

CODIFIED ORDINANCES OF YORK

PART THREE - BUSINESS REGULATION AND TAXATION CODE

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1993 Replacement

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- Art. 301. Assessment Law.
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- Art. 308. Local Economic Revitalization Tax Assistance (LERTA) Program.
- Art. 309. Registry.
- Art. 310. Tax Incremental Financing Program.

ARTICLE 301
Assessment Law

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| <p>301.01 Third Class County Assessment Law accepted.</p> <p>301.02 Predetermined ratio adopted.</p> | <p>301.03 Notice to Commonwealth</p> |
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CROSS REFERENCES

- Optional use by cities - see 72 P.S. §5350j
- Board of Assessment and Revision of Taxes - see 72 P.S. §5342 et seq.
- Revisions and appeals - see 72 P.S. §5349 et seq.

301.01 THIRD CLASS COUNTY ASSESSMENT LAW ACCEPTED.

The City of York accepts the provisions of the Act of Assembly, approved June 26, 1931, P.L. 1379, as amended, such Act being known as "The Third Class County Assessment Law", relating to persons, property and occupations, subject to and exempt from taxation in the City of York for City and school purposes, subject to the provisions of Section 301.02. (Ord. 4-1984 §1. Passed 2-21-84.)

301.02 PREDETERMINED RATIO ADOPTED.

The City of York adopts a predetermined ratio of one hundred percent (100%) of the value of real property in the City, as referred to in Section 19 of the Third Class County Assessment Law, as amended, and orders that this ratio be applied to the market valuation supplied by the County of York. (Ord. 31-1988 §1. Passed 12-20-88.)

301.03 NOTICE TO COMMONWEALTH SECRETARY.

A copy of this article when enacted by Council, approved by the Mayor and duly certified, accompanied by a statement of the vote thereon, with the names of the members of Council voting for and against such article, shall be forwarded by the City Clerk to and filed in the office of the Secretary of the Commonwealth of Pennsylvania. (Ord. 4-1984 §1. Passed 2-21-84.)

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ARTICLE 302
Residence Tax

EDITOR'S NOTE: Effective December 31, 1984, this article, consisting of former Sections 302.01 to 302.06, was repealed by Ordinance 16-1984, passed July 17, 1984.

1985 Replacement

2008 Replacement

ARTICLE 303
Property Tax

EDITOR'S NOTE: Under the provisions of Section 2531 of the Third Class City Code, as amended (53 P.S. §37531), a property tax is enacted annually. Consult the office of the City Clerk for the ordinances levying and fixing the tax rate for the current year.

CROSS REFERENCES

Power of Council to levy property taxes - see 3rd Class §2531
(53 P.S. §37531)
Tax liens; liability for false return - see 3rd Class §2537
(53 P.S. §37537)

ARTICLE 305
Tax Collection

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| <p>305.01 Mailing of real estate tax notice.</p> <p>305.02 Payment amounts, due dates and penalty.</p> | <p>305.03 Installment payments authorized.</p> |
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CROSS REFERENCES

Tax Collection Law - see 72 P.S. Sec. 5511.1 et seq.

305.01 MAILING OF REAL ESTATE TAX NOTICE.

The real estate tax notice shall be mailed to the last known post office address of each taxable parcel. Failure to receive the notice shall not relieve any taxpayer from the payment of any taxes imposed by the City.

(Ord. 9-1993 Sec. 1. Passed 4-20-93.)

305.02 PAYMENT AMOUNTS, DUE DATES AND PENALTY.

The real estate tax notice shall be mailed on or before February 15 of the calendar year in which it is due. Taxpayers shall receive a discount of two percent (2%) if the full amount of the tax is paid within two months after the due and payable date on the tax notice. Taxpayers shall pay the face amount of the tax when payment is made during the third and fourth month after the due and payable date on the tax notice. Taxpayers shall be subject to a penalty of ten percent (10%) added to the face amount of the real estate tax when payment is made after the fourth month of the due and payable date on the tax notice. Real estate taxes are payable at the Treasurer's office until December 31 when uncollected taxes are returned to the Tax Claim Bureau of York County for collection. If the due date falls on a day when the Treasurer's office is closed, the amount due on the due date shall be honored on the next business day. United States postmarks shall be honored. Payment may be made in cash, personal check or money order. Taxes are not considered paid, with or without a validated receipt, until a check has cleared. Checks returned for insufficient funds shall be subject to an administrative fee.

(Ord. 2-1999. Passed 1-19-99.)

305.03 INSTALLMENT PAYMENTS AUTHORIZED.

Pursuant to the authority granted by 72 P.S. Section 5511.11, payment of real estate taxes due the City shall be payable in no more than four installments. When payment of taxes is made on the installment basis the discount is forfeited. Any balance remaining at the beginning of the penalty period shall be subject to a ten percent (10%) penalty. Any balance remaining after December 31 shall be included on the list of uncollected taxes and returned to the Tax Claim Bureau of York County for collection.
(Ord. 2-1999. Passed 1-19-99.)

ARTICLE 307
Exemption for Dwelling Improvements

307.01	Definitions.	307.09.04	Rules and regulations.
307.02	Council determination.	307.10	Incentive Loan Program for the reconversion of multi-family dwellings into single-family dwellings and restoration and preservation of historic single family homes.
307.03	Exemption form information.		
307.04	Exemption amount and termination.		
307.05	Exemption conditions and limitations.		
307.06	Final inspection; tax exemption certificate; value and tax reduction.	307.10.01	Establishment of Incentive Loan Program.
307.07	Notice to taxpayers.	307.10.02	Application for the Incentive Loan Program.
307.08	Revocation of exemption for dwelling improvements.	307.10.03	Project review for the Incentive Loan Program.
307.09	Incentive Grant Program for the reconversion of multi-family dwellings into single-family dwellings and restoration and preservation of historic single family homes.	307.10.04	Incentive loan approval.
		307.10.05	Incentive loan program rules and regulations.
		307.11	Funding for the Incentive Grant Program and the Incentive Loan Program.
307.09.01	Application for the Incentive Grant Program.	307.12	Reports.
307.09.02	Project review for the Incentive Grant Program.	307.13	Forgiveness of loans.
307.09.03	Grant approval.		

CROSS REFERENCES

Exemptions authorized - see 72 P.S. §4711 et seq.

307.01 DEFINITIONS.

As used in this article, the following words and phrases shall have the meanings set forth herein:

- (a) "City" means the City of York or designated department therein.
- (b) "Deteriorated property" means any dwelling unit located in a deteriorated neighborhood or a dwelling unit which has been, or, upon request, is certified by a health, housing or building inspection agency as unfit for human habitation, or other health or welfare purposes; or a dwelling unit which has been the subject of an order by such an agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.

- (c) “Dwelling unit” means a house, double house or duplex, townhouse or row house, apartment, group of rooms or any building intended for occupancy as living quarters by an individual, a family or families or other groups of persons containing a kitchen or cooking equipment for the exclusive use of the occupant or occupants.
- (d) “Deteriorated neighborhood” means any area containing: unsafe, unsanitary or overcrowded buildings, vacant overgrown and unsightly lots of ground; a disproportionate number of tax delinquent properties; a lack of planning, proper light and air and open space; excessive land coverage; defective design or arrangement of building street or lot layouts; economically and socially undesirable land uses; impoverished as certified to by the Commonwealth under the Neighborhood Assistance Act.
- (e) “Improvement” means repair, construction or reconstruction, including alterations and additions, and construction of a new dwelling unit, having the effect of rehabilitating a structure so that it becomes habitable or attains higher standards of housing safety, health or amenity, or is brought into compliance with the laws, ordinances or regulations governing housing standards. Ordinary upkeep and maintenance shall not be deemed an improvement. “Improvement” shall include construction:
 - (1) To convert a multifamily structure to a single-family building, if the multifamily structure had originally been designed and built to serve as a single family house.
 - (2) To protect, preserve, retain or reestablish the historical integrity of a residential structure in the area established as the Historic District known as “Historic York” as outlined in Article 1731 and in sites established as being a part of the National Register-listed York Historic District also known as the National Register of Historic Places District in York City.
- (f) “Residential construction” means the building or erection of dwelling units, as defined above, upon vacant land or land specifically prepared to receive such structure.
- (g) “Due date” means the date when current year City, County and School District real estate taxes are last payable at face. The date is normally June 15 and November 1 respectively, but shall at no time be later than December 31.
- (h) “Applicant” means:
 - (1) An owner of a residential property that originally had been built as a single family residence, but which has been operated as or converted into a multi-family residence to which the owner shall restore or reconvert back to a single family residence, or
 - (2) An owner of an historic single-family home in the Historic York District.
- (i) “Community Development” means the Department of Community Development.
- (j) “Fire Department” means the Department of Fire and Rescue Services.
- (k) “Cost of a project” means any of the following expenses incurred for a project:
 - (1) Expenses for the acquisition, reconstruction, renovation, improvement, rehabilitation, reconversion or remodeling of a multi-family structure into a single-family structure or for the restoration and preservation of an historic single family home in the Historic York District (HARB) or in sites established as being a part of the National Register-Listed York Historic District.

- (2) Costs and expenses associated with the preparation of plans, specifications, designs or studies to complete the project.
(Res. 133-2008. Passed 9-2-08.)

307.02 COUNCIL DETERMINATION.

Since Council has determined as a fact that Wards 1 through 15 or portions thereof, of the City of York, respectively, constitute “deteriorated neighborhoods” and “deteriorated areas” within the purview of Act 34 of 1971 and the definitions contained in this article, persons making improvements and doing residential construction for residential property in any of the foregoing deteriorated neighborhoods may apply for and receive tax exemption upon such improvements in the manner and in the amounts hereinafter provided.
(Ord. 36-2008. Passed 9-2-08.)

307.03 EXEMPTION FORM INFORMATION.

At the time a building permit is obtained for construction of the improvement and residential construction for which an exemption is requested, the taxpayer shall apply to the City for the exemption. Requests for exemption shall be in writing and certified on forms prescribed by the City setting forth the following information:

- (a) The date the building permit was issued for such improvements and residential construction.
- (b) The type of improvements and residential construction.
- (c) The summary of the plan of the improvements and residential construction.
- (d) The cost of the improvements and residential construction.
- (e) The property has been inspected and verified by the Director of Community Development, and
- (f) Such additional information as the City may require.
(Ord. 36-2008. Passed 9-2-08.)

307.04 EXEMPTION AMOUNT AND TERMINATION.

(a) For years one through ten for which improvements and residential construction would otherwise be taxable, one hundred percent (100%) of the eligible assessment shall be exempted. After the tenth year, the exemption shall terminate.

(b) The exemption from taxes granted under this article shall be upon the property and shall not terminate upon the sale or exchange of the property.

(c) If an eligible property is granted tax exemption pursuant to this article, the improvement shall not, during the exemption period, be considered a factor in assessing other properties. (Ord. 36-2008. Passed 9-2-08.)

307.05 EXEMPTION CONDITIONS AND LIMITATIONS.

The exemption from taxes shall be limited to the additional assessment valuation attributable specifically to the actual costs of improvements and residential construction to deteriorated property for improvements and residential construction constructed during 1975 and subsequent years. The exemption from taxes shall be limited to that portion of the increased assessment attributed to the improvements and residential construction and for which a separate assessment has been made by the County Board of Assessors and for which an exemption has been specifically requested. The date of the construction shall be deemed to be the date of the issuance of the building permit, improvement record, or other required notification of construction. No tax exemption shall be granted if the property owner does not obtain the necessary and proper permits prior to improving the property. No tax exemption shall be granted if the property does not comply with the minimum standards of the BOCA National Building Code as enforced by the City as they apply to dwelling units under this article. Nor shall any exemption be granted if property taxes or other lienable charges on any property covered by this article or if the property taxes or other lienable charges on any other property not covered by this article or not paid by the due date and determined by the City Treasurer. If property taxes so indicated above are not paid by the due date after an exemption is awarded, such exemption shall be terminated.

(Ord. 36-2008. Passed 9-2-08.)

307.06 FINAL INSPECTION; TAX EXEMPTION CERTIFICATE; VALUE AND TAX REDUCTION.

Upon completion of the improvement and residential construction, the taxpayer shall notify the Director of Community Development for the purpose of obtaining a final inspection to ascertain that minimum City Code standards have been met. Upon receipt of a real property assessment notice from the Board of Assessment Appeals, which reflects an increase in the assessed value of improvements, the taxpayer shall forward a copy of such notice to the Director of Community Development. After determination that all requirements of this article have been met, the Director of Community Development shall issue a tax exemption certificate to the taxpayer, with a copy to the Treasurer and the Business Administrator. The tax exemption certificate shall outline the amount of assessment reduction for each year to the exemption schedule specified in Section 307.04. The Treasurer is hereby authorized and required to reduce the assessed value for each of the years listed on the tax exemption certificate and recalculate the property's tax notice, City Tax only, before sending the tax notice to the taxpayer. (Ord. 36-2008. Passed 9-2-08.)

307.07 NOTICE TO TAXPAYERS.

The following shall be placed on the form application for a building permit:

NOTICE TO TAXPAYERS: By Ordinance No. 6, of Session 1975, as amended, you may be entitled to exemption from tax on your contemplated improvement by reassessment. An application for exemption may be secured from the Building Inspector or other properly designated official and must be filed at the time the building permit is secured.

(Ord. 36-2008. Passed 9-2-08.)

307.08 REVOCATION OF EXEMPTION FOR DWELLING IMPROVEMENTS.

The exemption from the real estate taxes provided in this article shall be forfeited by the applicant and/or any subsequent owner of the real estate for failure to pay nonexempt real estate taxes by their due date. Upon receipt of notice of nonpayment of nonexempt real estate taxes, the Zoning Officer/Building Official shall direct the City Treasurer to discontinue the exemption for dwelling improvements. The City Treasurer shall also discontinue the exemption for dwelling improvements for a property upon certification from the Business Administrator that the owner has become in arrears on payment of sewer and/or refuse fees to the degree that the city has begun special collection efforts as approved by Council and the property owner has failed to agree to and follow a payment plan approved by the city or the city has filed a lien against the property for the debt.

(Ord. 133-2008. Passed 9-2-08.)

307.09 INCENTIVE GRANT PROGRAM FOR THE RECONVERSION OF MULTI-FAMILY DWELLINGS INTO SINGLE-FAMILY DWELLINGS AND RESTORATION AND PRESERVATION OF HISTORIC SINGLE FAMILY HOMES.

In order to help protect the public safety, health and welfare of the City, Council has determined to establish a grant program to assist in the eradication of blight in single family homes throughout the City and to ensure preservation and restoration of historic single family homes in the Historic York District. This program shall be hereafter known as the "Incentive Grant Program" for reconversion of multi-family dwellings into single family dwellings and for restoration and preservation of the historic single family homes in the Historic York District. The Incentive Grant Program shall work to reduce and eliminate blight, lessen density of residential dwellings in the City, enhance the quality of life in neighborhoods and improve the safety, health and welfare of the City by providing financial assistance in the form of grants to owners of multi-family structures for their conversion back to single family structures and for restoration and preservation of historic single family homes in the Historic York District.

(Ord. 36-2008. Passed 9-2-08.)

307.09.01 APPLICATION FOR THE INCENTIVE GRANT PROGRAM.

An owner of a multi-family structure who plans to convert the structure back to a single-family structure or an owner of a historic single family home in the Historic York District that has plans for restoration and preservation of the structure may submit an application to Community Development requesting financial assistance for a project. The application must be on a form required by Community Development and must include all of the following:

- (a) The name and address of the applicant and any corresponding tax identification numbers.
- (b) A description of the project. The description shall include all of the following:
 - (1) A detailed narrative describing the project.
 - (2) A detailed statement of the cost of the project, including the amount and type of any debt, the loan provider, interest rate and other debt information.
 - (3) A statement of the amount of grant funds being requested.
- (c) A deed or other legal restriction requiring that the structure shall permanently remain a single-family structure.
- (d) Any other information required by Community Development.

(Ord. 36-2008. Passed 9-2-08.)

307.09.02 PROJECT REVIEW FOR THE INCENTIVE GRANT PROGRAM.

Upon receiving a completed application, Community Development shall review the application to determine if the applicant meets all of the following requirements:

- (a) That the cost of the project is reasonable.
 - (b) That the project will meet the goals of the program by accomplishing any or all of the following: eliminating blight, lessening density of residential dwellings in the City, enhancing the quality of life in neighborhoods, improving the safety, health and welfare of the City, and helping preserve the cultural and historic nature and beauty of the Historic York District.
 - (c) That the structure once converted, improved, restored and/or preserved will permanently remain a single-family structure.
 - (d) That the financing for the project identifies a party other than the City that will hold responsibility for repayment of any debt.
 - (e) That the applicant submitted satisfactory financial information concerning the project.
 - (f) That the applicant holds no tax, sewer or refuse delinquencies with the City, the School District of the City of York, York County or the Commonwealth of Pennsylvania.
 - (g) That the applicant does not have any outstanding Building Code, Property Maintenance Fire or any other code violations with the City of York.
 - (h) That the applicant complied with all other criteria established by Community Development.
- (Ord. 36-2008. Passed 9-2-08.)

307.09.03 GRANT APPROVAL.

(a) Upon completing the review required by Section 307.09.03 and determining that the applicant will meet all requirements, Community Development may approve any Incentive Grants under \$15,000.

(b) Incentive Grants of \$15,000 or higher shall go before the Loan Committee for a review and action as established by Section 137.15 of the City's Codified Ordinances.
(Ord. 36-2008. Passed 9-2-08.)

307.09.04 RULES AND REGULATIONS.

Community Development will establish any additional rules and regulations for the Incentive Grant Program. (Ord. 36-2008. Passed 9-2-08.)

307.10 INCENTIVE LOAN PROGRAM FOR THE RECONVERSION OF MULTI-FAMILY DWELLINGS INTO SINGLE-FAMILY DWELLINGS AND RESTORATION AND PRESERVATION OF HISTORIC SINGLE FAMILY HOMES.

Purpose:

307.10.01 ESTABLISHMENT OF INCENTIVE LOAN PROGRAM.

The Council has determined the City must establish a low-interest loan program to assist in the eradication of blight in single-family homes throughout the City and to ensure preservation and restoration of historic single family homes in the Historic York District. This program shall be hereafter known as the "Incentive Loan Program" for reconversion of multi-family dwellings into single-family dwellings and for restoration and preservation of the historic single-family homes in the Historic York District. The Incentive Loan Program shall work to reduce and eliminate blight, lessen density of residential dwellings in the City, enhance the quality of life in neighborhoods and improve the safety, health and welfare of the City by providing financial assistance in the form of low-interest loans to owners of multi-family structures for their conversion back to single family structures and for restoration and preservation of historic single family homes in the Historic York District.
(Ord. 36-2008. Passed 9-2-08.)

307.10.02 APPLICATION FOR THE INCENTIVE LOAN PROGRAM.

An owner of a multi-family structure who plans to convert the structure back to a single-family structure or an owner of an historic single family home in the Historic York District that has plans for restoration and preservation of the structure may submit an application to Community Development requesting a low-interest loan for a project. The application must be on a form required by Community Development and must include all of the following:

- (a) The name and address of the applicant and any corresponding tax identification numbers.
- (b) A description of the project. The description shall include all of the following:
 - (1) A detailed narrative describing the project.
 - (2) A detailed statement of the cost of the project, including the amount and type of any debt, the loan provider, interest rate and other debt information.
 - (3) A statement of the amount of loan funds being requested.
- (c) A deed or other legal restriction requiring that the structure shall permanently remain a single-family structure.
- (d) Any other information required by Community Development.
(Ord. 36-2008. Passed 9-2-08.)

307.10.03 PROJECT REVIEW FOR THE INCENTIVE LOAN PROGRAM.

Upon receiving a completed application, Community Development shall review the application to determine if the applicant meets all of the following requirements:

- (a) That the cost of the project is reasonable.
- (b) That the project will meet the goals of the program by accomplishing any or all of the following: eliminating blight, lessening density of residential dwellings in the City, enhancing the quality of life in neighborhoods, improving the safety, health and welfare of the City, and helping preserve the cultural and historic nature and beauty of the Historic York District.
- (c) That the structure once converted, improved, restored and/or preserved will permanently remain a single-family structure.
- (d) That the financing for the project identifies a party other than the City that will hold responsibility for repayment of the debt.

- (e) That the applicant submitted satisfactory financial information concerning the project.
- (f) That the applicant holds no tax, sewer or refuse delinquencies with the City, the School District of the City of York, York County or the Commonwealth of Pennsylvania.
- (g) That the applicant does not have any outstanding Building Code, Property Maintenance Fire or any other code violations with the City of York.
- (h) That the applicant complied with all other criteria established by Community Development. (Ord. 36-2008. Passed 9-2-08.)

307.10.04 INCENTIVE LOAN APPROVAL.

(a) Upon completing the review required by Section 307.10.03 and determining that the applicant will meet all requirements, Community Development may approve any low-interest Incentive Loan under \$15,000.

(b) Low interest Incentive Loans of \$15,000 or higher shall go before the Loan Committee for a review and action as established by Section 137.15 of the City's Codified Ordinances. (Ord. 36-2008. Passed 9-2-08.)

307.10.05 INCENTIVE LOAN PROGRAM RULES AND REGULATIONS.

Community Development will establish any additional rules and regulations for the Incentive Loan Program. (Ord. 36-2008. Passed 9-2-08.)

307.11 FUNDING FOR THE INCENTIVE GRANT PROGRAM AND THE INCENTIVE LOAN PROGRAM.

(a) The Mayor may establish specific line items within the annual recommended budget presented to Council to fund the Incentive Grant Program and the Incentive Loan Program according to the funding sources listed in this section. Community Development shall award grants and loans based in part on the amount of appropriation Council approves annually through the budget process. The line items shall include costs for staff oversight for the programs. Council may approve additional funding for each program above what the Mayor has proposed, in conformity with Section 307.05(c) of the City's Codified Ordinances, in addition to the funding sources outlined in this section.

(b) The Mayor may sign agreements with banking institutions or other business entities to participate in the Incentive Grant Program or Incentive Loan Program by providing grant or low-interest loan funding that the City may match through either program.

(c) The City may accept contributions earmarked to fund either the Incentive Grant Program or the Incentive Loan Program.

(d) Funds repaid to the City as part of the Incentive Loan Program shall directly go back into that program to help fund additional loans.

(e) The City may set aside Community Development Block Grant funding or other state, federal or other grant, loan or funding source proposed by the Mayor and approved by Council for the Incentive Grant Program or Incentive Loan Program. (Res. 132-2008. Passed 9-2-08.)

307.12 REPORTS.

Council shall receive monthly reports from Community Development on the Incentive Grants and Incentive Loans approved. The reports shall give the names and addresses of the recipients of the grants and loans and the amounts of the grants and loans.
(Res. 132-2008. Passed 9-2-08.)

307.13 FORGIVENESS OF LOANS.

Any request for forgiveness of loans approved through the Incentive Loan Program shall follow the process established by Section 137.15 and 137.16 of the Codified Ordinances.
(Res. 132-2008. Passed 9-2-08.)

ARTICLE 308
Local Economic Revitalization Tax Assistance (LERTA) Program

308.01	Definitions.	308.06	Conflict.
308.02	Eligible areas.	308.07	Severability.
308.03	Exemption.	308.08	Revocation of LERTA privileges.
308.04	Exemption schedule.	308.09	Effective date.
308.05	Procedure for obtaining exemption.		

