

COUNCIL OF THE CITY OF YORK, PA
SESSION 2006
BILL NO. 28
ORDINANCE NO.33

ESTABLISHING ARTICLE 338 "TAX UPON THE CONSIDERATION IN NON-RESIDENTIAL PARKING LOT TRANSACTIONS" OF THE CITY CODIFIED ORDINANCES AND ESTABLISHING THE RATE OF TAXATION, PROVIDING FOR REPORTING AND REMITTING OF THE TAX REVENUE, FOR THE ENFORCEMENT OF THE PROVISIONS OF THE ORDINANCE AND ESTABLISHING THE REQUIREMENT OF A BOND FOR THE PAYMENT OF THE TAX PROCEEDS

WHEREAS, there are many non-residential parking lots operating in the City of York; and,

WHEREAS, the presence of non-residential parking lots and the use thereof by patrons, places demands for public services upon the resources of the City; and,

WHEREAS, Section 2650 of the 3rd Class City Code, Amended October 5, 1975, P.L. 195. No. 64, authorizes Cities of the 3rd class to regulate non-residential parking for the purpose of raising revenue and protecting the public; and,

WHEREAS, the Local Tax Enabling Act 53 P.S. §6902 empowers local municipalities to enact a tax upon the consideration in non-residential parking transactions; and,

WHEREAS, the City's financial consultant, Public Financial Management, after performing an analysis and projection of the City's revenue and expenses to 2010 has recommended the enactment of a parking tax to increase general revenue; and,

WHEREAS, adoption of a non-residential parking tax ordinance by the City is supported by the Pennsylvania Department of Community and Economic Development.

NOW, THEREFORE, It is ordained that Part Three Business Regulation and Taxation Code, Title Three, Article 338 is enacted to read as follows:

338.01 DEFINITIONS.

As used in this chapter, unless the context clearly indicates a different meaning, the following words and phrases shall have the meanings set forth below:

(a) "Patron" – means any person who drives a vehicle to, into, or upon a non-residential parking lot, as hereinafter defined, for the purpose of having said vehicle stored for any length of time. The term shall include any person who has a vehicle in his or her custody or control taken by another for the purpose of having it stored at a non-residential parking place.

(b) "Non-Residential Parking Lot" – means any place within the City, whether wholly or partially enclosed or open, including a garage or enclosed building, at which motor vehicles are parked or stored for any period of time in return for consideration, not including:

(A) any parking area or garage to the extent that it is provided or leased to occupants of a residence on the same or other premises for use only in connection with, and as necessary to, the occupancy of such residence;

(B) any parking area or garage operated exclusively by an owner or lessee of a hotel, an apartment hotel, tourist court or trailer park for no additional consideration; and

(C) any on-site or off-street parking on property designated for accessory use provided by the owner for the use of such owner, tenants of such owner, or the employees and business visitors of such owner or tenants.

(c) "Operator" – means any person operating a non-residential parking lot or receiving consideration for the parking or storage of motor vehicles at such parking lot, including, without limiting the generality of the above, any governmental sub-division, municipal corporation, public authority, non-profit corporation, or any person operating as an agent of any of the above.

(d) "Transaction" – means the parking or storing of a motor vehicle at a non-residential lot for consideration.

(e) "Consideration" – means the payment of compensation, of whatever nature, to the operator by or on behalf of the patron, upon an express or implied contract or under a lease or otherwise, whether or not separately stated, and whether paid in cash or credited to an account, for each transaction involving the parking or storing of a motor vehicle by the patron. The consideration shall not include the tax imposed and collected under this chapter.

338.02 IMPOSITION OF TAX.

(a) A tax for general revenue purposes is hereby imposed upon each parking transaction for a non-residential parking place at the percentage rate of the consideration for each such transaction set forth in subsection (b) of this section for the period from the effective date of this ordinance until December 31, 2006 and thereafter from year to year on a calendar year basis. No operator shall conduct such transactions without complying with all the provisions of this chapter and without collecting the tax herein imposed and paying it over to the City.

(b) The tax percentage rate of the consideration shall be as follows:

(A) from the effective date of this ordinance to December 31, 2006 2%

(B) January 1, 2007 through December 31, 2007 4%

(C) January 1, 2008 through December 31, 2008 6%

(D) January 1, 2009 through December 31, 2009 8%

(E) January 1, 2010 and thereafter 10%

338.03 ANNUAL LICENSE.

(a) No operator shall conduct business as a non-residential parking lot without first obtaining an annual license at a fee of \$50.00 plus \$1.00 per space from the Tax Enforcement Administrator for the purpose of defraying the costs of administering this chapter. Such license shall be obtained by an operator for the each lot operated within thirty (30) days after the effective date of this ordinance and shall be renewed annually on or before January 1st of each year. Any person who intends to become an operator, or any operator who intends to increase the number of spaces available for non-residential parking, shall obtain a license or amended license before beginning such operation or expansion. At each parking lot the operator shall display the license in a conspicuous location at all times. Such license shall not be transferable between one operator and another or between one parking lot and another. Any operator who ceases to conduct the operation of a parking lot shall notify the Business Administrator and return the license applicable thereto.

