

Part 4**Mercantile License Tax****§24-401. Short Title.**

This shall be know and may be cited as the “Mercantile License Tax Ordinance.”
(*Ord. 12/27/1979D*, §1)

§24-402. Definitions.

1. The following words and phrases when used in this Part shall have the meanings ascribed to them in this Section unless the context clearly indicates a different meaning:

Gross volume of business - includes both cash and credit transactions.

License year - the 12-month period beginning the first day of January in each and every year.

Person - any individual, partnership, limited partnership, association, or corporation. Whenever used in any Section prescribing and 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.

Retail dealer or retail vendor - any person who is a dealer in or vendor of goods, wares, and merchandise who is not a wholesale dealer or vendor.

Tax Collector - the Tax Collector of North York Borough or other agent designated by the Borough. [*Ord. 2006-3*]

Temporary, seasonal, or itinerant business - any business that is conducted at one location for less than 60 consecutive days.

Wholesale dealer or wholesale vendor - any person who sells to dealers in, or vendors of, goods, wares, and merchandise and to no other persons.

2. The terms “person,” “wholesale dealer,” “wholesale vendor,” “retail dealer,” and “retail vendor” shall not include nonprofit corporations organized for religious, charitable, or educational purposes, any association organized for such purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania, or any person vending or disposing of articles of his own growth, producing, or manufacture for shipment or delivery from the place of growth, production, or manufacture thereof.

(*Ord. 12/27/1979D*, §2; as amended by *Ord. 95-04*, 12/28/1995, Art. I; and by *Ord. 2006-3*, 7/10/2006)

§24-403. Levy and Collection of Tax.

North York Borough hereby imposes an annual mercantile license tax in the manner and at the rates hereinafter set forth.

(*Ord. 12/27/1979D*, §3; as amended by *Ord. 2006-3*, 7/10/2006)

§24-404. Licenses.

For the license year beginning April 1, 1980, and for each license year thereafter, every person desiring to continue to engage in, or hereafter to begin to engage in the business of wholesale or retail vendor, or dealer in goods, wares and merchandise and any person conducting a restaurant or other place where food, drink, or refreshments are sold, whether or not the same be incidental to some other business or occupation in North York Borough, shall on or before the 15th day of May, 1980, and on or before the 31st day of January for each license year there after, or prior to commencing business during such license year, procure a mercantile license for his place of business, or if more than one, for each of his places of business in the Borough, from the Tax Collector or other agent designated by the Borough as required by law. Such license shall be conspicuously posted at the place of business or each of the places of business of every person at all times. There is a fee in an amount as established from time to time by resolution of the Borough Council for the license which is payable when the license is applied for. This fee will be deducted from the total tax owed for the year, when the return is filed. [Ord. 2006-3]

(Ord. 12/27/1979D, §4; as amended by Ord. 95-04, 12/28/1995, Art. II; and by Ord. 2006-3, 7/10/2006)

§24-405. Imposition and Rate of Tax.

Every person engaged in any of the following occupations or businesses in the Borough shall pay an annual mercantile license tax for the license year beginning April 1, 1980, and for each license year thereafter, beginning on the first day of January, at the rate set forth:

A. Wholesale vendors or dealers in goods, wares, and merchandise, at the rate of 1 mill on each dollar of the volume of the annual gross business transacted by him; subject, nevertheless, that a minimum of \$10 shall be charged for such license.

B. Retail vendors, or dealers in goods, wares, and merchandise, and all persons engaged in conducting restaurants or other places where food, drink, or refreshments are sold, whether or not the same be incidental to some other business or occupation, at the rate of 1.5 mill on each dollar of the volume of the annual gross business transacted by him; subject, nevertheless, that a minimum of \$10 shall be charged for such license.

C. Wholesale and retail vendors or dealers in goods, wares, and merchandise, at the rate of 1 of a mill on each dollar of the volume of the annual gross wholesale business transacted by him, and 1.5 mills on each dollar of the volume of the annual gross retail business transacted by him; subject, nevertheless, that a minimum of \$10 shall be charged for such license.

D. The tax imposed by this Section shall not apply to the dollar volume of annual business covering the resale of goods, wares, or merchandise taken by a dealer as a trade-in or part payment for other goods, wares, and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

(Ord. 12/27/1979D, §5; as amended by Ord. 90-13, 12/20/1990, Art. I; by Ord. 91-3, 4/1/1991, Art. I; by Ord. 93-12, 1/3/1994, Art. I; and by Ord. 95-04, 12/28/1995, Art. II)

§24-406. Computation of Volume of Business.

1. Every person subject to the payment of the tax hereby imposed who has

commenced his business at least 15 full months prior to the beginning of the license year shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the preceding calendar year.

2. Every person subject to the payment of the tax hereby imposed who has commenced or who commences his business less than 15 full months prior to the beginning of the license year, shall compute his annual gross volume of business for such license year by multiplying by 12 the monthly average of the actual gross amount of business transacted by him during the months in the preceding calendar year he was engaged in business.

3. Every person subject to the payment of the tax hereby imposed who commences his business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall compute his annual gross volume of business for such license year upon the gross volume of business transacted by him during the first month of his engaging in business multiplied by the number of months, or fractions thereof, he engages in business in the present calendar year.

