WINTERSTOWN BOROUGH
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 2011-2

AN ORDINANCE AMENDING CHAPTER 24, PART 2, ENTITLED "EARNED INCOME TAX" OF THE CODE OF ORDINANCES OF THE BOROUGH OF WINTERSTOWN BY DELETING THE EXISTING TEXT IN ITS ENTIRETY AND ADOPTING THE FOLLOWING LEGISLATION TO LEVY AND IMPOSE A TAX FOR GENERAL REVENUE PURPOSES ON EARNED INCOME AND NET PROFITS; REQUIRING THE FILING OF TAX RETURNS, EMPLOYERS TO REGISTER, WITHHOLD AND REMIT TAXES AND FILE TAX RETURNS; PROVIDING FOR ADMINISTRATION AND ENFORCEMENT, INCLUDING COLLECTION AND PROSECUTION OF DELINQUENT ACCOUNTS AND COSTS; AND IMPOSING PENALTIES FOR VIOLATIONS

WHEREAS, the Council of Winterstown Borough (Borough) is authorized to enact ordinances to levy a tax for general revenue purposes on earned income and net profits of residents of the Borough and certain non-residents, to require the filing of tax returns, to provide for the administration and collection of such taxes, and to impose penalties for violations of such ordinances pursuant to the Local Tax Enabling Act, 53 P.S. §6924.101 et seq. (hereinafter the "Act") and other applicable law; and

WHEREAS, due to the enactment of the Act of General Assembly of July 2, 2008 (P.L. 197) and known as Act No. 32, it is necessary to enact this Ordinance to conform the local income tax currently levied on earned income and net profits by the municipality with Act 32 and to do so within the time frame set forth therein.

WHEREAS, after due advertisement of and public hearing on this Ordinance as required by law, the Borough Council finds adoption of this Ordinance to be necessary to comply with Act 32 and in the best interest of the health, safety and general welfare of its residents.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Council of Winterstown Borough York County, Pennsylvania, by virtue of the power and authority vested in the same, as follows:

SECTION 1. Except as provided in Section 16 of this Ordinance, Part 2 of Chapter 24 of the Borough's Code is amended by deleting and repealing the contents, excluding the Part title, in their entirety.

SECTION 2. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-201 as follows:

"

§24-201. Title.

This Part shall be known as the "Winterstown Borough Earned Income and Net Profits Tax Ordinance", referred to herein as "this Part"."

SECTION 3. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-202 as follows:

"**§24-202. Intent; applicable rules.**

A. It is the intent and purpose of this Part to include all of the applicable language and provisions of 53 P.S. 6924.501 et. seq., the Act of General Assembly of July 2, 2008 (P.L. 197) and known as Act No. 32, as may be amended and supplemented from time to time. In all enforcement of the administration of this Part, the language and intent of Act 32, as amended, shall take precedence.

B. The tax imposed by this Part shall be collected and administered in accordance with:

(1) All applicable laws and regulations; and

(2) Rregulations, policies and procedures adopted by the TCC or Tax Officer. This includes any regulations, policies and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. 1937.

SECTION 4. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-203 as follows:

"**§24-203. Definitions.**

All words and phrases shall have the meanings as set forth in Act 32, as amended. The following words and phrases, when used in this Part shall have the meanings ascribed to them as follows:

BUSINESS – An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

BUSINESS ENTITY – A sole proprietorship, corporation, joint-stock association or company, partnership, limited partnership, limited liability company, association,

business trust, syndicate or other commercial or professional activity organized under the laws of this Commonwealth or any other jurisdiction.
CORPORATION – A corporation or joint-stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency. This term shall include an entity which is classified as a corporation for Federal income tax purposes.

CURRENT YEAR – The calendar year for which the tax is levied.

DEPARTMENT – The Pennsylvania Department of Community and Economic Development or successor agency charged with any duties under the Act, as may be amended and supplemented.

