



Text File

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Committee: Committee on Finance and Law

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Ordinance amending the Pittsburgh Code at Title Two: Fiscal, Article VII: Business Related Taxes, Chapter 241: Amusement Tax, Section 241.01: Definitions, to update language in the city code. The Council of the City of Pittsburgh hereby enacts as follows: Section 1. The Pittsburgh Code is hereby amended at Title Two: Fiscal, Article VII: Business Related Taxes, Chapter 241: Amusement Tax, Section 241.01: Definitions, as follows:

**The Council of the City of Pittsburgh hereby enacts as follows:**

**Section 1.**

CHAPTER 241: - AMUSEMENT TAX

§ 241.01 - DEFINITIONS.

As used in this Chapter, certain terms are defined as follows:

(a) **AMUSEMENT.** All manner and forms of entertainment, including concerts, moving picture shows, vaudeville, circus, carnival and side shows; all forms of entertainment at fair grounds and amusement parks; athletic contests including wrestling matches, boxing and sparring exhibitions, football, basketball and baseball games, skating, golfing, tennis, hockey, bathing, swimming, archery, shooting, riding, dancing and all other forms of diversion, sport, recreation or pastime; shows, exhibitions, contests, displays and games, and all other methods of obtaining admission charges, donations, contributions or monetary charges of any character, from the general public or a limited or selected number thereof, directly or indirectly, in return for other than tangible property, or specific personal professional services; provided that the term **AMUSEMENT** shall not include any Exempt Amusement or any amusement located outside the City limits ~~private annual affairs sponsored by nonprofit organizations for members and their guests at which the admission charges or contribution equal or approximate the expenses.~~

(b) **ESTABLISHED PRICE.** Regular monetary charge of any character, including donations and contributions, fixed and exacted or in any manner received by producers, as herein defined, from the general public or a limited or selected number thereof, directly or indirectly, for the privilege of attending or engaging in any entertainment or amusement, provided that:

(1) When entertainment or amusement is conducted in any roof garden, night club, cabaret, bar, brewery, restaurant or other place where the charge for admission, wholly or in part, is included in the price paid for refreshment, service or merchandise, the amount paid for admission to the amusement shall be deemed to be ten (10) percent of the amount paid for refreshment, service and merchandise;

(2) When amusement is conducted at a social club or fraternal organization which also furnishes entertainment for which a separate charge is not made, the established price shall be fifty (50) percent of the gross receipts;

(3) Where admission is obtained to any amusement sponsored by an Institution of Purely Public Charity is obtained, solely or partly by a contribution, or donation, or other charge, and there is no fixed price for amusement and not less than seventy-five (75) of the proceeds of the amusement inure exclusively to the benefit of a charitable organization if members of the general public are admitted and the amusement is not an Exempt Amusement, the established price for amusement for purposes of the tax shall be twenty-five (25) percent of the total donation, contribution and other monetary charge. ~~Where a fixed price has been established for the general public for a particular amusement which is sponsored by a charitable organization, the fixed price shall be the established price for the tax without regard to the foregoing seventy-five (75) percent requirement.~~

(c) EXEMPT AMUSEMENTS.

(1) The term amusement shall not include private affairs sponsored by nonprofit organizations for members and their guests at which the admission charges or contribution approximate the expenses and the net proceeds, net of reasonable expenses, inure exclusively to benefit the nonprofit organization. However, if members of the general public are invited to the private affair, the event is not an Exempt Amusement, unless the event qualifies as an Exempt Performing Arts Production.

(2) The term amusement shall not include an Exempt Performing Arts Production.

