

CODIFIED ORDINANCES OF ERIE

PART THREE - BUSINESS REGULATION AND TAXATION CODE

TITLE ONE - Business Licensing and Taxation

- Art. 301. Amusements. (Repealed)
- Art. 302. Ambulance Service. (Repealed)
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- Art. 315. Rubbish Hauling Contractors.
- Art. 317. Sidewalk and Curbing Contractors. (Repealed)
- Art. 319. Stationary Steam Engineers.
- Art. 321. Taxicabs. (Repealed)
- Art. 323. Telegraph Companies. (Repealed)
- Art. 325. Theaters and Public Halls. (Repealed)
- Art. 327. Transient Retail Merchants.
- Art. 329. Tobacco Vending Machines.
- Art. 330. Landlord and Rental.

ARTICLE 301
Amusements

(EDITOR'S NOTE: Former Article 301 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 302
Ambulance Service

(EDITOR'S NOTE: Former Article 302 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 303
Auctions

(EDITOR'S NOTE: Former Article 303 was repealed by Ordinance 28-2000, passed June 7, 2000.)

(NOTE: The next printed page is page 19.)

ARTICLE 305
Express Companies

(EDITOR'S NOTE: Former Article 305 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 307
Mechanical Amusement Device Distributors

<p>307.01 Definitions.</p> <p>307.02 Distributor's license required.</p> <p>307.03 License application; fee.</p> <p>307.04 Requirements of applicants.</p> <p>307.05 License revocation; notice; hearing.</p>	<p>307.06 License investigation and issuance.</p> <p>307.07 License year.</p> <p>307.99 Penalty.</p>
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CROSS REFERENCES

Power to license - see 3rd Class §2601 (53 P.S. §37601)
 Mechanical amusement devices - see BUS. REG. Art. 309
 Miniature billiard and bowling games and jukeboxes - see BUS. REG.
 Art. 311

307.01 DEFINITIONS.

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

- (a) "Mechanical amusement device" means any mechanical device, machine or apparatus which, upon the insertion of a coin, token, slug or plate therein, or upon the payment of a fee, may be operated by the public generally for the playing of games and/or amusements, the object of which is to secure a special number, symbol, figure or groups thereof, arrangement, pattern or score by the exercise of skill in the operation or manipulation of such device.
- (b) "Miniature bowling game" means any platform, stand, table or structure for the playing of miniature bowling games, which is operated after the insertion of a coin, token, slug or plate in the machine or, upon payment of a fee, may be operated by the public generally for the playing of the bowling game. The operation of the bowling game is so mechanically arranged that the player, by propelling a small disc, puck or ball, can knock over any of the ten pins mechanically adjusted on the platform of the bowling game, and by a mechanical or electrically controlled device the score obtained by knocking over any of the pins is automatically registered after each operation by the player. The object of the game is to secure a score by the exercise of skill in the throwing of the disc, puck or ball at the ten pins.
- (c) "Billiard table game" means any platform, table or structure for playing the game of billiards or pool, which is operated after the insertion of a coin, token, slug or plate therein or, upon the payment of a fee, may be operated by the public generally for the playing of the billiard game, the insertion of the coin or the pay-

ment of the fee being necessary to release the billiard balls so that the players can use the billiard balls on the table by contacting the balls with a cue stick, and propel the balls across the table into the several pockets which are arranged on a billiard table. The object of the game is to secure a score by the exercise of skill in striking the billiard ball so as to propel the balls into the respective billiard pockets.

- (d) "Jukebox" means any device, machine or apparatus whatsoever for the playing or furnishing of music by means of records or tapes by the insertion of a coin or any other metal disc, slug or token whatsoever or, upon payment of a fee, may be operated by the public generally.
- (e) "Distributor" means any person, firm, corporation or association which has on hand, or in its possession, whether actually or constructively, and whether as supplier, owner, manufacturer, jobber or wholesaler, mechanical amusement devices, miniature bowling games, billiard table games and jukeboxes, for the purpose of distribution, sale, lease, loan, franchise or use among and to any person, firm, corporation or association which, in turn, makes such device available to the public. The singular includes the plural.
(Ord. 4-1965 §1. Passed 1-27-65.)

307.02 DISTRIBUTOR'S LICENSE REQUIRED.

No person shall engage in the business of distributor in the City without having first received a license in accordance with the terms and provisions of this article.
(Ord. 4-1965 §2. Passed 1-27-65.)

307.03 LICENSE APPLICATION; FEE.

Persons desiring to engage in the business of distributor under the terms of this article shall apply for a license in writing under oath to the Bureau of Regulation, Inspection and Licensing, setting forth the following information: name, citizenship, residences and occupations for the past five years of the applicant and of all partners, if the applicant is a partnership, and of all officers and directors if the applicant is a corporation, and the same information for all persons having financial interest in such business as owner, lessor, secured creditor or otherwise.

Each such application shall be supported by the actual signatures of three subscribing witnesses, together with their addresses and occupations, who by so signing attest to the good moral character of each applicant or each partner of a partnership applicant, or each officer and director of a corporate applicant. No officer or employee of the City may act as subscribing witness.

Such application shall be accompanied with the annual license fee of two hundred fifty dollars (\$250.00) which shall be refunded if the license is not granted.
(Ord. 4-1965 §3. Passed 1-27-65; Ord. 5-1979 §1. Passed 1-10-79.)

307.04 REQUIREMENTS OF APPLICANTS.

All applicants, including all partners of partnerships, must be over twenty-one years of age, citizens of the United States, residents of the City or County for five years immediately preceding the application, and of good moral character. Corporate applicants must be corporations created under the laws of Pennsylvania, and all stockholders, directors and officers thereof must meet the requirements of individual applicants. (Ord. 4-1965 §4. Passed 1-27-65.)

307.05 LICENSE REVOCATION; NOTICE; HEARING.

Every license issued under this article is subject to the right of revocation, which is hereby expressly reserved, should the licensee directly or indirectly fail to maintain good moral character and comply with all requirements of Federal and State laws and City ordinances during the term of this license, and such license may be revoked after ten days' written notice to the licensee, which notice shall specify the violation of the ordinance or law with which the licensee is charged.

Within such ten days, opportunity for a hearing shall be given the licensee, if requested in writing, and the licensee may present and submit evidence and witnesses in his behalf, personally or by counsel. (Ord. 4-1965 §5. Passed 1-27-65.)

307.06 LICENSE INVESTIGATION AND ISSUANCE.

No license shall be granted under the provisions of this article until a period of not less than ten days shall have elapsed from the date of application, during which time there shall be an investigation of the applicant. No license shall be issued unless the applicant meets the requirements of this article and there is no reason to believe that the devices to be distributed will be used for any illegal purpose. Upon the approval of the application for license as provided in this article, a license shall be issued authorizing such licensee to be a distributor. (Ord. 4-1965 §6. Passed 1-27-65.)

307.07 LICENSE YEAR.

The license hereby authorized shall entitle the licensee to be a distributor for the current license year. The amount aforesaid, when paid, shall be a license fee until December 31 of each year, but the amount imposed hereby shall be due and payable on or before February 1 in the applicable year. (Ord. 4-1965 §7. Passed 1-27-65.)

307.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 47-1966 §1. Passed 9-28-66.)

ARTICLE 309
Mechanical Amusement Devices

309.01	Definitions.	309.05	License issuance; display.
309.02	Gambling devices prohibited.	309.99	Penalty.
309.03	License required; application; investigation.		
309.04	License fees, transferals, replacements; violations and confiscation.		

CROSS REFERENCES

Power to license - see 3rd Class §2601 (53 P. S. §37601)
 Amusement device distributors - see BUS. REG. Art. 307
 Miniature billiard and bowling games and jukeboxes - see
 BUS. REG. Art. 311

309.01 DEFINITIONS.

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

- (a) "Mechanical amusement device" means any mechanical device, machine or apparatus which, upon the insertion of a coin, token, slug or plate therein, or upon the payment of a fee, may be operated by the public generally for the playing of games and/or amusements, the object of which is to secure a special number, symbol, figure or groups thereof, arrangement, pattern or score, by the exercise of skill in the operation or manipulation of such device.
- (b) "Person", as used herein, includes any person, firm, corporation or association which shall, at any time, have in its possession for use or operation within the City any mechanical amusement device for use or operation by the general public of the City. (Ord. 5-1965 §1. Passed 1-27-65.)

309.02 GAMBLING DEVICES PROHIBITED.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law, or that may be contrary to any future laws of the State of Pennsylvania. (Ord. 5-1965 §2. Passed 1-27-65.)

309.03 LICENSE REQUIRED; APPLICATION; INVESTIGATION.

No person shall have in his possession or control any mechanical amusement device, unless he shall have applied for and procured a license therefor from the Bureau of Regulation, Inspection and Licensing, and such application shall set forth the name and residence of the person so applying, together with the present and previous occupation of the applicant and the length of residence at the present and previous place of residence, the name of the owner of the premises upon which the aforesaid machines are to be used and installed and, if the owner of

the premises is not the applicant, then the applicant shall set forth the length of time for which the premises has been leased and whether the applicant is a citizen of the United States. The application shall also set forth the manufacturer and nature of the machine to be installed and used.

The foregoing information required in this section shall be furnished over the signature of the applicant and shall be made under oath or affirmation.

No license shall be granted until a period of seven days shall have elapsed from the date of application, during which time an investigation of the facts set forth in the application may be made, and no license shall be granted to any person not a citizen of the United States. (Ord. 5-1965 §3. Passed 1-27-65.)

309.04 LICENSE FEES, TRANSFERALS, REPLACEMENTS; VIOLATIONS AND CONFISCATION.

No license shall be issued until an annual fee therefor shall have been paid to the City Treasurer in the sum of seventy-five dollars (\$75.00) for each and every device so installed and used in the City, under the terms of this article, which amount, paid as aforesaid, shall be a license fee until December 31 of each year. The license fee hereby imposed shall be due and payable on or before February 1 in the applicable year for all mechanical amusement devices in operation on that date and shall thereafter become immediately due and payable on each mechanical amusement device placed in use or operation within the City.

However, upon application and notification to the Bureau of Regulation, Inspection and Licensing, any mechanical amusement device on which the foregoing tax has been paid may be transferred from the premises for which the aforesaid tax has been paid to any other premises. Further, upon application and notification to the Bureau of Regulation, Inspection and Licensing, any mechanical amusement device on which the foregoing tax has been paid may be replaced by another similar device as defined herein.

In the event of the nonpayment of the tax or failure to file application and notification of transfer or replacement, the particular mechanical amusement device shall be confiscated by the City, in addition to any other penalty herein provided. (Ord. 1-2003. Passed 1-8-03.)

309.05 LICENSE ISSUANCE; DISPLAY.

Upon the payment of the license fee provided by this article, the Bureau of Regulation, Inspection and Licensing shall issue a metal disc or plate setting forth the number of the license for each machine so licensed, which disc or plate shall be attached and fastened to the respective machine or device so that the same may be clearly observable and readable. (Ord. 5-1965 §5. Passed 1-27-65.)

309.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 47-1966 §1. Passed 9-28-66.)

ARTICLE 311
Miniature Billiard and Bowling Games; Jukeboxes

311.01	Definitions.	311.05	License issuance and display.
311.02	Gambling devices prohibited.	311.99	Penalty.
311.03	License required; application; investigation.		
311.04	License fees, transferals, replacements; confiscation for violation.		

CROSS REFERENCES

Power to license - see 3rd Class §2601 (53 P. S. §37601)
Amusement device distributors - see BUS. REG. Art. 307
Mechanical amusement devices - see BUS. REG. Art. 309

311.01 DEFINITIONS.

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

- (a) "Miniature bowling game" means any platform, stand, table or structure for the playing of miniature bowling games, which is operated after the insertion of a coin, token, slug or plate in the machine or, upon payment of a fee, may be operated by the public generally for the playing of the bowling game. The operation of the bowling game is so mechanically arranged that the player, by propelling a small disc, puck or ball, can knock over any of the ten pins mechanically adjusted on the platform of the bowling ball game and, by a mechanical or electrically controlled device, the score obtained by knocking over any of the pins is automatically registered after each operation by the player. The object of the game is to secure a score by the exercise of skill in the throwing of the disc, puck or ball at the ten pins.
- (b) "Billiard table game" means any platform, table or structure for playing the game of billiards or pool, which is operated after the insertion of a coin, token, slug or plate therein or, upon the payment of a fee, may be operated by the public generally, for the playing of the billiard game, the insertion of the coin or the payment of the fee being necessary to release the billiard balls so that the players can use the billiard balls on the table by contacting the balls with a cue stick, and propel the balls across the table into the several pockets which are arranged on a billiard table. The object of the game is to secure a score by the exercise of skill in striking the billiard balls so as to propel the balls into the respective billiard pockets.
- (c) "Jukebox" means any device, machine or apparatus whatsoever for the playing or furnishing of music by means of records or tapes by the insertion of a coin or any other metal disc, slug or token whatsoever or, upon the payment of a fee, may be operated by the public generally.

- (d) "Persons", "firm", "corporation" or "association", as used herein, includes the following: any person, firm, corporation or association which shall, at any time, have in its possession for use or operation within the City any miniature bowling game, billiard table game or jukebox, for use or operation by the general public of the City. (Ord. 6-1965 §1. Passed 1-27-65.)

311.02 GAMBLING DEVICES PROHIBITED.

Nothing in this article shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the State of Pennsylvania. (Ord. 6-1965 §2. Passed 1-27-65.)

311.03 LICENSE REQUIRED; APPLICATION; INVESTIGATION.

No person shall have in his possession or control any miniature bowling game, billiard table game or jukebox, unless he shall have applied for and procured a license therefor from the Bureau of Regulation, Inspection and Licensing. Such application shall set forth the name and residence of the person so applying, together with the present and previous occupation of the applicant and the length of residence at the present and previous place of residence, the name of the owner of the premises upon which the aforesaid machines are to be used and installed and, if the owner of the premises is not the applicant, then the applicant shall set forth the length of time for which the premises have been leased and whether the applicant is a citizen of the United States. The application shall also set forth the manufacturer and nature of the machine to be installed and used.

The information required in this section shall be furnished over the signature of the applicant and shall be made under oath or affirmation.

No license shall be granted until a period of seven days shall have elapsed from the date of application, during which time an investigation of the facts set forth in the application may be made. No license shall be granted to any person not a citizen of the United States. (Ord. 6-1965 §3. Passed 1-27-65.)

311.04 LICENSE FEES, TRANSFERALS, REPLACEMENTS; CONFISCATION FOR VIOLATION.

No license shall be issued until an annual fee therefor shall have been paid to the City Treasurer in the sum of twenty-five dollars (\$25.00) for every jukebox and sixty dollars (\$60.00) for every miniature bowling game and billiard table game so installed and used in the City, under the terms of this article, which amount paid as aforesaid shall be a license fee until December 31 of each year. The license fee hereby imposed shall be due and payable on or before February 1 in the applicable year for all miniature bowling games, billiard table games and jukeboxes in operation on that date and shall thereafter become immediately due and payable on each and every miniature bowling game, billiard table game and jukebox placed in use or operation within the City.

However, upon application and notification to the Bureau of Regulation, Inspection and Licensing, any miniature bowling game, billiard table game or jukebox on which the foregoing tax has been paid may be transferred from the premises for which the aforesaid tax has been paid to any other premises. Further, upon application and notification to the Bureau of Regulation, Inspection and Licensing, any miniature bowling game, billiard table game or jukebox on which the foregoing tax has been paid may be replaced by another similar device as defined herein.

In the event of the nonpayment of the tax or failure to file application and notification of transfer or replacement, the particular miniature bowling game, billiard table game or jukebox shall be confiscated by the City, in addition to any other penalty herein provided. (Ord. 6-1965 §4. Passed 1-27-65; Ord. 5-1979 §1. Passed 1-10-79; Ord. 10-1982 §1. Passed 2-3-82.)

311.05 LICENSE ISSUANCE AND DISPLAY.

Upon the payment of the license fee provided by this article, the Bureau of Regulation, Inspection and Licensing shall issue a metal disc or plate setting forth the number of the license for each machine so licensed, which disc or plate shall be attached and fastened to the respective machine or device so that the same may be clearly observable and readable. (Ord. 6-1965 §5. Passed 1-27-65.)

311.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both. (Ord. 47-1966 §1. Passed 9-28-66.)

ARTICLE 313
Peddlers and Sidewalk Vendors

313.01	Definitions.	313.06	License display.
313.02	License required.	313.07	Exceptions.
313.03	Application information; fee.	313.08	License renewal.
313.04	Investigation and license issuance.	313.09	Rules and regulations.
313.05	Prohibited conduct.	313.99	Penalty.

CROSS REFERENCES

General power to levy license taxes - see 3rd Class §2601
(53 P.S. §37601)

Farmers excepted - see 3rd Class §2610 (53 P.S. §37610)

313.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Person" includes the singular and the plural and shall also mean and include any person, firm or corporation, association, club, partnership or society, or any other organization.
- (b) "Peddler" includes any person, whether a resident of the City or not, traveling by foot, wagon, motor vehicle or any other type of conveyance, from place to place, house to house or street to street, carrying, conveying or transporting goods, merchandise, food or beverages, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling, shall sell or offer the same for sale.
- (c) "Stand" means any table, showcase, bench, rack, pushcart, wagon or any other wheeled vehicle or device which may be moved and which is used for the displaying, storing or transporting of articles offered for sale by a vendor.
- (d) "Vendor" means any person engaged in the selling, or offering for sale, of food, beverages or merchandise on the public streets or sidewalks from a stand or motor vehicle or from his person. (Ord. 12-1983 §2. Passed 2-23-83.)

313.02 LICENSE REQUIRED.

No person shall engage in the business of peddler or sidewalk vendor as defined in this article within the corporate limits of the City without first obtaining a license therefor as provided herein. (Ord. 12-1983 §1. Passed 2-23-83.)

313.03 APPLICATION INFORMATION; FEE.

(a) Applicants for a license under this article shall file with the Licensing Bureau a sworn application in writing, which shall give the following information:

- (1) Name and description of the applicant;
- (2) Address, legal and local;
- (3) A brief description of the nature of the business and the goods to be sold and in the case of products of farm or orchard, whether produced or grown by the applicant;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the same together with the license number or other means of identification;
- (7) A photograph of the applicant taken within sixty days immediately prior to the date of the filing of the application, which picture shall be approximately two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner;
- (8) A statement as to whether or not the applicant has been convicted of any crime, misdemeanor or violation of any municipal ordinance, the nature of the offense and the punishment or penalty assessed therefore;
- (9) A statement by the Health Department of Erie County, dated not more than ten days prior to the submission of the application, certifying the applicant to be free of infectious, contagious or communicable disease; and
- (10) A description of the proposed location of the vending business, except that vendors from motor vehicles shall describe the general area in which they propose to vend, if less than the entire City; (Ord. 12-1983 §3. Passed 2-23-83.)
- (11) Proof of an insurance policy, issued by an insurance company licensed to do business in the State of Pennsylvania, protecting the licensee and the City, as co-insured, from all claims for damages to property and bodily injury including death, which may arise from the operations under or in connection with the license. Such insurance shall name as an additional insured the City, and shall provide that the policy shall not terminate or be canceled prior to the expiration date without thirty days advance written notice to the City. The limits of liability of such policy shall be at least five hundred thousand dollars (\$500,000), per occurrence. The proof of insurance shall be reviewed by the Office of the City Solicitor. (Ord. 58-1991 §1. Passed 7-17-91.)

(b) At the time of filing the application, a fee of one hundred dollars (\$100.00) shall be paid to the Bureau of Licensing to cover the cost of investigation and issuance of the license. (Ord. 12-1983 §3. Passed 2-23-83.)

313.04 INVESTIGATION AND LICENSE ISSUANCE

Upon receipt of such application, the Bureau of Licensing shall make such investigation as it deems necessary for the protection of the public good. If the issuance of the license is approved, the License Officer shall issue the license. If the license is denied, the applicant shall be provided with a statement of the reasons therefor which reasons shall be entered in writing on the application. A license issued pursuant to this section is valid for a period of one year, from January 1 of each year to December 31 of that same year. (Ord. 12-1983 §4. Passed 2-23-83.)

313.05 PROHIBITED CONDUCT.

No vendor or peddler shall:

- (a) Store, park or leave any stand overnight on any street or sidewalk, or park any motor vehicle other than in a lawful parking place, in conformance with City and State parking regulations;
- (b) Leave any location without first picking up, removing and disposing of all trash or refuse remaining from sales by him;
- (c) Sound or permit the sounding of any device which produces a loud noise, or use and operate any loud speaker, public address system, radio, sound amplifier or similar device to attract the attention of the public;
- (d) Vend without the insurance coverage as specified in Section 313.03(a)(11), or in any other manner contrary to the provisions contained in this article; or
- (e) Vend or peddle contrary to any rules or regulations promulgated by the Bureau of Licensing. (Ord. 12-1983 §5. Passed 2-23-83.)

313.06 LICENSE DISPLAY.

A license as issued by the Bureau of Licensing, shall be displayed at all times during the operation of the business in a conspicuous place. (Ord. 12-1983 §6. Passed 2-23-83.)

313.07 EXCEPTIONS.

Farmers selling their own produce and sidewalk vendors or peddlers being operated by or on behalf of nonprofit organizations or charitable organizations, shall be exempt from the payment of the license fee, but shall otherwise comply with all provisions of this article. (Ord. 12-1983 §7. Passed 2-23-83.)

313.08 LICENSE RENEWAL.

All licenses are valid for the current year, unless revoked or suspended prior to expiration. An application to renew a license shall be made not later than thirty days before the expiration of the current license year. (Ord. 12-1983 §8. Passed 2-23-83.)

313.09 RULES AND REGULATIONS.

The City License Officer shall promulgate and enforce all reasonable rules and regulations necessary to the operation and enforcement of this article. (Ord. 12-1983 §9. Passed 2-23-83.)

313.99 PENALTY.

Any person violating any provision of this article shall be guilty of a summary offense and upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days or both. (Ord. 12-1983 §10. Passed 2-23-83.)

ARTICLE 315
Rubbish Hauling Contractors

315.01	Definitions.	315.05	Requirement to affix license to rubbish haulers.
315.02	License required.	315.99	Penalty.
315.03	License application, fee; certificate and tag.		
315.04	Marking of rubbish hauling equipment.		

CROSS REFERENCES

Power to license - see 53 P.S. §37601
Bureau of Refuse Disposal - see ADM. 117.05(c)
Garbage and rubbish - see S.U. & P.S. Art. 951

315.01 DEFINITIONS.

(a) "Rubbish" as used in this article, includes paper, rags, excelsior, straw, boxes, cartons, old clothes, mattresses, old shoes, leather scraps, oilcloth, carpet, Christmas trees, prunings, home vines, ashes and any and all other waste materials, whether flammable or otherwise, which result from the ordinary conduct of business, manufacturing or housekeeping, and excludes all substances commonly designated as "garbage", such as any offal or refuse of fish, fruit, vegetables, animal matter or any organic substance subject to fermentation or decay.

