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PART 1

BUSINESS PRIVILEGE TAX

§101. Short Title.

This Part shall be known as the “Business Privilege Tax Ordinance.”

(Ord. 1045, 11/9/1982, §1)

§102. Definitions.

The following words and phrases, when used in this Part, shall have the following meanings:

BOROUGH — the Borough of Wyomissing.

BOROUGH FISCAL YEAR — the period January 1 to December 31, inclusive, and because this Part shall continue in force from year to year on a Borough fiscal year basis without annual reenactment, each and every successive Borough fiscal year thereafter.

BUSINESS – any activity carried on or exercised for gain or profit within the Borough of Wyomissing including, but not limited to, (1) the sale of merchandise or other tangible personalty; (2) the performance of services; (3) the rental of personalty and/or realty; and including, but not limited to, (4) those enterprises engaged in by hotel operators, motel operators, parking lot and garage operators, warehouse operators, lessors of real estate, lessors of tangible personal property, physicians and surgeons, osteopaths, podiatrists, chiropractors, veterinarians, optometrists, opticians, pharmacists, lawyers, dentists, engineers, surveyors, architects, chemists, accountant, certified public accountants, funeral directors, promoters, factors, commission merchants, agents, brokers, manufacturer’s representatives, advertising and public relations agencies, real estate brokers, insurance brokers and agents, cable television operators, barber shop operators and beauty shop operators, cleaning, pressing and dyeing establishment operators, laundry operators, shoe repair operators, tailors, upholsterers, electrical, plastering, brick laying, carpentry, heat, ventilation, air condition, plumbing and painting contractors, general contractors engaged in building or construction, remodeling or alteration, repairers of electrical, electronic and automotive machinery and equipment or other machinery or equipment, and other wares and merchandise and all other persons, engaged in any other activity, whatsoever, carried on or exercised for gain or profit within the Borough of Wyomissing.

GROSS VOLUME OF BUSINESS — the actual gross consideration credited or received for or on account of sales made, rentals and/or services rendered by any business subject to this Part. For the purposes of this Part, “gross volume of business” is intended to also mean “whole volume of business.”

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PERSON – Any individual, partnership, limited partnership, association, firm, corporation, or other entity engaging in business. As used in Section 105 below “Fines and violations”, the term “person” shall include the partners or members of an association and the officers of a corporation.

RETAIL DEALER — any person who is a dealer in, or vendor of, goods wares and merchandise who is not a wholesale dealer or a wholesale and retail dealer as herein defined.

SERVICE – Service shall mean any act or instance of helping or benefiting another for a consideration.

TAX ADMINISTRATOR — the person duly appointed by the Council of the Borough of Wyomissing to administer and collect the within tax.

TAXPAYER — a person subject to the payment of the tax imposed by this Part.

TAX YEAR – “Tax year” shall mean the calendar year, January 1 through December 31 of a given year.

TEMPORARY, SEASONAL OR ITINERANT BUSINESS — any business that is conducted at one location for less than 60 consecutive calendar days.

TREASURER — the Treasurer of the Borough of Wyomissing.

WHOLESALE DEALER or WHOLESALE VENDOR — any person who sells to dealers in or vendors of goods, wares and merchandise and to no other person.

WHOLESALE AND RETAIL DEALER — any person who sells to dealers in, or vendors of, goods, wares and merchandise and to other persons.

(Ord. 1045, 11/9/1982, §2; as amended by Ord. 1320, 12/13/2011, §1)

§103. Annual Levy.

There is hereby levied for the tax year commencing January 1, 1983, and annually thereafter, without annual reenactment, a tax payable and due annually for general revenue purposes on the privilege of doing business as herein defined within the Borough of Wyomissing as follows:

- A. **Rate and Basis of Tax.** The rate of the tax on each and every dollar of the gross volume of business transacted within the territorial limits of the Borough shall be 1 1/2 mills; 1 1/2 mills shall mean \$1.50 per \$1,000 of gross volume of business, except that the rate of the tax on each and every dollar of the gross volume of business transacted by wholesale dealers or wholesale vendors within the territorial limits of the Borough shall be one mill. All

nonwholesale business of such wholesale dealers or wholesale vendors shall be taxed at the general rate of 1 1/2 mills.

B. Computation of Volume of Business.

- (1) Every person subject to the tax hereby imposed, who has commenced business at least a full year prior to the beginning of a tax year shall compute the estimated whole Volume of Business for that Tax Year upon the actual gross amount of business transacted by such Person during the twelve (12) months preceding.
- (2) Every person subject to the tax hereby imposed who has commenced business less than one (1) full year prior to the beginning of a Tax Year shall compute the estimated Whole Volume of Business for that Tax Year by multiplying by twelve (12) the monthly average of the actual gross amount of business transacted by him during the months he was engaged in business prior to January 1.
- (3) Every person subject to the tax hereby imposed who commences his business subsequent to the beginning of a Tax Year shall compute the estimated Whole Volume of Business for that Tax Year upon the actual gross amount of business transacted by him during the first month of his engaging in business, multiplied by the number of months remaining in the Tax Year.
- (4) Every person subject to the tax hereby imposed, who engages in a business that is temporary, seasonal or itinerant in nature, shall compute his annual whole volume of business for the tax year upon the actual whole amount of business transacted by him during such tax year.
- (5) The Tax Administrator and/or Treasurer is hereby authorized to accept payment under protest of the amount of business privilege tax claimed by the Borough in any case where the taxpayer disputes the validity of amount of the Borough's claim for tax.
- (6) Payments made under the mercantile tax for business to which this tax is applicable shall be credited to this tax and vice versa.
- (7) "Beginning January 1, 2012, and for each Tax Year thereafter, the Tax Year shall be a calendar year, January 1 through December 31. To effect the transition from fiscal year quarterly filing to calendar year annual filing, the immediate prior fiscal year, July 1, 2010, through January 30, 2011, shall end on January 30, 2011. Each Taxpayer shall file a tax return for the tax quarter July 1, 2011, through September 30, 2011, and pay all taxes due on gross volume of business in said quarter, on or before October 31, 2011. Each Taxpayer shall file a tax return for the tax quarter October 1, 2011, through December 31,

2011, and pay all taxes due on gross volume of business in said quarter, on or before January 31, 2012. Beginning January 1, 2012, and for each tax year thereafter, each Taxpayer shall file an annual return on April 15 of each year as provided in this Ordinance.”

C. Persons, Businesses and Receipts Exempted.

- (1) Persons and Businesses. Persons employed for a wage or salary, non-profit corporations or associations organized for religious, charitable or educational purposes, agencies of the Government of the United States or of the Commonwealth of Pennsylvania and the business of any political subdivision, or of any authority created or organized under and pursuant to any act of assembly are exempt from the provisions of this Part.
- (2) No such tax shall be assessed and collected on a privilege, transaction, subject or occupation which is subject to a State tax or license fee, and which tax or license fee has been held by the courts of Pennsylvania to be the basis for exemption from the imposition of a business privilege tax by a municipality.
- (3) Utilities. No such tax shall be assessed and collected on the gross receipts from utility service of any person or company whose rates of service are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility service rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service.
- (4) State Tax on Tangible Property. No such tax shall be assessed and collected on the privilege of employing such tangible property as is subject to a State tax except on sales of admission to places of amusement or on sales or other transfers of title or possession of property.
- (5) “Production and Manufacture – no such tax shall be assessed and collected on goods and articles manufactured in the District or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in the District or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transition relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products.”

- (6) Construction of or Improvements to Residential Dwellings. No such tax shall be assessed and collected on the construction of or improvements to residential dwellings.
- D. Determination of Gross Volume of Business. Gross volume of business upon which this tax is computed shall include the actual gross consideration credited or received for or on account of sales made, rentals and/or services rendered, subject only to the following allowable deductions and exemptions:
- (1) The dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any dealer as trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
 - (2) Refunds, credits or allowances given by a taxpayer to a purchaser on account of defects in goods, wares or merchandise sold or on account of goods, wares or merchandise returned.
 - (3) Any commissions paid by a broker to another broker on account of a purchase or sales contract initiated, executed or cleared with such other broker.
 - (4) Bad debts, where the deduction is also taken in the same year for Federal income taxation purposes.
 - (5) Taxes collected as agent for the United States of America, Commonwealth of Pennsylvania or the Borough of Wyomissing.
- E. Partial Exemptions. Where gross volume of business in its entirety cannot be subjected to the tax imposed by this Part by reason of the provisions of the Constitution of the United States or any other provision of law, the Tax Administrator, with the approval of the Council of the Borough of Wyomissing, shall establish rules and regulations and methods of allocation and evaluation so that only that part of the gross volume of business which is properly attributable and allowable to doing business in the Borough shall be taxed hereunder.
- F. Rate When Same Tax is Imposed by Two Taxing Bodies. If any person is liable for the same tax on the same subject imposed under the Local Tax Enabling Act 1965, December 31, 1965, P.L. 1257 and its amendments, to the Borough and one or more political subdivisions of the State, then and in that event the tax shall be apportioned by such percentage as may be agreed upon by such political subdivisions, but, in no event, shall the combined taxes of both subdivisions exceed a maximum rate of tax as fixed by the said Enabling Act permitting the imposition of such taxes.

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- G. Records. The taxpayer, to obtain the foregoing enumerated exclusions and deductions, shall keep books and records of their business to show clearly, accurately and separately the amounts of sales and services which are entitled to be deducted from the gross volume of business as hereinbefore provided.
- H. Annual License.

Annual License. Repealed by Ordinance 1346-2012.
(See Chapter 13 License, Permits and General Business
Part 3 Business Privilege License for requirements for obtaining a
Business Privilege License.)

[Ord. 1176]

(Ord. 1045, 11/9/1982, §3; as amended by Ord. 1176, 11/14/1995, §1; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1237, 8/12/2003, §§1, 2; as amended by Ord. 1320, 12/13/2011, §2; as amended by Ord. 1346, 10/09/2012, §1)

§104. Returns.

1. Every return shall be made upon a form furnished by the Tax Administrator. Every person making a return shall certify the correctness thereof by signature.
2. Beginning with Tax Year 2012 and for each subsequent Tax Year, every person subject to the tax hereby imposed who has commenced his business at least one (1) full year prior to the beginning of the Tax Year shall, on or before the 15th day of April following, file with the Business Privilege Tax Collector a return setting forth his name, his business and business address and such other information as may be required by the Business Privilege Tax Collector to compute the actual gross volume of business transacted by him during the Tax Year immediately prior and the amount of tax estimated to be due for the then current Tax Year. Each return shall show the actual gross volume of business transacted by the taxpayer during the preceding Tax Year, the amount of tax paid previously as an estimate for the preceding tax year, the amount of tax, if any, remaining due for the preceding year, and the amount of estimated tax due for the current Tax Year.