CROSS REFERENCES

State law provisions - see 72 P.S. §4722 et seq.
 Exemptions for dwelling improvements - see BUS. REG. & TAX. Art. 307
 Building permit returns - see BLDG. Art. 1721
 Commercial structures - see BLDG. Art. 1729

308.01 DEFINITIONS.

As used in this article, the following words and phrases shall have the meanings set forth herein:

- (a) "Investment opportunity area" means the entire City.
- (b) "Deteriorated property" means any industrial or commercial property and improvements thereon located in an investment opportunity area, as hereinafter provided, or any such property which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.
- (c) "Improvement" means repair, construction or reconstruction, including alterations and additions, having the effect of rehabilitating a deteriorated property so that it becomes habitable or attains higher standards of safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards. Improvements qualifying for exemption shall be those related to improvements to structures and related accessory uses. Ordinary upkeep and maintenance shall not be deemed an improvement.
- (d) "Due date" means the date when current year City, County and School District real estate taxes are last payable at face. The date is normally June 15 and November 1 respectively.
(Ord. 26-2000. Passed 12-19-00.)

308.02 ELIGIBLE AREAS.

The investment opportunity area shall be the entire City, except for those properties which are located in a Tax Increment District as set forth in the Pennsylvania Tax Increment Financing Act 113 of 1990, as amended, and Article 310. Any properties located in a Tax Increment District shall be eligible areas when the Tax Increment District terminates.
(Ord. 26-2000. Passed 12-19-00.)

308.03 EXEMPTION.

(a) The amount to be exempted from real estate taxes shall be limited to that portion of the additional assessment attributable to the actual cost of improvements in accordance with the exemption schedule established within this article.

(b) The exemption from real estate taxes shall be limited to that improvement for which an exemption has been requested in the manner set forth in this article and for which a separate assessment has been made by the Board of Assessment Appeals.
(Ord. 26-2000. Passed 12-19-00.)

308.04 EXEMPTION SCHEDULE.

(a) The schedule of real estate taxes to be exempted shall be in accordance with the below portion of improvements to be exempted each year:

<u>Length (Year)</u>	<u>Portion (Percent)</u>
First	100
Second	90
Third	80
Fourth	70
Fifth	60
Sixth	50
Seventh	40
Eighth	30
Ninth	20
Tenth	10

(b) If an eligible property is granted tax exemption pursuant to this article, the improvement shall not, during the exemption period, be considered as a factor in assessing other properties.

(c) The exemption from taxes granted under this article shall be upon the property and shall terminate upon the sale or exchange of the property.
(Ord. 26-2000. Passed 12-19-00.)

308.05 PROCEDURE FOR OBTAINING EXEMPTION.

(a) At the time a building permit for the construction of an improvement is applied for, the Bureau of Permits and Health Licensing shall notify the applicant by printed notice of the possibility of tax exemption under this article. When the building permit is issued, the taxpayer shall apply for their exemption to the Bureau of Permits and Health Licensing by using forms provided. This form shall include a description of improvements to be made.

(b) The Bureau of Permits and Health Licensing shall process the application by first scheduling an inspection of the property to determine existing deficiencies which at the completion of the project must be corrected.

(c) Upon completion of the improvements the taxpayer shall notify the Bureau of Permits and Health Licensing that the work is done and shall also submit a statement of the actual documented cost of the improvements.

(d) The Bureau of Permits and Health Licensing shall conduct an inspection to ensure that the property now meets minimum Code standards.

(e) The Bureau of Permits and Health Licensing shall notify the Board of Assessment Appeals that the work has been completed and of the actual cost of the improvements.

(f) The Board shall promptly notify the taxpayer, the City and the School Board of the amount of assessment eligible for exemption.

(g) The taxpayer shall submit a copy of the reassessment notice to the Bureau of Permits and Health Licensing, who in turn shall submit to the City Treasurer and to the School Board a certificate of exemption which details the assessed market value not to be taxed for each year under this program.

In addition, the Bureau of Permits and Health Licensing shall also send to the School Board and City Treasurer a copy of the application for exemption along with the certification that the work has been completed and that the City has approved the application for exemption.

(h) The City Treasurer upon receipt of the tax bill from the County shall pull the effected tax bill and reduce it by the amount shown on the above-mentioned certificate.

(i) Any applicant whose real estate tax or other lienable charge for any property in the City is not paid by the due date and determined by the City Treasurer shall forfeit all eligibility under this program. (Ord. 26-2000. Passed 12-19-00.)

308.06 CONFLICT.

Any ordinance or part of any ordinance which conflicts with the provisions of this article is hereby repealed. (Ord. 26-2000. Passed 12-19-00.)

308.07 SEVERABILITY.

The provisions of this article are severable and if any of its sections, clauses or sentences shall be held illegal, invalid or unconstitutional, such provisions shall not affect or impair any of the remaining sections, clauses or sentences. It is hereby declared to be the intent of Council that this article would have been adopted if such illegal, invalid or unconstitutional section, clause or sentence had not been included herein. (Ord. 26-2000. Passed 12-19-00.)

308.08 REVOCATION OF LERTA PRIVILEGES.

The exemption from real estate taxes provided in this article shall be forfeited by the applicant and/or any subsequent owner of the real estate for failure to pay nonexempt real estate taxes by their due date. Upon receipt of notice of nonpayment of nonexempt real estate taxes, the City Treasurer shall discontinue the LERTA exemption.
(Ord. 26-2000. Passed 12-19-00.)

308.09 EFFECTIVE DATE.

This article shall become effective immediately upon approval by the Mayor.
(Ord. 26-2000. Passed 12-19-00.)

ARTICLE 309
Registry

309.01	Creation.	309.04	Block system.
309.02	Registration required.	309.99	Penalty.
309.03	Certified copies fee.		

CROSS REFERENCES

State law provisions - see 3rd Class §1515 et seq. (53 P. S. §36515 et seq.)
 Preservation of records - see 3rd Class §1517 (53 P.S. §36517)
 Duties of realty owners - see 3rd Class §1519 (53 P. S. §36519)

309.01 CREATION.

A registry of the ownership of all real estate situated within the limits of the City, liable to municipal taxation or assessments is hereby created and established in accordance with the provisions of this article. (1944 Code Ch. 27 §1.)

309.02 REGISTRATION REQUIRED.

It shall be the duty of all owners of unregistered real estate within the City limits, and of every subsequent purchaser, devisee or person acquiring title by partition or otherwise, to any real estate therein, within one month after acquiring such title, to furnish to the City Engineer at his office a description of their respective properties upon blanks furnished by the City, and to present their conveyances to be stamped by the Engineer without charge, as evidence of the registration thereof.
 (1944 Code Ch. 27 §5.)

309.03 CERTIFIED COPIES FEE.

The City Engineer is hereby authorized to issue to any person applying for the same, certified copies of any of the entries in the books of plans, upon the payment of one dollar (\$1.00) for the use of the City for each and every certificate issued.
 (1944 Code Ch. 27 §6.)

309.04 BLOCK SYSTEM.

The registry of real estate in the City, liable to municipal taxation or assessments, authorized and directed by this article shall be made and recorded according to ward, block, street and number, and not alphabetically.
 (1944 Code Ch. 27 §7.)

309.99 PENALTY.

Whoever neglects or refuses to comply with Section 309.02 shall be fined one thousand dollars (\$1,000). (Ord. 1-2009. Passed 1-6-09.)

ARTICLE 310
Tax Incremental Financing Program

<p>310.01 Definitions.</p> <p>310.02 Boundaries of the District.</p> <p>310.03 Creation and term of District.</p> <p>310.04 Name of District.</p> <p>310.05 Legislative findings.</p> <p>310.06 Approval of project plan and project financing.</p> <p>310.07 Creation of Tax Increment Fund.</p> <p>310.08 Tax increment revenues to be held in trust for project.</p> <p>310.09 Application of Tax Increment Revenue.</p>	<p>310.10 Designation of Authority as Project Authority.</p> <p>310.11 Authorization of officers.</p> <p>310.12 Procedures for collection of Tax Increment Revenues.</p> <p>310.13 Agreements for financial security for project costs.</p> <p>310.14 Termination of LERTA tax abatements.</p> <p>310.15 Amendments to project plan and District.</p> <p>310.16 Severability.</p> <p>310.17 Repealer.</p>
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310.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings:

- (a) "Act" means Act 113 of 1990 enacted by the general assembly of the Commonwealth of Pennsylvania, as amended.
- (b) "Authority" or "Redevelopment Authority" means the Redevelopment Authority of the City of York or any lawful successor body thereto.
- (c) "City" means the City of York, Pennsylvania.
- (d) "County" means York County, Pennsylvania.
- (e) "Finance officer" means the legally authorized agent of the municipality or school district responsible by law for receipt and disbursement of the revenues of the municipality or school district.
- (f) "Industrial Plaza of York" or "District" means the Tax Increment District created pursuant to this article and in accordance with the provisions of Act 113 of 1990.

- (g) "Industrial Authority" or "IDA" means the York County Industrial Development Authority or any lawful successor body thereto.
- (h) "Project" or "Industrial Plaza of York Project" means the undertakings and activities of the Redevelopment Authority and the IDA in the Industrial Plaza of York District for the elimination and prevention of blight in accordance with the project plan.
- (i) "Project costs" means such costs including any and all eligible project costs undertaken within or for the benefit of the Industrial Plaza of York District in accordance with the express language defining project costs as contained in the Act.
- (j) "Project plan" means the Industrial Plaza of York "TIF" proposal prepared by the York County Industrial Development Authority and any duly authorized amendments thereto.
- (k) "School district" means the School District of the City of York.
- (l) "Tax Increment" or "Tax Increment Revenues" shall be deemed to include all revenues applicable to the Industrial Plaza of York District as more fully defined in the definition of "Tax Increment" contained in the Act.
- (m) "Tax Increment Fund" means the fund maintained by the Redevelopment Authority into which are paid all Tax Increments and into which are deposited certain other revenues related to the Industrial Plaza of York District and the Project, and from which money is disbursed to pay Project Costs related to the District.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.02 BOUNDARIES OF THE DISTRICT.

The Industrial Plaza of York District shall contain full units of property assessed for real property tax purposes generally bounded by West Roosevelt Avenue on the east, West Philadelphia Street on the south, North Hartley Street on the west, and Maryland and Pennsylvania Railroad tracks on the north, situated within the City and as more fully described in Exhibit "A" of original Ordinance 22-1993, the TIF proposal.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.03 CREATION AND TERM OF DISTRICT.

The Industrial Plaza of York District is hereby created as of the effective date of this section. The District shall continue in existence until such time as all project costs are fully paid or until December 31, 2012, whichever occurs first. However, the District shall not be dissolved as long as tax incremental bonds or notes for the District remain outstanding. Council hereby determines, as of the date of the adoption of this section, that the requisite time provided for under the Act has passed since the date of the public hearing.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.04 NAME OF DISTRICT.

The District shall be identified as the Industrial Plaza of York Tax Incremental Financing (TIF) District for all project plan and identification purposes.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.05 LEGISLATIVE FINDINGS.

Council hereby determines in accordance with the powers conferred upon municipalities by the Urban Redevelopment Law and by the Act that based upon extensive studies and examination of the conditions currently existing within the Industrial Plaza of York District, Council hereby finds that:

- (a) The District is a contiguous geographic area within a redevelopment area.
- (b) The improvement of the area is likely to enhance significantly the value of substantially all of the other real properties in the District.
- (c) The aggregate value of equalized taxable property of the District plus all existing Tax Incremental Districts does not exceed ten percent (10%) of the total value of equalized taxable property within the City.
- (d) The area comprising the District as a whole has not been subject to adequate growth and development through investment by private enterprise and would not reasonably be anticipated to be adequately developed without the adoption of the project plan.
- (e) The project plan conforms to the municipal and county master plans.
- (f) The project plan shall afford maximum opportunity consistent with sound needs of the community as a whole for the rehabilitation or redevelopment of the District by private enterprise.
- (g) The District is a blighted area containing characteristics of blight as described in the Urban Redevelopment Law and the project to be undertaken is necessary to eliminate such conditions of blight. More particularly the conditions of blight are characterized as deteriorated and/or dilapidated structures, physical and visual barriers, poor planning, inadequate public facilities, and unsafe and/or unsanitary structures.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.06 APPROVAL OF PROJECT PLAN AND PROJECT FINANCING.

Council hereby approves the project plan for the District prepared by the IDA and authorizes the Authority to undertake any and all methods of financing of project costs available pursuant to Section 9 of the Act.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.07 CREATION OF TAX INCREMENT FUND.

Council hereby authorizes the City Treasurer to deposit all Tax Increment Revenues received from the City into a Tax Increment Fund to be created for such purposes by the Redevelopment Authority. The City Treasurer is hereby authorized and directed to pay all tax increment revenues to the Tax Increment Fund created for the benefit of the District and directed and maintained by the Authority. The City Treasurer is also authorized to accept or deposit into the Tax Increment Fund any other gifts, appropriations, grants, loan or other revenues to be applied to the District for the purposes of the Project.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.08 TAX INCREMENT REVENUES TO BE HELD IN TRUST FOR PROJECT.

The Tax Increments collected by the City Treasurer from and after the date of settlement of such taxes, whether or not paid into the Tax Increment Fund shall be considered as funds impressed with a trust in favor of the District for purposes of the Project. Tax Increment Revenues, whether held by the City Treasurer or otherwise, shall be applied only to the purposes provided for by this article and for no other purpose.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.09 APPLICATION OF TAX INCREMENT REVENUE.

The Redevelopment Authority or its assignee is hereby authorized to apply Tax Increment Revenues to Project costs incurred in connection with the Project plan for the District in accordance with the Act. The Authority may undertake such expenditures, make such appropriations, reimburse parties for prior expenditures related to Project costs, enter into such contracts and agreements with respect to the Project plan and the District which in the sole judgment of the Authority shall further the purposes of the Project plan consistent with the provisions of this article.

Any Tax Increment Revenues remaining in the Tax Increment Fund after payment of all Project costs has been made or provided for shall be returned to the property taxing bodies on a pro rata basis in the proportions that the property tax millage of each taxing body bears to the entire millage levied by all taxing bodies at the time such funds remain.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.10 DESIGNATION OF AUTHORITY AS PROJECT AUTHORITY.

Council hereby designates the Redevelopment Authority of the City as the Authority charged with preparing, implementing, monitoring and directing the Project plan and as the issuing Authority as defined in the Act for any bonds or notes which may be necessary to finance Project costs for the District.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.11 AUTHORIZATION OF OFFICERS.

Council hereby authorizes and directs all appropriate officers of the City to take all actions necessary to implement the Project and to further the objectives of the Project plan in accordance with the Act.
(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.12 PROCEDURES FOR COLLECTION OF TAX INCREMENT REVENUES.

The Redevelopment Authority of the City is hereby directed to establish such dates for receipt of Tax Increment Revenues, provide for any necessary reserve for tax revenues and establish provisions for collection and enforcement of payment of Tax Increment Revenues to the extent permissible under the Act.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.13 AGREEMENTS FOR FINANCIAL SECURITY FOR PROJECT COSTS.

Council hereby authorizes the appropriate officers of the City to enter into any intergovernmental cooperation agreements with other taxing bodies participating in the Industrial Plaza of York District and with the Redevelopment Authority and to enter into any and all other agreements with the Authority, the participating taxing bodies or private developers to provide any form of financial security, collateral, guaranties or assurances toward payment of project costs as such agreements may be deemed necessary by the Authority in consultation with the City. Notwithstanding the foregoing, the City shall not pledge its full faith and credit toward and payment of project cost or toward any bonds or notes which may be issued with respect to project costs attributable to the District. The City may pledge or assign other sources of revenues as security for the payment of Project cost in accordance with provisions of the Act.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.14 TERMINATION OF LERTA TAX ABATEMENTS.

From and after the effective date of this section to the extent permissible by law, any taxable property situated within the District which may be eligible for tax abatement under the Local Economic Revitalization Tax Act (LERTA), to the extent that such properties shall be required to pay tax increment revenues shall be required to thereafter not be entitled to receive the benefit of such LERTA abatements. The appropriate officers of the City are hereby directed to notify any such property owners of the termination of LERTA tax abatements.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.15 AMENDMENTS TO PROJECT PLAN AND DISTRICT.

The Authority may propose and the City may adopt by resolution or otherwise such amendments to the Project plan and District as are deemed advisable as provided for pursuant to the terms of the Act.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.16 SEVERABILITY.

In the event any provision, section, sentence, clause or part of this article is determined by a Court of competent jurisdiction to be invalid and unenforceable, such determination shall not affect the validity or affect the remaining provisions hereof.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

310.17 REPEALER.

All ordinances and resolutions or parts thereof not in accordance with this article are hereby repealed insofar as they conflict herewith.

(Ord. 22-1993 Sec. 1. Passed 8-24-93.)

TITLE THREE - Business Regulation

- Art. 323. Cable Television Franchise.
 Art. 325. Closing-Out, Damaged Goods and Defunct
 Business Sales.
 Art. 327. Dances and Dance Halls.
 Art. 329. Itinerant Vendors.
 Art. 331. Pawnbrokers.
 Art. 333. Peddlers and Solicitors.
 Art. 335. Mechanical Amusement Devices.
 Art. 336. B.Y.O.B. Club.
 Art. 337. Yard, Garage or Similar Sales.

ARTICLE 323

Cable Television Franchise

- | | | | |
|--------|--------------------------------|--------|---|
| 323.01 | Short title. | 323.13 | Ownership and use of the cable television system. |
| 323.02 | Definitions. | 323.14 | Company's rules. |
| 323.03 | Grant of authority. | 323.15 | Termination for cause by City. |
| 323.04 | Franchise fee. | 323.16 | Unforeseen and uncontrollable acts. |
| 323.05 | Construction and maintenance. | 323.17 | Taxation. |
| 323.06 | Level of service. | 323.18 | Repeals. |
| 323.07 | Customer service standards. | 323.19 | Severability. |
| 323.08 | Regulation by the City. | 323.20 | Franchise violations, damages and revocation. |
| 323.09 | Insurance and indemnification. | 323.21 | Binding effect. |
| 323.10 | Community services. | 323.22 | Effectiveness. |
| 323.11 | Programming. | | |
| 323.12 | Transfer of control. | | |

CROSS REFERENCES

- Poles and wires - see S.U. & P.S. Art. 915
 Underground conduits - see S.U. & P.S. Art. 917

323.01 SHORT TITLE.

The article shall be known and may be cited as the “Cable Television Franchise Ordinance”. (Ord. 11-2005. Passed 2-15-05.)

323.02 DEFINITIONS.

For the purposes of this article, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense shall include the future; words in the plural number include the singular number; and words in the singular number include the plural number. “May” will be interpreted as permissive and “shall” will be interpreted as mandatory. Other terms not specifically defined will have the meanings generally accorded to them in the cable television industry.

- (a) “Additional services” means any video programming including Expanded Basic, Digital Basic tier, Pay Channels, Pay-Per-View events for additional charges above the charge to Subscriber for Basic Services and provided to Subscribers over the Cable Television System but not including Basic Services.
- (b) “Basic service” means the minimum service transmitted to all subscribers, which shall include at a minimum (1) all signals of domestic television broadcast stations entitled to “must carry” status under FCC rules, and (2) the initial analog public, education and governmental programming channels required by this Franchise Agreement.
- (c) “Cable television system” means a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable services which includes video programming to multiple subscribers within the City, excluding however, those facilities excluded from such definition of cable system in the Cable Act.
- (d) “Cable Act” means the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and as further amended by the Telecommunications Competition and Deregulation Act of 1996 and as it may be further amended.
- (e) “Cable services” means the one-way or two way transmission to or from subscribers of video programming, or other cable system services (including music) and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming or service which constitute cable services under the Cable Act.
- (f) “City” means the City of York, Pennsylvania.
- (g) “City Council” means the Legislature of the City of York.
- (h) “Company” means Comcast of Southeast Pennsylvania LLC, a Delaware corporation, and grantee of rights under this Franchise or its assignee or successor.
(Ord. 12-2006. Passed 3-21-06.)
- (i) “Digital basic” means video services other than Expanded Basic, premium or pay-per-view services that are offered as a tier in addition to Basic Service that are transmitted by digital technology.
- (j) “Expanded basic” means the tier of video programming including Basic Service and additional satellite delivered programming.
- (k) “Federal Communications Commission” or “FCC” means the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

- (l) “Franchise” means the non-exclusive right, privilege and authority granted by this Agreement to construct, maintain and operate a Cable Television System in the City, and shall permit in addition to the privilege to operate within the City, the Company to construct, maintain and operate such Cable Television System with whatever wires or components as are necessary, over, under or within all City Streets and Rights-of-Way.
- (m) “Franchise fee” means the payments required to be made to the City by the Company for the right to operate in the City and which are allowed by Federal statute or regulation.
- (n) “Gross revenue” means any and all revenue including, without limitation, cash, credits, property, and in kind contributions received directly or indirectly by Company, or its officials from any source, whatsoever arising from or attributable to the provision of Cable Services within the City, except as otherwise set forth herein. Gross Revenue shall include but not be limited to, the following: Basic Service fees; Additional Services fees charged to subscribers for any kind of Cable Service other than Basic Service; franchise fees, fees charged to subscribers for any optional, per channel, or per program services; installation, relocation, disconnection, reconnection, and change in service fees; fees for leasing of channels; rental or sales of any and all equipment including addressable and non-addressable; converters and remote control devices the portion of revenues attributable to the City as provided in this Agreement from any and all local advertising revenue (excluding agency commissions), revenue derived from national, regional and local advertising received by the area system; commissions received from home shopping channels’ sales generated in the franchise area; fees for any and all music services, including DMX; fees for video-on-demand, sales of program guides, and purchases late payment fees, NSF check charges; revenues from electronic utility meter readings. Gross Revenue shall not include revenue from cable modem service, bad debts, state sales taxes or any taxes on services furnished by Company and directly imposed upon any subscriber or user by the City, state, federal or any other government user or any revenues upon which the City is not permitted by regulation or statute to levy a franchise fee.
- (o) “PEG” means the acronym for Public, Educational and Governmental, used in conjunction with access channels, support and facilities.
- (p) “Person” means any person, firm, corporation, association, trust, organization or other business entity.
- (q) “State” means the Commonwealth of Pennsylvania.
- (r) “Streets and rights-of-way” means the surface of, as well as, the space above and below all streets, roadways, highways, freeways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the City which have been or may hereafter be dedicated and opened to public use, or such other public property so designated by law which shall within their proper use and meaning entitle City and Company to access thereon for the purpose of installing cable transmission lines over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and pertinent to the Cable Television System in the City.
- (s) “Subscriber” means a person or entity who contracts with Company for, and lawfully receives Cable Services distributed by the Cable System.
(Ord. 11-2005. Passed 2-15-05.)

323.03 GRANT OF AUTHORITY.

(a) Grant of Franchise. Subject to the terms and conditions stated herein, the City hereby grants to Company a non-exclusive and revocable franchise to construct, erect, operate and maintain for a period of fifteen (15) years, a Cable Television System for the reception, origination, amplification, distribution and sale of audio, video, digital and other forms of electronic signals in, upon, along, across, above, over or under the Streets and Rights-of-Way in the City, consisting of all poles, wires, cable, underground conduits, manholes and other conduits and fixtures necessary for the maintenance and operation in the City of a Cable Television System with all of the necessary and desirable appliances and appurtenances pertaining thereto. Without limiting the generality of the foregoing, this franchise and grant shall and does hereby include the right in, over, under and upon the Streets and Rights-of-Way in the City to install, erect and operate all lines and equipment necessary to a Cable Television System and the right to make connections to Subscribers and the right to repair, replace, enlarge and extend said lines, equipment and connections. The rights herein granted for the purposes herein set forth shall not be exclusive, and the City reserves the right to grant a similar use of said Streets and Rights-of-Way to any Person at any time during the period of this Franchise provided that the terms of such other franchise agreements shall not be more favorable or materially less burdensome than this Agreement.