(b) "Person" includes any person, firm or corporation.
(Ord. 16-1964 §1. Passed 4-8-64.)

315.02 LICENSE REQUIRED.

Any person, before using the streets of the City for the purpose of collecting and hauling rubbish, shall make application to and receive from the Bureau of Regulations, Inspection and Licensing a license authorizing the holder thereof to haul rubbish.
(Ord. 16-1964 §2. Passed 4-8-64.)

315.03 LICENSE APPLICATION, FEE; CERTIFICATE AND TAG.

Each applicant shall, before a license is granted to him, exhibit his signed application therefor to the City Treasurer and pay to the Treasurer the sum of fifty dollars (\$50.00) per vehicle and, upon the applicant's production to the Bureau of a receipt from the City Treasurer for the license fee, the Bureau is authorized and directed to issue a sticker to be placed on the windshield of the licensed vehicle.
(Ord.61-1991 §2. Passed 7-17-91.)

Each applicant shall, before a license is granted to him, exhibit his signed application therefor to the City Treasurer and pay to the Treasurer the sum of fifty dollars (\$50.00) and, upon the applicant's production to the Bureau of a receipt from the City Treasurer for the license fee, the Bureau is authorized and directed to issue a numbered license certificate, the stub for which shall be retained in the office of the Bureau. This certificate shall be under the seal of the City and the license certificate shall be given to the applicant therefor, together with a correspondingly numbered tag or badge, and also a correspondingly numbered placard to be attached to each vehicle used by the applicant in hauling rubbish. (Ord. 16-1964 Sec. 3. Passed 4-8-64; Ord. 5-1979 Sec. 1. Passed 1-10-79.)

315.04 MARKING OF RUBBISH HAULING EQUIPMENT.

No rubbish hauling vehicle shall operate without first having legibly inscribed on the hauling vehicle the name, address and telephone number of the business or person operating such rubbish hauling vehicle; the letters and numerals of which shall be not less than one and one-half inches in height. (Ord. 66-1997 Sec. 1. Passed 11-5-97.)

315.05 REQUIREMENT TO AFFIX LICENSE TO RUBBISH HAULERS.

A license sticker to operate a rubbish hauling service shall be affixed to the windshield of the hauler or vehicle using an alternative hauling method at all times when engaged in rubbish hauling functions. This licensed sticker is nontransferable. It shall be used only by the person to whom it is issued. (Ord. 66-1997 Sec. 1. Passed 11-5-97.)

315.99 PENALTY.

Any person violating any provision of this article or any rule or regulation adopted by the Board of Health pursuant to the authority granted herein, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both, and in addition thereto, for repeated violations or a continuous violation, have his license forfeited. (Ord. 16-1964 §8. Passed 4-8-64.)

ARTICLE 317
Sidewalk and Curbing Contractors

(EDITOR'S NOTE: Former Article 317 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 319
Stationary Steam Engineers

319.01	Board of License Examiners.	319.05	Fees and fines.
319.02	Enforcement.	319.06	Coordinator.
319.03	Rules and regulations.		
319.04	General requirements.		

CROSS REFERENCES

Power to license - see 3rd Class §2601 (53 P.S. §37601)

319.01 BOARD OF LICENSE EXAMINERS.

(a) There is established a Board of License Examiners consisting of seven members, who shall be appointed by Council. Each member shall serve for a period of two years from the date of his appointment. The seven current members of the Board were previously appointed to serve two year terms. Notwithstanding anything to the contrary herein, each of those terms will be deemed to expire on December 31st of the year which is two years following the date of their most recent appointment. Upon the expiration of those terms, Council shall fill the positions in a manner consistent with the provisions set forth herein and in other apposite City of Erie ordinances. The coordinator of City Services (hereinafter known as "Coordinator") shall be an ex officio member of such Board.

(b) It shall be the duty of the Board of License Examiners to examine all applicants for license to perform the duties of engineers and water tenders having charge of steam boilers, steam-driven machinery and/or ammonia refrigeration machinery, in the City and review all violations of this article. It shall be the further duty of the Board of License Examiners to advise the Coordinator on matters concerning enforcement of this article.

(c) The qualifications of a member of the Board shall be either to have a first class engineer's license or be similarly qualified by education and training.
(Ord. 60-1994 §1. Passed 7-6-94.)

319.02 ENFORCEMENT.

(a) This article shall be administered and controlled by the Coordinator and the Board of License Examiners, subject to the supervision of the Office of the Mayor.

(b) The Coordinator shall keep in his office an accurate record of all applications made and a complete record of all licenses issued by him.

(c) The Coordinator shall keep an accurate record of all violations of this article.

(d) The Coordinator shall have the right to enter and inspect any and all premises:

- (1) Wherein a licensed operator is or may be required; or
- (2) Whenever the Coordinator has reason to believe a violation of this article is being or has been committed therein.

(e) No person shall in any manner hinder, obstruct, delay, resist, prevent or in any way interfere or attempt to interfere with the Coordinator in the performance of any duty herein required, or refuse to permit such authorized person to perform his duty by refusing him entrance to the premises upon identification.

(f) It shall be unlawful for any person to have charge of or to operate a steam boiler, steam driven machinery or ammonia refrigeration machinery in the City, unless such person or persons hold a license as hereinafter provided for.

(g) It shall be unlawful for any owner or owners, user or users of any steam boiler, steam driven machinery, or ammonia refrigeration machinery of the hereinafter specified capacity, to operate or cause to be operated the same, without having a duly qualified, licensed person in charge of such operation.
(Ord. 60-1994 §2. Passed 7-6-94.)

319.03 RULES AND REGULATIONS.

(a) These regulations shall apply to:

- (1) All steam boilers, except those in private dwellings, within the City having a safety valve setting above fifteen pounds per square inch, or an aggregate of 60 boiler HP (horsepower) or more, or the equivalent BTU (British Thermal Unit) output. (Aggregate will be determined by the number of units sharing a common header);
- (2) All steam driven machinery within the City;
- (3) All ammonia refrigeration machinery within the City; and
- (4) Notwithstanding the above, every owner or lessor of any steam boiler, regardless of its size, in theaters, motion picture theaters, hospitals, schools, hotels, motels, organized homes or public buildings within the City not requiring a licensed operator shall cause the boiler to be inspected annually in accordance with State law and a certificate of pressure vessel operation shall be made available to the Coordinator when requested.

- (b) Licenses shall be granted in three classes as follows:
- (1) Class 1 - Chief Stationary Engineer. This class entitles the licensee to have charge of or operate without limitation by pressure, horsepower or equivalent BTU's any and all steam boilers, steam driven machinery and ammonia refrigeration machinery. To qualify, an applicant shall hold a Class 2 Stationary Engineer's license for a period of two years. A two year associate degree in a related field held by the applicant from any recognized school can be substituted in lieu of one years experience for this class of license.
 - (2) Class 2 - Stationary Engineer. This class entitles the licensee to have charge of or operate steam driven machinery up to and including 200 HP or equivalent BTU's. This class also entitles the licensee to have charge of or operate steam boilers having an aggregate horsepower not exceeding 400 HP or equivalent BTU's; provided however the licensee may without limitation by horsepower operate steam driven machinery, steam boilers, or ammonia refrigeration machinery if he does so under the supervision of a Chief Stationary Engineer who is present and in charge or who is not present but is assigned to the steam driven machinery, steam boilers, or ammonia refrigeration machinery and on call and readily available. To qualify, an applicant shall hold a Water Tender's license for a period of two years. A two year associate degree in a related field held by the applicant from any recognized school can be substituted in lieu of one years experience for this class of license.
 - (3) Class 3 - Water Tender. This class entitles the licensee to have charge of, or operate steam driven machinery, up to and including 100 HP or equivalent BTU's. This class also entitles licensee to have charge of or operate steam boilers, having an aggregate horsepower not exceeding 200 HP and 150 PSI (pounds per square inch); provided however the licensee may without limitation by horsepower or PSI operate any steam boilers, if he does so under the supervision of a licensed engineer who is qualified hereunder to operate the steam boilers in question. To qualify an applicant shall have experience in and around steam generating equipment and auxiliaries for a period of one year. A two year Associate Degree in a related field held by the applicant from any recognized school can be substituted in lieu of one year's experience for this class of license provided the applicant can pass the written examination, and a hands-on examination administered by the Licensing Board.
 - (4) Refrigeration license. This license entitles the licensee to have charge of or operate any ammonia refrigeration machinery. To qualify an applicant shall have experience in and around ammonia refrigeration machinery for a period of one year.
- (c) The Board shall have the power to promulgate such additional rules and regulations as may be necessary to accomplish the intent of this article.
(Ord. 60-1994 §3. Passed 7-6-94.)

319.04 GENERAL REQUIREMENTS.

- (a) All applicants shall be eighteen years of age and have a high school education or its equivalent.
- (b) All applicants shall pass a written examination for each class of license.
- (c) All licenses shall be framed under glass, in a conspicuous place where they can be readily seen.
- (d) All licensees shall assist the State Inspector in his examination of any equipment covered under this section. He shall apprise the State Inspector of any known defects.
- (e) It shall be the responsibility of a licensee when on duty to thoroughly examine all equipment and any defects or sign of neglect shall be reported to the Licensed Engineer in charge.
- (f) This article requires that all steam boilers or steam-driven machinery, except those in private dwellings, within the City having a safety valve setting above fifteen pounds per square inch, or an aggregate of sixty boiler HP, or the equivalent BTU output be manned by a duly licensed Stationary Steam Engineer. It further requires all steam-driven machinery and all ammonia refrigeration machinery be manned by a duly licensed Stationary Steam Engineer. Within the meaning of this article a covered steam boiler, steam-driven machinery or an ammonia refrigeration machinery is properly manned as follows:
- (1) If the covered steam boiler(s) or steam driven machinery has an aggregate boiler horsepower between sixty and 149.9, a licensed engineer, as required by Section 319.03, above, shall be in charge and on call. The boiler(s) shall be maintained daily according to the manufacture specifications or the ASME Code, Section 6, by same. If the building housing the boiler(s) or steam driven machinery is occupied by school children* and/or incapacitated individuals, the licensed engineer, as required by Section 319.03, shall be present in the building when the building is occupied and the machinery is in operation. He may, however, perform other duties in the building provided he checks the boiler(s) every two hours.

* Buildings occupied by school children shall be defined as buildings used for preschool, elementary or secondary education of children and shall not include buildings utilized for providing programs of post-secondary education.
 - (2) If the covered steam boiler(s) or steam-driven machinery has an aggregate boiler HP of 150 and above and is used for heating purposes only, the licensed engineer, as required by Section 319.03, shall have his primary post of duty in the building housing the machinery. He is further required to be present in the building when the machinery is in operation. He may, however, perform other duties in the building, provided he checks the machinery every two hours. If the boiler(s) is also used for steam processes, the licensed engineer shall check the boiler(s) every hour or more if deemed necessary by the operation.

- (3) If the covered machinery is ammonia refrigeration machinery, the licensed operator required by Section 319.03, shall have his primary post of duty within the building housing the ammonia refrigeration machinery. The licensed operator is further required to be present in the building when the ammonia refrigeration machinery is in operation and the building is occupied. The licensed operator may, however, perform other duties in the building, provided he checks the ammonia refrigeration machinery at least once every hour.

(g) Any person seeking to be licensed as an Engineer under this article shall submit an application to the Coordinator, who shall forward it to the Board of License Examiners. Upon receipt, the Board of License Examiners shall review the applications to insure eligibility requirements are met.
(Ord. 60-1994 §4. Passed 7-6-94.)

319.05 FEES AND FINES.

(a) Application for license shall include a nonrefundable fee payable to the City in the following amounts: sixty dollars (\$60.00) for Water Tender; eighty dollars (\$80.00) for Second Class Engineer; and one hundred dollars (\$100.00) for Chief Engineer and Refrigeration Engineer. (Ord. 51-2006. Passed 10-18-06.)

(b) All licenses expire December 31st of each year.

(c) All licenses shall be renewed on or before December 31st of each year by remitting, to the Coordinator, payment in the amount set forth in subsection (a) hereof.

(d) The license of any operator who enters active duty in the armed services shall remain in effect, without payment of renewal fee, until discharge; provided however, the license shall be renewed within six months of discharge, in the manner set forth above in subsection (c) hereof.

(e) Any person violating any provision of this article shall on conviction thereof, be liable to pay a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) and costs of prosecution to be collected by summary proceedings before any duly authorized magistrate. In default of payment of any such fine and cost, a violator may be committed to Erie County Jail for a period not to exceed ninety days. In addition, such person shall be liable to a suspension or revocation of his license as the Board of License Examiners shall determine.
(Ord. 60-1994 §5. Passed 7-6-94.)

319.06 COORDINATOR.

(a) The term Coordinator of City Services shall include the Coordinator, his authorized designee(s) or agent(s).

(b) The Coordinator shall be an ex-officio member of the Board of Examiners created in Section 319.01.
(Ord. 60-1994 §6. Passed 7-6-94.)

ARTICLE 321
Taxicabs

(EDITOR'S NOTE: Former Article 321 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 323
Telegraph Companies

(EDITOR'S NOTE: Former Article 323 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 325
Theaters and Public Halls

(EDITOR'S NOTE: Former Article 325 was repealed by Ordinance 28-2000, passed June 7, 2000.)

(NOTE: The next printed page is page 45.)

ARTICLE 327
Transient Retail Merchants

327.01	Definition.	327.04	Exceptions.
327.02	License required.	327.99	Penalty.
327.03	License application; fee.		

CROSS REFERENCES

Power to regulate and license - see 3rd Class §2620 et seq. (53 P.S. §37620 et seq.)

327.01 DEFINITION.

For the purpose of this article, “transient retail business” and “transient wholesale business” means and includes any business in which any goods, wares or merchandise whatsoever are sold or offered for sale at retail and wholesale by any person, firm and/or corporation, whether by principal or agent, which at the time of the commencement of the business shall be intended by the party commencing the same to continue for a period of less than one year. (Ord. 8033 §2. Passed 9-24-40.)

327.02 LICENSE REQUIRED.

No person shall engage in any transient retail and wholesale business, without first having procured a license as hereinafter provided. (Ord. 8033 §1. Passed 9-24-40.)

327.03 LICENSE APPLICATION; FEE.

The Bureau of Regulation, Inspection and Licensing is authorized to grant a transient merchant's license upon payment by the applicant of a license fee of two hundred dollars (\$200.00), for each month or fractional part thereof during which such transient merchant is engaged in the business of soliciting, taking, peddling, selling or delivering goods, wares and/or merchandise within the City. Each applicant shall state the name, residence and length of time for which it is desired to do business and the number of persons so engaged. Each and every person, agent, employee or solicitor so engaged shall secure a separate license and be required to pay a license fee therefor not exceeding two hundred dollars (\$200.00) for each month or fractional part thereof, for the period engaged in such soliciting, taking, peddling, selling or delivering goods, wares or merchandise.
(Ord. 7513 §3. Passed 12-8-31.)

327.04 EXCEPTIONS.

Nothing contained in this article shall be construed to apply to farmers selling their own produce, or for the selling of goods, wares or merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
(Ord. 7513 §4. Passed 12-8-31.)

327.99 PENALTY.

Any person violating any of the provisions of this article, upon conviction, shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, or both.
(Ord. 47-1966 §1. Passed 9-28-66.)

ARTICLE 329
Tobacco Vending Machines

329.01	Definitions.	329.03	Exceptions.
329.02	License required; fee.	329.99	Penalty.

CROSS REFERENCES
Smoking prohibited in public places - see Art. 1127

329.01 DEFINITIONS.

(a) "Tobacco vending machine" is a device which, upon the insertion of cash, credit card, token or other means of payment, automatically dispenses or unlocks to allow the purchaser to obtain one or more tobacco products, including but not limited to cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or other items generally recognized and regulated as smoking or tobacco products.

(b) "Actual control" of a tobacco vending machine refers to the person or entity, or the employees of such person or entity, which places merchandise in and physically takes revenue from the machine, regardless of the number of others who share the distribution of revenue. (Ord. 2-2003. Passed 1-8-03.)

329.02 LICENSE REQUIRED; FEE.

(a) No person, corporation or other entity shall own, keep or operate any vending machine for the sale of tobacco products without having first obtained the license and paid the fee required by this ordinance. While the license and fee may be required of either the owner, operator, distributor or lessee of any vending machine, there shall only be one such fee per machine per year, and it is the person or entity having actual control of the machine's merchandise and revenue who shall be required to obtain the license and pay the license tax.

(b) Applicants for a license under this article shall file with the Bureau of Regulations and Licensing a sworn application in writing, which shall contain:

- (1) The name and physical description of the applicant;
- (2) A legal and local address which shall be valid for the period of the license, with immediate notice required if any change is made;
- (3) A statement of any convictions of the applicant in any jurisdiction for a felony, misdemeanor or municipal ordinance, identifying the place and nature of the charge and disposition thereof;

- (4) The proposed or actual location of every vending machine which will be included in the license; and
- (5) A certificate of general liability insurance in an amount not less than five hundred thousand dollars (\$500,000) per occurrence of any machines which are to be placed on City-owned property or in the City's right-of-way, naming the City of Erie as additional insured.
(Ord. 2-2003. Passed 1-8-03.)

(c) At the time of presenting the application, a fee of seventy-five dollars (\$75.00) shall be tendered for each such machine. No license shall be issued until the fee is paid in the amount aforesaid. Such fee shall be a license fee until December 31 of each year and shall be due and payable on or before February 1 in the applicable year such fee is imposed. These fees are intended to include the cost of investigation and license as well as general revenue as authorized by the Third Class City Code at 53 P.S. 37601. At the beginning of each subsequent year from application, the applicant shall file a renewal notice with any changes of location, number or type of machine, or other change from the original application information, and pay the appropriate fee for the year. The license officer shall affix an identification tag or sticker to each machine properly licensed for the current year.
(Ord. 1-2006. Passed 1-4-06.)

(d) Upon the completion of the original application, the License Officer shall commence an appropriate investigation to validate the information provided by the applicant. A license shall be issued to the applicant as soon as practical, and shall be denied only in the event that the investigation shows a significant history of criminal conduct, lack of honesty or financial responsibility by the applicant evidencing a disregard for the public health, safety or welfare. If a license has been issued pending the outcome of such an investigation, it may be revoked for such reasons or a renewal may be refused. In the case of any such denial, revocation or refusal to renew, the applicant shall be provided with a written statement from the licensing officer clearly setting forth the reasons for such action. Any applicant or licensee aggrieved by such denial, revocation or refusal to renew may, within ten calendar days of the written notice from the License Officer, request in writing a hearing before the Director of Public Works or his designee, at which testimony and evidence may be presented and transcribed with the License Officer being required to present sufficient evidence to support the action taken and a written determination made.
(Ord. 2-2003. Passed 1-8-03; Ord. 3-2004. Passed 1-15-04.)

329.03 EXCEPTIONS.

The license tax provided by this ordinance shall not be assessed against the person, corporation or other entity which manufactures the vending machine itself, as the term "manufacture" is construed under Pennsylvania tax law; nor against vending machines neither usable by the general public nor located in commercial, industrial, governmental or institutional buildings or grounds; nor against machines whose entire net revenue is devoted to the maintenance of an institution of purely public charity as defined by Pennsylvania law. Such manufacturers and charitable organizations must otherwise comply with the license application and renewal requirements. (Ord. 2-2003. Passed 1-8-03.)

329.99 PENALTY.

Any person violating any provision of this article shall be guilty of a summary offense, and upon conviction shall be fined not more than six hundred dollars (\$600.00) or imprisoned not more than ninety days or both. (Ord. 2-2003. Passed 1-8-03.)

ARTICLE 330
Landlord and Rental

330.01 Purpose: licensing residential rental units.	330.07 Rules and regulations.
330.02 Definitions.	330.08 Severability.
330.03 Residential rental unit registration required.	330.09 Fees.
330.04 Residential rental license required.	330.10 Owner's rights.
330.05 Exemptions.	330.11 Insurance.
330.06 Appeals from revocation of conditional rental registration or residential rental license.	330.12 Sunset provision.
	330.99 Penalty.

330.01 PURPOSE: LICENSING RESIDENTIAL RENTAL UNITS.

(a) The purpose of this article and the resulting policy of the City of Erie (hereinafter "City") shall be to protect and promote the public health, safety and welfare of its citizens, to establish rights and obligations of owners and occupants relating to residential rental units in the City and to encourage owners and occupants to maintain and improve the quality of rental housing within the community. As a means to these ends, this article provides for a systematic inspection program, registration and licensing of residential rental units, and penalties.

- (b) In considering the adoption of this article, the City makes the following findings:
- (1) There is a growing concern in the community with the general decline in the physical condition of residential rental units;
 - (2) City records indicate there is a greater incidence of problems with the maintenance and upkeep of residential properties, which are not owner occupied as compared to those that are owner occupied;
 - (3) City records indicate there are a greater number of disturbances at residential rental units than all other properties combined; and
 - (4) City records indicate that violations of the various codes are generally less severe at owner-occupied units as compared to residential rental units. (Ord. 73-2006. Passed 12-20-06.)

330.02 DEFINITIONS.

For the purposes of this article, the following definitions shall apply:

- (a) "Building or Code Official" means the official designated by the City to enforce building and/or similar laws and this article, or his duly authorized representative.

- (b) “Codes” means any state or local code or ordinance adopted, enacted or in effect in and for the City of Erie relating to or concerning the fitness for habitation, construction, maintenance, operation, use or appearance of any premises or dwelling unit.
- (c) “Conditional approval” means that a rental unit may be occupied on a conditional basis, provided that certain requirements established by the Code Official are addressed within a specified time frame.
- (d) “Dwelling unit/residence” means any building or portion thereof, which is designed for or used for residential purposes. The word "dwelling" shall not include hotels, motels, owner occupied housing, rooming houses or other structures used for transient residence, but shall include dwelling units under a written or unwritten lease, agreement.
- (e) “To let for occupancy or let” means to permit possession or occupancy of a dwelling, dwelling unit, rooming unit, building or structure by a person who is a legal or equitable owner or not be the legal owner of record thereof, pursuant to a written or unwritten agreement.
- (f) “Operator” means any person who has charge, care or control of a structure or premises, which are let or offered for occupancy.
- (g) “Owner” means the owner or owners of the freehold of the premises or lesser estate therein, a mortgage or vendee in possessions, assignee of rents, receiver, executor, trustee, lessee or other person, firm or corporation in control of a building or of premises, or their duly authorized agents.
- (h) “Person” means an individual, firm, corporation, association, partnership or public entity.
- (i) “Public Officer” means the Inspector of the Office of Code Enforcement or his authorized representatives.
- (j) “Residential Rental License” means a document issued by the City of Erie Code Enforcement Office to the owner, operator, responsible agent or manager of a residential rental unit upon correction of all applicable code violations granting permission to operate a residential rental unit in the City of Erie. Such license is required for lawful rental and occupancy of residential rental units under this article, unless a Public Officer has not inspected the unit or violations of the applicable codes are being corrected and the unit operates under a Residential Rental Registration, or the residential rental unit is exempt from the license provisions of this article.
- (k) “Residential property” means a property used or intended to be used for residential purposes.
- (l) “Residential rental registration” means the annual registration of all individual residential rental units within the City of Erie, certified by a document issued to the applicant therefor.
- (m) “Residential rental unit” means a rooming unit or a dwelling unit let for rent, or a residential unit occupied by persons other than the owner and his or her immediate family members, which includes the owner’s parents, parents-in-law, or adult children. A residential rental unit shall not include a hotel unit.
- (n) “Responsible agent” means a person authorized by the owner to act in his behalf. All responsible agents must reside in Erie County, Pennsylvania.
- (o) “Structure unfit for human occupancy” is whenever the Code Official applying the relevant code finds that such structure is unsafe, unlawful or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the relevant code or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

- (p) “Transient “ means any individual residing or stopping in the City of Erie for less than thirty (30) days at any one time.
- (q) “Unsafe structure” means one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation that partial or complete collapse is possible.
- (r) “Unsafe equipment “ means any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid container or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.
(Ord. 73-2006. Passed 12-20-06; Ord. 33-2009. Passed 6-17-09.)