(3) The term amusement shall not include admissions to places of amusement where the primary purpose of the admission or event is to provide scientific, historical, or educational material to the patron so long as no material entertainment or recreation is provided. Admission charges to lectures of a scientific, historical or educational nature, such as continuing education courses, when such lectures are produced or conducted by nonprofit associations or clubs are not subject to the tax. However, admission fees to places that provide food or drink, including alcoholic beverages, but do not otherwise provide entertainment or recreation, are not Exempt Amusements if the primary purpose of the event is to market or showcase one or more commercial products, even if ancillary historical, scientific or educational material also is provided to the patron. Admission fees to tasting events that offer food or drink, but do not offer entertainment or recreation, are Exempt Amusements if the Producer collects sales or drink taxes from the patron based on the admission charge or contribution.

(4) The term amusement shall not include any admission fee or charge paid for the sale of admission to or for the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling. The term amusement shall not include real property rented for camping purposes. The term amusements shall not include membership dues, fees or assessments paid by patrons to engage in activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or

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weight control. However, the patron must participate in this health-related activity to qualify for the exemption. The term amusements shall not include membership dues, fees or assessments of charitable, religious, beneficial or nonprofit organizations paid by patrons, such as sportsmen, recreational, golf or tennis clubs.

(5) The term amusement shall not include any activity that the City is prohibited from taxing by reason of the U S Constitution, federal law, or laws of the Commonwealth. Should any Producer claim that any amusement is exempt from the tax under this subsection (c), the Producer shall note the exemption on its filed return and provide a reference to the governing law.

**(d) EXEMPT PERFORMING ARTS PRODUCTION.** A Performing Arts event where the Producer is an Institution of Purely Public Charity and the proceeds, net of reasonable expenses, inure exclusively to the Institution of Purely Public Charity.

**(e) INSTITUTION OF PURELY PUBLIC CHARITY.** An organization that qualifies for tax exemption pursuant to "Institutions of Purely Public Charity Act". 10 P.S. § 371. Generally, the charity must show that it has a Pennsylvania sales tax exemption to qualify as an Institution of Purely Public charity. 10 P.S. § 376(a).

**(f) PATRON.** Anyone participating in the privilege of engaging in the amusement.

(Ord. 15-1979, eff. 5-29-79)

**(dg) PERFORMING ARTS.** Artistic performances of live concerts, dance, ballet, opera, traditional forms of drama, including both comedy and tragedy, repertoire works and dramatic recitation of recognized works of literary art of the kind and in the nature normally associated with traditional and contemporary American theater.

**(eh) PERSON.** A corporation, partnership, self-employed individual, business trust, association, estate, trust, foundation or natural person. Whenever used in any provision prescribing a fine or penalty the word "person" as applied to partnerships, shall mean the partners thereof, and as applied to corporations and unincorporated associations, shall mean the officers thereof.

**(fi) PLACE OF AMUSEMENT.** Any place indoors or outdoors within the City where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement as herein defined, including among others, theaters, opera houses, moving picture houses, amusement parks, skating rinks, circus or carnival tents or grounds, fairgrounds, social sporting, athletic riding, gun and country clubs, golf courses bathing and swimming places, dance halls, tennis courts, rifle or shotgun ranges, roof gardens, cabarets, night clubs and other like places.

**(jg) PRODUCER.** Any person conducting any place of amusement, as herein defined, where the general public or a limited or selected number thereof, may, upon the payment of an established price, attend or engage in any amusement.

(k) TAXPAYER. Because the tax is imposed on the patron, the patron is the taxpayer. The Producer is merely the collection agent for the City.

(h) TEMPORARY AMUSEMENT. Any amusement that is conducted in the City for a period of time not exceeding thirty (30) days.

(Ord. 15-1979, eff. 5-29-79; Am. Ord. 46-2005, § 1, eff. 12-30-2005)

§ 241.02 - PERMIT, FEES AND TAX PAYMENT REQUIRED.

No producer shall begin or continue to conduct any form of amusement at any permanent or temporary place of amusement, or any itinerant form of amusement within the city, unless an amusement permit has been issued, the fees paid therefor as prescribed by law and the tax herein imposed paid in accordance with law.

§ 241.03 - PERMIT APPLICATION, ISSUANCE AND USE.