4. Every person subject to the payment of the tax hereby imposed who engages in a business temporary, seasonal, or itinerant by its nature, shall compute his annual gross volume of business upon the actual gross amount of business transacted by him during the license year.

5. The Tax Collector or other agent designated by the Borough is hereby authorized to accept payment under protest of the amount of mercantile tax claimed by the Borough in any case where the taxpayer disputes the validity or amount of the Borough's claim for tax. If it is thereafter judicially determined by a court of competent jurisdiction that the Borough has been overpaid, the amount of the overpayment shall be refunded to the taxpayer. The provisions of this section shall be applicable to cases in which the facts are similar to those in a case litigated in a court of competent jurisdiction. [*Ord. 2006-3*]

(*Ord. 12/27/1979D*, §6; as amended by *Ord. 2006-3*, 7/10/2006)

§24-407. Returns.

1. Every return shall be made upon a form furnished by the Tax Collector or other agent designated by the Borough. Every person making a return shall certify the correctness thereof by affidavit. [*Ord. 2006-3*]

2. Every person subject to the tax imposed by this Part who commenced his business at least 15 full months prior to the beginning of any license year shall on or before the 30th day of April, file with the Tax Collector or other agent designated by the Borough a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual gross amount of business transacted by him during the preceding calendar year, and the amount of the tax due. [*Ord. 2006-3*]

3. Every person subject to the tax imposed by this Part who has commenced his business less than 15 full months prior to the beginning of any license year shall on or before the 30th day of April, 1980, file with the Tax Collector or other agent designated by the Borough a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the monthly average of the actual gross amount of business transacted by him during the months in the preceding

calendar year he was engaged in business and the amount of tax due. [Ord. 2006-3]

4. Every person subject to the tax imposed by this Part who commences business less than 1 full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall within 60 days from the date of commencing such business file a return with the Tax Collector or other agent designated by the Borough setting forth his name, his business, and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during his first month of business and the amount of the tax due. [Ord. 2006-3]

5. Every person subject to the payment of the tax imposed by this Part who engages in a business temporary, seasonal or itinerant by its nature shall, within 7 days from the day he completes such business, file a return with the Tax Collector or other agent designated by the Borough setting forth his name, his business, and business address, and such information as may be necessary in arriving at the actual gross amount of business transacted by him during such period and the amount of tax due.

(Ord. 12/27/1979D, §7; as amended by Ord. 95-04, 12/28/1995, Art. IV; and by Ord. 2006-3, 7/10/2006)

§24-408. Payment.

At the time of filing the return, the person making the same shall pay the amount of tax shown as due thereon to the Tax Collector or other agent designated by the Borough.

(Ord. 12/27/1979D, §8; as amended by Ord. 2006-3, 7/10/2006)

§24-409. Powers and Duties of Tax Collector.

1. It shall be the duty of the Tax Collector or other agent designated to the Borough to collect and receive the taxes, fines, and penalties imposed by this Part. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of each receipt. [Ord. 2006-3]

2. The Tax Collector or other agent designated by the Borough is hereby charged with the administration and enforcement of the provisions of this Part, and is hereby empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the re-examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to be incorrect or found to have occurred. Any person aggrieved by any decision of the Tax Collector or other agent designated by the Borough shall have the right to appeal to a Court or courts of competent jurisdiction as in other cases provided. [Ord. 2006-3]

3. The Tax Collector or other agent designated by the Borough is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or if no return was made, to ascertain the tax due. Every such taxpayer, or supposed taxpayer, is hereby directed and required to give to the Tax Collector or other agent designated by the Borough the means, facilities and opportunity for such examinations and investigations as are hereby authorized. [Ord. 2006-3]

(Ord. 12/27/1979D, §9; as amended by Ord. 2006-3, 7/10/2006)

§24-410. Confidential Nature of Returns.

Any information gained by the Tax Collector or other agent designated by the Borough, or any other officer, official agent or employee of the Borough as a result of any returns, investigations, hearings, or verifications, required or authorized by this Part shall be confidential except in accordance with proper judicial order or as otherwise provided by law, and divulgence of any information so gained is hereby declared to be a violation of this Part, which may be punishable by dismissal from office or employment.

(*Ord. 12/27/1979D*, §10; as amended by *Ord. 2006-3*, 7/10/2006)

§24-411. Suit on Collection: Penalty.

1. The Tax Collector or other designated by the Borough may sue for the recovery of taxes due and unpaid under this Part. [*Ord. 2006-3*]

2. If for any reason the tax is not paid when due in each year, interest at the rate of 6 percent per annum on the amount of said tax, and an additional penalty of 1 percent per annum of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor, shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

(*Ord. 12/27/1979D*, §11; as amended by *Ord. 2006-3*, 7/10/2006)

§24-412. Fines and Penalties.

Whoever makes any false or untrue statement on his return, or who refuses to permit inspection of the books, records or accounts of any business in his custody or control, when the right to make such inspection by the Tax Collector or other agent designated by the Borough is requested, and whoever fails or refuses to procure a mercantile license when so required under this Part or fails to keep his license conspicuously posted at his place of business as herein required, shall, upon conviction thereof, shall be sentenced to pay a fine of not more than \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense.

(*Ord. 12/27/1979D*, §12; as amended by *Ord. 88-1*, 2/1/1988; by *Ord. 91-6*, 6/10/1991; and by *Ord. 2006-3*, 7/10/2006)