

Council of the City of York, PA
Session 2014
Bill No. 26
Ordinance No. 24



INTRODUCED BY: Renee S. Nelson

DATE: October 7, 2014

AN ORDINANCE

Amending Article 1761 "Licensing and Inspection of Tenant Occupied Residential and All Institutional Occupancies" of the York City Codified Ordinances to change reference from the Department of Fire/Rescue Services to Economic and Community Development.

BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 1761 "Licensing and Inspection of Tenant Occupied Residential and All Institutional Occupancies" of the York City Codified Ordinances is hereby amended as attached hereto and made a part hereof.

PASSED FINALLY: October 21, 2014

BY THE FOLLOWING VOTE:

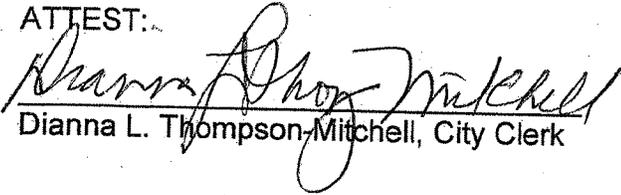
YEAS: Nixon, Satterlee, Nelson, Hill-Evans - 4

NAYS: Helfrich - 1



Carol Hill-Evans, President of Council

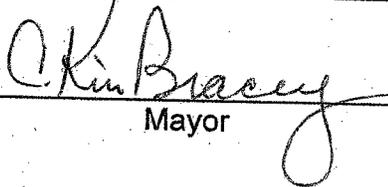
ATTEST:



Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 23rd day of October 2014

Approved:



Mayor

10/27/14
Date

Vetoed:

Mayor

Date

ARTICLE 1761

Licensing and Inspection of Tenant Occupied Residential and all Institutional Occupancies

- | | |
|--|---|
| 1761.01 Scope. | 1761.08 Conflict of ordinances. |
| 1761.02 Intent. | 1761.09 Payment and enforcement of collection of fees. |
| 1761.03 Definitions. | 1761.10 Issuance. |
| 1761.04 Licensing of occupancy uses. | 1761.11 Severability. |
| 1761.05 General standards for application of license, late fee, inspection and access to dwelling; inspection fee. | 1761.12 Operation of Group I-1 as halfway houses and all Group I-3. |
| 1761.06 Enforcement powers. | 1761.12.1 Definitions. |
| 1761.07 Payment of sewer and refuse fees. | 1761.99 Penalty. |

CROSS REFERENCES

- Tenement, lodging and boarding houses - see 25 Pa. Code Ch. 175
Unsafe dwellings - see BLDG. & HSG. Art. 1725
Minimum dwelling standards - see BLDG. & HSG. Art. 1763

1761.01 SCOPE.

The provisions of this Article shall provide for the licensing and inspection of all buildings and structures defined by the Building Code as Group I (Institutional) or Group R (Residential) that are tenant occupied. (Ord. 11-2006. Passed 3-7-06.)

1761.02 INTENT.

To ensure the public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of tenant occupied Group I and Group R buildings and structures. (Ord. 11-2006. Passed 3-7-06.)

1761.03 DEFINITIONS.

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

- (a) "Department" means the Department of ~~Fire/Rescue Services~~ Economic and Community Development or any authorized representative thereof as designated by the ~~Fire Chief~~ Director of Economic and Community Development.
- (b) "Building Code" means the Building Code of the City of York.
- (c) "Plumbing Code" means the Plumbing Code of the City of York.
- (d) "Fire Prevention Code" means the Fire Prevention Code of the City of York.
- (e) "Property Maintenance Code" means the Property Maintenance Code of the City of York.
- (f) "Refuse fee" means all fees and penalties imposed by the City of York under Article 951.
- (g) "Sewer fee" means all fees and penalties imposed by the City of York under Article 933.
- (h) "Structure unfit for human occupancy" means a building or structure that is found to constitute a serious hazard to the physical health or safety of the occupants or to

the general public because it is considered dilapidated, unsanitary, vermin-infested or lacking the facilities and equipment as required by the Property Maintenance Code of the City.

- (i) "Unsafe structure" means a building or structure that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (j) "Person" means an individual or individuals, a partnership, an association, a corporation, a joint stock company, a trust, an unincorporated association or any other group or legally recognized entity and/or the owners or officers in such legally recognized entities.
- (k) "Owner" means any individual, corporation, partnership or any other groups as a unit having a legal or equitable interest in a property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court, provided that any ownership right created by an installment sales agreement shall be recorded with the Recorder of Deeds Office in and for York County.
- (l) "Tenant" means any person residing in a dwelling unit not listed on the deed or recorded sales agreement, regardless of exchange of rent. Husband or wife, domestic partner, son or daughter, mother or father or sister or brother of the owner, residing within the same dwelling unit shall not be considered a tenant.
- (m) "Institutional" or "Group I" Occupancy means a building or structure, or portion thereof, classified by the Building Code as Group I-1, I-2, I-3 or I-4.
- (n) "Residential" or "Group R" Occupancy means a building or structure, or portion thereof classified by the Building Code as Group R-1, R-2, R-3, R-4 or defined by this Article as Group R-5.
(Ord. 11-2006. Passed 3-7-06.)
- (o) "Group R-5 occupancy" means a student home as defined in this article.
- (p) "Student home" means a single-family dwelling that provides domicile and living arrangements for three (3) to six (6) students, unrelated by blood, marriage, civil union, or legal adoption, that are matriculated students at a college or university, or that are in the process of attending a college or university, or any combination of such people. This term shall not be construed to include or be synonymous with the terms fraternity or sorority house, dormitory, homeless shelter or group home.
(Ord. 7-2012. Passed 2-21-12.)

1761.04 LICENSING OF OCCUPANCY USES.

No person shall offer for occupancy or operate a Group I or Group R Occupancy without first obtaining a license from the ~~Department of Fire/Rescue Services~~ Department of Economic and Community Development.

