

THE CORPORATION OF THE DISTRICT OF BURNABY

BY-LAW NO. 4732

A BY-LAW to provide for the imposition of an annual tax hereinafter referred to as a "Business Tax" on every person carrying on within the Municipality a resident business.

Under and pursuant to Section 427 of the Municipal Act (R.S.B.C., 1960) and amendments thereto, the Council of The Corporation of the District of Burnaby in open meeting assembled enacts as follows:

1. This By-law may be cited as the "BURNABY BUSINESS TAX BY-LAW 1965".
2. In this By-law, and in any amendment or regulation passed by Council pursuant to this By-law, unless the context otherwise requires,

"Annual Rental Value" means the annual rental value of real property, whether or not the property is actually being rented, determined by the Assessor and may be in any case the same as or higher or lower than the actual annual rental being paid for the occupancy of the real property. 'Annual rental value' shall be deemed to include the cost of providing heat and other services necessary for the complete and comfortable use or occupancy of the real property, whether the same be provided by the owner or occupant, and in making such determination the Assessor may give consideration to the factors mentioned under Section 330(1) of the Municipal Act (R.S.B.C., 1960) and such other factors as to him may seem appropriate;

*Repealed
by B/L 7132
Nov 7/1977*

"Assessor" shall mean the person appointed by the Council pursuant to the provisions of the Municipal Act (R.S.B.C., 1960), or the person or persons designated by him to act on his behalf;

"Business" means the carrying-on of a commercial or industrial undertaking of any kind or nature or the providing of professional, personal, or other services for the purpose of gain or profit;

"Business Tax Assessment Roll" shall mean the assessment roll prepared by the Assessor for the purpose of levying the Business Tax;

"Business Tax Roll" shall mean the tax roll prepared by the Collector for the purpose of collecting the Business Tax;

"Council" shall mean the Municipal Council of The Corporation of the District of Burnaby;

"Collector" shall mean the person appointed by the Council as Collector pursuant to the provisions of the Municipal Act (R.S.B.C., 1960), or the person or persons designated by him to act on his behalf;

"Municipality" or "Corporation" shall mean The Corporation of the District of Burnaby;

"Person" shall mean any corporation, partnership, or party, and the heirs, executors, administrators, or other legal representatives of such person to whom the context could apply according to law;

"Personal Property" means the property included in the definition of "'improvements' for the purpose of levying school rates" and excluded in the definition of "'improvements' for all purposes other than levying school rates" as set out in Section 2 of the Municipal Act (R.S.B.C., 1960);

"Premises" shall include any real property or any building, structure or any part thereof;

"Real Property" means land and the property included in the definition of "'improvements' for all purposes other than levying school rates" and excluded in the definition of "'improvements' for the purpose of levying school rates" as set out in Section 2 of the Municipal Act (R.S.B.C., 1960);

"Resident Business" means a business carried on in or from premises within the Municipality;

"Taxable Value of Personal Property" means seventy-five per centum of the value of personal property;

"Value of Personal Property" means the assessed value of personal property as determined annually by the Assessor pursuant to the Assessment Equalization Act, 1953, for the purpose of levying for school rates.

All other words, phrases, or expressions used in this By-law shall be construed, if not inconsistent with the context as it appears herein, as having the same respective meanings as in the Municipal Act (R.S.B.C., 1960).

3. Save as hereinafter exempted in Schedule "A" attached and forming part of this By-law, or as exempted by the Municipal Act or any other Act of the Legislature, every person carrying on a resident business within the Municipality shall pay to the Corporation in respect of the calendar year ending December 31st, 1965, and annually thereafter, either an amount equal to SIX AND ONE-HALF per centum ($6\frac{1}{2}\%$) of the annual rental value of the real property, or part thereof, occupied or used for the purpose of the business, or an amount equal to ONE per centum (1%) of the taxable value of personal property used by him in or on the real property for the purpose of the business, whichever is the greater. Such amount shall be known as the Business Tax.

4. The Assessor shall, once in every year, make an assessment of the annual rental value of all resident business premises occupied or used for the purpose of the business, save and except those exempted from the payment of the Business Tax.

5. The Assessor or any person appointed by him may enter upon any premises at any reasonable time in order to ascertain if the owner or occupant of such premises is liable for a Business Tax and, if so, to obtain such information as he may require in order to assist him in assessing the annual rental value of such premises; and it shall be the duty of any person owning or occupying any such premises to permit the Assessor or his appointee to obtain such information and to provide him with all information with respect to the said premises as may be reasonably required for the purpose of making such assessment.

6. It shall be the duty of every person, owner or agent to notify the Assessor within seven (7) days of the commencement of any business or occupancy or change in occupancy or change in value of personal property, as the case may be, specifically:-

- (a) Every owner who commences business or who changes his premises either by moving to a new location or by adding to or enlarging his premises, or who vacates all or any portion of his premises, and
- (b) Every owner or agent renting or leasing premises to any person, and
- (c) Every person adding to or deleting from his inventory of personal property used for the purpose of the business.