DOMICILE – The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the place in which a man has voluntarily fixed the habitation of himself and his family, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

EARNED INCOME – The compensation as required to be reported to or as determined by the Pennsylvania Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations promulgated under that section. For purposes of earned income, employee business expenses are allowable deductions as determined under Part 2 of the "Tax Reform Code of 1971." The term does not include offsets for business losses. The amount of any housing allowance provided to a member of the clergy shall not be taxable as earned income.

EARNED INCOME AND NET PROFITS TAX – The tax levied herein by municipality on earned income and net profits. Also referred to as "tax" herein.

EMPLOYER – A person, business entity or other entity employing one or more persons for a salary, wage, commission or other compensation. The term includes the Commonwealth, a political subdivision and an instrumentality or public authority of either. For purposes of penalties hereunder, this term includes a corporate officer.

MUNICIPALITY – A city of the second class, city of the second class A, city of the third class, borough, town, township of the first class or township of the second class. For purposes of this Part, such term shall mean Winterstown Borough, York County, Pennsylvania.

NET PROFITS – The net income from the operation of a business, except corporations as required to be reported to or as determined by the Department of Revenue under section 303 of the act of March 4, 1971 (P.L. 6, No. 2), known as the "Tax Reform Code of 1971," and rules and regulations in promulgated under such section. The term does not include income: a) which is not paid for services provided; and b) which is in the nature of earnings from an investment. Further, the term shall not include:

A. Any gain on the sale of farm machinery;

B. Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and

C. Any gain on the sale of other capital assets of the farm.

NONRESIDENT – A person, partnership, association or other entity domiciled outside of the municipality.

PERSON or INDIVIDUAL – A natural person.

PRECEDING YEAR – The calendar year before the current year.

RESIDENT – A person, partnership, association or other entity domiciled in the municipality.

SUCCEEDING YEAR – The calendar year following the current year.

TAX BUREAU – A public nonprofit entity established by a TCC for the administration and collection of earned income and net profits tax.

TAX COLLECTION COMMITTEE (herein referred to as "TCC") – The committee established to govern each tax collection district for the purpose of income tax collection. This term shall include a joint tax collection committee.

TAX COLLECTION DISTRICT (herein referred to as "TCD") – The York Tax Collection District as established under the Act.

TAX OFFICER – A political subdivision, public employee, tax bureau, county, excluding a county of the first class, or private agency which administers and collects earned income and net profits for one or more tax collection district. Unless otherwise specifically provided, for purposes of an employer, the obligations of an employer, the term shall mean the Tax Officer or tax collector for the tax collection district within which the employer is located, or if an employer maintains workplaces in more than one tax collection district, the Tax Officer for each such tax collection district with respect to employees principally employed therein.

TAXPAYER – A person or business required hereunder to file a return of earned income or net profits or to pay a tax thereon."

SECTION 5. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-204 as follows:

"**§24-204. Imposition of tax.**

A. A tax of one percent (1%) for general revenue purposes is hereby imposed on earned income and net profits earned by residents of the municipality.

B. A tax of one percent (1%) for general revenue purposes is hereby imposed on earned income and net profits earned in the municipality by nonresidents, exclusive of domestic servants and Maryland residents.

C. The earned income and net profits tax levied under this Part shall be applicable to earned income received and to net profits earned during the period beginning January 1 of the current year and ending December 31 of the current year or for taxpayer fiscal years beginning in the current year. The earned income and net profits tax shall continue in force on a calendar year or taxpayer fiscal year basis without the need for annual enactment or re-enactment, unless the rate of the tax is subsequently changed. For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

SECTION 6. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-205 as follows:

"**§24-205. Declaration and payment of tax.**

A. Application.

(1) Income taxes shall be applicable to taxable income earned or received based on the method of accounting used by the taxpayer in the period beginning January 1 of the current year and ending December 31 of the current year; except that taxes imposed for the first time and changes to existing tax rates shall become effective on January 1 or July 1, as specified in this Part, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed.