(a) Applications. Every producer desiring to begin or continue to conduct any amusement within the City shall file an application for a permanent, temporary or itinerant amusement permit with the Treasurer.

(1) *Format.* Every application for a permit shall be made upon a form prescribed, prepared and furnished by the Treasurer, and shall set forth the name under which the applicant conducts or intends to conduct a permanent or temporary place of amusement, whether or not the applicant is the holder of a mercantile license in effect when the application is made, and, if so, the number of the license and other information as the Treasurer may require.

(2) *More than one (1) business location.* If the applicant has or intends to have more than one (1) place of amusement within the city, the application shall indicate the location of each place of amusement and, in the case of an itinerant form of amusement, the date and length of time the amusement is to be conducted at each place.

(3) *Temporary place of amusement.* In the case of an application for a permit for a temporary place of amusement, the application shall state the name and address of the owner, lessee or custodian of the premises upon which such amusement is to be conducted.

(4) *Associations or corporations.* If the applicant is an association or a corporation the names and addresses of the principal officers thereof and any other information prescribed by the Treasurer for purposes of identification shall be stated.

(5) *Signatures required.* The application shall be signed and verified by oath or affirmation by the producer if a natural person, and in the case of an association by a member or partner thereof, and in the case of a corporation by an executive officer thereof, or some natural person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of his or her authority.

(b) *Issuance and use.* Upon approval of the application and payment of the fees required by law, the Treasurer shall issue to each applicant an amusement permit for each place of amusement within the City set forth in his or her application. Amusement permits shall not be assignable, shall be valid only for the persons in whose names issued and for the conduct of amusements at the places designated therein and shall at all times be conspicuously displayed at the places for which issued.

(c) *Permit suspension.* The Treasurer may suspend or after hearing revoke an amusement permit whenever he or she finds the permittee has failed to comply with any of the provisions of this Chapter. Upon suspending or revoking any amusement permit the Treasurer shall request the permittee to surrender to him or her immediately all permits or duplicates thereof issued to him or her, the permittee shall surrender promptly all permits to the Treasurer as requested. Whenever the Treasurer suspends an amusement permit, he or she shall notify the permittee immediately and afford him or her a hearing if desired. After the hearing and for good cause, the Treasurer shall either rescind or continue the order of suspension and revoke the permit.

(Am. Ord. 46-2005, § 2, eff. 12-30-2005)

§ 241.04 - AMUSEMENT TAX COMPUTATION.

(a) General rate. A tax is hereby imposed upon the patron of any amusement for the privilege of attending or engaging in any amusement at the rate of ten (10) percent of the established price charged the general public or a limited or selected group thereof, by any producer for the privilege, which shall be paid by the person acquiring the privilege for any given calendar year prior to 1995. Effective January 1, 1995, applicable for all amusements which occur on or after that date, the tax rate shall be five (5) percent.

(1) Rate for ~~certain performing arts~~ Exempt Performing Arts Productions. For as long as the City of Pittsburgh may impose and collect a non-resident sports facility usage fee pursuant to the provisions of the Local Tax Enabling Act, the tax levied under this chapter shall be imposed and collected on ~~admissions to places of amusement which are involved with performing arts for which the net proceeds therefrom inure exclusively to the benefit of an Institution of Purely Public Charity~~ Exempt Performing Arts Productions at the following rates: for tax years prior to 2006, the general rate specified in paragraph (a) shall apply; for the tax year 2006, the rate shall be two and one-half (2.5) percent; for the tax year 2007, the rate shall be one and one-quarter (1.25) percent; for the tax year 2008 and subsequent tax years, the rate shall be zero (0) percent. Regardless of rate, ~~producers~~ Producers of Exempt Performing Arts Productions shall be required to file tax returns showing admissions collected and shall otherwise comply with the various provisions of this chapter.