This section shall not apply to those premises or occupancies which are exempted from Business Tax under Section 3 of this By-law or those premises which are leased or rented for residential purposes only and in which no resident business is carried on.

7. The Assessor, in assessing the rental value of premises subject to the Business Tax, shall not allow or permit himself to be influenced in any manner whatsoever in respect thereof except insofar as he may accept the advice and counsel of his advisory valuers or assistants.

8. The Assessor shall, once in every year, prepare an assessment roll of the annual rental value of all premises assessed by him pursuant to Section 4 hereof for the purpose of levying the Business Tax in which he shall set down in respect to each of such premises:

- (a) The name of the person owning, occupying or using such premises;
- (b) The description thereof;
- (c) The annual rental value thereof;
- (d) The value of personal property thereof;
- (e) The business carried on therein;
- (f) The period of occupancy in respect to the business assessed.

9. The Business Tax Assessment Roll may be in the form of a book or may consist of an assortment of sheets, cards or such other records as may be approved by the Council.

10. The Assessor shall notify the Municipal Clerk when the said Business Tax Assessment Roll is complete. The Assessor further shall attach to the said Roll when completed a certificate signed by him to the effect that the said Roll is, to the best of his information, judgement and belief, correct in all respects.

11. When the said Roll has been completed, it shall be the duty of the Assessor, at least twenty-one (21) days before the first sitting of the Local Court of Revision relative to the Business Tax Assessment Roll, to mail to each person shown on the said Roll a notice addressed to him at the assessed premises (or to such other address as he may authorize in writing) setting out either the annual rental value as shown in the said Roll of the premises occupied or used by him, or the taxable value of personal property used by him in or on the real property for the purpose of the business, whichever produces the greater amount of tax at the rates set out in this By-law. Such notice shall also set out the date of the first sitting of the Local Court of Revision, and any other information the Assessor may deem advisable for the proper administration of the tax.

12. The Business Tax Assessment Roll shall be revised and corrected by the Local Court of Revision as constituted under Section 355 (2) of the Municipal Act, and all the provisions of the said Act relating to the appointment, powers and duties of such Courts and their members shall apply, mutatis mutandis, to adjudication in respect to the Business Tax Assessment Roll.

13. The Council, on advice from the Assessor and Collector, shall appoint a time and place for the sitting of the Local Court of Revision for the purpose of hearing all complaints against the Business Tax assessments made by the Assessor, and the Local Court of Revision shall, after hearing all evidence adduced by the complainants as well as the testimony of the Assessor, his advisory valuers or assistants, alter, amend, revise or

confirm the Business Tax Assessment Roll accordingly. The burden of proof is in all cases upon the party appealing.

14. Any person complaining that the assessment of the annual rental value of the premises or the taxable value of personal property occupied or used, as the case may be, by himself or any other person for the purpose of the business is too high or too low, or that he or any other person has been wrongfully placed upon or omitted from the Business Tax Assessment Roll, shall give notice in writing to the Assessor stating the grounds of complaint at least ten (10) clear days before the date appointed for the sitting of the Local Court of Revision. A person having given such notice may personally, or through his solicitor or any other person authorized by him in writing to appear on his behalf, come before the Local Court of Revision and state his grounds of complaint. On the hearing of such complaint the said Court may alter, amend, revise or confirm the assessment and the complainant shall be limited to the grounds or reasons set out in his notice of intention to appeal.

15. At the time or times appointed the Local Court of Revision shall form a quorum, meet and try all complaints of which written notice has been given in accordance with Section 14 hereof. The assessment complained against shall not be varied if the assessed value bears a fair and just relation to the value at which similar property in the Municipality is assessed.

16. If any person complaining fails to appear as required by the Local Court of Revision, either in person or by his solicitor or agent, the Court may proceed ex parte.

17. (a) The Chairman of the Local Court of Revision shall see that alterations are made in the Business Tax Assessment Roll in accordance with the direction of the said Court and shall initial in red ink each alteration.

(b) The Local Court of Revision shall identify, confirm and authenticate the Roll by attaching thereto a certificate in proper form which shall be signed by a majority of the members of the Court.

18. The Business Tax Assessment Roll as revised, confirmed and authenticated by the Local Court of Revision, except insofar as the said Roll may be amended on appeal, shall be valid and binding on all parties concerned and, save as provided in Sections 20, 21, 30 and 32 hereof, such Roll shall for all purposes be conclusively taken and held to be the Business Tax Assessment Roll for the Corporation until a new roll shall have been revised, confirmed and authenticated by the Local Court of Revision.

19. If the Council or any person is dissatisfied with the decision of the Local Court of Revision in respect to the Business Tax Assessment Roll he may appeal therefrom to a Judge of the Supreme Court or to a Judge of the County Court in the manner provided in Section 362 of the Municipal Act (R.S.B.C., 1960).

