

CITY OF WILLIAMSPORT, PA

FILE OF CITY COUNCIL

BILL No. 1704-17

SESSION OF 2017

Approved on first reading

Members of City Council:

Approved on final reading

This day 9th of NOV 2017

WILLIAMSON, ALLISON, SMITH,
MIELE, KATZ, NOVIELLO, HENDERSON

This day 21st of NOV 2017

AN ORDINANCE

6338

ORDINANCE OF THE CITY OF WILLIAMSPORT, LYCOMING COUNTY, PENNSYLVANIA, AMENDING PART III (LICENSING AND TAXATION CODE), ARTICLE 349 (BUSINESS PRIVILEGE TAX), OF THE CITY CODE, TO IMPOSE AN ANNUAL LICENSE FEE OF \$10.00, TO REMOVE AN EXCLUSION PROVISION THAT HAS BEEN DEEMED UNCONSTITUTIONAL, TO INCREASE TIME IN WHICH AN APPEAL MAY BE FILED, TO CHANGE APPEAL PROCEDURE TO REVIEW BY HEARING OFFICER, TO ADD COSTS OF ENFORCEMENT TO AMOUNTS DUE FROM DELINQUENT TAXPAYERS, TO REMOVE REQUIREMENT TO FILE APPEAL IN ORDER TO MAKE PAYMENT UNDER PROTEST, AND TO CLARIFY CERTAIN ENFORCEMENT PROCEDURES TO IMPOSE FINES

WHEREAS on December 18, 1975, the City Council ("Council") of the City of Williamsport ("City"), Lycoming County, Pennsylvania, enacted the Business Privilege Tax; and

WHEREAS, the Business Privilege Tax, as amended from time to time, has been codified at Part III, Article 349 ("Tax Code") of the City Code; and

WHEREAS, in order to better cover costs of administration, Council desires to impose an annual business registration fee of \$10.00; and

WHEREAS, the provision known as the "broker exclusion" has been determined to be unconstitutional and Council therefore wishes to delete the unconstitutional provision; and

WHEREAS, in order to accord with current statutory requirements, Council desires to increase the period in which a taxpayer may file an appeal of a tax assessment or determination; and

WHEREAS, Council desires to change the procedure to appeal a Business Privilege Tax assessment or determination from review by Board of Revision of Taxes and Appeals to review by Local Tax Hearing Officer; and

WHEREAS, Council desires to remove the requirement that a taxpayer must file an appeal from assessment in order to make a payment under protest; and

WHEREAS, pursuant to the Local Tax Enabling Act, 53 P.S. §6924.705(b)(2), when suit is brought for the recovery of Business Privilege Taxes, the person liable for such taxes shall be liable for the costs of collection; and

WHEREAS, the City incurs legal and other costs when it enforces the Business Privilege Tax and collects delinquent taxes from taxpayers and desires to require the delinquent taxpayers to pay the City's costs of enforcement actions; and

WHEREAS, Council does not desire to modify the scope or measure of the Business Privilege Tax, nor shall the Council's action herein be considered or interpreted as modifying or intending to modify the scope or measure of the Business Privilege Tax;

NOW, THEREFORE, BE IT ORDAINED THAT:

SECTION I. The definition of "Person" in Section 349.02 shall be changed such that the second sentence shall be deleted.

SECTION II. The definition of "Gross Receipts" in Section 349.02 shall be changed such that section (2)(B) relating to broker commissions shall be deleted and the remaining subsections shall be re-lettered correspondingly.

SECTION III. The second sentence of Section 349.04(b) shall be deleted and replaced with the following:

Such registration shall be made annually by the completion of an application furnished by the License Tax Officer and the payment of a fee of ten dollars (\$10.00) to the City Treasurer.

In all other respects, Section 349.04(b) shall remain unchanged.

SECTION IV. Subsection (d) of Section 349.08 of the Tax Code shall be deleted in its entirety and replaced with the following:

Any taxpayer aggrieved by any determination, estimate or redetermination by the License Tax Officer may appeal such decision within 90 days by filing a Petition for Review by the Local Tax Hearing Officer.

SECTION V. Section 349.09 of the Tax Code (Appeal Board) shall be deleted in its entirety and replaced with the following:

Council shall from time to time appoint by ordinance a Local Tax Hearing Officer who shall hear appeals of Business Privilege Tax assessments and determinations and make decisions on said appeals, in accordance with the Local Taxpayer Bill of Rights Act, 53 Pa.C.S. §8430. Council shall also appoint an Alternate Local Tax Hearing Officer to serve in the event the Local Tax Hearing Officer has a conflict of interest or is otherwise unable to serve as hearing officer in any given matter. The Hearing Officer and the Alternate Hearing Officer shall be individuals with substantial experience in the subject matter of local business privilege and mercantile license taxes.

SECTION VI. There shall be added to Section 349.10 a new subsection (d) stating as follows:

Where enforcement action is taken in connection with the recovery of any tax, the taxpayer shall, in addition, be responsible and liable for collection costs, including but not limited to attorney fees.

SECTION VII. The second and fourth sentences of Section 349.16 shall be deleted. In all other respects Section 349.16 shall remain unchanged.

SECTION VIII. The language of Section 349.99 shall be deleted and replaced with:

Any person who fails, neglects, or refuses to comply with any provision of this article, or of any regulation or requirement made pursuant thereto and authorized thereby, or who refuses to permit the License Tax Officer or any agent designated by him to examine books, records, and papers, or 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 gross receipts in order to avoid the payment of the whole or any part of the tax imposed by this article shall be fined not more than \$300 for each offense or imprisoned not more than 90 days, or both. The fine imposed by this section shall be in addition to any other penalty imposed by any other section of this article. For purposes of this Section, the term "person" means the taxpayer, and/or any partner in the event taxpayer is a partnership, any member in the event the taxpayer is an association, any officer if the taxpayer is an incorporated or unincorporated association, or any other person responsible for filing returns or providing or maintaining financial information necessary for compliance with this article. Further, the License Tax Officer may proceed

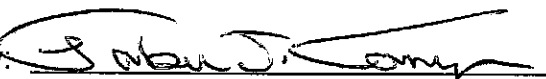
by civil means, in which case the fine shall be a civil fine payable to the City, or by non-traffic citation.

SECTION IX. This Ordinance does not, nor is it intended to, nor shall it be interpreted to, expand the subject or measure of the tax imposed in Article 349, or any other tax.

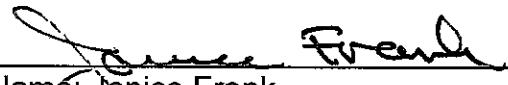
SECTION X. This Ordinance shall become effective January 1, 2018.

ENACTED AND ORDAINED this 21st day of NOV, 2017.

CITY OF WILLIAMSPORT

By: 
Name:
Title:

ATTEST:


Name: Janice Frank
Title: City Clerk