

ORDINANCE NO. __

**AN ORDINANCE OF TUNKHANNOCK
TOWNSHIP, MONROE COUNTY,
COMMONWEALTH OF
PENNSYLVANIA, AMENDING
ORDINANCE NO. 12-1970,
ESTABLISHING AN AMUSEMENT TAX
FOR TUNKHANNOCK TOWNSHIP**

**THE BOARD OF SUPERVISORS OF TUNKHANNOCK TOWNSHIP HEREBY
ORDAINS AS FOLLOWS:**

Be it resolved by the Board of Supervisors of the Township of Tunkhannock, Monroe County, Pennsylvania, hereby amends Ordinance no. 12-1970 and subsequent amendments thereto as follows:

That new Article ___ of the Codified Ordinances of Tunkhannock Township is to be read as follows:

1. Authority for Enactment

This article is enacted under the authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, *53 P.S. §6901, et seq.*, as hereafter amended, supplemented, modified, or reenacted by the General Assembly of Pennsylvania.

2. Definitions; Word Usage

(a) Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

(1)"Admission" means the established price or regular monetary charge of any character whatsoever, charged, paid, or in any manner received by producers, as herein defined, from the public, or a limited or select number thereof, directly, or indirectly, for the privilege of attending or engaging in any amusement, as herein defined.

(2)"Amusement" means any manner or form of entertainment within Tunkhannock Township, including, but not limited to, the following: circuses, shows, concerts, lectures, sports events, amusement parks, athletic contests, auto races, and any other form of diversion, sport, pastime, or recreation, for which admission is charged or paid.

(3)"Person" means any natural person, entity, firm, association, foundation, institution, partnership, co-partnership, corporation, or unincorporated association, except the term person shall not include any political subdivision or municipal corporation. Whenever used in any clause prescribing or imposing a penalty, or both, the term "person," as applied to a corporation or association, shall include the officers thereof.

(4)"Producer" means any person, as herein defined, conducting any place of amusement, as herein defined, where the public, or a limited or select number thereof, may, upon the payment of an established price, attend or engage in any amusement.

(b) In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

3. Imposition of Tax

- (a) A tax imposed, for general revenue purposes, at the rate of 3% of the price of admission charged and collected, such tax to be paid by the person charged or paying the admission to every amusement within Tunkhannock Township, Monroe County, Commonwealth of Pennsylvania. The tax for sponsored events at the Pocono Raceway is covered by state legislation.
- (b) Where the price of admission is based on a group rate or discount, the tax shall be based upon the gross admissions collected.
- (c) The Township, at its discretion, may pass by Resolution regulations interpreting and enforcing this Ordinance.

4. Exemption; Limitations

- (a) The tax herein levied and imposed shall not be applicable on admissions to any form of amusement which is sponsored, organized, and promoted by, and whose benefits inure to, a political subdivision or municipal corporation within the Commonwealth of Pennsylvania.
- (b) The tax levied and imposed herein shall not apply to membership dues, fees, or assessments for charitable, religious, beneficial, or nonprofit organizations, where such taxes are unlawful.
- (c) The tax herein levied and imposed shall not apply to admissions to motion-picture exhibitions and sound motion-picture exhibitions having no form of live entertainment, vaudeville, or theatrical performance in connection therewith, to the extent the charge and collection of such taxes are unlawful.
- (d) The tax herein levied and imposed shall not apply to

membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or select number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control, so long as the charge and collection of such tax is prohibited by applicable law.

- (e) The tax herein levied and imposed shall only apply to admissions to bowling alleys or bowling lanes, to the extent permitted by applicable law.
- (f) The tax herein levied and imposed shall not apply to horse racetracks, so long as the charge and collection of such tax is unlawful.

5. Permit Required

(a) After the effective date of this article, any person desiring to conduct **or** to continue to conduct any amusement, the price of admission to which is subject to tax under this article, shall file with the Township Manager, or designee, an application for either a permanent amusement permit or a temporary amusement permit. Every application for a permit should be submitted on a form prescribed, prepared, and furnished by the Township Manager. In the case of any amusement that is to continue for longer than 30 days, a permanent amusement permit shall be issued. In the case of any amusement that is to continue for 30 days or less, a temporary permit shall be issued.