- (1) Notwithstanding this authority, Company shall obtain all necessary government permits, including City permits, for any disturbance of public places and rights-of-way under the jurisdiction of the City, including property over which the City has a sufficient easement or right of way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video, audio, text, Data, and other electronic signals and impulses.
- (2) If during the term of this Agreement federal law is amended or interpreted by the FCC or a court of competent jurisdiction, which decision is a final order not subject to further appeal to permit local franchise authorities to collect franchise fees on revenues for new or existing services not currently subject to franchise fees or included in the definitions of Gross Revenues, then the Company shall notify the City of its right to have franchise fees remitted on services not previously subject to franchise fees. If the City wants franchise fees on such services it will notify the Company and beginning sixty (60) days after notice from the City, the Company shall begin to collect franchise fees on revenues attributable to such services and revenues from such services going forward shall be considered a part of Gross Revenues. Revenues collected on such services prior to the effective date of the City's notice shall not be subject to franchise fees. The Company shall notify the City at the time of such change in the federal law provided however that such failure to notify shall not be a material default under this Agreement and the City's remedy shall be to collect franchise fees back to the date of the change of the law but in no event for more than one year.

(b) Exercise of Police Powers. All rights and privileges granted hereby are subject to the police powers of City to adopt and enforce local laws and ordinances, rules and regulations necessary to the health, safety and general welfare of the public. City shall not use its legislative powers to alter or amend the provisions of this article subsequent to its effective date in such a manner as to have a material adverse effect on the rights of Company herein or to pass ordinances that are only applicable to Company.
(Ord. 11-2005. Passed 2-15-05.)

323.04 FRANCHISE FEE.

(a) Franchise Fee.

- (1) Company shall pay to the City an amount equal to five percent (5%) of the Gross Revenue received from the operation of its Cable Television System in the City. In the event that federal law is amended to authorize a franchise fee higher than five percent (5%), the City may, at its discretion, direct Company to pay a higher Franchise fee. Any increase in the Franchise fee so directed shall be implemented as soon as practicable, but no later than sixty (60) days following the receipt of written notice from the City requesting the increase. Such written notice shall be accompanied by a copy of the resolution or ordinance authorizing the increase. Conversely, if the maximum Franchise fee allowed by the FCC is reduced or eliminated, then the amount of the said fee shall conform to the federal law or regulations.
- (2) Notwithstanding any other provisions of this article, it is the intention of Company and City that City shall receive an annual franchise fee at the highest rate and levied upon all sources of revenue from all services upon which the City is allowed by law to levy a franchise fee.

(b) Allocation of Revenue. City's annual franchise fee shall be determined by adding the sums obtained in subparagraph (b)(1), (2) and (3) below:

- (1) Five percent (5%) of the Gross Revenue received by Company from subscribers derived from the operation of the Cable Television System within the City.
- (2) If any non-subscriber revenue received by Company is not directly allocable to the City, Company shall calculate said revenue as follows:
 - A. Five percent (5%) of the non-Subscriber revenues attributable to the City where revenues received by the Company are not directly related to the number of Subscribers using a service of the cable system within the City. (i.e. revenues from advertising, home shopping channels or similar revenue based programs). For purposes of this subparagraph (b)(2), non-Subscriber revenues attributable to the City shall be determined by:
 1. Dividing the number of City Subscribers by the total of City plus non-City Subscribers; and
 2. Multiplying the quotient obtained in subsection 1. above by the total revenues received by the Company which were not directly related to the number of Subscribers using a service of the cable system in the City.
 - B. Five percent (5%) of non-Subscriber revenues which are attributable to the City where the revenues received by the Company are directly attributable to the number of customers receiving a particular service (i.e. water company revenues). For purposes of this subparagraph B., non-Subscriber revenues attributable to the City shall be determined by:
 1. Dividing the number of City customers and non-City customers receiving the service; and
 2. Multiplying the quotient obtained in subsection 1. by the total revenues received by Company which were attributable to providing said service.

(c) Payment of Franchise Fees. Payment of the aforesaid Franchise Fee shall be made on a quarterly basis within thirty (30) days after the end of March, June, September and December of each year of service. Failure to pay after ten (10) days notice of default shall result in the addition of a ten (10%) percent penalty charge.

(d) Quarterly Franchise Fee Report. Company shall accompany each quarterly franchise fee payment with a written report containing an accurate statement of the Gross Revenues received for the quarter in connection with the operation of Company's Cable System in the City and a brief report showing the basis for computation of fees. The report will contain a line item for every source of revenue received for which a franchise fee is due and the amount of revenue from each source. The report shall be certified by a financial representative of Company.

(e) Certification. Within ninety (90) days after the close of each calendar year, Company shall provide to City a certification by the Chief Financial Officer of the Company to the correctness and accuracy of the Franchise Fee payments made during the year. In addition, Company, at City's expense, shall permit City to have a certified public accountant conduct an audit of the last four years of the Company's records and of the accounting procedures followed to assure that there is proper payment of the correct sums to the City. If the audit reveals that the amount due City was greater than the amount reported and paid by Company the Company shall pay the additional Franchise Fee owing within ten (10) days. Company shall pay interest on the amount of the underpayment at the prime rate until paid if the underpayment was less than three percent (3%) of the amount owed or interest at prime plus seven and one-half percent (7.5%) until paid if the under payment is greater than three percent (3%) of the amount owed. In addition, if the underpayment was greater than three percent (3%) of the amount paid, the Company shall reimburse City for the full cost of the Audit.
(Ord. 11-2005. Passed 2-15-05.)

323.05 CONSTRUCTION AND MAINTENANCE.

(a) Cable Television System.

- (1) Company shall operate, maintain, construct and extend the Cable Television System to provide high quality signals and reliable service throughout all parts of the City. The Cable Television System, and all construction and maintenance thereof, shall meet or exceed any and all technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code, and any other generally applicable federal laws and the laws, ordinances and construction standards of the Commonwealth of Pennsylvania and the City.
- (2) The Cable Television System shall have minimum operating capability of 750 Mhz, with two-way capability. The system shall be a hybrid fiber/coax distribution, utility fiber optic trunk and coaxial cable for feeder lines and house drops with accompanying optical transmitters, receivers and amplifiers. The Cable Television System shall be capable of continuous twenty-four (24) hour daily operation, without severe material degradation of signal, except during extremely inclement weather or immediately following extraordinary storms that adversely affect utility services or damage major system components.

- (b) State of the Art.
- (1) The Company shall provide technological improvements to the cable system necessary to give the cable system the capability of offering new or expanded services then being offered by at least thirty percent (30%) of cable systems in the nation comparable in size to Company's cable system serving the City. Nothing in this Section shall be deemed to prohibit Company from upgrading its system with any cable television technology at its own discretion.
 - (2) The Company's obligation to provide technological improvements shall also be subject to the requirement that such improvements are economically feasible. Economically feasible means that the Company will have a reasonable prospect of earning a reasonable return on its investment in the cable system after installation of equipment for the provision of such technological improvements, such reasonable return to be considered in light of the benefit of the technological changes to the subscribers, provided that the Company shall not be required to provide such improvements if there is no likelihood of a reasonable return on its investment.
- (c) Area to be Served.
- (1) Service shall be provided to every dwelling occupied by a person requesting cable service provided that Company is able to obtain from the property owners any necessary easements and/or permits in accordance with Section 621 (a) (2) of the Cable Communications Policy Act of 1984. Company shall not be obligated to provide service to a customer who is or has been delinquent in payment.
 - (2) Installation costs shall conform to the 1992 Cable Consumer Protection Act and regulations there under. Any dwelling unit within one hundred fifty feet (150 ft.) aerial or one hundred fifty feet (150 ft.) underground of the cable plant shall be entitled to a standard installation rate. For any dwelling unit in excess of one hundred fifty feet (150 ft.) aerial or underground, Company shall extend cable service at a rate not to exceed Company's actual cost of installation from its main distribution system.
 - (3) Provided Company has at least forty-five (45) days prior written notice concerning the opening of residential subdivision trenching, or of the installation of conduit for the location of utilities, it shall install its cable in such trenching or conduits or may seek permission to utilize alternative trenching or conduits within a comparable time frame.
- (d) Maintenance and Repair.
- (1) The distribution facilities of Company shall be at all times maintained in good and safe way and condition and shall be constructed and maintained so as not to interfere with television reception by inhabitants of the City not using Company's services.

- (2) In the maintenance and operation of its cable television transmission and distribution system in the City and in the course of construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public and any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fencings or boardings, the bounds of which during the periods of dusk and darkness shall be designated by warning lights of approved types.
- (3) Whenever the Company shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley, highway or other public place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicable without unnecessary delay.
- (4) The location of any poles, anchors, wires, cables, conduit, vaults, laterals and other fixtures, or the erection, laying or removal of same, shall not interfere unreasonably with ordinary travel and/or the use of the streets, alleys, bridges, public ways or electrical installations of the City.
- (5) Upon written notice from the City, Company shall remedy a safety deficiency within forty-eight (48) hours of receipt of written notice and shall notify the City when the deficiency has been corrected.

(e) Permits. Company shall apply to the City for all required permits and shall not undertake any construction without receipt of such permits, issuance of which shall not be unreasonably withheld or delayed by the City. Company shall pay any and all required permit fees. This section is not intended to require permits for normal repair and maintenance of the Cable Television System that does not involve disturbance of paved surfaces or excavation in the public rights-of-way.

(f) Relocation of Cable Television System.

- (1) The rights and privileges granted herein to Company shall not be in hindrance to the right of the City or other governmental agency having jurisdiction, to perform or carry on any public works or public improvement. Should the Company's Cable Television System interfere with any construction or repair by the City of public works or improvements, the Company shall, at its own expense, protect or relocate its Cable Television System or part thereof, as directed by City. If funds are available to compensate Company for such relocation then the Company shall not be required to relocate its Cable Television System or part thereof at its own expense.
- (2) The Company shall, at the expense of any Person other than the City requesting said temporary relocation, temporarily raise, lower or remove its wires to permit the improvement of property. In such event, the Company shall be given not less than fourteen (14) days advance written notice to arrange for the temporary wire changes.

(g) Overhead and Underground Construction. The Company shall be permitted to place its cable wires or other equipment overhead when local or state law permits overhead or when other like facilities are overhead. If all other facilities are underground, the Company will place its cable and wires underground.

(h) Clear Access Ways.

- (1) The Company may trim trees or other vegetation within the Streets and Rights-of-Way of the City to prevent their branches or leaves from touching or otherwise interfering with its wires, cables or other structures. The Company shall obtain permission of the owner of any private land, tree or other vegetation before it trims or prunes the same, unless otherwise permitted by the Right-of-Way agreement.
- (2) Except in cases of emergency (e.g., severe weather, acts of God, or other emergency conditions outside the control of Company), any trimming, cutting, removing, or planting trees located in the public rights-of-way shall only be performed pursuant to Sections 913.04 and 913.05 of the Consolidated Ordinances of the City of York and under the exclusive supervision and control of the City. Company shall obtain any and all permits required by ordinance prior to performing any trimming, cutting, removing, or planting trees.
- (3) Company's violation of Section 913.99 may result in the imposition of fines as contained therein.

(i) Emergency Power. The Cable Television System shall incorporate equipment capable of providing standby power to the headend and the Cable Television System for a minimum of two hours upon failure of the power furnished by the power company.

(j) Emergency Override. The Cable Television System shall incorporate emergency audio override capabilities in compliance with the applicable FCC rules, for use in the event of an emergency or vital public information situation. The PEG access channel will be available for transmission by an alphanumeric character generator.

(k) Pole Attachments.

- (1) The poles and posts used for the Company's Cable Television System lines shall be those erected by the Company or by such other Persons, firms or corporations.
- (2) The City shall have the right, where aerial construction exists, during the life of this Franchise, free of charge (but at its expense for construction), of maintaining upon the poles of the Company within the City limits such wire and pole fixtures as are necessary for a police and fire alarm system, such wires and fixtures to be erected and maintained to the satisfaction of the Company. The City, in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures used by the City.
(Ord. 11-2005. Passed 2-15-05.)

323.06 LEVEL OF SERVICE.

(a) Level of Service. Company shall provide within the City a Cable Television System, which will be capable of carrying video and audio programming, and data services, internet access and other forms of electronic or electric signals. The programming on said channels may include television programming available off the air and programming imported from distant markets and received from cable satellite networks. Except as otherwise provided in this article Company shall have the right to determine the programming and the time, place and manner in which such programming will be provided to Subscribers.

(b) Compliance with Industry Standards. The Company shall maintain its service in accordance with accepted standards of the industry, to provide its Subscribers with a high level of quality and reliability.

(c) Cable Television System Repairs. Whenever it shall be necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time and as it will cause the least amount of inconvenience to its Subscribers and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its Subscribers.

(d) Repair Service.

- (1) Company shall maintain a repair department comprised of qualified technicians, to provide prompt and efficient repair service.
- (2) Company shall maintain a toll free, locally listed telephone number operated so that requests for service can be received at any time. Company shall respond to requests for service within forty-eight (48) hours of Company's receipt of such a request, provided that response time for service complaints shall be computed excluding Saturdays, Sundays and holidays.

(e) Subscriber Owned Equipment Excluded. The requirements for maintenance and repair shall not apply to television sets or other equipment owned by Subscribers.

(f) Installation of Service. Service to any Subscriber served by a standard aerial drop shall commence not later than seven business days after service is requested; service to any Subscriber served by a standard underground drop shall commence by not later than 45 days after service is requested unless additional time is required by severe weather or other circumstances outside of Company's control. Company shall exert every reasonable effort to commence service to a subscriber served by a non-standard drop as expeditiously as possible. A standard drop, for which the Subscriber shall be charged Company's standard installation fee, is an aerial drop running not more than one hundred fifty feet (150') from feeder cable to the Subscriber's structure; provided, that any installation which requires Company to place a drop underground or cross a street underground shall be considered a non-standard installation. An aerial drop in excess of one hundred fifty feet (150') in length shall be considered a non-standard installation. If the Company fails to meet the above installation deadline, it shall credit the Subscriber's account in the amount of a standard installation charge. If the Company schedules an appointment with a Subscriber for an installation, repair or other service call, and the Company fails to arrive at the Subscriber's premises within 30 minutes of the scheduled time or scheduled window of time (which window shall not exceed four hours) for reasons not caused by the Subscriber, the Company shall not charge the Subscriber for any make-up or late installation. The Company shall apply a twenty dollars (\$20.00) credit to the Subscriber's account for any late service call as defined above.
(Ord. 11-2005. Passed 2-15-05.)

323.07 CUSTOMER SERVICE STANDARDS.

(a) Office Hours and Telephone Availability.

- (1) Company shall maintain a business office in the City which is conveniently located and which shall be open during normal business hours. Company shall also maintain at least one centrally located bill payment center in the City of York which shall be open during normal business hours. The term "normal business hours" is defined herein.
- (2) Company shall provide and maintain a toll free telephone access line which will be available to subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives shall be available to respond to customer telephone inquiries during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- (3) Under normal operating conditions, telephone answering time by a customer representative, including wait time, shall not exceed thirty (30) seconds after the connection is made. If the call must be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions.
- (4) Under normal operating conditions, the customer shall receive a busy signal less than three (3) percent of the time.
- (5) Company shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering requirements above unless an historical record of complaints indicates a clear failure to comply. If the City determines, after receiving complaints itself and/or receiving a record of complaints made to Company in accordance with Section 8 below, that there is a clear failure to comply with the telephone answering requirements above, the City shall notify Company in writing that it must measure its compliance with these requirements for the next ninety (90) days and report to the City with its results.

(b) Installations and Service Calls.

- (1) Company shall maintain a competent staff of employees sufficient to provide adequate and prompt service to its subscribers.
- (2) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred fifty (150') feet from the existing distribution system.
- (3) Excluding conditions beyond its control all service calls not affecting public health, safety or welfare shall be commenced within a maximum of forty-eight (48) hours after notice to Company or scheduled at the convenience of the customer.
- (4) Upon scheduling of appointments with the customer for installations, service calls and other activities, Company shall provide the customer with either a specific time or an "appointment window" of a maximum of four (4) hours during normal business hours. Company may schedule service calls and installation activities outside of normal business hours for the express convenience of the customer.

- (5) Company may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If, at any time, an installer or technician is running late, an attempt to contact the customer must be made prior to the time of the appointment. If the appointment must be rescheduled, it must be done so at a time which is convenient for the customer.
- (c) Notices.
- (1) Company shall provide written notice to each subscriber upon initial subscription, at intervals not more than one (1) year thereafter to each subscriber and the City, and at any time upon request, on each of the following areas:
- A. Products and services offered;
 - B. Prices and options for programming services and conditions of subscription to programming and other services;
 - C. Installation and service maintenance policies;
 - D. Channel positions and programming carried on the Cable System;
 - E. Billing and customer complaint procedures;
 - F. Policy and procedures for disconnecting or terminating a subscriber's service;
 - G. Company's address, telephone number and office hours;
 - H. The subscriber's right to obtain a parental control device contained in Section 323.11(f); and
 - I. A notice of subscriber privacy rights as required by federal law.
- (2) Company shall notify subscribers in writing of any changes in rates, programming services or channel positions a minimum of thirty (30) days in advance of such changes. Company shall not be required to provide prior notice to subscribers of any rate change that is the result of a regulatory fee, franchise fee or any other fee, tax, assessment or charge of any kind imposed by any federal agency, the Commonwealth of Pennsylvania or the City on the transaction between Company and the subscriber.
- (3) Company shall maintain a file available to the public containing all written notices provided to subscribers pursuant to the requirements contained in 47 C.F.R. §76.305 as set forth on the effective date of this Agreement.
- (d) Billing.
- (1) Bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, Basic Service, Additional Services, if applicable, equipment charges and any installation or repair charges. The bill shall state the billing period, including an effective due date, the amount of current billing and any relevant credits or past due balances.
- (2) Company shall provide bill payment locations which are conveniently located and which are open at least during normal business hours.
- (3) Company shall not assess late fees for non-payment of a current bill unless and until thirty (30) days have elapsed since the receipt of the current bill by the subscriber.

- (e) Customer Complaint Procedures. Company shall establish clear written procedures for resolving all customer complaints, which shall include at least the following:
- (1) Company shall provide the customer a written response to a written complaint within thirty (30) days of its receipt. Such response shall include the results of its inquiry into the subject matter of the complaint, its conclusions based on the inquiry, and its decision in response to the complaint.
 - (2) If the City is contacted directly about a customer complaint, it shall notify Company in writing. When Company receives such notification, the time period for Company to respond as required above shall commence.
 - (3) Any subscriber who, in good faith, disputes all or part of any bill sent by Company has the option of withholding the disputed amount, without finance charges, the initiation of collection procedures or disconnection until Company has investigated the dispute in good faith and has made a determination that the amount is owed provided that:
 - A. The subscriber provides a written complaint to Company in a timely fashion and includes identifying information;
 - B. The subscriber pays all undisputed charges; and
 - C. The subscriber cooperates in determining the appropriateness of the charges in dispute.
 - (4) Company shall maintain a record of customer written complaints, which shall contain the date each such complaint is received, the name and address of the affected subscriber, a description of the complaint, the date of resolution, and a description of the resolution. Subject to the privacy protections of subsection (h) herein, Company shall provide such information (not including names of subscribers) to the City upon specific written request.
 - (5) Company shall submit to the City upon request, a report showing the number of complaints that have generated a work order and/or necessitated a response (“trouble calls”) received during a specified reporting period, and the general nature of the complaints generating the calls.
- (f) Disconnection. Company may disconnect or terminate a subscriber’s service for cause:
- (1) If at least thirty (30) days have elapsed from the due date of the bill in which subscriber has failed to pay; and
 - (2) If Company has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection; and
 - (3) If there is no pending written dispute regarding the bill to which Company has not issued a final decision in writing; or
 - (4) If at any time and without notice Company determines in good faith that subscriber has tampered with or abused Company’s equipment or is engaged in theft of cable service.

(g) Credit for Service Outages. In the event that Company's service to any subscriber is completely interrupted for six (6) or more consecutive hours, and upon that subscriber's written or credible oral request, it will grant such subscriber a pro rata credit or rebate, of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due. Company shall give a loss of service credit of fifty percent (50%) for a loss of service which is due to Unforeseen or Uncontrollable Acts that exceeds twelve consecutive hours from the time of notification. For purposes of this paragraph, loss of service shall be considered a Subscriber's receipt of less than two-thirds of the available channels. The credit shall be determined by dividing the number of hours of loss of service by the total hours in a month multiplied by the subscriber's monthly bill multiplied by fifty percent (50%).

(h) Privacy.

- (1) Company shall protect and abide by the rights of privacy of every subscriber and shall not violate such rights through the use of any device or signal associated with the Cable System. Company shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal, state and generally applicable local privacy laws and regulations.
- (2) Company shall be responsible for carrying out and enforcing such privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy and all applicable laws and regulations.
- (3) Company shall notify all third parties who offer cable services in conjunction with Company, or independently over the Cable System, of the subscriber privacy requirements contained herein.
- (4) Neither Company nor its designee shall tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor, any cable, line, signal, input device, or subscriber outlet or receiver for any purpose, without the prior written authorization of the affected subscriber or user, provided, however, that Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the federal law. Company shall report to the affected parties any instances of monitoring or tapping of the Cable System or any part thereof, of which it has knowledge, whether or not such activity has been authorized by Company. Company shall not record or retain any information transmitted between a subscriber or user and any third party, except as required for lawful business purposes.
- (5) Except as permitted by Section 631 of the Cable Act as amended, neither Company nor its designee nor its employees shall make available to any third party, including the City, information concerning the viewing habits or subscription package decisions of any individual Subscriber. If a court authorizes or orders such disclosure, Company shall notify the subscriber not less than fourteen (14) calendar days prior to disclosure, unless such notification is otherwise prohibited by applicable law or the court.

- (6) Upon a request by a subscriber, Company shall make available for inspection at a reasonable time and at its local principal place of business all personal subscriber information that Company maintains regarding said Subscriber. Company shall ensure that all information related to billing and service requests is accurate and up to date and shall promptly correct any errors upon discovery.
- (7) Company shall not make its subscriber list or lists, or any portion thereof, available to any person or entity, with or without remuneration, except where expressly permitted by applicable law.
(Ord. 11-2005. Passed 2-15-05.)

323.08 REGULATION BY THE CITY.

(a) Right to Regulate Rates.

- (1) As a franchising authority certified by the FCC, the City has the right to regulate cable rates and service to the full extent authorized by applicable federal, state, and local laws.
- (2) If the City desires to regulate rates and has met all legal requirements to do so, Company shall file all required forms and documentation for any increase in rates or charges for any cable television service or equipment with the City on or before the notification period required by applicable federal, state and local law. Such documentation shall include, but not be limited to, FCC Form 1240 for increases in the cable rate and FCC Form 1205 for increases in rates for equipment and installation.

(b) Right to Inspect.

- (1) The City shall have the right, upon ten (10) business days written notice and during normal business hours, to inspect all documents, records and other pertinent information maintained by Company at its principal place of business, which relate, directly or indirectly, to the terms of this Agreement.
- (2) In addition, Company shall maintain for inspection by the public and the City all records required by the FCC and as specified in 47 C.F.R. §76.305, in the manner specified therein.
- (3) Notwithstanding anything to the contrary set forth herein, all information specifically marked by Company as proprietary or confidential in nature and furnished to the City or its designated representatives shall be treated as confidential in conformity with Pennsylvania law. Information and documentation marked by Company as proprietary or confidential shall include a brief written explanation as to its proprietary nature or confidentiality. The City, and its officially designated representatives agree in advance to treat any such information or records which Company reasonably deems would provide an unfair advantage for Company's competitors (e.g., system design maps, engineering plans, and programming contracts, etc.) as confidential and only to disclose it to City employees, agents, or representatives that have a need to know or

in order to enforce the provisions of the Agreement. In the event a request is made by an individual or entity not an employee, agent or representative of the City acting in their official capacity for information related to the franchise and marked by Company as confidential and/or proprietary, the City shall immediately notify Company of such request and permit Company to take whatever action Company deems necessary to protect its interests before providing documents or access to documents to the requestor. Company shall not be required to provide subscriber information in violation of Section 631 of the Cable Act [47 U.S.C. §551], or information which is not relevant to regulation of the Franchise (e.g., employee files, tax returns, etc.).