20. After the completion of the Business Tax Assessment Roll, the Assessor shall prepare a Supplementary Business Tax Assessment Roll or further supplementary rolls on which he shall set out all the information required by Section 8 of this By-law with respect to:-

- (a) All premises which should have been but were not included in the Business Tax Assessment Roll;
- (b) All premises used or occupied, and on which a Business Tax is applicable, in which changes occurred after the completion of the Business Tax Assessment Roll either by adding to or enlarging the premises or by increasing in any way the rental value thereof;

(c) All premises used or occupied, and on which a Business Tax is applicable, in or on which the value of personal property was increased after the completion of the Business Tax Assessment Roll:

Such Supplementary Business Tax Roll or rolls shall be transmitted forthwith to the Collector for the levying of the Business Tax pursuant to Section 30 hereof.

21. All Supplementary Business Tax Assessment Rolls are subject to the conditions of assessment, the duties and responsibilities imposed upon the Assessor, the notification and right of appeal of the person assessed, and all other matters, as far as applicable, governing the Business Tax Assessment Roll.

22. Complaints against the assessments on any Supplementary Business Tax Assessment Roll shall be considered by the Local Court of Revision appointed for the year next following that in which the Supplementary Roll was prepared.

23. In the event of an assessment on the Supplementary Business Tax Roll being set aside or the assessed value reduced by the Local Court of Revision, or on appeal therefrom, the Collector shall refund to the person assessed the amount of the tax or excess tax paid by him and of any penalty or interest imposed and paid on such tax or excess. In the event that no tax payments have been made, the Collector shall adjust the Business Tax Roll to properly record the decision of the Local Court of Revision, or the decision on appeal therefrom.

24. After the authentication of the Business Tax Assessment Roll pursuant to Section 17 of this By-law, the Collector shall prepare a "Business Tax Roll" which may be an extension of the Business Tax Assessment Roll. Such roll may be in the form of a book or may consist of an assortment of sheets, cards, or other such records as may be approved by Council and shall set out therein the information required in Section 8, subsections (a), (b), (c), (e) and (f) of this By-law. In addition the Business Tax Roll shall

show the taxable value of personal property used in respect to each business premise shown in the Roll, the amount of the full fee to be paid by the person in respect of the same business for a license to operate solely in the Municipality, and the Business Tax payable by each person whose name appears in the said Roll.

25. Upon completion of the Business Tax Roll the Collector shall mail to every person whose name appears on the said Roll a statement showing the Business Tax payable by him which amount has been abated by the amount of the full fee paid by him in respect of the same business for a license under Division (1) of Part X of the Municipal Act (R.S.B.C., 1960) to operate solely in the Municipality.

26. The Business Tax shown on the said statement shall be due and payable to the Corporation on the first day of the month following the date of mailing.

27. To any Business Tax remaining unpaid thirty (30) days after it has become due and payable, there shall be added as a penalty, an additional sum amounting to five per centum (5%) of such tax.

28. An occupant of property or part thereof, or a user of personal property, is not freed from taxation under this By-law by reason only of the fact that he is or is not the owner of such property.

29. Every person assessed for a Business Tax is liable for payment of the tax, and the same does not constitute a charge upon the real property, and the provisions of subsections (2) and (3) of Section 387 and of Section 388 of the Municipal Act (R.S.B.C., 1960) apply, mutatis mutandis.

30. Upon receipt of a Supplementary Business Tax Assessment Roll pursuant to Section 20 hereof, the Collector shall follow the procedures set out in Sections 24 to 29 inclusive hereof, save that each Business Tax shall be calculated proportionate to the number of months remaining from the date of commencement of use or occupancy as shown in the Supplementary Business Tax Assessment Roll to the end of the calendar year.

31. For the purpose of computing the amount of the Business Tax, a part of a month shall be treated as one month.

32. Every person whose name appears either on the Business Tax Assessment Roll or supplementary roll, and who ceases to carry on business within the Municipality before the expiration of the calendar year, on application, shall be entitled to a credit, if his current Business Tax be unpaid, or a refund, if his current Business Tax has been paid, proportionate to the number of months of the calendar year remaining from the first day of the month following the date of application.

33. Whenever any change in the premises results in a decrease in the annual rental value or a decrease in the taxable value of personal property the person assessed shall, on application, be entitled to a credit or refund in the same manner provided in Section 32 hereof.

34. The Collector shall have power to make adjustments not inconsistent with the provisions of this By-law with respect to the Business Tax payable by any person.

35. Every person liable to a Business Tax who violates any of the provisions of this By-law is, on summary conviction, liable to a penalty not exceeding two hundred and fifty dollars for every such violation. In addition to any other penalty to which he may be liable, any person who fails to comply with the provisions of Section 6 hereof is liable, on summary conviction,

to a penalty not exceeding ten dollars for every day on which such failure continues.

36. This By-law shall come into force and effect from and after January 1st, 1965.

Read a first time this 26th day of April, 1965.

Read a second time this 26th day of April, 1965.

Read a third time this 26th day of April, 1965.

Reconsidered and finally adopted this 3rd day of May, 1965.



A handwritten signature in cursive, likely belonging to the Reeve.

R E E V E

A handwritten signature in cursive, likely belonging to the Clerk.

C L E R K