(b) Information required:

(1) The application shall be in such form as the Township Manager shall prescribe and shall include the following requests for information:

- i) The proper legal names and addresses of the persons conducting the amusement.
- ii) The proper legal names and addresses of the persons owning the facility at which the amusement takes place.
- iii) The type of permit requested.
- iv) The location of the amusement.
- v) The admission price or prices.
- vi) The approximate total receipts anticipated.
- vii) The names and addresses of copartners, members and/or officers of the persons conducting

the amusement.

viii) Type/description of amusement; and

ix) Period for which the permit is to be issued.

(2) The producer will sign the application, if a natural person, and in the case of an association, by a member or partner thereof having the authority to execute the application, and in the case of a corporation, by an officer having the authority to execute the application.

(c) At the time of making such an application, the applicant shall pay to the Township Manager, or designee, any permit fee established by the Board of Supervisors for Tunkhannock Township, for each annual permit or for each temporary permit.

(d) Upon approval of the application and the payment of any permit fee herein required, the Township Manager, or designee, shall grant and issue to each applicant an annual or temporary amusement permit for each place of amusement within the Township as set forth in the application. Amusement permits shall not be assignable and shall be valid only for the persons in whose names they are issued and for the conduct of amusements at the places designated therein. All permits for permanent places of amusement shall expire on December 31, next succeeding the date upon which they are issued. Permits for temporary places of amusement shall expire at the time specified therein.

(e) Permits issued for permanent places of amusement under the provisions of this article are to be renewed annually before January 1, upon application made to the Township Manager, or his/her designee, and the payment of any renewal fee established by the Board of Supervisors for Tunkhannock Township.

(f) Upon completion of any registration form by a producer or the proper officer or agent, the Township through its representative shall issue to that producer an annual or a temporary registration certificate for each of the producer's places of amusement within the Township. The registration certificates shall not be assignable and shall be valid only for the producer in whose name the certificate was issued and for the conduct of amusements at the place designated in the certificate, and shall at all times be conspicuously displayed at the places for which issued. All registration certificates for permanent amusements shall expire on December 31 of the calendar year for which they are issued. Registration certificates for temporary amusements shall expire at the time specified on the certificate.

(g) Every producer conducting a permanent amusement shall register that amusement prior to commencing operations, and annually with the Township before January 1 of each year.

6. Payment of Tax

(a) Each producer holding a permit shall, on or before the last day of each month of each year after the effective date of this article, transmit to the Township Manager,

or designee, on a form prescribed and prepared by the Township, a report of the amount of tax collected by the producer during the preceding month of the year. Said report shall be submitted under oath or affirmation of the producer. Reports shall be due, respectively for each month, on or before the last day of the succeeding month.

- (b) Every producer holding a temporary permit shall, within 30 days of the expiration of the temporary permit, transmit to the Township Manager, or his/her designee, on a form prescribed or prepared by the Township, a report of the amount of tax collected by him during the term of the temporary permit. Said report shall be submitted under oath or affirmation of the producer.
- (c) Each producer, at the time of making each and every report required by this section, shall compute and pay to Tunkhannock Township the taxes collected by him and due to the Township during the period for which the report is made. Rules and regulations under this Ordinance may be promulgated by the Tunkhannock Township Board of Supervisors by Resolution.
- (d) Producers shall collect the tax imposed herein and shall be liable to the Township or agents thereof for the payment of the same to the Township. If, however, any producer fails to make any report or payment as herein required, an additional three (3%) percent of the amount of the tax shall be added by the Township and collected as a penalty for each month or fraction thereof during which the tax remains unpaid, together with interest at the legal rate established by the Township. The Township reserves the right to accept alternative security.
- (e) Every producer conducting a temporary amusement shall file a report with the Township or its representative promptly after each performance as directed at the time of registration.
- (f) All reports required under this section shall show the information prescribed by the Township.
- (g) All taxes hereunder shall be recoverable as other debts of like amounts are by law recoverable.
- (h) Every producer, at the time of making every report required by this article, shall compute and pay to the Township, or its representative, the taxes collected by the producer and due to the Township during the period for which the report is made. The amount of all taxes imposed under this article, in the case of places of permanent amusement, shall be due and payable quarterly, on or before April 30, July 31, October 31 and January 31, for the preceding quarter of the calendar year, and in the case of every temporary amusement, shall be due and payable on the day the reports in those cases are required to be made under this section. All such taxes shall bear interest at the rate of 1/2% per month, or fractional part of a month, from the date they are due and payable, until paid.

