCON TOWNSHIP
BOARD OF SUPERVISORS

Brian Farrell

Chairman

Paul A. [unclear]

Vice-Chairman

[Signature]
Supervisor

Stephen [unclear]
Supervisor

ATTEST:

Secretary

Supervisor