Every person subject to the tax hereby imposed who has commenced his business less than one (1) full year prior to the beginning of the Tax Year shall, on or before the 15th day of April following, file with the Business Privilege Tax Collector a return setting forth his name, his business and business address and such other information as may be required by the Business Privilege Tax Collector to compute the actual gross volume of business transacted by him during the Tax Year immediately prior and

the amount of tax estimated to be due for the then current Tax Year. Each return shall show the actual whole volume of business transacted by the taxpayer during the preceding Tax Year, the amount of tax paid previously as an estimate for the preceding tax year, the amount of tax, if any, remaining due for the preceding year, and the amount of estimated tax due for the current Tax Year.

Every person subject to the tax hereby imposed who commences business subsequent to the beginning of the Tax Year shall, within sixty (60) days from the date of commencing such business, file with the Business Privilege Tax Collector a return setting forth his name, his business and business address and such other information as may be required by the Business Privilege Tax Collector and shall compute and show the amount of tax estimated to be due for the then current Tax Year.

3. Every person subject to the tax hereby imposed who engages in a business which is temporary, seasonal or itinerant by its nature and of a duration not exceeding sixty (60) days shall, within seven (7) days from the date he completes such business, file with the Business Privilege Tax Collector a return setting forth his name, his business address and such other information as may be required by the Business Privilege Tax Collector to compute the actual gross amount of business transacted by him during such period and the amount of the tax due.
4. Any person ceasing to do business during the Tax Year shall, within fourteen (14) days from the date of ceasing to do business, file a final return showing the actual gross volume of business conducted during that portion of the Tax Year in which said person was actually in business, and pay the tax due as computed thereon.
5. **PAYMENT OF TAX AND PENALTIES FOR LATE PAYMENT** – The Business Privilege Tax levied pursuant to the Ordinance shall be due and payable on the date on which the taxpayer is required to file a return as set forth above. All taxes due under this Part shall bear interest at the rate of one and one-half per centum (1½%) per month or fraction of a month from the day they are due and payable until paid. If any taxpayer shall neglect or refuse to make any return or payment as and when required, a penalty in the amount of ten per centum (10%) of the amount of the tax shall be added and collected.

(Ord. 1045, 11/9/1982, §4; as amended by Ord. 1320, 12/13/2011, §3)

§105. Fines and Violations.

1. Any person who shall conduct, transact or engage in any of the businesses subject to the tax imposed by this Part who shall fail to file a tax return as required by the provisions of this Part, or any person who shall willfully file a false return, or

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who commits any other violation subject to this Part shall, upon conviction thereof, be sentenced to pay a fine not to exceed \$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. [Ord. 1185]

2. This penalty shall be in addition to all other penalties and interest as may be set forth herein.

(Ord. 1045, 11/9/1982, §5; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1320, 12/13/2011, §5)

§106. Continuing Offense.

Each day on which such person violates this Part may be considered as a separate offense and punishable as such as aforeprovided.

(Ord. 1045, 11/9/1982, §6)

§107. Duties of the Tax Administrator and Treasurer.

1. The Tax Administrator is charged with the duty of collecting and receiving the taxes, fines and penalties imposed by this Part. It shall be the Tax Administrator's duty to keep a record showing the amount received from each person paying the tax and the date of such receipt.
2. The Council of the Borough of Wyomissing is hereby empowered to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Part, including provisions for the examination and correction of returns and payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred and charged with enforcing the provisions of this Part and any rules and/or regulations promulgated pursuant hereto.
3. In the event the person to be assessed neglects or refuses to make a return, then in such case the Tax Administrator shall assess said person or persons on such an amount of gross volume of business as the said Tax Administrator deems reasonable and appropriate. In all cases of assessment, the Tax Administrator shall give the parties assessed a notice in which shall be stated the trade, business, occupation or class, and the amount of the business privilege tax imposed or levied.
4. The taxpayer shall maintain such records and books of account as will enable the making of a true and accurate return in accordance with the provisions of this Part. Such accounts and records must disclose in detail the gross receipts and other data pertaining to the taxpayer's gross volume of business and must be sufficiently complete to enable the Tax Administrator to verify all transactions. The Tax Administrator is hereby authorized to examine the books, papers and records

of any person or persons subject to or supposed to be subject to the tax imposed by this Part in order to verify the accuracy of the return made, or if no return was made, ascertain the tax.

5. The Tax Administrator shall promptly pay over to the Borough's Treasurer all monies, including protests, collected pursuant to this Part.

(Ord. 1045, 11/9/1982, §7; as amended by Ord. 1320, 12/13/2011, §6)

§108. Confidential Nature of Returns, Etc.

Any information gained by the Tax Administrator or any other 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.

(Ord. 1045, 11/9/1982, §8)

§109. Suit on Collection and Penalty.

1. The Tax Administrator and/or Treasurer shall have the power in the name of the Borough to institute proceedings against any and all persons who violate the provisions of this Part.
2. If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefore shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

(Ord. 1045, 11/9/1982, §9)

§110. Payment of Tax.

1. At the time of filing a tax return, each Taxpayer shall pay an estimated tax for the current year and any balance of taxes due for the Tax Year immediately preceding. The estimated tax shall be calculated as provided above herein. The balance of tax due for the preceding Tax Year shall be the difference between the amount of tax paid as an estimate for said preceding Tax Year and the amount of the tax finally shown to be due.
2. All taxes, interest and penalties imposed under the provisions of this Ordinance shall be payable to the Business Privilege Tax Collector.

(Ord. 1320, 12/13/2011, §7)

§111. Rules and Regulations.

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The Borough of Wyomissing is hereby authorized to adopt by resolution rules and regulations as necessary for implementation and enforcement of this Ordinance.

(Ord. 1320, 12/13/2011, §8)

PART 2

PER CAPITA TAX

§201. Per Capita Tax Levied.

A per capita tax of \$5 for the year 1975 and for each subsequent year be, and the same is hereby levied and assessed upon each resident or inhabitant of the Borough of Wyomissing 18 years of age and over, for general revenue purposes, which tax shall be in addition to all other taxes levied and assessed by the Borough of Wyomissing pursuant to any other laws of the Commonwealth of Pennsylvania.

(Ord. 942, 12/10/1974, §1)

§202. Collection of Tax.

The said tax shall be collected by the duly elected or appointed Tax Collector of Borough taxes for the Borough of Wyomissing in the same manner and at the same time or times as other Borough taxes are collected as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

(Ord. 942, 12/10/1974, §2)

§203. Bond.

The Tax Collector shall give bond secured and conditioned for the collection and payment of such taxes as provided by law for other Borough taxes.

(Ord. 942, 12/10/1974, §3)

§204. Warrant for Collection.

The entry of said per capita tax in the tax duplicate and issuance of said duplicate to the Tax Collector shall constitute his/her warrant for the collection of said per capita tax hereby levied and assessed.

(Ord. 942, 12/10/1974, §4; as amended by Ord. 1185, 5/13/1997)

§205. Expenses of Collection and Compensation.

[See Chapter 1 (Administration and Government), Part 10, Section 1002 entitled "Tax Collector's Compensation and Section 1004 entitled "Expenses of Collection]

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(Ord. 942, 12/10/1974, §5; as repealed by Ord. 1383, 2/14/2017, §5)

§206. Notice.

The Tax Collector shall give notice to the taxpayers at the same time and in the same manner as provided by the Local Tax Collection Law of 1945, as amended and supplemented.

(Ord. 942, 12/10/1974, §6)

§207. Assessment.

In case the Tax Collector or a deputy tax collector shall at any time find within the Borough of Wyomissing any resident or inhabitant 18 years of age or over, whose name does not appear upon the tax duplicate, he/she shall report the name of such person forthwith to the Borough employee appointed to prepare the list of residents or inhabitants for use in the assessment and levy of the Borough's per capita tax, who shall thereupon certify same unto the Borough of Wyomissing, which shall promptly certify the same to the Tax Collector reporting the name whereupon the Tax Collector shall add the name and the assessment of this per capita tax against such person to the duplicate of the Borough of Wyomissing and proceed to collect same.

(Ord. 942, 12/10/1974, §7; as amended by Ord. 1185, 5/13/1997)

§208. Authority to Collect by Distress.

The Tax Collector shall be and is hereby empowered with the authority to collect said tax by distress and sell all goods and chattels of the taxpayer, as provided therefor by the Local Tax Collection Law or 1945, as amended and supplemented.

(Ord. 942, 12/10/1974, §7)

§209. Employers to Make Deductions.

There is hereby conferred upon the Tax Collector the power and authority to demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing per capita taxes, or whose spouse owes per capita taxes, or if in possession of unpaid commissions or earnings belonging to any person owing per capita taxes, or whose spouse owes per capita taxes, upon the presentation of written notice and demand containing the name of the taxable, or spouse thereof, and the amount of tax due. Upon the presentation of such written notice and demand it shall be the duty of such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employees then owing or that shall within 60 days thereafter become due, or

from any unpaid commissions or earnings of any taxables in its or his/her possession, or that shall within 60 days thereafter come into its or his/her possession, a sum sufficient to pay the respective amount of the per capita taxes and costs shown upon the written notice or demand, and to pay the same to the Tax Collector of the Borough of Wyomissing within 60 days after such notice shall have been given. The employer shall be entitled to deduct not more than 2% for his/her expenses for such moneys paid over to the Tax Collector. Upon the failure of such employer to make such deduction when properly notified as herein provided, such employer shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over to the Tax Collector or as herein provided, which amount may be recovered by an action of assumpsit in a suit to be instituted by the Tax Collector on behalf of the Borough of Wyomissing.

(Ord. 942, 12/10/1974, §9; as amended by Ord. 1185, 5/13/1997)

§210. Tax Collector to Keep Account.

The Tax Collector shall keep a correct account of all per capita taxes collected by authority of this Part. He/she shall mark the same paid on each duplicate at the name of each taxable, and the date on which payment was made. The Tax Collector shall remit said taxes to the Treasurer of the Borough of Wyomissing by a separate statement at the same time as other taxes are remitted to the Borough of Wyomissing.

(Ord. 942, 12/10/1974, §10; as amended by Ord. 1185, 5/13/1997)

§211. Taxpayers Entitled to Discount.

All taxpayers subject to the payment of the per capita taxes herein levied and assessed shall be entitled to a discount of 2% of the amount of such tax upon making payment of the whole amount thereof within two months after the date of the tax notice. All taxpayers who fail to make payment of any such taxes charged against them for a period of four months after the date of the tax notice shall be charged a penalty of 5%, which penalty shall be added to the taxes by the Tax Collector and be collected by him/her.

(Ord. 942, 12/10/1974, §11; as amended by Ord. 1185, 5/13/1997)

§212. Powers of Tax Collector.

It is the intent of this Part and there is hereby conferred upon the Tax Collector all the powers, together with all the duties and obligations to the same extent and as fully as provided for in the local Tax Collection Law of 1945, as amended and supplemented.

(Ord. 942, 12/10/1974, §12)

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§213. Calendar Year Basis.