(b) Nothing herein shall relieve the operator of the obligation to obtain a Business Privilege/Mercantile License.

338.04 RECORDS.

Each operator shall maintain, separately with respect to each parking lot, complete and accurate records of all transactions and the total amount of tax collected on the basis of such consideration. Each operator shall issue to the person paying the consideration such written evidence of the transaction as the Business Administrator or designee may prescribe by regulation. Where consideration in a transaction is not separately stated, the operator shall maintain evidence and the records necessary to segregate the consideration applicable to the transaction for the benefit of the patron and the Business Administrator or designee so that the proper amount of the tax can be collected. Each operator shall afford the Business Administrator and designated employees and agents access to all such records and evidence at all reasonable times and shall provide verification of the same as the Business Administrator shall require.

338.05 RETURN AND PAYMENTS.

Each operator, on the forms prescribed by the Business Administrator or a designee, shall file quarterly by the 30th day of the months of April, July, October and January of each years, returns for the preceding three months showing the consideration received from the operation of each parking lot during the preceding three months together with the amount of tax collected thereupon. At the time of the filing of the return, the operator shall pay all tax due and collected for the period to which the return applies. Each operator shall collect the tax imposed by this ordinance and shall be liable to the City as agent thereof for the payment of the same.

338.06 BUSINESS ADMINISTRATOR'S POWERS AND DUTIES.

(a) The Business Administrator and duly appointed designee(s), under the direction of the Mayor, are hereby empowered, with the approval of the Mayor, to prescribe, adopt, and promulgate rules and regulations relating to the administration and enforcement of this ordinance, including but not limited to, requirements for evidence and records and forms for applications, licenses and returns.

(b) The Business Administrator or designee(s) shall have the power, in the event that any operator has in the judgment of the Business Administrator or designee failed to pay over the amount of the tax due, to collect the tax directly from the patron and charge the cost of collection to the operator. In such event, the Business Administrator or designee shall maintain records showing the amount received and the dates such amounts were received.

(c) The Business Administrator and agents thereof are hereby authorized to examine the books, papers and records of any operator or probable operator subject or supposed to be subject to this ordinance in order to verify the accuracy of the return made, or if no return was made, to estimate the tax due. Each such operator or probable operator is hereby directed and required to give the Business Administrator or agent thereof the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) Any person aggrieved by any decision of the Business Administrator or designee shall have the right to appeal as provided by law.

338.07 POSTING OF RATES.

Every operator shall post and maintain in a conspicuous place at every entrance a sign, printed in letters of such uniform size and character as to be readily readable by prospective customers, showing the operator's name and lot address, operator's parking license number, and a schedule of rates according to one of the prescribed methods listed below:

(A) METHOD A:

Total hourly, daily, or monthly charges consisting of the parking fee and parking tax. Indication of the collection of the tax must be posted on the sign with the words, "Tax Included."

EXAMPLE:

1 hr....\$1.50 Tax Included

(B) METHOD B:

The complete schedule of parking fee, parking tax and charge to customer.

EXAMPLE:

	<u>Fee</u>	<u>Tax</u>	<u>Total</u>
1 hr.	\$1.50	\$.15	\$1.65
2 hr.	\$3.00	\$.30	\$3.30

338.08 COLLECTION OF UNPAID TAXES, PENALTIES AND INTEREST.

The Business Administrator or duly appointed designee shall have the power in the name of the City to institute proceedings to collect, by suit or otherwise, all taxes, interest, costs, fines and penalties due under this ordinance and unpaid. If the operator neglects, refuses or fails to file any return or make any payment as herein required, an additional fifty per centum of the amount of the tax shall be added by the Business Administrator or designee and collected from the operator as a penalty. All taxes due and unpaid shall bear interest at the rate of one percent (1%) per month or fraction thereon from the date they are due and payable until such time as they are paid.

338.09 CONFIDENTIALITY.

Any information gained by the Business Administrator or any other official, agent or employee of the City as a result of any reports, returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

338.10 BUSINESS PRIVILEGE AND MERCANTILE TAX.

The collection and transmittal of taxes imposed under this ordinance shall not exempt the operator from the City's Business Privilege and Mercantile Tax Ordinance.

THIS ORDINANCE shall become effective sixty (60) days following approval by the Mayor.