(2) For a taxpayer whose fiscal year is not a calendar year, the Tax Officer shall establish deadlines for filing, reporting and payment of taxes which provide time periods equivalent to those provided for a calendar year taxpayer.

B. Partial domicile. The taxable income subject to tax of a taxpayer who is domiciled in a political subdivision for only a portion of the tax year shall be an amount equal to the taxpayer's taxable income multiplied by a fraction, the numerator of which is the number of calendar months during the tax year that the individual is domiciled in the political subdivision, and the denominator of which is 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is domiciled for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days in the calendar month in which the individual lived in the old and new domiciles are equal, the calendar month shall be included in calculating the number of months in the new domicile.

C. Declaration and payment.--Except as provided in subsection A(2), taxpayers shall declare and pay income taxes as follows:

(1) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident Tax Officer, a final return showing the amount of taxable income received during the period beginning January 1 of the current year and ending December 31 of the current year, the total amount of tax due on the taxable income, the amount of tax paid, the amount of tax that has been withheld under section 7 below and the balance of tax due. All amounts reported shall be rounded to the nearest whole dollar. At the time of filing the final return, the taxpayer shall pay the Tax Officer the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

(2) (a) Every taxpayer making net profits shall, by April 15 of the current year, make and file with the Tax Officer a declaration of the taxpayer's estimated net profits during the period beginning January 1 and ending December 31 of the current year, and shall pay to the Tax Officer in four equal quarterly installments the tax due on the estimated net profits. The first installment shall be paid at the time of filing the declaration, and the other installments shall be paid on or before June 15 of the current year, September 15 of the current year and January 15 of the succeeding year, respectively.

(b) Any taxpayer who first anticipates any net profit after April 15 of the current year, shall make and file the declaration required on or before June 15 of the current year, September 15 of the current year or December 31 of the current year, whichever date next follows the date on which the taxpayer first anticipates such net profit, and shall pay to the Tax Officer in equal installments the tax due on or before the quarterly payment dates that remain after the filing of the declaration.

(c) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the Tax Officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the Tax Officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the Tax Officer on or before January 31 of the succeeding year, the final return.

(d) The Department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

(e) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return as required under this Part and pay the tax due.

(3) Every taxpayer who receives any other taxable income not subject to withholding under Section 512(3) of the Act shall make and file with the resident Tax Officer a quarterly return on or before April 15 of the current year, June 15 of the current year, September 15 of the current year, and January 15 of the succeeding year, setting forth the aggregate amount of taxable income not subject to withholding by the taxpayer during the three-month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively, and subject to income tax, together with such other information as the Department may require. Every taxpayer filing a return shall, at the time of filing the return, pay to the Tax Officer the amount of income tax due. The Department shall establish criteria under which the Tax Officer may waive the quarterly return and payment of the income tax and permit a taxpayer to file the receipt of taxable income on the taxpayer's annual return and pay the income tax due on or before April 15 of the succeeding year.

(4) The TCC may, by regulation, waive the requirements for a quarterly return and payment of income tax under specified circumstances, including those instances where a taxpayer's annual taxable income is less than a specified amount."

SECTION 7. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-206 as follows:

"§24-206. Registration.

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality, having imposed a tax on earned income or net profits within its municipal boundaries who employs one or more persons, other than domestic servants, for a salary, wage commission or other compensation who has not previously registered shall within fifteen (15) days after becoming an employee, register with the Tax Officer or other designated Tax Officer, his/her or its name and address and such other information as the Department or the Tax Officer may require.

B. Every employer shall require each new employee to complete a certificate of residency from, which form shall be an addendum to the Federal Employee's Withholding Allowance Certificate (Form W-4 or successor form). An employer shall also require any employee who changes their address or domicile to complete a certificate of residency form, which forms are available from the Department or the Tax Officer upon request. The purpose of said form shall be to help identify the political subdivision where an employee lives and works."

SECTION 8. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-207 as follows:

"§24-207. Filing and Payment of Tax by Employer; Withholding.

