

ORDINANCE NO. 121

AN ORDINANCE FOR THE PURPOSE OF ESTABLISHING AN AMUSEMENT TAX IN THE TOWNSHIP OF HANOVER, INCLUDING DEFINING AMUSEMENT AND THE IMPOSITION OF THE TAX; PROVIDING FOR REGISTRATION BY PRODUCERS OF AMUSEMENTS; PROCEDURES FOR COLLECTION OF THE TAX FROM PRODUCERS OF THE AMUSEMENTS; PROVIDING FOR THE FILING OF REPORTS AND PAYMENT OF THE TAX BY PRODUCERS OF AMUSEMENTS; INDICATING PENALTIES AND DETERMINATION BY THE TOWNSHIP OF THE AMOUNT OF TAX DUE, INCLUDING AUTHORITY FOR THE TOWNSHIP TO ESTIMATE TAXES WHEN PRODUCERS HAVE NOT MADE A REPORT; DISPOSITION OF TAXES, INTEREST AND PENALTIES; PRESCRIBING PENALTIES FOR VIOLATIONS; AND PROVIDING FOR THE COLLECTION AND DISPOSITION OF MONIES COLLECTED.

This Ordinance shall be known as the "Township of Hanover Amusement Tax Ordinance."

I. PURPOSE

This Ordinance is to provide for general revenue purposes by way of the levying assessment and collection of taxes imposed upon any facility which charges an admission within Hanover Township.

II. 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. 56901 et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

III. DEFINITIONS

- (A) ADMISSION – monetary charge of any character whatever, including but not limited to donations, contributions, the price of season tickets, or parking fees, charged or paid by persons for the privilege of attending or engaging in amusements as defined below.
- (B) AMUSEMENT – all manner and forms of entertainment, subject to tax as set forth in the Local Tax Enabling Act, including but not limited to theatrical performances, concerts, circuses, carnivals, side shows, all forms of entertainment

at fairgrounds and amusement parks, floor shows, dancing exhibitions, trade shows, craft shows, art shows and exhibitions, sporting events, any and all forms of live entertainment, and all other forms of diversion, sport, recreation, or pastime for which admissions charges are obtained from the general public or a limited or selected number thereof, directly or indirectly. Except, however, the following shall not be subject to the tax: fees charged as rentals for real property to be used for camping purposes; admissions to motion picture theaters; and, any other activities that constitute a "purely public charity" or which are exempted from tax liability in the Local Tax Enabling Act. For purposes of this section the Pennsylvania Supreme Court has defined a "purely public charity" as any activity that (a) Advances a charitable purpose; (b) Donates or renders gratuitously a substantial portion of its services; (c) Benefits a substantial and indefinite class of persons who are legitimate subjects of charity; (d) Relieves the government of some of its burden; and (e) Operates entirely free from private profit motive.

- (C) ASSOCIATION – any partnership, limited partnership or other form of unincorporated enterprise.
- (D) PERSON – any natural person or persons, partnership, association, joint venture, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to a partnership or association shall mean the partners or members thereof, and as applied to a corporation, the officers or agents thereof. If applicable, the singular shall include the plural; the plural shall include the singular; and the masculine shall include the feminine.
- (E) PLACE OF AMUSEMENT – any place, indoors or outdoors, partly or wholly within the Township, where the general public, or a limited or selected number thereof, may, upon payment of admission, attend or engage in any amusement as defined herein.
- (F) PRODUCER – any person or association as defined above, conducting any place of amusement.
- (G) SECRETARY – the Secretary of Hanover Township, Washington County, Pennsylvania.
- (H) TOWNSHIP – the Township of Hanover, Washington County, Pennsylvania.

IV. IMPOSITION OF TAX

A tax is hereby levied, assessed and imposed, for general Township purposes, upon the admission to any amusement within the Township, at the rate of five percent (5%) of the admission charged and collected, such tax to be paid by the person charged or paying the admission. Provided, where no fixed admission is charged, the tax shall be paid upon the gross

amount collected, and shall be paid by the producer, if not paid by the person charged or paying such admission.

V. REGISTRATION BY PRODUCERS

(A) On and after the effective date of this Ordinance, every producer who at that time is conducting and every person who thereafter begins to conduct any amusement within the Township shall register with the Secretary.

(B) The registration shall be for permanent amusements (those conducted at one (1) location in excess of one (1) month) or temporary amusements (those conducted at one (1) location for a period of one (1) month or less than one (1) month), as the case may be, and each shall be made upon a form prescribed, prepared, and furnished by the Township, and shall set forth the name under which the producer conducts or intends to conduct the amusement, whether the amusement is permanent or temporary, the location of the amusement, the type of amusement, and such other information as the Township may require. If the producer has or intends to have more than one (1) place of amusement within the Township, the producer shall register the places of amusement and shall state the location of each. In the case of a registration for a temporary amusement or for a temporary place of amusement, the producer shall also state the date or dates and length of time the amusement is to be conducted at each place, and the name and address of the owner, lessee or custodian of the premises upon which that amusement is to be conducted. If the producer is an association or a corporation, the names and addresses of the principal officers thereof, and any other information prescribed by the Township for purposes of identification must be given. The registration shall be signed and verified by oath or affirmation by the producer, if a natural person, and in the case of a corporation, by an executive officer, or some person specifically authorized to sign the registration, to which shall be attached the written evidence of the person's authority.

(C) 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.

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

VI. COLLECTION BY PRODUCERS

(A) Producers shall collect the tax imposed by this Ordinance and shall be liable to the Township, as agents thereof, for the payment of the tax to the Township or its designated representative.

