

# WHITPAIN TOWNSHIP

ORDINANCE #392

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AN ORDINANCE OF THE WHITPAIN TOWNSHIP BOARD OF SUPERVISORS PROVIDING FOR A QUESTION TO BE PLACED BEFORE THE VOTERS OF WHITPAIN TOWNSHIP BY A REFERENDUM AT THE PRIMARY ELECTION OF MAY 17, 2022, ASKING WHETHER THE ELECTORS OF WHITPAIN TOWNSHIP FAVOR THE IMPOSITION OF AN INCREASE IN THE EARNED INCOME TAX RATE FROM ONE (1%) PERCENT TO ONE AND SIX ONE-HUNDREDTHS (1.06%) PERCENT BY WHITPAIN TOWNSHIP TO BE USED TO RETIRE THE INDEBTEDNESS INCURRED IN PURCHASING INTERESTS IN REAL PROPERTY, OR TO MAKE ADDITIONAL ACQUISITIONS OF REAL PROPERTY, IN WHITPAIN TOWNSHIP FOR THE PURPOSE OF SECURING AN OPEN SPACE BENEFIT, OR TO PAY TRANSACTIONAL FEES INCIDENTAL TO SUCH ACQUISITIONS, OR TO PAY EXPENSES NECESSARY TO PREPARE THE REQUIRED RESOURCE, RECREATION, OR LAND USE PLAN, OR TO DEVELOP, IMPROVE, DESIGN, ENGINEER, OR MAINTAIN SUCH PROPERTY, AS AUTHORIZED BY THE OPEN SPACE LANDS ACT, ACT 442 OF 1967, AS AMENDED

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## CERTIFICATION

I, ROMAN M. PRONCZAK, BEING DULY SWORN ACCORDING TO LAW, DEPOSE AND SAY THAT I AM THE TOWNSHIP MANAGER IN MONTGOMERY COUNTY, PA AND THAT ATTACHED HERETO IS A TRUE AND COMPLETE CORRECT COPY OF ORDINANCE #392



Roman M. Pronczak, P.E., Township Manager

Jan. 19, 2022

ENACTED: 1-18-2022

# WHITPAIN TOWNSHIP

## ORDINANCE #392

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AN ORDINANCE OF THE WHITPAIN TOWNSHIP BOARD OF SUPERVISORS PROVIDING FOR A QUESTION TO BE PLACED BEFORE THE VOTERS OF WHITPAIN TOWNSHIP BY A REFERENDUM AT THE PRIMARY ELECTION OF MAY 17, 2022, ASKING WHETHER THE ELECTORS OF WHITPAIN TOWNSHIP FAVOR THE IMPOSITION OF AN INCREASE IN THE EARNED INCOME TAX RATE FROM ONE (1%) PERCENT TO ONE AND SIX ONE-HUNDREDTHS (1.06%) PERCENT BY WHITPAIN TOWNSHIP TO BE USED TO RETIRE THE INDEBTEDNESS INCURRED IN PURCHASING INTERESTS IN REAL PROPERTY, OR TO MAKE ADDITIONAL ACQUISITIONS OF REAL PROPERTY, IN WHITPAIN TOWNSHIP FOR THE PURPOSE OF SECURING AN OPEN SPACE BENEFIT, OR TO PAY TRANSACTIONAL FEES INCIDENTAL TO SUCH ACQUISITIONS, OR TO PAY EXPENSES NECESSARY TO PREPARE THE REQUIRED RESOURCE, RECREATION, OR LAND USE PLAN, OR TO DEVELOP, IMPROVE, DESIGN, ENGINEER, OR MAINTAIN SUCH PROPERTY, AS AUTHORIZED BY THE OPEN SPACE LANDS ACT, ACT 442 OF 1967, AS AMENDED

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**WHEREAS**, the Township of Whitpain is a duly organized Township of the second class, existing and operating in accordance with the laws of the Commonwealth of Pennsylvania; and

**WHEREAS**, the Whitpain Township Board of Supervisors seeks to impose an increase of six one-hundredths (0.06%) of one percent in the earned income tax rate for Whitpain Township residents, beyond the current earned income tax rate of one (1%) percent previously adopted pursuant to the provisions of the Local Tax Enabling Act, with the revenues from the increase to be used for the purpose of (1) retiring the indebtedness incurred in purchasing interests in real property and/or to make additional acquisitions of real property in Whitpain Township for the purpose of securing an open space benefit; (2) to pay transactional fees incidental to such acquisitions; (3) to pay expenses necessary to prepare the required resource, recreation, or land use

plan for such property; and/or (4) to develop, improve, design, engineer, or maintain such property; as authorized by the Open Space Lands Act, Act 442 of 1967, as amended; and

**WHEREAS**, the Board of Supervisors acknowledges such an earned income tax rate increase pursuant to the Open Space Lands Act must be approved by the electors of Whitpain Township via referendum prior to the passing of an ordinance enacting such a tax, and that such referendum shall be governed by the provisions of the Pennsylvania Election Code; and

**WHEREAS**, the Board of Supervisors must submit the referendum question to the Election Board of Montgomery County, Commonwealth of Pennsylvania; and

**WHEREAS**, per the requirements of 25 P.S. §2621.1 (Explanation of the Ballot Question), the Election Board of Montgomery County is required to prepare a statement in plain English indicating the purpose, limitations, and effect of the ballot question on the residents of Whitpain Township; and

**WHEREAS**, the Board of Supervisors may suggest language for the explanation of the referendum question by providing such statement to the Election Board of Montgomery County.