(c) Right to Conduct Compliance Review. The City or its representatives may conduct a full compliance review and hold public hearings with respect to whether Company has complied with any material terms of this Agreement so long as it provides Company with twenty (20) business days written notice in advance of the commencement of such reviews and public hearings.

(d) Government Reports. Company shall provide to the City, copies of any and all communications reports, documents, pleadings and notifications of any kind which Company or any of its affiliated entities have submitted to any federal, state or local regulatory agencies, courts or other governmental bodies if such documents relate exclusively to Company's Cable System within the City. Company shall provide copies of such documents no later than thirty (30) days after their filing, mailing or completion. Company shall not claim confidential, privileged or proprietary rights to such documents unless such documents have been determined to be confidential, privileged or proprietary by a court of competent jurisdiction or a federal or state agency.

(e) Reserved Authority. The City reserves the regulatory authority arising from the Cable Act, any amendments thereto and any other relevant federal, state or local laws or regulations. (Ord. 11-2005. Passed 2-15-05.)

323.09 INSURANCE AND INDEMNIFICATION.

(a) Company Insurance. Company shall maintain during the term of the Franchise insurance as will protect it and the City from any claims which may arise from Company's ownership, construction, repair, maintenance or operation of the Company's Cable Television System in the City, such insurance policies to have the following coverages and limits:

- (1) Workers' Compensation coverage as required by statute.
- (2) Property insurance on all insurable Company assets.
- (3) General Liability insurance with combined single limit for bodily injury, personal injury, death and property damage in an amount of at least five million dollars (\$5,000,000) per occurrence (which may be supplied by a combination of primary and excess policy limits) and Company's liability insurance shall include contractual liability, including so much of the indemnity specified herein as is reasonably insurable.

(b) Additional Insured. The liability insurance policy shall name City as an additional insured.

(c) Evidence of Insurance. Not later than thirty (30) days after the effective date of this Agreement, Company shall furnish to City current certificates of insurance demonstrating compliance with the insurance coverage requirements of this Section.

(d) Authorized Carrier. All insurance coverage shall be with a company authorized to do business in the Commonwealth of Pennsylvania.

(e) Change in Limits. City shall have the right, effective at the end of the seventh year of the term hereof, to require an increase in the amounts of insurance specified in subsection (a) hereof; provided that the City gives Company at least ninety days' notice of any such increase and provided further that the increase bears some reasonable relation to increases in the cost of living since the grant of this Franchise.

(f) Indemnification. Company shall indemnify and hold the City harmless with respect to the Company's construction; maintenance or operation of the Cable Television System from and against any and all expenses, losses and claims, demands, payments, suits, actions, receiver and judgments, other than as a result of City's negligence or intentional acts, including reasonable attorney's fees. In the event of the commencement of any action against City, City will give notice thereof to Company within ten (10) days after City is formally served in any such action, and Company shall have the right to select counsel for the defense of such action at no cost to the City. City's failure to give timely notice shall relieve the Company of its obligation under this Section if such failure to give notice causes prejudice to Company's ability to defend any such claim. Settlement of any action or claim shall be made by Company or its counsel without the approval of City unless the City has an affirmative obligation as part of the settlement. Further, City's approval is not required when Company's defense is provided under the terms of an insurance policy that does not allow for the insured's approval of settlements. The City will cooperate with Company as reasonably required for the defense of any such action. (Ord. 11-2005. Passed 2-15-05.)

323.10 COMMUNITY SERVICES.

(a) PEG Channels.

- (1) The Company will provide one analog PEG channel in the Basic Service tier by reserving channel 16 as a public access channel throughout the portion of the Cable Television System operated by Company in York County, Pennsylvania 24 hours per day, 7 days per week on which access programming is currently broadcast. Access programming on Channel 16 will be added to service in additional municipalities that request such access service. Channel 4, which is currently used for local origination programming, shall be used exclusively by Company.
- (2) Company shall provide one analog channel in addition to the channel provided in (a)(1) on the Basic Service tier exclusively for public, educational and governmental access use by City or its designees and such channel shall be available throughout the Cable Television System. Such channel shall be made available within ninety (90) days of a request from the City. The PEG Channel shall be available for PEG access programming on a twenty-four (24) hour basis, seven days a week.

- (3) All PEG access programming shall be distributed as received and Company shall not interfere with the content of any PEG access channel distributed by Grantor or its designee except as otherwise permitted by law. City shall be responsible for the quality of the audio/video signal up to the cable insertion equipment.

(b) Use of PEG Channels. The City, or its designees, shall have the exclusive use of the PEG access channels. The City shall have the right to administer and operate the PEG access channels. Use of the PEG access channels shall be subject to such rules as City may adopt. The City agrees not to use PEG access channels to provide commercial services except to the extent necessary to support the services and programming provided. There shall be no charge by Company for the use of the PEG access channels.

(c) Additional PEG Channels.

- (1) Company shall be required to make available a third analog channel on the Expanded Basic tier whenever cable casts of the non-duplicated, programming of local or regional interest on the initial PEG Channel or the two PEG channels as the case may be, either exceeds fifty percent (50%) of the total time available on such channel(s) between the hours of 10:00 a.m. and 10:00 p.m., or seventy-five percent (75%) of the total time available on such channel between the hours of 8:00 am and 4:00 pm, for at least sixty (60) days in a seventy-five (75) day period, as verified by programming logs. Such additional channel shall be provided by the Company within ninety (90) days after a request from the City.
- (2) At any time after the fifth complete year of this Agreement measured from the date of passage of this Agreement as an Ordinance, the City may request and the Company shall provide within 120 days thereafter, bandwidth in the digital spectrum equal to the bandwidth necessary to operate one analog channel. The use of the bandwidth shall be within the discretion of the City(except that the bandwidth may not be used for a commercial video channel or a commercial use competitive with the Company) and may include but not be limited to public, educational or governmental access uses or for public safety use.
- (3) If Company rebuilds the Cable Television System to a capacity in excess of 750Mhz, Company shall provide 3% of the expanded bandwidth above 750Mhz to the City for its use within ninety (90) days of the City's request. The channel shall not be used for uses competitive with the Company.

(d) Regional Access Studio.

- (1) Company will support the relocation of the PEG access facilities from 1050 East King Street to a location to be designated by the City as the Regional Access Studio.

- (2) As part of said relocation and regional access support, Company will contribute one hundred fifty thousand dollars (\$150,000) which shall be paid to the City within sixty (60) days after written notice from the City that the money is necessary to fund equipment purchases for the studio. Company's contributions may be used by City only for construction and, equipment expenses of the Regional PEG access studio and for no other purpose. In addition, the Company shall contribute to the City for capital improvements to the PEG channels the following amounts on the dates indicated: twenty thousand dollars (\$20,000) on each of April 1, 2007, 2009, 2011; thirty thousand dollars (\$30,000) on each of April 1, 2013 and 2015 and thirty-five thousand dollars (\$35,000) on each of April 1, 2017 and 2019.
 - (3) Company will also provide technical assistance in the development of a business plan, acquisition of equipment and design of the PEG Regional Access Studio.
 - (4) Company will provide support for City's applications for grants, and for its efforts to form a regional municipal cooperative to fund and operate the Regional PEG Access Studio.
- (e) Indemnification of PEG Access Programming Procedures and Users.
- (1) All local producers and users of any of the PEG access facilities or channels shall agree in writing to hold harmless Company and City from any and all liability or other injury (including the reasonable costs of defending claims or litigation) arising from or in connection with claims for failure to comply with applicable federal laws, rules, regulations or other requirements of local, State or Federal authorities; for claims of libel, slander, invasion of privacy, or the infringement of common law or statutory copyright; for unauthorized use of any trademark, trade name or service mark; for breach of contractual or other obligations owing to third parties by the Company or City; and for any other injury or damage in law or equity, which claims result from the use of a PEG access facility or channel.
 - (2) Should the liability protection outlined in the paragraph above prove to discourage PEG use, as evidenced, for example, by numerous refusals to sign the release on the part of would-be users, Company and City agree to work together to modify the safeguards without putting themselves or citizens at risk.
- (f) Service to Community Facilities. At no charge to the City Company shall provide the following services to all City Buildings staffed at least during normal business hours, all firehouses, all City community resource centers all, County Government Buildings within the City and all public and non-profit private school buildings and libraries within the City:
- (1) Company shall provide one cable drop, outlet and Basic and Expanded Basic service package to each of the buildings. No charge shall be made for installation or service except that Company may charge for installation and service for more than one drop in each building or any such connection beyond a "standard installation" in accordance with installation of service as defined in Section 323.05(c)(2).

- (2) Company shall provide one high speed internet service via cable modem to each building designated by the City. No charge shall be made for installation, except that Company may charge for installation for more than one cable modem connection in a building or any such connection beyond a standard installation in accordance with Section 323.05(c)(2) hereof. The modem service shall be provided at fifty percent (50%) of the monthly commercial data rates offered by the Company.
- (3) Company shall provide to the City permanently located cablecast equipment that will allow the City to do live cablecasts from three locations being, the Mayor's office and two locations to be designated by the City that are passed by the Cable Television System. In addition, the Company will provide equipment necessary to do mobile videocasts including a camera, audio equipment and a modulator.
- (4) Additional connections or service beyond Basic or Expanded Basic, to any municipal or educational building may be charged at the lowest rate presently in existence for bulk rate customers of similar size. Any internal wiring with the designated buildings will not be Company's responsibility but if Company agrees to do such internal wiring, Company shall be paid on a time and material basis.

(g) Leased Channel. The City reserves the right to lease a channel for commercial cablecast programming. City shall be entitled to lease a channel for commercial purposes on the most favorable terms extended to lease channel customers at the time that the City elects to lease the channel. (Ord. 11-2005. Passed 2-15-05.)

323.11 PROGRAMMING.

(a) Channel Capacity. Company shall meet or exceed programming and channel capacity requirements set forth in the Cable Act consistent with the requirements of federal regulation and law.

(b) Broadcast Channels.

- (1) Company shall make available to all residential subscribers a Basic Service tier including, but not limited to:
 - A. All signals of domestic television broadcast stations entitled to "must carry" status under FCC rules and
 - B. The initial analog public, education and governmental programming channels required by this Franchise Agreement, and
 - C. C-Span.
- (2) Company shall provide in the Expanded Basic Tier a channel devoted to PCN 24 hours per day, 7 days per week.
- (3) The Company shall have twelve (12) months from the date of this Franchise Agreement to effect the changes required in this section.

(c) Signal Scrambling. Company shall not scramble or otherwise encode, for the entire term of this franchise, any of the Basic tier except in accordance with federal law. When Company scrambles signals for services other than Basic tier, it shall scramble or otherwise encode the video portions of the signal.

(d) Continuity of Service. It shall be the right of all subscribers to continue to receive service from Company provided their financial and other obligations to Company are honored. Subject to the force majeure provisions in Section 323.16 and routine maintenance, Company shall use its best efforts to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. For the purpose of construction, routine repairing or testing of the Cable System, Company shall use its best efforts to interrupt service only during periods of minimum use. When necessary service interruptions of more than twenty-four (24) hours can be anticipated, Company shall notify subscribers in advance of such service interruption.

(e) Stereo TV Transmissions. All television signals that are transmitted to Company's headend in stereo shall be transmitted in stereo to subscribers in accordance with FCC standards.

(f) Parental Control Capability. Upon request, and at no separate, additional charge, Company shall provide subscribers with the capability to control the reception of any video and/or audio channel on the Cable System in accordance with FCC standards pursuant to 47 U.S.C. §561 (a). (Ord. 11-2005. Passed 2-15-05.)

323.12 TRANSFER OF CONTROL.

(a) Except as provided herein, Company shall, at all times during the term of this Franchise, be the owner and have complete possessory rights to all facilities and property of the Cable Television System, except the PEG system. Any transfer of control of this Franchise whether by forced or voluntary sale, transfer of stock or any other form of disposition shall require approval of City which shall not be unreasonably withheld.

(b) Nothing contained herein shall be deemed to preclude the Company from entering into any pledge, mortgage, or collateralization of any assets of the Cable Television System in conjunction with any financing or refinancing in the normal course of business. No transfer to a lender or foreclosure shall be effective without the consent of the City which shall not be unreasonably withheld.

(c) Neither Company nor its parent nor any affiliated entity shall change, transfer, or assign, through its own action or by operation of law, its control of the Cable Television System without the prior written consent of the City. Such consent shall not be unreasonably withheld.

(d) Neither Company nor its parent nor any affiliated entity shall sell, convey, transfer, exchange or release more than twenty-five percent (25%) of its equitable ownership in the Cable Television System without the prior written consent of the City. Such consent shall not be unreasonably withheld.

(e) Company shall make written application to the City for consent to any transfer assignment as described above and shall provide all information required by FCC Form 394 and any other applicable federal, state and local statutes and regulations regarding transfer or assignment. Within thirty (30) days of receiving a request for transfer, the City in accordance with FCC regulations, shall notify Company in writing of the information it requires to determine the financial ability technical skills and legal qualifications for the transferee. The City shall have one hundred twenty (120) days from the receipt of all required information in which to take action on the transfer or assignment beyond which consent to the transfer shall be deemed given.

(f) The consent of the City to any transfer or assignment as described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding document stating that it shall be bound by all the terms and conditions contained in this Agreement. (Ord. 11-2005. Passed 2-15-05.)

323.13 OWNERSHIP AND USE OF THE CABLE TELEVISION SYSTEM.

Company shall have the unrestricted right and availability to utilize the Cable Television System for telecommunication purposes other than cable television service, including but not limited to telephony, internet access, point-to-point data and voice message transmission so long as said uses do not interfere with the cable television service being provided to Subscribers. (Ord. 11-2005. Passed 2-15-05.)

323.14 COMPANY'S RULES.

Company shall have the right to prescribe service rules and regulations for the conduct of its business not inconsistent with the provisions of this Ordinance or any ordinances of the City. (Ord. 11-2005. Passed 2-15-05.)

323.15 TERMINATION FOR CAUSE BY CITY.

(a) The City may terminate this Franchise at any time prior to its expiration date upon any material breach of any material term or condition of this Agreement. The City shall notify the Company in writing of its intent to terminate and the reason for its revocation. The Company shall be afforded sixty (60) days during which to adequately explain what has caused the alleged material breach or other grounds for termination. If it is determined that such breach was inadvertent, Company shall be afforded sixty (60) days during which to cure the alleged breach or to take affirmative action to commence to cure said breach. If the Company fails to cure or take affirmative action toward curing the breach within such sixty (60) day period and it appears that such breach was not inadvertent or immaterial, then the City shall schedule a public hearing on its intent to revoke the Franchise or impose the lesser penalty. Company shall be afforded the due process rights including notice, representation, the right to be heard and to examine and cross examine witnesses at such public hearing. After such public hearing, the City shall have the right to revoke the Franchise for just cause if said cause is established, or to impose a lesser penalty if so desired.

(b) In the event that revocation is imposed upon the Company, Company shall have the right to sell, transfer and convey the Cable Television System and its business operations within the City to a qualified purchaser at fair market value so long as the same is diligently pursued. Company shall be obligated to continue its operation of the Cable Television System and operation within the City until such sale. Prior to transfer or assignment of the Cable Television System to any purchaser Company must first obtain the written consent of City. (Ord. 11-2005. Passed 2-15-05.)

323.16 UNFORESEEN AND UNCONTROLLABLE ACTS.

The Company shall not be liable or responsible for any delay or failure of performance of its Franchise if prevented from doing so by acts of God including flood, storms, fires, explosions, strikes, lock-outs, riots, wars, whether or not declared, insurrections, epidemics or any law, rule or acts of any court or instrumentality whether Federal, State or municipal government or any causes beyond its control, provided that the same is not willfully done or brought about for the purpose of excusing failure or omissions to perform under the Franchise and providing that using reasonable care, the same could not have been avoided by the Company. In the event Company is rendered unable to perform in whole or in part, the Company shall begin to perform its Franchise as soon as is practical after such conditions cease to exist. (Ord. 11-2005. Passed 2-15-05.)

323.17 TAXATION.

During the term of this Franchise, City shall not impose or enact any ordinance or resolution which imposes a tax or fee on Company or its operations that are discriminatory. Company shall occupy the same tax status as any other owner of real or personal property doing business in the City.

(Ord. 11-2005. Passed 2-15-05.)

323.18 REPEALS.

Upon the effectiveness of this article, all ordinances or parts of ordinances and all agreements or parts of agreements conflicting with the provisions of this article shall be and the same are hereby repealed or suspended and of no further force and effect.

(Ord. 11-2005. Passed 2-15-05.)

323.19 SEVERABILITY.

If any section, sentence, clause or phrase of this article is deemed to be unconstitutional or otherwise held invalid or preempted by State or Federal statutes or regulations, said section, sentence, clause or phrase shall be null and void. The remaining portion of this article shall remain valid and binding upon the City and the Company.

(Ord. 11-2005. Passed 2-15-05.)

323.20 FRANCHISE VIOLATIONS, DAMAGES AND REVOCATION.

(a) Violations.

- (1) If City has reason to believe that Company violated any provision of this Agreement, it shall notify Company in writing, by certified mail, of the nature of such violation and the section of this Agreement which it believes has been violated.
- (2) Company shall have forty-five (45) days to cure such violation after written notice is received by taking appropriate steps to comply with the terms of this Agreement. If the nature of the violation is such that it cannot be fully cured within forty-five (45) days due to circumstances outside of Company's control, the period of time in which Company must cure the violation shall be extended by the City in writing for such additional time necessary to complete the cure, provided that Company shall have promptly commenced to cure and is diligently pursuing its efforts to cure in the reasonable judgment of the City.
- (3) If the violation has not been cured within the time allowed under subsection (a)(2) above, then Company shall be liable for liquidated damages in accordance with subsection (b) below.

(b) Liquidated Damages. Because Company's failure to comply with provisions of this Agreement will result in injury to the City and because it will be difficult to measure the extent of such injury, the City may assess liquidated damages against Company in the following amounts provided Company has had an opportunity to cure in accordance with subsection (a)(2) hereof. Such damages shall not be a substitute for specific performance by Company, but shall be in addition to such performance.

- (1) For failure to comply with the requirements specified in Sections 323.05(a) and (b): Two hundred fifty dollars (\$250.00) per day for each day the violation continues;

- (2) For failure to provide and maintain cable service as specified in Section 323.05(c): Two hundred fifty dollars (\$250.00) per day for each day the violation continues;
 - (3) For failure to make repairs and restorations as specified in Section 323.05(d): One hundred fifty dollars (\$150.00) per day for each day the violation continues;
 - (4) For failure to obtain and maintain construction permits as specified in Section 323.05(e): One hundred fifty dollars (\$150.00) per day for each day the violation continues;
 - (5) For failure to disconnect, relocate or remove equipment as specified in Section 323.05(f): One hundred fifty dollars (\$150.00) per day for each day the violation continues;
 - (6) For failure to comply with customer service standards as specified and in accordance with Section 323.07: One hundred fifty dollars (\$150.00) per violation;
 - (7) For failure to provide information in conformity with the City's right to regulate as specified in Section 323.08: One hundred fifty dollars (\$150.00) per day for each day the violation continues;
 - (8) For failure to carry all the insurance required in Section 323.09: Two hundred dollars (\$200.00) per day for each day the violation continues;
 - (9) For failure to provide services to the community as specified in Section 323.10: Two hundred fifty dollars (\$250.00) per day for each day the violation continues;
 - (10) For failure to comply with programming requirements as specified in Section 323.11: One hundred fifty dollars (\$150.00) per day for each day the violation continues;
 - (11) For failure to comply with transfer or renewal provisions as specified in Section 323.12: Two hundred fifty dollars (\$250.00) per day for each day the violation continues.
 - (12) For failure to provide a performance bond as specified in Section 323.20(b): Two hundred dollars (\$200.00) per day for each day the violation continues;
- (b) Performance Bond.
- (1) Company shall obtain and maintain during the franchise term, at its sole cost and expense, a performance bond running to the City with a company surety satisfactory to the City to ensure Company's faithful performance of its obligations. The performance bond shall provide that the City may recover from the principal and surety any and all liquidated damages incurred by the City for Company's violations of this Agreement, after opportunity to cure, in accordance with subsection (a)(2) above.
 - (2) The amount of the bond shall be one hundred dollars (\$100,000). Company shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the City.

- (3) Notwithstanding subsections (b)(1) and (2) above, Company shall not be required to provide a performance bond until such time as Company commits a material breach of this Agreement or the City determines in good faith that Company is unable or may become unable to meet its financial obligations under this Agreement
 - (4) Upon transfer, a performance bond shall be required.
- (d) Revocation.
- (1) In addition to the other rights, powers and remedies retained by the City under this Agreement, the City reserves the separate and distinct right to revoke this franchise if:
 - A. Company practices any fraud or deceit upon the City in its operation of its Cable System or any other activities pursuant to this Agreement;
 - B. Company seeks, or an involuntary case is brought against Company seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency or other similar law or seeking the appointment of a trustee, receiver, custodian or other similar official of a substantial part of Company's property and such proceeding shall remain un-dismissed or un-stayed for a period of one-hundred-twenty (120) days;
 - C. Company transfers or assigns this franchise, the Cable System or any significant portion thereof, in violation of Section 323.12, herein;
 - D. Company repeatedly fails, after notice and opportunity to cure, to maintain signal quality pursuant to the standards provided for by the FCC or the technical requirements set forth in Section 323.05(a) of this Agreement;
 - E. Company repeatedly violates, after notice and opportunity to cure, any of the material terms or conditions of this Agreement.
 - (2) The foregoing shall not constitute a violation of a material term or condition if the violation occurs without the fault of Company or occurs as a result of circumstances beyond its control. Company shall not be excused from the performance of any of its obligations under this franchise by mere economic hardship or by the misfeasance of malfeasance of its directors, officers, or employees.
 - (3) A revocation shall be declared only by a written decision of the City Council upon recommendation of the Mayor after an appropriate public hearing which shall afford Company due process and full opportunity to be heard, to introduce evidence, to question witnesses and to respond to any notice of grounds to terminate in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania. All notice requirements shall be met by providing Company at least thirty (30) days prior written notice of any public hearing concerning the proposed revocation of this franchise. Such notice shall state specifically and in detail the grounds for revocation. The City Council, after a public hearing and upon finding the existence of grounds for revocation, may either declare this franchise terminated or excuse such grounds upon a showing by the Company of mitigating circumstances or good cause for the existence of such grounds.
(Ord. 11-2005. Passed 2-15-05.)

323.21 BINDING EFFECT.

This article shall constitute a contract between the City and the Company upon passage of this article and the Company's written acceptance of the terms of this article. The City shall not use its legislative powers to amend this article in any manner that would have an adverse or detrimental impact on the Company. (Ord. 11-2005. Passed 2-15-05.)

323.22 EFFECTIVENESS.

This article shall become effective in accordance with law.
(Ord. 11-2005. Passed 2-15-05.)

ARTICLE 325
Closing-Out, Damaged Goods and Defunct Business Sales

EDITOR'S NOTE: Act 217 of July 31, 1963 (P. L. 410) (53 P.S. §4471-1 et seq.) sets forth the State law regulating and requiring the licensing of fire, bankruptcy and closing-out sales.

There are no sections in Article 325. This article has been established to provide a place for cross references and any future legislation.

CROSS REFERENCES
State law provisions - see 53 P.S. §4471-1 et seq.