330.03 RESIDENTIAL RENTAL UNIT REGISTRATION REQUIRED.

(a) It shall be unlawful for any person, firm or corporation to operate, let or rent to another for occupancy any residential rental unit in the City of Erie, unless a Residential Rental Registration has been issued by the Code Official.

(b) Registration Required for Rental Units.

- (1) By May 16th of each calendar year the owner, operator, responsible agent or manager of each residential rental unit shall continue to apply for a Residential Rental Registration. (Ord. 73-2006. Passed 12-20-06.)
- (2) A Residential Rental Registration shall be issued if the owner or operator of the residential rental unit provides the name of a responsible agent (if applicable), pays the registration fee and pays all delinquent residential refuse fees associated with the rental units. No residential rental unit registration shall be issued until all delinquent residential refuse fees associated with each unit are paid and accounts kept up to date.
(Ord. 16-2014. Passed 4-2-14.)
- (3) This registration does not warrant the habitability, safety or condition of the residential rental unit in any way.

(c) Sale, Transfer or Construction of Residential Rental Units. A Residential Rental Registration shall not be transferred. In the case of registered residential rental units that are sold, transferred or constructed the new owner shall seek a Rental Registration for each residential rental unit purchased or acquired. Failure of the new owner to seek a new Rental Registration for each unit within sixty (60) days of the date of sale or transfer of ownership shall result in proceedings per Section 330.99.
(Ord. 73-2006. Passed 12-20-06.)

330.04 RESIDENTIAL RENTAL LICENSE REQUIRED.

It shall be unlawful for any person to operate, let or rent to another for occupancy any residential rental unit in the City of Erie, unless a Rental License has been issued by the Code official.

(a) Licensing Required for Rental Units.

- (1) The application for the License shall be in a form as shall be determined by the Code Official.
- (2) Each license shall have a two year term and each residential rental unit is required to have a minimum of one inspection every two years. Inspection schedules shall be divided by wards.

- (3) After the initial inspection, if the rental premises complies with the relevant code provisions and the proper fee has been paid, the Code Official shall issue to the applicant a Residential Rental License.
 - (4) If the rental premises fails to comply with the provisions of any applicable code, the Code Official shall notify the applicant in writing of the deficiencies within ten (10) days of the inspection. The owner/operator shall be given 30 days from the date of the notice to schedule a second inspection. If an inspection has not been scheduled within the given time frame, the license shall not be issued.
 - (5) If a Code Official is required to make additional inspections beyond those in subsection (a)(4) hereof, then those inspections shall be performed for sixty-five dollars (\$65.00) per inspection. However, in no event shall the inspection process exceed 120 days from the date of initial inspection.
 - (6) When a person obtains a license for a premises, which thereafter become noncompliant with the relevant codes, and fails to remedy the violation or violations within the time frames specified within the code or codes, then the license shall be revoked and occupancy in the unit shall not exceed 120 days from the date of revocation.
(Ord. 73-2006. Passed 12-20-06.)
 - (7) Flats and duplexes occupied by the owner shall not be subject to the annual fee and will not be inspected providing that the building is registered annually, the owner provides proof of occupancy, and the owner signs a certification form provided by the City affirming that the other unit is not occupied and will not be occupied. If at any time the owner chooses to allow occupancy of the other unit, all provisions of Section 330.04 shall apply, including payments of fees and inspection. The City reserves the right to verify that the other unit is vacant.
 - (8) For buildings under construction or rehabilitation that have obtained a building permit to perform approved construction, the fee and inspection requirements will be suspended until the building permit is closed by the Code Official or the building permit expires. The units must be registered to meet this exemption.
(Ord. 33-2009. Passed 6-17-09.)
 - (9) No residential rental license shall be issued or renewed until all delinquent residential refuse fees associated with each unit are paid and accounts kept up to date. (Ord. 16-2014. Passed 4-2-14.)
- (b) Signature to License.
(1) The Code Official or his designee shall affix his signature to every license.
- (c) Display and Use. Proof of the Residential Rental Registration and License shall be presented to a Code Official or a tenant on demand for inspection.
(Ord. 73-2006. Passed 12-20-06.)

330.05 EXEMPTIONS.

The registration and licensing provisions of this article shall not apply to:

- (a) All property owned by the Housing Authority of the City of Erie which is inspected by a third party certified inspector in conformance with United States Department of Housing and Urban Development requirements shall be exempt. The Building Code Official shall be given a copy of the inspection results for each unit. (Ord. 33-2009. Passed 6-17-09.)

- (b) Hospitals, nursing homes, group homes or other rental units used for habitation, where such facilities are subject to County, State, or Federal licensing and inspection. Inspections of these facilities must be at a level which meets or exceeds the code.
- (c) Any unit or structure which is issued a Rooming House Permit by the City of Erie.
- (d) Single family dwellings where a parent, parent-in-law or adult child of the owner remains in occupancy and no net income is earned by the owner. However, this exemption shall not apply where the dwelling is not occupied by the owner and the dwelling becomes subject to code violations, which remain uncorrected beyond the time frames specified in the code.
(Ord. 73-2006. Passed 12-20-06.)

330.06 APPEALS FROM REVOCATION OF CONDITIONAL RENTAL REGISTRATION OR RESIDENTIAL RENTAL LICENSE.

Property Condition Appeals: Any person aggrieved by any decision of a Building Code Official or Public officer submit an appeal to the Building Code Official for a review by the Blighted Property Review Committee/Property Maintenance Appeals Board, who shall issue a decision in writing setting forth specific facts and legal conclusions; and may appeal subsequently under Local Agency Law to the Court of Common Pleas of Erie County.
(Ord. 33-2009. Passed 6-17-09.)

330.07 RULES AND REGULATIONS,

(a) The Office of Code Enforcement is authorized to promulgate rules and regulations for the enforcement and interpretation of this article.

(b) The rules and regulations shall be on file at the Department of Code Enforcement and at the City Clerk's office, and shall be provided to each applicant for registration and license upon a request for an application. (Ord. 73-2006. Passed 12-20-06.)

330.08 SEVERABILITY.

The provisions of this article are declared to be severable; and if any section, sentence, clause or phrase of this article shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses and phrases of this article but they shall remain in effect, it being the legislative intent that this article shall stand notwithstanding the invalidity of any part.
(Ord. 73-2006. Passed 12-20-06.)

330.09 FEES.

On or before May 15 st	\$40.00
May 16 st to June 30 th	\$65.00
After June 30 th	\$80.00

Additional Inspection fee \$65.00 per inspection

During the initial year of the program the above fee schedule shall be deferred 30 days without penalty. (Ord. 73-2006. Passed 12-20-06; Ord. 33-2009. Passed 6-17-09.)

330.10 OWNER'S RIGHTS.

The terms and provisions of this article are not intended to bar, preclude or affect the right of the owner to pursue judicial or extrajudicial relief against a tenant.
(Ord. 73-2006. Passed 12-20-06.)

330.11 INSURANCE.

(a) Minimum Coverage: Use of Insurance Proceeds. All owners shall be required to obtain a minimum of fifty thousand (\$50,000) dollars in general liability insurance, and hazard and casualty insurance. The proceeds of any policy of insurance shall be utilized consistent with the Uniform Construction Code, Article 1503.21 (11) B. (Fire Escrow Fund).

(b) Property Owners to Provide City with Insurance Information. Owners shall be required to place their insurance company name, policy number and policy expiration date on their rental registration form, or in the alternative, to provide the code enforcement officer with a copy of a certificate of insurance. A registration certificate shall not be issued unless insurance information is provided to the code enforcement office.
(Ord. 73-2006. Passed 12-20-06.)

330.12 SUNSET PROVISION.

This article shall expire on March 31, 2017. Not later than ninety (90) days prior to the expiration of this article, City Council will consider the expiration or continuation of this article, with any required modification. (Ord. 8-2013. Passed 2-6-13.)

330.99 PENALTY.

Violation of this article is a summary offense, with particular penalties upon conviction as follows:

- (a) Revocation of or Failure to Renew a Residential Rental License. A fine of not less than five hundred dollars (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation. A fine shall not be sought for any period during which the residential rental unit is vacant and the owner, operator, responsible agent or manager is taking appropriate action to correct the violations.
- (b) Failure to Register. or Failure to Seek a Residential Rental License (for Newly Constructed, Newly Created or Substantially Rehabilitated Residential Rental Units). The owner, responsible agent or manager shall be sent a Thirty (30) Day Notice of Violation, warning of the failure to comply with the terms of this article. Failure to comply at the end of thirty (30) days will result in a fine of not less than five hundred dollars (\$500.00) per residential rental unit for each month the violation exists. Each month the violation exists constitutes a separate violation.
- (c) Whoever violates any other provision of this article shall, upon a first offense conviction, be fined not more than one thousand dollars (\$1,000) nor less than one hundred dollars (\$100.00) or imprisoned not more than ninety (90) days, or both.
- (d) After conviction for violation of this article, if such person continues violating the same provision then such person shall be liable for further prosecution, conviction, and punishment without the issuance of a new notice of violation or order.
- (e) In addition to prosecution of persons violating this Code, the Public Officer, or the Erie City Solicitor's Office or any duly authorized agent of the City may seek such civil or equitable remedies in any court of record of the Commonwealth of Pennsylvania, against any person or property, real or personal, to effect the provisions of this article.
(Ord. 73-2006. Passed 12-20-06.)

TITLE THREE - Business Regulation

- Art. 341. Barbershops. (Repealed)
- Art. 343. Cable Communications Systems.
- Art. 345. Pawnshops and Secondhand Stores.
- Art. 347. Smoke Abatement. (Repealed)
- Art. 348. Self-Service Filling Stations. (Repealed)
- Art. 349. Alarm Systems.
- Art. 351. Private Security Companies.

ARTICLE 341
Barbershops

(EDITOR'S NOTE: Former Article 341 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 343
Cable Communications Systems

343.01	Definitions.	343.08	Regulation by the City.
343.02	Grant of franchise.	343.09	Reporting requirements.
343.03	Compensation to the City.	343.10	Franchise violations, damages and revocation.
343.04	System construction, operation and maintenance.	343.11	Programming.
343.05	Cable system and state-of-the-art.	343.12	Liability and indemnification.
343.06	Customer service standards.	343.13	Franchise transfer and renewal.
343.07	Service to the community.	343.14	Miscellaneous.

343.01 DEFINITIONS.

The following terms used in this franchise shall have the following meanings:

- (a) Affiliated Entity - Any corporation, partnership or other business entity that owns or controls, is owned or controlled by, or is under common ownership or control with Time Warner Cable.
- (b) Basic Service - That service tier which shall include at least the retransmission of local broadcast television signals and any educational and/or governmental access channels.
- (c) Broadcast - Over-the-air transmission by a television or radio station.
- (d) Cable Service - The one-way transmission to Subscribers of video programming or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.
- (e) Cable System - A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within the City, but such term does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
 - (2) A facility that serves Subscribers without using any public right-of-way;
 - (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621 of the Cable Act) to the extent that the facility is used in the transmission of video programming directly to Subscribers unless the extent of that use is solely to provide interactive on-demand services;
 - (4) An open video system that complies with Section 653 of the Cable Act; or
 - (5) Any facilities of any electric utility used solely for operating its electric utility systems.
- (f) Complaint - Any written (including electronic) or oral communication by a Subscriber, or by the City on behalf of group(s) of subscribers, expressing dissatisfaction with any aspect of Time Warner Cable's business or the operation of its Cable System.
- (g) Drop - The coaxial or fiber optic or other cable that connects a home or building to the rest of the Cable System.
- (h) FCC - Federal Communications Commission.
- (i) Franchise - The right granted by the City to construct, operate and maintain a Cable System within the corporate limits of the City as embodied in the terms and conditions of this Agreement.
- (j) Gross Revenues - All revenue received directly or indirectly by Time Warner Cable or its Affiliated Entities attributable to, or in any way derived from the operation of Time Warner Cable's Cable System in the City to provide Cable Services calculated in accordance with Generally Accepted Accounting Principles ("GAAP"). Gross Revenues shall include, but are not limited to, the following:
- (1) Basic Service fees;
 - (2) Fees charged to Subscribers for any service tier other than Basic Service;
 - (3) Fees charged for premium services;
 - (4) Fees charged to Subscribers for any optional, per-channel or per-program cable services;
 - (5) Revenue from the provision of any other Cable Services;
 - (6) Charges for installation, additional outlets, relocation, disconnection, reconnection and change-in-service fees for video or audio programming;
 - (7) Fees for downgrading any level of Cable Service programming;
 - (8) Fees for service calls for cable service;
 - (9) Fees for leased access channels;
 - (10) Charges based on the sale or lease of any portion of the Cable System for Cable Service;
 - (11) Rental or sales of any and all cable service subscriber equipment, including converters and remote control devices and digital video recorders ("DVRs");
 - (12) Any and all locally-derived cable service advertising revenues;
 - (13) Revenues or commissions from locally-derived home shopping channels;
 - (14) Revenue from interactive cable television services;
 - (15) Fees for any and all music services;

- (16) Fees for video-on-demand;
- (17) On-screen program guides;
- (18) Late payment fees (to the extent they are booked by Time Warner Cable as revenue); and
- (19) Pass-through of franchise fees.

Gross Revenues shall not include bad debts, investment income, refunded deposits, or any taxes on services furnished by Time Warner Cable and imposed directly upon any Subscriber or user by the City, state, federal or other governmental unit.

- (k) Normal Business Hours - Those hours during which most similar businesses in the community are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and/or some weekend hours.
- (l) Normal Operating Conditions - Business conditions within Time Warner Cable's Service Department which are within the control of Time Warner Cable. Those conditions that are not within the control of Time Warner Cable include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and severe or unusual weather conditions.
- (m) Outlet - An interior receptacle that connects a television set to the Cable System.
- (n) Programming - Programming provided by, or generally considered comparable to, programming provided by a television broadcast station.
- (o) Public Rights-of-Way - The surface and the area across, in, over, along, under and upon the public streets, roads, lanes, avenues, alleys, sidewalks, bridges, highways and other rights-of-way, as the same now or may thereafter exist, including property over which the City has a sufficient easement or right-of-way, which are under the jurisdiction of the City.
- (p) Service Interruption - The loss of picture or sound on one (1) or more channels.
- (q) Subscriber - A person or entity who contracts with Time Warner Cable for, and lawfully receives, the video signals and Cable Services distributed by the Cable System. (Ord. 20-2013. Passed 7-17-13.)

343.02 GRANT OF FRANCHISE.

(a) Grant of Authority. Pursuant to the Cable Act, the regulations of the FCC and Pennsylvania law, the City hereby grants a non-exclusive and revocable franchise to Time Warner Cable, authorizing and permitting Time Warner Cable to construct, operate, and maintain a Cable System in the City's public rights-of-way.

Subject to the terms and conditions contained herein, the City hereby grants to Time Warner Cable the right to construct, extend, install, operate, maintain, upgrade and rebuild a Cable System, including such wires, cables, fiber, conductors, ducts, conduits, amplifiers, pedestals, attachments and other property and equipment as are necessary and appropriate to the operation of the Cable System in, under, over, along, across and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways and other public places and rights-of-way under the jurisdiction of the City, including property over which the City has a sufficient easement or right-of-way, for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video and audio signals to provide Cable Services as permitted by applicable law.

(b) Term of Franchise. The term of this Agreement shall be for a period of ten (10) years commencing on the Effective Date and expiring on July 17, 2013, unless this Franchise is terminated prior to the expiration date in accordance with the terms and conditions of this Agreement.

(c) Non-exclusivity.

- (1) Time Warner Cable acknowledges and agrees that the City reserves the right to grant one or more additional franchises to construct, operate, and maintain a Cable System within the City.
- (2) The Franchise granted to Time Warner Cable is non-exclusive; however, if the City grants a subsequent Franchise that, when taken as a whole upon consideration of all of its material obligations, is more favorable or less burdensome to the subsequent franchisee than this Agreement is to Time Warner Cable, then Time Warner Cable may request an amendment to this Agreement to provide Time Warner Cable with competitive equity. If, when taken as a whole upon consideration of all of its material obligations, the subsequent Franchise is more favorable or less burdensome, then the parties agree to amend this Agreement to provide Time Warner Cable with such competitive equity.
- (3) In the event an application for a new Franchise for Cable Service is submitted to the City proposing to serve Subscribers within the City, then the City shall notify Time Warner Cable in writing of the submission of the application.

(d) Change of Law. Notwithstanding any other provision in this Franchise, in the event any change to state or federal law occurring during the term of this Franchise eliminates the requirement for any entity desiring to construct, operate or maintain a cable system in the City to obtain a franchise from the City for the construction, operation or maintenance of a Cable System and another entity actually provides Cable Service in the City under the terms of the changed law, then Time Warner Cable shall have the right to terminate this Franchise and operate the Cable System under the terms and conditions established in applicable law.

(e) Police Powers. Time Warner Cable's rights under this Agreement are subject to the police powers of the City to adopt and enforce generally applicable laws and regulations necessary for the safety and welfare of the public provided such regulations are reasonable, not materially in conflict with the privileges granted in the franchise and consistent with all federal and state laws, rules, regulations and orders. Such laws and regulations are separate and distinct from the terms and conditions contained in this Agreement.

(f) No Waiver of Rights. No course of dealing between the City and Time Warner Cable, nor any delay on the part of either party in exercising any rights hereunder, shall operate as a waiver of any such rights or acquiescence in the actions of the other party in contravention of such rights, except to the extent expressly waived.

(g) Franchise Subject to Federal, State and Local Law. This Franchise is subject to and shall be governed by all lawful and applicable provisions of federal, state and local laws and regulations. This franchise is further subject to all applicable ordinances and resolutions of the City. Without waiving any of its powers, the City agrees that, to the extent any terms of this Agreement are inconsistent with the terms of any such cable ordinances, this Agreement shall control. (Ord. 20-2013. Passed 7-17-13.)

343.03 COMPENSATION TO THE CITY.

(a) Franchise Fees. Time Warner Cable shall pay to the City an amount equal to five percent (5%) of the Gross Revenues derived from the operation of its Cable System to provide Cable Service in the City. Time Warner Cable shall not deduct or otherwise credit against the franchise fee any tax, fee or assessment of general applicability. The City may amend the franchise fee upon one hundred-twenty (120) days written notice to Time Warner Cable provided that the franchise fee may not exceed the maximum percentage permitted by law provided that the law establishes a maximum percentage. Any change in Time Warner Cable's franchise fee obligation contained herein shall commence within one hundred-twenty (120) days from such written notice.

(b) Quarterly Payments. Franchise fee payments to the City under this provision shall be computed at the end of each calendar quarter. Such payments shall be made no later than forty-five (45) days following the end of each calendar quarter. Specifically, payments shall be due and payable on or before May 15 (for the first quarter), August 15 (for the second quarter), November 15 (for the third quarter), and February 15 (for the fourth quarter) of the previous year. Upon request and if mutually agreeable, Time Warner Cable shall deposit the franchise fee payments electronically into an account as designated by the City. In the event that any franchise fee payment is not made on or before the date by which it is due, then interest shall be added at the annual rate of prime plus two percent (2%) of the amount of franchise fee revenue due to the City. The interest rate shall be applied as described from the date such franchise fee payment was originally due. No acceptance of any payment shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any payment be construed as a release of any claim the City may have for additional sums payable under this Agreement.

(c) Quarterly Reports. Each franchise fee payment shall be accompanied by a written report containing an accurate statement of Time Warner Cable's Gross Revenues received for Cable Services for each calendar quarter in connection with the operation of Time Warner Cable's Cable System and a description of the basis for computation of fees. The report shall include line items for sources of revenue and shall be in a form similar to that attached as Exhibit A. The report shall be signed by a financial representative of Time Warner Cable. Furthermore, upon written request, Time Warner Cable shall provide the then current Time Warner Cable basic subscriber counts to the City.

(d) Audits. No more than once every three (3) years during the term of the Agreement, upon thirty (30) days prior written notice, the City shall have the right to conduct an independent audit or franchise fee review of Time Warner Cable's records reasonably related to the sources, amounts and computation of Gross Revenues in accordance with generally accepted accounting principles. Such audit or review period shall be for up to the maximum number of years permitted in accordance with Pennsylvania law. Upon request, Time Warner Cable shall provide to the City the financial records related to the franchise fee audit or review. Such records shall also be kept or made available to the City at the notice location for Time Warner Cable specified in Section 343.14(c). If franchise fees have been underpaid, then Time Warner Cable shall pay such franchise fees with interest at the then current prime rate plus two percent (2%). If franchise fees have been underpaid by five percent (5%) or more, then Time Warner Cable also shall pay the total cost of the audit or franchise fee review and no franchise fee audit or review frequency limitation shall apply.

(e) Bundled Services. If Cable Services subject to the franchise fee required under this Section are provided to Subscribers in conjunction with non-Cable Services for a single aggregate price, the franchise fee shall be applied to the portion of the aggregate price attributed to Cable Services as booked by Time Warner Cable. It shall be the obligation of Time Warner Cable to maintain its books and attribute its revenues to Cable Services consistent with GAAP and Time Warner Cable shall not make such attribution in order to avoid franchise fees. (Ord. 20-2013. Passed 7-17-13.)

343.04 SYSTEM CONSTRUCTION, OPERATION AND MAINTENANCE.

(a) Technical Requirement. Time Warner Cable shall operate, maintain, construct and extend the Cable System so as to offer reliable delivery of one-way and two-way Cable Services for all programming services throughout the City. The video signals provided by the Cable System shall be delivered in accordance with FCC standards. The Cable System shall meet or exceed any and all generally applicable technical performance standards of the FCC. Time Warner Cable shall comply with the National Electrical Safety Code, the National Electric Code and any related applicable federal laws and the laws, ordinances and construction standards of the Commonwealth of Pennsylvania and the City.

(b) Area to be Served.