(Ord. 11-2006. Passed 3-7-06.)

1761.05 GENERAL STANDARDS FOR APPLICATION OF LICENSE, LATE FEE, INSPECTION AND ACCESS TO DWELLING; INSPECTION FEE.

(a) Every person applying for a Group I-1 through Group R-4 license under this article shall supply such information as the Department requires and shall pay an annual license fee as established by resolution of Council, on or before January 31st of the year for which it is issued or the annual license fee shall be increased in accordance with the following schedule:

Date	Fee Increase
February 1 - 5	10 percent additional charge
February 6-10	25 percent additional charge
February 11 – March 1	50 percent additional charge
After March 1	100 percent additional charge

(b) Every person applying for a Group R-5 license under this article shall supply the following information with the application.

- (1) An approval from the college, university or similar institution of higher learning and other such information as the Department requires.
- (2) A list of tenants. This list shall be updated within ten (10) days of a change of tenant.
- (3) Other such information that the Department deems necessary.

(c) Every person applying for a Group R-5 license under this article shall pay an annual license and inspection fee as established by resolution of Council, on or before August 1st of each year or the annual license and inspection fee shall be increased in accordance with the following schedule:

Group R-5	
Date	Fee Increase
September 1 – 5	10 percent additional charge
September 6 - 10	25 percent additional charge
September 11 – October 1	50 percent additional charge
After October 1	100 percent additional charge

(d) An inspection fee established by resolution of Council shall also be charged. However, where the owner occupies a unit therein, a license fee and inspection fee need not be paid on the unit during such occupancy. The Department shall inspect all Group I Occupancies and all tenant occupied Group R Occupancies according to the following schedule to determine that no violations of the City's Fire Prevention or Property Maintenance Codes are in existence. The inspection shall include all units in the property.

Classification	Inspection Frequency
I-1	24 months
I-2	24 months
I-3	24 months
I-4	24 months
R-1	24 months

R-2	24 months
R-3	24 months
R-4	24 months
R-5	12 months

(e) Upon the receipt of an application and fee for a license, the Department shall conduct an inspection of the occupancy. If it is determined to be in compliance with the Property Maintenance Code, Fire Prevention Code and with this article, the Department shall issue the license.

(f) If the Department finds violations of the Property Maintenance Code or Fire Prevention Code, the Department shall issue a notice of violation. Upon compliance with the codes, the Department shall issue the license.

(g) Licenses shall be maintained on the premises at all times and shall be readily available for inspection by the Department. Those who sign a lease for a licensed property shall receive a copy of the license with the signed lease.

(h) Every license granted hereunder shall terminate on the last day of the calendar year in which it was issued, unless sooner revoked. Exception: Licenses for Group R-5 shall terminate on the last day of July each year unless sooner revoked.

(i) No license required by this section shall be transferable unless the new owner or operator gives written notice to the Department within ten days after the transfer in any manner of ownership or control of the interest in such a facility. Such notice shall include the name and address of the person succeeding the ownership or control.

(j) Licenses issued under this article shall be revoked for noncompliance with the Property Maintenance Code or Fire Prevention Codes. When the Department determines that violations exist, the owner or operator shall be issued a notice of violation with a scheduled date for re-inspection. Upon re-inspection, if the violations have not been corrected and no appeal is pending, the Department shall revoke the license and shall notify the owner or operator in writing of the revocation.

(k) Any person whose license has been revoked or whose application for a license to operate has been denied may appeal to the Construction Board of Adjustment and Appeals as is otherwise provided by ordinance of the City.

(l) The Department shall immediately revoke the license of any property that it determines constitutes an unsafe structure or structure unfit for human occupancy as defined by this article. A notice of violation shall be issued to the owner or operator within 48 hours. The notice shall list the unsafe condition(s), applicable code section(s) and shall contain a correction order with a date for re-inspection. The notice may be hand delivered directly to the owner or his agent or sent to either via certified mail, return receipt requested. The City shall take any and all other action as allowed by law to bring the property into compliance.

(m) The Department of ~~Fire/Rescue Services~~ Economic and Community Development is authorized and directed to make inspections at any reasonable hour to determine compliance with this article and with the Fire Prevention and Property Maintenance Codes. For this purpose, the Department, its officers or ~~representatives~~ designees are authorized to enter and examine any building, structure, yard or part of either and every owner, operator or occupant shall allow the Department, its officers or ~~representatives~~ designees free access. Inspection may be postponed by the Department due to illness of one or more occupants of the premises or other emergency.

(n) Every occupant of a Group I Occupancy or Group R Occupancy regulated by this article shall grant to the owner or operator thereof or his agent or employee or any person with whom the Department has contracted under Section 1761.05 free access at all reasonable times for the purpose of making repairs or alterations to affect compliance with this article and with the Building, Fire Prevention and Property Maintenance Codes and with any notice or order issued there under.

(o) Whenever the owner, mortgagee, purchaser or other interested party requests a special inspection of a property regulated by this article, or certification that a property is in compliance with this article or other applicable City ordinances pertaining to structural condition; when such a request is being made in connection with the sale, conveyance, transfer, financing or refinancing of such property; then such person shall first pay a fee to the City to defray the expenses of making such inspection. The fee shall be established by resolution of Council.

(p) Annual Inspection Program. The Department shall establish an inspection process known as the "Annual Inspection Program" for Group I and Group R occupancies that have a history of violations under this article or the Building, Fire Prevention and/or Property Maintenance Codes. The Department shall establish specific regulations for the Director of Economic and Community Development ~~Fire Chief~~ and/or his designee to determine which properties shall be included in the annual inspection program. The Department shall provide the regulations and any amendments thereof to Council, which shall either approve or deny the regulations. The regulations and any amendments thereof take effect upon Council approval. (Ord. 7-2012. Passed 2-21-12.)

