

ORDINANCE NO. 1 - 1964

AN ORDINANCE OF THE TOWNSHIP OF UPPER BERN, COMMONWEALTH OF PENNSYLVANIA, TO PROVIDE REVENUE BY IMPOSING A TAX UPON SALE OF ADMISSION TO PLACES OF AMUSEMENT, ENTERTAINMENT, DIVERSION, SPORT, RECREATION AND PASTIME AND UPON CHARGES MADE TO ENGAGE IN ANY PRIVILEGE, TRANSACTION, AMUSEMENT, ENTERTAINMENT, DIVERSION, SPORT, RECREATION OR PASTIME; REQUIRING ALL PERSONS, PARTNERSHIPS, ASSOCIATIONS AND CORPORATIONS SELLING SUCH ADMISSIONS OR MAKING SUCH CHARGES TO SECURE PERMITS; IMPOSING DUTIES AND CONFERRING POWERS UPON THE TAX COLLECTOR; PRESCRIBING THE METHOD AND MANNER OF COLLECTING THE SAID TAX; PROVIDING CERTAIN EXEMPTIONS AND IMPOSING PENALTIES.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of the Township of Upper Bern, and it is hereby ENACTED AND ORDAINED By authority of the same:

Section 1. That this ordinance shall be known and may be cited as the "Admission, Participating and Privilege Tax Ordinance".

Section 2. That the following words and phrases when used in this Ordinance shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

"Amusement." All manner and forms of entertainment, including, among others, theatrical or operatic performances, concerts, moving picture shows, vaudeville, circuses, carnivals, fairs and side shows, all forms of entertainment at fair grounds and amusement parks; athletic contests or diversion, including among others, wrestling matches, boxing and sparring exhibitions, football, basketball and baseball games, bowling 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,

juke boxes, pinball machines and any other form of mechanical and/or electronic device for which admission is charged or paid or is coin operated; as well as all other methods of obtaining monetary admission charges, and upon charges made to engage in any privilege, transaction, amusement, entertainment, diversion, sport, recreation or pastime, donations, contributions, or monetary charges of any character, from the general public, or a limited or selected number thereof.

"Established Price." Regular monetary charge of any character whatever, including donations, contributions, fixed and exacted, or in any manner fixed and received by producers, as herein defined, from the general public, or a limited or selected number thereof, directly or indirectly, for the privilege to attend or engage in any entertainment or amusement, provided that when such entertainment or amusement is conducted at any roof garden, night club, cabaret, or other place where the charge for admission or charge is made to engage in any privilege, transaction, amusement, entertainment, diversion, sport, recreation or pastime is wholly, or in part, included in the price paid for refreshment, service, or merchandise, the amount paid for admission to such amusement shall be deemed to be the amount of the cover or minimum charge, if any.

"Person." Every individual person, co-partnership, association, unincorporated enterprise owned by two (2) or more persons, or corporation, domestic or foreign. Whenever used in any clause prescribing and imposing a penalty, or both, the term "person" as applied to co-partnerships or associations, shall mean the partners, or members thereof, and as applied to corporations, the officers thereof.

"Place of Amusement". Any place, indoors or outdoors, within the Township of Upper Bern 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 but not being limited to, theatres, opera houses, moving picture house, amusement parks, stadiums, arenas, gymnasiums, baseball parks, bowling alleys, skating rinks, circus or carnival tents or grounds, fair grounds, halls, lodge rooms, riding academies, golf courses, bathing and swimming places, dance halls, tennis courts, archery, rifle or shotgun ranges, roof gardens, cabarets, night clubs, arcades maintaining coin operated machines, and other like places.

"Producer." Any person, as herein defined, 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.

"Tax Collector". Such person or persons appointed by the Board of Supervisors to administer the provisions of this ordinance and collect the permit fees and taxes provided herein.

"Temporary Amusement." An amusement to be conducted at one location for a period of less than one (1) month.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 3. (a) On and after the effective date of this ordinance, it shall be unlawful for any producer to continue to conduct, or thereafter to begin to conduct any form of amusement at any permanent or temporary place of amusement, or any itinerant form of amusement within the Township of Upper Bern unless an amusement permit or permits shall have been issued to him as

hereinafter prescribed and the tax herein imposed paid in accordance with the provisions herein made.