ARTICLE 327
Dances and Dance Halls

EDITOR'S NOTE: The City Treasurer issues permits for dances and licenses dance halls pursuant to Section 2630 et seq. of the Third Class City Code. Licensed places are to be kept in a clean, healthful and sanitary condition. Inspection by police officers and orders to vacate are authorized by Section 2637 of the Third Class City Code. The presence of minors under sixteen years of age and closing hours are regulated by Sections 2638 and 2639 of the Third Class City Code.

CROSS REFERENCES
State law provisions - see 3rd Class §2630 et seq.
(53 P.S. §37630 et seq.)

ARTICLE 329
Itinerant Vendors

329.01	License required.	329.04	License fee.
329.02	Definition.	329.99	Penalty.
329.03	Persons exempted.		

CROSS REFERENCES

License tax on merchants - see 3rd Class §2601
(53 P.S. §37601)
Transient retail merchants - see 3rd Class §2620
et seq. (53 P. S. §37620 et seq.)

329.01 LICENSE REQUIRED.

No person shall engage in the business or trade of an itinerant vendor in the City without having first obtained a license from the License Tax Officer.
(1944 Code Ch. 14 §1.)

329.02 DEFINITION.

"Itinerant vendor" as used in this article includes all persons both principal and agent, who engage in or conduct a temporary or transient business in the City, selling goods, wares and merchandise with the intention of continuing in such business in any one place for a period of not more than sixty days and who, for the purpose of carrying on such business, hire, lease or occupy either in whole or in part any room, building or structure for the exhibition and sale of such goods, wares or merchandise. However, nothing in this article shall be construed as applying to any religious, educational or charitable organization or to its agents.
(1944 Code Ch. 14 §2.)

329.03 PERSONS EXEMPTED.

The provisions of this article shall not apply to sales made to dealers by commercial travelers or selling agents in the usual course of business, nor to bona fide sales of goods, wares or merchandise by sample for future delivery, nor to hawkers on the street nor peddlers from vehicles. (1944 Code Ch. 14 §2.)

329.04 LICENSE FEE.

Any person desiring to engage in the business of an itinerant vendor may obtain a license therefor from the License Tax Officer upon the payment of one hundred fifty dollars (\$150.00), for each day that such business is carried on. The license shall terminate automatically on the sixtieth day of business or the last day of business, whichever comes first. (Ord. 14-1982 §1. Passed 11-3-82.)

329.99 PENALTY.

(a) Whoever violates any provision of this article shall, upon conviction therefor be fined not more than one thousand dollars (\$1,000) and in default of payment thereof shall be imprisoned not more than ninety (90) days. (Ord. 1-2009. Passed 1-6-09.)

(b) Each day any itinerant vendor conducts such business in violation of the provisions of this article shall be a separate offense. (1944 Code Ch. §5).

ARTICLE 331
Pawnbrokers

331.00	Definitions.	331.03	Minors.
331.01	Report required.	331.99	Penalty.
331.02	License fee and term.		

CROSS REFERENCES

State law - see 63 P.S. Sec. 281-1 et seq.; 10 Pa. Code 61.1 et seq.

331.00 DEFINITIONS.

(a) "Pawnbrokers" shall include any person who:

- (1) Engages in the business of lending money on the deposit or pledge of personal property other than choses in action, securities or written endeavors of indebtedness; or
- (2) Purchases personal property with an express or implied agreement or understanding to sell it back at a subsequent time at a stipulated price; or
- (3) Lends money upon goods, wares or merchandise pledged, stored or deposited as collateral security.
(Ord. 23-1979 §1. Passed 12-4-79.)

(b) "Dealers in second-hand goods" includes any person who otherwise in the normal course of business purchases personal property not from a retail or wholesale entity or auction for the purposes of reselling the property."

(c) "Target goods" means jewelry, cameras and photographic equipment, gold coins or bars, silver bars, copper tubing electronics equipment such as televisions or VCRs or radios or computers or computer equipment or microwave ovens, antiques, currency collectibles such as coins or stamps, and any other item of value likely to be the subject of criminal activity such as burglary or theft. Hereafter, the City police may update this definition by sending a list of categories of "target goods" to pawnbrokers and dealers in second hand goods identifying themselves as such on their Mercantile License.
(Ord. 6-1996 §1,2. Passed 5-7-96.)

331.01 REPORT REQUIRED.

(a) At the time of any transaction in target goods, the pawnbroker or dealer in second hand goods shall make a record of the name and address and the motor vehicle operator number or the social security number of the pawner or seller in second hand goods in the transaction. Such information shall be supplied to the police as part of the report required hereunder.

(b) All pawnbrokers and dealers in second hand goods shall make out and deliver to the Chief of Police or Police Commissioner each day before 10:00 a.m. a legible and accurate report of all target goods taken in pawn or purchased during the preceding business day. Such report shall contain the name or names of the pawners or sellers and accurate, detailed description, together with serial numbers thereon, if any, of all target goods taken in pawn or purchased, together with the amount loaned on or paid for such target goods. Target goods, whether taken in pawn or purchased shall not be sold, resold or otherwise disposed of for a period of at least fifteen days after pawn or purchase by such pawnbrokers or dealers, but this requirement shall not apply to the redemption of a lawfully pledged article by the pledger. Pawnbrokers and dealers shall permit the Chief of Police or Police Commissioner or his duly authorized representatives to inspect any target goods in his possession at any time during regular business hours. Failure to timely submit such list shall be a violation of this article. (Ord. 6-1996 §3. Passed 5-7-96.)

331.02 LICENSE FEE AND TERM.

All pawnbrokers and dealers in second-hand goods shall identify themselves as such on the Mercantile/Business Privilege License in order to be placed on the City police mailing list updating categories of target goods. Failure to identify a business as a pawnbroker or dealer in second-hand goods as required hereunder shall be a violation of this article. (Ord. 6-1996 §4. Passed 5-7-96.)

331.03 MINORS.

No pawnbroker or dealer in second-hand goods shall purchase or take in pawn any goods of any kind from any person under eighteen years of age unless such minor's parent or guardian is present, and the name of the parent or guardian shall be reported along with the report of the transaction. (Ord. 23-1979 §4. Passed 12-4-79.)

331.99 PENALTY.

Whoever violates any provision of this article shall be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) and in default of payment thereof, shall be imprisoned for not more than ninety days, or both. Any violator of a second or subsequent offense shall not be permitted to apply for a license for a period of two years (2 years). (Ord. 1-2009. Passed 1-6-09.)

ARTICLE 333
Peddlers and Solicitors

333.01	Definitions.	333.10	Fixed location prohibited.
333.02	Registration required; exemptions.	333.11	Failure to leave upon request.
333.03	Registration procedure and information.	333.12	Posted premises and residences.
333.04	Registration fee.	333.13	Fraudulent and deceptive practices.
333.05	Registration term.	333.14	Sidewalk and handcart vendors.
333.06	Registration card exhibition.	333.15	Continental Square sidewalk food vendor license.
333.07	Record of registration.	333.16	Night-time Continental Square vendor license.
333.08	Hours.	333.17	City Park Food Vendor License.
333.09	Parking vehicle on street; littering.	333.99	Penalty.

CROSS REFERENCES

General power to levy license taxes - see 3rd Class §2601 (53 P.S. §37601)

Farmers excepted - see 3rd Class §2610 (53 P.S. §37610)

333.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Soliciting" means the seeking or taking of contracts or orders for any goods, wares, services or merchandise for future delivery, or for subscriptions or contributions, upon any of the streets or sidewalks, from house to house, by visitation to private residences, or by entering in or upon private or public property or business establishments, within the City. "Soliciting" also includes the seeking or taking of contracts or orders for home or other building repairs, improvements and alterations, or for work on trees, landscaping or fences, and orders or contracts for any mechanical, electrical, plumbing or heating device or equipment for houses, or other building improvements or repairs, upon or from the places aforesaid within the City.
- (b) "Peddling" means the selling or offering for sale of any goods, wares, services or merchandise for immediate delivery, which the person selling or offering for sale carries with him in traveling, or has in his possession or control, upon any of the streets or sidewalks, from house to house, by visitation to private residences, or by entering in or upon private or public property or business establishments within the City.
- (c) "Solicitor" means any person who engages in soliciting.
- (d) "Peddling" means any person who engages in peddling.

- (e) "Person" means any natural person, association, partnership, firm, organization or corporation.
- (f) "Primary" registration means the first registration form filed in the particular calendar year.
(Ord. 19-2011. Passed 6-7-11.)

333.02 REGISTRATION REQUIRED; EXEMPTIONS.

(a) No person shall engage in soliciting or peddling in the City without first having registered as herein provided, except as listed below:

- (b) Registration requirements shall not apply to:
 - (1) Farmers seeking or taking orders for the sale of fresh produce;
 - (2) The seeking or taking of orders by any manufacturer or producer for the sale of bread and bakery products, meat and meat products or milk and milk products;
 - (3) The seeking or taking of orders by insurance or real estate agents or brokers licensed under the laws of the Commonwealth of Pennsylvania;
 - (4) Any person taking orders for merchandise from dealers or merchants, for resale to an ultimate consumer;
 - (5) Public or charitable activities in which the City is a participant, such activities being conducted for the enjoyment and well being of the community.
 - (6) Artists, musicians, actors, videographers, photographers, poets, or other individuals in artistic fields displaying 5 total items or less of original artwork, music cd's, films, photos, or poetry books or poems, or other similar original creations, or any individual in an artistic field creating for immediate sale original works of art, playing music, reciting poetry, acting, or performing for artistic purposes shall be exempt from registration.
 - A. This exemption does not apply to any individual involved in the creation and/or sale of food, drink or other edible items.
 - B. This exemption does not apply to any individual wishing to perform or sell items or art door-to-door or outside the "CBD" or City parks.
 - C. This exemption it not intended to allow individuals to avoid registration for street festivals or other planned City events that require other means of registration to participate.
 - D. All Codified Ordinances in Part 7, General Offenses, are still applicable to any individual under this exemption and may be enforced without warning.
 - E. For the purpose of this section, "original" means those artistic works, creations, wares or services sold on-site by the artist, artisan or performer who hand-crafted or created them.
 - F. This exemption does not apply to firearms, explosive devices, fireworks, swords, knives or other weapons.
 - G. This exemption does not apply to tattoo or permanent body art services. (Ord. 29-2012. Passed 9-18-12.)

333.03 REGISTRATION PROCEDURE AND INFORMATION.

Every person desiring to engage in solicitation or peddling in the City shall register with the City on a form provided by the City. The registration shall contain only the following information verified by certification, and separate forms shall be provided for profit or nonprofit religious, public or charitable organizations:

- (a) For Profit Making Registrants.
- (1) Date of application, company name, address and phone number;
 - (2) Name and telephone number of supervisor, or a statement that such applicant is self-employed;
 - (3) Full name of applicant, local address, local phone number, permanent address and permanent phone number;
 - (4) The nature of the goods, wares, services or merchandise offered for sale;
 - (5) The year, registration license number and type of vehicle to be used in activities;
 - (6) Identification (driver's license number, Social Security number, or in the case of a business an Employer Identification Number. The City shall keep such information confidential);
 - (7) Reference;
 - (8) Signature of applicant (should be verified, driver's license, etc.);
 - (9) A registration card shall be furnished which in addition to other information shall contain the following statement:

"The issuance of this card does not endorse or sanction the activity of the bearer".
 - (10) All applicable personal information specified above shall be given for every person registering. An individual registration card shall be required for each helper. No registration card under this article shall be transferable from one person to another.
- (b) For Nonprofit Charitable, Religious or Public Organizations:
- (1) Date of application, full name of group or organization, address and telephone number;
 - (2) Name, permanent address, permanent phone number, local address, local phone number and title of person registering on behalf of the above group or organization;
 - (3) Purpose of organization;
 - (4) Nature of solicitations being made or goods or services offered for sale;
 - (5) Give dates when activity will be performed;
 - (6) Has organization complied with provisions of the Solicitation of Funds for Charitable Purposes Act of Dec. 19, 1990, P.L. 1200, No. 202 as amended, governing solicitations for charitable, benevolent, patriotic or other purposes;
 - (7) The registrant shall supply a list of all solicitors and peddlers, providing name, address and telephone number;
 - (8) A registration card shall not be issued or required.
- (c) Companies registered to do business in the Commonwealth of Pennsylvania may elect to register their direct sales agents or employees by providing the completed registration forms of those agents or employees, together with the fees for same, to the City. For this purpose, companies shall include any individual, partnership or corporation, which engages in soliciting or peddling and which employs one or more direct sales agents or employees.
(Ord. 19-2011. Passed 6-7-11.)

333.04 REGISTRATION FEE.

All fees for peddlers and solicitors' permits shall be established by resolution of Council.
(Ord. 19-2011. Passed 6-7-11.)

333.05 REGISTRATION TERM.

The registration cards granted pursuant to this article shall be valid until the end of the calendar year of the year issued. (Ord. 19-2011. Passed 6-7-11.)

333.06 REGISTRATION CARD EXHIBITION.

Any registration card, when issued, shall state inter alia the products to be sold, services to be rendered or subscriptions or contributions to be solicited by the registrant. Every solicitor or peddler shall at all times, when engaged in soliciting or peddling in the City, carry such registration card upon his person and shall exhibit it upon request to all police officers, City officials and residents. No solicitor or peddler shall engage in selling any product or service not mentioned on such registration card. (Ord. 19-2011. Passed 6-7-11.)

333.07 RECORD OF REGISTRATION.

The Bureau of Police shall keep a record of all registrations issued under this article, and shall forward daily to the Chief of Police a list of registrations issued hereunder. The Chief of Police shall supervise the activities of registrants and furnish information to residents as requested by them. (Ord. 19-2011. Passed 6-7-11.)

333.08 HOURS.

No person operating as a solicitor or peddler under this article shall engage in soliciting or peddling on Sundays or legal holidays nor any other day of the week before 8:00 a. m. or after 9:00 p. m. prevailing time, except any person obtaining consent of occupant prior to presenting himself in person. (Ord. 19-2011. Passed 6-7-11.)

333.09 PARKING VEHICLE ON STREET; LITTERING.

No person operating as a solicitor or peddler shall maintain or keep a street or curbstone market by parking any vehicle upon any street or alley in the City for any longer than necessary to make his presence known to persons residing in the immediate vicinity. No such person shall place or deposit any refuse on any such street, highway or alley. (Ord. 19-2011. Passed 6-7-11.)

333.10 FIXED LOCATION PROHIBITED.

No person operating as a solicitor or peddler under this article shall occupy any fixed location upon any of the sidewalks, streets, highways or alleys of the City for the purpose of soliciting or peddling with or without any stand or counter. (Ord. 19-2011. Passed 6-7-11.)

333.11 FAILURE TO LEAVE UPON REQUEST.

No person shall engage in peddling or soliciting at, or remain on the premises of, any residence after having been asked by the occupant thereof to leave such premises or residence. (Ord. 19-2011. Passed 6-7-11.)

333.12 POSTED PREMISES AND RESIDENCES.

No person shall engage in peddling or soliciting upon any premises or residence located thereon if such premises or residence is posted against solicitation by means of a notice prominently displayed, upon which is printed the legend:

"NO SOLICITORS"

A residence shall be deemed to be posted against peddling or soliciting if there is exhibited, on or near the main entrance to the premises or on or near the main door to any residence located thereon, a sign at least three inches by four inches in size, which bears the above legend in letters at least one-third inch in height.
(Ord. 19-2011. Passed 6-7-11.)

333.13 FRAUDULENT AND DECEPTIVE PRACTICES.

(a) No person who engages in canvassing or soliciting shall use any plan, scheme or ruse or make any statement which indicates or implies that the purpose of such person's visit is other than to obtain orders for or to make sales of goods or services.

(b) No person who engages in solicitation shall misrepresent the right of a buyer to rescind, or cancel a sale under the provisions of applicable law, and shall provide buyer with all information as required by State and Federal Regulations.
(Ord. 19-2011. Passed 6-7-11.)

333.14 SIDEWALK AND HANDCART VENDORS.

(a) Sidewalk and handcart vendors shall always be licensed by the City in accordance with the Codified Ordinances.

(b) Sidewalk and handcart vendors may not operate in the Central Business District Zone, as defined in Section 1302.15 of the York Zoning Ordinance, except in accordance with the provisions of Section 333.15 or unless authorized by the Mayor pursuant to Article 505 of the Codified Ordinances.
(Ord. 19-2011. Passed 6-7-11.)

333.15 CONTINENTAL SQUARE SIDEWALK FOOD VENDOR LICENSE.

(a) There shall be made available one license total for Continental Square, the area generally defined as the intersection of George Street and Market Street, except as outlined in Section 333.16 for the operation of a mobile food dispenser.

(b) The license shall be issued for a duration of one year.

(c) The fee for a Central Business sidewalk food vendor license shall be established by resolution of Council. One individual or corporate entity shall hold no more than two one licenses concurrently.

(d) The Department of Community and Economic Development, Bureau of Health, shall be responsible for issuing the licenses. The department shall develop procedures for control and monitoring of each license. A procedure shall be developed to provide City residents and businesses for first opportunity to purchase such licenses before they are made available to the general public. The department shall file a copy of the procedures with the City Clerk. Applicants shall be in good standing with the City of York and the Commonwealth of Pennsylvania. Vendor must submit proof of payment of City of York mercantile tax and Pennsylvania sales tax, this information must be made available upon request by City of York.

(e) Mobile food vendors are permitted to operate a mobile, hand-operated food dispenser which can be hand-propelled by the operator, is built specifically for the purpose of dispensing the product sold by the vendor, and is properly licensed and meets the minimum standards set forth by the National Sanitation Foundation. Motor-vehicle type mobile food dispensers may not operate in the Central Business District.

(f) Proximity to food establishments. Mobile food dispensers shall not be operated within one-hundred feet of the primary public entrance to an establishment licensed by the City as a food outlet of any type whatsoever, with the exception of when such affected establishment provides to the Department of Community & Economic Development, Bureau of Health a written and notarized letter expressing waiver from this article prior to the issuance of licenses under this article.

(1) During the license period, the mobile food vendor may stay at an assigned site regardless of the subsequent opening of an eating establishment within a one hundred foot (100 ft.) perimeter.

(g) Mobile dispensers shall be permitted to sell, consistent with other subsections of this ordinance, candies, such as ice cream, chocolates, mints and gum, food, such as, hot dogs, bratwurst, sausage, sandwiches, peanuts, potato chips, fruit, salads, and beverages such as soda, lemonade, juices, bottled water, coffee, hot chocolate and periodicals such as newspapers and magazines, but shall be strictly prohibited from selling apparel, jewelry, movies, compact discs, video cassettes or video discs, cigarettes, cigars, pipes, pornography, prophylactics, and related items

(h) Mobile food dispensers shall be attended by at least one operator at all times.

(i) Mobile food dispensers shall be removed from public property between 7:00 p.m. and 7:00 a.m. between the months of October through March and 9:00 p.m. and 7:00 a.m. between the months of April through September, except as outlined in Section 333.16.

(j) Mobile food dispensers shall not obstruct the passage of pedestrian travel, and a clear sight triangle as referenced in Section 1307.01 of the Zoning Ordinance must be maintained.

(k) Mobile dispensers shall be required to clean all litter within twenty-five feet in all directions of the location of the stand at the end of each business day. Dispensers shall properly remove all trash and litter from the site and at no time shall place said trash in any curbside receptacle.

(l) Under this article, licenses shall be issued based on the same standards that the City Health Inspector would use to license Temporary Food Facilities, under the Pennsylvania Food Code, and licenses shall only be issued upon the City Health Inspector's passing grade of the commissary or storage facility of the vendor dispenser.

(m) Retention of the Central Business District mobile food dispenser license shall be contingent upon compliance with all requirements herein. A license holder who fails to comply with all conditions shall have their license revoked. The license fee shall be nonrefundable if revoked. (Ord. 19-2011. Passed 6-7-11.)

333.16 NIGHT-TIME CONTINENTAL SQUARE VENDOR LICENSE.

(a) Licensed night-time Continental Square vendors may operate hand-operated, mobile food and/or periodical dispensers, on Thursday, Friday and Saturday evenings during the months of May, June, July, August and September in Continental Square and shall have first opportunity to operate such dispensers in areas in which they hold a license on nights of special events sponsored by the City.

- (b) No more than one license shall be granted for the entire Continental Square area.
- (c) The license shall be issued for a duration of one year.
- (d) The fee for a nighttime Continental Square vendor license shall be established by resolution of Council. One individual or corporate entity shall hold no more than two licenses concurrently.
- (e) The Department of Community and Economic Development, Bureau of Health, shall be responsible for issuing the licenses. The department shall develop procedures for control and monitoring of each license. A procedure shall be developed to provide City residents and businesses the first opportunity to purchase such licenses before they are made available to the general public. The department shall file a copy of the procedures with the City Clerk.
- (f) A vendor is permitted to operate in Continental Square only if it is operating a mobile dispenser built specifically for the purpose of dispensing the product sold by the vendor and is properly licensed and inspected.
- (g) Mobile dispensers shall be attended by at least one operator at all times.
- (h) Mobile dispensers, under this section, shall be permitted to operate only between the hours of 9:00 p.m. and 1:30 a.m. on Thursday evenings and shall be removed from Continental Square by 2:00 a.m. on such evenings, and only between the hours of 9:00 p.m. and 2:30 a.m. on Friday, and Saturday evenings and shall be removed from Continental Square by 2:45 a.m. on such evenings.
- (i) Mobile dispensers shall not obstruct the passage of pedestrian travel and a clear sight triangle as referenced in Section 1307.01 of the Zoning Ordinance must be maintained.
- (j) Mobile dispensers shall not operate radios, boom boxes, or other sound devices that emit sounds that can be heard outside of a ten-foot radius from any part of the dispenser's cart.
- (k) The diameter of the dispenser's space in terms of space in which the dispenser operates and any associated racks by which wares are displayed shall not exceed twenty-five feet.
- (l) Mobile dispensers shall be permitted to sell, consistent with other subsections of this ordinance, candies, such as ice cream, chocolates, mints and gum, food, such as hot dogs, bratwurst, sausage, sandwiches, peanuts, potato chips, fruit, salads, and beverages such as soda, lemonade, juices, bottled water, coffee, hot chocolate and periodicals such as newspapers and magazines, but shall be strictly prohibited from selling apparel, jewelry, movies, compact discs, video cassettes or video discs, cigarettes, cigars, pipes, pornography, prophylactics, and related items.

(m) Mobile dispensers shall be required to clean all litter within a one-block area on the same side of the street in all directions of the location of the stand at the end of each business day. Dispensers shall properly remove all trash and litter from the site and at no time shall place said trash in any curbside receptacle.

(n) Under this article, licenses shall be issued based on the same standards that the City Health Inspector would use to license Temporary Food Facilities, under the Pennsylvania Food Code, and licenses shall only be issued upon the City Health Inspector's passing grade of the commissary or storage facility of the vendor dispenser.

(o) Retention of the night-time Continental Square vendor license shall be contingent upon compliance with all requirements herein. A license holder who fails to comply with all conditions shall have their license revoked. The license fee shall be nonrefundable if revoked. (Ord. 19-2011. Passed 6-7-11.)

333.17 CITY PARK FOOD VENDOR LICENSE.

(a) There shall be made available one license per designated City Park for the operation of a mobile food dispenser.

(b) The list of designated parks that a license will be available is:

- (1) Allen Park
- (2) Bantz Park / Odeon Park
- (3) Farquhar Park / Kiwanis Lake
- (4) Penn Park

(c) Each license shall be issued for a duration of one year and shall be valid from April 1 through September 30 of the licensing year.

(d) The fee for a City Park food vendor license shall be established by resolution of Council. No person may hold more than two licenses concurrently.