1761:06 ENFORCEMENT POWERS.

The ~~Fire Chief~~ Director of Economic and Community Development and/or the inspectors of Department of ~~Fire/Rescue Services~~ Economic and Community Development shall have the authority to institute summary criminal proceedings as a means of enforcement of this article and shall, when acting within the scope of employment hereunder, have the powers of a police officer of the City; provided, however, that under no circumstances shall they have the power of arrest. (Ord. 11-2006. Passed 3-7-06.)

1761.07 PAYMENT OF SEWER AND REFUSE FEES.

(a) Effective January 1, 2007, the Department of ~~Fire and Rescue Services~~ Economic and Community Development shall not issue and shall revoke a license for a property determined by the Department to be greater than thirty days in arrears on payment of sewer fees and/or refuse

fees and/or if the property has been referred to the York County Tax Claim Bureau for collection of taxes.

(b) Exception: The Department may issue a license if a property is more than thirty days in arrears on payment of sewer fees and/or refuse fees and/or if the property has been referred to the York County Tax Claim Bureau if the property owner agrees to and follows a payment plan approved by the City.

(Ord. 11-2006. Passed 3-7-06.)

1761.08 CONFLICT OF ORDINANCES.

In any case where a provision of this article is found to be in conflict with a provision of any City zoning, building, fire, safety or health ordinance, or law, rule or regulation of the Commonwealth, the provision which establishes the higher standard for the promotion and protection of the health and safety of the people shall prevail. In any case, where a provision of this article is found to be in conflict with a provision of any other City ordinance or code or law, rule or regulation of the Commonwealth which establishes a lower standard for the promotion and protection of the health and safety of the people, the provisions of this article shall be deemed to prevail, and such other ordinances or codes are hereby declared to be repealed to the extent that they may be found in conflict with this article.

(Ord. 11-2006. Passed 3-7-06.)

1761.09 PAYMENT AND ENFORCEMENT OF COLLECTION OF FEES.

(a) All fees and charges for licenses or permits shall be paid in advance at the time application therefore is made to the Department of ~~Fire/Rescue Services~~ Economic and Community Development. Each license or permit granted hereunder shall terminate on the last day of the year in which it was issued. The fee for each annual license shall be paid to the Department on or before January 30 of the year for which it is issued. The fee for each annual license shall be paid to the Department on or before January 30 of the year for which it is issued. For purposes of determining compliance with this ordinance, the postmark date shall be considered the date of receipt of payment for those license fees sent by mail.

(b) No person shall commence operation of any Group I or Group R Occupancy required to be licensed under this article after January 30 of any year unless the required fees are paid and the structure is inspected and approved.

Exception: In the case of a previously licensed occupancy that has been inspected within the time frame established by this article, the due date for the license fee shall be thirty days after such operation commences, however operation of such occupancy shall not begin prior to notification of the Department.

(Ord. 11-2006. Passed 3-7-06.)

1761.10 ISSUANCE.

Effective January 1, 2007, the Department of ~~Fire/Rescue Services~~ Economic and Community Development shall not issue a license for a any property regulated under this article unless it has complied with Section 1512.06 requiring liability and casualty insurance.

(Ord. 11-2006. Passed -3-7-06.)

1761.11 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. 11-2006. Passed 3-7-06.)

1761.12 OPERATION OF GROUP I-1 AS HALFWAY HOUSES AND ALL GROUP I-3.

(a) Group I-1 that would operate as a halfway house or related facility serving those recently released from a state, county or federal prison and all Group I-3 shall not qualify for licensing if the proposed location of such a Group I-1 or I-3 would fall within 500 feet of any Group R as defined within this Article, and within 1,500 feet of any school, child care facility, community center, public park, recreational facility or library in the City.

(b) For the purpose of determining the minimum distance separation, the requirements shall be measured by following a straight line from the outer property line of the proposed location of the Group I-1 or Group I-3 as described in subsection (a) to the nearest outer property line of a school, child care facility, community center, public park, recreational facility or library.

(c) The requirements in subsection (a) shall not apply to Group I-1 or Group I-3 as described in subsection (a) that qualified for licensing before the requirements in subsection (a) take effect or if such a Group I-1 or Group I-3 qualified for licensing before a school, child care facility, community center, public park, recreational facility or library had become established. (Ord. 40-2009. Passed 12-15-09.)

1761.12.1 DEFINITIONS.

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

(a) "Child Care Facility" means a day care center, child care facility licensed under this article by the City of York or any other child care service facility exempt from licensing pursuant to the laws of the Commonwealth of Pennsylvania and/or the City of York.

(b) "Community Center" means a building and its related facilities used for educational, social, cultural or recreational activities, which is operated by a not-for-profit entity.

(c) "Public Park" or "Recreational Facility" means any land, or tract of land, or facility used for passive or active recreation, including any playground, park, skate park, athletic field, swimming pool, and any other facility owned or operated by the City or any other governmental agency or not-for-profit organization, including York County or the Commonwealth of Pennsylvania.

(d) "School" means any educational building or facility, whether public or private, that provides educational services, including secondary schools, trade or professional institutions or institutions of higher education.

(e) "Halfway House" means a residential facility primarily for persons who have been institutionalized in state, county or federal prisons for various reasons and released, and require the temporary protection of a group setting to facilitate the transition to society. The term does not include residential facilities housing groups of individuals recovering from alcohol or drug abuse or who otherwise qualify as "handicapped" pursuant to the Fair Housing Act, the American with Disabilities Act, or other applicable federal or state legislation who act as a family. (Ord. 40-2009. Passed 12-15-09.)

