



City of Bethlehem Memorandum

TO: J. William Reynolds, City Council President

FROM: Mark W. Sivak, Director of Budget & Finance *mwS*

DATE: February 2, 2017

SUBJECT: Amendments to Article 341- Business Privilege and Mercantile Tax and Business Privilege and Mercantile Tax Regulations

Attached for Council's consideration is a proposed Ordinance to amend Article 341 – Business Privilege and Mercantile Tax, and a Resolution to amend Sections 105 and 106 of the Regulations for Business Privilege and Mercantile Tax.

The Ordinance adds a definition for the Tax Administrator.

The Resolution is to amend Section 105 of the Business Privilege and Mercantile Tax Regulations to require that all vendors of fairs, festival, carnivals, craft shows/fairs, and other temporary places of business have a Business Privilege License, which will facilitate the tracking of vendors and help uniform the Special Events Process, as well as increase the collection of Business Privilege Licenses and Tax Revenue.

The change to the Business Privilege and Mercantile Tax Regulations in Section 106 is due to a conflict with Article 341 – Business Privilege and Mercantile Tax, Section 106.07 – License. Section 106 of the Business Privilege and Mercantile Tax Regulations is being changed to recognize that each rental location of a taxpayer is considered to be a separate place of business in accordance with Article 341 - Business Privilege and Mercantile Tax.

If you have any questions or need further information please let me know.

cc: Mayor Donchez
Members of Council
D. Brong
B. Leeson
J. Spirk

BILL NO.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BETHLEHEM,
COUNTIES OF LEHIGH AND NORTHAMPTON,
COMMONWEALTH OF PENNSYLVANIA, AMENDING
ARTICLE 341 OF THE CODIFIED ORDINANCES OF
THE CITY OF BETHLEHEM TITLED
“BUSINESS PRIVILEGE AND MERCANTILE TAX”

THE COUNCIL OF THE CITY OF BETHLEHEM HEREBY ORDAINS AS FOLLOWS:

Section 1: That Section 341.01, Definitions, of the Codified Ordinances of the City of Bethlehem, that reads as follows:

341.01 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means the carrying on or exercising of any trade, profession, or other commercial activity. Employment for a salary or wage is not “business”.
- (b) "City" means the City of Bethlehem.
- (c) "License year" means the year commencing May 1 and ending April 30.
- (d) "Person" means a natural person, individual, partnership, association, corporation, limited partnership, limited liability company, estate, trust, trustee, fiduciary, corporate officer, or any other entity subject to or claiming exemption from the tax or under a duty to perform an act for itself or for another under or pursuant to the City of Bethlehem Business Privilege and Mercantile Tax.
- (e) "Taxpayer" means a person, partnership, association, or any other entity, required hereunder to file a return of gross receipts, or to pay a tax thereon.
- (f) "Tax year" means the calendar year.
- (g) "Treasurer" means the Treasurer of the City.

Shall be amended to read as follows:

341.01 DEFINITIONS.

The following words and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) "Business" means the carrying on or exercising of any trade, profession, or other commercial activity. Employment for a salary or wage is not “business”.

- (b) "City" means the City of Bethlehem.
- (c) "License year" means the year commencing May 1 and ending April 30.
- (d) "Person" means a natural person, individual, partnership, association, corporation, limited partnership, limited liability company, estate, trust, trustee, fiduciary, corporate officer, or any other entity subject to or claiming exemption from the tax or under a duty to perform an act for itself or for another under or pursuant to the City of Bethlehem Business Privilege and Mercantile Tax.

Tax Administrator means person, public employees, or private agency designated by the governing body to collect and administer the licensing of business and the tax on gross receipts.

- (e) **"Tax Administrator" means person, public employee, or private agency designated by the governing body to collect and administer the licensing of businesses and the tax on gross receipts.**
- (f) "Taxpayer" means a person, partnership, association, or any other entity, required hereunder to file a return of gross receipts, or to pay a tax thereon.
- (g) "Tax year" means the calendar year.
- (h) "Treasurer" means the Treasurer of the City.

Section 2: That all Ordinances and parts of Ordinances herewith be, and the same are hereby repealed.

Sponsored by _____

PASSED finally in Council on the _____ day of _____, 2017.

President of Council

ATTEST:

City Clerk

This Ordinance approved this _____ day of _____, 2017.

Mayor

RESOLUTION NO.