(e) The Department of Public Works and the Department of Community Development, Bureau of Permits, Planning & Zoning, shall be responsible for issuing the licenses. The Department of Public Works shall develop procedures for control and monitoring of each license. A procedure shall be developed to provide City residents and businesses the first opportunity to purchase such license before they are made available to the general public. All license applications shall include:

- (1) Proof that vendor will be operating a mobile food dispenser that is National Sanitation Foundation approved or is built specifically for the purpose of dispensing the product sold by the vendor and that the dispenser has been approved by the Health Inspector.
- (2) A current Pennsylvania food employee certificate.
- (3) Proof that applicant has an inspected and approved Commissary where mobile equipment can be stored indoors, cleaned, and re-supplied during off hours, and where consumable foods can be properly stored.
- (4) A copy of a certificate of Public Liability and Property Damage insurance. Said policy shall have a combined single limit of no less than five hundred thousand dollars (\$500,000.)
- (5) A plan for the use of a restroom facility by the vendor.

(f) Each City Park food vendor license shall designate the City Park and the location within that Park where operation of the mobile food dispenser is permitted. All such determinations shall be made by the Director of Public Works or his designee.

(g) The food vendor license, health license and the business privilege/mercantile tax license shall at all times be posted in a conspicuous place upon the cart or vehicle from where business is being conducted.

(h) City Park food vendors must comply with appropriate provisions of the Food Code, as amended, (7 Pa. Code Chap. 46). In addition, vendors must abide by applicable City Codes as well as other applicable State laws.

(i) All food prepared and cooked on site must be fully cooked and ready to eat at the time of sale. No uncooked or undercooked foods shall be sold to the public.

(j) City Park food vendors shall not operate within 100 feet of an establishment licensed as a food outlet of any type.

(k) City Park food dispensers shall not obstruct the passage of pedestrian travel.

(l) City Park food dispensers shall be attended by at least one operator at all times.

(m) City Park food dispensers shall be removed from public property between the hours of 9:00 p.m. and 9:00 a.m.

(n) City Park food vendors must provide at least one (1) covered trash receptacle and are responsible for cleanup of all debris within a 50-foot radius of the site of operation during business hours.

(o) City Park food vendors shall not create any nuisance issues or problems for park neighbors, the general public, and those using the park.

(p) No City Park food vendor may operate during planned events located in the vendor's designated area absent written approval from the Director of Public Works or his designee.

(q) Retention of a City Park food vendor license shall be contingent upon compliance with all requirements of all the City of York ordinances. A license holder who fails to comply with all conditions shall have their license revoked. The license fee shall be nonrefundable if revoked. (Ord. 19-2011. Passed 6-7-11.)

333.99 PENALTY.

Whoever violates any provisions of this article shall, upon conviction thereof in a summary proceeding be fined not more than one thousand dollars (\$1,000) and costs of prosecution and, in default thereof, shall be imprisoned for not more than ninety-days (90 days). Each day that any such violation continues shall constitute a separate offense hereunder and shall be punishable as such.
(Ord. 19-2011. Passed 6-7-11.)

ARTICLE 335
Mechanical Amusement Devices

335.01	Definitions.	335.07	Gambling devices prohibited.
335.02	License required.	335.08	Minors under sixteen. (Repealed)
335.03	Operator application information.	335.09	Fee for license as operator.
335.04	Distributor application information.	335.10	Fee for license as distributor.
335.05	Signature and oath of applicant.	335.11	License card, disc or place attachment.
335.06	Investigation by Mayor; license nontransferable.	335.09	Penalty.

CROSS REFERENCES
Juke box tax - see BUS. REG. & TAX. Art. 351

335.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Person" includes any individual, partnership, unincorporated association or corporation.
- (b) "Distributor" includes any person who shall, either as owner or agent, sell, lease, lend, deliver or furnish to, or place or cause to be placed in the possession of any operator, any mechanical device, machine or apparatus whatsoever other than a juke box, which, upon the insertion of a coin, slug, token, plate or disc, may be operated for use as a game, entertainment or amusement, whether or not registering a score and whether or not a prize is offered.
- (c) "Operator" includes any person who at any time keeps, operates, has in his possession, or holds out to the public in any business establishment, or in any public place within the City, any such mechanical device, machine or apparatus. (1944 Code Ch. 22 §1; Ord. 6-1950 §1.)
- (d) "Mechanical amusement device" includes any manual, electrical or electronic device machine or apparatus whatever, other than a juke box, which upon the insertion of any money metal or paper in nature, slug, token or other monetary substitute, may be operated for use as a game of entertainment, amusement, chance or challenge, whether or not a score is registered, or a prize is offered.

335.02 LICENSE REQUIRED.

No person shall act as an operator or distributor of any such mechanical device without first having obtained a license therefor, as provided in this article. (1944 Code Ch. 22 §2.)

335.03 OPERATOR APPLICATION INFORMATION.

Any person desiring to obtain a license as operator, as provided in Section 335.02 shall apply therefor in writing to the Mayor. The application shall set forth the name and the residence of the applicant together with his present and previous occupation, the length of residence at his present and previous place of residence; the name of the owner of the premises upon which the aforesaid machines are to be used and installed, and if the owner of the premises is not the applicant, the length of time for which the premises have been leased. The application shall also set forth the manufacturer and nature of the machine to be installed and used, and the name of the distributor from whom the machine is to be secured. (1944 Code Ch. 22 §3.)

335.04 DISTRIBUTOR APPLICATION INFORMATION.

Any person desiring to obtain a license as a distributor, as provided in Section 335.02 shall apply therefor in writing to the Mayor. The application shall set forth the name and the residence and place of business of the applicant, together with present and previous occupations and the length of residence at his present and previous place of residence. (1944 Code Ch. 22 §4.)

335.05 SIGNATURE AND OATH OF APPLICANT.

The information required in Sections 335.03 and 335.04 shall be furnished with the signature of the applicant and shall be made under oath before the Mayor, City Clerk or any other person legally authorized. (1944 Code Ch. 22 §5.)

335.06 INVESTIGATION-BY MAYOR; LICENSE NONTRANSFERABLE.

No application shall be granted by the Mayor until a period of seven days have elapsed from the date of the application, during which time he may, at his discretion, investigate the facts set forth in the application. Any license issued under this article, either for operator or distributor, shall be nontransferable to any other person. (1944 Code Ch. 22 §6.)

335.07 GAMBLING DEVICES PROHIBITED.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Pennsylvania. (1944 Code Ch. 22 §7.)

335.08 MINORS UNDER SIXTEEN.

(EDITOR'S NOTE: Former Section 335.08 was repealed by Ordinance 14-1983, Section 1, passed May 16, 1983.)

335.09 FEE FOR LICENSE AS OPERATOR.

No license shall be issued to an operator until an annual fee therefor has been paid to the City Treasurer of one hundred dollars (\$100.00) for each and every device so installed and used, under the terms of this article, in the City, which amount when paid shall be a license fee until December 31 of each year. However, should any such device be installed after July 1 of any year, and application therefor is made after such date, then the license fee for that particular year shall be fifty dollars (\$50.00) to December 31.

(Ord. 16-1982 §1. Passed 11-3-82.)

335.10 FEE FOR LICENSE AS DISTRIBUTOR,

No license shall be issued to a distributor until an annual fee therefor has been paid to the City Treasurer of two hundred dollars (\$200.00), which amount when paid shall be a license fee until December 31 of each year. However, should any application therefor be made after July 1 of any year, then the license fee for that particular year shall be one hundred dollars (\$100.00) to December 31. (Ord. 6-1979 §2. Passed 6-5-79.)

335.11 LICENSE CARD, DISC OR PLATE ATTACHMENT.

Upon the payment of the license fee for an operator, as provided by this article, the Mayor shall issue a license card, metal disc or plate, setting forth the number of the license-for each machine so licensed, which license card, disc or plate shall be attached and fastened to the respective machine or device so that the same may be clearly observable and readable.

(1944 Code Ch. 22 §10.)

335.99 PENALTY.

(a) Operator. Any operator violating any provision of this article shall, upon conviction be fined not more than one thousand dollars (\$1,000) for each and every offense, and in default of payment thereof shall be imprisoned for not more than ninety (90) days. Every day that any machine or device, under the terms of this article shall be operated and used in violation thereof, shall constitute a separate and distinct offense under this article and shall be subject to a separate and distinct penalty thereunder.

(b) Distributor. Any distributor violating any of the provisions of this article shall, upon conviction be fined not more than one thousand dollars (\$1,000) for each and every offense, and in default of payment thereof shall be imprisoned for not more than ninety days. Every day that any person acts as a distributor without first having obtained a license, as provided by the terms of this article, shall constitute a separate and distinct offense under this article and shall be subject to a separate and distinct penalty thereunder.

(Ord. 1-2009. Passed 1-6-09.)

ARTICLE 336
B.Y.O.B. Club

336.01	Definitions.	336.04	Performance standards.
336.02	Club permit.	336.05	Permit fees; term; revocation.
336.03	Requirements.	336.99	Penalty.

CROSS REFERENCES

Alcoholic beverages, unlicensed sale - see GEN. OFF. Art. 715
Disorderly conduct and disturbing the peace - see GEN. OFF. Art. 713
Noise - see GEN. OFF. Art. 714

336.01 DEFINITIONS.

(a) “B.Y.O.B. restaurant” means an establishment primarily offering sit-down counter or table services with entertainment and/or serving food prepared on the premises for on-premises consumption, which also allows customers and patrons to bring beer, wine, or other alcoholic beverages or malts for on-premises consumption which are purchased or obtained off the premises. Excluded from this definition is a B.Y.O.B. Club.

(b) “B.Y.O.B club” means any building, structure, or portion of structure not licensed by the Pennsylvania Liquor Control Board, wherein persons may, after payment of entry fee, cover charge, membership fee, set-up fee, or similar payment in money or in-kind, consume alcoholic beverages, which beverages said persons have brought onto the subject premises or purchased therein. This definition does not include facilities rented for a period of time, not to exceed twelve hours for the purpose of a private party.

(c) “Alcoholic beverages” means any and all beverages, including malt beverages, which contain alcohol, liquor or such other intoxicating substances as are further defined in the Pennsylvania Liquor Code, 47 P.S. §1-101 et seq.

(d) “Residence” means a building or structure wholly or partially used for living, sleeping, eating, cooking and sanitation by human occupants.

(e) “Residential Zoning District” means those classes of residential zoning districts specified in the Zoning Ordinance Article 1303 Planning and Zoning of the Codified Ordinance of the City of York. (Ord. 24-1995 §1. Passed 12-5-95.)

336.02 CLUB PERMIT.

(a) Any person or persons desiring to operate or continue to operate a B.Y.O.B. Club or Restaurant shall file with the Revenue Office an application for a B.Y.O.B. permit, which application shall include the following information: The name and address of the B.Y.O.B. Club or Restaurant, a statement whether the business premises is leased or owned by the B.Y.O.B. Club or Restaurant, the name and address of the lessor of the business premises, if applicable, the nature of the ownership of the B.Y.O.B. Club or Restaurant, i.e. corporation, partnership, joint venture, association, the names and addresses of the officers and/or agents of the B.Y.O.B. Club or Restaurant, and a notarized statement the B.Y.O.B. Club or Restaurant complies with the requirements of Section 336.03.

(b) The Police Department shall determine whether the B.Y.O.B. Club or Restaurant fully and completely complies with the provisions and requirements of this article within ten working days following the date on which the application is received. If the Police Department determines that the applicant fully and completely complies with the provisions hereof, they shall issue a B.Y.O.B. permit; if the Police Department determines that the applicant does not fully and completely comply with the provisions hereof, they shall deny the issuance of a B.Y.O.B. permit and shall furnish written evidence of the same to the applicant together with the reason(s) for denial.

(Ord. 24-1995 §1. Passed 12-5-95.)

336.03 REQUIREMENTS

The applicant must submit proof that all requirements are addressed before the issuance of the license.

- (a) Bonding. Clubs must obtain and carry a bond form general liability coverage, one million dollars (\$1,000,000) single limit per occurrence, proof of which shall be filed with the Revenue Office.
- (b) City Codes. The facility must be in compliance with all applicable City health, building and fire codes. City zoning requirements of Part 13, Planning and Zoning Code, must be complied with.
- (c) Business License. The facility must obtain a valid business privilege/mercantile license from the City and prominently display said license as required.
- (d) Amusement Permit. The facility must obtain an amusement permit pursuant to Article 349 Admission Tax, if applicable, and prominently display said permit as required.
- (e) Mechanical Amusement. The facility must obtain an operator license relating to mechanical amusement pursuant to Article 335, Mechanical Amusement Devices, if applicable, and prominently display said license as required.
- (f) Food License. The facility must obtain a food license pursuant to Article 1105 Health and Sanitation Code Licensing of the Codified Ordinances, if applicable, and prominently display said license as required.
- (g) Signage. The facility must conspicuously post the hours of operation at the business premises such that patrons are sufficiently apprised of the same.

(Ord. 24-1995 §1. Passed 12-5-95.)

336.04 PERFORMANCE STANDARDS.

The facility must be in compliance with requirements provided in this subsection at all times.

- (a) Unlicensed Sale of Alcoholic Beverages. The unlicensed sale of alcoholic beverages is prohibited. The facility must be in compliance with Article 715, Unlicensed Sale of Alcoholic Beverages, of the Codified Ordinances.
- (b) Entertainment. Entertainers are prohibited from coming into contact with any patron in a lewd, immoral, improper or unlawful manner. Entertainers on the interior of the premises shall not be visible from outside the premises.
- (c) Gambling. In B.Y.O.B Clubs, gambling, lotteries and gambling devices are prohibited on the premises.
- (d) Public Indecency and Disorderly Conduct. Acts of public indecency shall not be committed on the premises. The facility must be in compliance with Article 713, Disorderly Conduct and Disturbing the Peace, of the Codified Ordinances.
- (e) Noise. The facility must be in compliance with noise performance standards of Section 1307.02, Noise, and Article 714, Noise, of the Codified Ordinances.
- (f) Minors. Alcoholic beverages may not be consumed by minors under twenty-one years old.
- (g) Records. Accurate and complete records shall be maintained for the operation of the business.
- (h) Intoxicated Persons. The consumption of alcoholic beverages by visibly intoxicated persons shall be prohibited.
- (i) Employees. Business owners and employees shall not be visibly intoxicated on the premises.
- (j) Prizes. Alcoholic beverages shall not be offered as a prize.
(Ord. 24-1995 §1. Passed 12-5-95.)

336.05 PERMIT FEES; TERM; REVOCATION.

(a) Fee Schedule. Any restaurant desiring to permit B.Y.O.B. activities shall pay an administrative fee of one hundred dollars (\$100.00) for a B.Y.O.B. permit and fifty dollars (\$50.00) for each renewal thereof. Any Club, with or without serving food, desiring to permit B.Y.O.B. activities shall pay an administrative fee of one thousand dollars (\$1000) for a B.Y.O.B. Club permit and fifty dollars (\$50.00) for each renewal thereof.

(b) Determination of Permit Type. The City will inspect the facility as to determine the type of facility that is operated. The City shall refuse to issue a B.Y.O.B. Restaurant license if the Police Department determines that the proposed facility is primarily a Club.

(c) Permit Length. B.Y.O.B. permits shall be effective for a period of one year from January 1st to December 31st. The renewal fee rate is applicable for uninterrupted operations. Suspended, revoked or temporarily terminated permits are subject to the original license fee.

(d) Permit Revocation. In the event the B.Y.O.B. Club or Restaurant fails to fully and completely comply with the provisions hereof or is convicted of any unlawful activities as defined in the Zoning Ordinance and this article during the term of the B.Y.O.B. permit so issued, the Police Department shall have the authority to revoke the B.Y.O.B. permit due to B.Y.O.B. Club's or Restaurant's lack of compliance.
(Ord. 24-1995 §1. Passed 12-5-95.)

336.99 PENALTY

(a) In the event of any of the unlawful activities specified in this article are conducted by or in the name of a corporation, partnership, joint venture, trust, firm or association, in addition to the entity liability, the officers, agents or principals of said corporation, partnership, joint venture, trust, firm or association shall be deemed in violation of this article, as well as the person or persons engaged in the unlawful activity.

(b) Whoever violates any provision of this article shall, upon conviction thereof be fined not more than one thousand dollars (\$1,000) and in default of payment thereof shall be imprisoned not more than ninety-days (90-days).

(c) Each day any itinerant B.Y.O.B. Club owner and/or operator conducts such business in violation of the provisions of this article shall be a separate offense.
(Ord. 1-2009. Passed 1-6-09.)

ARTICLE 337
Yard, Garage or Similar Sales

337.01	Purpose.	337.08	Display of permit.
337.02	Type of sales regulated under this article.	337.09	Advertisements or postings.
337.03	Definitions.	337.10	Objects offered for sale.
337.04	Permits.	337.11	Parking; temporary controls.
337.05	Fees.	337.12	Enforcement; complaints.
337.06	Permit conditions.	337.99	Violations; penalty.
337.07	No employment allowed at yard sales.		

337.01 PURPOSE.

These requirements are designed to control and restrict garage and yard and other similar sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on in compliance with Part 13, Planning and Zoning Code. The intent of this chapter is to eliminate perpetual, prolonged and extended garage, yard and similar sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create a nuisance and often violate the zoning regulations of the City. The provisions of this chapter arise from the need to limit, regulate, restrict and control garage and yard sales. It is not the intent of this chapter to change or amend Part 13, Planning and Zoning Code and/or any other ordinances of the City. The provisions of this chapter do not seek control of sales by individuals selling a few of their household or personal items. The provisions and prohibitions hereinafter contained are enacted not to prevent but to regulate garage sales for the safety and welfare of the City's citizens. (Ord. 15-2010. Passed 4-20-10.)

337.02 TYPE OF SALES REGULATED UNDER THIS ARTICLE.

Sales regulated under this article include all sales entitled or commonly known as "garage sales," "yard sale," "tag sales," "porch sales," "lawn sales," "attic sales," "basement sales," "rummage sales," "flea market sales" or any similar casual sale of tangible personal property. (Ord. 15-2010. Passed 4-20-10.)

337.03 DEFINITIONS.

As used in this article, the following terms shall have the meanings indicated:

- (a) "Yard, garage or similar sale" means the sale or offering for sale of new, used or secondhand items of personal property, including but not limited to goods, wares, merchandise and clothing, at any one or several premises in a one block area of a neighborhood at any one time. Such sales can occur on the lawn, yard, porch, patio or in the garage, residence or other out-building of the person or persons who obtain a permit for such sale as provided by this article.
- (b) "Person" means any natural person or persons, association, partnership, firm, corporation or other entity.
- (c) "Physical address" means the United States Postal Service assigned numerical address or the property structure and shall not include the subdividing into multiple addresses or units.

The singular shall include the plural, the plural shall include the singular, and the masculine shall include the feminine.
(Ord. 15-2010. Passed 4-20-10.)

337.04 PERMITS.

No person shall cause or permit any lawn, yard, garage or tag sale to take place upon any property owned, rented or otherwise used by such person without first having obtained a permit therefor. Application for such permit shall be made to the Office of Permits, Planning & Zoning of the City by the person at whose residence or other location such sale shall be held and such application shall state the name of the applicant, the United States Postal Service address of the proposed sale, the day or days on which the sale is to be held and the names and resident addresses of all other persons of premises in a block who are to contribute personal property to the sale or are participating in the sale. Such permit shall be issued by the Office of Permits, Planning & Zoning upon the filing of an application together with payment of a fee as set by resolution by the Council of the City of York.
(Ord. 15-2010. Passed 4-20-10.)

337.05 FEES.

The fee for each sale shall be as follows:

- (a) First sale within a calendar year shall be free.
- (b) Each subsequent sale up to a maximum of nine per calendar year, shall be charged a fee of twenty dollars (\$20.00).
(Ord. 15-2010. Passed 4-20-10.)

337.06 PERMIT CONDITIONS.

Every permit shall be issued under the following conditions, and failure to comply with any condition shall constitute a violation of this article and shall entitle the Office of Permits, Planning & Zoning, to declare the permit revoked, without refund of any part of the permit fee to the holder:

- (a) The sale shall be held at the location or locations stated in the application and on the permit;
- (b) The permit shall be valid for two consecutive days as stated on the permit except that the permit may specify one or two alternate "rain dates" in cases of inclement weather on one or two, as the case may be, of the dates first specified on the permit;
- (c) No sale shall commence before 7:00 a.m. and shall conclude no later than 6:00 p.m. prevailing time, on any day;

- (d) No music, games or other entertainment or activities may be conducted at the time when and the place where the sale is held;
- (e) The owner, tenant or occupant of the premise and/or premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity. No such person shall permit any loud or boisterous conduct or other excessive noise to occur on such premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premise or premises where the sale is being conducted.
- (f) Permits are issued for the United States Postal Service address of the physical address of the structure, excluding individual units, apartments, or rooms --- not a person. Example: Single family residences - maximum nine yard sales per year. Multiple tenant occupied properties maximum nine yard sales per year.
(Ord. 15-2010. Passed 4-20-10.)

337.07 NO EMPLOYMENT ALLOWED AT YARD SALES.

Because the sale is temporary in nature and permissible in residential districts where commercial activities are not permitted, such sale shall be limited to possessions of the holder of the permit (and the other families and householders referred to in this article). It shall be unlawful to engage or employ any individual, organization or other entity to plan, arrange, conduct, promote, or supervise the sale.
(Ord. 15-2010. Passed 4-20-10.)

337.08 DISPLAY OF PERMIT.

The permit holder must exhibit the permit at the time of sale in full view of the public at all times. (Ord. 15-2010. Passed 4-20-10.)

337.09 ADVERTISEMENTS OR POSTINGS.

No notice, advertisement or directional sign pertaining to such sale shall be placed or posted:

- (a) On any post or pole used for traffic signs or signals or electrical poles;
- (b) On the surface of any street, curb, or sidewalk; or on any City property;
- (c) Without permission of the owner or occupant of the property, anywhere on private property.

Upon conclusion of the time stated in the permit for the holding of such sale, the holder of the permit shall remove and take away all such notices, advertisements and directional signs not previously removed and taken away.
(Ord. 15-2010. Passed 4-20-10.)

337.10 OBJECTS OFFERED FOR SALE.

None of the following may be sold or offered for sale:

- (a) Anything for which a separate license is required by law or by any federal, state or municipal regulation;
- (b) Anything of an explosive, poisonous or dangerous nature.
- (c) Any type of food.
(Ord. 15-2010. Passed 4-20-10.)

337.11 PARKING; TEMPORARY CONTROLS.

All parking of vehicles shall be conducted in compliance with all applicable laws and ordinances. Further, the Police Department may enforce such temporary controls to alleviate any special hazards and/or congestion created by any garage or yard sale.
(Ord. 15-2010. Passed 4-20-10.)

337.12 ENFORCEMENT; COMPLAINTS.

This chapter shall be enforced by the Permits, Planning & Zoning Office, but may be enforced by the Police Department, Department of Fire and Rescue, by any Code Enforcement Officer or any other official designated by any City ordinance to make inspections under a licensing or regulating ordinance or to enforce the same. All those authorized to enforce this article shall have the right of entry onto any premises showing evidence of a yard or garage sale for the purpose of enforcement or inspection and may close the premises from such a sale. (Ord. 15-2010. Passed 4-20-10.)

337.99 VIOLATIONS; PENALTY.

(a) Violations. Any person who shall violate or fail to comply with any of the provisions of this article shall, upon conviction thereof in a summary proceeding before any District Justice within the City, be sentenced to pay a fine of not more than \$50 for a first offense, \$100 for a second offense and up to the maximum amount allowed by law for a third or subsequent offense and the costs of prosecution, and in default of payment of such fine shall be sentenced to imprisonment for not more than thirty days; provided, however, that each day's violation of any of the provisions of this article shall constitute a separate offense.

