

## TOWNSHIP OF TILDEN

ORDINANCE NO. 118, 1997

AN ORDINANCE OF THE TOWNSHIP OF TILDEN, BERKS COUNTY, PENNSYLVANIA, AMENDING AND RESTATING ORDINANCE 3-1965, AS AMENDED BY ORDINANCE 9-1965, AS FURTHER AMENDED BY ORDINANCE 4-1966, AS FURTHER AMENDED BY ORDINANCE 3-1967, DEFINING AND IMPOSING A TAX ON ADMISSIONS TO AMUSEMENTS; DETERMINING THE RATES OF TAXATION AND REQUIRING PAYMENT OF TAX DUE; REQUIRING A PERMIT, FEE AND FOR THE APPLICATION AND EXPIRATION THEREOF; ESTABLISHING THE DUTIES OF THE TAX COLLECTOR AND REQUIRING THE CONFIDENTIALITY OF RETURNS; AND PRESCRIBING PENALTIES FOR VIOLATION

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Tilden, Berks County, Pennsylvania (the "Township"), and it is hereby ENACTED AND ORDAINED by the authority of the same as follows:

Section 1. Authority for Enactment. This Ordinance is enacted under authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901, et seq. (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

Section 2. Definitions. As used in this Ordinance, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

(a) Admission. Monetary charge of any character, including contributions, donations, dues or membership fees, periodic or otherwise, charged for the privilege of attending or engaging in amusements as hereinafter defined; provided, however, "admission" shall not include tax added or charge expressly subject to the Tax Return Code of 1971, P.L. 6, No. 2, March 4, 1971, 72 P.S. §7161, et seq. (1982), as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

(b) Amusement. All manner or form of entertainment, diversion, sport, pastime or recreation within the Township for which admission is charged or paid, except motion picture theaters.

(c) Person. Any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, "person", as applied to associations, shall mean the partners thereof; and as applied to corporations, the officers thereof.

The singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine.

Section 3. Imposition of Tax. A tax is imposed, for general revenue purposes, at the rate of five percent (5%) of the admission price to each amusement within the Township for which the individual admission price is ten cents (\$0.10) or more. The tax shall not be charged and collected on:

(a) Monetary charge paid by any bona fide student in a public school or college for the privilege of attending amusements conducted or participated in by such school or college.

(b) Admission accompanying or incidental to the serving of food or drink or the sale of merchandise, where the charge for admission is wholly included in the price paid for food, refreshment or merchandise, and the price for food, refreshment or merchandise is not increased during the time when such entertainment is offered. In the event that the price of such food, refreshment or merchandise is increased during times the entertainment is offered, then such increase in the price as is paid by one purchasing such food, refreshment or merchandise shall be deemed to be an admission.

(c) Admission where the proceeds thereof, after payment of reasonable expenses, inure exclusively to the benefit of any charitable, religious, civic or non-profit educational organization whose status is evidenced by proof of Internal Revenue Service tax exemption.

#### Section 4. Rate of Tax.

(a) Where the admission is fixed, the tax shall be based upon the fixed admissions collected.

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

(c) In the case of admissions to golf courses, the tax base upon which the tax shall be levied shall not exceed forty percent (40%) of the greens fee; and the greens fee shall include all costs of admission to the golf course.

Section 5. Permit Required. After the effective date of this Ordinance, any person desiring to conduct or to continue to conduct any amusement within the Township shall file with the Tax Collector an application for a permanent amusement

permit or a temporary amusement permit, as the case may be. A permanent permit shall be issued to an amusement that is to continue for longer than thirty (30) days. A temporary permit shall be issued to an amusement that is to continue for less than thirty (30) days.

Section 6. Permit Expiration. Permanent permits shall expire on December 31 of the year in which issued. Temporary permits shall be valid until the last day the amusement is conducted, but not exceeding thirty (30) days from the date of issue.

Section 7. Permit Application. On forms supplied by the Tax Collector, the following information shall be printed in ink or typewritten:

- (a) name of the Township;
- (b) whether a "temporary" or "permanent" permit;
- (c) name and address of the person receiving the permit;
- (d) location of the amusement covered by the permit;
- (e) type of amusement;
- (f) period for which the permit is issued;
- (g) number of the permit; and
- (h) date the permit is issued.

Every permit shall be signed by the permittee and issued in duplicate. The original shall be given to the permittee and the duplicate shall be kept on file by the Township.