1761.99 PENALTY.

In addition to any other sanction or remedial procedure provided, any person who violates any provision of this Article shall upon conviction thereof, in a summary proceeding, be fined not less than one hundred dollars (\$100.00) and not more than one thousand dollars (\$1,000) for a first offense, not less than two hundred dollars (\$200.00) and not more than one thousand dollars (\$1,000) for a second offense and not less than three hundred dollars (\$300.00) and not more than five thousand dollars (\$5,000) for a subsequent offense and costs of prosecution for each offense, to be collected as other fines and costs are by law collectible. Any person in default of payment thereof shall be imprisoned for not more than ninety days (90 days). Continuing violation as to any premises of the same provision after notice from the Department of ~~Fire/Rescue Services~~ Economic and Community Development shall be a separate violation for each day. (Ord. 1-2009. Passed 1-6-09.)

Council of the City of York, PA
Session 2014
Bill No. 27
Ordinance No. 25


INTRODUCED BY:

David Satterlee

DATE: October 7, 2014

AN ORDINANCE

Establishing Article 332 "Mobile Cart Vendors" of the York City Codified Ordinances.

WHEREAS, the general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of the City of York by requiring that new and existing mobile cart vendors provide residents and customers with a level of cleanliness, quality, and safety; and

WHEREAS, it is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile carts and encourage the safe and convenient use of the city's public right-of-way;

NOW, THEREFORE, BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 332 "Mobile Cart Vendors" of the York City Codified Ordinances is hereby established as incorporated herein and made a part hereof.

PASSED FINALLY: October 21, 2014

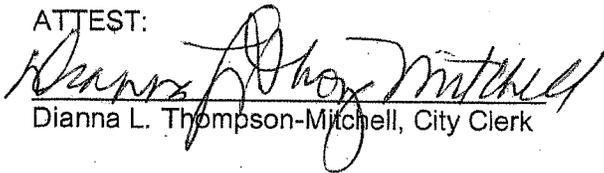
BY THE FOLLOWING VOTE:

YEAS: Nixon, Satterlee, Hill-Evans - 3

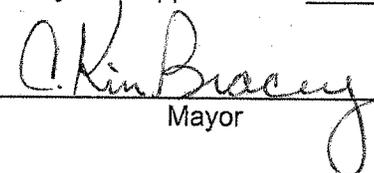
NAYS: Helfrich, Nelson - 2


Carol Hill-Evans, President of Council

ATTEST:


Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 23rd day of October 2014

Approved: 
Mayor

10/28/14
Date

Vetoed: _____
Mayor

Date

FINAL CLEAN VERSION
AN ORDINANCE

Establishing Article 332 "Mobile Cart Vendors" of the City of York Codified Ordinances.

BE IT ORDAINED by the City Council of the City of York, Pennsylvania, that Article 332 "Mobile Cart Vendors" of the City of York Codified Ordinances is hereby established as follows:

332.01 Purpose.

The general purpose of these regulations is to promote the health, safety, comfort, convenience, prosperity, and general welfare of the citizens of the City of York by requiring that new and existing mobile cart vendors provide residents and customers with a level of cleanliness, quality, and safety. It is also the intent of these regulations to establish reasonable guidelines and restrictions for mobile carts and encourage the safe and convenient use of the city's public right-of-way.

332.02 Definitions.

The following words, terms, 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:

"Applicant" means any person or business who applies for a license/license renewal and/or permit/permit renewal under the provisions of this article.

"Food Service Worker" means a person who works for or under the direction of, on behalf of, or as an agent of a mobile cart vending permittee and/or owner.

"License" is an approval from the York/Adams Tax Bureau that enables the holder to conduct business within the City of York.

"Licensee" is the holder of a mercantile license from York/Adams Tax Bureau.

"Mobile Cart Vendor" means 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.

"Operator" is the entity that is legally responsible for the operation of the mobile food cart such as the owner, the owner's agent, or other PERSON; and possesses a valid permit to operate a mobile food cart.

"Operating Hours" is the designated time frame mobile cart vendors are authorized to operate within the city right-of-way.

"Owner" is an individual or business entity who owns and/or operates the mobile cart used in business for the purpose of earning income.

"Pedestrian" is a person who is walking or otherwise traveling in the public right-of-way.

"Permit" means a written authorization, or permission to vend food items at authorized locations and times, for a specified period of time. Under the provisions of this Code section, a "permit" is not equivalent to a "license," and vice-versa.

"Permittee" is the entity, person, company or corporation which has been granted a permit by the City of York to operate mobile food carts within the city.

"Restaurant" a brick and mortar establishment where meals are generally served and eaten on premises; prepares and serves food and drink to customers in return for money, either paid before the meal, after the meal, or with a running tab.

"Person" means any natural individual, firm, partnership, association, or corporation. Whenever the word "person" is used in any section in this article prescribing a penalty or fine as applied to a partnership or association, the word shall include the partners or members thereof; such word as applied to corporations shall include the officers, agents, or employees thereof who are responsible for any violation of such section.

"Vendor" means a person or agency that sells.

"Vending" means the act of selling.

332.03 Mobile Cart Vendors Committee.

There shall be within the City of York a Mobile Cart Vendors Committee consisting of a member of the York Business Improvement District Authority, the York City Health Inspector, a member of the York City Traffic Safety Committee, the Director of Economic and Community Development or designee, a representative from the York City Police Department, a representative from the Bureau of Permits, Planning & Zoning, and the Director of Public Works or designee, established for the purpose of reviewing applications for mobile cart vending permits, and establishing rules and regulations, as appropriate, which shall be approved by Council.

332.04 License Requirements.

Licenses are required to operate a business in the City of York.

- a) A non-refundable application fee as determined by the City of York must accompany all mobile cart vendor applications.
- b) A non-refundable license fee of \$25.00 will be required of all mobile cart vendor applicants to obtain a mercantile license from the York/Adams Tax Bureau.