**NOW, THEREFORE, IT IS HEREBY ORDAINED AND ENACTED**, by the Board of Supervisors of Whitpain Township, as follows:

**SECTION 1. Referendum Question.**

The following referendum question shall be submitted to the Election Board of Montgomery County, Commonwealth of Pennsylvania:

Do you favor the imposition of an increase in the earned income tax rate for Whitpain Township residents from its current rate of one (1%) percent to a rate of one and six one-hundredths (1.06%) percent to

be imposed by Whitpain Township, with the revenues generated from the additional six one-hundredths (0.06%) of one percent to be used: (1) to retire the indebtedness incurred in purchasing interests in real property and/or to make additional acquisitions of real property in Whitpain Township for the purpose of securing an open space benefit; (2) to pay transactional fees that are incidental to such acquisitions; (3) to pay expenses necessary to prepare the required resource, recreation, or land use plan for such property; and/or (4) to develop, improve, design, engineer, or maintain such property?

YES or NO

**SECTION 2. Suggested Plain Language Explanation.**

The following explanation of the ballot question as a suggestion for the statement in plain English indicating the purpose, limitations, and effect of the ballot question on the residents of Whitpain Township, as is required to be prepared by the Election Board of Montgomery County per the requirements of 25 P.S. §2621.1 (Explanation of the Ballot Question) shall be submitted to the Election Board of Montgomery County, Commonwealth of Pennsylvania:

Pennsylvania law defines "open space benefits" as "benefits to the citizens of the Commonwealth . . . which result from the preservation . . . of undeveloped open spaces or areas." The interest in this preservation includes, but is not limited to, the preservation of water resources, forests, and farmland, as well as the protection of scenic areas for public visual enjoyment from public rights of way.

To retire indebtedness means to pay off debts already incurred by the purchase of the land in question. Whitpain Township has already purchased land to preserve an open space benefit for the Township's citizens, and now the Township seeks to use the revenue from the proposed increase in earned income tax to pay off the purchase of the land.

Whitpain Township also seeks to leave open the possibility of acquiring new property for new open

space benefits in the future, and therefore seeks authorization for this increase in earned income tax rate to pay for such potential purchases, as well as to pay any fees and expenses incidental to the purchase which has already occurred, and those which may occur in the future.

Whitpain Township also seeks authorization to use the revenue to develop, improve, design, engineer, or maintain such property for the continued benefit of the citizens of Whitpain Township, with the understanding that the Open Space Lands Act only allows up to 25% of such revenue to be used for developments, improvements, designs, engineering, or maintenance of the land, and such funds may only be used for these purposes after the annual debt service incurred by the purchase of the property has been satisfied in a given year.

The revenues from this earned income tax increase could be used only for the purposes provided for in the referendum question. A vote of "YES" in this referendum approves the increase in earned income tax by (0.06%) for a minimum of five years.

### **SECTION 3. Repeal and Ratification.**

All ordinances or parts of ordinances inconsistent herewith or in conflict with any of the specific terms enacted hereby, to the extent of said inconsistencies or conflicts, are hereby specifically repealed. Any other terms and provisions of the Township's Code unaffected by this Ordinance are hereby reaffirmed and ratified.

### **SECTION 4. Severability.**

Should any section, paragraph, sentence, clause, or phrase in this Ordinance be declared unconstitutional or invalid for any reason, the remainder of the Ordinance shall not be affected thereby and shall remain in full force and affect, and for this reason the provisions of this Ordinance shall be severable.

**SECTION 5.      Effective Date.**

This Ordinance shall become effective 5 days after enactment.

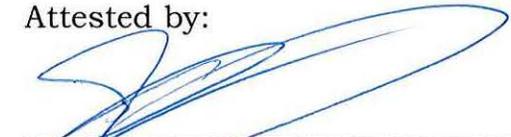
**ORDAINED AND ENACTED** this 18th day of January 2022, by the Whitpain Township Board of Supervisors.

**WHITPAIN TOWNSHIP  
BOARD OF SUPERVISORS**

  
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Kimberly J. Koch, *Chair*

[Seal]

Attested by:

  
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Jeffrey Campolongo, *Secretary*