- (1) Cable Service shall be made available to every residence or business requesting Cable Service provided that Time Warner Cable is able to obtain from the property owners any necessary easements and/or permits in accordance with Section 621(a)(2) of the Cable Act. Time Warner Cable shall extend the Cable System into all areas within the Borough where there is a minimum of twenty (20) residences per cable mile of aerial cable or sixty (60) residences per cable mile of underground cable.

Density per cable mile shall be computed by dividing the number of residences in the area by the length, in miles or fractions thereof, of the total amount of aerial or underground cable necessary to make service available to the residences and businesses in such area in accordance with Time Warner Cable's system design parameters. The cable length shall be measured from the nearest point of access to the then-existing system, provided that extension is technically feasible from that point of access, and located within the Public Rights-of-Way. The total cable length shall exclude the drop cable necessary to serve individual Subscriber premises. Time Warner Cable shall complete said extensions within three (3) months of written notification to Time Warner Cable by the Borough that an area has met the minimum density standard set forth herein (weather permitting). Time Warner Cable's obligation hereunder shall be subject to the timely performance of walk-out, make ready and location of all underground utilities and ability to obtain easements on reasonable terms and conditions.

- (2) Any business or residence within one hundred twenty-five feet (125 ft.) aerial distance of the cable plant shall be entitled to a standard residence installation rate or standard business installation rate, as appropriate. For any business or residence in excess of one hundred twenty-five feet (125 ft.) aerial distance or that requires an underground installation, Time Warner Cable shall extend Cable Service at a rate not to exceed Time Warner Cable's actual cost of installation from its main distribution system.

- (3) The Borough has the right to require that Time Warner Cable places wires and/or equipment underground in any new developments, provided that the Borough imposes such requirement on all similarly situated entities.

(c) Service to Multiple Dwelling Units. Time Warner Cable and the City hereto acknowledge and agree that installation and provision of Cable Service to multiple dwelling units (MDU's) are subject to a separate negotiation between the landlord, owner or governing body of any such MDU and Time Warner Cable, which negotiations shall, when applicable, be conducted in accordance with the procedures set forth in the Communications Act of 1934, as amended, applicable FCC regulations, the Landlord Tenant Act of 1951, as amended and the applicable provisions of the Tenant's Right to Cable Act, 68 P.S. §§ 250.501-B et seq.

(d) Permits. Time Warner Cable shall apply to the City for all generally required permits and shall not undertake any activities in the public rights-of-way subject to a permit without receipt of such permit which permits shall not be unreasonably delayed or denied. Time Warner Cable shall be required to pay any fees required for such permits.

(e) Repairs and Restoration.

- (1) Whenever Time Warner Cable or any agent, including any subcontractor, takes up or disturbs any pavement, sidewalk or other improvement of any public or private way or place, the same shall be replaced and the surface restored in as good condition as before the disturbance within twenty (20) business days of the completion of the disturbance, weather permitting. Upon failure of Time Warner Cable to comply within the time specified and the City having notified Time Warner Cable in writing of the restoration and repairs required, the City may cause proper restoration and repairs to be made and the expense of such work shall be paid by Time Warner Cable upon demand by the City.
- (2) Whenever Time Warner Cable or any agent, including any subcontractor, shall install, operate or maintain equipment, cable, or wires, it shall avoid damage and injury to property, including structures, improvements and trees in and along the routes authorized by the City, except as may be approved by the City if required for the proper installation, operation and maintenance of such equipment, cable, or wires. Time Warner Cable shall promptly repair and restore any private property that is damaged as a result of construction, installation, repair or maintenance of the Cable System within ten (10) business days, weather permitting.
- (3) Time Warner Cable's operating, construction, repair and maintenance personnel, including all agents and subcontractors, shall be thoroughly trained in the use of all equipment and the safe operation of vehicles. Time Warner Cable's operating, construction, repair and maintenance personnel shall follow all safety procedures required by all applicable federal, state and local laws and regulations. All areas of the Cable System shall be routinely inspected and maintained so that conditions that could develop into safety hazards for the public and/or operating and maintenance personnel may be corrected before they become a hazard. Time Warner Cable shall install and maintain its wires, cables, fixtures, and other equipment in such a manner as shall not interfere with any installations of the City.

- (4) Should a public safety emergency occur as a result of, incident to, or connected with operation, construction, repair, or maintenance activities by Time Warner Cable personnel, including all agents and subcontractors, then such personnel shall immediately contact the applicable public safety emergency dispatcher (e.g. 9-1-1).
- (5) Whenever Time Warner Cable or any agent, including any subcontractor, shall disturb any pavement, sidewalk or other public property in order to perform any underground activity, it shall utilize the Pennsylvania One Call System prior to any such disturbance. Time Warner Cable also shall adhere to any additional requirements which the Commonwealth may establish in the future. Time Warner Cable shall also adhere to all requirements of the Pennsylvania Underground Utility Line Protection Act.
- (6) All structures and all lines, equipment and connections in, over, under, and upon streets, sidewalks, alleys, and public and private ways and places of the City, wherever situated or located, shall at all times be kept and maintained in a safe, non-hazardous and suitable condition and in good order and repair in accordance with customary industry standards and practices.

(f) System Monitoring. Time Warner Cable shall conduct testing or periodic signal monitoring in accordance with the requirements of the FCC. Such capability shall enable Time Warner Cable to monitor the signal quality of all channels delivered on the Cable System, including any Public, Educational and/or Governmental Channels to the extent required by the FCC.

(g) Service Area Maps. Upon request, Time Warner Cable shall provide to the City for its exclusive use and shall maintain at its local offices a complete set of Time Warner Cable service area strand maps of the City, on which will be shown those areas in which its facilities exist and the location of all streets. The maps shall be provided to the City in hardcopy and also, if requested and available in an electronic GIS format which is compatible with the City's GIS format, provided Time Warner Cable maintains the strand maps in such format. The maps shall also designate where the cable wires and other equipment are aerial and where they are underground. Time Warner Cable shall provide the City with updated maps within thirty (30) days after any request by the City.

(h) Building Moves. In accordance with applicable laws, Time Warner Cable shall, upon the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of the building. Time Warner Cable shall be given at least thirty (30) days advance notice to arrange for such temporary wire changes, and Time Warner Cable shall be reimbursed by the entity requesting relocation.

(i) Disconnection and Relocation.

- (1) Time Warner Cable shall, at no cost to the City, protect, support, temporarily disconnect, relocate in the same street, or other public way and place, or remove from any street or any other public way or place, any of its property as required by the City or its designee by reason of traffic conditions, public safety, street construction, change or establishment of street grade, site distance visibility, or the construction of any public improvement or structure.

- (2) In requiring Time Warner Cable to protect, support, temporarily disconnect, relocate or remove any portion of its property, the City shall treat Time Warner Cable the same as, and require no more of Time Warner Cable than, any similarly situated entity, including but not limited to, telephone, power and water.

(j) Emergency Removal of Equipment. If, at any time, in case of fire or other disaster in the City, it shall be necessary, in the reasonable judgment of the City or its agent, to cut or move any of the wires, cable or equipment of the Cable System, the City shall have the right to do so without cost or liability, provided that, wherever possible, the City shall give Time Warner Cable notice and the ability to relocate wires, cable or other equipment.

(k) Tree Trimming. Time Warner Cable, or its agents, including subcontractors, shall have the authority to trim trees upon and overhanging public streets, alleys, sidewalks and the public rights-of-way so as to prevent the branches of such trees from coming in contact with the wires, cables or other equipment of Time Warner Cable in accordance with applicable laws and regulations. Any such tree trimming shall be performed in accordance with arboreal standards and the regulations of the City. If Time Warner Cable or its agents, including subcontractors, wish to cut down and remove any tree or trees as may be necessary for the installation and maintenance of its equipment, it shall apply to the City for permission and, if permission is granted, shall perform such cutting and removal in accordance with accepted arboreal standards and with the regulations of the City.
(Ord. 20-2013. Passed 7-17-13.)

343.05 CABLE SYSTEM AND STATE-OF-THE-ART.

(a) Cable System. Time Warner Cable shall maintain a Cable System with a bandwidth no less than 750 MHz which shall meet or exceed the technical performance standards of the FCC.

(b) State-of-the-art. Time Warner Cable and the City acknowledge that the technology of Cable Systems is an evolving field. Time Warner Cable's Cable System in the City shall be capable of offering Cable Services that are comparable to the Cable Services offered on other Cable Systems in Northeastern Ohio and Northwestern Pennsylvania owned and managed by Time Warner Cable or its Affiliated Entities ("Comparable Systems") pursuant to the terms of this section. The City may send a written notice to Time Warner Cable, not to exceed one request every two (2) years, requesting information on Cable Services offered by such Comparable Systems. Specifically, Time Warner Cable shall provide the City with information on any Cable Services that are offered in the Comparable Systems, but not being offered in the City, the percentage of total Subscribers in the Comparable Systems to whom such Cable Services are available and when Time Warner Cable anticipates making such Cable Services available in the City.
(Ord. 20-2013. Passed 7-17-13.)

343.06 CUSTOMER SERVICE STANDARDS.

- (a) Time Warner Cable shall comply with the following customer service standards.
- (1) Time Warner Cable shall maintain a business office that is conveniently located and shall be open during Normal Business Hours. Time Warner Cable shall provide and maintain a local or toll free telephone access line that will be available to Subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives shall respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system. Inquiries received after Normal Business Hours must be responded to by a trained company representative by the next business day.
 - (2) Under Normal Operating Conditions and during Normal Business Hours, telephone answering time by a customer representative, including wait time, shall not exceed thirty (30) seconds after the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds.
 - (3) Under Normal Operating Conditions, the customer shall receive a busy signal less than three percent (3%) of the time.
 - (4) The standards in subsections (a)(1) and (2) hereof shall be met no less than ninety percent (90%) of the time under normal operating conditions measured on a quarterly basis.
 - (5) Time Warner Cable shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering requirements above unless a historical record of Complaints indicates a clear failure to comply. If the City determines, after receiving Complaints itself and/or receiving a record of Complaints made to Time Warner Cable in accordance with Section 343.09, that there is a clear failure to comply with the telephone answering requirements above, the City shall notify Time Warner Cable in writing that it must measure its compliance with these requirements for the next ninety (90) days and report to the City with its results.
- (b) Installations and Service Calls.
- (1) Time Warner Cable shall maintain a competent staff of well-trained employees sufficient to provide adequate and prompt service to its Subscribers. Time Warner Cable shall require that any employee or agent, including any subcontractor, who personally visits any residential dwelling shall display a photo identification badge. Any vehicle used for installation, operation or maintenance activities by any Time Warner Cable employee or agent, including any subcontractor, shall prominently display the Time Warner Cable logo.
 - (2) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those aerial installations that are located up to one hundred twenty-five (125) feet from the existing distribution system.
 - (3) Excluding conditions beyond its control, Time Warner Cable shall begin working on a Service Interruption promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Time Warner Cable shall begin actions to correct other service problems the next business day after notification of the service problem.

- (4) Upon scheduling of appointments with the customer for installations, service calls and other activities, Time Warner Cable shall provide the customer with either a specific time or an "appointment window" of a maximum of four (4) hours during Normal Business Hours. Time Warner Cable may make available service calls and installation activities outside of Normal Business Hours at a time that is mutually convenient for the customer and for Time Warner.
- (5) Time Warner Cable may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If, at any time, an installer or technician is running late, an attempt to contact the customer must be made prior to the time of the appointment. If the appointment must be rescheduled, it must be done so at a time that is convenient for the customer.

(c) Notices.

- (1) Time Warner Cable shall provide written notice to Subscribers as required by FCC regulations. These regulations as in effect on the date of execution of this Franchise Agreement include the following:
 - A. Products and services offered;
 - B. Prices and options for programming services and conditions of subscription to programming and other services;
 - C. Channel positions of programming carried on the Cable System;
 - D. Installation and service maintenance policies;
 - E. Instructions on how to use the Cable Service, any converters and any remote control devices;
 - F. Billing and customer Complaint procedures;
 - G. Time Warner Cable's address, telephone number and office hours; and
 - H. A notice of Subscriber privacy rights as required by federal law.
- (2) Time Warner Cable shall notify Subscribers and the City in writing of any changes in rates, programming services or channel positions a minimum of thirty (30) days in advance of such changes, provided that such change is within the control of Time Warner Cable.
- (3) Written information of each of the following areas at the time of installation of service, at least annually to all subscribers and at any time upon request.

(d) Billing. Time Warner Cable shall comply with FCC regulations regarding billing. These regulations as in effect on the date of execution of this Franchise Agreement include the following:

Bills shall be clear, concise and understandable. Bills must be fully itemized, with itemizations including but not limited to basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period including optimal charges, rebate and credits.

(e) Customer Complaint Procedures. Time Warner Cable shall establish procedures for resolving all customer Complaints, which shall include at least the following:

- (1) Time Warner Cable shall provide the customer with a response to a written Complaint within thirty (30) days of its receipt at the local business office. Such response shall include the results of its inquiry into the subject matter of the Complaint, its conclusions based on the inquiry, and its decision in response to the Complaint.

- (2) If the City is contacted directly about a customer complaint, it shall notify Time Warner Cable promptly and in writing. When Time Warner Cable receives such notification, the time period for Time Warner Cable to respond as required by subsection (e)(1) hereof shall commence. If the City notifies Time Warner Cable in writing, then Time Warner Cable shall respond in writing within the time period specified in subsection (e)(1) hereof.
- (3) Time Warner Cable customer Complaint records shall be available for inspection by the affected Subscribers.

(f) Disconnection. Time Warner Cable may disconnect or terminate a Subscriber's service for good cause.

(g) Service Cancellations. If a Subscriber requests the cancellation of his or her Cable Service from Time Warner Cable, Time Warner Cable must cancel such Cable Service and cease billing the Subscriber for such Cable Service within seven (7) days of the request unless the Subscriber specifically requests a later date and provided the Subscriber returns any converter box in his or her possession to Time Warner Cable's business office.

(h) Credit for Service Interruptions. In the event that there is a Service Interruption to any Subscriber for six (6) or more consecutive hours, upon receipt of written or oral request, Time Warner Cable shall grant such Subscriber a pro rata credit or rebate upon request, of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due.

(i) Privacy. Time Warner Cable shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal and state privacy laws and regulations. (Ord. 20-2013. Passed 7-17-13.)

343.07 SERVICES TO THE COMMUNITY.

(a) Services to Community Facilities. Time Warner Cable shall continue to provide, at no charge to the City, complimentary basic and standard cable services to all municipal facilities to which Time Warner is providing such complimentary services as of the Effective Date. In addition, upon request, Time Warner Cable shall, at no charge to the City, provide complimentary basic and standard cable services to all present and future municipally-owned buildings used for municipal purposes, police stations, fire companies, all public K-12 school buildings and public libraries, and the Erie Area Council of Governments office which can be served by a standard installation ("Permitted Free Locations"). No charge shall be made for installation or service, except that Time Warner Cable may charge for installation or service for more than one (1) drop in Permitted Free Location.

- (1) Within three (3) months of the Effective Date, Time Warner Cable shall provide or maintain one (1) cable Drop, outlet, converter box (and any other required end user equipment) and Standard cable level Services (or equivalent) package to each Permitted Free Location. No charge shall be made for installation, equipment or service.

- (2) For the purposes of this section, the term "school" means an educational institution that receives funding pursuant to Title I of the Elementary and Secondary Education Act of 1965, 20 U.S.C. § 6301 et seq., as amended, and does not include "home schools" or "cyber schools," or any other educational situation that does not meet specific criterion set forth herein. During the term of this Agreement, new public facilities shall be eligible to receive such complimentary service to the extent that they meet the qualifications as set forth herein above as Permitted Free Locations.

(b) Educational and Governmental (EG) Channel.

- (1) Time Warner Cable shall make available on its system in the City, four public, educational and governmental ("PEG") access channels in accordance with Section 611 of the Cable Act. Such PEG channels shall be used for non-commercial community produced programming related to educational and/or governmental activities. The purpose of these channels is to contribute to an informed citizenry by, among other things, showing local government at work, responding to local needs, telecasting community programs, and bringing local education into the home. The City shall have complete control over the content, scheduling, administration and all other programming aspects of the PEG channel and may delegate such functions to an appropriate designee. Time Warner Cable shall not exercise any editorial control over PEG channel programming. Whether operating on an analog or digital format, Time Warner Cable shall cablecast any activated PEG channel so that it may be received by all Subscribers in the City with appropriate equipment.
- (2) Time Warner Cable shall provide and maintain in good working order the facilities to enable the transmission of programming for carriage on the PEG channels from the following sites: City Hall; CATV studio; Mercyhurst College; and Erie School District).
- (3) To enable the City to utilize the PEG channel, the City may select one (1) location within the municipal boundaries of the City and Time Warner Cable shall provide and install, within one hundred eighty (180) days of a written notice from the City, the cables, wires, lines, and other signal distribution equipment such that live programming can originate from the selected location and be distributed via the Cable System to Subscribers in the City. These cables, wires, lines and other signal distribution equipment shall be collectively known as the "Return Line."
The costs of the construction and maintenance of the Return Line shall be at the expense of the City. Time Warner Cable shall be responsible for maintaining the Return Line to the video origination point, provided that the City provides Time Warner Cable with access to this location and access to the PEG equipment within the location.
- (4) Time Warner Cable shall deliver the PEG channel signals at a level of technical quality that is comparable to the level of technical quality provided by Time Warner Cable for signals of commercial channels; provided, however, that Time Warner Cable shall have no responsibility to improve upon or modify the signal quality of any PEG channel content provided to Time Warner Cable by any PEG channel programmer.

- (5) The City or its designee shall be responsible for providing any necessary production or playback equipment and shall be responsible for securing and supervising any trained/qualified personnel who conduct the operation of the PEG channel(s). The City and Time Warner Cable agree to work cooperatively in implementing the PEG channel(s) through such means and in such manner as shall be mutually satisfactory.
- (6) The City and Time Warner Cable agree that any and all costs incurred by Time Warner Cable for supporting such PEG channel(s), including any and all equipment, maintenance and repair, may be designated as "costs of franchise requirements" or "external costs" as defined by the FCC. (Ord. 20-2013. Passed 7-17-13.)

343.08 REGULATION BY THE CITY.

(a) Right to Inspect.

- (1) The City shall have the option, upon twenty (20) business days written notice and during Normal Business Hours, to inspect at the notice location for Time Warner Cable specified in Section 343.14(c) all documents, records and other pertinent information maintained by Time Warner Cable which relate to Time Warner Cable's compliance with the terms of this Agreement.
- (2) In addition, Time Warner Cable shall maintain for inspection by the public and the City all records required by the FCC and as specified in 47 C.F.R. § 76.305 in the manner specified therein.

(b) Right to Conduct Compliance Review. The City or its representatives may conduct a compliance review, including a possible public hearing, with respect to whether Time Warner Cable has complied with the terms and conditions of this Agreement so long as it provides Time Warner Cable with thirty (30) days written notice in advance of the commencement of any such reviews or public hearings. Such notice shall reference the sections of the Agreement that are under review, so that Time Warner Cable may organize the necessary books and records for appropriate review by the City.

(c) Confidentiality. To the extent permitted under Pennsylvania law, the City shall maintain as confidential any information provided to it by Time Warner Cable under the terms of this Franchise which Time Warner Cable has designated as confidential. In the event that the City believes at any time that it is required by law to disclose such information to a third party, the City will so notify Time Warner Cable at a time prior to any such disclosure that affords Time Warner Cable a reasonable opportunity to take such action as it deems necessary to prevent such disclosure, including seeking relief in court.

(d) Reserved Authority. Each party reserves any and all rights arising from the Cable Act, any amendments thereto, and any other federal or state laws or regulations. Nothing in this Agreement shall remove, restrict or reduce the City's authority, rights and privileges it now holds, or which hereafter may be conferred upon it, including any right to exercise its police powers in the regulation and control of the use of the Public Rights-of-way subject to Section 343.02(e).
(Ord. 20-2013. Passed 7-17-13.)

343.09 REPORTING REQUIREMENTS.

(a) Quarterly Franchise Fee Report. In accordance with Section 343.03(c), of this Agreement, Time Warner Cable shall accompany each quarterly franchise fee payment to the City with a quarterly report.

(b) Customer Complaint Report. Upon written request, Time Warner Cable shall submit to the City, no later than thirty (30) days after such written request, a summary of the Complaints that required a work order and/or service call, originating from the City received during the previous twelve-month period. The summary shall include the number of complaints, the dates they were received, and a summary description of the resolutions of the complaints.

(c) Government Reports. Upon written request, Time Warner Cable shall provide to the City, no later than thirty (30) days after such written request, copies of any and all non-confidential communications, reports, documents, pleadings and notifications of any kind which Time Warner Cable has submitted to any federal, state or local regulatory agencies if such documents relate to Time Warner Cable's Cable System within the City.
(Ord. 20-2013. Passed 7-17-13.)

343.10 FRANCHISE VIOLATIONS, DAMAGES AND REVOCATION.

(a) Violations and Opportunity to Cure.

- (1) If the City has reason to believe that Time Warner Cable violated any material provision of this Agreement, it shall notify Time Warner Cable in writing of the nature of such violation and the section of this Agreement that it believes has been violated. If the City does not notify Time Warner Cable of any violation of this Agreement, it shall not operate as a waiver of any rights of the City hereunder or pursuant to applicable law.
- (2) Time Warner Cable shall have thirty (30) days to cure such violation after written notice is received by taking appropriate steps to comply with the terms of this Agreement. If the nature of the violation is such that it cannot be fully cured within thirty (30) days, the period of time in which Time Warner Cable must cure the violation shall be extended for such additional time necessary to complete the cure, provided that Time Warner Cable shall have promptly commenced to cure and is diligently pursuing its efforts to cure.
- (3) Time Warner Cable shall be liable to the City for all actual damages due to the City resulting from any such violations.
- (4) In certain circumstances where actual damages are difficult to ascertain, the City may impose liquidated damages as follows:
 - A. Failure to provide PEG equipment, facilities or services as required....\$100 per day from time due.
 - B. Failure to provide the emergency override system to perform, or of the Grantee to remove any hazardous conditions caused by its cable system in the event of a public emergency or other situation requiring dissemination of vital information to the public....\$250 per occurrence.
 - C. Failure to have in place required insurance....\$100 per day from time due until restored.

- D. Failure to provide information and related documentation in connection with any franchise fee audit/review in accordance with Section 343.04.
- E. Failure to provide complimentary services to municipal facilities in accordance with Section 343.07(a).

Such damages shall not be a substitute for specific performance by Time Warner Cable or legal or equitable action by the City, but shall be in addition to such specific performance or action.

- (5) The first day for which liquidated damages may be assessed, if there has been no cure after the end of the applicable cure period, shall be the day after the end of the applicable cure period, including any extension of the cure period granted by the City. Liquidated damages may not be assessed for a time period exceeding one hundred and twenty (120) days per violation, after which the City may commence revocation proceedings and/or initiate an action in law or equity in a court of competent jurisdiction.
- (6) Nothing in this Section shall preclude the City from exercising any other right or remedy with respect to a violation that continues past the time the City ceases to assess liquidated damages for such breach.

