BILL NO. 17 -2010

AN ORDINANCE

PROVIDING FOR THE BUSINESS PRIVILEGE LICENSE ORDINANCE UNDERCHAPTER 13 LICENSES, PERMITS & GENERAL BUSINESS REGULATIONS, PART 4 BUSINESS PRIVILEGE LICENSE OF THE CODE OF CODIFIED ORDINANCES FOR THE CITY OF READING

WHEREAS, the City of Reading intends to provide for a separate ordinance to be known as the Business Privilege License Ordinance; and

WHEREAS, the City of Reading intends to provide for a comprehensive Business Privilege License Ordinance.

NOW, THEREFORE THE COUNCIL OF THE CITY OF READING HEREBY ORDAINS AS FOLLOWS:

SECTION 1. Chapter 13 Licenses, Permits & General Business Regulations, Part 4 Business Privilege License of the Code of Codified Ordinances for the City of Reading shall read as set forth in attached Exhibit "A".

SECTION 2. All other parts or provisions of the Code of Codified Ordinances for the City of Reading shall remain in effect EXCEPT for those parts or provisions which conflict with this ordinance.

SECTION 3. The provisions of this article are severable. If any sentence, clause or section of this article is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this article. It is hereby declared to be the intent of Council that this article would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

SECTION43. This Ordinance shall be effective ten (10) days after passage.

Enacted May 10, 2010

President of Council

Attest:

City Clerk

(LAW DEPT.)

I, LINDA A. KELLEHER, City Clerk of the City of Reading, Pa., do hereby certify, that the foregoing is a true and correct copy of the original ordinance passed by the Council of the City of Reading, on the 10 day of May A. D. 2010. Witness my hand and seal of the said City this 12 day of May A. D. 2010

CITY CLERK

MAYOR'S ACTION
Bill No. 15-2010

Submitted to Mayor: _____
Date: 5/11/10

Received by Mayor's Office: _____
Date: 5/11/10

Approved by Mayor: _____
Date: 5/11/10

Vetoed by Mayor: _____
Date:

Sustained by Council: _____
Date:

Overridden by Council: _____
Date:

13-405. FEE.

The license fee, which shall be collected by the Tax Administration of the City, shall be set by ordinance as provided by law and set forth in the City of Reading Fee Schedule.

13-406. POSTING LICENSE.

The license issued shall be conspicuously posted in the place of business for which the license is issued, and shall remain posted for the license year or fraction of year for which such license was issued or until the indicated activity or business changes ownership or goes out of business. In cases where more than one place of business is conducted, a separate license shall be issued annually for each place of business.

13-407. LICENSE REFUSAL.

(a) The issuance of a Business Privilege License ~~is~~ may be predicated upon the applicant first receiving the approval of the Zoning Administrator and/or Health Officer, or other City official as applicable, for the operation of his/her business.

(b) Any person who is in default in payment of any tax due to the City shall be refused a license until tax is paid in full or a payment plan is executed with the appropriate City office.

13-408. REQUIRED REPORTING OF BUSINESS CESSATION.

Upon cessation of business activity within the City, the person who had been conducting said business activity shall report said cessation to Tax Administration in writing within ten (10) days.

13-409. LICENSE REVOCATION.

1. BASIS FOR REVOCATION: Any Business Privilege License issued by the City pursuant to the provisions of this Part may be revoked for good cause by the issuing authority upon a finding that the following conditions exist:

    a. The existence of chronic unsanitary conditions, noise, disturbances or other conditions at, in or attributable to the premises of a licensee which causes or tends to create a public nuisance, which may injuriously affect the public health, safety, or welfare of others, or which unnecessarily affects the adequate allocation of public safety resources.

a. Repeatedly or purposefully permitting or causing the commission of, any act in the operation of the business which is prohibited by any ordinance, rule or law of the city, state or federal government;

b. Fraudulent practices and misrepresentation in the operation of the business;

c. Concealment or misrepresentation in procuring the Business Privilege License;

d. The business for which the license obtained has been is unlawful or is prohibited by any code, ordinance, rule or law of the city, state or federal government;

e. The license was issued by mistake or is in violation of any of the provisions of this article; or

f. The premises used to conduct said business has been condemned, declared a fire hazard or declared unsafe for business occupancy pursuant to applicable building, trades, property maintenance or fire codes.