(b) *Tax computations for free admissions.* If persons are admitted free to any place of amusement at a time and under circumstances for which an established price is charged to other persons, the tax imposed herein shall be computed on the established price charged to other persons for the same or similar accommodations, to be paid by the person so admitted. If persons are admitted at a reduced rate, the tax imposed shall be computed on the reduced rate paid. However, children under twelve (12) years of age, disabled veterans and members of the armed services when on active duty and in uniform, who are admitted free of charge to any place of amusement, shall not be required to pay the tax imposed by this Chapter.

(c) *Tax on boxes or other seating.* For persons having the permanent use or lease of boxes or seats in any place of amusement, the tax imposed shall be computed on the price or rental charged for boxes or seats in the place of amusement, the tax to be paid by the holder or lessee.

(Am. Ord. 33-1994, eff. 1-1-95; Am. Ord. 46-2005, § 3, eff. 12-30-2005; Ord. No. 25-2006, § 1, eff. 1-1-07; Ord. No. 27-2007, § 1, 1-1-08)

§ 241.05 - COLLECTION AND PAYMENT OF TAX.

(a) Producers. Producers shall collect the tax imposed herein and shall be liable to the City agents thereof for the payment of the same to the city. If, however, any producer shall neglect or refuse to make any report and payment as herein required, an additional five (5) percent of the amount of the tax shall be added by the Treasurer and collected as a penalty for each month or fraction thereof during which the tax remains unpaid, together with interest at the rate set forth in Chapter 209. (Ord. 38-1991, eff. 11-25-91)

(b) Temporary amusements. Where permits are obtained for conducting temporary amusements by persons who are not the owners, lessees or custodians of the places where the amusements are to be conducted, or where the temporary amusement is permitted by the owner, lessee or custodian of any place to be conducted without obtaining permits required herein, the tax imposed shall be paid by the owner, lessee or custodian of the place where the temporary amusement is conducted, unless paid by the producer conducting the amusement.

(c) Season tickets. Where patrons have the use of boxes or seats pursuant to § 241.04(c) and are required to pay the entire season price at the time the seating is acquired, the producer shall collect the tax imposed herein and remit it at the time the reservation of the seating is made by the patron, that is, in advance of the season's amusement.

(d) Monthly report. Every producer, except as hereinafter provided, conducting a place of amusement, on or before the fifteenth day of each month, shall transmit to the Treasurer, on a form prescribed and prepared by him, a report under oath or affirmation of the amount of tax collected by him during the preceding month.

(Ord. 38-1991, eff. 11-25-91)

(e) Performance report. Every producer conducting a temporary place of amusement or itinerant form of amusement shall file a report promptly after each performance with the Treasurer or his duly authorized agent.

(f) Tax due date. The amount of all taxes imposed under the provisions of this Chapter shall for places of permanent amusement be payable on the fifteenth day of the next succeeding month, and shall for temporary or itinerant forms of amusement be due and payable on the day such reports are required to be made under this section.

(Ord. 38-1991, eff. 11-25-91)

§ 241.06 - PENALTY AND INTEREST.

**Editor's note-** This section was repealed by Ordinance 27-1990, effective November 20, 1990)

§ 241.07 - TICKET LABELING.

(a) Delineating the Amusement Tax. For each admission subject to the collection of a tax pursuant to the provisions of the Chapter, the producer shall cause to be printed clearly on the face of any ticket, receipt or any other token purchased by a patron for the purpose of admission to an amusement the following information:

- (1) The established price of admission;
- (2) The amount of amusement tax due on division (1); and
- (3) The sum of divisions (1) and (2).

(b) Every place of amusement must maintain, conspicuously posted at the entrance, and near the box office or place at which the established price is paid, one (1) or more signs accurately stating:

- (1) The established price of admission;
- (2) The amount of amusement tax due on division (1); and
- (3) The sum total of the established price and the tax.

(c) Failure to Comply. In the event that a producer fails to comply with the provisions of § 241.07(a), the producer shall be subject to the suspension and/or revocation of his amusement permit pursuant to § 241.03(c).

(Ord. 34-1994, eff. 12-30-94)