(b) Performance Bond.

- (1) Time Warner Cable shall obtain and maintain in the event of a system-wide rebuild during the Franchise term, at its sole cost and expense, a performance bond running to the City with a surety company licensed to do business in the Commonwealth of Pennsylvania. The performance bond shall provide that the City may recover from the principal and surety any and all compensatory and/or liquidated damages and incurred by the City as a result of Time Warner Cable's work on the course of the rebuild.
- (2) The performance bond shall be in the amount of one hundred thousand dollars (\$100,000). Time Warner Cable shall not reduce, cancel or materially change said bond from the requirement contained herein without the express prior written permission of the City.

(c) Revocation.

- (1) In addition to the other rights, powers and remedies retained by the City under this Agreement, the City reserves the separate and distinct right to revoke this franchise if:
 - A. Time Warner Cable practiced any fraud or deceit upon the City in its operation of its Cable System or any other activities pursuant to this Agreement;
 - B. Time Warner Cable repeatedly fails, after notice and opportunity to cure, to maintain signal quality pursuant to the standards provided for by the FCC or the technical requirements set forth in Section 343.04(a);
 - C. Time Warner Cable repeatedly violates, after notice and opportunity to cure, one or more of the material terms or conditions of this Agreement.

- (2) The foregoing shall not constitute a violation of a material term or condition if the violation occurs without the fault of Time Warner Cable or occurs as a result of circumstances beyond its control or by reason Force Majeure as defined in Section 343.14(a). Time Warner Cable shall not be excused from the performance of any of its obligations under this franchise by mere economic hardship or by the misfeasance or malfeasance of its directors, officers or employees.
- (3) A revocation shall be declared only by a written decision of the governing body after an appropriate public hearing that shall afford Time Warner Cable due process and full opportunity to be heard. This shall include the ability to introduce evidence, to question witnesses and to respond to any notice of grounds to terminate in accordance with the standards of a fair hearing applicable to administrative hearings in the Commonwealth of Pennsylvania. All notice requirements shall be met by providing Time Warner Cable at least thirty (30) days prior written notice (via certified mail-return receipt requested) of any public hearing concerning the proposed revocation of this franchise. Such notice shall state the grounds for revocation. The City, after a public hearing and upon finding the existence of grounds for revocation, may either declare this franchise terminated or excuse such grounds upon a showing by Time Warner Cable of mitigating circumstances or good cause for the existence of such grounds. The City shall issue such declaration and finding within thirty (30) days in a written decision which the City shall send via certified or overnight mail to Time Warner Cable. Nothing herein shall limit in any way Time Warner Cable's rights to seek review of such declaration in an appropriate forum.
(Ord. 20-2013. Passed 7-17-13.)

343.11 PROGRAMMING.

(a) Channel Capacity. Time Warner Cable shall meet or exceed programming and channel capacity requirements set forth in this Agreement and required by federal and state law and regulations.

(b) Broadcast Channels. To the extent required by Federal law, Time Warner Cable shall provide all Subscribers a basic tier of service including, but not limited to:

- (1) All broadcast television signals carried in fulfillment of the requirements of Section 614 of the Cable Act;
- (2) The signals of qualified non-commercial educational television signals carried in fulfillment of the requirements of Section 615 of the Cable Act; and
- (3) The Public, Educational and Governmental channel.

All such signals shall comply with FCC standards.

(c) Signal Scrambling. Time Warner Cable shall at all times comply with FCC regulations regarding scrambling or other encryption of audio and video signals.

(d) Continuity of Service. It shall be the right of all subscribers to receive service from Time Warner Cable provided their financial and other obligations to Time Warner Cable are honored. Subject to the Force Majeure provisions in Section 343.14(a), Time Warner Cable shall use its best efforts to ensure that all Subscribers receive continuous, uninterrupted service. For the purpose of construction, routine repairing or testing of the Cable System, Time Warner Cable shall use its best efforts to interrupt service only during periods of minimum use. When necessary service interruptions of more than twenty-four (24) hours can be anticipated, Time Warner Cable shall notify Subscribers in advance of such service interruption.

(e) Parental Control Capability. Upon request, Time Warner Cable shall provide Subscribers with the capability to control the reception of any video and/or audio channel on the Cable System providing sexually explicit adult programming. Such capability may be included as a function of a converter. (Ord. 20-2013. Passed 7-17-13.)

343.12 LIABILITY AND INDEMNIFICATION.

(a) Indemnification. Time Warner Cable shall indemnify, defend, save and hold harmless the City, its elected and appointed officials, officers, agents and employees acting in their official capacities, from claims for injury, loss, liability, cost or expense to the extent arising, caused by or connected with any act or omission of Time Warner Cable, its officers, agents, contractors, subcontractors or employees, arising out of the construction, installation, upgrade, reconstruction, operation, maintenance or removal of the Cable System or any other equipment or facilities. The obligation to indemnify, defend, save and hold the City harmless shall include, but not be limited to, the obligation to pay judgments, injuries, liabilities, damages, penalties, attorneys' fees, expert fees, court costs and all other costs of such indemnification.

(b) Insurance.

- (1) Time Warner Cable shall maintain insurance throughout the term of this Agreement with the City as an additional insured, with an insurance company which is authorized to conduct business in Pennsylvania and which has an A.M. Best rating (or equivalent) no less than "A-", indemnifying the City from and against any and all claims for injury or damage to persons or property, both real and personal, caused by the construction, installation, reconstruction, operation, maintenance or removal of the Cable System by Time Warner Cable or any of its contractors, subcontractors, agents or employees in the following amounts:
- A. The amount of such insurance against liability for damage to property shall be no less than one million dollars (\$1,000,000) as to any one occurrence.
 - B. The amount of such insurance against liability for injury or death to any person shall be no less than one million dollars (\$1,000,000).
 - C. The amount of such insurance for excess liability shall be three million dollars (\$3,000,000) in umbrella form.
 - D. The amount of such insurance against all claims arising out of the operation of motor vehicles and general tort or contract liability shall be one million dollars (\$1,000,000).

- (2) All insurance coverage shall be maintained throughout the period of this Agreement. All insurance policies shall contain a provision that the City will receive thirty (30) days written notice prior to any changes or cancellation of the policy. All expenses incurred for said insurance shall be at no cost to the City.
- (3) A certificate evidencing the insurance coverage required herein shall be provided by Time Warner Cable to the City within thirty (30) days of the Effective Date and within thirty (30) days of obtaining new insurance coverage or renewal of such insurance coverage throughout the term of this Agreement. (Ord. 20-2013. Passed 7-17-13.)

343.13 FRANCHISE TRANSFER AND RENEWAL.

(a) Transfer, Assignment or Change in Control.

- (1) Time Warner Cable shall not transfer, assign or otherwise encumber, through its own action or by operation of law, its right, title or interest in the Cable System or in this Agreement without the prior written consent of the City which consent shall not be unreasonably withheld.
- (2) Neither Time Warner Cable nor its parent nor any Affiliated Entity shall change, transfer or assign, through its own action or by operation of law, its control of the Cable System or of this Agreement without the prior written consent of the City which consent shall not be unreasonably withheld.
- (3) Neither Time Warner Cable nor its parent nor any Affiliated Entity shall sell, convey, transfer, exchange or release more than fifty percent (50%) of its equitable ownership in the Cable System without the prior written consent of the City which consent shall not be unnecessarily withheld.
- (4) Time Warner Cable shall make written application to the City of any transfer, change in control or assignment as described above and shall provide all information required by FCC Form 394 and any other applicable federal, state, and local statutes and regulations regarding transfer or assignment.
- (5) Any consent by the City for any transfer or assignment described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding agreement stating that it shall be bound by all the terms and conditions contained in this Agreement.
- (6) Notwithstanding anything to the contrary, no City approval shall be required for a transfer or assignment of the Franchise to an entity controlled by, controlling or under the same common control as Time Warner Cable.

(b) Renewal. The City and Time Warner Cable agree that any proceedings or activities that relate to the renewal of Time Warner Cable's franchise shall be governed by applicable federal and state law. (Ord. 20-2013. Passed 7-17-13.)

343.14 MISCELLANEOUS.

(a) Force Majeure. If for any reason of force majeure, Time Warner Cable is unable in whole or in part to carry out its obligations hereunder, Time Warner Cable shall not be deemed in violation of this Agreement during the continuance of such inability. The term "force majeure" as used herein shall mean any cause beyond the control of Time Warner Cable including, but not limited to: acts of God; acts of public enemies, including terrorist attacks; orders of any kind of the government of the United States of America or of the Commonwealth of Pennsylvania or any of their departments, agencies, political subdivisions, or officials, or any civil or military authority; insurrections; riots; labor strikes; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; explosions; unavailability of materials or equipment, and partial or entire failure of utilities.

(b) Removal of System.

- (1) Upon lawful denial of renewal or revocation of this Agreement, Time Warner Cable shall remove its supporting structures, poles, transmissions and distribution systems and other appurtenances from the streets, ways, lanes, alleys, parkways, bridges, highways, and other public and private places in, over, under, or along which they are installed and shall restore the areas to their original condition. If such removal is not completed within three (3) months of such lawful denial of renewal or revocation, the City or property owner may deem any property not removed as having been abandoned and the City may remove it at Time Warner Cable's cost.
- (2) During the term of the Agreement, if Time Warner Cable decides to abandon or no longer use all or part of its Cable System, it shall give the City written notice of its intent at least ninety (90) days prior to the announcement of such decision, which notice shall describe the property and its location. If Time Warner Cable does not remove the property, the City shall have the right to remove the property itself and charge Time Warner Cable with the costs related thereto, or transfer ownership of the property to the City's designee provided fair market value is paid to Time Warner Cable.
- (3) The obligations to remove under subsections (b)(1) and (2) hereof do not apply to buried cable, the abandonment of which causes no material damage.

(c) Notices. Every notice or payment to be served upon or made to the City shall be sent to:

City of Erie
626 State Street
Erie, PA 16501

Attention: _____

The City may specify any change of address in writing to Time Warner Cable.

Every notice to be served upon Time Warner Cable shall be sent to:

Time Warner Cable
530 South Main Street - Suite 1751
Akron, OH 44311
Attention: Government Affairs Department

With a copy to:

Time Warner Cable
60 Columbus Circle
New York, NY 10023
Attention: Law/Regulatory Department

Time Warner Cable may specify any changes of address in writing to the City. Each delivery to Time Warner Cable or the City shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of receipt.

Such addresses may be changed by either party upon notice to the other party given as provided in this Section. In addition, either party may agree to receive certain notices, reports or demands by email at an email address which it provides to other party.

(d) Equal Employment Opportunity. Time Warner Cable is an equal opportunity employer and shall comply with all applicable federal and state laws and regulations regarding equal opportunity employment.

(e) Captions. The captions for sections throughout this Agreement are intended solely to facilitate reading and reference to the sections and provisions of this Agreement. Such captions shall not affect the meaning or interpretation of this Agreement.

(f) Governing Law. This Agreement shall be governed and construed by and in accordance with the laws of the Commonwealth of Pennsylvania and the United States of America. If suit is brought by a party to this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of Pennsylvania, County of Erie, or in the United States District Court for the Western District of Pennsylvania.

(g) Entire Agreement. This written instrument contains the entire agreement between the parties, supersedes all prior agreements or proposals whether written or oral except as specifically incorporated herein, and cannot be changed without written amendment approved by both the City and Time Warner Cable. This Franchise Agreement supersedes all prior agreements or ordinances.

(h) Severability. If any section, provision or clause of this Agreement is held by a court of competent jurisdiction to be unlawful, invalid or unenforceable, or is pre-empted by federal or state laws or regulations, such section, provision or clause shall be deemed to be severable from the remaining portions of this Agreement and shall not affect the legality, validity or enforceability of the remaining portions of this Agreement.

(i) Change of Law. In the event there is a change in a federal or state statute or regulation applicable to the Cable System or to this Agreement, the City or Time Warner Cable may notify the other party of its desire to amend this Agreement in order to comply with the change in statute or regulation. The City and Time Warner Cable may amend this Agreement to comply with such change in statute or regulation provided such amendment is approved by the City and Time Warner Cable.

(j) Applicability of Agreement. All of the provisions in this Agreement shall bind Time Warner Cable, the City and their respective successors and assigns. This Agreement is authorized by Ordinance No. 20-2013 dated July 17, 2013, of the City.

WITNESS our hands and official seals to this Cable Franchise Agreement.

ATTEST

CITY OF ERIE

By:

Name (Print):

Title:

Date:

ATTEST:

ERIE TELECOMMUNICATIONS, INC.
D/B/A TIME WARNER CABLE

By:

Name (Print):

Title:

Date:

(Ord. 20-2013. Passed 7-17-13.)

ARTICLE 347
Smoke Abatement

(EDITOR'S NOTE: Former Article 347 was repealed by Ordinance 28-2000, passed June 7, 2000.)

CROSS REFERENCES

Power to regulate - see 3rd Class §2403(10) (53 P.S. §37403(10))
Stationary steam engineers - see BUS. REG. Art. 319

ARTICLE 348
Self-Service Filling Stations

(EDITOR'S NOTE: Former Article 348 was repealed by Ordinance 28-2000, passed June 7, 2000.)

ARTICLE 349
Alarm Systems

349.01 Definitions.	349.04 Severability.
349.02 False alarms.	349.99 Penalty.
349.03 Procedure.	

CROSS REFERENCES

Fire alarms - see 18 C.P.S.A. §4905
False fire alarms - see GEN. OFF. 701.02

349.01 DEFINITIONS.

As used in this article, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

- (a) "Alarm system device" means one or more alarm devices which transmit an alarm by wire, telephone, radio or other means:
 - (1) Directly to the Department;
 - (2) To a person who is instructed to notify the Department of the alarm; or
 - (3) To activate a bell or sounding device to be heard outside a building which is intended to alert the Department or others to the existence of a crime, fire or other emergency situation warranting action.

This definition specifically excludes any such device used exclusively to protect a residential premises. This definition also excludes City of Erie master fire alarm box devices.
- (b) "Alarm system device user" means the person who occupies a premises on which an alarm device is operated, or if no person occupies the premises, the person having the right to possession of the premises on which the alarm device is operated.
- (c) "Department" means the City of Erie Fire Communications Center and/or the City of Erie Police Department, as applicable.
- (d) "Director" means the Director of the City Department of Public Safety or his duly appointed designee.
- (e) "False alarm" means an alarm to which the Department responds resulting from the activation of an alarm device when a crime, fire or other emergency warranting immediate action by the Department has not in fact occurred.
- (f) "Person" means an individual, firm, partnership, association, corporation, company or business of any kind.
(Ord. 70-1995 §1. Passed 12-13-95.)

349.02 FALSE ALARMS.

(a) False Alarms. Any person causing a false alarm for any reason shall pay to the City a fine for each and every false alarm to which the Police and/or Fire Departments respond, except as provided in subsection (b) hereof.

(b) Fine Exceptions. No fine shall be levied for the first three false alarms occurring within a given calendar year.

(c) False Alarm Fines. The alarm device user shall pay a false alarm fee in the amount of twenty-five dollars (\$25.00) for the fourth false alarm and a fee of one hundred dollars (\$100.00) for the fifth false alarm and a fee of two hundred dollars (\$200.00) for each and every false alarm thereafter occurring within a given calendar year.

(d) Notice. The Director or his duly appointed designee shall notify the user of the assessment of each false alarm and shall invoice the alarm device user. Such notice shall be in writing and mailed to the alarm device user at his last known address by regular mail, postage prepaid.

(e) Due Date. The false alarm fine shall be due and payable at the office of the Department thirty (30) days from the date of the mailing of the notice of assessment. Failure to pay a false alarm fine shall subject the alarm device user to the penalty provision of this article.

(f) Exceptions. A false alarm shall not include an alarm activated by the following:

- (1) Testing or repairing telephone lines or electrical lines or equipment outside the premises; or
- (2) Unusually violent conditions of nature such as extreme weather conditions, power outages or water pressure changes; or
- (3) Other extraordinary circumstances not reasonably subject to control by the alarm user.

(Ord. 70-1995 §2. Passed 12-13-95.)

349.03 PROCEDURE.

(a) Any entity covered by this article shall within thirty (30) days of the enactment of this amendment, provide the Bureaus of Police and Fire with a list of at least three (3) contact persons. This list shall include the name, address and telephone number, and shall be updated annually.

(b) When keyholder response is required, a response shall be within forty-five (45) minutes of notification.

(c) If the alarm is "false" twice within a twenty-four (24) hour period, the Bureaus of Police and Fire have authorization to notify the alarm subscriber that they shall not respond to further alarms unless the Bureaus are notified that the system has been repaired.

(d) All alarm companies doing business within the City of Erie shall be responsible for installation of a direct “ring down” telephone connection to the Bureaus of Police and Fire. Companies located outside of the 814 area code shall maintain “800” telephone service. (Ord. 70-1995 §3. Passed 12-13-95.)

349.04 SEVERABILITY.

If any sentence, clause, section or part 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. (Ord. 70-1995 §4. Passed 12-13-95.)

349.99 PENALTY.

Any person, partnership or corporation who violates any provision of this article, upon conviction in a summary proceeding before the District Magistrate in the jurisdiction where the violation occurred, shall be fined not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) or imprisoned not more than ninety days, in addition to paying court costs and fines assessed under Section 349.02(c). (Ord. 70-1995 §5. Passed 12-13-95.)

ARTICLE 351
Private Security Companies

- 351.01 Registration. 351.99 Penalty.
351.02 Privately employed agents.

CROSS REFERENCES

Uniform Firearms Act - see 18 Pa. C.S.A. §6101 et seq.
License required to carry - see 18 Pa. C.S.A. §6106
Licenses - see 18 Pa. C.S.A. §6109
Licensing dealers - see 18 Pa. C.S.A. §6112, 6113

351.01 REGISTRATION.

No person or corporation shall operate, maintain or conduct any private security company within the corporate limits of the City without first registering such company within the Bureau of Police/Chief of Police. Such individual or corporation shall register either its fictitious name or its corporate name, its local address, principal address and the principal owners of such business. Such information is to be updated annually.
(Ord. 58-1987 § 1. Passed 8-26-87.)

351.02 PRIVATELY EMPLOYED AGENTS.

In addition to the information required in Section 351.01, such proprietor or corporation shall also register the names of all privately employed agents authorized to carry a weapon pursuant to Act 235 (22 P.S. Section 41 et seq.) Lethal Weapons Training. Such person or corporation shall provide this information on a quarterly basis.
(Ord. 58-1987 §1. Passed 8-26-87.)

351.99 PENALTY.

Whoever violates any provision of this article shall be subject to a fine of not less than one hundred dollars (\$100.00) nor more than three hundred dollars (\$300.00) and/or ninety days imprisonment as well as all costs associated with the prosecution.
(Ord. 58-1987 §1. Passed 8-26-87.)

TITLE FIVE - Act 511 Taxes

- Art. 371. Earned Income Tax.
- Art. 373. Realty Transfer Tax.
- Art. 375. Local Services Tax.
- Art. 376. Taxpayers Bill of Rights.
- Art. 377. Parking Tax.
- Art. 378. Amusement Tax.

ARTICLE 371
Earned Income Tax

EDITOR'S NOTE: Act 160 of 1967 removed from Act 511, the Local Tax Enabling Act, the provisions of Sections 4, 5, and 7 of the act relating to annual re-enactment of taxes and specifies that every tax levied under the provisions of the act would continue in force on a calendar or fiscal year basis without annual re-enactment unless the rate of the tax was subsequently changed.

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|--------|--|--------|-------------------------------|
| 371.01 | Definitions. | 371.08 | Interest on delinquent taxes. |
| 371.02 | General provisions. | 371.09 | Collection of unpaid taxes. |
| 371.03 | Tax returns and payment. | 371.10 | Applicability. |
| 371.04 | Collection at source. | 371.11 | Separability. |
| 371.05 | Duties of Collector of Taxes. | 371.99 | Penalty. |
| 371.06 | Enforcement. | | |
| 371.07 | Employees' appointment and compensation; supplies and equipment. | | |

CROSS REFERENCES

- Power to tax - see Local Tax Enabling Act (Act 511, approved December 31, 1965); 53 P.S. §6901-6924
Bureau of Income Tax Collection - see ADM. 119.03

371.01 DEFINITIONS.

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

- (a) "Association" means a partnership, limited partnership or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Business" means an enterprise, activity, profession or undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit, whether by a person, partnership, association or any other entity.

- (c) "Corporation" means a corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania or any other state, territory, foreign country or dependency.
- (d) "Employer" means a person, partnership, association, corporation, institution, governmental body or unit or agency or any other entity employing one or more persons on a salary, wage, commission or other compensation basis.
- (e) "Net profits" means the net income from the operation of a business, profession or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used, and without deduction of taxes based on income.
- (f) "Nonresident" means a person, partnership, association or other entity domiciled outside the City of Erie..
- (g) "Person" means a natural person.
- (h) "Resident" means a person, partnership, association or other entity domiciled in the City of Erie.
- (i) "Taxpayer" means a person, whether an individual, partnership, association or any other entity required hereunder to file a return of earnings or net profits or to pay a tax thereon.
- (j) The singular includes the plural and the masculine includes the feminine and the neuter. (Ord. 110-1959 §1. Passed 11-24-59.)

371.02 GENERAL PROVISIONS.

(a) Imposition of Tax. An annual tax for general revenue purposes of one percent (1%) is hereby imposed on (1) salaries, wages, commissions and other compensation earned on and after January 1, 1960, by residents of Erie, and on (2) salaries, wages, commissions and other compensation earned on and after January 1, 1960, by nonresidents of Erie for work done or services performed or rendered in Erie, and on (3) the net profits earned on and after January 1, 1960, of businesses, professions or other activities conducted by such residents, businesses, professions or other activities conducted in Erie by nonresidents.

(b) Subjects of Taxation. The taxes levied under subsection (a)(1) and (2) hereof shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to any person who is employed by or renders services to him. For purposes of this subsection, salaries, wages, commissions and other compensation shall also include deferred compensation and individual retirement accounts (IRA's). The taxes levied under subsection (a)(3) hereof shall relate to and be imposed on net profits of any business, profession or enterprise carried on by any person or owner or proprietor, either individually or in association with some other person.

(c) Time of Imposition. The tax shall first be levied, collected and paid with respect to the salaries, wages, commissions and other compensation earned on and after January 1, 1960, and with respect to the net profits of businesses, professions or other activities, earned on and after January 1, 1960, and continuing for each taxable year thereafter. (Ord. 10-2003. Passed 1-29-03.)

(d) The earned income and net profits tax set forth in subsection (a) above is hereby increased in the amount of one and eighteen hundredths percent (1.18%) and imposed on earned income and net profits earned by the residents of the City of Erie for the taxable year beginning January 1, 2006, and continuing for each taxable year thereafter, with an effective date of February 1, 2006. The proceeds of said tax increase shall be applied solely to the Pension Funds of the City of Erie.