(B) Where any temporary amusement is conducted by any person who is not the owner, lessee, or custodian of the place of amusement, or where any temporary amusement is, after the effective date of this Ordinance permitted by the owner, lessee or custodian of any place, to be conducted without its being registered with the Township as required by this Ordinance, the collection of the tax imposed by this Ordinance and that producer is not the owner of the place where the permanent amusement is to be conducted or where the owner of any place permits a producer to begin to conduct a permanent amusement at that place after the effective date of this Ordinance without its being registered with the Township as required by Section IV of this Ordinance, the collection of the tax imposed by this Ordinance shall be the responsibility of the owner of the place where the permanent amusement is conducted and shall be collected and paid by the owners unless collected and paid by the producer conducting the permanent amusement.

VII. REPORTS AND PAYMENT OF TAXES

(A) For the purpose of ascertaining the amount of tax collected and payable by the producers of the Township, it shall be the duty of every producer, except as provided in Section VII(B) below, conducting a place of amusement, on or before the tenth day of each month, to

transmit to the Township or its representative on forms prescribed and prepared by the Township, a report of the amount of the tax collected by the producer during the preceding month.

(B) 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.

(C) All reports required under this Section shall show the information prescribed by the Township.

(D) All taxes hereunder shall be recoverable as other debts of like amounts are by law recoverable.

(E) Every producer, at the time of making every report required by this ordinance, 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 Ordinance, in the case of places of permanent amusement, shall be due and payable on the tenth day of the next succeeding month, 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, and all such taxes shall bear interest at the rate of one-half of one percent (1/2%) per month, or fractional part of a month, from the date they are due and payable, until paid.

VIII. PENALTY

In addition to any other penalties which may be assessed for violation of this Ordinance, if any producer shall neglect or refuse to make any report and payment as required by this Ordinance, an additional three hundred fifty dollars (\$350.00) or ten percent (10%), whichever is larger, of the amount of the tax shall be added and collected.

IX. AUTHORITY OF TOWNSHIP TO DETERMINE TAX DUE WHEN NOT SATISFIED

If the Township or its representative is not satisfied with the report and payment of the tax made by any producer under the provisions of this Ordinance, the Township representative is hereby authorized and empowered to make determination of the tax due by that producer, based upon the facts contained in the report, or upon any information within the Township's possession, or that comes into the Township's possession, and for this purpose the Township or its representative is hereby authorized to examine the books, paper tickets, ticket stubs and records of any producer taxable under this Ordinance, in order to verify the accuracy of any report or payment made under the provisions of this Ordinance or to ascertain whether the taxes imposed by this Ordinance have been paid.

X. AUTHORITY OF TOWNSHIP TO ESTIMATE TAX FROM PRODUCERS NOT MAKING REPORT

If any producer shall neglect or refuse to make any report and payment of tax required by this Ordinance, or if, as a result of an investigation by the Township or its representative, a report is found to be incorrect, the Township or its representative shall estimate the tax due by that Producer, and determine the amount due by the producer for taxes, penalties and interest.

XI. DISPOSITION OF TAXES, INTEREST AND PENALTIES

All taxes, interest and penalties received, collected or recovered under the provisions of this ordinance shall be paid into the Township treasury for the use and benefit of the Township.

XII. COLLECTOR

The collector of the tax shall be appointed annually by the Township to serve until removed or a successor appointed. The collector shall receive such compensation for services as the Township shall determine. The collector shall collect and receive all taxes levied under this Ordinance, shall furnish a receipt of their payment and shall keep a record showing the amount received by the collector from each taxpayer under this ordinance and the date of each receipt. The collector shall give bond to the Township with a bonding company authorized by law to act as surety in the sum as the Township by resolution shall direct. The surety bond shall be conditioned on the faithful performance of the collector's official duties.

XIII. PENALTIES

Any person who shall violate any provision of this ordinance shall, upon summary conviction thereof, be sentenced to pay a fine not exceeding three hundred (\$300.00), costs and restitution; and, in default of payment of said fine and costs, to a term of imprisonment not to exceed ninety (90) days.

The fine imposed by this Ordinance shall be in addition to any other penalty imposed by any other section of this Ordinance.

XIV. DISPOSITION OF EXCESS MONIES COLLECTED

In the event that tax monies levied and collected under the authority of this Ordinance or any other ordinance adopted under the Local Enabling Act, exceed the limitations imposed by law, that excess shall not be expended during that year, but shall be deposited in a separate account for expenditure in the following fiscal year, or the Township Board of Supervisors may choose to temporarily suspend the collection of said tax at any time by simple resolution during any year so as to avoid collection of excess tax monies.

XV. REPEALER

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed upon the effective date of these Ordinances.

XVI. SEVERABILITY

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

XVII. EFFECTIVE DATE

This Ordinance shall become effective upon enactment, and shall continue on a calendar year basis, thereafter, without the need for reenactment.

ORDAINED AND ENACTED by the Supervisors of Hanover Township, Washington County, Pennsylvania the 30th day of March 2011.

BOARD OF SUPERVISORS
HANOVER TOWNSHIP

Donald Winkler
Donald Winkler, Chairman

Herbert Grubbs
Herbert Grubbs, Supervisor

David Duerr, Supervisor

Nancy Voeller
Nancy Voeller, Vice Chair

Alfred Contumelio
Alfred Contumelio, Supervisor

Attest:

(SEAL)

Wendy M Lumenteni, Secretary

Date: March 30, 2011