332.05 Permit Applications and Fees.

- a) Applications for mobile cart vending permits will be accepted at City of York Bureau of Permits, Planning and Zoning no later than June 30 of the calendar year.
- b) Upon approval of an application for a permit, the annual permit fee shall be \$300.00.
- c) Any duplicate permit may be issued upon payment of a fee of \$20.00 should a permit be lost or destroyed.
- d) Applicant shall notify the Bureau of Permits, Planning and Zoning within fifteen (15) days of any changes to application information.

e) A single permit application shall be accepted and deemed complete if received no later than close of business on June 30 and accompanied by:

1) The applicant's first choice for location: CBD License locations are as follows and as notated on accompanying map:

- i. Northeast corner of Continental Square
- ii. Southwest corner of Continental Square
- iii. Mid-Unit Block of East Market Street (north side of the street)
- iv. 100 Block of South George Street (east side of the street)
- v. Corner of North George and Philadelphia Streets
- vi. Mid-100 block of West Market Street (north side of the street)
- vii. Bus Station between Mason Avenue and King Street
- viii. Rail Trail at West Market Street (south side of the street)
- ix. Rail Trail and north side W Market Street (north side of the street)
- x. Mid-100 Block of West Philadelphia Street (north side of the street)
- xi. Mid-unit block of South George, west side of street*

(*xi: location at discretion of Council)

**Interest by more than one vendor in a particular location will institute a bidding process provided all applications are submitted on or before June 30. License will be awarded to the highest bidder.

2) A copy of all necessary licenses, permits and/or other written proof of compliance with the regulations of the City of York for each mobile cart.

3) The full name; signature; address; and whether the applicant is an individual, firm, or corporation, and, if a partnership, the names of the partners; together with the addresses of all principals including the owner, licensee, and permittee.

3) A list of the names of all food service workers that will operate the mobile cart vendor(s).

5) The physical street address of the business. Post office boxes and other mail services will not be accepted.

6) A photograph of the permittee and/or food service worker applicant, e.g. driver's license, passport or similar.

7) A color photograph and accurate description of the mobile cart including the following data: The make, model and type of body; the vehicle identification number or any other identifying number as may be required by the Mobile Cart Vendors Committee. *(If this information is not known at the time of permit application, this requirement can be satisfied as a condition of obtaining a final effective permit.)*

8) A statement that the applicant and/or owner, or any of its food service workers has not been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business.

9) A statement that the applicant and/or owner, or any of its food service workers has not been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years.

10) A signed Hold Harmless and waiver of subrogation (sample attached) that the permittee shall hold harmless the City and its officers and employees, and shall indemnify the City, its officers and employees for any claims for damage to property or injury to persons which may be occasioned by any activity carried on under the terms of the permit. Permittee shall furnish and maintain such public liability, food products liability, and property damage insurance as will protect vendor, property owners, and the City from all claims for damage to property or bodily injury, including death, which may arise from the operations under the permit or in connection therewith. Such insurance shall provide coverage of not less One Million dollars per occurrence. The policy shall further provide that it may not be cancelled except upon thirty (30) days written notice served upon the City of York Bureau of Permits, Planning and Zoning. A permit issued pursuant to the provisions of this section shall be invalid at any time the insurance required herein is not maintained and evidence of continuing coverage is not filed with the Bureau of Permits, Planning and Zoning.

11) A statement that the permittee shall hold harmless the adjacent property owner(s) for any claims for damage to property or injury to persons which may be the direct result of any activity of the permit holder.

12) A statement that the permittee shall hold harmless any and all members and member organizations represented on the food cart committee.

13) Provide such other additional information required by law, rule, ordinance, or that any department of the city, Mobile Cart Vendors Committee, City Council, or information reasonably deemed appropriate to assist the city in determining whether the permit should be granted. The applicant shall be provided reasonable time to supplement the application.

332.06 General Rules, Regulations, and Requirements

Under this article permits 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.

The applicant must obtain a valid and current mercantile license prior to submitting an application for a mobile cart vendor permit.

Mobile cart 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 permitted, and meets the minimum standards set forth by the National Sanitation Foundation.

Retention of a mobile cart vendor permit shall be contingent upon compliance with all requirements herein. A permit holder who fails to comply with all conditions shall have their license revoked. The permit fee shall be nonrefundable if revoked.

Vendor must submit proof of payment of mercantile tax and Pennsylvania sales tax to the City of York upon request.

a) Process

All mobile cart vendors must submit an application for a permit annually from the Bureau of Permits, Planning and Zoning.

- 1) Six permits will be made available for ten [eleven] locations in the Central Business District. Permits will be issued by location.
- 2) Twenty permits will be made available for locations outside the Central Business District.
- 3) No more than one CBD and one non-CBD permit shall be held by the same individual or entity at a time.
- 4) Application deadline: June 30 to be effective for the following calendar year. For current year (2014), application deadline will be November 30.
- 5) All mobile cart vendor permits are effective from January 1 to December 31 of each calendar year. Each year constitutes a new application and permitting cycle. Each permittee is guaranteed their location for two consecutive years.
- 6) The permits are not transferable. In the event that the holder of a permit is unable to use the permit for any reason, the permit must be returned to the City with no refund of any licensing or permit fees paid.
- 7) Subletting of permits is strictly prohibited.

b) Design/size

1. With the exception of trash bin receptacles, no mobile cart vendor shall use external signage, seating, or any other equipment not contained within the vehicle on the public sidewalks.
2. No mobile food cart operating within the city designated locations shall exceed 34 square feet in expanse including the cart and any accessories. No additional items will be permitted outside of the cart itself.

c) Product

Mobile dispensers shall be strictly prohibited from selling apparel, jewelry, movies, music, tobacco products, pornography, prophylactics, and/or other sundries.