The tax imposed by this Part is for the year commencing January 1, and ending December 31, and this Part, and the tax imposed hereby, shall continue in force from year to year on a calendar year basis without annual reenactment.

(Ord. 942, 12/10/1974, §13)

§214. Penalty.

Any resident or inhabitant who fails or refuses to pay the tax or to render accurate information to an assessor concerning his/her residence or age shall, upon conviction thereof, be sentenced to pay a fine 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. 942, 12/10/1974; as added by Ord. 1185, 5/13/1997)

PART 3

REALTY TRANSFER TAX

§301. Definitions.

The following words when used in this Part shall have the meanings ascribed to them in this Section:

ASSOCIATION — a partnership, limited partnership, or any other form of unincorporated enterprise owned or conducted by two or more persons other than a private trust or decedent's estate.

CORPORATION — a corporation, joint-stock association, business trust or banking institution which is organized under the laws of the Commonwealth, the United States, or any other State, territory or foreign country or dependency.

DOCUMENT — any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless due consideration is payable over a period of time exceeding 30 years or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under §306 of this Part.

FAMILY FARM CORPORATION — a corporation of which at least 75% of its assets are devoted to the business of agriculture, and at least 75% of each class of stock of the corporation is continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- A. Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- B. The raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;
- C. Fur farming;
- D. Stockyard and slaughterhouse operations; or,
- E. Manufacturing or processing operations of any kind.

MEMBERS OF THE SAME FAMILY — any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandpar-

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ents, the ancestors and lineal descendants of any of the foregoing, the spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

PERSON — every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment or both, the term “person” as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

REAL ESTATE –

- A. Any lands, tenements or hereditaments within this Commonwealth including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.
- B. A condominium unit.
- C. A tenant-stockholder’s interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

REAL ESTATE COMPANY — a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, 90% or more of the ownership in which is held by 35 or fewer persons and which:

- A. Derives 60% or more of its annual gross receipts from the ownership or disposition of real estate; or,
- B. Holds real estate, the value of which comprises 90% or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

TITLE TO REAL ESTATE –

- A. Any interest in real estate which endures for a period of time the termination of which is not fixed or ascertained by a specific number of years including, without limitation, an estate in fee simple, life insurance or perpetual leasehold; or,
- B. Any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal of an estate in fee simple, life estate or perpetual leasehold including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of 30 years or

more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

TRANSACTION — the making, executing, delivering, accepting or presenting for recording of a document.

VALUE –

- A. In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate; provided, that where such documents shall set forth a nominal consideration, the "value" therefor shall be determined from the price set forth in or actual consideration for the contract of sale.
- B. In the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio of assessed values to market values of the taxing district as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate.
- C. In the case of an easement or other interest in real estate, the value of which is not determinable under subsection (A) or (B), the actual monetary worth of such interest.
- D. The actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

(Ord. 1084, 9/9/1986, §1)

§302. Imposition of Tax.

Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or pre-

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sented for recording shall be subject to pay for and in respect to the transaction or any part thereof, or for or in respect of the vellum parchment or paper upon which such document is written or printed, a local tax at the rate of 1% of the value of the real estate represented by such document, which local tax shall be payable at the earlier of the time the document is presented for recording or within 30 days of acceptance of such document or within 30 days of becoming an acquired company that has been conveyed or transferred within the Borough of Wyomissing's territory regardless of where the instruments making the transfers are made, executed or delivered, or where the transaction took place.

(Ord. 1084, 9/9/1986, §2)

§303. Exempt Parties.

The United States, the Commonwealth, or any of their instrumentalities, agencies or political subdivisions shall be exempt from payment of the tax imposed by this Part. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.

(Ord. 1084, 9/9/1986, §3)

§304. Excluded Transactions.

The tax imposed by §302 shall not be imposed upon:

- A. A transfer to the Commonwealth, or to any of its instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance is made within one year from the date of condemnation.
- B. A document which the Commonwealth is prohibited from taxing under the Constitution or statutes of the United States.
- C. A conveyance to a municipality, township, school district or county pursuant to acquisition by the borough, township, school district or county or a tax delinquent property at sheriff sale or tax claim bureau sale.
- D. A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.
- E. A transfer or division in kind for no or nominal actual consideration of property, passed by testate or intestate succession and held by co-tenants; how-

ever, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

- F. A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister, and between grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer.
- G. A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.
- H. A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries, whether or not such beneficiaries are contingent or specifically named. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries.
- I. A transfer for no or nominal actual consideration from a trustee to a beneficiary of an ordinary trust.
- J. A transfer for no or nominal actual consideration from trustee to successor trustee.
- K. A transfer:
 - (1) For no or nominal actual consideration between principal and agent or straw party; or,
 - (2) From or to an agent or straw party where, if the agent or straw party were his/her principal, no tax would be imposed under this Part. [Ord. 1185]

Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his/her principal, there is a rebuttable presumption that the property is the property of the grantee in his/her individual capacity if the grantee claims an exemption from taxation under this subsection. [Ord. 1185]

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- L. A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the Department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this Part.
- M. A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his/her interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years. [Ord. 1185]
- N. A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.
- O. A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:
 - (1) The grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and,
 - (2) The agency or authority has the full ownership interest in the real estate transferred.
- P. A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.
- Q. Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.
- R. A transfer to a conservancy which possesses a tax exempt status pursuant to §501(c)(3) of the Internal Revenue Code of 1954, (68A Stat. 3), 26 U.S.C. §501(c)(3) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open space opportunities.
- S. A transfer of real estate devoted to the business of agriculture to a family farm corporation by a member of the same family which directly owns at least 75% of each class of the stock thereof.
- T. A transfer between members of the same family of an ownership interest in a real estate company or family farm corporation.

- U. A transaction wherein the tax due is \$1 or less.
- V. Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this Section the true, full and complete value of the transfer shall be shown on the statement of value. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this Part.

(Ord. 1084, 9/9/1986, §4; as amended by Ord. 1185, 5/13/1997)

§305. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders thereof.

Except as otherwise provided in §303, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this Part, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(Ord. 1084, 9/9/1986, §5)

§306. Acquired Company.

1. A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:
 - A. Does not affect the continuity of the company; and,
 - B. Of itself or together with prior changes has the effect of transferring, directly or indirectly, 90% or more of the total ownership interest in the company within a period of three years.
2. With respect to real estate acquired after February 16, 1986, a family farm corporation is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm corporation or when, because of issuance or transfer of stock or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm corporation under this Part.
3. Within 30 days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration

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shall set forth the value of real estate holdings of the acquired company in such county.

(Ord. 1084, 9/9/1986, §6)

§307. Credits Against Tax.

1. Where there is a transfer of a residential property by a licensed real estate broker, which property was transferred to him/her within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him/her shall be given to him/her toward the amount of the tax due upon the transfer. [Ord. 1185]
2. Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.
3. Where there is a transfer of real estate which is demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given the grantor toward the tax due upon the transfer.
4. Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.
5. If the tax due upon the transfer is greater than the credit given under this Section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover shall be allowed.

(Ord. 1084, 9/9/1986, §7; as amended by Ord. 1185, 5/13/1997)

§308. Civil Penalties.

1. If any part of any underpayment of taxes imposed by this Part is due to fraud, there shall be added to the tax an amount equal to 50% of the underpayment.
2. In the case of failure to record a declaration required under this Part on the date prescribed therefore, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(Ord. 1084, 9/9/1986, §7; as added by Ord. 1185, 5/13/1997)

PART 4

EARNED INCOME TAX

§401. Definitions.

All terms defined in the Local Tax Enabling Act shall have the meanings set forth therein. The following terms shall have the meanings set forth herein:

1. COLLECTOR – The person or entity appointed as tax officer pursuant to the Local Tax Enabling Act to collect the Tax.
2. EFFECTIVE DATE – January 1, 2012.
3. ENACTMENT – This Part 4 of Chapter 24 of the Code of Ordinances of the Borough of Wyomissing.
4. GOVERNING BODY – The Borough Council of the Borough of Wyomissing.
5. LOCAL TAX ENABLING ACT – The Local Tax Enabling Act, as set forth in 53 P.S. § 6901 *et seq.* while such numbering and provisions remain in effect under Act 32 of 2008, and as set forth in 53 P.S. § 6924.101 *et seq.* when such numbering and provisions become effective under Act 32, and as amended in the future.
6. TCD – Any tax collection district to which the Taxing Authority or any part of the Taxing Authority is assigned under the Local Tax Enabling Act.
7. TCC – The tax collection committee established to govern and oversee the collection of earned income tax within the TCD under the Local Tax Enabling Act.
8. TAX – The tax imposed by this Enactment.
9. TAX RETURN – A form prescribed by the Collector for reporting the amount of Tax or other amount owed or required to be withheld, remitted, or reported under this Enactment or the Local Tax Enabling Act.
10. TAX YEAR – The period from January 1 to December 31.
11. TAXING AUTHORITY – The Borough of Wyomissing.

(Ord. 987, 11/9/1977, §1; as amended by Ord. 1318, 11/8/2011, §1)

§402. Imposition of Tax.

1. General Purpose Resident Tax. The Taxing Authority hereby imposes a Tax for general revenue purposes at the rate of 1% on earned income and net profits of individual residents of the Taxing Authority.
2. General Purpose Municipal Nonresident Tax. The Taxing Authority also imposes a Tax for general revenue purposes at the rate of 1% on earned income and

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net profits derived by an individual who is not a resident of the Taxing Authority from any work, business, profession, or activity, of any kind engaged in within the boundaries of the Taxing Authority.

3. Ongoing Tax. The Tax shall continue at the above rates during the current Tax Year and each Tax Year thereafter, without annual re-enactment, until this Enactment is repealed or the rate is changed.
4. Combined Tax Rate Applicable to Residents. Currently, the total rate applicable to residents of the Taxing Authority, including the tax imposed by the school district and municipality in which the individual resides, is 1%.
5. Municipal Tax Rate Applicable to Nonresidents. Currently, the total rate applicable to non-residents working within the Taxing Authority based on the municipal non-resident tax rate is 1%.
6. Local Tax Enabling Act Applicable. The Tax is imposed under authority of the Local Tax Enabling Act, and all provisions thereof that relate to a tax on earned income or net profits are incorporated into this Enactment. Any future amendments to the Local Tax Enabling Act that are required to be applied to a tax on earned income or net profits will automatically become part of this Enactment upon the effective date of such amendment, without the need for formal amendment of this Enactment, to the maximum extent allowed by 1 Pa.C.S.A. § 1937.
7. Applicable Laws, Regulations, Policies, and Procedures. The Tax shall be collected and administered in accordance with: (1) all applicable laws and regulations; and (2) policies and procedures adopted by the TCC or by the Collector. This includes any regulations, policies, and procedures adopted in the future to the maximum extent allowed by 1 Pa.C.S.A. § 1937.

(Ord. 987, 11/9/1977, §2; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1318, 11/8/2011, §1)

§403. No Exemption from Tax.