A. Every employer having an office, factory, workshop, branch, warehouse or other place of business within the municipality imposing a tax on earned income or net profits within the municipality who employs one or more persons, exclusive of domestic servants and Maryland residents, for a salary, wage, commission or other compensation shall deduct at the time of payment thereof the greater of the employee's resident tax or the employee's nonresident tax imposed by this Part on the earned income due to his employee or employees and shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year and January 31 of the succeeding year, file a quarterly return and pay to the Tax Officer the amount of taxes deducted during the preceding quarterly periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year and December 31 of the current year, respectively. Such return, unless otherwise agreed upon between the Tax Officer and employer, shall show the name and social security number of each such employee, the compensation of such employee during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employee, the total

compensation of all such employees during such preceding quarterly period and the total tax deducted therefrom and paid with the return as well as any other information prescribed by the Department or the Tax Officer.

B. Any employer who, for two (2) of the preceding four (4) quarterly periods, has failed to deduct the proper tax or any part thereof or who has failed to pay over the proper amount of tax to the Tax Officer may be required by the Tax Officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the Tax Officer on or before the last day of the month succeeding the month for which the tax was withheld.

C. Notwithstanding the provisions of A, above, the provisions of this paragraph C shall apply if any employer has more than one (1) place of employment in more than one (1) tax collection district. Within thirty (30) days following the last day of each month, the employer may file the return required by paragraph (A) above and pay the total amount of tax due from employees in all work locations during the preceding month to the Tax Officer for either the tax collection district in which the employer's payroll operations are located or as determined by the Department. The return and tax deducted shall be filed and paid electronically. The employer must file a notice of intention to file combined returns and make combined payments with the Tax Officer for each place of employment at least one (1) month prior to filing its first combined return or making its first combined payment. This paragraph shall not be construed to change the location of an employee's place of employment for purposes of nonresident tax liability.

D. On or before February 28 of the succeeding year, every employer shall file with the Tax Officer or other designated Tax Officer to whom tax, which has been deducted, has been remitted as required herein:

(1) An annual return showing the total amount of compensation paid, the total amount of tax deducted, the total amount of tax paid to the Tax Officer for the period beginning January 1 of the current year and ending December 31 of the current year, and any other information prescribed by the Department.

(2) An individual withholding statement which may be integrated with the Federal Wage and Tax Statement (Form W-2 or successor form), for each employee employed during all or any part of the period beginning January 1 of the current year and ending December 31 of the current year, setting forth the employee's name, address and Social Security number, the amount of compensation paid to the employee during said period, the amount of tax deducted, the numerical code prescribed by the Department representing the tax collection district where payments required herein were remitted and any other information required by the Department or the Tax Officer and the

amount of tax paid to the Tax Officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

F. Every employer who discontinues business prior to December 31 of the current year shall, within thirty (30) days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

G. Except as otherwise provided for in Section 511 of the Act, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which the employer is required to withhold to the extent that such taxes have not been recovered from the employee. The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax of from complying with the requirements of this Part relating to the filing of declarations and returns.

H. No employer shall be required to deduct or withhold taxes, file returns or pay taxes with regard to residents of Maryland."

SECTION 9. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-208 as follows:

"**§24-208. Powers and duties of Tax Officer.**

A. It shall be the duty of the Tax Officer to collect and receive the taxes, fines and penalties imposed by this Part. It shall also be the Tax Officer's duty to keep a record showing the amount of tax received from each taxpayer paying the tax and the date of such receipt.

B. Each Tax Officer, before entering upon official duties, shall give and acknowledge a bond to the TCC appointing such Tax Officer. The bond provided shall be subject to the requirements set forth in the Act.

C. The Tax Officer shall comply with all resolutions, policies and procedures adopted by the tax collection committee(s) and shall comply with all regulations adopted by the Department under the Act.

D. The Tax Officer shall refund, on petition of and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses to the extent that such expenses are not paid by the taxpayer's employer.