(e) The earned income and net profits tax set forth in subsection (a) above is hereby increased in the amount of one and eighteen hundredths percent (1.18%) and imposed on earned income and net profits by the nonresidents of the City of Erie for work done or services performed or rendered in the City of Erie beginning January 1, 2006, and continuing for each taxable year thereafter, with an effective date of February 1, 2006, and continuing for each taxable year thereafter. The proceeds of said tax increase shall be applied solely to the Pension Funds of the City of Erie. (Ord. 3-2006. Passed 1-12-06.)

371.03 TAX RETURNS AND PAYMENT.

Each person whose earnings or profits are subject to the tax imposed by this article shall, on or before April 15 of each year, make and file with the Collector of Taxes a return on a form furnished by or obtainable from the Collector of Taxes, setting forth the aggregate amount of salaries, wages, commissions and other compensation or net profits earned by him during the preceding year and subject to the tax, together with such other pertinent information as the Collector of Taxes may require. However, where the return is made for a fiscal year or any other period different from a calendar year, the return shall be made within 105 days from the end of the fiscal year or other period.

Such return shall also show the amount of the tax imposed by this article on such earnings and profits. The person making the return shall, at the time of filing thereof, pay to the Collector of Taxes the amount of tax shown as due thereon. However, all taxpayers who are self-employed on a full-time or part-time basis, and/or who are not subject to the withholding provisions of the article, shall file on or before April 15 a declaration of anticipated earnings for the current calendar year. The person making the declaration shall, at the time of filing thereof, pay to the Collector of Taxes the amount of tax shown as due thereon.

However, the taxpayer shall have the right to pay the tax or the balance of the tax as shown on the declaration in four quarterly installments, the first installment thereof at the time of filing of the declaration, and the other installments thereof on or before July 15, October 15 and December 15, respectively, in the year. Further, where any portion of the tax so due shall have been deducted at source and shall have been paid to the Collector of Taxes by the person making the deduction, credit for the amount so paid shall be deducted from the amount shown to be due, and only the balance, if any, shall be due and payable at the time of the filing of the return or as hereinabove provided. Further, the Collector of Taxes is authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by him or them from the salary, wages or commissions of an employee and paid by him or them to the Collector of Taxes shall be accepted as the return required of any employee whose sole income subject to the tax under this article is such salary, wages or commissions. (Ord. 110-1959 §3. Passed 11-24-59.)

371.04 COLLECTION AT SOURCE.

Each employer within the City who employs one or more persons on a salary, wage, commission or other compensation basis shall deduct, at the time of the payment thereof, the tax of one percent of salaries, wages, commissions or other compensation due by the employer to the employee for services performed or rendered after January 1, 1960, and shall, on or before the fifteenth day of the month next following the deduction, or on or before the last day of the month following the end of the calendar quarter of the deduction, make a return and pay to the Collector of Taxes the amount of tax so deducted.

The return shall be on a form furnished by or obtainable from the Collector of Taxes and shall set forth the amount of salaries, wages, commissions or other compensation earned during such preceding month or quarter by all employees, together with such other pertinent information as the Collector of Taxes may require. However, the failure or omission by any employer, either residing within or outside the City, to make such return and/or pay such tax, shall not relieve the employee from the payment of such tax and the compliance with such regulations with respect to making returns and payment thereof, as may be fixed in this article or established by the Collector of Taxes.

(Ord. 110-1959 §4. Passed 11-24-59.)

371.05 DUTIES OF COLLECTOR OF TAXES.

It shall be the duty of the Collector of Taxes to collect and receive the tax imposed by this article. It shall also be the duty of the Collector of Taxes, in addition to keeping the records now required by law or ordinance, to keep a record showing the amount received by him from each taxpayer and the date of such receipt. (Ord. 110-1959 §5. Passed 11-24-59.)

371.06 ENFORCEMENT.

(a) Powers of Collector of Taxes. The Collector of Taxes is charged with the enforcement of the provisions of this article, and is empowered, subject to the approval of the Mayor and Council, to adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article, including provisions for the re-examination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment or underpayment is claimed or found to have occurred.

(b) Power to Examine Records, etc. The Collector of Taxes or any agent or employee authorized in writing by him is authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed taxpayer, in order to verify the accuracy of any return made or, if no return was made, to ascertain the tax imposed by this article. Every such employer or supposed employer or taxpayer or supposed taxpayer is directed and required to give to the Collector of Taxes, or his duly authorized agent or employee, the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The Collector of Taxes is authorized to examine any person under oath concerning any income which was or should have been returned for taxation. To this end he may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such income.

(c) Information Confidential; Penalty for Violation. Any information gained by the Collector of Taxes or any other official or agent of the City, as a result of any returns, investigations, hearings or verifications required or authorized by this article, shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any person or agent divulging such information shall, upon conviction before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) and costs for each offense, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

(d) From and after the enactment of this Article, when suit is brought against any delinquent party, to each delinquent earned income tax assessment, levy or obligation owed to the City of Erie, there shall be added such attorney's fees, charges and expenses incurred in the delinquent collection process. Such additional charges shall be collected in addition to all interest and penalties as are allowed by law.

(e) Such fees shall be reasonable and the same are hereby established in a fee rate schedule as attached herein and made a part hereof under subsection (g) below. Said schedule of fees is hereby deemed to be reasonable, fair and necessary in order to allow the City of Erie to collect such sum due. This schedule may be amended by resolution of the Eire City Council.

(f) Any person or entity empowered to collect sums on behalf of the City of Erie is directed to add such fees as are incurred to the extent allowed as set forth in subsection (g). Such sums collected pursuant to this Article shall be in addition to any tax penalty, interest or other costs already part of the delinquent account or assessment.

(g)	<u>Costs of Collection to be Charged Against Delinquent Taxpayers:</u>	
(1)	Prepare and mail Notice of Impending Suit	\$50.00
(2)	Prepare District Justice complaint	\$75.00
(3)	Attend District Justice hearing	\$250.00
(4)	Attend Constable execution sale	\$350.00
(5)	Prepare Arbitration complaint	\$150.00
(6)	Attend Arbitration trial	\$350.00
(7)	Negotiate and prepare payment plan agreement	\$75.00
(8)	Enter default judgment	\$150.00
(9)	Issue Writ of Execution	\$250.00
(10)	Attend Sheriff sale, levy or judgment execution	\$250.00
(11)	Non-litigation Legal work	\$80.00/hr.
(12)	Litigation Legal work	\$100.00/hr.
(13)	All other clerical work not itemized above	\$50.00/hr.
	(Ord. 74-2002. Passed 12-31-02.)	

371.07 EMPLOYEES' APPOINTMENT AND COMPENSATION; SUPPLIES AND EQUIPMENT.

It shall be the duty of the Mayor and Council to appoint such officers, clerks, collectors or other assistants and employees as they may deem necessary for the assessment and collection of taxes imposed by this article, to fix the rate of compensation for the same, and to secure whatever supplies and equipment are necessary for the assessment and collection of the taxes. (Ord. 110-1959 §7. Passed 11-24-59.)

371.08 INTEREST ON DELINQUENT TAXES.

All taxes imposed by this article remaining unpaid after they become due shall bear interest, in addition to the amount of the unpaid tax, at the rate of six percent per year, and the persons upon whom the taxes are imposed shall be further liable to a penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction of a month for the first six months of nonpayment. (Ord. 110-1959 §8. Passed 11-24-59.)

371.09 COLLECTION OF UNPAID TAXES.

All taxes imposed by this article, together with all interest and penalties, shall be recoverable by the City Solicitor as other debts of like amount are recoverable. (Ord. 110-1959 §9. Passed 11-24-59.)

371.10 APPLICABILITY.

This article shall not apply to any person or property as to whom or which it is beyond the legal power of Council to impose the tax or duties herein provided for. (Ord. 110-1959 §11. Passed 11-24-59.)

371.11 SEPARABILITY.

If any sentence, clause, section or part 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, sections or parts of this article. It is declared the intent of Council that this article would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. (Ord. 110-1959 §12. Passed 11-24-59.)

371.99 PENALTY.

Any person who fails, neglects, or refuses to make any declaration or return required by this Article, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employees, or fails, neglects or refuses to deduct or withhold the tax from his employees, any person who refuses to permit the Collector of Taxes or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do so anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by this Article, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500.00) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

The failure of any employer or any taxpayer to receive or procure a return form shall not excuse him from making a return. (Ord. 74-2002. Passed 12-31-02.)

ARTICLE 373
 Realty Transfer Tax

EDITOR'S NOTE: Act 160 of 1967 removes from Act 511, the Local Tax Enabling Act, the provisions of Sections 4, 5 and 7 of the act relating to annual re-enactment of taxes and specifies that every tax levied under the provisions of the act would continue in force on a calendar or fiscal year basis without annual re-enactment unless the rate of the tax was subsequently changed.

<p>373.01 Definitions.</p> <p>373.02 Imposition of tax; administration; interest.</p> <p>373.03 Exempt parties.</p> <p>373.04 Excluded transactions.</p> <p>373.05 Documents relating to associations or corporations and members, partners, stockholders or shareholders thereof.</p> <p>373.06 Acquired company.</p> <p>373.07 Credits against tax.</p> <p>373.08 Extension of lease.</p> <p>373.09 Proceeds of judicial sale.</p>	<p>373.10 Duties of Recorder of Deeds.</p> <p>373.11 Statement of value.</p> <p>373.12 Civil penalties.</p> <p>373.13 Determination of tax.</p> <p>373.14 Lien on property.</p> <p>373.15 Enforcement and regulations.</p> <p>373.16 Severability.</p> <p>373.99 Penalty.</p>
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CROSS REFERENCES

Power to tax - see Local Tax Enabling Act (Act 511, approved December 31, 1965); 53 P.S. §6901-6924
 Real estate registry - see ADM. Art. 105
 Collector of Taxes - see ADM. 119.03

373.01 DEFINITIONS.

(a) "Association" means 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.

(b) "Corporation" means a corporation, joint-stock association, business trust, or banking institution which is organized under the laws of this Commonwealth, the United States, or any other state, territory, foreign country or dependency.

(c) "Document" means any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise 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 the consideration is payable over a period of time exceeding thirty years, or instruments which solely grant, vest or confirm a public utility easement. "Document" also includes a declaration of acquisition required to be presented for recording under Section 373.06.

(d) "Family farm corporation" means a corporation of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (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:

- (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (2) 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;
- (3) Fur farming;
- (4) Stockyard and slaughterhouse operations; or
- (5) Manufacturing or processing operations of any kind.

(e) "Family farm partnership" means a partnership of which at least seventy-five percent (75%) of its assets are devoted to the business of agriculture and at least seventy-five percent (75%) of the interests in the partnership are continuously owned by members of the same family. The business of agriculture shall not be deemed to include:

- (1) Recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;
- (2) 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;
- (3) Fur farming;
- (4) Stockyard and slaughterhouse operations; or
- (5) Manufacturing or processing operations of any kind.

(Ord. 64-1995. Passed 11-1-95.)

(f) "Living trust" means any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor. (Ord. 22-1998. Passed 5-27-98.)

(g) "Members of the same family" means any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing, a 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.
(Ord. 64-1995. Passed 11-1-95.)

(h) "Ordinary trust" means any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of trust. An ordinary trust does not include a trust that has an objective to carry on business and divide gains nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life.
(Ord. 22-1998. Passed 5-27-98.)

(i) "Person" means 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.

(j) "Real Estate" means:

- (1) Any lands, tenements, or hereditaments within the City, 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;
- (2) A condominium unit;
- (3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

(k) "Real Estate Company" means a corporation or association which is primarily engaged in the business of holding, selling or leasing real estate, ninety percent (90%) or more of the ownership interest in which is held by thirty-five or fewer persons and which:

- (1) Derives sixty percent (60%) or more of its annual gross receipts from the ownership or disposition of real estate; or
- (2) Holds real estate, the value of which comprises ninety percent 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.

- (l) "Title to real estate" means:
- (1) 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 estate, or perpetual leasehold; or
 - (2) 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 or otherwise, consists of a group of rights approximating those 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 thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.
- (m) "Transaction" means the making, executing, delivering, accepting, or presenting for recording of a document.
- (n) "Value" means:
- (1) 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" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;
 - (2) 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 factor developed by the Pennsylvania Department of Revenue for Pennsylvania realty transfer tax base calculations;
 - (3) In the case of an easement or other interest in real estate the value of which is not determinable under subsection (l)(1) or (2) hereof, the actual monetary worth of such interest; or
 - (4) 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 principle of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer. (Ord. 64-1995 §1. Passed 11-1-95.)

373.02 IMPOSITION OF TAX; ADMINISTRATION; INTEREST.

(a) 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 presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, a tax at the rate of one percent (1%) of the value of the real estate represented by such document, which tax shall be payable at the earlier of the time the document is presented for recording or within thirty days of acceptance of such document or within thirty days of becoming an acquired company.

(b) The payment of the tax imposed herein shall be evidenced by affixing of an official stamp or writing by the Recorder of Deeds whereon the date of the payment of the tax, amount of the tax and the signature of the collecting agent shall be set forth.

(c) It is the intent of this article that the entire burden of the tax imposed herein on a person or transfer shall not exceed the limitations prescribed in The Local Tax Enabling Act, Act of December 31, 1965, P.L. 1257, 53 P.S. §6901 et seq., so that if any other political subdivision shall impose or hereafter shall impose such tax on the same person or transfer then the tax levied by the City under the authority of that Act shall during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate and such one-half rate shall become effective without any action on the part of the City provided, however, that the City and any other political subdivision which impose such tax on the same person or transfer may agree that, instead of limiting their respective rates to one-half of the rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate permitted under "The Local Tax Enabling Act."
(Ord. 64-1995 §2. Passed 11-1-95.)

(d) If the correct amount of the tax imposed under this article is not paid by the last date prescribed for timely payment, the City of Erie, pursuant to Section 1102-D of the Tax Reform Code of 1971 (72 P.S. §8102-D), authorizes and directs the Pennsylvania Department of Revenue to determine, collect and enforce the tax, interest and penalties. The interest rate shall be ten percent (10%) per annum.
(Ord. 67-2006. Passed 12-13-06.)

373.03 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 article. The exemption of such governmental bodies shall not, however, relieve any other party to a transaction from liability for the tax.
(Ord. 64-1995 §3. Passed 11-1-95.)

373.04 EXCLUDED TRANSACTIONS.

The tax imposed by Section 373.02 shall not be imposed upon the following:

(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 may include property line adjustments provided said reconveyance is made within one year from the date of condemnation.

- (b) A document which the City 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 municipality, township, school district or county of 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 of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by co-tenants; however, 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 a 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, a 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 that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settlor as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. 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.
 - (1) A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the living trust instrument.
- (i) A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settlor to the grantee.
 - (1) A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed.

- (2) A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor.
- (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 principal, no tax would be imposed under this article. 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 principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.
- (1) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the City reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.
- (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 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.
- (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 Section 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; or a transfer from such a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions; or any transfer from such a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the Act of June 30, 1981 (P.L. 128, No. 43), known as the "Agricultural Area Security Law", and such conservancy has owned the real estate for at least two years immediately prior to the transfer.
- (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 family directly owns at least seventy-five percent of each class of the stock thereof.
- (t) A transfer of real estate devoted to the business of agriculture to a family farm partnership by a member of the same family which family directly owns at least seventy-five percent (75%) of the interests in the partnership.
- (u) A transfer between members of the same family of an ownership interest in a real estate company, family farm corporation or family farm partnership which owns real estate.
- (v) A transaction wherein the tax due is one dollar (\$1.00) or less.
- (w) 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. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. 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 article.
(Ord. 64-1995 §4. Passed 11-1-95; Ord. 22-1998. Passed 5-27-98.)

373.05 DOCUMENTS RELATING TO ASSOCIATIONS OR CORPORATIONS AND MEMBERS, PARTNERS, STOCKHOLDERS OR SHAREHOLDERS THEREOF.

Except as otherwise provided in Section 373.04, documents which make, confirm or evidence any transfer or devise 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 article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.
(Ord. 64-1995 §5. Passed 11-1-95.)

373.06 ACQUIRED COMPANY.

(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change does not affect the continuity of the company; and of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety percent or more of the total ownership interest in the company within a period of three years.

(b) 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 article.

(c) A family farm partnership is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family partnership or when, because of transfer of partnership interests 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 partnership under this act.

(d) Within thirty 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 shall set forth the value of real estate holdings of the acquired company in such county. A copy of the Pennsylvania Realty Transfer Tax Declaration of Acquisition may be submitted for this purpose. (Ord. 64-1995 §6. Passed 11-1-95.)

373.07 CREDITS AGAINST TAX.

(a) Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him 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 shall be given to him toward the amount of the tax due upon the transfer.

(b) Where there is a transfer by a builder of a 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.

(c) Where there is a transfer of real estate which is devised by the grantor, a credit for the amount of tax paid at the time of the devise shall be given the grantor toward the tax due upon the transfer.

(d) 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.

(e) 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 credit shall be allowed. (Ord. 64-1995 §7. Passed 11-1-95.)

373.08 EXTENSION OF LEASE.

In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established. (Ord. 64-1995 §8. Passed 11-1-95.)

373.09 PROCEEDS OF JUDICIAL SALE.

The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, except the state realty transfer tax, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax. (Ord. 64-1995 §9. Passed 11-1-95.)

373.10 DUTIES OF RECORDER OF DEEDS.

(a) As provided in 16 P.S. §11011-6, as amended by Act of July 7, 1983 (P.L. 40, No. 21), the Recorder of Deeds shall be the collection agent for the local realty transfer tax, including any amount payable to the City based on a redetermination of the amount of tax due by the Commonwealth of Pennsylvania of the Pennsylvania realty transfer tax, without compensation from the City.

(b) In order to ascertain the amount of taxes due when the property is located in more than one political subdivision, the Recorder shall not accept for recording such a deed unless it is accompanied by a statement of value showing what taxes are due each municipality.

(c) On or before the tenth of each month, the Recorder of Deeds shall pay over to the City all local realty transfer taxes collected, less two percent for use of the county, together with a report containing the information as is required by the Commonwealth of Pennsylvania in reporting collections of the Pennsylvania realty transfer tax. The two percent (2%) commission shall be paid to the county.

(d) Upon a redetermination of the amount of realty transfer tax due by the Commonwealth of Pennsylvania, the Recorder shall rerecord the deed or record the additional realty transfer tax form only when both the state and local amounts and a rerecording or recording fee has been tendered.

(e) If additional realty transfer tax is determined to be due to the Commonwealth, the Recorder of Deeds for Erie County shall collect a like amount for the City, but without interest and penalty; if a refund is determined to be due by the Commonwealth, the Recorder of Deeds for Erie County shall refund a like amount, without interest and charge said refund to the City on the monthly report for the month in which the refund is made.
(Ord. 64-1995 §10. Passed 11-1-95.)

373.11 STATEMENT OF VALUE.

Every document lodged with or presented to the Recorder of Deeds for recording, shall set forth therein and as a part of such documents the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. A copy of the Pennsylvania Realty Transfer Tax Statement of Value may be submitted for this purpose. The provisions of this subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.
(Ord. 64-1995 §11. Passed 11-1-95.)

373.12 CIVIL PENALTIES.

(a) Fraud. If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to fifty percent (50%) of the underpayment.

(b) Failure to Record Declaration. In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five percent (5%) of the amount of such tax if the failure is for not more than one month, with an additional five percent (5%) for each additional month or fraction thereof during which such failure continues, not exceeding fifty percent (50%) in the aggregate.
(Ord. 64-1995 §12. Passed 11-1-95.)

373.13 DETERMINATION OF TAX.

If any person shall fail to pay any tax imposed by this article for which that person is liable, the City of Erie authorizes the Pennsylvania Department of Revenue to make a determination of additional tax, penalty and interest due under Section 1109-D of the Tax Reform Act of 1971 (72 P.S. §8109-D) by such person based upon any information within its possession or that shall come into its possession. Such determinations shall be made within three years after the date of the recording of such document subject to the following:

- (a) If the taxpayer underpays the correct amount of the tax by twenty-five percent (25%) or more, the tax may be assessed at any time within six years after the date of the recording of the document.
- (b) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

These periods of limitation shall have no effect whatsoever on the imposition of liens.
(Ord. 67-2006. Passed 12-13-06.)

373.14 LIEN ON PROPERTY.

The tax imposed by this article shall become a lien upon the lands, tenements, or hereditaments, or any interest therein, lying, being situated, wholly or in part within the boundaries of the City, which lands, tenements, hereditaments, or interest therein, are described in or conveyed by or transferred by the deed which is the subject of the tax imposed, assessed and levied by this article, said lien to begin at the time when the tax under this article is due and payable, and continue until discharge by payment, or in accordance with the law, and the City Solicitor is authorized to file a municipal or tax claim in the Court of Common Pleas of Erie County, in accordance with the provisions of the Municipal Claims and Liens Act of 1923, 53 P.S. §7101 et seq., its supplements and amendments.
(Ord. 64-1995 §14. Passed 11-1-95.)

373.15 ENFORCEMENT AND REGULATIONS.

The City Department of Administration and Finance is charged with enforcement and collection of tax and is empowered to promulgate and enforce reasonable regulations for enforcement and collection of the tax. The regulations which have been promulgated by the Pennsylvania Department of Revenue under 72 P.S. §8101-C et seq. are incorporated into and made a part of this article.
(Ord. 64-1995 §15. Passed 11-1-95.)

373.16 SEVERABILITY.

Should any section, subsection, sentence, clause or phrase of this article be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this article in its entirety or of any part thereof other than that declared to be invalid.
(Ord. 64-1995 §16. Passed 11-1-95.)

373.99 PENALTY.

Any person who violates any provision of this article shall be guilty of a summary offense and upon conviction thereof shall be sentenced to pay a fine not exceeding six hundred dollars (\$600.00) and/or imprisonment not exceeding ninety days for each offense, in addition to any other penalties provided by law and shall be required to pay the amount of tax due together with interest, as provided in this article.
(Ord. 64-1995 §17. Passed 11-1-95.)

ARTICLE 375
Local Services Tax

<p>375.01 Definitions.</p> <p>375.02 Levy of tax.</p> <p>375.03 Exemption and refunds.</p> <p>375.04 Duty of employers to collect.</p> <p>375.05 Returns.</p> <p>375.06 Dates for determining tax liability and payment.</p> <p>375.07 Self-employed individuals.</p>	<p>375.08 Individuals engaged in more than one occupation or employed in more than one political subdivision.</p> <p>375.09 Nonresidents subject to tax.</p> <p>375.10 Administration of tax.</p> <p>375.11 Suits for collection.</p> <p>375.12 Interpretation.</p> <p>375.99 Penalty.</p>
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CROSS REFERENCE

Power to tax - see Act 511 of 12-31-65 (53 P.S. §6901-6924)

375.01 DEFINITIONS.

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

- (a) "Political Subdivision" means the area within the corporate limits of the City of Erie.
- (b) "Collector" means the person, public employee or private agency designated by the political subdivision to collect and administer the tax herein imposed.
- (c) "DCED" means the Department of Community and Economic Development of the Commonwealth of Pennsylvania.
- (d) "Earned Income" compensation as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1257, § 13, as amended, 53 P.S. § 6913, as amended.
- (e) "Employer" means an individual, partnership, association, limited liability corporation, limited liability partnership, corporation, governmental body, agency or other entity employing one or more persons on a salary, wage, commission or other compensation basis, including a self-employed person.
- (f) "He, His or Him" means the singular and plural number, as well as male, female and neuter genders.
- (g) "Individual" means any person, male or female, engaged in any occupation, trade or profession within the corporate limits of the political subdivision.
- (h) "Net Profits" means the net income from the operation of a business, profession or other activity, as this term is defined in Section 13 [relating to earned income taxes] of the Local Tax Enabling Act, the Act of Dec. 31, 1965, P.L. 1251, § 13, as amended, 53 P.S. § 6913, as amended.