Although credits and deductions against Tax are permitted under certain circumstances as provided in applicable law and regulations, no individuals are exempt from Tax based on age, income, or other factors.

(Ord. 987, 11/9/1977, §3; as amended by Ord. 1318, 11/8/2011, §1)

§404. Individual Tax Returns and Payments.

Every individual receiving earned income or earning net profits in any Tax Year shall file Tax Returns and pay Tax in accordance with the Local Tax Enabling Act.

(Ord. 987, 11/9/1977, §4; as amended by Ord. 1318, 11/8/2011, §1)

§405. Employer Withholding, Remittance, and Tax Returns.

Every employer shall register, withhold, and remit Tax, and file Tax Returns in accordance with the Local Tax Enabling Act.

(Ord. 987, 11/9/1977, §5; as amended by Ord. 1318, 11/8/2011, §1)

§406. Tax Collector.

The Tax will be collected from individuals and employers by the Collector.

(Ord. 987, 11/9/1977, §6; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1318, 11/8/2011, §1)

§407. Interest, Penalties, Costs, and Fines.

Individuals and employers are subject to interest, penalties, costs, and fines in accordance with the Local Tax Enabling Act, including costs imposed by the Collector in accordance with the Local Tax Enabling Act.

(Ord. 987, 11/9/1977, §7; as amended by Ord. 1318, 11/8/2011, §1)

§408. Repealed.

(Ord. 987, 11/9/1977, §8; as repealed by Ord. 1318, 11/8/2011, §1)

§409. Repealed.

(Ord. 987, 11/9/1977; as added by Ord. 1185, 5/13/1997; as repealed by Ord. 1318, 11/8/2011, §1)

PART 5

DISCOUNT AND PENALTY RATES

§501. Taxpayers Entitled to Discount.

All taxpayers shall be entitled to a discount of 2% from the amount of Borough taxes upon making payment of the whole amount thereof within two months after the date of the tax notice.

(Ord. 972, 12/14/1976, §1)

§502. Penalty.

All taxpayers who shall fail to make payment of any such taxes charged against them for four months after the date of the tax notice shall be charged a penalty of 10%, which penalty shall be added to the taxes by the Tax Collector and be collected by the Tax Collector.

(Ord. 972, 12/14/1976, §2)

PART 6

LOCAL SERVICES TAX

§601. Definitions.

APPROVED NOMINEE – The person designated by the governing body of the Borough of Wyomissing by resolution to administer and enforce or to assist in the administration or enforcement of the tax in the place of the Tax Collector.

CALENDAR YEAR or **YEAR** – The period of time beginning on the first day of January and ending on the 31st day of December of each year.

EMPLOYER – An individual, partnership, limited partnership, association or corporation that engages the services of any individual and makes payment to said individual whether by salary, wages, commission, or otherwise. An “employer” shall include a self-employed person who engages in his employ the services of one (1) or more individuals besides himself.

INDIVIDUAL – Any person, male or female, engaged in any occupation of any nature, type or kind whatsoever within the corporate limits of the Borough of Wyomissing, whether in the employ of another or self-employed, during the calendar year 2008 or any calendar year thereafter.

PRIVILEGE – The exercising or carrying on by any manner or means of any occupation whatsoever, whether it be trade, profession, business or undertaking any type or kind carried on or performed within the corporate limits of the Borough of Wyomissing, Berks County, for which recompense is received, whether by means of salary, wages, commission or otherwise, or whether the individual be self-employed, by payment for services rendered.

RETURN – All forms designated, prepared and supplied by the Tax Collector or his approved nominee for reporting the tax required to be deducted and paid at the times specified in §§ 606 and 608 of this Article.

TAXABLE YEAR – The calendar year in which the tax is payable.

TAX COLLECTOR – The Tax Collector of the Borough of Wyomissing, Berks County, Pennsylvania as appointed by the Borough of Wyomissing to collect the Local Services Tax.

LOCAL SERVICES TAX – A tax of fifty-two dollars (\$52.00) per year levied on each engagement in any occupation, as heretofore defined, within the corporate limits of the Borough of Wyomissing during the calendar year 2008 or any calendar year thereafter.

(Ord. 862, 2/9/1971, §1; as amended by Ord. 1128, 12/11/1990, §1; amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; amended by Ord. 1273, 11/13/07, §3)

§602. Imposition of Tax.

For the calendar year 2008 and annually thereafter, the Borough of Wyomissing hereby imposes on each Individual, to be paid by said Individual exercising the privilege of engaging in any occupation within the corporate limits of the Borough of Wyomissing, an annual Local Services Tax in the manner and at the rates hereinafter set forth.

(Ord. 862, 2/9/1971, §2; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§603. Amount of Tax.

Beginning on January 1, 2008, each engagement in an occupation as hereinbefore defined shall be subject to the payment of a Local Services Tax of fifty-two dollars (\$52.00) to be paid by each individual exercising the privilege of engaging in any occupation, as hereinbefore defined, within the corporate limits of the Borough of Wyomissing.

(Ord. 862, 2/9/1971, §3; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§604. Exemptions; Tax to be Paid and Refunded.

- A. Each individual exercising the privilege of engaging in any occupation or occupations within the corporate limits of the Borough of Wyomissing and who shall earn less than twelve thousand dollars (\$12,000.00) during the calendar year from said occupation or occupations shall be exempt from the payment of the Local Services Tax of fifty-two dollars (\$52.00).
- B. Each individual who shall be engaged in more than one (1) occupation within the corporate limits of the Borough of Wyomissing and who shall earn a total of twelve thousand dollars (\$12,000.00) or more from the two (2) or more occupations engaged in shall not be exempt from the Local Services Tax of fifty-two dollars (\$52.00) though he or she shall earn less than twelve thousand dollars (\$12,000.00) in each one of the two (2) or more occupations he or she is engaging in within the corporate limits of the Borough of Wyomissing.
- C. Any individual exempt from the payment of the Local Services Tax hereunder shall nevertheless pay said tax pursuant to the provisions of §§ 606, 609 or 610 hereof and shall, after December 31 of the subject taxable year but prior to June 30 next following the subject taxable year, file a

claim for refund of said tax. The burden of proof shall be upon the individual claiming to be exempt to verify and furnish proof satisfactory to the Tax Collector, or his approved nominee, that he or she is exempt and is entitled to a refund of the tax previously paid. Upon the receipt of such proof supporting the exemption, the Tax Collector, or his approved nominee, is authorized to make refund of the tax previously paid to such individual having supplied such proof that he or she is exempt from payment of the tax.

(Ord. 862, 2/9/1971, §4; as added by Ord. 943, 12/10/1974, §1; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§605. Date Tax is Due; Penalty for Late Payment.

- A. Each taxpayer or employer who becomes subject to the tax or the withholding provisions of this ordinance shall file the required returns and shall pay the tax due according to the following schedule:
 - 1. For all employees employed or self-employed persons engaging in an occupation in the Borough between the dates of January 1 of the taxable year and March 31 of the taxable year (first quarter), no later than April 30 of the taxable year.
 - 2. For all employees employed or self-employed persons engaging in an occupation in the Borough between the dates of April 1 of the taxable year, and June 30 of the taxable year (second quarter), no later than July 31 of the taxable year.
 - 3. For employees employed or self-employed persons engaging in an occupation in the Borough between the dates of July 1 of the taxable year and September 30 of the taxable year.
 - 4. For all employees employed or self-employed persons engaging in an occupation in the Borough between October 1 of the taxable year and December 31 of the taxable year (fourth quarter), no later than January 31 of the year following the taxable year.
- B. In the case of an individual who exercise the privilege of engaging in an occupation within the corporate limits of the Borough of Wyomissing for the first time after the first day of January of the taxable year, said tax shall be due and payable at close of the quarter said privilege is so exercised, as set forth in § 605A above.
- C. Each taxpayer, employer or individual who becomes subject to the tax or withholding provisions of this Ordinance and fails to remit payment for said tax to the Borough, according to the schedule set forth in § 605A and

§ 605B above, shall have levied against them a penalty equal to ten percent (10%) of the amount due and interest computed at one percent (1%) per month for all amounts due and owing after the due date.

(Ord. 862, 2/9/1971, §6; as amended by Ord. 943, 12/10/1974, §2; and by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§606. Responsibility of Employer to Collect; Procedure.

Each employer within the Borough of Wyomissing is hereby charged with the duty of collecting and paying over to the Tax Collector of the Borough of Wyomissing, or his approved nominee, from each employee engaged in his services, a pro-rata share of the said tax of fifty-two (\$52.00) dollars per year upon the privilege of engaging in any occupation, as hereinbefore defined, from each individual employed by said employer who performs services on behalf of said employer within the Borough of Wyomissing or who is engaged in an occupation, as hereinbefore defined, for the benefit of the said employer or in the service of said employer within the corporate limits of the Borough of Wyomissing. The pro-rata share of the tax assessed by the employer shall be determined by dividing the fifty-two dollar (\$52.00) tax by the number of payroll periods established by the employer for the year. For purposes of determining the pro-rata share, the employer shall round down to the nearest one-hundredth of a dollar. Each employer shall make returns and payments of such tax as required by this section and § 608 and is authorized to deduct the said Local Services Tax at the rates hereby imposed from each employee in his service, whether said employee is paid by salary, wages, commission or otherwise. Each employer within the corporate limits of the Borough of Wyomissing shall prepare and file a return showing a computation of the tax on a form to be obtained by him from the Tax Collector of the Borough of Wyomissing, or his approved nominee. Each employer shall file returns as required by this section and § 608 obtained by him from the Tax Collector of the Borough of Wyomissing, or his approved nominee, showing a computation of the tax. Each employer, by completing and filing said returns as required by this section and § 608, and making payments after deducting the tax from the salary, wages, commissions or other compensations payable by him to his employees, shall be entitled to retain a commission calculated at one-half of one percent (0.5%) on the gross tax due and payable by each individual, provided that such tax is collected and paid over by the employer within the one (1) month next following the last day of the quarter which it is due. It is further provided that if the employer fails to file said return and pay said tax, but makes collection thereof from the salary, wages, commissions or other compensation paid by him to said employee, the employer shall be responsible for payment of the tax in full without any deductions or commissions as though the tax had originally been levied against him. If said employer fails to file a return, deduct and remit the tax imposed on his employees within four (4) months of the due date, the applicable penalty and interest shall be chargeable to the employer. It is the employer's responsibility to file the return and remit the tax on behalf of his employee whether or not he deducts the tax from the employee. It is further provided that the provisions of this section shall apply with respect to each and every employee earning less than twelve thousand dollars (\$12,000.00) during the taxable year as de-

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fined and set forth under § 604. The burden of proof shall be upon the employee to verify and furnish proof to the Tax Collector, or his approved nominee, that he is exempt under § 604 and thus entitled to a refund.

(Ord. 862, 2/9/1971, §6; as amended by Ord. 943, 12/10/1974, §2; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§607. Individuals Having More Than One Occupation.