E. The Tax Officer and agents designated by him are hereby authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the Tax Officer reasonably believes to be an employer or taxpayer in order to

verify the accuracy of any declaration or return or, if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the Tax Officer reasonably believes to be an employer or taxpayer is hereby directed and required to give to the Tax Officer or to any agent designated by him any means, facilities and opportunity for such examination and investigations as are hereby authorized. Such examination or audits shall be conducted by the Tax Officer and any agents designated by the Tax Officer in accordance with 53 Pa. C.S.A., Chapter 84, Subchapter "C" (relating to the local taxpayers bill of rights).

F. Any information gained by the Tax Officer, his agents or by any other official or agent of the taxing district as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this Part shall be and remain confidential, except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

G. The Tax Officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year, provided that any filing, reporting or payment dates shall provide time periods equivalent to those time periods set forth for taxpayers whose fiscal year coincides with a calendar year."

SECTION 10. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-209 as follows:

"§24-209. Suit for collection of tax.

A. The Tax Officer may sue in the name of the political subdivision within the TCD for the recovery of taxes due and unpaid under this Part.

B. Any suit brought to recover the tax imposed by this Part shall be begun within three (3) years after: 1) such tax is due or 2) the declaration or return has been filed, or 3) a redetermination of compensation or net profits by the Pennsylvania Department of Revenue whichever date is later; provided, however, that this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of this Part, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person or of other evidence relating to such declaration or return in the possession of the Tax Officer reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) Where any person has deducted taxes under the provisions of this Part and has failed to pay the amounts so deducted to the Tax Officer or where any person has willfully failed or omitted to make the deductions required by this Part, there shall be no limitation.

(4) Where an employer has intentionally failed to make deductions required by this Part, there shall be no limitation.

(5) In the case of substantial understatement of tax liability of twenty-five percent (25%) or more and no fraud, suit shall be begun within six (6) years.

C. The Tax Officer may sue for recovery of an erroneous refund, provided that such suit is begun two (2) years after making such refund, except that the suit may be brought within five (5) years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

D. This section shall not be construed to limit the municipality from recovering delinquent taxes by any other means provided by the act. Further, nothing set forth herein shall be construed to limit a Tax Officer, a tax collection district or political subdivision from recovering delinquent taxes by any other means provided by the Act."

SECTION 11. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-210 as follows:

"**§24-210. Interest and penalties.**

A. Except as may be provided for in B, below, in the event any tax imposed in this Part is not paid when due, interest shall accrue at the same rate a taxpayer is required to pay to the Commonwealth as provided in Section 806 of the act of April 9, 1929 (P.L. 343, No. 176), known as the Fiscal Code, or such successor legislation, on the amount of said tax and an additional penalty of One (1%) percent of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected but the amount of penalty shall not exceed Fifteen percent (15%) in the aggregate. Where an action is brought for the recovery of tax, the taxpayer liable for the tax shall, in addition, be liable for the costs of collection, interest and penalties, including, but not limited to court costs and attorney's fees.

B. Pursuant to the Act, the Department may establish conditions under which a Tax Officer, with the concurrence of the TCC, may abate interest or penalties that would otherwise be imposed for the nonreporting or underreporting of income tax liabilities or for nonpayment of taxes previously imposed and due if the taxpayer files delinquent returns and pays the tax in full.

C. The provisions of B, above, shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Part, or prevent the commencement of further prosecution of any proceedings by the appropriate authorities for violations of this Part. However, no proceedings shall be commenced on the basis of delinquent returns filed pursuant to Section 10 above if the returns are determined to be substantially true and correct and the tax due is paid within the prescribed time."

SECTION 12. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-211 as follows:

"§24-211. Violations and penalties.

A. 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 Tax Officer or any agent designated by him to examine his books, records, 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 thereof, be sentenced to pay a fine of not more than two thousand five hundred dollars ($2,500) for each offense and costs and, in default of payment of said fine and costs, to be imprisoned for a period not exceeding six (6) months.

