

**CITY OF JOHNSTOWN, PENNSYLVANIA
ORDINANCE NO. 5341**

BILL No. 16 of 2022

Introduced in Council: October 12, 2022

AN ORDINANCE AMENDING ORDINANCE NO. 4374, PASSED FINALLY DECEMBER 11, 1985 AND AS AMENDED BY ORDINANCE 4417, PASSED FINALLY DECEMBER 31, 1986, AND AS AMENDED BY ORDINANCE NO. 4670 PASSED FINALLY JULY 13, 1994, AND AS AMENDED BY ORDINANCE NO. 4698 PASSED FINALLY DECEMBER 21, 1994, TITLED: AN ORDINANCE AMENDING PART EIGHT (BUSINESS REGULATION AND TAXATION CODE), TITLE FOUR (TAXATION) CHAPTER 870, AMUSEMENT TAX, TO PROVIDE CLARIFICATIONS AND UPDATES CONSISTENT WITH CURRENT LAW

WHEREAS, City Council has deemed it necessary to make certain clarifications and updates to the Amusement tax provisions based on current law.

NOW, THEREFORE, Ordinance No. 4698, as amended, setting forth the revised Amusement Tax is further amended as follows:

Section 1: Amendments to the Amusement Tax Ordinance

870.01 DEFINITIONS.

(1) As used in this chapter, and unless otherwise expressly stated, the following terms shall have the meanings herein indicated:

(a) "Admission" means the established price or regular a monetary charge of any character whatever, charged, paid, or in any manner received by producers, as herein defined, from the general public, or a limited or select number thereof, directly or indirectly, including donations, contributions and dues or membership fees (periodical or otherwise), charged or paid for the privilege of attending or engaging in an amusement, as herein defined. In the case of a person (except bona fide employees of the person conducting the amusement or City officers on official business) admitted free or at a reduced rate at a time when, and under circumstances under which, an established price is charged to other persons, "admission" means the established price as charged to other persons.

(b) "Amusement" means all manner and form of entertainment within the City of Johnstown, including, but not limited to, among others, the following: theatrical performance, operatic performance, carnival, circus, show, concert, sports event, lecture, swimming or bathing pool, vaudeville show, side show, musical presentations, and exhibitions, all forms of entertainment at fair grounds and amusement parks and all forms of entertainment therein, dancing, golfing course, bowling alley, billiards game, pool, athletic contests and any other form of diversion, sport, pastime or recreation for which admission is charged or paid, exclusive of admission to motion picture theaters which are excluded by Act 511 of 1965.

(c) "Person" means and includes a natural person or a firm, association, co-partnership, unincorporated enterprise owned by two or more persons, entity, limited liability company, trust

or other legal entity, domestic or foreign, corporation or other organization, 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.

(d) "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.

(2) In this chapter, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

870.02 IMPOSITION; RATE; COLLECTION.

(a) A tax is hereby imposed, for general revenue purposes, at the rate of five percent (5%) of the price of admission to each and every amusement within the City. The person conducting such amusement shall be responsible for collecting such tax.

(b) Where no fixed admission is charged, or where the price of admission is based on a group rate or discount, the tax shall be based upon the gross admissions collected and shall be paid by the person conducting the amusement.

870.03 AMUSEMENT PERMITS; FEES.

(1) After January 1, 1995, any person desiring to conduct or to continue to conduct any amusement, the price of admission to which is subject to tax under this chapter, within the City shall file with the Finance Department, or its designee, an application for either a permanent amusement permit or a temporary amusement permit, as the case may be, and shall pay the fee for such permit required by this section. In the case of any amusement that is to continue for longer than ten days, a permanent amusement permit shall be issued at a fee of twenty five dollars (\$25.00). In the case of any amusement that is to continue for ten days or less, a temporary permit shall be issued at a fee of fifteen dollars (\$15.00). Every application for such permit shall be made upon a form prescribed, prepared and furnished by the Finance Department. In the case of any amusement that is to continue for longer than thirty (30) days, a permanent amusement permit shall be issued. In the case of any amusement that is to continue for thirty (30) days or less, a temporary permit shall be issued.

(2) Information required:

The Finance Director shall procure, at the expense of the City, a sufficient number of permit forms, on each of which the following shall appear:

- (a) The location of the amusement covered by the permit;
- (b) The type of amusement;
- (c) The period for which the permit is issued (permanent permits shall be valid until December 31 of the year in which issued; temporary permits shall be valid until the last day the amusement is conducted);
- (d) ~~The number of the permit~~ The proper legal names and addresses of the persons conducting the amusement;

(e) The date when the certificate is issued; and The proper legal names and addresses of the persons owing the facility at which the amusement is to be conducted;

(f) The signature of the Director of Finance or his or her designee. The type of permit being applied for;

(g) The admission price or prices charged or to be charged;

(h) The approximate total receipts anticipated; and

(i) The names and addresses of copartners, members and/or officers of the persons conducting the amusement.