Each Individual who shall have more than one (1) occupation within the corporate limits of the Borough of Wyomissing or a principal occupation in another municipality which levies a Local Services Tax shall be subject to the payment of the annual Local Services Tax solely upon the privilege of engaging in his principal occupation, and his principal employer shall deliver to him a certificate of payment in a form to be furnished to the employer by the Tax Collector, or his approved nominee, certifying to any other employer of such individual that said Local Services Tax has been paid by the employee to the employer and, in turn, remitted by said employer to the Tax Collector, or his approved nominee of said other municipality. Any employer receiving such original certificate of payment of the Local Services Tax by another employer shall not deduct or collect the Local Services Tax imposed by this Article.

(Ord. 862, 2/9/1971, §7; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§608. Determination by Employer as to Which Employees are Subject to Tax; Commission.

Each employer in the Borough of Wyomissing shall use his employment records as of the first day of January in determining the number of employees from whom the said Local Services Tax shall be deducted and paid over to the Tax Collector or his approved nominee. Each employer who engages the services of any individual in an occupation to be performed in the Borough of Wyomissing on or after the first day of January 2008 shall collect from said employee a pro-rata share of the fifty-two dollars (\$52.00) tax by dividing fifty-two (52) by the number of payroll periods established by the employer for the year and collecting the sum for each remaining pay period from the employee's pay.

(Ord. 862, 2/0/1971, §9; as amended by Ord. 943, 12/10/1974, §3; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§609. Collection From Self-Employed Persons and Persons Employed Outside Borough.

Each self-employed individual in the Borough of Wyomissing who performs any services of any type or kind within the corporate limits of the Borough of Wyomissing, whether the same is regarded either as a profession as a business, shall be required to pay the Local Services Tax of fifty-two dollars (\$52.00) for himself and shall, further, be required to deduct and pay over in the manner hereinbefore set forth in § 606, but In any event no less than thirteen and 00/100 dollars (\$13.000 per quarter to the Tax Collector of the Borough of Wyomissing, an annual Local Services Tax of fifty-two dollars (\$52.00) for himself or herself and every individual in his employ who is engaged in the performance of any occupation or profession for him within the Borough of Wyomissing. Any individual engaged in any occupation within the said borough who is an employee of another shall be liable for the payment of the tax of fifty-two dollars (\$52.00) for himself and shall be treated and regarded as a self-employed individual if the location of the business of his employer is beyond the corporate limits of the Borough of Wyomissing and said employee is not liable for a similar tax in another municipality. Each employer whose business location is beyond the corporate limits of the Borough of Wyomissing shall be required to furnish to the Tax Collector of the Borough of Wyomissing, or his approved nominee, a list of all individuals employed by him who exercise the privilege of engaging in any occupation of any type or kind within the corporate limits of the Borough of Wyomissing during the calendar year and who are not liable for a similar tax in another municipality. It is further provided that the provisions of this section shall apply to each self-employed individual as defined herein earning less than twelve thousand dollars (\$12,000.00) during the calendar year as defined and set forth under § 604. The burden of proof shall be upon the self-employed individual to verify and furnish proof to the Tax Collector that he is exempt under § 604 and thus entitled to a refund.

(Ord. 862, 2/9/1971, §10; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§610. Tax To Be In Addition To Other Taxes.

The tax imposed by this Article shall be in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Borough of Wyomissing.

(Ord. 862, 2/9/1971, §11; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§611. Domestic Employees.

Where a person is engaged in domestic services for others and has more than one (1) employer in the performance of such services, the employer by whom such domestic is employed on the first day of January of the taxable year shall be responsible for the collection and payment of the annual Local Services Tax for such domestic to the Tax Collector of the Borough of Wyomissing, or his approved nominee pursuant to § 606 and

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608. In the event that the domestic is not employed by any person on the first day of January, the said responsibility for deducting and paying over the Local Services Tax shall rest upon the employer of the domestic on the next succeeding date following the first day of January, and said employer shall furnish to said domestic employee a certificate of payment of said Local Services Tax to be exhibited to all other employers of domestic, and the producing of said certificate to such other employers shall excuse them from the deduction of any further Local Services Tax from said domestic employee for the taxable year.

(Ord. 862, 2/9/1971, §12; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§612. Powers and Duties of Collector.

- A. It shall be the duty of the Tax Collector, or his approved nominee, to collect, to receive and, when required by law or this Article, to make refunds of the taxes, fines or penalties imposed by this Article. It shall also be his duty to keep a record showing the amount received by him from each self-employed person paying the tax and the date of such receipt; and, further, it shall be his duty to keep a record showing the amount received by him from every employer paying the tax on behalf of his employees by deduction made by such employer from the salary, wages, commissions or other forms of recompense.
- B. The Tax Collector, or his approved nominee, is hereby charged with the administration and enforcement of the provisions of this Article 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 Article, including a provision for the examination of the payroll records of any employer within the Borough of Wyomissing and, further, for the reexamination and correction of any returns made in compliance with this Article and any payment alleged or found to be incorrect or as to which over payment or exemption is claimed or found to have occurred. Any person aggrieved by any decision of the Tax Collector, or his approved nominee, shall have the right to appeal to the Court of Common Pleas of Berks County as in other cases provided.
- C. The Tax Collector, or his approved nominee, is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by any employer on behalf of his employees or, if no return was made, to ascertain the Local Services Tax due. Each employer in the Borough of Wyomissing is hereby directed and required to give to the Tax Collector, or his approved nominee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

- D. The records, books and accounts of the Tax Collector, or his approved nominee, shall be audited by whoever from time to time is charged with the auditing of the accounts of the Borough of Wyomissing.

(Ord. 862, 2/9/1971, §13; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§613. Collection of Unpaid Taxes.

In the event that any tax under this Article remains due or unpaid at the end of the taxable year, the Tax Collector, or his approved nominee, may sue for the recovery of any such tax due or unpaid under this Article, together with penalty. Where suit is brought for the recovery of any Local Services Tax, the individual liable therefor shall, in addition, be responsible and liable for the costs of collection and the interest and penalties herein imposed.

(Ord. 862, 2/9/1971, §14; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§614. Violations and Penalties.

Whoever makes any false or untrue statements on any return or exemption claim required by this Article, or who refuses inspection of the books, records or accounts in this custody or control in order to determine the number of employees subject to the Local Services Tax who are in his employment or whoever fails or refuses to file any return required by this Article shall, upon conviction before any District justice having jurisdiction, be sentenced to pay a fine of not more than three hundred dollars (\$300.00) for each offense and, in default of payment of said fine, to be imprisoned in Berks County Prison for a period not exceeding thirty (30) days for each offense. It is further provided that action to enforce the penalty herein provided may be begun and instituted against any person in charge of the business premises of any employer who has failed or who refuses to file a return required by this Article.

(Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§615. Limitation on Levy; Effect of judicial Decisions.

- A. Nothing contained in this Article shall be construed to empower the Borough of Wyomissing to levy and collect the Local Services Tax hereby imposed on any occupation not within the taxing power of the Borough of Wyomissing under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania, particularly those laws which provide that no person shall pay more than fifty-two dollars (\$52.00) in any calendar year as a Local Services Tax irrespective of the number of

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political subdivisions within which such person may be employed within any given calendar year .

- B. If the Local Services Tax hereby imposed under the provisions of this Article shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania as to any individual, the decision of the court shall not affect or impair the right to impose or collect said Local Services Tax or the validity of the tax so imposed upon other persons or individuals as herein provided.

(Ord. 862, 2/9/1971, §16; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§616. Individuals in Licensed Occupations Subject to Tax.

If any individual is engaged in any occupation of any type or kind licensed by the Commonwealth of Pennsylvania, the tax imposed by this Article, nevertheless, shall be payable and due by said individual for the privilege of maintaining a location within the corporate limits of the Borough of Wyomissing or for the carrying on of such occupation or business so licensed within the corporate limits of the Borough of Wyomissing.

(Ord. 862, 2/9/1971, §17; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

§617. Deadline for Refund Claims.

Any claim for refund of any Local Services Tax paid during the calendar year of 2008 or thereafter must be filed in writing with the Tax Collector, or his approved nominee, on or before the 30th day of June next following the subject taxable year. Any claim for refund filed after said date shall be barred and disallowed.

(Ord. 862, 2/9/1971, §18; as amended by Ord. 1265, 12/13/05, §1; as amended by Ord. 1273, 11/13/07, §3)

PART 7

MERCANTILE TAX

§701. Short Title.

This Part shall be known and may be cited as the “Mercantile Tax Ordinance of the Borough Wyomissing.”

(Ord. 1011, 8/14/1979, §1)

§702. 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:

BOROUGH — the Borough of Wyomissing, Berks County, Pennsylvania.

MERCANTILE TAX COLLECTOR — the officer appointed by the Borough of Wyomissing to collect the tax covered under this Part.

PERSON — any individual, partnership, limited partnership, association, corporation or other entity engaging in business.

RETAIL DEALER — any person who is a dealer in, or vendor of, goods, wares and merchandise who is not a wholesale dealer or a wholesale and retail dealer as herein defined.

TAX PAYER — a Person subject to the tax imposed by the Mercantile Tax Ordinance.

TAX YEAR — the calendar year, January 1 through December 31 of a given year.

TEMPORARY, SEASONAL or ITINERANT BUSINESS — any business that is conducted at one location for less than 60 consecutive calendar days.

WHOLE VOLUME OF BUSINESS — the money or money’s worth received by any wholesale dealer, retail dealer, wholesale and retail dealer or proprietor of any restaurant or other place where food, drink and refreshments are served, in, or by reason of, the sale of goods, wares and merchandise, including in every case, cash, credits, and, except as herein provided, property of any kind or nature, without deduction therefrom on account of the cost of the property sold, the cost of materials, labor and services expended, interest, discounts, other taxes paid and other expenses; but not including the dollar volume of business transacted by wholesale dealers, retail dealers, and wholesale and retail dealers derived from the resale of goods, wares and merchandise taken by any such dealer as a trade-in or as

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part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.

WHOLESALE DEALER — any person who sells to dealers in, or vendors of, goods, wares and merchandise and to no other persons.

WHOLESALE AND RETAIL DEALER — any person who sells to dealers in, or vendors of, goods, wares and merchandise and to other persons.

2. The terms “person,” “wholesale dealer,” “retail dealer” and “wholesale and retail dealer” shall not include nonprofit corporations or associations organized for religious, charitable or educational purposes, social or civic groups, agencies of the Government of the United States or of the Commonwealth of Pennsylvania or any person vending or disposing of articles of his/her own growth, production or manufacture for shipment or delivery from the place of growth, production or manufacture thereof. When any of the foregoing terms are used in this Part, the singular shall include the plural and the masculine shall include the feminine and neuter. [Ord. 1185]

(Ord. 1011, 8/14/1979, §2; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1319, 12/13/2011, §1)

§703. Levy and Collection of Tax.