In the case of loss, defacement or destruction of any permit, the permittee shall apply to the Tax Collector for re-issuance.

Section 8. Payment of Tax Due: Report to Be Submitted by Permit Holders.

(a) Every holder of a permanent permit shall, on or before last day of every calendar month, transmit to the Tax Collector, under oath or affirmation, a report of the total admissions charged or collected by him during the preceding calendar month and of the total tax due thereof under this Ordinance. When he submits this report, he shall pay to the Tax Collector the entire amount of tax due.

(b) Every holder of a temporary permit shall, at the close of each day the amusement was held, transmit to the Tax Collector, under oath affirmation, a report of the total admission charged or collected by him on such day and of the total

tax due thereon under this Ordinance. When he submits this report, he shall pay to the Tax Collector the entire amount of tax due. On the day of expiration of the temporary permit, the permittee shall, in addition, submit to the Township, under oath or affirmation, a report of all admissions charged or collected during the period in which such temporary permit was in effect and of all taxes due and paid. When he submits this report, he shall pay the entire amount of taxes remaining unpaid.

Provided, however, any holder of a temporary permit who is a resident of the Township or who has a permanent place of business therein may submit the reports hereinabove required of himself on the day following the days hereinabove specified.

Provided, further, in every case the Tax Collector shall furnish to the person paying any tax levied under this Ordinance a receipt for the payment of such tax.

#### Section 9. Duties of the Tax Collector.

(a) The Tax Collector is charged with the duties of collecting and receiving taxes, fines and penalties imposed by this Ordinance. It shall be his duty to keep a record showing the amount received by him, from whom received and the date of such receipt.

(b) The Tax Collector and his duly appointed agents are hereby empowered with the approval of the Board of Supervisors of the Township to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this Ordinance, and charged with enforcing the provisions of this Ordinance and any rules and/or regulations promulgated pursuant hereto.

(c) If any person required to secure a permit under this Ordinance shall fail to file a report at the time specified herein or shall file a report which on its face appears incorrect or insufficient, the Tax Collector or his duly appointed agents shall assess said person or persons an amount of tax which the Tax Collector or his agents deem reasonable and appropriate. In all cases of assessment, the Tax Collector or his duly appointed agents shall give the parties assessed a notice in which shall be stated the amount of the tax imposed or levied.

(d) Every holder of an amusement permit shall keep and maintain complete records showing the daily admissions charged or collected, the amount of tax due and any other information necessary to determine the amount of tax due.

(e) Any person aggrieved by any decision of the Tax Collector shall have the right to appeal to the Court of Common Pleas, as in all other cases.

Section 10. Confidential Nature of Returns. Any information gained by the Tax Collector or any other official, agent or employee of the Township as a result of any returns, investigations, hearings or verifications required or authorized by this

Ordinance shall be confidential, except in accordance with proper judicial order or as otherwise provided by law.

Section 11. Penalties. Any person who or which has failed, neglected or refused to comply with any of the terms or provisions of this Ordinance or of any regulation or requirement pursuant thereto and authorized thereby or has violated or permitted the violation of the provisions of this Ordinance shall be subject to a penalty of at least One Hundred and 00/100 Dollars (\$100.00) and not more than One Thousand and 00/100 Dollars (\$1,000.00) plus all court costs, including reasonable attorney fees incurred by the Township as a result thereof, and in the event the penalty imposed for the violation of this Ordinance is not voluntarily paid to the Township, the Township shall initiate a civil enforcement proceeding before a District Justice. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure.

The Tax Collector or his duly appointed agents shall have the power in the name of the Township to institute proceedings against any and all persons who violate the provisions of this Ordinance.

If for any reason the tax is not paid when due and suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and interest and penalties herein imposed.

Section 12. Repealer. All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed. The following ordinances or parts thereof are specifically repealed: 3-1965, 9-1965, 4-1966 and 3-1967.

Section 13. Severability. If any provision, sentence, clause, section or part of this Ordinance 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 Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township that this Ordinance would have been adopted had such unconstitutional, illegal or invalid provision, sentence, clause, section or part thereof not been included herein.

Section 14. Effective Date. This Ordinance shall become effective five (5) days after enactment.

ENACTED and ORDAINED this 3rd day of November, 1997.

TOWNSHIP OF TILDEN

By: \_\_\_\_\_  
Supervisor

By: \_\_\_\_\_  
Supervisor

By: \_\_\_\_\_  
Supervisor

Attest: \_\_\_\_\_  
Secretary