- (i) "Occupation" means any trade, profession, business or undertaking of any type, kind or character, including services, domestic or other, earned on or performed within the corporate limits of the political subdivision for which compensation is charged or received; whether by means of salary, wages, commission or fees for services rendered.
- (j) "Tax" means the local services tax at the rate fixed in Section 375.02 of this article.
- (k) "Tax year" means the period from January 1 until December 31 in any year; a calendar year. (Ord. 67-2007. Passed 12-19-07.)

375.02 LEVY OF TAX.

For specific revenue purposes, an annual tax is hereby levied and assessed, commencing January 1, 2008; upon the privilege of engaging in an occupation with a primary place of employment within the City of Erie during the tax year. Each natural person who exercises such privilege for any length of time during any tax year shall pay the tax for that year in the amount of fifty-two dollars (\$52.00), assessed on a pro rata basis, in accordance with the provisions of this article. This tax may be used solely for the following purposes as the same may be allocated by the City of Erie from time to time: (1) emergency services, which shall include emergency medical services, police services and/or fire services; (2) road construction and/or maintenance; (3) reduction of property taxes; or (4) property tax relief through implementation of a homestead and farmstead exclusion in accordance with 53 Pa.C.S. Ch. 85, Subch. F (relating to homestead property exclusion). The political subdivision shall use no less than twenty-five percent of the funds derived from the tax for emergency services. This tax is in addition to all other taxes of any kind or nature heretofore levied by the political subdivision. The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. (Ord. 67-2007. Passed 12-19-07.)

375.03 EXEMPTIONS AND REFUNDS.

- (a) **Exemption.** Any person whose total earned income and net profits from all sources within the political subdivision is less than twelve thousand (\$12,000) dollars for any calendar year in which the tax is levied is exempt from the payment of the tax for that calendar year. In addition, the following persons are exempt from payment of the tax:
 - (1) Any person who has served in any war or armed conflict in which the United States was engaged and is honorably discharged or released under honorable circumstances from active service if, as a result of military service, the person is blind, paraplegic or a double or quadruple amputee or has a service-connected disability declared by the United States Veterans' Administration or its successor to be a total one hundred percent disability.
 - (2) Any person who serves as a member of a reserve component of the armed forces and is called to active duty at any time during the taxable year. For the purposes of this subparagraph, "reserve component of the armed forces" shall mean the United States Army Reserve, United States Navy Reserve, United States Marine Corps Reserve, United States Coast Guard Reserve, United States Air Force Reserve, the Pennsylvania Army National Guard or the Pennsylvania Air National Guard.

(b) Procedure to Claim Exemption.

- (1) A person seeking to claim an exemption from the local services tax may annually file an exemption certificate with the political subdivision and with the person's employer affirming that the person reasonably expects to receive earned income and net profits from all sources within the political subdivision of less than twelve thousand dollars (\$12,000) in the calendar year for which the exemption certificate is filed. In the event the political subdivision utilizes a tax collection officer, it shall provide a copy of the exemption certificate to that officer. The exemption certificate shall have attached to it a copy of all the employee's last pay stubs or W-2 forms from employment within the political subdivision for the year prior to the fiscal year for which the employee is requesting to be exempted from the tax. Upon receipt of the exemption certificate and until otherwise instructed by the political subdivision or except as required by clause (2), the employer shall not withhold the tax from the person during the calendar year or the remainder of the calendar year for which the exemption certificate applies. Employers shall ensure that the exemption certificate forms are readily available to employees at all times and shall furnish each new employee with a form at the time of hiring. The exemption certificate form shall be the uniform form provided by the political subdivision.
- (2) With respect to a person who claimed an exemption for a given calendar year from the tax, upon notification to an employer by the person or by the political subdivision that the person has received earned income and net profits from all sources within the political subdivision equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year or that the person is otherwise ineligible for the tax exemption for that calendar year, or upon an employer's payment to the person of earned income within the municipality in an amount equal to or in excess of twelve thousand dollars (\$12,000) in that calendar year, an employer shall withhold the local services tax from the person under clause (3).
- (3) If a person who claimed an exemption for a given calendar year from the tax becomes subject to the tax for the calendar year under clause (2), the employer shall withhold the tax for the remainder of that calendar year. The employer shall withhold from the person, for the first payroll period after receipt of the notification under clause (2), a lump sum equal to the amount of tax that was not withheld from the person due to the exemption claimed by the person under this subsection, plus the per payroll amount due for that first payroll period. The amount of tax withheld per payroll period for the remaining payroll periods in that calendar year shall be the same amount withheld for other employees. In the event the employment of a person subject to withholding of the tax under this clause is subsequently severed in that calendar year, the person shall be liable for any outstanding balance of tax due, and the political subdivision may pursue collection under this article.
- (4) Except as provided in subsection (b)(2) hereof, it is the intent of this subsection that employers shall not be responsible for investigating exemption certificates, monitoring tax exemption eligibility or exempting any employee from the local services tax.

(c) Refunds. The City of Erie, in consultation with the Collector and DCED, shall establish procedures for the processing of refund claims for any tax paid by any person who is eligible for exemption, which procedures shall be in accord with provisions of the general municipal law relating to refunds of overpayments and interest on overpayments. Refunds made within seventy-five days of a refund request or seventy-five days after the last day the employer is required to remit the tax for the last quarter of the calendar year, whichever is later, shall not be subject to interest. No refunds shall be made for amounts overpaid in a calendar year that do not exceed one dollar (\$1.00). The City of Erie or the Collector shall determine eligibility for exemption and provide refunds to exempt persons.

(Ord. 67-2007. Passed 12-19-07.)

375.04 DUTY OF EMPLOYERS TO COLLECT.

(a) Each employer within the political subdivision, as well as those employers situated outside the political subdivision but who engage in business within the political subdivision, is hereby charged with the duty of collecting the tax from each of his employees engaged by him or performing for him within the political subdivision and making a return and payment thereof to the Collector. Further, each employer is hereby authorized to deduct this tax for each employee in his or her employ, whether said employee is paid by salary, wage or commission and whether or not all such services are performed within the political subdivision.

(b) A person subject to the tax shall be assessed by the employer a pro rata share of the tax for each payroll period in which the person is engaging in an occupation. The pro rata share of the tax assessed on the person for a payroll period shall be determined by dividing the rate of the tax levied for the calendar year by the number of payroll periods established by the employer for the calendar year. For purposes of determining the pro rata share, an employer shall round down the amount of the tax collected each payroll period to the nearest one-hundredth of a dollar. Collection of the tax shall be made on a payroll period basis for each payroll period in which the person is engaging in an occupation, except as provided in subsection (d) hereof, for purposes of this subsection, combined rate shall mean the aggregate annual rate of the tax levied by the school district and the municipality.

(c) No person shall be subject to the payment of the local services tax by more than one political subdivision during each payroll period.

(d) In the case of concurrent employment, an employer shall refrain from withholding the tax if the employee provides a recent pay statement from a principal employer that includes the name of the employer, the length of the payroll period and the amount of the tax withheld and a statement from the employee that the pay statement is from the employee's principal employer and the employee will notify other employers of a change in principal place of employment within two weeks of its occurrence. The employee's statement shall be provided on the form approved by DCED.

(e) The tax shall be no more than fifty-two dollars (\$52.00) on each person for each calendar year, irrespective of the number of political subdivisions within which a person maybe employed. The political subdivision shall provide a taxpayer a receipt of payment upon request by the taxpayer.

(f) No employer shall be held liable for failure to withhold the tax or for the payment of the withheld tax money to the political subdivision if the failure to withhold taxes arises from incorrect information submitted by the employee as to the employee's place or places of employment, the employee's principal office or where the employee is principally employed. Further, an employer shall not be liable for payment of the local services tax in an amount exceeding the amount withheld by the employer if the employer complies with the provisions of Section 375.03(b) and this section and remits the amount so withheld in accordance with this article.

(g) Employers shall be required to remit the local services taxes thirty days after the end of each quarter of a calendar year. (Ord. 67-2007. Passed 12-19-07.)

375.05 RETURNS.

Each employer shall prepare and file a return showing a computation of the tax on forms to be supplied to the employer by the Collector. If an employer fails to file the return and pay the tax, whether or not the employer makes collection thereof from the salary, wages or commissions paid by him or her to an employee, except as provided hereafter in this article, the employer shall be responsible for the payment of the tax in full as though the tax had been originally levied against the employer. (Ord. 67-2007. Passed 12-19-07.)

375.06 DATES FOR DETERMINING TAX LIABILITY AND PAYMENT.

In each tax year, each employer shall use his or her employment records to determine the number of employees from whom such tax shall be deducted and paid over to the Collector on or before the thirtieth day following the end of each calendar quarter of each such tax year. (Ord. 67-2007. Passed 12-19-07.)

375.07 SELF-EMPLOYED INDIVIDUALS.

Each self-employed individual who performs services of any type or kind or engages in any occupation or profession within a primary place of employment within the political subdivision shall be required to comply with this article and pay the pro rata portion of the tax due to the Collector on or before the thirtieth day following the end of each quarter. (Ord. 67-2007. Passed 12-19-07.)

375.08 INDIVIDUALS ENGAGED IN MORE THAN ONE OCCUPATION OR EMPLOYED IN MORE THAN ONE POLITICAL SUBDIVISION.

(a) The situs of the tax shall be the place of employment on the first day the person becomes subject to the tax during each payroll period. In the event a person is engaged in more than one occupation, that is, concurrent employment, or an occupation which requires the person working in more than one political subdivision during a payroll period, the priority of claim to collect the local services tax shall be in the following order:

- (1) First, the political subdivision in which a person maintains his or her principal office or is principally employed;
- (2) Second, the political subdivision in which the person resides and works if the tax is levied by that political subdivision;
- (3) Third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment constitutes prima facie certification of payment to all other political subdivisions. (Ord. 67-2007. Passed 12-19-07.)

375.09 NONRESIDENTS SUBJECT TO TAX.

All employers and self-employed individuals residing or having their places of business outside of the political subdivision but who perform services of any type or kind or engage in any occupation or profession within the political subdivision do, by virtue thereof, agree to be bound by and subject themselves to the provisions, penalties and regulations promulgated under this article with the same force and effect as though they were residents of the political subdivision. Further, any individual engaged in an occupation within the political subdivision and an employee of a nonresidential employer may, for the purpose of this article, be considered a self-employed person, and in the event his or her tax is not paid, the political subdivision shall have the option of proceeding against either the employer or employee for the collection of this tax as hereinafter provided. (Ord. 67-2007. Passed 12-19-07.)

375.10 ADMINISTRATION OF TAX.

(a) The Collector shall be appointed by resolution of the political subdivision. It shall be the duty of the Collector to accept and receive payments of this tax and to keep a record thereof showing the amount received by him from each employer or self-employed person, together with the date the tax was received.

(b) The Collector is hereby charged with the administration and enforcement of this article and is hereby charged and empowered, subject to municipal approval, to proscribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination of payroll records of any employer subject to this article, the examination and correction of any return made in compliance with this article and any payment alleged or found to be incorrect or as to which overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the Collector shall have the right to appeal consistent with the Local Taxpayers Bill of Rights under Act 50 of 1998 (municipalities may detail their appeal processes).

(c) The Collector is hereby authorized to examine the books and payroll records of any employer in order to verify the accuracy of any return made by an employer or, if no return was made, to ascertain the tax due. Each employer is hereby directed and required to give the Collector the means, facilities and opportunity for such examination. (Ord. 67-2007. Passed 12-19-07.)

375.11 SUITS FOR COLLECTION.

(a) In the event that any tax under this article remains due or unpaid 30 days after the due dates above set forth, the Collector may sue for the recovery of any such tax due or unpaid under this article, together with interest and penalty.

(b) If for any reason the tax is not paid when due, interest at the rate of 6% on the amount of such tax shall be calculated beginning with the due date of the tax and a penalty of 5% shall be added to the flat rate of such tax for nonpayment thereof. Where suit is brought for the recovery of this tax or other appropriate remedy undertaken, the individual liable therefore shall, in addition, be responsible and liable for the costs of collection. (Ord. 67-2007. Passed 12-19-07.)

375.12 INTERPRETATION.

(a) Nothing contained in this article shall be construed to empower the political subdivision to levy and collect the tax hereby imposed on any occupation not within the taxing power of the political subdivision under the Constitution of the United States and the laws of the Commonwealth of Pennsylvania.

(b) If the 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 laws 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 tax or the validity of the tax so imposed on other persons or individuals as herein provided.

(Ord. 67-2007. Passed 12-19-07.)

375.99 PENALTY.

Whoever makes any false or untrue statement on any return required by this article, or whoever refuses inspection of the books, records or accounts in his or her custody and control setting forth the number of employees subject to this tax who are in his or her employment, or whoever fails or refuses to file any return required by this article shall be guilty of a violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than six-hundred dollars (\$600.00) and costs of prosecution, and, in default of payment of such fine and costs, to imprisonment for not more than 30 days. The action to enforce the penalty herein prescribed may be instituted against any person in charge of the business of any employer who shall have failed or who refuses to file a return required by this article.

(Ord. 67-2007. Passed 12-19-07.)

ARTICLE 376
Taxpayers Bill of Rights

376.01	Rules and regulations.	376.05	Additional rules and regulations.
376.02	Disclosure statement.	376.06	Severability.
376.03	Petition for appeal and refund.	376.07	Repealer.
376.04	Appeal of Tax Collector determinations.		

376.01 RULES AND REGULATIONS.

The City of Erie hereby adopts those Rules and Regulations as set forth in Act 50 of 1998. The Regulations covering the Administration and Collection of Tax has set forth a process for handling appeals from decisions on assessment and refunds. The Rules and Regulations shall be administered by the City Treasurer and a copy of the Rules and Regulations shall be available in that Office, upon request for public inspection.
(Ord. 7-1999. Passed 2-3-99.)

376.02 DISCLOSURE STATEMENT.

The City of Erie through the City Treasurer, acting as Tax Collector, shall provide a Disclosure Statement which sets forth Taxpayers Rights in connection with any audit, examination, appeal or refund claim of tax for the City of Erie, and any enforcement or collection action taken by the Tax Collector on behalf of the City of Erie.
(Ord. 7-1999. Passed 2-3-99.)

376.03 PETITION FOR APPEAL AND REFUND.

Any taxpayer has the right to challenge an assessment or denial of a refund claim in accordance with the Rules and Regulations for the Taxpayers Bill of Rights. The City Treasurer shall make available forms for Petitions for Appeal and Refund.
(Ord. 7-1999. Passed 2-3-99.)

376.04 APPEAL OF TAX COLLECTOR DETERMINATIONS.

The Administrative Appeal proceeding relating to Petitions for Appeal and Refund submitted by taxpayers in connection with the assessment, determination or refund of an eligible tax shall be undertaken by the Director of Administration and Finance, acting as Hearing Officer.
(Ord. 7-1999. Passed 2-3-99.)

376.05 ADDITIONAL RULES AND REGULATIONS.

Rules and Regulations for Compliance with the Local Taxpayers Bills of Rights together with the Administrative Appeal Procedure which are to be administered by both the City Treasurer and the Director of Finance and Administration are hereby approved and adopted. (Ord. 7-1999. Passed 2-3-99.)

376.06 SEVERABILITY.

In the event any provision, section, sentence, clause or part of this article shall be held to be invalid, such invalidity shall not affect or impair any remaining provision, section, sentence, clause or part of this article, it being the intent of City Council that the remainder of the article shall remain in full force and effect. (Ord. 7-1999. Passed 2-3-99.)

376.07 REPEALER.

All ordinances and resolutions or parts thereof, insofar as the same are inconsistent herewith, are repealed hereby. (Ord. 7-1999. Passed 2-3-99.)

ARTICLE 377
Parking Tax

377.01	Definitions.	377.07	Posting of rates.
377.02	Annual license.	377.08	Collection of unpaid taxes.
377.03	Imposition of tax.	377.09	Confidentiality.
377.04	Records.	377.99	Penalty.
377.05	Return and payments.		
377.06	Bureau of Revenue's powers and duties.		

CROSS REFERENCES

Power to tax generally - see 3rd Class Code 52601 (53 P.S. 37601)

Power to tax - see Local Tax Enabling Act, Act of Dec. 31, 1965, P.L. 1257 as amended (53 P.S. 6901 et seq.)

Surface parking not business property - see 5-503.1(b)

377.01 DEFINITIONS.

As used in this article, unless the context indicates clearly a different meaning, the following words and phrases shall have the meanings set forth below:

- (a) "Patron" means any person who drives a vehicle to, into or upon a nonresidential parking lot as hereinafter defined, for the purpose of having such vehicle stored for any length of time. "Patron" shall also include any person who has a vehicle in his or her custody taken by another for the purpose of having it stored at a non-residential parking place.
- (b) "Non-residential parking lot" means any place within the City, whether wholly or partially enclosed or open, including a garage or enclosed building, at which motor vehicles are parked or stored for any period of time in return for a consideration, not including: (Ord. 2-2004. Passed 1-14-04.)
 - (1) Any parking area or garage to the extent that it is provided or leased to occupants of a residence on the same or other premises for use only in connection with, and as necessary to, the occupancy of such residence for no additional consideration. (Ord. 17-2004. Passed 2-25-04.)

- (2) Any parking area or garage operated exclusively by an owner or lessee of a hotel, an apartment hotel, tourist court or trailer park, to the extent that parking is provided to guests or tenants of such hotel, tourist court or trailer park for no additional consideration; and (Ord. 2-2004. Passed 1-14-04.)
- (3) Any on-site or off-street parking on property designated for accessory use provided by the owner for the use of such owner, tenants of such owner, and the employees and business visitors of such owner or tenants for no additional consideration. (Ord. 28-2004. Passed 5-19-04.)
- (c) “Operator” means any person conducting the operation of a nonresidential parking lot or receiving the consideration for the parking or storage of motor vehicle at such parking lot, including without limiting the generality of the above any governmental body, governmental subdivision, municipal corporation, public authority, non-profit corporation, or any person operating as an agent of one of the above.
- (d) “Transaction” means the parking or storing of a motor vehicle at a non-residential parking lot for a consideration.
- (e) “Consideration” means the payment of compensation, of whatever nature, to the operator by or on behalf of the patron, upon an express or implied contract or under a lease or otherwise, whether or not separately stated, and whether paid in cash or credited to an account, for each transaction involving the parking or storing of a motor vehicle by the patron. The consideration shall not include the tax imposed and collected under this chapter. (Ord. 2-2004. Passed 1-14-04.)

377.02 ANNUAL LICENSE.

No operator shall conduct business as a non-residential parking lot without obtaining an annual license at a fee of one hundred dollars (\$100.00) and in addition one dollar (\$1.00) per space from the Bureau of Revenue for the purpose of defraying the costs of administering this chapter. Such license shall be obtained by an operator for each lot operated by such operator within thirty (30) days after the effective date of this section and shall be renewed annually on or before January 1 of each year. Any person who intends to become an operator, or any operator who intends to increase the number of spaces available for non-residential parking, shall obtain a license or amended license before beginning such operation or expansion. At each parking lot the operator shall display the license in a conspicuous location at all times. Such license shall not be transferable between one operator and another or between one parking lot and another. Any operator who ceases to conduct the operation of a parking lot shall notify the Bureau of Revenue and return the license applicable thereto. (Ord. 2-2004. Passed 1-14-04.)

377.03 IMPOSITION OF TAX.

A tax for general revenue purposes is hereby imposed upon each parking transaction by a patron of a non-residential parking place at the rate of fifteen percent (15%) of the consideration for each such transaction. No operator shall conduct such transactions without complying with all of the provisions of this chapter and without collecting the tax imposed herein and paying it to the City. (Ord. 2-2004. Passed 1-14-04.)

377.04 RECORDS.

(a) Each operator shall maintain, separately with respect to each parking lot, complete and accurate records of all transactions and the total amount of tax collected on the basis of such consideration.

(b) Each operator shall issue to the person paying the consideration such written evidence of the transactions as the Bureau of Revenue or designee may prescribe by regulations. Where consideration in a transaction is not separately stated, the operator shall maintain evidence and records necessary to segregate the consideration applicable to the transaction, for the benefit of the patron and the Bureau of Revenue or designee, so that the proper amount of tax can be collected. Each operator shall afford the Bureau of Revenue and designated employees and agents access to all such records and evidence at all reasonable times and shall provide verification of the same as the Bureau of Revenue may require.
(Ord. 2-2004. Passed 1-14-04.)

377.05 RETURN AND PAYMENTS.

(a) Each operator, on forms prescribed by the Bureau of Revenue or a designee, shall file quarterly, by the 30th day of the months of April, July, October and January of each year, returns for the preceding three (3) months showing the consideration received with respect to each parking lot during the preceding three (3) months, together with the amount of tax collected thereupon. At the time of filing the return, the operator shall pay all tax due and collected for the period to which the return applies. Each operator shall collect the tax imposed by this article and shall be liable to the City as agent thereof for the payment of the same.

(b) The Bureau of Revenue is charged with the duty of receiving fees, taxes, interests, fines, and penalties imposed by this article.
(Ord. 2-2004. Passed 1-14-04.)

377.06 BUREAU OF REVENUE'S POWERS AND DUTIES.

(a) The Bureau of Revenue and duly appointed designee(s), under the direction of the Mayor, are hereby empowered with the approval of the Mayor to prescribe, adopt and promulgate rules and regulations relating to the administration and enforcement of this article, including, but not limited to, requirements for evidence and records and forms for applications, licenses and returns.

(b) The Bureau of Revenue or designee(s) shall have the power, in the event that any operator has, in the judgment of the Business Administrator or designee, failed to pay over the amount of tax due, to collect the tax directly from the patron and charge the cost of collection to the operator. In such event, the Bureau of Revenue or designee(s) shall maintain records showing the amount received and the dates such amounts were received.

(c) The Bureau of Revenue and agents thereof are hereby authorized to examine the books, papers and records of any operator or probable operator subject or supposed to be subject to this chapter in order to verify the accuracy of the return made or, if no report was made, to estimate the tax due. Each such operator, or probable operator, is hereby directed and required to give to the Bureau of Revenue or agent thereof the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) Any person aggrieved by any decision of the Bureau of Revenue or designee(s) shall have the right to appeal to Court of Common Pleas, as provided by law. (Ord. 2-2004. Passed 1-14-04.)

