(24, §401)

Part 4

Mercantile License Tax

§401. Short Title. This shall be know and may be cited as the "Mercantile License Tax Ordinance". (Ord. 12/27/1979D, §1)

§402. Definitions. 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 twelve (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 his designated agent.

TEMPORARY, SEASONAL or ITINERANT BUSINESS - any business that is conducted at one (1) location for less than sixty (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.

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. 12/17/1979D, §2; as amended by Ord. 95-04, 12/28/1995, Art. I)

§403. Levy and Collection of Tax. For the license year 1980, North York Borough hereby imposes an annual mercantile license tax in the manner and at the rates hereinafter set forth. (Ord. 12/17/1979D, §3)

§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-

(24, §404, cont'd)

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 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 ten dollar ($10.00) fee for the license which is payable when the license is applied for. This ten dollars ($10.00) will be deducted from the total tax owed for the year, when the return is filed. (Ord. 12/17/1979D, §4; as amended by Ord. 95-04, 12/28/1995, Art. II)

§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 one (1) mill on each dollar of the volume of the annual gross business transacted by him; subject, nevertheless, that a minimum of ten dollars ($10.00) 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 one and five tenths (1.5) mill on each dollar of the volume of the annual gross business transacted by him; subject, nevertheless, that a minimum of ten dollars ($10.00) shall be charged for such license.

C. Wholesale and retail vendors or dealers in goods, wares and merchandise, at the rate of one (1) of a mill on each dollar of the volume of the annual gross wholesale business transacted by him, and one and five tenths (1.5) mills on each dollar of the volume of the annual gross retail business transacted by him; subject, nevertheless, that a minimum of ten dollars ($10.00) 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)

§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 fifteen (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 fifteen (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 twelve

(24, §406(2), cont'd)

(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 one (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 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. 12/17/1979D, §6)

§407. Returns.

1. Every return shall be made upon a form furnished by the Tax Collector. Every person making a return shall certify the correctness thereof by affidavit.

2. Every person subject to the tax imposed by this Part who commenced his business at least fifteen (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 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.

3. Every person subject to the tax imposed by this Part who has commenced his business less than fifteen (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 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.

4. Every person subject to the tax imposed by this Part who commences business less than one (1) full month prior to the end of the preceding calendar year or prior to the beginning of any license year shall within sixty (60) days from the date of commencing such business file a return

(24, §407(4), cont'd)

with the Tax Collector 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.

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 seven (7) days from the day he completes such business, file a return with the Tax Collector 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)

§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. (Ord. 12/17/1979D, §8)

§409. Powers and Duties of Tax Collector.

1. It shall be the duty of the Tax Collector 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.

2. The Tax Collector 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 shall have the right to appeal to a Court or Courts of competent jurisdiction as in other cases provided.

3. The Tax Collector 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 the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(Ord. 12/17/1979D, §9)

§410. Confidential Nature of Returns. Any information gained by the Tax Collector, 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. 12/17/1979D, §10)

(24, §411)

§411. Suit on Collection: Penalty:

1. The Tax Collector may sue for the recovery of taxes due and unpaid under this Part.

2. If for any reason the tax is not paid when due in each year, interest at the rate of six (6%) percent per annum on the amount of said tax, and an additional penalty of one (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. 12/17/1979D, §11)

§412. Fine 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 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 before any District Justice of the Peace, be sentenced to pay a fine of not more than six hundred ($600.00) dollars for each offense, and/or to be imprisoned in York County Jail for a period not exceeding ninety (90) days for each offense. (Ord. 12/27/1979D, §12; as amended by Ord. 88-1, 2/1/1988; and by Ord. 91-6, 6/10/1991)

ORDINANCE NO. 2005 - 2
BOROUGH OF NORTH YORK
YORK COUNTY, PENNSYLVANIA

AN ORDINANCE OF THE BOROUGH OF NORTH YORK, YORK COUNTY, PENNSYLVANIA, AMENDING CHAPTER 24 PART 4 OF THE CODE OF ORDINANCES FOR THE BOROUGH OF NORTH YORK ENTITLED "MERCANTILE LICENSE TAX" SUCH THAT THE TEN ($10.00) DOLLAR FEE WILL NOT BE DEDUCTED FROM THE TOTAL TAX OWED FOR THE YEAR; AND PROVIDING THAT ALL NON-PROFIT ORGANIZATIONS MUST OBTAIN A MERCANTILE LICENSE AND FURTHER PROVIDING HOWEVER THAT SUCH NON-PROFIT ORGANIZATIONS SHALL NOT BE SUBJECT TO THE MERCANTILE LICENSE TAX OR LICENSE FEE

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to identify all mercantile activity within the Borough even if all such activity is not subject to taxation; and

WHEREAS, the Borough Council has determined that it is in the best interest of the Borough to charge a ten ($10.00) dollar license fee in addition to the applicable Mercantile License Tax for each vendor rather than crediting that fee toward the total tax owed for the year;

BE IT ENACTED AND ORDAINED by the Council of the Borough of North York and it is hereby enacted and ordained that Chapter 24 Part 4 of the Code of Ordinances of the Borough of North York is amended as follows:

SECTION 1: Chapter 24, Part 4, Section 404 is amended such that the following language is hereby repealed and deleted from Section 404: "this ten dollars ($10.00) will be deducted from the total tax owed for the year, when the return is filed."

