

Council of the City of York, PA
Session 2014
Bill No.
Ordinance No.

INTRODUCED BY: **Carol Hill-Evans**

DATE: **December 2, 2014**

AN ORDINANCE

Amending Article 349 "Admissions Tax" of the Codified Ordinances to exclude taxation on the cost of food, beverages and services included in package-deal admission price; exempt taxation for free tickets; and remove the \$3.00 tax cap on single admissions to allow tax to be imposed on current ticket price.

BE IT ORDAINED, by the Council of the City of York, Pennsylvania, that Article 349 "Admissions Tax" of the York City Codified Ordinances be hereby amended as follows:

SECTION ONE: Article 349 "Admissions Tax" of the York City Codified Ordinances is hereby amended as follows:

(Note: Prior amendment - Bill No. 24, Ordinance No. 22, Session 2014)

ARTICLE 349
Admissions Tax

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|--------|---------------------------|---------------|---|
| 349.01 | Definitions. | | |
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| 349.03 | Amusement permits. | 349.08 | Suspension and revocation of permits;
Council hearing. |
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| 349.06 | Examination of records. | 349.11 | Exemptions; Limitations |
| 349.07 | Estimated tax. | 349.99 | Penalty. |

CROSS REFERENCES

Power to tax - see Act 511 of 12-31-65
(53 P.S. §6901-6924)

349.01 DEFINITIONS.

The following words and terms, when used in this article, shall have the following meanings, unless the context clearly indicates otherwise:

- (a) "Admission" means a monetary charge of any character whatever, including donations, contributions and dues, or membership fees, periodical or otherwise, charged or paid for the privilege of attending or engaging in amusements. When such amusement is conducted at any place furnishing a public performance where the charge for admission is wholly, or in part, included in the price paid for refreshment, service, or merchandise, the "admission charge" to such amusement shall be deemed to be the amount of the charge or charges for cover charge, minimum charge, **and admission, excluding the price of food, beverages and services that are included with the ticket** ~~the charge for food and service during such performance and any unpaid charges prior to the performance~~ if such charges entitled the payer to be present at the performance and are paid during or after such period. ~~In the case of persons, except bona fide employees of the person conducting the amusement or municipal or State officers on official business, the admission charge includes those admitted free or at reduced rates at a time when and under circumstances under which an established price is charged to other persons.~~

- (b) "Amusement" means all manner and form of entertainment within the City including among others, the following: theatrical performance, operatic performance, carnival, circus, show, concert, lecture, swimming pool, vaudeville show, side show, amusement park and all forms of entertainment therein, dancing and any other form of diversion, pastime or recreation for which admission is charged or paid. "Amusement" does not include any form of entertainment, the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of religious, educational, governmental or charitable institutions that qualify as a purely public charity under the Pennsylvania Constitution, societies or veterans organizations or police or firemens pension organizations, or any form of entertainment conducted by a nonprofit organization or association exclusively for its members and their bona fide guests.
- (c) "Collector" means the License Tax Officer of the City of York.
- (d) "Person" means any natural person, entity, firm foundation, institution, partnership, limited partnership, co-partnership, association, 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, the term "person," as applied to a corporation or association, shall include the officers thereof.
- (e) "Producer" means any person, as herein defined, conducting any place of amusement, as herein defined, where the general public, or a limited or select number thereof, may, upon the payment of an established price, attend or engage in any amusement, or any person, as herein defined, who is responsible for selling tickets and collecting admission to any qualifying amusement.
- (f) "Temporary amusement" means any amusement which is conducted or to be conducted at one location for a period of ten days or less.
- (g) "Yearly amusement" means any amusement which is conducted or to be conducted at one location for a period of more than ten days.
(Ord. 78-1967 §2.)

349.02 IMPOSITION OF TAX.

- (a) A tax is hereby imposed, for the general revenue purposes, at the rate of 5% of the price of admission to each and every amusement within the City of York, York County, Commonwealth of Pennsylvania.
- (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 maximum tax imposed on any single admission shall not exceed \$3.00.~~

349.03 AMUSEMENT PERMITS.

- (a) On and after January 1, 1968, any person desiring to conduct, or to continue to conduct any amusement within the City shall file with the Collector, an application for a yearly amusement permit or a temporary amusement permit, as the case may be, and shall pay the fee for such permit as required by this article.

(b) Every application for such permit or permits shall be made upon a form prescribed, prepared and furnished by the Collector, and shall set forth the name under which the applicant conducts or intends to conduct an amusement, whether the applicant conducts or intends to conduct a yearly or temporary amusement, the location of the amusement covered by the application, and such other information as the Collector may require. If the applicant conducts or intends to conduct an amusement at more than one location within the City, a separate application shall be filed and a permit fee paid for each such location. In the case of a temporary amusement, the date and length of time such amusement is to be conducted shall be set forth, and the application shall include a statement of consent of the lessee or owner of the location of said amusement including the name, address of the owner, lessee or custodian of the premises on which such amusement is to be conducted and signature. The application shall be signed by the applicant, if a natural person, and in the case of an association or partnership, by a member or partner thereof, and in the case of a corporation, by an officer thereof.