(b) Conviction of Violation. If any individual is convicted of an offense under this article, the Permits, Planning & Zoning Office is instructed to cancel any existing yard or garage sale permit held by the individual or individuals convicted. (Ord. 15-2010. Passed 4-20-10.)

TITLE FIVE - Taxes

- Art. 338. Tax Upon the Consideration in Non-Residential Parking Lot Transactions.
- Art. 341. Income Tax.
- Art. 343. Business Privilege and Mercantile Tax.
- Art. 345. Local Services Tax.
- Art. 347. Mercantile License Tax. (Repealed)
- Art. 349. Admissions Tax.
- Art. 351. Juke Box Tax.

ARTICLE 338

Tax Upon the Consideration in Non-Residential Parking Lot Transactions

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|--------|---|--------|---|
| 338.01 | Definitions. | 338.08 | Posting of rates. |
| 338.02 | Imposition of tax. | 338.09 | Collection of unpaid taxes, penalties and interest. |
| 338.03 | Annual license. | 338.10 | Confidentiality. |
| 338.04 | Bond requirement and waiver. | 338.11 | Business privilege and mercantile tax. |
| 338.05 | Records. | | |
| 338.06 | Return and payments. | | |
| 338.07 | Business Administrator's powers and duties. | | |

338.01 DEFINITIONS.

As used in this article, 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:

- (1) 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;
 - (2) 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
 - (3) 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 subdivision, 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 article.
(Ord. 33-2006. Passed 6-6-06.)

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 article 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 article 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:
- (1) From the effective date of this article to December 31, 2006, 2%.
 - (2) January 1, 2007 through December 31, 2007, 4%.
 - (3) January 1, 2008 through December 31, 2008, 6%.
 - (4) January 1, 2009 through December 31, 2009, 8%.
 - (5) January 1, 2010 through December 31, 2011, 10%.
 - (6) January 1, 2012 and thereafter, 15%.
(Ord. 1-2012. Passed 2-7-12.)

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 one hundred dollars (\$100.00) plus two dollars (\$2.00) 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 section 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. (Ord. 2-2012. Passed 2-7-12.)

338.04 BOND REQUIREMENT AND WAIVER.

EDITOR'S NOTE: Former Section 338.04 was repealed by Resolution 92-2006, passed June 6, 2006.

338.05 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. (Ord. 33-2006. Passed 6-6-06.)

338.06 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 article and shall be liable to the City as agent thereof for the payment of the same. (Ord. 33-2006. Passed 6-6-06.)

338.07 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 article, 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.
(Ord. 33-2006. Passed 6-6-06.)

338.08 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:

	Fee	Tax	Total
1 hr.	\$1.50	\$.15	\$1.65
2 hr.	\$3.00	\$.30	\$3.30

(Ord. 33-2006. Passed 6-6-06.)

338.09 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.

(Ord. 33-2006. Passed 6-6-06.)

338.10 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.

(Ord. 33-2006. Passed 6-6-06.)

338.11 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.

(Ord. 33-2006. Passed 6-6-06.)

ARTICLE 341
Income Tax

<p>341.01 Short title.</p> <p>341.02 Intent and applicable rules.</p> <p>341.03 Definitions.</p> <p>341.04 Imposition of tax.</p> <p>341.05 Declaration and payment of tax.</p> <p>341.06 Registration.</p> <p>341.07 Filing and payment of tax by employer; withholding.</p> <p>341.08 Powers and duties of Tax Officer.</p>	<p>341.09 Suit for collection of tax.</p> <p>341.10 Interest and penalties.</p> <p>341.11 Violations and penalties.</p> <p>341.12 Applicability.</p> <p>341.13 Severability.</p> <p>341.14 Purpose/amendment and restatement/repeal.</p> <p>341.15 Effective date; initial current year.</p>
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CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65 (53 P. S. §6901-6924)
 Limit of tax - see Act 511 of 12-31-65 (53 P.S. §6908(3))
 Collection of delinquent taxes - see Act 511 of 12-31-65
 (53 P.S. 16919 et seq.)

341.01 SHORT TITLE.

This article shall be known as the "York City Earned Income and Net Profits Tax Ordinance," referred to herein as "Ordinance."
 (Ord. 41-2011. Passed 12-20-11.)

341.02 INTENT AND APPLICABLE RULES.

(a) It is the intent and purpose of this Article 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 Article, the language and intent of the Act, as amended, shall take precedence.

(b) The tax imposed by this Article shall be collected and administered in accordance with:

- (1) All applicable laws and regulations; and
- (2) Regulations, 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.
 (Ord. 41-2011. Passed 12-20-11.)

341.03 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 Article shall have the meanings ascribed to them as follows:

- (a) **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.
- (b) **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.
- (c) **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.
- (d) **CURRENT YEAR** - The calendar year for which the tax is levied.
- (e) **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.
- (f) **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.
- (g) **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 Article III 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.
- (h) **EARNED INCOME AND NET PROFITS TAX** - The tax levied herein by municipality on earned income and net profits. Also referred to as "tax" herein.
- (i) **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.
- (j) **MUNICIPALITY** - A city of the second class, city of the second class A, city of the third class, Township, town, township of the first class or township of the second class. For purposes of this Article, such term shall mean Warrington Township, York County, Pennsylvania.

- (k) **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 as promulgated under such section. The term does not include income:
- (1) Which is not paid for services provided; and
 - (2) Which is in the nature of earnings from an investment.
- Further, the term shall not include:
- (1) Any gain on the sale of farm machinery;
 - (2) Any gain on the sale of livestock held twelve months or more for draft, breeding or dairy purposes; and
 - (3) Any gain on the sale of other capital assets of the farm.
- (l) **NONRESIDENT** - A person, partnership, association or other entity domiciled outside of the municipality.
- (m) **PERSON or INDIVIDUAL** - A natural person.
- (n) **PRECEDING YEAR** - The calendar year before the current year.
- (o) **RESIDENT** - A person, partnership, association or other entity domiciled in the municipality.
- (p) **SUCCEEDING YEAR** - The calendar year following the current year.
- (q) **TAX BUREAU** - A public nonprofit entity established by a TCC for the administration and collection of earned income and net profits tax.
- (r) **TAX COLLECTION COMMITTEE** (herein referred to as "TCC") - The committee established to govern each TCD for the purpose of income tax collection. This term shall include a joint tax collection committee.
- (s) **TAX COLLECTION DISTRICT** (herein referred to as "TCD") - The York Tax Collection District as established under Act.
- (t) **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 TCD. Unless otherwise specifically provided, for purposes of the obligations of an employer, the term shall mean the Tax Officer or tax collector for the TCD within which the employer is located, or if an employer maintains workplaces in more than one TCD, the Tax Officer for each such TCD with respect to employees principally employed therein.
- (u) **TAXPAYER** - A person or business required hereunder to file a return of earned income or net profits or to pay a tax thereon.
(Ord. 41-2011. Passed 12-20-11.)

341.04 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 by nonresidents, exclusive of domestic servants and Maryland residents.

(c) The earned income and net profits tax levied under this Article 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. (Ord. 41-2011. Passed 12-20-11.)

341.05 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 Article, 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 341.07 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 Article 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.
(Ord. 41-2011. Passed 12-20-11.)

341.06 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 employer, 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 Tax Officer may require.

(b) Every employer shall require each new employee to complete a certificate of residency form, 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.
(Ord. 41-2011. Passed 12-20-11.)

341.07 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 Article 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 subsection (c) shall apply if any employer has more than one (1) place of employment in more than one (1) TCD. Within thirty (30) days following the last day of each month, the employer may file the return required by subsection (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 TCD 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 TCD 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.

(e) 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.

(f) 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 Article relating to the filing of declarations and returns.

(g) No employer shall be required to deduct or withhold taxes, file returns or pay taxes with regard to residents of Maryland.
(Ord. 41-2011. Passed 12-20-11.)

341.08 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 Article. 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 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/her/it 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 shall be conducted 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/her/its 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 Article 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.
(Ord. 41-2011. Passed 12-20-11.)

341.09 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 Article.

(b) Any suit brought to recover the tax imposed by this Article 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 Article, 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 Article 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 Article, there shall be no limitation.
- (4) Where an employer has intentionally failed to make deductions required by this Article.
- (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 TCD or political subdivision from recovering delinquent taxes by any other means provided by the Act.
(Ord. 41-2011. Passed 12-20-11.)

341.10 INTEREST AND PENALTIES.

(a) Except as may be provided for in subsection (b) below, in the event any tax imposed in this Article 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 percent (1%) 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 subsection (b) above shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under this Article, or prevent the commencement of further prosecution of any proceedings by the appropriate authorities for violations of this Article. However, no proceedings shall be commenced on the basis of delinquent returns filed pursuant to this section if the returns are determined to be substantially true and correct and the tax due is paid within the prescribed time.
(Ord. 41-2011. Passed 12-20-11.)

341.11 VIOLATIONS AND PENALTIES.

(a) Any person who fails, neglects or refuses to make any declaration or return required by this Article, 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 Article 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 Article 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 dollars (\$25,000.00) 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 Article 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 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 Article.

(e) The failure of any person to receive or procure forms required for making the declaration or returns required by this Article shall not excuse him or her from making such declaration or return.

(f) The City of York 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 to 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. (Ord. 41-2011. Passed 12-20-11.)

341.12 APPLICABILITY.

This Article 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. (Ord. 41-2011. Passed 12-20-11.)

341.13 SEVERABILITY.

The provisions of the Article are severable and if 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 Article. It is hereby declared to be the intention of the City of York that this Article would have been adopted if such invalid or unconstitutional provision had not been included. (Ord. 41-2011. Passed 12-20-11.)

341.14 PURPOSE/AMENDMENT AND RESTATEMENT/REPEAL.

The primary purpose of this Article 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 Article levying such tax is hereby amended and restated in its entirety to read as set forth in this Article. To the extent that any previous Article or portion thereof is inconsistent or conflicts with this Article, such Article(s) or portion thereof shall be repealed to the extent of such inconsistency and/or conflict. To the extent the same or any prior Ordinance levying such tax in force immediately prior to enactment of this Article, this Article 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 Article 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 Article. Nothing contained herein shall affect, impair or otherwise abrogate any act done or liability incurred, nor shall any provision of this Article 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 Article. (Ord. 41-2011. Passed 12-20-11.)

341.15 EFFECTIVE DATE; INITIAL CURRENT YEAR.

The effective date of this Article and beginning of the initial current year shall be January 1, 2012. (Ord. 41-2011. Passed 12-20-11.)

ARTICLE 343
Business Privilege and Mercantile Tax

<p>343.01 Definitions.</p> <p>343.02 Levy; rate; exemptions; business volume.</p> <p>343.03 Returns.</p> <p>343.04 Payment.</p> <p>343.05 Delinquent interest and penalty.</p> <p>343.06 Business privilege and mercantile license.</p>	<p>343.07 License Tax Officer and Treasurer duties; records; appeals.</p> <p>343.08 Confidentiality.</p> <p>343.09 Legal proceedings authorized.</p> <p>343.10 Savings and severability clauses.</p> <p>343.11 Enforcement.</p> <p>343.12 Authority.</p> <p>343.99 Penalty.</p>
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CROSS REFERENCES

Power to tax - see Act 511 (53 P.S. 6901 et seq.)
 Itinerant vendors - see BUS. REG. & TAX. Art. 329
 Peddlers and solicitors - see BUS. REG. & TAX. Art. 333
 Occupation Privilege Tax - see BUS. REG. & TAX. Art. 345

343.01 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 clearly indicates a different meaning:

- (a) "Business" means any activity carried on or exercised for gain or profit in the City, including but not limited to, the sale of merchandise or other tangible personalty or the performance of services. As to those taxpayers having a place of business within the City, "business" includes all activities carried on within the City and those carried on outside the City attributable to the place of business within the City. (Ord. 28-1993 §1. Passed 11-3-93.)
- (b) "City" means the City of York.
- (c) "License year" means the calendar year beginning January 1, 1987 and each calendar year thereafter.
- (d) "License Tax Officer" means the person authorized and empowered by Council to collect the taxes imposed hereby and to enforce the provisions of this article.
- (e) "Person" means any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

- (f) “Gross volume of business” means the money or money’s worth received by any vendor in, or by reason of, the sale of goods, wares, merchandise, or services rendered.
- (g) “Service” means any act or instance of helping or benefitting another for consideration.
- (h) “Taxpayer” means a person subject to the payment of the tax imposed by this article.
- (i) “Tax year” means the calendar year beginning January 1, 1987, and each calendar year thereafter.
- (j) “Treasurer” means the Treasurer of the City of York.
(Ord. 21-1987 §2. Passed 7-21-87.)

343.02 LEVY; RATE; EXEMPTIONS; BUSINESS VOLUME.

There is hereby levied for the tax year beginning January 1, 1997, a tax for general revenue purposes on the privilege of doing business as herein defined in the City.
(Ord. 14-1996. Passed 12-17-96.)

- (a) Rate and Basis of Tax. The rate of tax on every dollar of the whole or gross volume of business transacted within the territorial limits of the City shall be calculated as follows: (Ord. 21-1987 §2. Passed 7-21-87.)
 - (1) Business Privilege Tax. On receipts attributable to the performance of service, including any labor and materials entering into or becoming component parts of the service performed, the rate imposed shall be three and one-half mills or three dollars and fifty cents (\$3.50) per one thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax.
(Ord. 14-1996. Passed 12-17-96.)
 - (2) Wholesale mercantile rate. On receipts attributable to wholesale sales of merchandise, the rate imposed shall be one mill or one dollar (\$1.00) per thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax.
(Ord. 21-1987 §2. Passed 7-21-87.)
 - (3) Retail mercantile rate. On receipts attributable to retail sales of merchandise, the rate imposed shall be one and one-half mills or one dollar and fifty cents (\$1.50) per thousand dollars (\$1,000) of gross volume of business. Collections of past due taxes, penalties and interest shall not be construed to levy an increase on the annual rate of the tax.
(Ord. 27-1987 §1. Passed 10-6-87.)
- (b) Computation of Volume of Business.
 - (1) For businesses that started in the current “tax year”, the tax shall be due on April 15 of the current year and shall be based on the “gross volume of business” transacted in the first full month of operation multiplied by the number of full months that business shall be in operation for the year. If the business starts operations after April 15 of the current “tax year” that tax shall be computed in the same manner but shall not be due until the fifteenth day of the month following the first full month of operation. At the end of the year every business that started that year shall reconcile the estimated tax payment to the figure they reported on the gross receipts or sales line of their federal tax return. If the amount of the tax paid is less than the figure reported on the federal tax return, the business shall remit payment to the City within thirty days of filing their return. If the estimated amount paid is more than the figure reported on the federal tax return, the business owner shall contact the City for an adjustment.

- (2) For a business that started operations in the year preceding the current "tax year" the business shall pay its tax in the current year based on the gross receipts sales line of their federal tax return for the preceding year prorated to twelve months. The tax shall be paid in full on or before April 15 of the current "tax year".
 - (3) For a business that has been in operation one full year or more prior to the current "tax year", the tax shall be computed based on the gross volume of business transacted in the preceding "tax year" and shall be due in full on or before April 15 of the current year.
(Ord. 1-1993 §1. Passed 1-19-93.)
 - (4) Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal or itinerant by nature, shall compute his gross amount of business within the City from his actual gross receipts for the license year.
- (c) Persons, Business and Receipts Exempted from the Payment of Tax.
- (1) Persons and businesses. Persons employed for a wage or salary, nonprofit corporations or associations organized for religious, charitable or educational purposes, agencies of the government of the United States or of the Commonwealth of Pennsylvania and any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this article.
 - (2) Court exemptions. No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a revenue producing State tax or license fee, and which tax or license fee has been held by the courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege or mercantile tax by a municipality.
 - (3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission, or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
 - (4) State tax on tangible property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales of other transfers of title or possession of property.
 - (5) Landlords and rental property. No such tax shall be assessed and collected on the gross receipts received as rent by a landlord or his agent.
 - (6) Production and manufacture. No such tax shall be assessed and collected on goods, articles and products or on by-products of manufacture, or on minerals, timber, natural resources and farm products, manufactured, produced or grown in the City, or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading or dumping or storage of such goods, articles or products of by-products.

- (7) Gross receipts tax or fee. No such tax or fee shall be assessed or collected on any receipts which are subject to a gross receipts tax or fee under any other ordinance of the City.
- (d) Determination of Gross or Whole Volume of Business. Gross or whole volume of business upon which the tax hereunder is computed shall include the gross consideration credited or received for or on account of sales made and/or services rendered, subject only to the following allowable deductions and exemptions:
- (1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance;
 - (2) Refunds, credits or allowances given by a taxpayer to a purchaser in account of defects in goods, wares or merchandise sold, or on account of goods, wares or merchandise returned;
 - (3) Any commissions paid by a broker to another broker on account or a purchase or sales contract initiated, executed or cleared with such other broker; and
 - (4) Bad debts, where the deduction is also taken in the same year for Federal income taxation purposes.
(Ord. 21-1987 §2. Passed 7-21-87.)
- (e) Partial Exemptions. Where gross or whole volume of business in its entirety cannot be subjected to the tax imposed by this article by reason of the provisions of the Constitution of the United States, or any other provisions of law, including, but not limited to, Court decisions from Pennsylvania Courts of competent jurisdiction, only that part of the gross or whole volume of business which is properly attributable and allowable to doing business in the City shall be taxed hereunder. (Ord. 7-1993 §1. Passed 3-16-93.)
- (f) Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act, 1965, December 31, P.L. 1257 (53 P.S. 6901 et seq.), to the City and one or more political subdivisions of the State, then and in that event, the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by such Enabling Act permitting the imposition of such taxes.
- (g) Records. The exempt or partially exempt taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep the books and records of his business so as to show clearly, accurately and separately the amount of such sales and services which he is entitled to deduct from the gross volume of business as hereinbefore provided. (Ord. 21-1987 §2. Passed 7-21-87.)

343.03 RETURNS.

(a) Every return shall be made upon a form furnished by the License Tax Officer. Every person making a return shall certify the correctness thereof by affidavit.

(b) The fact that an individual's name is signed on the return shall be prima-facie evidence that such individual is authorized to sign the return on behalf of the taxpayer. (Ord. 21-1987 §2. Passed 7-21-87.)

(c) Every person subject to the tax imposed by this article who commences business prior to the beginning of any tax year shall file a return with the License Tax Officer, setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343.02 and the amount of the tax due by the 15th of April of every tax year.

(d) Every person subject to the tax imposed by this article who commences business subsequent to the beginning of any tax year, shall within forty days from the date of commencing such business, file a return with the License Tax Officer setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts as prescribed in Section 343.02 and the amount of the tax due.

(e) Every person subject to the tax imposed by this article, who engages in a trade, occupation, business or profession, that is temporary, seasonal or itinerant in nature, shall, within seven days from the date he completes such business, file with the License Tax Officer a return setting forth his name, his business and business address and such other information as may be required by the License Tax Officer in order to determine his actual gross receipts for the period he engages in business during the license year and the amount of tax due.

(f) Any person required to file a return by this article shall attach to such return the Internal Revenue Service Schedule "C", Form 1065, or Form 1120. (Ord. 1-1990 §1. Passed 3-6-90.)

343.04 PAYMENT.

(a) The business privilege and mercantile tax levied pursuant to this article shall be due and payable without further notice or demand on the date which the taxpayer is required to file a declaration of estimated tax. (Ord. 21-1987 §2. Passed 7-21-87.)

(b) All taxes, interest and penalties imposed under the provisions of this article shall be payable to the License Tax Officer who, upon payment of the tax imposed, together with any interest and penalties due thereon, shall give to the person paying the same a receipt therefor. (Ord. 12-1988 §1. Passed 7-19-88.)

(c) The License Tax Officer is hereby authorized to accept payment under protest of the amount of business privilege and or mercantile tax claimed by the City in any case where the taxpayer disputes the validity or amount of the City's claimed tax. If it is thereafter judicially determined by a court of competent jurisdiction that the City has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases clearly analogous to those in a case litigated in a court of competent jurisdiction. (Ord. 21-1987 §2. Passed 7-21-87.)

343.05 DELINQUENT INTEREST AND PENALTY.

In the event that any taxpayer is delinquent in filing his return, neglects or refuses to pay any of the tax imposed by this article, interest shall be paid upon the total amount determined by the License Tax Officer to be due from such taxpayer at the rate of one-half of one percent (1/2%) per month or fractional part thereof from the day such tax was due and payable until the day the tax is fully paid. In addition thereto, a penalty in the amount of ten percent (10%) of the amount of the tax determined to be due shall be added thereto and collected by the License Tax Officer. Such penalty shall be in addition to any other penalty imposed by this article. For purposes of this provision, the tax imposed by this article shall be deemed due and payable on April 15 of the license year; or in the case of taxpayers who file returns under Section 343.03(c), such tax shall be deemed due and payable at the time of filing the return. (Ord. 21-1987 §2. Passed 7-21-87.)

343.06 BUSINESS PRIVILEGE AND MERCANTILE LICENSE.

After the effective date of this section, any person desiring to conduct, or to continue to conduct any business, as herein defined, within the City shall file with the License Tax Officer an application for a business privilege and mercantile license. The license issued shall be conspicuously posted in the place of business for which the license is issued. In cases where more than one business is conducted, a separate license shall be issued for each business. Any taxpayer who is in default in payment due hereunder shall be refused a license until such tax is paid in full. A business privilege and mercantile license once issued, shall remain valid until the end of the tax year. Such license is not transferable with transfer of ownership of the business. The annual fee for such license shall initially be \$25.00, and may be later amended by resolution of City Council. (Ord. 25-2004. Passed 7-6-04.)

343.07 LICENSE TAX OFFICER AND TREASURER DUTIES; RECORDS; APPEALS.

- (a) The License Tax Officer is charged with the duties of receiving the taxes, fines and penalties imposed by this article. (Ord. 12-1988 §1. Passed 7-19-88.)
- (b) The License Tax Officer and his duly appointed deputies, under the direction of the Business Administrator, are hereby empowered to promulgate rules and regulations relating to the enforcement of this article, including provisions for the examination and correction of declarations and returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto. (Ord. 7- 1993 §2. Passed 3-16-93.)
- (c) The taxpayer shall maintain such records and books of account as shall enable him to make a true and accurate declaration and return in accordance with the provisions of the article. Such accounts and records shall disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business, and shall be sufficiently complete to enable the License Tax Officer or his deputies to verify all transactions. The License Tax Officer or his deputies are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the declaration or return made, or if no declaration or return was made, ascertain the tax due.

(d) Any person aggrieved by any decision of the License Tax Officer shall have the right to appeal to the Court of Common Pleas.
(Ord. 21-1987 §2. Passed 7-21-87.)

343.08 CONFIDENTIALITY.

Any information gained by the License Tax Officer or any other official, agent or employee of the City, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.
(Ord. 21-1987 §2. Passed 7-21-87.)

343.09 LEGAL PROCEEDINGS AUTHORIZED.

The License Tax Officer or his duly appointed deputies shall have the power in the name of the City to institute proceedings against any and all persons who violate the provisions of this article or to take any other action provided by law. (Ord. 21-1987 §2. Passed 7-21-87.)

343.10 SAVINGS AND SEVERABILITY CLAUSES.

(a) Nothing contained in this article shall be construed to empower the City to levy and collect the taxes hereby imposed on any person, or any business, or any portion of any business not within the taxing power of the City under the Constitution of the United States and the laws of the Constitution of the Commonwealth of Pennsylvania.

(b) If the tax, or any portion thereof, imposed upon any person under the provisions of this article is held by any court of competent power or jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania or any other provision of the law, the decisions of the court shall not affect or impair the right to impose the taxes, or the validity of the taxes so imposed upon other persons as herein provided.