SECTION 2: Chapter 24, Part 4, Section 404 is hereby amended to add the following paragraph at the end of Section 404: "Any non-profit corporation organized for religious, charitable, or educational purposes, or any association organized for such purposes must obtain a license as set forth in this section, however no license fee or any Mercantile License Tax shall be imposed for such license or against such non-profit corporation or association."

SECTION 3: Chapter 24, Part 4, Section 409 is hereby repealed and shall be replaced with the following: "All Mercantile License Tax and License Fees shall be collected and enforced by the York Area Earned Income Tax Bureau. In the future the Bureau may designate the person or entity responsible for the collection and enforcement of such tax from time to time by resolution."

BE IT ENACTED AND ORDAINED this 7 day of February, 2005

BOROUGH OF NORTH YORK

Attest:

Stewart H Trafford
Secretary

BY: _____
President

APPROVED/DISAPPROVED this 7 day of February, 2005.

Proof of Publication
State of Pennsylvania
County of York

AD # 1583117

Copy of Advertisement Attached Here

LEGAL NOTICE

NOTICE is hereby given that The Borough of North York Borough Council, York County, Pennsylvania, proposes the following Ordinance for adoption at the regular meeting scheduled for Monday, February 7, 2005, at 7:00 p.m. at The Borough of North York Offices, 35 East 6th Avenue, York, Pennsylvania 17404.

The Ordinance is entitled

AN ORDINANCE OF THE BOROUGH OF NORTH YORK, YORK COUNTY, PENNSYLVANIA, AMENDING CHAPTER 24 PART 4 OF THE CODE OF ORDINANCES FOR THE BOROUGH OF NORTH YORK ENTITLED "MERCANTILE LICENSE TAX" SUCH THAT THE TEN ($10.00) DOLLAR FEE WILL NOT BE DEDUCTED FROM THE TOTAL TAX OWED FOR THE YEAR; PROVIDING THAT ALL NON-PROFIT ORGANIZATIONS MUST OBTAIN A MERCANTILE LICENSE AND FURTHER PROVIDING HOWEVER THAT SUCH NON-PROFIT ORGANIZATIONS SHALL NOT BE SUBJECT TO THE MERCANTILE LICENSE TAX OR LICENSE FEE; AND PROVIDING THAT THE MERCANTILE LICENSE TAX SHALL BE COLLECTED AND ENFORCED BY THE YORK AREA EARNED INCOME TAX BUREAU.

The Ordinance amends Chapter 24 Part 4 of the Code of Ordinances for the Borough of North York by imposing a ten ($10.00) dollar fee to obtain a mercantile license, which fee shall no longer be deducted from the total tax owed for the year. The Ordinance further provides that all non-profit organizations, which previously did not require a mercantile license, must now obtain such a license. However any such non-profit organization shall not be subject to the mercantile license tax or license fee. The Mercantile License Tax will be collected and enforced by the York Area Earned Income Tax Bureau. The effect of the Ordinance is to require a ten ($10.00) dollar license fee in addition to the Mercantile License Tax owed for the year. It is estimated that the fee will generate approximately two hundred" ($200.00) dollars in revenue per annum. The reason for the imposition of the fee is to generate increased revenue for the Borough and make the Borough's license fee and tax collection policy consistent with other local municipalities. A copy of the proposed Ordinance may be reviewed at the Borough Office, 35 East 6th Avenue, York, PA 17404, between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday. The proposed Ordinance may also be examined during regular business hours at ... York County Law Library and at the York Newspa... ...mpany. Interested citizens are invited to at... ...aresaid meeting of the Borough Council of ...f North York.

...h of North York Borough Council.
...W. Markey, Esquire

RL-ment neg.

THE YORK DISPATCH / YORK SUNDAY NEWS and YORK DAILY RECORD are the names of the daily newspapers of general circulation published continuously for more than the last six months by York Newspaper Company, at its principal place of business, which is 1891 Loucks Road, York, PA 17404.

The printed copy of the advertisement hereto attached is a true copy, exactly as printed and published, of an advertisement printed in the regular issues of the said **The York Dispatch/York Sunday News and York Daily Record** published on the following dates, viz:

01/20/2005
01/27/2005
02/03/2005

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF YORK **SS**

Before me, a Notary Public, personally came Tamara J. Krebs who being duly sworn deposes and says that she is the Classified Advertising Director of York Newspaper Co., and has personal knowledge of the publication of the advertisement mentioned in the foregoing statement as to the time, place and character of publications are true, and that the affiant is not interested in the subject matter of the above mentioned advertisement.

Sworn and subscribed to before me this

03 day of February 2005

Brian C. Laughlin
Notary Public

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
BRIAN C. LAUGHLIN, Notary Public
Hanover Boro., York County
My Commission Expires April 1, 2008

Tamara J. Krebs

Estate of _____

_____ Dollars
100

The charge for the publication of above mentioned advertisement and the expense of above affidavit.

Advertisement Cost	$	889.40
Affidavit Fee	$	2.00
Total Cost	$	891.40