2. PROCEDURES & HEARING PROCESS TO REVOKE BUSINESS PRIVILEGE LICENSE.

a. Requests for revocation of Business Privilege License may submitted in the form of a written complaint by city staff to the Managing Director.

b. Upon a determination by the Managing Director pursuant to the policies and regulations established in accordance herewith that the complaint is founded, the Managing Director shall schedule a hearing before the Business Privilege License Appeals Board within twenty (20) days.

c. Notice of hearing shall be served by certified mail, return receipt requested and first class mail to the person holding the Business Privilege License at the address shown on the Business Privilege License application. A copy of the notice of the hearing shall also be hand delivered at the address shown on the Business Privilege License application, if the licensee is present. A copy of the notice of the hearing shall also be posted in a conspicuous place on the property.

d. The notice shall inform the licensee of the allegations which constitute the basis for the hearing, and shall provide that the licensee will be given the opportunity to appear and be heard at the hearing.

e. The hearing shall be conducted in accordance with procedures established by the Business Privilege License Appeals Board as authorized herein.

f. At the conclusion of the hearing following all evidence, the Business Privilege License Appeals Board shall make a determination as to whether basis exists revoke the Business Privilege License within ten (10) days of the hearing.

g. In the event the Business Privilege License Appeals Board determines that the Business Privilege License shall be revoked, the revocation will be effective immediately shall be delivered to the applicant in accordance with the requirements of the notice of the hearing as set forth herein. The Board shall instruct the Manager of Tax Administration to notify the licensee of the revocation of the Business Privilege License and to direct the licensee to immediately cease all business activity at the business location.

h. Any person conducting business activity in violation of revocation of a Business Privilege License shall be punishable by those penalties set forth herein.

i. No business having a Business Privilege License revoked pursuant to this Part shall be eligible for another license to operate a similar business at that or any location in the City of Reading until approval is received by the Business Privilege License Appeals Board.

13-410 CEASE OPERATIONS ORDER

1. Whenever business is being conducted in or on any premises without a required Business Privilege License or if a licensed business has violated one or more provisions of the Codified Ordinances of the City which relate to the conduct of the business, the Department of Finance or any city official authorized to issue citations may issue a Cease Operations Order directing that business activity to cease immediately until the required Business Privilege License is obtained.

2. The Cease Operations Order shall describe the business that is being conducted without the required Business Privilege License and shall state that such business activity and any other business activity that requires a Business Privilege License must cease until the required license is obtained.3. The Cease Operations Order shall be posted at every entrance to the premises in conspicuous place clearly visible to the public and shall remain posted until removed by the Department of Finance following compliance with its terms.

4. The Department of Finance shall promptly notify the Department of Police of the issuance of every Cease Operations Order. The Police Department may upon the request of the Department of Finance render assistance in the enforcement of any Cease Operations Order and shall have the right to enter the premises for such purpose.

5. Prohibited Conduct. No person with knowledge of a Cease Operations Order shall:

a. Continue to conduct any business for which a Business Privilege License is required in or on any premises for which a Cease Operations Order has been issued.

b. Remove, damage or deface any Cease Operations Order.

c. Resist or interfere with any inspection or other official in the performance of their duties or the enforcement of any provision of this Section.

6. Fees

a. Business Privilege License in Response to Cease Operations Order. If a Cease Operations Order is issued and a Business Privilege License obtained the fee for said Business Privilege License may be subject to an additional penalty fee equal to the cost of the normal Business Privilege License fee.

b. Removal of Cease Operations Order. Upon compliance with a Cease Operations Order by obtaining of a Business Privilege License and any other terms set forth thereon, prior to removal of a Cease Operations Order a fee in the amount established by the Fee Ordinance of the City of Reading.

13-411. BUSINESS LICENSE APPEALS BOARD ADMINISTRATIVEHEARING/APPEAL

1. ORGANIZATION

a. MEMBERSHIP

The Business Privilege License Appeals Board shall be a body of five (5) members consisting of: the Finance Director or his/her designee who shall serve as Chairperson; a Councilperson from the District the business is located in or the designee of the President of Council if the District Councilor is unavailable, a member of the business community; a resident at large; and member of a recognized City of Reading community group.

b. ALTERNATES

There shall be three alternate members one each from the following groups: a member of the business community, a resident at large and a member of a community group recognized by the City of Reading.

c. APPOINTMENT

All members of the Board shall be appointed by the Mayor with the approval of the Council of the City of Reading,

d. TERM

A member or alternate member shall serve a term of three (3) years from the time of appointment or reappointment or until his/her successor shall take office. Members and alternates of the initial board shall be appointed to staggered terms of 1, 2 and 3 years.

e. POWERS OF DESIGNEES AND ALTERNATES

Designees and alternate members may be requested to attend meetings in absence of a regular member and shall have all the powers of a regular member at such meetings.

a. QUORUM AND MAJORITY VOTE

Three (3) members shall constitute a quorum of the Board. A majority vote of the members of the quorum of the Board shall prevail. A tie vote shall be deemed as a denial of the appeal.

