

ORDINANCE NO. 1778

ORDINANCE AMENDING ORDINANCE NUMBER 1276 as amended,  
BUSINESS AND OCCUPATION TAX

WHEREAS, the legislature of the State of West Virginia has given municipalities the authority to impose a B&O tax by provisions appearing in West Virginia Code, Section 8-13-5; and,

WHEREAS, the City of Weirton currently has a limited rate Business and Occupation Tax listed under Article 791 of the City's Municipal Code; and,

WHEREAS, the City of Weirton wishes to broaden the application of the business and occupation tax in various categories of Article 791 and has determined that it is in the best interest of the citizens of the City to change the business and occupation tax rates in the following categories:

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF WEIRTON, BROOKE AND HANCOCK COUNTIES, WEST VIRGINIA, that Article 791 of Ordinance No. 1276 is amended to read:

**791.03: PRODUCERS OF NATURAL RESOURCE PRODUCTS**

Upon every person engaging or continuing within the city in the business of severing, extracting, reducing to possession and producing for sale, profit or commercial use any natural resource products, the amount of such tax shall be equal to the value of the articles produces as shown by the gross proceeds derived from the sale thereof by the producer, except as hereinafter provided, *multiplied by the respective rates as follows: coal, 1.00%; limestone or sandstone quarried or mined, 1.50%; oil, 3.00%; natural gas in the excess of the value of Five Thousand Dollars (\$5,000.00), 6%; blast furnace slag, 3.00%; sand, gravel or other mineral products, not quarried or mined, 3.00%; timber, 1.50%; and other natural resource products, 2.00%.*

The measure of this tax is the value of the entire production in the city, regardless of the place of sale or the fact that delivery may be made to points outside the city.

A person exercising privileges taxable under this Section and using or consuming the same in his business or transferring or delivering the same as any royalty paid, in kind, or the like, shall be deemed to be engaged in the business of producing natural resources and shall be required to make returns on account of the production of the business, showing the gross proceeds or equivalent in accordance with uniform and equitable rules for determining the value upon which privilege taxes shall be levied, corresponding as nearly as possible to the gross proceeds from the sale of similar products of like quality or character by other taxpayers.

Persons who produce natural resource products outside of the city and who make sale of the same within the city shall not pay the tax imposed by this Section but shall pay the tax imposed by Section 791.05 for the privilege of selling such products within the city.

A person exercising any privilege taxable under this Section and engaging in the business of selling his natural resource products at retail in the city shall be required to make returns of the gross proceeds of such retail sales and pay the tax imposed in Section 791.05 for the privilege of engaging in the business of selling such natural resource products at retail in the city. In addition, any person exercising any privilege taxable under this Section and engaging in the business of selling his natural resource products to producers of natural resources, manufacturers, wholesalers, jobbers, retailers or commercial consumers for use or consumption in the

purchaser's business shall be required to make returns of the gross proceeds of such wholesale sales and pay the tax imposed in Section 791.05.

**791.05 BUSINESS OF SELLING TANGIBLE PROPERTY; CERTAIN SALES EXEMPT.**

Upon every person engaging or continuing within the city in the business of selling any tangible property whatsoever, real or personal, including the sale of food in hotels, restaurants, cafeterias, confectioneries and other public eating houses, except sales of any person engaging or continuing in the business of horticulture, agriculture or grazing, or selling stocks, bonds or other evidence of indebtedness, there is hereby levied, and shall be collected, a tax equal to .3750% of the gross income of the business with gross sales of One Hundred Twenty-Five Thousand Dollars (\$125,000.00) or more per quarter-year; in the case of selling at wholesale, the tax shall be equal to .0375% of the total gross income of the business.

**791.07 BUSINESS OF CONTRACTING.**

Upon every person engaging or continuing within the city in the business of contracting, the tax shall be equal to 2.00% of gross sales for individual construction projects exceeding One Hundred Thousand Dollars (\$100,000.00)

A prime contractor, one who furnishes work or both materials and work under a written or oral contract, for the construction, alteration, repair, decoration or improvement of a new or existing building or structure or any part thereof, or for the alteration, improvement or development of realty, must report his gross income under the contracting classification without any deduction on account of any expenses incurred. If the prime contractor executes a contract with another for a portion of the job or project, the prime contractor receives no deduction from gross income on account of any payments made to the subcontractor. The subcontractor will also be taxable on his gross income under the contracting classification.

**791.08 BUSINESS OF OPERATING AMUSEMENTS.**

Upon every person engaging or continuing within the city in the business of operating a theater, opera house, moving picture show, vaudeville, amusement park, carnival, circus, dance hall, skating rink, racetrack, or any other place at which amusements are offered to the public, the tax shall be equal to .1250% of the gross income of the business.

**791.09 SERVICE BUSINESS OR CALLING NOT OTHERWISE SPECIFICALLY TAXED.**

Upon every person engaging or continuing within the city in any service business or calling not otherwise specifically taxed under this Article, there is hereby levied, and shall be collected, a tax equal to .6500% of the gross income of any such business with gross sales of Twenty-Five Thousand Dollars (\$25,000.00) or more per quarter-year;

**797.10 BUSINESS OF FURNISHING PROPERTY FOR HIRE.**

Upon every person engaging or continuing within the city in the business of furnishing any real or tangible personal property which has a tax situs in the city, or any interest therein, for hire, loan, lease or otherwise, whether the return be in the form of rentals, royalties, fees or otherwise, the tax shall be .2500% of the gross income of any such activity.

The term "tangible personal property" as used herein, shall not include money or public securities.

**791.12 HEALTH MAINTENANCE ORGANIZATIONS.**

Upon the activity of a health maintenance organization holding a certificate of authority under the provisions of Article twenty-five-a [33-25A-1 et .seq.], chapter thirty-three of the W.Va. State

Code, the amount of such tax shall be .1250% applied solely to that portion of gross income received from the Medicaid program pursuant to Title XIX of the Social Security Act, the state employee programs administered by the public employees insurance agency pursuant to article sixteen [§5-16-1 et seq.], chapter five of this code, and other federal programs, for health care items or services provided directly or indirectly by the health maintenance organization, that is expended for administrative expenses; and shall be .1250% applied to the gross income received from enrollees, or from employers on behalf of enrollees, from sources other than Medicaid, state employee programs administered by the public employees insurance agency and other federal programs for health care items or services provided directly or indirectly by the health maintenance organization; provided, that this tax rate limitation shall not extend to that part of the gross income of health maintenance organizations which is received from the use of real property other than property in which any such company maintains its office or offices in this state, whether such income is in the form of rentals or royalties.

Administrative expenses shall include all expenditures made by a health maintenance organization other than expenses paid for claims incurred or payments made to providers for the benefits received by enrollees.

**BE IT FURTHER ORDAINED** that said Ordinance shall go in to effect 30 days after passage of the second reading. All other language and aspects of Ordinance No.1276 as amended shall remain unchanged and in effect.

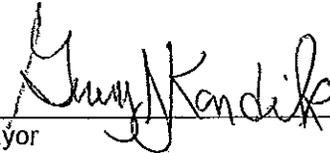
FIRST READING: June 13, 2014

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June 24, 2014

SECOND READING: July 1, 2014

Mayor



ATTEST:



City Clerk

Sponsored by Councilmen Dalrymple, Ash, and Wright