7. Duties of the Township Manager

- (a) The Township Manager will have the duty of collecting and receiving the taxes, permit fees, fines and penalties imposed by this article. It shall be the duty of the Township Manager or his/her designee, to keep a record showing the amount received from each person paying the tax, fees, fines and penalties, and the date of such receipt.
- (b) The Township Manager or his/her designee are hereby empowered, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the administration and enforcement of this article, including provisions for the examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any fines and/or regulations promulgated pursuant hereto.
- (c) The Township Manager and his/her designee are authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, to verify the accuracy of the report made, or if no report was made, ascertain the tax due.

8. Fine for Nonpayment, Recoverability.

If any tax levied in pursuance of this article is unpaid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto. In addition to any other penalties which may be assessed for violation of this article, if any producer shall neglect or refuse to make any report and payment as required by this article, an additional \$100 or 10%, whichever is larger, of the amount of the tax shall be added and collected.

9. Suits on Collection and Penalty

- (a) The Township Manager, or his/her designee, shall have the power in the name of the Township to institute proceedings against all persons who violate the provisions of this article,
- (b) If for any reason the tax remains unpaid when due and a suit is brought for the recovery of any such tax, the person liable shall be liable for the costs of collection, attorneys fees and interest and penalties herein imposed.

10 Confidentiality of Information.

- (a) Any information gained by the Township Manager or any other official agent or employee of the Tunkhannock Township because of any reports, investigations, hearings, or verifications required or authorized by this article shall be kept confidential, except for official purposes and except in accordance with proper Each producer holding a permit shall, on or before the last day of each month following the end of each quarter of each year after the effective date of this article, transmit to the Township Manager, or his/her

designee, on a form prescribed and prepared by the Township Manager, a report of the amount of tax collected by him during the preceding quarter of the year. Said report will be submitted under oath or affirmation of the producer, Quarters of the year shall end as follows: March 31, June 30, September 30, and December 31. Reports shall be due, respectively for each quarter, on or before April 30, July 31, October 31, and January 31.

- (b) Every producer holding a temporary permit shall, within 30 days of the expiration of the temporary permit, transmit to the Township Manager, or her designee, on a form prescribed or prepared by her, a report of the amount of tax collected during the term of the temporary permit. Said report will be submitted under oath or affirmation of the producer.
- (c) Each producer, at the time of making each report required by this section, shall compute, and pay to Tunkhannock Township, the taxes collected by him and due to the Township during the period for which the report is made.

11. Applicability

Nothing in this article shall be construed to empower Tunkhannock Township to levy and collect the taxes hereby imposed on any person, business, or any portion of any business not within the taxing power of Tunkhannock Township under the laws and Constitution of the United States and the laws and Constitution of this Commonwealth.

12. Severability

- (a) Each section, paragraph, part, term and/or provision of this chapter shall be considered severable, and if, for any reason, any paragraph, part, term and/or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation, such shall not impair the operation or affect the remaining portions, sections, paragraphs, parts, terms and/or provisions of this article, and the latter will continue to be given full force and effect, and said invalid sections, parts, paragraphs, terms and/or provisions shall be deemed not to be a part of this article.
- (b) The provisions of this article are severable, and if any of its provisions shall be held to be illegal, invalid, or unconstitutional, said determination shall not affect or impair any of the remaining provisions of this article. It is declared to be the intention of the Board of Supervisors of Tunkhannock Township that this article would have been adopted if such illegal, invalid, or unconstitutional provisions had not been included herein,

13. Effective Date

This ordinance shall become effective five days after passage and shall continue on a calendar-year basis thereafter without annual reenactment.

14. Violations

- (a) Any person who violates any provision of this article or who neglects, fails or refuses to furnish complete and correct reports, or who fails to pay over any tax levied at the time required, or who knowingly makes any incomplete, false or fraudulent return, or who attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax imposed by this article, shall be subject to a fine or penalty not exceeding \$600 for each and every offense, and the costs of prosecution thereof, or to undergo imprisonment for not more than 90 days, or both.
- (b) Each day on which a person violates any of the provisions of this article is a separate offense and punishable as such,
- (c) Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article,

SECTION 2. All Ordinances and parts of Ordinances inconsistent herewith are repealed.

RESOLVED by the **Board of Supervisors of the Township of Tunkhannock**, this

_____ day of _____, 2024.

ATTEST:

**TOWNSHIPOF TUNKHANNOCK
BOARD OF SUPERVISORS**

Martina Kernan, Township Secretary

George Ewald, Chairman

Kevin Weiand, Vice Chairman

Byron Witt