(b) Every producer, desiring to continue to conduct or hereafter to begin to conduct any amusement within the Township of Upper Bern, shall file an application for a permanent, temporary or itinerant amusement permit or permits, as the case may be, with the Tax Collector. Every application for such permit or permits shall be made upon a form prescribed, prepared, and furnished by the Tax 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 permanent or temporary place, or an itinerant form of amusement, the location of the permanent or temporary place of amusement, and such other information as the Tax Collector may require. If the applicant has or intends to have more than one place of amusement within the Township of Upper Bern, the application shall state the location of each place of amusement, and in the case of itinerant form of amusement, the date and length of time such amusement is to be conducted at each place. 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. If the applicant is an association or a corporation, the application shall state the names and addresses of the principal officers thereof, and any other information prescribed by the Tax Collector for purposes of identification. The application shall be signed 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 officer thereof.

At the time of making such application, the applicant shall pay to the Tax Collector a permit fee of One Dollar (\$1.00) for each temporary or annual permit.

Upon approval of the application and the payment of any permit fee or fees herein required, the Tax Collector shall grant and issue to each applicant an annual or temporary amusement permit for each place of amusement within the Township of Upper Bern, set forth in his 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, and shall at all times be conspicuously displayed at the places for which they are issued. All permits for permanent places of amusement shall expire on the thirty-first day of December next succeeding the date upon which they are issued, unless sooner suspended, surrendered, or revoked for cause by the proper authorities of the Township of Upper Bern. Permits for temporary places of amusement, or for forms of itinerant amusement shall expire at the time specified therein. The producer of an itinerant form of amusement shall notify the Tax Collector promptly of any change in the original contemplated itinerary, either as to date, or time, of, the conduct of the amusement at each place.

(c) That permits issued for places of amusement, under the provisions of this ordinance, may be renewed annually before the first day of January, upon application made to the Tax Collector, and the payment of a renewal fee of One Dollar (\$1.00). Whenever any permit, issued under the provision of this ordinance, is defaced, destroyed, or lost, the Tax Collector may issue a duplicate permit to the holder of the defaced, destroyed or lost permit upon the payment of a fee of Fifty Cents (\$.50).

(d) That the Tax 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 ordinance. Upon suspending or revoking any amusement permit, the Tax 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 Tax collector as requested. Whenever the Tax Collector suspends an amusement permit, he shall notify the holder immediately, and the board of Supervisors shall afford him a hearing, if requested, within five (5) days of such notice. After such hearing the Board of Supervisors shall either rescind the order of suspension, or good cause appearing therefor, shall continue the suspension or revoke the permit.

Section 4. (a) That a tax is hereby imposed upon the state of admission to places of amusement and upon charges made to engage in any privilege, transaction, amusement, entertainment, diversion, sport, recreation or pastime at the rate of ten percent (10%) of the established price charged the general public, or a limited or selected group thereof, by any producer for such admission or charges, which shall be paid by the person acquiring the same.

(b) That in the case of a person (except bona fide employees of a producer, or municipal or State officers or officials, business or totally blind persons or school children who have not yet graduated from high school and as a school project are admitted free to places of amusement or permitted to engage in, without charge, in any privilege, etc., as herein set forth) admitted free or at reduced rates to any place of amusement or reduced rates for any charges made to engage in any privilege, transaction, amusement, entertainment, diversion, sport, recreation or pastime, at a time when and under circumstances under which an established

price is charged to other persons, the tax, imposed by this ordinance, shall be computed on the established price charged to such other persons of the same class for the same or similar accommodations, to be paid by the person so admitted or charged.

(c) That in the case of persons having the permanent use of boxes or seats in any place of amusement, or a lessee for the use of such box or seat in such place of amusement, the tax, imposed by this ordinance, shall be computed on the established price for which a similar box or seat is sold for each performance or exhibition, at which the box or seat is used or reserved by or for the lessee or holder, such tax to be paid by the lessee or holder.