For the tax year commencing January 1 and ending December 31 and for tax years thereafter, the Borough hereby imposes a tax on each dollar of the whole volume of business transacted in the Borough by wholesale dealers, retail dealers, wholesale and retail dealers, and proprietors of restaurants or other places where food, drink and refreshments are served, regardless of whether such person, dealer or proprietor shall maintain a place of business within the Borough, at the rates and at the times hereinafter set forth. The Borough further directs that annual filings and payments of the tax shall be made as hereinafter set forth.

Beginning January 1, 2012, and for each tax year thereafter, the tax year shall be a calendar year, January 1 through December 31. To effect transition from fiscal year, quarterly filing, to calendar year filing, the immediate prior fiscal year, July 1, 2010 through June 30, 2011 shall end on June 30, 2011. Each Taxpayer shall file a tax return for the tax quarter July 1, 2011 through September 30, 2011, and pay all taxes due on whole volume of business in said quarter, on or before October 31, 2011. Each Taxpayer shall file a tax return for the tax quarter October 1, 2011 through December 31, 2011, and pay all taxes due on whole volume of business in said quarter, on or before January 31, 2012. Beginning January 1, 2012, and for each tax year thereafter, each Taxpayer shall file an annual return on April 15 of each year as provided in this Ordinance.

(Ord. 1011, 8/14/1979, §3; as amended by Ord. 1319, 12/13/2011, §2)

§704. Imposition of Tax and Rates.

Every person engaging in any of the following occupations or businesses in the Borough, regardless of whether such person maintains a place of business within the Borough, shall pay in the manner hereinafter provided an annual tax on each dollar of the whole volume of business transacted in the Borough by such person, for the tax year commencing January 1 and ending December 31 and for tax years thereafter, at the following rates:

- A. Wholesale dealers in goods, wares and merchandise at the rate of one mill on each dollar of the annual whole volume of business transacted by them.
- B. Retail dealers in goods, wares and merchandise and proprietors of restaurants or other places where food, drink and refreshments are served, at the rate of 1/2 mills on each dollar of the annual whole volume of business transacted by them.
- C. Wholesale and retail dealers in goods, wares and merchandise at the rate of one mill on each dollar of the annual whole volume of wholesale business transacted by them and at the rate of 1 1/2 mills on each dollar of the annual whole volume of retail business transacted by them.

(Ord. 1011, 8/14/1979, §4)

§705. Computation of Volume of Business.

- 1. Every person subject to the tax hereby imposed, who has commenced business at least a full year prior to the beginning of a Tax Year shall compute the estimated whole Volume of Business for that Tax Year upon the actual gross amount of business transacted by such Person during the twelve (12) months preceding.
- 2. Every person subject to the tax hereby imposed who has commenced business less than one (1) full year prior to the beginning of a Tax Year shall compute the estimated Whole Volume of Business for that Tax Year by multiplying by twelve (12) the monthly average of the actual gross amount of business transacted by him during the months he was engaged in business prior to January 1.
- 3. Every person subject to the tax hereby imposed who commences his business subsequent to the beginning of a Tax Year shall compute the estimated Whole Volume of Business for that Tax Year upon the actual gross amount of business transacted by him during the first month of his engaging in business, multiplied by the number of months remaining in the Tax Year.

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4. Every person subject to the tax hereby imposed, who engages in a business that is temporary, seasonal or itinerant in nature, and of a duration not to exceed sixty (60) days, shall compute his annual whole volume of business for the tax year upon the actual whole amount of business transacted by him during such tax year.

(Ord. 1011, 8/14/1979, §5; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1319, 12/13/2011, §3)

§706. Returns.

1. Every return shall be made upon a form prescribed and furnished by the Mercantile Tax Collector. Every person making a return shall furnish information requested therein and certify the correctness thereof.
2. Beginning with Tax Year 2012 and for each subsequent Tax Year, every person subject to the tax hereby imposed who has commenced his business at least one (1) full year prior to the beginning of the Tax Year shall, on or before the 15th day of April following, file with the Mercantile Tax Collector a return setting forth his name, his business and business address and such other information as may be required by the Mercantile Tax Collector to compute the actual gross volume of business transacted by him during the Tax Year immediately prior and the amount of tax estimated to be due for the then current Tax Year. Each return shall show the actual whole volume of business transacted by the taxpayer during the preceding Tax Year, the amount of tax paid previously as an estimate for the preceding tax year, the amount of tax, if any, remaining due for the preceding year, and the amount of estimated tax due for the current Tax Year.
3. Every person subject to the tax hereby imposed who has commenced his business less than one (1) full year prior to the beginning of the Tax Year shall, on or before the 15th day of April following, file with the Mercantile Tax Collector a return setting forth his name, his business and business address and such other information as may be required by the Mercantile Tax Collector to compute the actual gross volume of business transacted by him during the Tax Year immediately prior and the amount of tax estimated to be due for the then current Tax Year. Each return shall show the actual whole volume of business transacted by the taxpayer during the preceding Tax Year, the amount of tax paid previously as an estimate for the preceding tax year, the amount of tax, if any, remaining due for the preceding year, and the amount of estimated tax due for the current Tax Year.
4. Every person subject to the tax hereby imposed who commences business subsequent to the beginning of the Tax Year shall, within sixty (60) days from the date of commencing such business, file with the Mercantile Tax

Collector a return setting forth his name, his business and business address and such other information as may be required by the Mercantile Tax Collector and shall compute and show the amount of tax estimated to be due for the then current Tax Year.

5. Every person subject to the tax hereby imposed who engages in a business which is temporary, seasonal or itinerant by its nature and of a duration not exceeding sixty (60) days shall, within seven (7) days from the date he completes such business, file with the Mercantile Tax Collector a return setting forth his name, his business address and such other information as may be required by the Mercantile Tax Collector to compute the actual gross amount of business transacted by him during such period and the amount of the tax due.
6. Any person ceasing to do business during the Tax Year shall, within fourteen (14) days from the date of ceasing to do business, file a final return showing the actual gross volume of business conducted during that portion of the Tax Year in which said person was actually in business, and pay the tax due as computed thereon.
7. The burden is hereby imposed upon an Person claiming an exemption from the payment or imposition of tax hereby imposed to prove his legal right to such exemption.

(Ord. 1011, 8/14/1979, §6; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1319, 12/13/2011, §4)

§707. Payment.

1. At the time of filing a tax return, each Taxpayer shall pay an estimated tax for the current year and any balance of taxes due for the tax year immediately preceding. The estimated tax shall be calculated as provided above. The balance of tax due for the preceding tax year shall be the difference between the amount of tax paid as an estimate for said preceding tax year and the amount of the tax finally shown to be due.
2. All taxes, interest and penalties imposed under the provisions of this Ordinance shall be payable to the Mercantile Tax Collector.

(Ord. 1011, 8/14/1979, §7; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1319, 12/13/2011, §5)

§708. Powers and Duties of Mercantile Tax Collector.

1. It shall be the duty of the Mercantile Tax Collector to collect and receive the taxes, interest, penalties and fines imposed by this Part. It shall also be his/her duty to

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keep a record showing the amount received by him/her from each person paying the tax and the date of such receipt. [Ord. 1185]

2. The Mercantile 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 reexamination and correction of returns, for payments alleged or found to be incorrect, and for overpayment claimed or found to have occurred.
3. If the Mercantile Tax Collector is not satisfied with the return made by any taxpayer or supposed taxpayer under the provisions of this Part, he/she is hereby authorized and empowered to redetermine the tax due by such person, based upon the facts contained in the return, or upon any information within his/her possession or that shall come into his/her possession; and for this purpose he/she or his/her representative is authorized to examine any books, papers and records of any such person in order to verify the accuracy of any return payment made under the provisions thereof or to ascertain whether the taxes imposed by this Part have been paid; and every such person is hereby required to submit his/her books, papers and records to such examination upon request of the Mercantile Tax Collector and to give him/her or his/her representative the means, facilities and opportunity for such an examination.
4. If the taxpayer or supposed taxpayer shall neglect or refuse to file any return required by this Part or to pay the tax imposed by this Part, or if any such person pays less than the correct amount of tax due from him/her the Mercantile Tax Collector shall estimate or determine the tax due by such person and the amount of interest and penalties thereon.
5. The Mercantile Tax Collector is hereby authorized and directed to make and keep such records and prepare such forms as may be necessary or convenient to carry this Part into effect.

(Ord. 1011, 8/14/1979, §8; as amended by Ord. 1185, 5/13/1997; as amended by Ord. 1319, 12/13/2011, §6)

§709. Suits for Tax; Interest; Penalties.

1. All taxes, interest and penalties due and unpaid under this Part shall be recovered by the Borough in accordance with the provisions of the Local Tax Enabling Act, 1965, December 31, P.L. 1257, as amended from time to time, or as otherwise provided by law.
2. In the event that the amount of tax paid by any taxpayer is less than the amount determined to be due from such taxpayer, interest shall be paid on the difference at the rate of 1 1/2% per month or fractional part thereof from the day said tax was

due and payable until the day said tax is fully paid. For the purpose of this provision, the tax imposed by this Ordinance shall be deemed due and payable on April 15 of the tax year; except that in the case of the taxpayers who file returns under Section 706(4) of this Chapter said tax shall be deemed due and payable sixty (60) days from the date of commencing such business and in the case of taxpayers who file returns under Section 706(5) of this Chapter, said tax shall be deemed due and payable seven (7) days from the day such business is completed.

3. In the event that any taxpayer neglects or refuses to pay any of the tax imposed by this Part, interest shall be paid upon the total amount determined by the Mercantile Tax Collector to be due from such taxpayer at the rate of 1 1/2% per month or fraction part thereof from the day said tax was due and payable until the day said tax is fully paid; and, in addition thereto, a penalty in the amount of 10% of the amount of the tax determined to be due shall be added thereto and collected by the Mercantile Tax Collector. Such penalty shall be in addition to any other penalty imposed by this Part. Where legal action is brought for the recovery of this tax, the taxpayer shall, in addition be responsible and liable for collections costs, including attorney fees.
4. In the event that any taxpayer neglects or refuses to file the return required to be filed by this Part, a penalty in the amount of 10% of tax due from such taxpayer shall be collected by the Mercantile Tax Collector. Such penalty shall be in addition to any other penalty imposed by this Part.

(Ord. 1011, 8/14/1979, §9; as amended by Ord. 1053, 3/8/1983, §1; as amended by Ord. 1319, 12/13/2011, §7)

§710. Returns to be Confidential.

Any information gained by the Mercantile Tax Collector or any other official or agent of the Borough as a result of any returns, investigations or verifications required or authorized by this Part shall be confidential, except for official purposes and except in accordance with proper judicial order, or as otherwise provided by law.

(Ord. 1011, 8/14/1979, §10; as amended by Ord. 12/13/2011, §8)

§711. Fines and Penalties.