(c) Every applicant, at the time of making such application, shall pay to the Tax Administration Office a permit fee of \$25 for each temporary or yearly permit.

(d) Upon the approval of each application and the payment of any permit fee herein required, the Collector shall grant and issue to each applicant a yearly or temporary amusement permit for each place of amusement. Amusement permits shall not be assignable and shall be valid only for the person and place of amusement in whose name they are issued, and shall at all times be conspicuously displayed at the place for which they are issued. All yearly amusement permits shall expire December 31 next succeeding the date upon which they were issued unless sooner suspended, surrendered or revoked for cause by the proper authorities of the City. All temporary permits shall expire at the time specified therein.

(e) In the case, of loss, defacement or destruction of any permit, the person to whom the permit was issued shall apply to the Collector for a new permit for which a fee of \$10.00 shall be charged. (Ord. 78-1967 §4.)

349.04 PAYMENT OF TAX.

(a) 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 Business Administrator, or his designee, on a form prescribed and prepared by him, a report of the amount of tax collected by him during the preceding quarter of the year. Said report shall 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 Business Administrator, or his designee, on a form prescribed or prepared by him, 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 the Office of the Business Administrator, the taxes collected by him and due to the City during the period for which the report is made.

349.05 LATE FEES.

If any person conducting an amusement shall neglect or refuse to make any report of payment as herein required, an additional ten percent of the amount of the tax shall be added by the Collector and collected. All such taxes shall be recoverable by the City Solicitor as other debts due the City are now by law recoverable. All such taxes shall bear interest at the rate of 1% per month or fraction thereof from the day they are due and payable, until paid.

349.06 EXAMINATION OF RECORDS.

If the Collector is not satisfied with the report and payment of tax made by any person conducting an amusement under the provisions of this article, he is hereby authorized and empowered to make a determination of the tax due by such person, based upon the facts contained in the report, or upon any information within his possession, or that shall come into his possession, and for this purpose, the Collector is authorized to examine the books, papers, tickets, ticket stubs and records of any person conducting an

amusement taxable under this article, to verify the accuracy of any report or payment made under the provisions thereof, or to ascertain whether the tax imposed by this article has been paid.
(Ord. 78-1967 §8.)

349.07 ESTIMATED TAX.

If any person conducting an amusement shall neglect or refuse to make any report and payment of tax required by this article, or if, as a result of any investigation by the Collector a report is found to be incorrect, the Collector shall estimate the tax due by such person and determine the amount due by him for taxes, penalties and interest thereon.
(Ord. 78-1967 §9.)

349.08 SUSPENSION AND REVOCATION OF PERMITS; COUNCIL HEARING.

The Collector may suspend, or, after hearing, revoke an amusement permit whenever he finds that the holder thereof has failed to comply with any of the provisions of this article. Upon suspending or revoking any amusement permit, the Collector shall request the holder thereof to surrender to him immediately, all permits, or duplicates thereof, issued to him and the holder shall surrender promptly all such permits to the Collector as requested. Whenever the Collector suspends an amusement permit, he shall notify the holder immediately and Council shall afford him a hearing if requested, within five days of such notice. After such hearing Council shall either rescind the order of suspension, or good cause appearing therefore, shall continue the suspension or revoke the permit.
(Ord. 78-1967 §10.)

349.09 APPLICATION OF TAXES.

All taxes, interest and penalties collected or received under the provisions of this article shall be paid into the City treasury for use and benefit of the City.
(Ord. 78-1967 §11.)

349.10 POWERS OF COLLECTOR.

The Collector is hereby authorized and directed to make and keep such records, prepare such forms, make such regulations and take such other measures as may be necessary or convenient to carry this article into effect and may in his discretion, require reasonable deposits to be made by applicants for temporary permits.

349.11 EXEMPTIONS; LIMITATIONS.

(a) The tax herein levied and imposed shall not be charged and collected on admissions where the maximum venue capacity is 100 persons or less, based on the permitted occupancy capacity of the venue as determined by applicable building codes, or where the admission price is ~~\$5.00~~ \$6.00 or less.

(b) The tax herein levied and imposed shall not be charged and collected 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.

(c) The tax herein levied and imposed shall not apply to membership dues, fees or assessments for charitable, religious, beneficial or nonprofit organizations, so long as the charge and collection of such tax is prohibited by applicable law.

(d) 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 tax is prohibited by applicable law.

(e) 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 in to 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.

(f) The tax herein levied and imposed shall only apply to admissions to bowling alleys or bowling lanes, to the extent permitted by applicable law.

(g) The tax herein levied and imposed shall not apply to racetracks, so long as the charge and collection of such tax is prohibited by applicable law.