(3) 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 having the authority to execute the application, and in the case of a corporation, by an officer having the authority to execute the application.

(4) At the time of making such application, the applicant shall pay to the Finance Department, or designee, any permit fee established by City Council of the City of Johnstown for each annual permit or each temporary permit.

(5) Upon the approval of the application and the payment of any permit fee herein required, the Finance Director, or designee, shall grant and issue to each applicant an annual or temporary amusement permit for each place of amusement within the City as set forth in the application. Amusement permits shall not be assignable and shall be valid only for the persons in whose name they are issued and for the conduct of amusements at the places designated therein.

(6) Permits issued for permanent places of amusement under the provisions of this chapter shall be renewed annually before January 1, upon application made to the Finance Department, or designee, and the payment for any renewal fee established by City Council for the City of Johnstown.

In case of the loss, defacement or destruction of any permit, the person to whom the permit was issued shall apply to the Finance Department, which may issue a new permit, for which a fee of ten dollars (\$10.00) shall be charged.

870.04 PAYMENT OF TAX.

(a) Each producer holding Every holder of a permanent permit shall, on or before the last day of every month, transmit to the City Finance Department, or designee, on a form prepared and prescribed by the Finance Department, a report, under oath or affirmation, of the amount of tax collected by the producer during the preceding month of the year total admissions under this chapter for the preceding month and, at the same time, shall pay over to the Director of Finance the entire amount of tax due.

(b) The Cambria County War Memorial Arena is hereby authorized to collect, without compensation, the amusement tax due and payable on events held at the Arena, which events are not sponsored or conducted by the Arena. As to events sponsored or conducted by the Arena, it is hereby made responsible for the payment of taxes to the Director of Finance, as any other person conducting or sponsoring amusement events. Payment by the Arena of the tax collected by it for any event held at the Arena not sponsored by the Arena shall be a receipt and release of the Arena for the taxes payable from that event.

(c) Every producer holder of a temporary permit shall, within thirty (30) days of the expiration of the temporary permit at the close of each day on which the amusement is held, transmit pay over to the Director of Finance, or designee, on a form prescribed by or prepared by the Finance Department, a report, under oath or affirmation, of the amount of tax collected by him during the term of the temporary permit due from such person under this chapter upon admissions for such day and, at the same time, shall submit to the Finance Department a report of the total admissions charged or collected on such day and the total amount of tax due on such admissions. On the day of expiration of such temporary permit, the person to whom such permit is issued shall, in addition, submit a report, under oath or affirmation, of all admissions charged or collected during the period that such temporary permit was in effect and of all taxes due and paid.

(d) Each producer, at the time of making each and every report required by this chapter, shall compute and pay to the Finance Department, the taxes collected by him and due to the City during the period for which the report is made. In every case, the Director of Finance shall furnish, to the person paying over to him or her any tax levied under this chapter, a receipt for the payment of such tax.

870.07 RECOVERABILITY OF TAX.

All taxes imposed by this chapter, together with all surcharges, shall be recoverable by the City Solicitor as other debts of like amount are recoverable.

(a) The Finance Director, or designee, shall have the power in the name of the City of Johnstown, to institute proceedings against any and all persons who violate the provisions of this chapter.

(b) If for any reason the tax is not paid when due and suit is brought for the recovery of such tax, the person liable therefore, shall be liable for the costs of collection and interest and penalties herein imposed.

870.08 APPLICATION OF CHAPTER; EXEMPTION; LIMITATIONS.

This chapter shall not apply to any person or property as to whom or which it is beyond the legal power of the City to impose the tax or duties herein provided for. Additional exemptions are as follows:

(a) 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.

(b) 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.

(c) 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.

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

(e) 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.

(f) the tax herein levied and imposed shall not apply to one time events benefitting non-profit organizations that have fewer than 100 attendees.

ORDAINED and ENACTED by the City Council of the City of Johnstown at a duly assembled public meeting by the City of Johnstown, Cambria County, Pennsylvania this 9th day of November 2022.

PASSED FINALLY IN COUNCIL: November 9, 2022
by the following vote:

Yeas: Mr. Britt, Mr. Arnone, Rev. King, Mrs. Mock, Mr. Capriotti, Mayor Janakovic, Ms. Huchel

Nays:

Absent:



Frank J. Janakovic, Mayor
Michael Capriotti, Deputy Mayor

ATTEST:

I do hereby certify that the foregoing is a true and correct copy of Ordinance No. **5341** as the same was passed finally by City Council and signed by the Mayor and/or Deputy Mayor of the City of Johnstown, Pennsylvania.



Ethan Imhoff, City Manager