Any person, or any officer, agent, servant or employee thereof, who shall fail, neglect or refuse to comply with any of the terms or provisions of this Part or of any regulations or requirements made pursuant hereto and authorized hereby, or who knowingly makes any false or untrue statement on his/her return, or who refuses to permit inspection of any books, records or accounts of any person when the right to make such inspection is requested by the Mercantile Tax Collector, or who fails or refuses to file a return required by this Part, or who fails or refuses to pay any tax, interest or penalties required by this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than

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\$600 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each and every day that any such offense occurs or continues shall be considered a separate offense. The fine imposed by this Section shall be in addition to any other penalty imposed by any other Section of this Part.

(Ord. 1011, 8/14/1979, §11; as amended by Ord. 1185, 5/13/1997)

§712. Disposition of Tax.

The tax imposed by this Part shall be in addition to all other taxes of any kind or nature heretofore or hereafter levied by the Borough of Wyomissing, and the tax imposed herein is for general revenue purposes.

(Ord. 1011, 8/14/1979, §12)

§713. Annual Reenactment.

The tax imposed by this Part is for the tax year commencing January 1 and ending December 31, and this Part and the tax imposed hereby shall continue in force from year to year on a calendar basis without annual reenactment.

(Ord. 1011, 8/14/1979, §13)

§714. Prohibited Levies.

Nothing contained in this Part shall be construed to empower the Borough to levy and collect the taxes hereby imposed on any person or any business or any portion of any business, trade, occupation or profession not within the taxing power of the Borough under the Constitution of the United States and the laws and Constitution of the Commonwealth of Pennsylvania.

(Ord. 1011, 8/14/1979, §14)

§715 Rules and Regulations

The Borough of Wyomissing is hereby authorized to adopt by resolution rules and regulations as necessary for implementation and enforcement of this Ordinance.

(Ord. 1319, 12/13/2011, §9)

PART 8

LOCAL TAXPAYER BILL OF RIGHTS

A. As Collected by the Borough of Wyomissing

§801. Taxpayer Notice.

A taxpayer will receive, where required, the following notice:

You are entitled to receive a written explanation of your rights with regard to the audit, enforcement, refund and collection of local taxes collected on behalf of the Borough of Wyomissing by its appointed and elected tax collectors by telephoning the Borough at (610) 376-7481 during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

(Res. 98-16, 12/8/1998, §1)

§802. Disclosure to Taxpayer.

A taxpayer will receive, when required, in understandable language, a written explanation of the taxpayer's rights pertaining to tax refunds, audits, appeals and the procedures the Borough's appointed or elected tax collectors may use in enforcing the local taxes they collect.

(Res. 98-16, 12/8/1998, §2)

§803. Response to Tax Information Requests.

A taxpayer will be given 30 calendar days to respond to tax information requests from the Borough's appointed or elected tax collectors. A taxpayer may request, in writing, a reasonable time extension from the Borough's appointed or elected tax collectors to provide the requested information.

(Res. 98-16, 12/8/1998, §3)

§804. Prior Years' Tax Returns.

The Borough's appointed or elected tax collectors will not make unreasonable or burdensome demands upon a taxpayer for prior years' tax returns.

(Res. 98-16, 12/8/1998, §4)

TAXATION, SPECIAL

§805. Refunds.

A taxpayer will receive a prompt refund of any tax overpayment. The taxpayer must make a written request for any refunds within three years of the due date for the local tax return or within one year after payment of the tax, whichever date is later.

(Res. 98-16, 12/8/1998, §5)

§806. Interest on Overpaid Taxes.

A taxpayer will receive interest on any overpaid taxes at the rate of interest set forth in the Pennsylvania Fiscal Code.

(Res. 98-16, 12/8/1998, §6)

§807. Underpayment Notice.

A taxpayer will be given a written notice from the Borough's appointed or elected tax collectors setting forth the amount and legal basis for any tax underpayment or deficiency.

(Res. 98-16, 12/8/1998, §7)

§808. Written Advisory Opinions.

A taxpayer may request a written advisory opinion for the Borough's appointed or elected tax collectors regarding compliance with the local tax laws applicable to the Borough's appointed or elected tax collectors.

(Res. 98-16, 12/8/1998, §8)

§809. Abatement of Interest and Penalty.

A taxpayer may obtain an abatement of any interest and/or penalty attributable to written, erroneous advice received from the Borough's appointed or elected tax collectors.

(Res. 98-16, 12/8/1998, §9)

§810. Installment Agreement to Pay Tax Liability.

A taxpayer may negotiate an installment agreement regarding the payment of delinquent taxes with the Borough's appointed or elected tax collectors. The terms of this agreement shall be acceptable to the Borough's appointed or elected tax collectors.

(Res. 98-16, 12/8/1998, §10)

§811. Priority in the Application of Voluntary Payments of Tax.

All voluntary payments of local taxes which the Borough's appointed or elected tax collectors collect will be applied in the following order of priority:

- A. Tax due.
- B. Interest.
- C. Penalties.
- D. Other fees or charges.

(Res. 98-16, 12/8/1998, §11)

§812. Tax Information Confidentiality.

A taxpayer is entitled to the confidentiality of tax information furnished to the Borough's appointed or elected tax collectors.

(Res. 98-16, 12/8/1998, §12)

§813. Administrative Review of Tax Matters.

A taxpayer may obtain an administrative review of the taxpayer's tax liability for any local tax collected by the Borough's appointed or elected tax collectors. Decisions on a taxpayer's request for administrative relief will be made within 60 calendar days of the date a complete and accurate petition for relief is submitted by the taxpayer to the Borough's appointed or elected tax collectors.

(Res. 98-16, 12/8/1998, §13)

B. As Collected by the Berks E.I.T. Bureau

§821. Taxpayer Notice.

A taxpayer will receive, where required, the following notice:

You are entitled to receive a written explanation of your rights with regard to the audit, enforcement, refund and collection of local taxes collected on behalf of the Borough of Wyomissing by the Berks E.I.T. Bureau by telephoning the Berks E.I.T. Bureau at (610) 372-8439 during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday.

(Res. 98-17, 12/8/1998, §1)

§822. Disclosure to Taxpayer.

A taxpayer will receive, when required, in understandable language, a written explanation of the taxpayer's rights pertaining to tax refunds, audits, appeals and the procedures the Berks E.I.T. Bureau may use in enforcing the local taxes it collects on the Borough of Wyomissing's behalf.

(Res. 98-17, 12/8/1998, §2)

§823. Response to Information Requests.

A taxpayer will be given 30 calendar days to respond to information requests from the Berks E.I.T. Bureau. A taxpayer may request, in writing, a reasonable time extension from the Berks E.I.T. Bureau to provide the requested information.

(Res. 98-17, 12/8/1998, §3)

§824. Prior Year's Tax Returns.

The Berks E.I.T. Bureau will not make unreasonable or burdensome demands upon a taxpayer for prior years' tax returns.

(Res. 98-17, 12/8/1998, §4)

§825. Refunds.

A taxpayer will receive a prompt refund of any tax overpayment. The taxpayer must make a written request for any refunds within three years of the due date for the local tax return or within one year after payment of the tax, whichever date is later.

(Res. 98-17, 12/8/1998, §5)

§826. Interest on Overpaid Taxes.

A taxpayer will receive interest on any overpaid taxes at the rate of interest set forth in the Pennsylvania Fiscal Code.

(Res. 98-17, 12/8/1998, §6)

§827. Underpayment Notice.

A taxpayer will be given a written notice from the Berks E.I.T. Bureau setting forth the amount and legal basis for any tax underpayment or deficiency.

(Res. 98-17, 12/8/1998, §7)

§828. Written Advisory Opinions.

A taxpayer may request a written advisory opinion from the Berks E.I.T. Bureau regarding compliance with the local tax laws that the Berks E.I.T. Bureau administers on the Borough of Wyomissing's behalf.

(Res. 98-17, 12/8/1998, §9)

§829. Abatement of Interest and Penalty.

A taxpayer may obtain an abatement of any interest and/or penalty attributable to written, erroneous advice received from the Berks E.I.T. Bureau.

(Res. 98-17, 12/8/1998, §9)

§830. Installment Agreement to Pay Tax Liability.

A taxpayer may negotiate an installment agreement regarding the payment of delinquent taxes with the Berks E.I.T. Bureau. The terms of this agreement shall be acceptable to the Berks E.I.T. Bureau.

(Res. 98-17, 12/8/1998, §10)

§831. Priority in the Application of Voluntary Payments of Tax.

All voluntary payments of local taxes which the Berks E.I.T. Bureau collects on the Borough of Wyomissing's behalf will be applied in the following order of priority:

- A. Tax due.
- B. Interest.
- C. Penalties.
- D. Other fees or charges.

(Res. 98-17, 12/8/1998, §11)

§832. Tax Information Confidentiality.

A taxpayer is entitled to the confidentiality of tax information furnished to the Berks E.I.T. Bureau.

(Res. 98-17, 12/8/1998, §12)

§833. Administrative Review of Tax Matter.

A taxpayer may obtain an administrative review of the taxpayer's tax liability for any local tax collected by the Berks E.I.T. Bureau on the Borough of Wyomissing's behalf. Decisions on a taxpayer's request for administrative relief will be made within 60 calendar days of the date a complete and accurate petition for relief is submitted by the taxpayer to the Berks E.I.T. Bureau.

(Res. 98-17, 12/8/1998, §13)

§834. Authorization for Retention of Third Party Collection Agency and recovery of Agency Fees for Collection of Delinquent Taxes for the Delinquent Taxpayer.

1. Definitions. The following terms shall have the meanings set forth herein:

- a. COLLECTOR: The Berks County Earned Income Tax Collection Bureau.
 - b. ENACTMENT: Ordinance 2016-1377 enacted May 10th, 2016.
 - c. GOVERNING BODY: The Borough Council of the Borough of Wyomissing, Berks County, Pennsylvania.
 - d. TAX: All local earned income taxes, other taxes, penalties, interest, and costs that the Collector collects on behalf of the Taxing Authority under the Local Tax Enabling Act, 53 P.S. §6924.101 et. seq., or other statutory law.
 - e. TAXPAYER: An employer or taxpayer that is liable for Tax.
 - f. TAXING AUTHORITY: The Borough of Wyomissing, Berks County, Pennsylvania.
2. AUTHORIZATION. The Taxing Authority acknowledges that the Collector may engage one or more third-party collection agencies to pursue and collect delinquent Tax in situations where the amount of delinquent Tax owed is relatively small and it is therefore cost-prohibitive for the Collector to dedicate the upfront resources necessary to pursue such delinquent Tax. The Taxing Authority hereby approves of the imposition on and collection of a fee from any delinquent Taxpayer by any third-party collection agency engaged by the Collector, provided such fee does not exceed twenty-five percent (25%) of the amount of the Tax collected from any such Taxpayer.
 3. NOTICE. Promptly after adoption of this Enactment, the Taxing Authority will provide a copy of the Enactment to the Collector. If the Taxing Authority later rescinds, limits, or changes the scope of the authorization set forth in this Enactment, then the Taxing Authority will immediately notify the Collector.