BE IT RESOLVED by the Council of the City of Bethlehem that Section 105 and Section 106 of the Business Privilege and Mercantile Tax Regulations, as amended by Resolution 13,795 , be amended to read as follows:

Section 105: License for Fairs, Festivals, Carnivals, Craft Shows/Fairs, and Other Temporary Places of Business.

It shall be the duty and requirement of the sponsoring individual, group, Association or Corporation (including non-profit organizations) to provide to all of its vendors a City of Bethlehem Business Privilege and Mercantile Tax License Application and further, to provide the City of Bethlehem Tax Bureau with the following information at least ninety (90) days prior to any such festival, fair, carnival, craft fair or any other temporary place of business:

- 1) the event's scheduled dates and times
- 2) listing of all food, craft, and retail vendors
- 3) schedule of all vendor fees imposed by the sponsoring individual, group, Association, Corporation or non-profit organization, including but not limited to, registration fees, table fees, booth fees, utility fees, etc.

When any such festival, fair, carnival, craft fair or any other temporary place of business (collectively referred to herein as "Temporary Event") shall issue tickets, coupons, chips, or other form of "currency" exclusive to their event, it shall be the duty and requirement of the sponsoring individual, group, Association, Corporation, or non-profit organization to provide the City of Bethlehem Tax Bureau with an accounting of the ticket, coupon, chip or other form of "currency" exchanged or "cashed in" by its vendors within sixty (60) days of the Temporary Event's closure.

Any person or business desiring to do business at any Temporary Event within the City of Bethlehem must first obtain a Business Privilege and Mercantile Tax License from the City of Bethlehem Tax Bureau. Licenses issued to persons or businesses under this Section 105 are valid for the one-year term referenced in Section 102 and no additional licenses need to be obtained for participation in additional Temporary Events within the City of Bethlehem during the one year term.

A license to conduct business in the City of Bethlehem obtained pursuant to Section 100 herein also shall be deemed to apply to Temporary Events that the license holder participates in and no additional license need be obtained pursuant to this Section 105 so long as the business conducted at the Temporary Event is the same as the business conducted at the license holder's regular place of business.

~~Any person desiring to conduct any business, as herein defined, at any Temporary Event shall not be required to obtain a license pursuant to this Section 105 if such Temporary Event does not exceed one (1) day; provided, however, that such persons subject to this exemption will be required to make and file tax returns and remit tax due in accordance with Section 301C. of these Regulations (within forty five (45) days of the close of the one (1) day Temporary Event).~~

Licenses obtained pursuant to this Section 105 for Temporary Events shall be posted in accordance with Section 103 of these Regulations at each Temporary Event location. A copy of a license obtained pursuant to Section 100 shall be posted in accordance with Section 103 of these Regulations at each Temporary Event location.

Participants in Temporary Events within the City are required to make and file tax returns and remit tax due after the close of each Temporary Event where they conduct business. Additional information regarding filing requirements can be found in Section 301C. of these Regulations.

Section 106. License for Real Estate Rentals

The language of Section 106 is deleted in its entirety and replaced with the following:

Any person or business renting residential or commercial real property within the geographic boundaries of the City of Bethlehem is considered to be doing business in the City and is subject to the City’s Business Privilege Tax. Any person or entity desiring to rent residential or commercial real property located within the City of Bethlehem must first obtain a Business Privilege and Mercantile Tax License from the City of Bethlehem Tax Bureau. Each rental location of a taxpayer is considered to be a separate place of business and in accordance with the Business Privilege Tax Ordinance, a taxpayer must obtain a separate business license for each such place of business. If there are multiple rental units within a single address, the location shall be considered a single place of business. However, each unit of rented space that has its own, identifiable address is considered a separate place of business requiring a separate business license.

Example 1: Taxpayer A owns rental properties located at 100, 102 and 104 Main Street in City of Bethlehem. Taxpayer must obtain three separate business licenses: one for 100 Main Street, a second for 102 Main Street and a third license for 104 Main Street.

Example 2: Taxpayer B owns a three story property located at 400 Main Street in City of Bethlehem. Taxpayer B leases the first floor to Family A, the second Floor to Family B, and the third Floor to Family C. Taxpayer B must obtain only one business license for the property located at 400 Main Street.

Sponsored by _____

ADOPTED by Council this _____ day of _____, 2017.

President of Council

ATTEST:

City Clerk