Section 4. (a) That producers shall collect the tax imposed by this ordinance and shall be liable to the Township of Upper Earn as agents thereof for the payment of the same into the Township Treasury through the Tax collector, as hereinafter provided in this ordinance.

(b) That 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 the procurement of a permit or permits required by this ordinance, the tax, imposed by this ordinance, shall be paid by the owner, lessee or custodian of such place where such temporary amusement is held or conducted, unless paid by the producer conducting the amusement.

Section 5. (a) That for the purpose of ascertaining the amount of tax payable by the producers to the Township of Upper

Bern it shall be the duty of:

(1) Every producer, except as hereinafter provided, conducting a place of amusement on or before the tenth (10th) day of each month after the effective date of this ordinance, to transmit to the Tax Collector on a form prescribed and prepared by him, a report of the amount of tax collected by him during the preceding month.

(2) Every producer, conducting a temporary place of amusement or itinerant form of amusement, shall file a report with the Tax Collector, or his duly authorized agent, promptly after each performance.

(b) That all reports required under this section shall show such information as the Tax Collector shall prescribe.

(c) That every producer, at the time of making every report required by this section, shall compute and pay to the Tax Collector the taxes collected by him and due to the Township of Upper Bern during the period for which the report is made; PROVIDED, HOWEVER, That such producer may deduct therefrom two (2) per centum thereof, providing payment is made on or before the due date thereof. The amount of all taxes, imposed under the provisions of this ordinance shall in the case of places of permanent amusement be due and payable on the tenth (10th) day of the next succeeding month, and in the case of temporary or itinerant forms of amusement, it shall be due and payable on the day the reports in such cases are required to be made under this section, and all such taxes shall bear interest at the rate of one-half of one per centum ($\frac{1}{2}$ of 1%) per centum per month, or fractional part of a month, from the date they are due and payable until paid.

Section 7. That if any producer shall neglect or refuse to make any report or payment as herein required, an additional ten (10) per centum of the amount of the tax shall be added by the Tax Collector and collected. All such taxes shall be recoverable by the Township of Upper Bern as other debts due the Township are now by law recoverable.

Section 3. That if the Tax Collector is not satisfied with the report and payment of tax made by any producer under the provisions of this ordinance, he is hereby authorized and empowered to make a determination of the tax due by such producer, 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 Tax Collector of the Township of Upper Bern is authorized to examine the books, papers, tickets, ticket stubs and records of any producer, taxable under this ordinance, to verify the accuracy of any report or payment made under the provisions thereof or to ascertain whether the taxes imposed by this ordinance have been paid.

Section 9. That 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 Tax Collector, a report is found to be incorrect, the Tax Collector shall estimate the tax due by such producer, and determine the amount due by him for taxes, penalties and interest thereon.

Section 10. That all taxes, interest and penalties collected or received under the provisions of this ordinance shall be paid into the Treasury of the Township of Upper Bern for the use and benefit of the Township of Upper Bern.

Section 11. That the Tax Collector is hereby authorized

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

Section 12. That the provisions of this ordinance are severable, and if any of its provisions or exceptions shall be held illegal, invalid or unconstitutional, the decision of the Court shall not affect or impair any of the remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid or unconstitutional provisions or exemptions had not been included herein.

Section 13. That any person, co-partnership, association or corporation who shall fail, neglect or refuse to comply with any of the terms or provisions of this ordinance or of any regulation or requirement pursuant thereto and authorized thereby shall be subject to a fine or penalty not to exceed One Hundred (\$100.00) Dollars and costs for each such offense, or to undergo imprisonment for not more than five (5) days nor the non-payment of such fine or penalty and costs within ten (10) days from the imposition thereof. Such fine or penalty imposed by this section shall be in addition to any other penalty imposed by any other section of this ordinance.

Section 14. That this ordinance and the tax herein levied shall be effective during the fiscal year of 1960 beginning thirty (30) days from the time of the adoption of this ordinance.

Section 15. That the within ordinance is enacted in pursuance of the authority granted by the Act of General Assembly

of the Commonwealth of Pennsylvania, approved June 25, 1947, P.L.
1145, as amended.

ADOPTED this day of , 1964.

Resubmitting Bill, etc.