(Ord. 1377-2016; 5/10/2016, §2)

PART 9

ECONOMIC STIMULUS TAX EXEMPTION

§901. Word Usage; Definition.

A. For the purposes of this Part 9, all words used in the present tense include the future tense, all words in the plural number include the singular number, and all words in singular number include the plural number, unless the natural construction of the sentence clearly indicates otherwise. The word “shall” is mandatory and not directory.

B. As used herein, the following terms shall have the following meanings:

1. **ASSESSMENT AGENCY** – The Berks County Board of Assessment Appeals.
2. **BOROUGH** – The Borough of Wyomissing.
3. **DETERIORATED PROPERTY** – Any industrial, commercial or other business property owned by an individual, association or corporation and located in the Wyomissing Square Abatement Area. For the purposes of this definition an “individual, association or corporation” shall include a partnership, limited liability company, or any other legal entity authorized to do business pursuant to Pennsylvania law.
4. **IMPROVEMENT** – Repair, construction or reconstruction commencing after the effective date of this Article, including alterations and additions having the effect of rehabilitating a structure so that it becomes habitable or attains higher standards of housing safety, health, economic use or amenity or is brought into compliance with laws, ordinances or regulations governing such standards or any new construction on this sit. Ordinance upkeep and maintenance shall not be deemed an “improvement”. Improvement shall include, but not be limited to, structures and facilities for residential, retail, and hotel use.
5. **WYOMISSING SQUARE ABATEMENT AREA** – That certain deteriorated area as defined in § 902 below in accordance with the Local Economic Revitalization Tax Assistance Act, enacted as of December 1, 1977, 72 P.S. § 4722 *et seq.*

(Ord. 1269, 3/7/07, §1)

§902. Area

The Borough hereby designates and fixes the boundaries Wyomissing Square Abatement Area as the area depicted on the Final Subdivision Plan of Wyomissing Square, as prepared by Spotts, Stevens and McCoy, Work Order No. 109048-002, dated July 24, 2006, and as is further depicted in Exhibit "A" attached hereto and incorporated herein by reference as if fully set forth.

(Ord. 1269, 3/7/07, §1)

§903. Findings

The Borough hereby finds and determines that the Wyomissing Square Abatement Area constitutes a "blighted area" within the meaning of the State Housing and Redevelopment Assistance Law and the Urban Redevelopment Law, in that situate in such Area are buildings of defective design and arrangement, economically undesirable land uses and obsolete buildings, based upon the following specific findings:

(a) the presence of two (2) bedrock wells on a parcel adjacent to the Wyomissing Square Abatement Area, which parcel is in the same chain of title as the Wyomissing Square Abatement Area, and which from 1954-1968 held wastewater from electroplating operations, which contained cyanide, chromium and nickel;

(b) from 1971 to 1974 the aforementioned wells were utilized to hold waste generated by an electroplating operation;

(c) as a result of certain contamination which was found to have occurred in the Area a consent order and agreement providing for clean-up of the site was entered into with the Pennsylvania Department of Environmental Protection;

(d) the Area contains an old two (2) story industrial building which is unable to be adaptively re-used in an economically feasible fashion due to roof leakage, floor buckling, and overall structural deterioration. The weak market for industrial use properties will not support the cost of repairing and upgrading the building for a new industrial use; and

(e) the former industrial use of the existing structures located in the Area is a socially undesirable land use which no longer fits into the fabric of the community in which it is located.

(Ord. 1269, 3/7/07, §1)

§904. Exemption Granted

There is hereby exempted from real estate taxation, in the amounts and in accordance with the provisions and limitations hereinafter provided, that portion of the assessment attributable to new construction and Improvements made to the Deteriorated Property after the enactment of this Chapter 24, Part 9 in the Wyomissing Square Abatement Area, as set forth herein.

(Ord. 1269, 3/7/07, §1)

§905. Limit of Exemption

In all cases, the exemption from real estate taxes shall be limited to that portion of the additional assessment attributable to the actual cost of the Improvements to Deteriorated Property for which a separate assessment has been made by the Assessment Agency and for which an exemption has been separately requested and for the assessed valuation of new construction within the designated Wyomissing Square Abatement Area. The actual costs of improvements and new construction shall include any expenditure which contributes to assessment valuation attributable to improvements and new construction in the Wyomissing Square Abatement Area.

(Ord. 1269, 3/7/07, §1)

§906. Permits Required

No Deteriorated Property shall be entitled to a tax exemption as herein provided unless the necessary and proper permits prior to new construction or improving the Deteriorated Property have been applied for and obtained in accordance with the requirements of Section 6 of the Local Economic Revitalization Tax Assistance Act, 72 P.S. §4727.

(Ord. 1269, 3/7/07, §1)

§907. Compliance with Other Provisions

No tax exemption shall be granted if the new construction or Improvements to Deteriorated Property as completed do not comply with all ordinances, rules, regulations, statutes and other applicable laws, including but not limited to the Commonwealth of Pennsylvania and the Borough of Wyomissing.

(Ord. 1269, 3/7/07, §1)

§908. Amount of Exemption

A. Beginning upon the issuance of a certificate of occupancy for the hotel unit, retail unit and residential condominium unit, as such condominium units are depicted on Exhibit "A", located within the Wyomissing Square Abatement Area, the School District, County and Borough shall receive collectively, total real estate tax revenue from the Wyomissing Square Abatement Area as follows:

<u>YEAR</u>	<u>RESIDENTIAL</u>	<u>HOTEL</u>	<u>RETAIL</u>
1	\$75,000.00	\$37,500.00	\$37,500.00
2	\$75,000.00	\$37,500.00	\$37,500.00
3	\$75,000.00	\$37,500.00	\$37,500.00
4.	\$75,000.00	\$37,500.00	\$37,500.00
5	\$75,000.00	\$37,500.00	\$37,500.00
6	\$104,544.59	\$52,272.30	\$52,272.30
7	\$129,544.59	\$64,772.30	\$64,772.30
8	\$154,544.59	\$77,272.30	\$77,272.30
9	\$179,544.59	\$102,272.30	\$77,272.30
10	\$204,544.59	\$127,272.30	\$77,272.30

B. From the total real estate tax revenue from the Wyomissing Square Abatement Area listed above, the School District, County and Borough shall each receive in each year of the exemption program that percentage of such real estate tax revenue which is equal to the taxing entity's respective percentage of the combined millage amount of the three taxing entities for each such year. The exemption program does not apply to the restaurant unit, now known as Viva, or the office unit, consisting of building 17 and the current office building, a portion of which is currently utilized by the Reading Hospital and Medical Center, as such condominium units are depicted on Exhibit "A".

C. The tax exemption percentage for each taxing entity for each year of the exemption program shall be calculated as that percentage which, when applied to the combined assessments for the hotel, retail and residential condominium units of the Wyomissing Square Abatement area for such year (including both the pre-improvement assessment and the additional assessment for improvement or new construction) yields the amount of tax revenue to be received by the taxing entity pursuant to Section 908 B above.

(Ord. 1269, 3/7/07, §1)

§909. Conditions for Continuation of Abatement

The following conditions shall apply to the owner/owners of Deteriorated Property in the Wyomissing Square Abatement Area in order to continue to receive the exemption herein provided:

A. Annual inspection to certify that a minimum of one thousand square feet (1000 sq. ft.) of amenities are located in the apartment complex to be located in the Wyomissing Square Abatement Area and remain operational and in substantially the same condition as originally installed, normal wear and tear excepted, with the right to substitute other amenities for certain amenities at the time of new construction or later, the amenities shall consist of the following types of amenities, but not limited to, the following:

1. Swimming Pool;
2. Fitness Center;
3. Business Center;
4. Community Clubroom; and
5. Covered Garage parking for some tenants.

B. The outdoor swimming pool to be located in the courtyard of the residential area shall be a required amenity, shall be maintained in good working order, and shall be open for usage by the residents residing within the Wyomissing Square Abatement Area during the normal outdoor swimming season.

C. Any structures which are located in the Wyomissing Square Abatement Area which request the annual exemption provided by this Chapter 24, Part 9 shall only receive said exemption if the Improvements made to structures therein after the enactment of this Chapter 24, Part 9 are then in compliance with all applicable sections of the Property Maintenance Code, Building Code, and other relevant sections of the Borough Codified Ordinances.

D. The residential living areas and parking garage, constructed within the Wyomissing Square Abatement Area shall be maintained as controlled access areas.

(Ord. 1269, 3/7/07, §1)

§910. Requests for Exemption

Requests for tax exemption as herein provided shall be made, in writing, on form provided by the Borough at the time a building permit is secured, but in no event shall a request for tax exemption be accepted any later than six months after the Assessment Agency has issued its assessment on the new construction or Improvements.

(Ord. 1269, 3/7/07, §1)

§911. Forward of Requests to Assessment Agency

The Borough Manager shall forward a copy of the request for exemption to the Assessment Agency.

(Ord. 1269, 3/7/07, §1)

§912. Review by Assessment Agency

The Assessment Agency shall, after the new construction or Improvement to Deteriorated Property is completed, assess the new construction or assess the Improvement separately and calculate the amount of the assessment eligible for tax exemption in accordance with the limits established by the Borough and notify the taxpayer and the Borough of the reassessment and the amount of the assessment eligible for exemption. All exemptions shall begin following notification to the Borough from the Assessment Agency of an increase in the assessment attributable to the construction or the Improvements made after the enactment of this Chapter 24, Part 9. Appeals from the reassessment in the amounts determined to be eligible for the exemption may be taken by the taxpayer or the Borough as provided by law. Notwithstanding the right of either party to challenge the assessment, the exemption and stream of tax payments provided for in Section 908 hereof shall remain unaltered during the period of exemption set forth in Section 908 above.

(Ord. 1269, 3/7/07, §1)

§913. Applicability of New Construction and Improvement Costs

The assessment attributable to the cost of new construction or Improvements to Deteriorated Property to be exempted and the schedule of taxes exempted existing at the time of the initial request for tax exemption shall be applicable to that exemption request, and subsequent amendments to this article, if any, shall not apply to requests initiated prior to their adoption.

(Ord. 1269, 3/7/07, §1)

§914. Administration

The Borough Manager of the Borough shall have the authority for administering and monitoring the tax exemption program covered by this Article and shall have the authority to deny any and all tax exemption requests when they do not meet or comply with the terms of this Article. The Borough Manager may require the submission of such documentary evidence and property inspections, as may be reasonably necessary to confirm compliance, on or before December 31 of the year preceding the year for which the exemption is being requested, with the conditions set forth in Section 909 above.

(Ord. 1269, 3/7/07, §1)

§915. Continuance of Exemptions

Any property tax exemptions granted under the provisions of this Article shall be permitted to continue even if this Article expires or is repealed.

(Ord. 1269, 3/7/07, §1)