d) Location

1. The Mobile Cart Vendors Committee shall not approve a location wherein mobile cart vendor would substantially obstruct a public right-of-way, impair the movement of pedestrians or vehicles, or pose a hazard to public safety.
2. The Mobile Cart Vendors Committee shall not approve any location which is:
 - i. On any sidewalk less than six (6') feet in width.
 - ii. Within fifteen (15') feet of a bus stop.
 - iii. Within five (5') feet of any handicapped parking space or access ramp.
 - iv. On private property without a notarized written approval of the property owner responsible for the maintenance of the sidewalk and/or right-of-way area to be obstructed.
3. Licenses issued by location inside the CBD; vendor choice outside the CBD.
4. Mobile food dispensers shall not obstruct the passage of pedestrian travel, and a clear sight triangle, as referenced in the York City Zoning Ordinance, must be maintained.
5. Other than as permitted no mobile cart vendor and shall have any exclusive and/or perpetual right to any location upon the streets, alleys, or public grounds of the City.

e) Operation

1. Mobile food dispensers shall be attended by at least one operator over the age of 18 at all times.
2. No mobile cart vendor shall make or solicit any sales to occupants of vehicles or engage in any activities which impede vehicular traffic.
3. Any power required for the mobile food cart located on a public way shall be self-contained and shall not draw its power from the public right of way. No power cable or equipment shall be extended at grade or overhead across any public street, alley or sidewalk.
4. No mobile food cart shall use or maintain any outside sound amplifying equipment, lights, or noisemakers, such as bells, horns or whistles or similar devices to attract customers. A mobile cart vendor and/or pushcart may use battery operated lights with appropriate protective shields for the purpose of illuminating merchandise.
5. The mobile food cart shall not have drive-through service.
6. Hours of Operation
 - i. Mobile food dispensers shall be removed from public property between 2:00 am and 7:00 am.
 - ii. All mobile food carts operating under this article shall adhere to the designated time and day requirements and shall be allotted fifteen (15) minutes set-up and fifteen (15) minutes breakdown time before and after stated operating hours.

f) Trash

1. Permittee shall contain all refuse, trash, and litter within the mobile food cart or a small moveable trash can maintained by the permittee and located adjacent to the mobile food cart in such a manner as not to block or otherwise obstruct pedestrian or vehicular traffic. The owner/operator of the mobile food cart shall be responsible for properly disposing of such refuse, trash, and litter as would any business, and shall not place it in any public trash container or in any private container without proper permission.

2. Mobile dispensers shall be required to operate under a carry in/carry out policy with regard to litter and to clean all litter within twenty-five feet in all directions of the location of the mobile food cart throughout 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.

3. Permittee is prohibited from disposing of any liquids including but not limited to oil, grease, soaps or cleansers into the, storm sewers, gutters, drainage pits, tree wells, planters or any other public right of way.

g) Special Events

Any existing permit owner shall be allowed the right of first refusal to operate in their permitted location for any and all special events occurring in the Central Business District. Vendors will be required to meet any special requirements of the event including any additional fees and/or permits.

The permit shall contain additional limitations on hours and days that the City of York determines are appropriate, including limitations to prevent conflict with special events.

332.07 Enforcement.

Food Cart Committee shall develop procedures for control and monitoring of each permit. Food Cart Committee 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.

332.08 Denial, Revocation, Suspension.

a) An application or approved permit may be denied, revoked, suspended, or not renewed for any of the following reasons:

1) The permittee and/or licensee or any of its principals fails to satisfy any qualification or requirement imposed by this article, or other local, state or federal laws or regulations that pertain to the particular permit/license; or

2) The permittee and/or licensee or any of its principals is or has engaged in a business, trade or profession without having obtained a valid license, permit or work card when such applicant or principal knew or reasonably should have known that one was required; or

3) The permittee and/or licensee or any of its principals has been subject, in any

jurisdiction, to disciplinary action of any kind with respect to a license, permit or work card to the extent that such disciplinary action reflects upon the qualification, acceptability or fitness of the applicant or principal to conduct such a business; or

4) The permittee and/or licensee or any of its principals has been convicted of any crime that involves any local, state or federal law or regulation arising out of the operation of a similar business; or

5) The permittee and/or licensee or any of its principals has been convicted of a crime as a result of having perpetrated deceptive practices upon the public within the last ten years; or

6) The mobile food cart on which the business is proposed to be conducted does not satisfy all local, state or federal laws or regulations which relate to the activity that is to be licensed; or

7) The licensee or any of its principals is in default on any payments owed to the city; or

8) The application contains material omissions or false, fraudulent, or deceptive statements; or

9) The mobile food cart is operated in such a manner as constituting a public nuisance per the City of York codes or state statutes; or

10) The proposed operation is in violation of any federal, state, or local laws including, but not limited to, the provisions of this Ordinance pertaining to food, fire prevention, public health or safety; or

11) The licensee or his agents or employees interfere with an inspection of the food establishment by a Health Department; or

12) There are repeated or serious violations of the applicable portions of this article; or

13) There are repeated or serious violations of federal or state food laws or laws regulating food establishments as defined in this article; or

14) The City of York Health Inspector or Health Department denies, revokes or suspends the license of the mobile cart vendor; or

15) There is a violation of any section of this Ordinance, or

16) There are more than three infractions relating to noise, nuisance, sanitation, civil, or criminal complaints.

b) The provisions of this section are not exclusive. This section shall not preclude the enforcement of any other provisions of this Ordinance or state and federal laws and regulations. The City of York may impose additional requirements to protect against health hazards related to the operation of a mobile cart vendor.

332.09 Appeal to Council upon Denial, Revocation or Suspension.

a) Upon any denial, revocation or suspension of a mobile cart vendor permit by the City of York or the Mobile Cart Vendors Committee, the applicant or permittee and/or licensee may appeal the denial to Council by filing a written statement of appeal with the City Clerk within 10 days following the denial, revocation or suspension and a hearing shall be held thereon by the Council. The applicant or permittee, during the appeal, may be represented by counsel.