377.07 POSTING OF RATES.

Every operator shall post and maintain in a conspicuous place, at each entrance, a sign printed in letters of such uniform size and character as to be readily readable by prospective customers, showing the operator's name and lot address, operator's parking license number, and a schedule of rates according to one of the prescribed methods listed below:

- (a) Method A. Total hourly, daily, or monthly charges consisting of the parking fee and parking tax shown. Indication of the collection of the tax must be posted on the sign with the words. "Tax included."

EXAMPLE:

1 Hr..... \$.75 Tax included

- (b) Method B. The complete schedule of parking fee, parking tax and total charge to customer.

EXAMPLE:

	<u>Fee</u>	<u>Tax</u>	<u>Total</u>
1 hr.	\$.75+	\$.11	= \$.86
2 hr.	\$1.00+	\$.15	= \$1.15

(Ord. 2-2004. Passed 1-14-04.)

377.08 COLLECTION OF UNPAID TAXES.

The Bureau of Revenue or duly appointed designees shall have the power in the name of the City to institute proceedings to collect, by suit or otherwise, all taxes, interest, costs, fines, and penalties due under this article and unpaid. If the operator neglects, refuses or fails to file any return or make any payment as herein required, an additional fifty percent (50%) of the amount of the tax shall be added by the Bureau of Revenue or designee and collected from the operator as a penalty. All taxes due and unpaid shall bear interest at the rate of one percent (1%) per month or fraction thereof from the date they are due and payable until such time as they are paid. (Ord. 2-2004. Passed 1-14-04.)

377.09 CONFIDENTIALITY.

Any information gained by the Bureau of Revenue or any other official, agent or employee of the City as a result of any reports, returns, investigations, hearings, or verifications required or authorized by this article shall be confidential, except for official purposes, in accordance with proper judicial order, or as otherwise provided by law. (Ord. 2-2004. Passed 1-14-04.)

377.99 PENALTY.

Any person violating any provision of this article shall be guilty of a summary offense, and upon conviction shall be fined not more than three hundred dollars (\$300.00) or imprisoned not more than ninety days or both. (Ord. 2-2004. Passed 1-14-04.)

ARTICLE 378
Amusement Tax

378.01	Definitions.	378.06	Collection of unpaid taxes.
378.02	Imposition of tax.	378.07	Confidentiality of returns.
378.03	Rate of tax.	378.08	Sunset provision. (Repealed)
378.04	Permits.	378.99	Penalty.
378.05	Payment; reports.		

378.01 DEFINITIONS.

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

- (a) "Amusement" means all manner and form of entertainment, diversion, sport, pastime, or recreation within the City of Erie for which admission is charged or paid, by tickets, cover charges, or any other method of obtaining monetary contributions, donations or deposits from the general public, except that the term shall not include any intramural or interscholastic sport, athletic game or contest. For purposes of this article, the term shall include trade shows, craft shows and similar exhibitions.
- (b) "Permanent amusement" means any amusement that is to continue for longer than ten (10) consecutive days.
- (c) "Person" means every individual, person, co-partnership, association, unincorporated enterprise owned by two or more persons, for-profit or not-for-profit corporation, limited liability company, trust or other legal entity, domestic or foreign. Whenever used in any section prescribing and imposing a penalty, or both, the term "person" as applied to a co-partnership or association, shall mean the partners, or members thereof, and as applied to a corporation, the officers thereof.
- (d) "Price" means the full monetary charge of any character whatever, including contributions and donations, fixed or exacted or in any manner received from the general public for the privilege of attending any amusement.
- (e) "Temporary amusement" means any amusement that is to continue for ten (10) consecutive days or less.
(Ord. 11-2006. Passed 3-22-06.)

378.02 IMPOSITION OF TAX.

A tax at the rate of three percent (3%) is hereby imposed for general revenue purposes upon the price of admission to any amusement within the City.
(Ord. 6-2007. Passed 2-7-07.)

378.03 RATE OF TAX.

(a) Where the price is fixed or established, the tax shall be collected at the rate of three percent (3%). (Ord. 6-2007. Passed 2-7-07.)

(b) Where the price of admission is not fixed or established, the tax shall be collected based upon the gross admissions collected.

(c) Where the price of admission is wholly or partly included in the price of refreshments, services or merchandise or where purchase of such refreshments, services or merchandise is required as a condition for admission, the taxable price shall be deemed to be fifty percent (50%) of the price paid for said refreshments, services or merchandise.

(d) In the case of persons having the permanent use of boxes or seats in any place of amusement, or a lease for the use of such box, or seat in such place of amusement, the tax imposed by this article shall be computed based on the price for which a similar box or seat is sold for each performance or exhibit, at which the box or seat is used or reserved by or for the lessee or holder, and then shall be paid by the lessee or holder.
(Ord. 11-2006. Passed 3-22-06.)

378.04 PERMITS.

(a) Any person desiring to conduct or continue to conduct any amusement, the price of which is subject to tax under this article, shall file with the City Coordinator of Special Events and Municipal Licensing, hereinafter referred to as Coordinator, an application for a permanent or temporary amusement permit, as the case may be. In the case of any amusement that is to continue for longer than ten (10) days, a permanent amusement permit shall be issued. In the case of any amusement that is to continue for ten (10) days or less, a temporary permit shall be issued.

(b) Every application for such permit shall be made upon a form furnished by the Coordinator, and shall set forth the following:

- (1) The name under which the applicant conducts or intends to conduct the amusement;
- (2) Whether the applicant conducts or intends to conduct a permanent or temporary form of amusement;
- (3) The duration of the amusement;
- (4) The location of the amusement;
- (5) The prices to be charged; and
- (6) The approximate total receipts anticipated.

(c) If the application is filed by a corporation, it shall be signed by two officers. If the application is filed by a partnership, association or joint venture, it shall be signed by all partners and members.

(d) Upon receipt of a properly completed and executed application, the Coordinator shall issue a permit. Amusement permits shall not be assignable, shall be valid only for the persons, entities or organizations in whose names the permits are issued and shall apply only to the conduct of amusements so specified in the application at the place or places so designated.

(e) All permits for permanent places of amusement shall expire on the first day of January in the year next succeeding the date of issue, unless sooner suspended, surrendered or revoked. Permits for temporary forms of amusement shall expire at the time specified therein.

(f) The Coordinator may suspend, or, after written notice to the permit holder, revoke an amusement permit if, in his or her judgment, the permit holder has failed to comply with the provisions of this article. Upon suspending or revoking any amusement permit, the Coordinator shall request the permit holder to surrender all permits and direct the permit holder to discontinue and cease the amusement activity forthwith.
(Ord. 11-2006. Passed 3-22-06.)

378.05 PAYMENT; REPORTS.

(a) Temporary Permit. Every holder of a temporary permit shall, at the conclusion of the amusement but not more than ten (10) days thereafter, pay over to the Coordinator the amount of tax due under this article upon admissions for such day or days and at the same time shall submit to the Coordinator a report of the total taxable admissions charged and/or collected on such day or days and of the total amount of tax due on such admissions. On the expiration day of such temporary permit, the permit holder shall also submit a report, under oath or affirmation, of all admissions charged or collected during the period in which such temporary permit was in effect and of all taxes due and paid.

(b) Permanent Permit. Every holder of a permanent permit shall, on or before the tenth (10th) day of each month, pay over to the Coordinator the amount of tax due under this article upon admissions for the preceding month and at the same time shall submit to the Coordinator a report of the total taxable admissions charged and/or collected during such month and of the total amount of tax due on such admissions.
(Ord. 11-2006. Passed 3-22-06.)

378.06 COLLECTION OF UNPAID TAXES.

All taxes imposed herein, together with all penalties, shall be recoverable by the City in the same manner as other debts are by law recoverable.
(Ord. 11-2006. Passed 3-22-06.)

378.07 CONFIDENTIALITY OF RETURNS.

Any information gained by the Coordinator, or any other official, agent or employee of the City, as a result of any returns, investigations or verifications required or authorized by this article, shall be confidential except in accordance with proper judicial order or as otherwise provided by law. (Ord. 11-2006. Passed 3-22-06.)

378.08 SUNSET PROVISION. (REPEALED)

(EDITOR'S NOTE: Former Section 378.08 was repealed by Ordinance 68-2007, passed December 19, 2007.)

378.99 PENALTY.

Any person, firm or corporation who fails to obtain a permit, file any tax due or file the reports required under this article shall, upon conviction thereof, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed thirty days. Each day that a violation continues shall constitute a separate offense.

(Ord. 11-2006. Passed 3-22-06.)

TITLE SEVEN - Tax Exemptions

- Art. 381. Local Economic Revitalization Tax Assistance Act (LERTA) Tax Exemption.
 Art. 382. Residential Investment Opportunity (RIO) Tax Exemption. (Repealed)
 Art. 383. Property Tax.

ARTICLE 381

Local Economic Revitalization Tax Assistance Act (LERTA) Tax Exemption

381.01	Definitions.	381.05	Procedure for obtaining exemption.
381.02	Exemption.	381.06	Exclusion. (Repealed)
381.03	Maximum exemption.	381.07	Appeals board.
381.04	Exemption schedule.	381.08	Expiration.

CROSS REFERENCES

- Improvement of Deteriorating Property or Areas Tax Exemption Act - see 72 P.S. §4711-101 et seq.
 Local Economic Revitalization Tax Assistance Law - see 72 P. S. §4722 et seq.

381.01 DEFINITIONS.

As used in this article, certain terms are defined as follows:

- (a) "Deteriorated property (commercial)" means any industrial, commercial or other business property owned by an individual, association or corporation, and located in an investment opportunity area, as hereinafter provided, or any such property located within the City which has been the subject of an order by a government agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with laws, ordinances or regulations.
- (b) "Deteriorated property (residential)" means a dwelling unit located in an investment opportunity area or Residential Target Area as hereinafter provided, or a dwelling unit located within the City which has been or upon request is certified by a health, housing or building inspection agency as unfit for human habitation for rent withholding, or other health or welfare purposes, or has been the subject of an order by such an agency requiring the unit to be vacated, condemned or demolished by reason of noncompliance with the laws, of ordinances or regulations.
- (c) "Dwelling unit" means a house, double house or duplex, townhouse or row house, condominium, apartment or any building intended to provide complete, independent, living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

- (d) "Improvement" means repair, construction or reconstruction, including alterations or additions, having the effect of rehabilitating a deteriorated property, either commercial or residential, so that it becomes habitable or attains higher standards of safety, health, economic use or amenity, or is brought into compliance with laws, ordinances or regulations governing such standards. Ordinary upkeep and maintenance shall not be deemed an improvement.
(Ord. 57-2007. Passed 11-21-07.)
- (e) "Investment opportunity area" means any area within the boundaries of the City of Erie which have a zoning classification as identified by the Erie City Zoning Ordinance, 80-2005 as amended, of R-1, R-1A, R-2, R-3, RLB, C-1, C-2, C-3, C-4, M-1, M-2 or IP. W-R.
- (f) "Residential construction" means the building or erection of dwelling units, as defined in subsection (c) hereof, upon vacant land or land specifically prepared to receive such structures. (Ord. 60-1978 §1. Passed 11-5-78.)
- (g) "Residential Target Area" means the area within the Investment Opportunity Area to be determined by Council, following a public hearing, to be eligible for enhanced tax exemption under Act 76 of 1977 Local Economic Revitalization Tax Assistance Act, and Act 42 of 1977, Improvement of Deteriorating Property or Areas Tax Exemption Act. The Target Area is as follows:
Beginning at a point at the intersection of West 3rd Street and the Bayfront Parkway; Thence, heading east along and including properties fronting on both sides of West Third Street and East Third Street to its terminus at Hess Avenue;
Thence, south including properties fronting on both sides of Hess Avenue to East Lake Road;
Thence, east along the south line of East Lake Road to Franklin Avenue, including only the properties located south of East Lake Road;
Thence, south along Franklin Avenue to East 16th Street;
Thence, east along the City Line to a point intersecting with Bird Drive;
Thence, south along Bird Drive to Buffalo Road;
Thence, west along Buffalo Road to McClelland Avenue, including properties fronting on both sides of Buffalo Road;
Thence, south along McClelland Avenue to East 26th Street, including properties fronting on both sides of McClelland Avenue;
Thence, west along the north line of East 26th Street to Downing Avenue;
Thence, south along the west line of Downing Avenue to the north line of East 28th Street;
Thence, west along the north side of East 28th Street to a point intersecting with the Eastside Connector;
Thence, northwest along the Eastside Connector to a point intersecting with East 26th Street if extended;
Thence, west along East 26th Street to Brandes Street, including properties fronting on both sides of East 26th Street;
Thence, south along the west side of Brandes Street to East 28th Street;
Thence, west along East 28th Street to French Street, including properties fronting on both sides of East 28th Street;
Thence, north along French Street to East 26th Street;
Thence, west along 26th Street to State Street, including properties fronting on both sides of 26th Street;

Thence, south on State Street to Glenwood Park Avenue;
Thence, south on Glenwood Park Avenue to West 30th Street,
including properties fronting on both sides of Glenwood Park Avenue;
Thence, west on West 30th Street and continuing west as the street
becomes West 29th Street to Elmwood Avenue, including all properties fronting
on both sides of West 30th and subsequently West 29th Streets;
Thence, north along the east side of Elmwood Avenue to West
26th Street;
Thence, east along West 26th Street to Cranberry Street;
Thence, north along Cranberry Street to West 11th Street,
including properties fronting both sides of Cranberry Street;
Thence, west along West 11th Street to its terminus with the
Bayfront Parkway if it were extended, including only properties fronting on the
north side of West 11th Street;
Thence, northeast along the Bayfront Parkway to the point of
beginning.
(Ord. 35-2012. Passed 10-3-12.)

381.02 EXEMPTION.

There is hereby exempted from all property taxation the assessed valuation of:

- (a) Improvements to deteriorated properties (commercial) and/or deteriorated properties (residential); and
- (b) New residential, commercial or industrial construction built in any investment opportunity area. (Ord. 60-1978 §2. Passed 11-15-78.)

The exemption authorized by subsections (a) and (b) hereof shall be in the amounts and in accordance with the provisions and limitations provided in Sections 381.03 to 381.05.
(Ord. 35-2012. Passed 10-3-12.)

381.03 MAXIMUM EXEMPTION.

- (a) The exemption from real property taxes shall be limited to:
 - (1) The additional assessment attributable to the improvements made to deteriorated property (commercial);
 - (2) The additional assessment attributable to the improvements made to deteriorated property (residential).(Ord. 35-2012. Passed 10-3-12.)

(b) (EDITOR'S NOTE: Subsection (b) was repealed by Ordinance 57-2007, passed November 21, 2007.)

(c) In all cases the exemption from taxes shall be limited to that portion of the additional assessment attributable to the improvement or new construction, as the case may be, and for which a separate assessment has been made by the County Bureau of Assessment and for which an exemption has been separately requested. No tax exemption shall be granted if the property owner does not secure the necessary and proper permits prior to improving the property. No tax exemption shall be granted if the property as completed does not comply with the minimum standards of the Unified Construction Codes.
(Ord. 35-2012. Passed 10-3-12.)

(d) In any case after the effective date of this section where deteriorated property is damaged, destroyed or demolished, by any cause or for any reason, and the assessed valuation of the property affected has been reduced as a result of such damage, destruction or demolition, the exemption from real property taxation authorized by this article shall be limited to that portion of new assessment attributable to the actual cost of improvements or construction that is in excess of the original assessment that existed prior to damage, destruction or demolition of the property. In the event that a property has been fully demolished by demolition permit, and has remained vacant of any structure after the expiration of one year from the issue of the permit, then the assessed value of the demolished improvements shall thereafter not be subject to taxation. (Ord. 57-2007. Passed 11-21-07.)

381.04 EXEMPTION SCHEDULE.

(a) The schedules for real estate taxes to be exempted in the investment opportunity area shall be as follows:

- (1) Additions or alterations to existing structures of all building types shall be according to the schedule herein:

<u>Year of Abatement</u>	<u>Abatement</u>
1	100% deduction
2	90% deduction
3	80% deduction
4	70% deduction
5	60% deduction
6	50% deduction
7	40% deduction
8	30% deduction
9	20% deduction
10	10% deduction

- (2) New Residential Development abatements shall be according to the schedule herein:

<u>Year of Abatement</u>	<u>Target Area</u>	<u>Non-Target Area</u>
1	100% deduction	100% deduction
2	90% deduction	80% deduction
3	80% deduction	60% deduction
4	70% deduction	40% deduction
5	60% deduction	20% deduction
6	50% deduction	No deduction
7	40% deduction	No deduction
8	30% deduction	No deduction
9	20% deduction	No deduction
10	10% deduction	No deduction

- (3) Business and Industry abatements shall receive a 50% deduction for a 10-year period for all such physical improvements throughout the City. An additional reduction for job creation accompanying new improvements to property shall be available according to the schedule herein:

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<u>Number of new jobs</u>	<u>Wage Level</u>	<u>Additional Deduction</u>
10 - 24	Minimum Wage	10%
10 - 24	150% of Minimum Wage	25%
25 +	Minimum Wage	25%
25 +	150% of Minimum Wage	40%

An annual application for the additional Job Creation benefit will be required to provide documentation of employment numbers and pay levels, and will be accepted at any point throughout the initial 10-year abatement period if the applicant achieves the criteria. The abatement would only be applicable from the time the application is approved for the remainder of the 10-year LERTA period.

Proof of existing employment at the date of the building permit application is required. The number of jobs created shall be the number of employed persons working at that physical location for at least 35 hours per week. The hourly wage shall be the average hourly wage for all employees at that facility.

The required employment rate must be maintained throughout the duration of the tax abatement period, and a reduction below the minimum number of jobs or average salary will result in a reduction or elimination of the additional abatement of taxation. (Ord. 35-2012. Passed 10-3-12.)

(b) The exemption from taxes granted under this article shall be upon the property and shall not terminate upon the sale or exchange of the property.

(c) If an eligible property is granted tax exemption pursuant to this article the improvement shall not, during the exemption period, be considered as a factor in assessing other properties. (Ord. 60-1978 §4. Passed 11-15-78.)

381.05 PROCEDURE FOR OBTAINING EXEMPTION.

(a) Any person desiring tax exemption pursuant to this article should apply to the City at the time a building permit is secured for construction of the improvement or new residential construction, as the case may be. The application must be in writing upon forms specified by the City setting forth the following information:

- (1) The date the building permit was issued for such improvement;
- (2) The location of the property to be improved;
- (3) The nature of the property to be improved;
- (4) The type of improvements (commercial or residential);
- (5) The summary of the plan of the improvements;
- (6) The cost of the improvements;
- (7) Whether the property has been condemned by any governmental body for noncompliance to laws or ordinances;
- (8) Whether the property has been inspected and verified by the Bureau of Plumbing and Building Inspections; and such additional information as the City may require.
- (9) There shall be on the form application for a building permit the following notice:

"Notice to Taxpayer"

By Ordinance No. 60-1978, you may be entitled to exemption from tax on your contemplated improvement by reassessment.

An application for exemption may be secured from the Building Inspector or other properly designated official and must be filed at the time the building permit is secured.

(Ord. 60-1978 §5. Passed 11-15-78.)

(b) A copy of the exemption request shall be forwarded to the County Bureau of Assessment by the Building Inspector's Office. The Bureau shall determine whether the exemption shall be granted and shall, upon completion of the improvements comply with all applicable Building and Housing Codes (except for new residential construction) and assess separately the dwelling unit and the land upon which the new residential construction stands and shall otherwise perform its duties as above provided for construction or improvements to residential and commercial properties. Treasurer shall keep a separate list of all such exempted properties, and upon receipt of the assessments for each property from the Bureau, the Treasurer shall see to it that each such exempted property is credited with its proper exemption as against the County Assessment figure. (Ord. 99-1979 §2. Passed 11-14-79.)

(c) The cost of improvements to commercial properties or cost of improvements or construction per dwelling unit of residential properties, as the case may be, 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 amendment to this article, if any, shall not apply to requests initiated prior to their adoption. (Ord. 60-1978 §5. Passed 11-15-78.)

(d) (EDITOR'S NOTE: Subsection (d) was repealed by Ordinance 57-2007, passed November 21, 2007.)

381.06 EXCLUSION. (REPEALED)

EDITOR'S NOTE: Former Section 381.06 was repealed by Ordinance 35-2012.

381.07 APPEALS BOARD.

There is hereby created a Board of LERTA Appeals which shall hear all appeals by property owners aggrieved by decisions of the LERTA Administrator regarding the Job Creation abatement. The Board shall consist of seven (7) members, with 2 being appointed by the Mayor and City Council; 2 by the Erie City School District, 2 by Erie County, and one member chosen by the other members of the Board at large. The terms of office of such members shall be (agreed upon by the city, School District and County) three years for each member. The Board will promulgate a list of rules and guidelines to review each application so appealed, which shall be approved by the taxing bodies prior to being implemented by the Board. No fee for application for such appeals shall be required (but will be returned to the applicant in the event of a favorable decision by the Board). The Board will notify the Erie County Assessment Office of all decisions on or before November 15 of each year, with any changes to be implemented for the next calendar year. Further appeals from the Board's decision shall be governed by Pennsylvania Local Agency Law. (Ord. 30-2008. Passed 6-18-08.)

381.08 EXPIRATION.

The provisions of this article shall expire upon the tenth anniversary of its enactment, unless extended by ordinance duly adopted. (Ord. 35-2012. Passed 10-3-12.)

ARTICLE 382
Residential Investment Opportunity (RIO) Tax Exemption (Repealed)

EDITOR'S NOTE: Former Article 382 was repealed by Ordinance 35-2012, passed October 3, 2012.

ARTICLE 383
Property Tax

EDITOR'S NOTE: Under the provisions of Section 2531 of the Third Class City Code, as amended (53 P.S. §37531), a property tax is enacted annually. Consult the office of the City Clerk, for the ordinances levying and fixing the tax rate for the current year.

383.01 Prepayment discount; late payment penalty.

CROSS REFERENCES

Power of Council to levy property taxes - see 3rd Class §2531
(53 P.S. §37531)
Tax liens; liability for false return - see 3rd Class §2537
(53 P.S. §37537)

383.01 PREPAYMENT DISCOUNT; LATE PAYMENT PENALTY.

Pursuant to the authority contained in the Act of July 9, 1976, (Public Law 530) and its amendment, all taxpayers of the City subject to the payment of City taxes assessed upon their real estate located within the City shall be entitled to a discount of two percent (2%) from the amount of such tax upon making payment of the whole amount thereof on or before March 31, 1989. The face amount of the City tax shall be payable throughout the months of April and May. Furthermore, all taxpayers of the City subject to the payment of City taxes assessed upon their real estate located within the City shall be charged a penalty of ten percent (10%) for payments made between June 1 and December 31 of the year in which the taxes are due and owing and for payments made on or after January 1 of the succeeding year a penalty of ten percent (10%). (Ord. 88-1989 § 1. Passed 10-18-89; Ord. 19-2003. Passed 4-16-03; Ord. 68-2005. Passed 12-14-05.)