(c) The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of the Council that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein. (Ord. 21-1987 §2. Passed 7-21-87.)

343.11 ENFORCEMENT.

It shall be the duty of the Business Administrator, the License Tax Officer or any duly appointed designee to ensure the proper enforcement of the provisions of this article, and any such officer shall have the power, in the name of the City, to institute proceedings against any or all persons for the collection of any taxes or license fees or for violation of any of the provisions of this article. If such suits are by process of summary conviction, in addition to the requirements for normal service and notice and in accordance with the police powers authorized by Rule 51 of the Pennsylvania Rules of Criminal Procedure, the Business Administrator, License Tax Officer or any duly appointed designee acting within the scope of his employment may issue an immediate citation for violation of those sections for which summary criminal proceedings are authorized. (Ord. 21-1987 §2. Passed 7-21-87.)

343.12 AUTHORITY.

This article was enacted under the authority of the Local Tax Enabling Act of December 31, 1965, P.L. 1257 (53 P.S. 6901 et seq.), and the Third Class City Code, Act of June 23, 1931, P.L. 932, as amended and reenacted by Act of August 24, 1953, P.L. 1337 (53 P.S. 37403 (60)). (Ord. 21-1987 §2. Passed 7-21-87.)

343.99 PENALTY.

Whoever conducts, transacts or engages in any of the businesses subject to the tax imposed by this article, without having first secured a business privilege and mercantile license, or any person who fails to file a declaration of estimated tax or a tax return as required by the provisions of this article, or any person who willfully files a false declaration of estimated tax or a false return, shall upon summary conviction before any District Justice be fined not more than one thousand dollars (\$1,000) for any one offense, recoverable with costs, or imprisoned not more than ninety days (90 days), or both. (Ord. 1-2009. Passed 1-6-09.)

ARTICLE 345
Local Services Tax

345.01	Definitions.	345.09	Self-employed individuals.
345.02	Tax levied.	345.10	Nonresident employers and self-
345.03	Exemptions and refunds.		employed individuals.
345.04	Amount of tax.	345.11	Administration of tax.
345.05	Duty of employers.	345.12	Suits for collection.
345.06	Returns.	345.13	Usage of funds.
345.07	Dates for determining liability.	345.99	Penalty.
345.08	Individuals engaged in more than one occupation.		

CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65 (53 P.S. §6901-6924)
Limit of tax - see Act 511 of 12-31-65 (53 P.S. §6908(8))
Register - see Act 511 of 12-31-65 (53 P.S. §6909)

345.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Employer" means an individual, partnership, association, corporation, governmental body, agency or other entity employing one or more persons on salary, wage, commission or other compensation basis, including self-employed person.
- (b) "Fiscal year" means the twelve month period beginning January 1 and ending December 31.
- (c) "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the City.
- (d) "Occupation" means any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, carried on or performed within the corporate limits of the City for which compensation is charged or received whether by means of salary, wages, commissions or fees for services rendered. (Ord. 35-1969 §5.)
- (e) "Local Services Tax Officer" means the person, public employee or private agency designated by Council by resolution to collect and administer the provisions of this article.
- (f) "Tax" means the Local Services Tax in the amount of fifty-two dollars (\$52.00) levied by this article.
- (g) "Treasurer" means the Treasurer of the City of York.
- (h) "DCED" means the Pennsylvania Department of Community and Economic Development.
- (i) "Business Administrator" means the Business Administrator of the City of York. (Ord. 48-2007. Passed 12-27-07.)

345.02 TAX LEVIED.

The City hereby levies and imposes on each occupation engaged in by individuals within its corporate limits during the fiscal year local services tax. This tax is in addition to all other taxes of any kind or nature heretofore levied by the City.
(Ord. 48-2007. Passed 12-27-07.)

345.03 EXEMPTIONS AND REFUNDS.

(a) Any person whose total income from all sources is less than twelve thousand dollars (\$12,000) per year is exempt from the levy of this tax. 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 local services tax may annually file an exemption certificate with the City of York and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the City of York of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the City 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 City 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 City 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 City.

- (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 City 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 local services tax from the person under clause (3).
- (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 City may pursue collection under this article.
- (4) Except as provided in clause (2), 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 local services tax.

(c) Refunds. The Business Administrator or his designee, in consultation with the Local Services Tax Officer 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 accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. 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 Business Administrator or his designee shall determine eligibility for exemption and follow the established procedure for making refunds to exempt persons. (Ord. 48-2007. Passed 12-27-07.)

345.04 AMOUNT OF TAX.

Beginning January 1 2008, each occupation engaged in within the corporate limits of the City shall be subject to legislative service tax in the amount of fifty-two dollars (\$52.00) per year, such tax to be paid by the individual so engaged. 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 (\$52.00) assessed on a pro rata basis, in accordance with the provisions of this article. (Ord. 48-2007. Passed 12-27-07.)

345.05 DUTY OF EMPLOYERS.

(a) Each employer within the City, as well as those employers situated outside the City but who engage in business within the City, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the City and making a return and payment thereof to the Local Services Tax Officer. 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 City.

(b) A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in Paragraph D of this Section. For purposes of this paragraph, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

(c) No person shall be subject to the payment of the local services tax by more than one City 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 (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The City 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 City 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 local services tax 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.
(Ord. 48-2007. Passed 12-27-07.)

345.06 RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to him by the Local Services Tax Officer. Each employer in filing this return and making payment of the tax withheld from his employees shall be entitled to retain a commission calculated at the rate of two percent of the gross tax due and payable, provided that such tax is collected and paid over by the employer on or before the dates hereinafter set forth. If the employer fails to file such return and pay such tax, whether or not he makes collection thereof from the salary, wages or commissions paid by him to such employee, the employer shall be responsible for the payment of the tax in full without deducting a commission and as though the tax had originally been levied against him.

(Ord. 48-2007. Passed 12-27-07.)

345.07 DATES FOR DETERMINING LIABILITY.

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 Local Services Tax Officer on or before the thirtieth (30th) day following the end of each calendar quarter of each such tax year. (Ord. 48-2007. Passed 12-27-07.)

345.08 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION.

(a) Each individual who shall have more than one occupation within the City, shall be subject to the payment of this tax on his principal occupation and his principal employer shall deduct this tax and deliver to him evidence of deductions on a form to be furnished to the employer by the Local Services Tax Officer, which form shall be evidence of deduction having been made and when presented to any other employer shall be authority for such employer to not deduct this tax from the employee's wages, but to include such employee on his return by setting forth his name, address and the name and account number of the employer who deducted this tax.

(b) If a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such occupational privilege tax shall be in the following order: first, the political subdivision in which a person maintains his principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year. It is the intent of this provision that no person shall pay more than fifty-two dollars (\$52.00) in any calendar year as Local Services tax, irrespective of the number of political subdivisions within which such person may be employed within any given calendar year. In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment which constitutes prima-facie certification of payment to all other political subdivisions.

(c) Deduction or nondeduction and reporting by employers shall be in accordance with subsection (a) hereof as well as Section 345.05.

(Ord. 48-2007. Passed 12-27-07.)

345.09 SELF-EMPLOYED INDIVIDUALS.

(a) All self-employed individuals who perform services of any type or kind, engaged in any occupation or profession within the City, shall be required to comply with this article and pay the pro rata portion of the tax due to the Treasurer on, or before the thirtieth (30th) day following the end of each calendar quarter of each such tax year.

(b) In the event a self-employed person is engaged in more than one occupation within or without the City or an occupation which required his working in more than one political subdivision during the year, reporting priority of claims and prima-facie certification of payment shall be in accordance with Section 345.08(a) and (b). (Ord. 48-2007. Passed 12-27-07.)

345.10 NONRESIDENT EMPLOYERS AND SELF-EMPLOYED INDIVIDUALS.

All employers and self-employed individuals residing or having their place of business outside of the City, but who perform services of any type or kind, or engage in any occupation or profession within the City 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 City. Any individual engaged in an occupation within the City and an employee of a nonresident employer may, for the purpose of this article, be considered a self-employed person, and in the event this tax is not paid, the City shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 48-2007. Passed 12-27-07.)

345.11 ADMINISTRATION OF TAX.

(a) It shall be the duty of the Local Services Tax Officer to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person together with the date the tax was received.

(b) The Local Services Tax Officer is hereby charged with the administration and enforcement of this article and is hereby charged and empowered to prescribe, 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 the 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 Local Services Tax Officer shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 to the Court of Common Pleas of York County as is provided in other cases.

(c) The Local Services Tax Officer 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 Local Services Tax Officer the means, facilities and opportunity for such examination. (Ord. 48-2007. Passed 12-27-07.)

345.12 SUITS FOR COLLECTION.

(a) If any tax under this article remains due or unpaid thirty days after the due dates above set forth, the Local Services Tax Officer, 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 six percent (6%) on the amount of such tax shall be calculated beginning with the due date of such tax and a penalty of ten percent shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection.
(Ord. 48-2007. Passed 12-27-07.)

345.13 USAGE OF FUNDS.

The funds received under this article may only be used for:

- (a) Police, fire and/or emergency services, which shall include emergency medical services.
- (b) Road conditions construction and/or maintenance, or
- (c) Reduction of property taxes.
- (d) Property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion).

The City of York shall use no less than twenty-five percent (25%) of the funds derived from the tax for police, fire and/or emergency services.
(Ord. 48-2007. Passed 12-27-07.)

345.99 PENALTY.

Whoever makes any false or untrue statement on any return required by this article, or who refuses inspection of his books, records or accounts in his custody and control setting forth the number of employees subject to this tax who are in his employment, or whoever fails or refuses to file any return required by this article, shall upon conviction be sentenced and fined not more than one thousand dollars (\$1,000) for each offense and in default of payment thereof shall be imprisoned for not more than ninety days for each offense. It is further provided that the action to enforce the fine and penalty hereby provided may be instituted against any person in charge of the business of any employer who has failed or refused to file a return required by this article. (Ord. 1-2009. Passed 1-6-09.)

ARTICLE 347
Mercantile License Tax

(EDITOR'S NOTE: This article consisting of former Sections 347.01 to 347.11 and 347.99, was repealed by Ordinance 21-1987, passed July 21, 1987. See Article 343 for relevant provisions.)

(The next printed page is page 59.)

ARTICLE 349
Admissions Tax

349.01	Definitions.	349.08	Estimated tax.
349.02	Tax imposed.	349.09	Suspension and revocation of
349.03	Amusement permits.	permits; Council hearing.	
349.04	Collection of tax.	349.10	Application of taxes.
349.05	Reports.	349.11	Powers of Collector.
349.06	Late fees.	349.99	Penalty.
349.07	Examination of records.		

CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65
(53 P.S. §6901-6924)

349.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Admission" means a monetary charge of any character whatever, including donations, contributions and dues, or membership fees, periodical or otherwise, charged or paid for the privilege of attending or engaging in amusements. When such amusement is conducted at any roof garden, night club, cabaret, or like place furnishing a public performance for profit where the charge for admission is wholly, or in part, included in the price paid for refreshment, service, or merchandise, the "admission charge" to such amusement shall be deemed to be the amount of the charge or charges for cover charge, minimum charge, the charge for food and service during such performance and any unpaid charges prior to the performance if such charges entitled the payer to be present at the performance and are paid during or after such period. In the case of persons, except bona fide employees of the person conducting the amusement or municipal or State officers on official business, the admission charge includes those admitted free or at reduced rates at a time when and under circumstances under which an established price is charged to other persons. In the case of persons having the permanent use of boxes or seats in place of amusement or a lease for the use of such box or seat in such place of amusement, the tax imposed by this article shall be computed on the established price for which a similar box or seat is sold for each performance or exhibition at which the box or seat is used or reserved by or for the lessee or holder.

- (b) "Amusement" means all manner and form of entertainment within the City including among others, the following: theatrical performance, operatic performance, motion picture exhibition, sound motion picture exhibition, carnival, circus, show, concert, lecture, swimming or bathing pool, vaudeville show, side show, amusement park and all forms of entertainment therein, dancing and any other form of diversion, pastime or recreation for which admission is charged or paid. "Amusement" does not include any form of entertainment, the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of religious, educational or charitable institutions, societies or veterans organizations or police or firemen's pension organizations, or any form of entertainment conducted by a nonprofit organization or association exclusively for its members and their bona fide guests.
- (c) "Collector" means the License Tax Officer of the City of York.
- (d) "Person" means any individual, partnership, limited partnership, association or corporation.
- (e) "Temporary amusement" means any amusement which is conducted or to be conducted at one location for a period of ten days or less.
- (f) "Yearly amusement" means any amusement which is conducted or to be conducted at one location for a period of more than ten days.
(Ord. 78-1967 §2.)

349.02 TAX IMPOSED.

A tax is hereby imposed for general revenue purposes upon the sale of admission to any amusement within the City, at the rate of five percent of the admission charged or paid, which tax shall be paid by the person so admitted. (Ord. 78-1967 §3.)

349.03 AMUSEMENT PERMITS.

(a) On and after January 1, 1968, any person desiring to conduct, or to continue to conduct any amusement within the City shall file with the Collector, an application for a yearly amusement permit or a temporary amusement permit, as the case may be, and shall pay the fee for such permit as required by this article. A permit shall be issued for a yearly amusement at a fee of two dollars (\$2.00); a permit shall be issued for a temporary amusement at a fee of one dollar (\$1.00).

(b) Every application for such permit or permits shall be made upon a form prescribed, prepared and furnished by the Collector, and shall set forth the name under which the applicant conducts or intends to conduct an amusement, whether the applicant conducts or intends to conduct a yearly or temporary amusement, the location of the amusement covered by the application, and such other information as the Collector may require. If the applicant conducts or intends to conduct an amusement at more than one location within the City, a separate application shall be filed and a permit fee paid for each such location. In the case of a temporary amusement, the date and length of time such amusement is to be conducted shall be set forth, and the application shall state the name and address of the owner, lessee or custodian of the premises on which such amusement is to be conducted. The application shall be signed by the applicant, if a natural person, and in the case of an association or partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.

(c) Upon the approval of each application and the payment of any permit fee herein required, the Collector shall grant and issue to each applicant a yearly or temporary amusement permit for each place of amusement. Amusement permits shall not be assignable and shall be valid only for the person and place of amusement in whose name they are issued, and shall at all times be conspicuously displayed at the place for which they are issued. All yearly amusement permits shall expire December 31 next succeeding the date upon which they were issued unless sooner suspended, surrendered or revoked for cause by the proper authorities of the City. All temporary permits shall expire at the time specified therein.

(d) In the case, of loss, defacement or destruction of any permit, the person to whom the permit was issued shall apply to the Collector for a new permit for which a fee of fifty cents (50¢) shall be charged. (Ord. 78-1967 §4.)

349.04 COLLECTION OF TAX.

(a) Every person conducting any amusement, within the City shall collect the tax imposed by this article, and shall be liable to the City as an agent thereof, for the payment of the same into the City Treasury, through the Collector, as hereinafter provided in this article.

(b) Where permits are obtained for conducting temporary amusements by persons who are not the owners, lessees or custodians of the places where the amusements are to be conducted, the tax imposed by this article shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted, unless paid by the person conducting the amusement. (Ord. 78-1967 §5.)

349.05 REPORTS.

(a) Every person conducting a yearly amusement shall, on or before the tenth day of each month after January 1, 1968, transmit to the Collector on a form prescribed and prepared by him under oath or affirmation, a report of the total admissions charged or collected during the preceding month, and the total amount of tax due from such person upon such admission.

(b) Every person conducting a temporary amusement shall at the close of each day on which such amusement is held, after the effective date of this section, transmit to the Collector on a form prescribed and prepared by him under oath or affirmation, a report of the total admissions charged or collected during the day and the total amount of tax due from such person upon such admission.

(c) Every person conducting an amusement, at the time of making the reports required by this section, shall pay to the Collector the total amount of taxes due to the City during the period for which the report is made. However, such person may deduct therefrom two percent thereof providing payment is made on or before the due date thereof. All such taxes shall bear interest at the rate of one percent per month, or fractional part of a month, from the day they are due and payable, until paid. (Ord. 78-1967 §6.)

349.06 LATE FEES.

If any person conducting an amusement shall neglect or refuse to make any report of payment as herein required, an additional ten percent of the amount of the tax shall be added by the Collector and collected. All such taxes shall be recoverable by the City Solicitor as other debts due the City are now by law recoverable.
(Ord. 78-1967 §7.)

349.07 EXAMINATION OF RECORDS.

If the Collector is not satisfied with the report and payment of tax made by any person conducting an amusement under the provisions of this article, he is hereby authorized and empowered to make a determination of the tax due by such person, based upon the facts contained in the report, or upon any information within his possession, or that shall come into his possession, and for this purpose, the Collector is authorized to examine the books, papers, tickets, ticket stubs and records of any person conducting an amusement taxable under this article, to verify the accuracy of any report or payment made under the provisions thereof, or to ascertain whether the tax imposed by this article has been paid.
(Ord. 78-1967 §8.)

349.08 ESTIMATED TAX.

If any person conducting an amusement shall neglect or refuse to make any report and payment of tax required by this article, or if, as a result of any investigation by the Collector a report is found to be incorrect, the Collector shall estimate the tax due by such person and determine the amount due by him for taxes, penalties and interest thereon.
(Ord. 78-1967 §9.)

349.09 SUSPENSION AND REVOCATION OF PERMITS; COUNCIL HEARING.

The Collector may suspend, or, after hearing, revoke an amusement permit whenever he finds that the holder thereof has failed to comply with any of the provisions of this article. Upon suspending or revoking any amusement permit, the Collector shall request the holder thereof to surrender to him immediately, all permits, or duplicates thereof, issued to him and the holder shall surrender promptly all such permits to the Collector as requested. Whenever the Collector suspends an amusement permit, he shall notify the holder immediately and Council shall afford him a hearing if requested, within five days of such notice. After such hearing Council shall either rescind the order of suspension, or good cause appearing therefore, shall continue the suspension or revoke the permit.
(Ord. 78-1967 §10.)

349.10 APPLICATION OF TAXES.

All taxes, interest and penalties collected or received under the provisions of this article shall be paid into the City treasury for use and benefit of the City.
(Ord. 78-1967 §11.)

349.11 POWERS OF COLLECTOR.

The Collector is hereby authorized and directed to make and keep such records, prepare such forms, make such regulations and take such other measures as may be necessary or convenient to carry this article into effect and may in his discretion, require reasonable deposits to be made by applicants for temporary permits.
(Ord. 78-1967 §12.)

349.99 PENALTY.

Any person or any officer, agent, servant or employee, thereof, who fails, neglects or refuses to comply with any of the terms or provisions of this article, or any regulation or requirement made pursuant thereto and authorized thereby shall, upon conviction thereof be fined not more than one thousand dollars (\$1,000) and costs of prosecution for each offense, to be collected as other fines and costs are by law collectible and, in default of payment thereof, shall be imprisoned for not more than ninety days (90 days). The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article. (Ord. 1-2009. Passed 1-6-09.)

ARTICLE 351
Juke Box Tax

351.01	Definitions.	351.06	Delinquent penalty.
351.02	Tax imposed.	351.07	Suits for taxes.
351.03	When payable.	351.08	Disposition of tax.
351.04	Certificates.	351.99	Penalty.
351.05	Confidentiality.		

CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65 (53 P.S.
§ 6901-6924)

Mechanical amusement devices - see BUS. REG. &
TAX. Art. 335

351.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Device" means any juke box taxable under this article.
- (b) "Juke box" means any music vending machine, contrivance, or device which upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening or by the payment of any price, operates or may be operated, for the emission of songs, music or similar amusement.
- (c) "Person" includes natural person, firm, association, copartnership or corporation. (Ord. 84-1967 §1.)

351.02 TAX IMPOSED.

A tax of fifty dollars (\$50.00) per calendar year or portion thereof is hereby imposed for general City purposes on each juke box installed for use or available for rental within the City. However, no tax shall be imposed more than once in any year on an individual device taxable under this article. (Ord. 17-1982 §1. Passed 11-3-82.)

351.03 WHEN PAYABLE.

The taxes imposed under this article, shall be payable to the License Tax Officer by the person operating or managing any device subject to such tax, unless such tax shall first be paid by the person owning or leasing such device. In the case of any device installed for use or available for rental on or before January 1, 1968, such tax shall be payable on or before January 1, 1968, in the case of any such device installed for use after January 1, 1968, such tax shall be payable at the time of installation or first rental. No deduction or refund of any tax under this article shall be granted in the case of any tax payable for less

than a full calendar year, nor in the case of any device destroyed, stolen, sold or otherwise disposed of or transferred after payment of the tax. (Ord. 84-1967 §3.)

351.04 CERTIFICATES.

(a) The License Tax Officer shall procure, at the expense of the City, a sufficient number of certificates, on each of which the following information shall be printed or inserted in ink or by typewriter:

- (1) The name of the City.
- (2) The number of the certificate.
- (3) The name and address of the person paying the tax.
- (4) The year for which the tax shall have been paid.
- (5) The type of device for which the tax shall have been paid, giving the trade name, manufacturer's name, and/or identification number when available.
- (6) The date when the device was installed or made available for rental on or before January 1, 1968.
- (7) The amount of tax paid.

(b) Whenever any tax has been paid under this article, the License Tax Officer shall prepare in duplicate a certificate. The original of such certificate shall be given to the person paying the tax and the duplicate shall be kept on file by the License Tax Officer. The License Tax Officer shall also give to each person paying such tax a gummed seal to be affixed to each device upon which a tax is paid. Such seal shall indicate the year for which the tax is paid, the type of device, and the certificate number.

(c) In the case of the loss, defacement, or destruction of any original certificate or seal, the person to whom such certificate or seal was issued, shall apply to the License Tax Officer who may issue a new certificate or seal upon payment of a fee of one dollar (\$1.00), and who shall amend the duplicate of the certificate first issued in case that a new certificate has been issued.

(d) In case of removal of any device taxed under this article to another location within the City or in case of a change in the identity of the person operating or managing any such device, such fact shall be reported within five days to the License Tax Officer, who shall immediately amend the certificate and the duplicate certificates. However, no such report or amendment of certificate shall be required in case of temporary removal of a device for any period of ten days or less, where the tax on the device has been previously paid for that year. (Ord. 84-1967 §4.)

351.05 CONFIDENTIALITY.

Any information gained by the License Tax Officer or any other official or agent of the City as a result of any return, investigations, or verifications required or authorized by this article shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any disclosures of any such information, contrary to the provisions of this section, shall constitute a violation of this article. (Ord. 84-1967 §5.)

351.06 DELINQUENT PENALTY.

If any tax, imposed in pursuance of the article shall not be paid when due, a penalty of ten percent of the amount of tax due and unpaid shall be added thereto.
(Ord. 84-1967 §6.)

351.07 SUITS FOR TAXES.

All taxes levied by this article, together with all penalties, shall be recoverable by the City Solicitor as other debts of like amount are recovered.
(Ord. 84-1967 §7.)

351.08 DISPOSITION OF TAX.

All taxes and penalties collected or received under the provisions of this article shall be paid into the City treasury for the use and benefit of the City.
(Ord. 84-1967 §10.)

351.99 PENALTY.

Whoever neglects, fails or refuses to furnish correct and complete reports or returns or to pay over any tax levied by this article at the time required; or attempts to do anything whatever to avoid the payment of the whole or any part of the tax imposed by this article shall be fined not more than one thousand dollars (\$1,000) for each and every offense, and the cost of prosecution thereof, and, in default of payment thereof, shall be imprisoned for not more than ninety days (90 days). Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.
(Ord. 1-2009. Passed 1-6-09.)

ARTICLE 353
Occupation Tax

EDITOR'S NOTE: Effective December 31, 1984, this article consisting of former Sections 353.01 to 353.06, was repealed by Ordinance 17-1984, passed July 17, 1984.