- 1) Prior to revocation, the Mobile Cart Vendors Committee shall give written notice to the permittee and/or licensee or person in charge. The notice shall set forth:
 - i. The grounds upon which the city will seek denial, revocation or suspension of the permit and/or license;
 - ii. The specific violations of this article or of federal or state law upon which the city will rely in seeking denial, revocation or suspension of the permit and/or license;
 - iii. That a hearing will be held before the York City Council;
 - iv. That the permittee and/or licensee may appear in person and/or be represented by counsel and may present testimony.
- 2) The hearing shall be held in accordance with this section. If the permit and/or license holder fails to appear at the hearing at the time, place and date specified, the city shall present sufficient evidence to establish a prima facie case showing that an act or acts have been committed or omitted that constitutes grounds for denial, revocation or suspension of a permit.
- 3) After completion of the hearing, the City Council shall make written findings as to whether or not grounds exist for denial, revocation or suspension of the permit. If the City Council finds that grounds do exist for denial, revocation or suspension, it shall deny, revoke or suspend the permit and/or license temporarily or permanently.
- 4) A copy of the written findings and determination shall be sent by certified mail, return receipt requested, to the permittee and/or licensee. If the address of the permittee and/or licensee is unknown, or if the findings are returned undelivered, the findings shall be served on the person in charge of the commissary or mobile cart vendor.
- 5) Upon service of a written notice that the permit has been revoked as provided herein, all food operations shall cease immediately.
- 6) Whenever a permit is revoked, the Mobile Cart Vendors Committee, the City Health Inspector and the Bureau of Permits, Planning and Zoning shall be notified.
- 8) In the event a permit and/or license is revoked, the city shall not be liable to the permittee and/or licensee for any refund of any part of the permit and/or license fee. Reinstatement of a permittee and/or licensee that has been revoked shall require application and payment of a permit and/or license fee as if it were an initial application. No new permit and/or license application shall be considered for a mobile food cart where the permit and/or license have been revoked until the expiration of the revocation period.

332.10 Service of notices.

Any notice provided for in this article may be served by personal delivery, regular mail or certified mail, return receipt requested.

332.11 Severability.

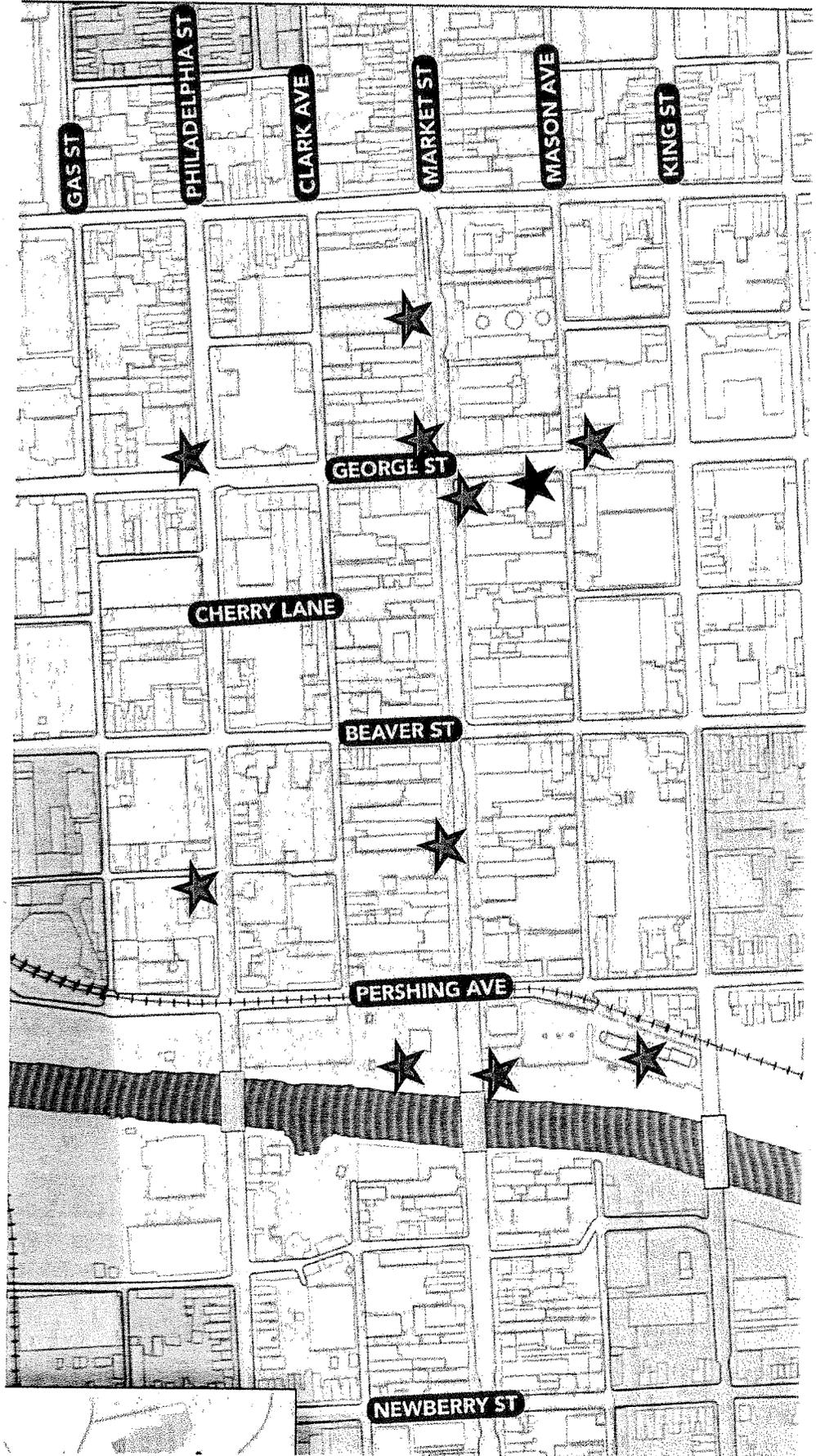
If any provision of this article is held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

This Ordinance shall become effective twenty days after approval by the Mayor.

