

BILL NO. 97 2014

AN ORDINANCE

AMENDING THE CITY CODE OF ORDINANCES, CHAPTER 339 LICENSES AND PERMITS, PART 2, BUSINESS PRIVILEGE LICENSE BY MAKING CLARIFICATIONS

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

SECTION 1. Amending the City Code Of Ordinances Chapter 339 Licenses and Permits, Part 2, Business Privilege License by making clarifications, as attached in Exhibit A.

SECTION 2. All relevant ordinances, regulations and policies of the City of Reading, Pennsylvania not amended per the attached shall remain in full force and effect.

SECTION 3. If any section, subsection, sentence or clause of this ordinance is held for any reason to be invalid such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION 4. This Ordinance shall be effective ten (10) days after adoption pursuant to City of Reading Home Rule Charter Article II Section 219.

Adopted Dec 8 2014

[Signature]
Council President

Attest: [Signature]
City Clerk

Submitted to Mayor: [Signature]

Date: 12/9/14

Received by the Mayor's Office: [Signature]

Date: 12/9/14

Approved by Mayor: [Signature]

Date: 12/9/14

Vetoed by Mayor: _____

Date: _____

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 8 day of Dec A. D. 2014. Witness my hand and seal of the said City this 10 day of Dec A. D. 2014.
[Signature]
CITY CLERK

EXHIBIT A

Part 2

Business Privilege License

[Adopted 5-10-2010 by Ord. No. 17-2010 (Ch. 13, Part 4, of the 2001 Code of Ordinances)]

§ 339-201. Short title.

This Part shall be known as the "Business Privilege License Ordinance."

§ 339-202. Definitions.

As used in this Part, certain terms are defined as follows except where the context clearly indicates a different meaning:

BUSINESS — — Any activity carried on or exercised for gain or profit in the City, including, but not limited to, the sale of merchandise or other tangible personalty or the performance of services and the rental of personalty and/or realty.

CALENDAR YEAR — — The period January 1 to December 31, inclusive.

CITY — — The City of Reading.

LICENSE YEAR — — The period from January 1 to December 31, inclusive.

PERSON — — Any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person" as applied to associations shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

REVOCATION—To annul or cancel an act, particularly a statement, document, or promise, as if it no longer exists.

§ 339-203. License required.

Any person desiring to conduct, transact, or engage in any business, trade, profession or other activity within the City shall obtain a business privilege license annually.

§ 339-204. Application.

Applicants for license under this Part shall file an initial annual application for a business privilege license with the Administrative Services Director on a form provided by him/her. To be considered completed, a license fee shall accompany the application, which shall be renewed on an annual basis.

§ 339-205. 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.⁴

⁴ Editor's Note: See Ch. 212, Fees.

§ 339-206. 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.

§ 339-207. License refusal.

- A. The issuance of a business privilege license 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.

§ 339-208. 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 10 days.

§ 339-209. License revocation.

- A. 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:

- (1) 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.

- (2) 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.

- (3) Fraudulent practices and misrepresentation in the operation of the business.

- (4) Concealment or misrepresentation in procuring the business privilege license.

- (5) 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.

- (6) The license was issued by mistake or is in violation of any of the provisions of this Part.

- (7) 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.

- B. Procedures and hearing process to revoke business privilege license.

Requests for revocation of business privilege license may be submitted in the form of a written complaint by City staff to the Managing Director.

- (1) 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 20 days.

- (2) 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.

- (3) 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.

- (4) The hearing shall be conducted in accordance with procedures established by the Business Privilege License Appeals Board as authorized herein.
- (5) At the conclusion of the hearing following all evidence, the Business Privilege License Appeals Board shall make a determination as to whether basis exists to revoke the business privilege license within 10 days of the hearing.
- (6) 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 Administrative Services Director 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.
- (7) Any person conducting business activity in violation of revocation of a business privilege license shall be punishable by those penalties set forth herein.
- (8) 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.

§ 339-210. Cease operations order.

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 Code of the City which relate to the conduct of the business, the Administrative Services Department 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.

- A. 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.
- B. 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 Administrative Services Department following compliance with its terms.
- C. 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 Administrative Services Department following compliance with its terms.
- D. The Administrative Services Department shall promptly notify the Department of Police of the issuance of every cease operations order. The Police Department may upon the request of the Administrative Services Department render assistance in the enforcement of any cease operations order and shall have the right to enter the premises for such purpose.
- E. Prohibited conduct. No person with knowledge of a cease operations order shall:
 - (1) 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.
 - (2) Remove, damage or deface any cease operations order.
 - (3) Resist or interfere with any inspection or other official in the performance of their duties or the enforcement of any provision of this section.

F. Fees.

- (1) 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.
- (2) 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.

§ 339-211. Business Privilege License Appeals Board administrative hearing/appeal.

A. Organization.

- (1) Membership. The Business Privilege License Appeals Board shall be a body of five members consisting of: the Administrative Services 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.
- (2) 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.
- (3) Appointment. All members of the Board shall be appointed by the Mayor with the approval of the Council of the City of Reading.
- (4) Term. A member or alternate member shall serve a term of three 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 one, two and three years.
- (5) 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.
- (6) Quorum and majority vote. Three 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.

B. Powers. The Board shall have the following powers:

- (1) 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.
- (2) 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.
- (3) 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 20 days and shall file its decision within 10 appeal hearing.
- (4) 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 Part and shall not ignore the clear provisions and intent of this Part.

- C. 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.⁶
- D. 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 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.
- E. 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, 2 Pa.C.S.A. § 751 et seq., 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.

§ 339-212. Injunctive relief.

In case of violation of this Part or a section thereof, the City, through its Administrative Services Director 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 a section thereof.

§ 339-213. Violations and penalties.

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 \$600 but no more than \$1,000 plus costs, and in default of payment of said fine and costs, to a term of imprisonment not to exceed 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.

§ 339-214. Collections.

Nothing in this Part shall preclude the City of Reading Administrative Services Director 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.

§ 339-215. Nonexclusive remedies.

The penalty, injunctive relief and collection provisions of this section and the license nonrenewal, suspension and revocation procedures provided in this Part 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 Part. The remedies and procedures provided in this Part 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 ordinance or provision of its Code, whether or not such other ordinance or

chapter is referenced in this Part and whether or not an ongoing violation of such other ordinance or chapter is cited as the underlying ground for a finding of a violation of this Part.

§ 339-216. 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 Part.