2. POWERS

The Board shall have the following powers:

a. PROMULGATE RULES AND REGULATIONS

To adopt and administer the rules of procedure regarding its organization, officers (except the Chairperson), times and places of meetings, conduct of meetings and other legal procedures relating to the hearing and determination of appeals and other matters within the Board's jurisdiction.

b. HEAR AND DECIDE MATTERS

To hear and decide matters regarding the revocation of a Business Privilege License where it is alleged that one of the criteria set forth herein has been violated. The Board is also authorized to hear appeals of refusals of Business Privilege License or Cease Operations Order.

c. TIMELINESS

In exercising the above-mentioned powers, the Board shall act with reasonable promptness and seek to prevent unwarranted delays prejudicial to the party involved and to the public interest; provided, however, that the Board shall hold a hearing on any founded complaint within twenty (20)

days and shall file its decision within ten (10) days after the appeal hearing.

d. AUTHORITY

The Board is empowered to find no cause for the revocation of a Business Privilege License or cause to revoke a Business Privilege License. The Board shall be bound by this Chapter and shall not ignore the clear provisions and intent of this Chapter.

3 FEES

If the board determines that a Business Privilege License is to be revoked, the licensee shall be responsible for all fees, costs and expenses related to the hearing before the Business Privilege License Appeals Board. In appeals from refusals of Business Privilege License or Cease Operations Order, the applicant shall pay a fee to appeal in an amount established by Fee Ordinance of the City of Reading.

4. APPEALS REFUSALS OF BUSINESS PRIVILEGE LICENSE OR CEASE OPERATIONS ORDER.

Applicants who are refused a Business Privilege License or receive a Cease Operations Order may appeal said determination to the Business Privilege License Appeals Board within ten (10) days of receipt of notification of refusal of a Business Privilege License or Cease Operations Order. Notice of such decisions shall be in accordance with the requirements set forth herein. A hearing and decision by the Board of said appeal shall be per timeliness requirements herein.

5. APPEALS TO THE COURT OF COMMON PLEAS.

Appeals of any decision of the Business Privilege License Appeals Board shall be in accordance with the Local Agency Law of the Commonwealth of Pennsylvania. Such an appeal shall not serve as a stay in the case of revocation of a Business Privilege License. The licensee must petition the court for a stay to continue operation of the business during any appeal.

13-412. INJUNCTIVE RELIEF.

In case of violation of this Part, or section thereof, the City through its Director of Finance or a designee duly appointed by the Mayor may cause to be instituted an appropriate proceeding at law or in equity to obtain penalties or to restrain, correct, or

abate such violation, including, but not limited to, the closure of any business which is not in compliance with this Part, or section thereof.

13-413. PENALTY.

Any person operating a business within the City without obtaining a Business Privilege License as provided herein or failing to comply with any and all provisions of this Part, shall be, upon conviction thereof, sentenced to pay a fine of not less than $~~5~~600.00 but no more than $1000.00 plus costs, and in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty (30) days. Each day on which such person violated this Part may be considered as a separate offense and punishable as such as provided above and by law.

13-414 COLLECTIONS

Nothing in this Part shall preclude the City of Reading Director of Finance from directing all bills or accounts and Business Privilege Licenses not paid or not renewed by March 31 of each year to be turned over to a collection agency for receipt.

13-415 NON EXCLUSIVE REMEDIES

The penalty, injunctive relief and collection provisions of this Section and the license nonrenewal, suspension and revocation procedures provided in this Chapter shall be independent, non-mutually exclusive separate remedies, all of which shall be available to the City of Reading as may be deemed appropriate for carrying out the purposes of this Chapter. The remedies and procedures provided in this Chapter for violation hereof are not intended to supplant or replace to any degree the remedies and procedures available to the city in the case of a violation of any other City of Reading Code or Codified Ordinances, whether or not such other code or ordinance is referenced in this Chapter and whether or not an ongoing violation of such other code or ordinance is cited as the underlying ground for a finding of a violation of this Part.

13-416 REGULATIONS

The Administration for the City of Reading by and through the Managing Director is hereby authorized to promulgate rules, regulations and policies to implement this Ordinance.