Morepheus/Bills_2014/Mobile Cart Vendors Final Clean Version

Downtown York CBD Cart Vendor License Locations

- 1) NE corner Continental Square
 - 2) SW corner Continental Square
 - 3) Mid-Block East Market St
 - 4) 100 Block South George
 - 5) Corner of N George and Philadelphia St
 - 6) Mid Block 100 Block West Market
 - 7) Bus Station
 - 8) Rail Trail and south side W Market St
 - 9) Rail Trail and north side W Market St
 - 10) Mid-Block 100 W Philadelphia St
 - 11) Just S of Mid Block S George*
- At discretion of Council



**Insurance Requirements, Hold Harmless and Waiver of Subrogation
For
Food Cart Vendors**

1.1 To the fullest extent permitted by law, _____ (Vendor) shall defend, indemnify and hold harmless The City of York, its employees, and its agents and their employees from and against any and all claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from Food Cart Sales and Use provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property including loss of use resulting there from, but only to the extent caused in whole or in part by act(s) or omission(s) of Vendor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable including guests, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist in favor of The City of York or its agents or employees.

1.2 The Vendor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction of The City of York such insurance as will protect The City of York from claims which may arise out of or result from the Vendors operations and for which the Vendor may be legally liable, whether such operations be by the Vendor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Vendor agrees to add The City of York as an Additional Insured on said General Liability policy with coverage limits no less than \$1,000,000 per Occurrence. Vendor agrees to also to provide a Waiver of Subrogation in favor of the City of York on the General Liability policy for any claim addressed by this requirement.

Accepted this day _____ of _____, 201__

Vendor:

Note: 53 P.S. §6924.306 requires advertising for 3 consecutive weeks prior to adoption.

Council of the City of York, PA
Session 2014
Bill No. 28
Ordinance No. 26

INTRODUCED BY:

Michael Ray Helfrich

DATE: October 7, 2014

AN ORDINANCE

Amending Article 341 "Earned Income and Net Profit Tax" of the York City Codified Ordinances to impose a General Purpose Resident Tax of 1% and a Municipal Pension Plan Funding Standard and Recovery Act Tax of 0.25% on earned income and net profits for residents of the City of York and non-residents who engage in any work, business, profession, or activity of any kind within the boundaries of the City of York as granted under the authority of the Local Tax Enabling Act, Act 511 of 1965 (53 P.S. §6913) and the Municipalities Pension Plan Funding Standard and Recovery Act, Act 205 of 1984.

BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 341 "Earned Income and Net Profit Tax, Subsections 341.03 "Definitions" and 341.04 "Imposition of Tax" of the York City Codified Ordinances be amended to include the Municipalities Pension Plan Funding Standard and Recovery Act citation and impose a general purpose and Municipal Pension Plan Funding Standard and Recovery Act tax for both residents and non-residents of the City of York as follows:

SECTION ONE: That Section 341.03 "Definitions" be amended to add 341.03(v) as follows:

341.03 DEFINITIONS

(v) MUNICIPALITIES PENSION PLAN FUNDING STANDARD AND RECOVERY ACT – The Act, as set forth in 53 P.S. §895.101 et seq., Act 205 of 1984, and as amended in the future.

SECTION TWO: That Section 341.04 "Imposition of Tax" be amended to impose general purpose and Municipal Pension Plan Funding Standard and Recovery Act taxes for residents and non-residents of the City of York as follows:

341.04 IMPOSITION OF TAX.

(a) General purpose resident tax. The taxing authority hereby imposes a tax for general revenue purposes at the rate of one percent (1%) under Act 511 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.

(1) Municipal Pension Plan Funding Standard and Recovery Act tax. In addition to the general purpose resident tax levied for general revenue purposes, the taxing authority hereby imposes a special tax for the purpose of raising revenue to defray costs related to the pension plans of the City of York under 53 P.S. §895.101 et seq. at the rate of 0.25% on earned income and net profits of individual residents of the taxing authority.

(b) General purpose nonresident tax. The taxing authority hereby imposes a tax for general revenue purposes at the rate of one percent (1%) under Act 511 A tax of one percent (1%) for general revenue purposes is hereby imposed on earned income and net profits earned by nonresidents **from any work, business, profession, or activity of any kind engaged in within the boundaries of the taxing authority,** exclusive of domestic servants and Maryland residents.

(1) Municipal Pension Plan Funding Standard and Recovery Act tax. In addition to the general purpose resident tax levied for general revenue purposes, the taxing authority hereby imposes a special tax for the purpose of raising revenue to defray costs related to the pension plans of the City of York under 53 P.S. §895.101 et seq. at the rate of 0.25% on earned income and net profits of an individual resident of the taxing authority from any work, business, profession, or activity of any kind engaged in within the boundaries of the taxing authority.

SECTION THREE: This ordinance shall become effective in accordance with the law.

PASSED FINALLY: October 21, 2014

BY THE FOLLOWING VOTE:

YEAS: Helfrich, Nixon, Satterlee, Nelson, Hill-Evans - 5

NAYS: None

Carol Hill-Evans
Carol Hill-Evans, President of Council

ATTEST:
Dianna L. Thompson-Mitchell
Dianna L. Thompson-Mitchell, City Clerk

Presented to the Mayor for approval this 23rd day of October 2014

Approved: A. Kim Bracey
Mayor

10/27/14
Date

Vetoed: _____
Mayor

Date