B. Any employer who is required under this Part to collect, account for and distribute taxes and who willfully fails to collect or truthfully account for and distribute such tax, commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding Twenty-Five Thousand ($25,000.00) Dollars or to imprisonment not exceeding two (2) years or both.

C. Any person who divulges any information which is confidential under the provisions of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than two thousand five hundred dollars ($2,500) for each offense and costs and, in default of payment of said fines and costs, or to imprisonment for not more than one (1) year, or both.

D. The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this Part.

E. 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 or her from making such declaration or return.

F. The municipality hereby approves and adopts the Cost of Collection Schedule, attached hereto and made a part hereof, to be imposed by the designated Tax Officer for the collection of taxes on earned income and net profits, upon any taxpayer whose taxes are or become delinquent and/or remain due and unpaid; provided, however, that the TCC may approve amendments said fee schedule by resolution from time to time. Amendments to the collection schedule shall become effective upon adoption by the TCC. The designated Tax Officer is hereby authorized to retain such costs of collection as set forth in the attached schedule, as may be amended and supplemented from time to time, in recovering delinquent taxes and as permitted to be assessed to delinquent taxpayers pursuant to law."

SECTION 13. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-212 as follows:

"§24-212. Applicability.

This Part shall not apply to any person or property as to whom or which it is beyond the legal power of the municipality to levy, assess and impose the tax or duties as herein provided."

SECTION 14. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-213 as follows:

"§24-213. Severability.

The provisions of the Part are severable and should any of its provisions are determined by a court of competent jurisdiction to be invalid or unconstitutional, such determination shall not affect or impair any of the remaining provisions of this Part. It is hereby declared to be the intention of the Borough Council that this Part would have been adopted is such invalid or unconstitutional provision had not been included."

SECTION 15. Part 2 of Chapter 24 of the Borough's Code is amended by adding a new §24-214 as follows:

"§24-214. Purpose/Amendment and Restatement/Repeal.

The primary purpose of this Part is to conform the local income tax currently levied on earned income and net profits by the municipality with the Act and to do so within the time frame set forth in the Act. Any prior ordinance levying such tax is hereby amended and restated in its entirety to read as set forth in this Part. To the extent that any previous ordinance or portion thereof is inconsistent or conflicts with this Part, such ordinance(s) or portion(s) thereof shall be repealed to the extent of such inconsistency and/or conflict. To the extent that any prior ordinance levying such tax in force immediately prior to enactment of this Part, this Part is intended as a continuation of such prior ordinance and

not as the enactment of an ordinance imposing a new tax. In the event this Part or any portion thereof is determined to be unconstitutional or otherwise invalid, the prior ordinance, or portion thereof, levying a similar tax shall remain in full force and effect and shall not be affected by the adoption of this Part. Nothing contained herein shall affect, impair or otherwise abrogate any act done or liability incurred, nor shall any provision of this Part affect, impair or preclude any suit or prosecution pending, whether or not currently initiated, to enforce any right, penalty or violation under the authority of any previous ordinance in force prior to adoption of this Part."

SECTION 16. Effective date; initial current year. The effective date of this ordinance and beginning of the initial current year shall be January 1, 2012.

ORDAINED AND ENACTED this 8th day of November, 2011.

ATTEST:

Ronnie Havenstrite, Secretary

COUNCIL OF THE BOROUGH OF WINTERSTOWN

Herbert C. Grove, President

(SEAL)

APPROVED this 8th day of November, 2011.

Wayne C. Hildebrand, Mayor

I, the undersigned Secretary of the Borough of Winterstown, York County, Pennsylvania, hereby certify that the attached Ordinance No. 2011-2 is a true and correct copy of the Ordinance adopted in accordance with the requirements of law by the Winterstown Borough Council at its duly advertised public meeting on November 8, 2011.

Date: November 8, 2011

Ronnie Havenstrite, Secretary
Winterstown Borough

(SEAL)