

TOWNSHIP OF WEST CALN
CHESTER COUNTY, PENNSYLVANIA
ORDINANCE 1-02

AN ORDINANCE OF THE TOWNSHIP OF WEST CALN DEFINING AND IMPOSING A TAX ON ADMISSIONS TO AMUSEMENTS; DETERMINING THE RATES OF TAXATION AND REQUIRING PAYMENT OF TAX DUE; PROVIDING CERTAIN EXEMPTIONS; REQUIRING A PERMIT AND EXPIRATION THEREOF, ESTABLISHING APPLICATION PROCEDURES; ESTABLISHING THE DUTIES OF THE TAX COLLECTOR AND REQUIRING THE CONFIDENTIALITY OF RETURNS; AND PRESCRIBING PENALTIES FOR VIOLATION.

NOW, therefore, be it enacted and ordained by the Board of Supervisors of West Caln Township, Chester County, Pennsylvania and it is hereby enacted and ordained, as follows:

SECTION 1 SHORT TITLE

This ordinance shall be known and cited as the "West Caln Township Amusement Tax Ordinance."

SECTION 2 AUTHORITY

This ordinance is being enacted pursuant to the authority granted by the Local Tax Enabling Act, P.L. 1257, No. 511, approved December 31, 1965, 53 P.S., § 6901 et seq. (1982), as hereafter amended, supplemented, modified, or reenacted by the General Assembly of Pennsylvania.

SECTION 3 DEFINITIONS AND INTERPRETATION

The following words, when used in this ordinance, shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates otherwise:

ADMISSION: monetary charge of any character, including contributions or donations, periodic or otherwise, charged for the privilege of attending or engaging, directly or indirectly in amusements as hereinafter defined; provided, admission may not include tax added or expressly subjected to the Tax Reform Code of 1971, P.L. 6, No. 2, March 4, 1971, 72 P.S., § 7161 et seq. (1982) as hereafter amended, supplemented, modified, or reenacted by the General Assembly of Pennsylvania.

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AMUSEMENT: all forms of entertainment or recreation where an admission charge is required to attend or participate in such event. This shall include, but shall not be limited to: trade shows, craft fairs, and similar exhibitions; circuses, carnivals, and fairs; entertainment at amusement parks, stadiums, and arenas; theatrical and musical performances, concerts, dances, and lectures; all athletic contests, pastimes, training, and sporting exhibitions; and swimming pools, bowling and golfing facilities. This definition does not include campgrounds, movie theaters, gambling facilities, and fitness centers.

COVER CHARGE: where the price for food, refreshment or merchandise is increased during the time when entertainment is offered. This increase in price shall be deemed to be an admission charge.

MECHANICAL AMUSEMENT DEVICE: any device, where a fee is required, utilized for amusement purposes which shall include, but shall not be limited to, jukeboxes, pinball machines, video games, athletic skill testing mechanisms, and coin-operated pool tables.

PERMIT: written evidence of authority granted by the Board of Supervisors to collect the amusement tax.

PERSON: any individual, partnership, limited partnership, association, firm or corporation. Whenever used in any clause prescribing or imposing a penalty, "person" as applied to associations, shall mean the partners thereof; and as applied to corporations, the officers thereof.

TAX COLLECTOR: any person or agency appointed by the West Caln Board of Supervisors to collect the amusement tax authorized under this ordinance.

TOWNSHIP: the West Caln Township Manager or his designated employees.

In this ordinance, the singular shall include the plural and the masculine shall include the feminine and the neuter.

SECTION 4 IMPOSITION AND RATE OF TAX

A tax is imposed, for general revenue purposes, upon the admission fee or privilege to attend or engage in any amusement within West Caln Township at the rate of five percent (5%) of the established price charged to the general public, or a limited or selected group thereof, which shall be paid by the person acquiring such privilege, and not the owner or operator of such amusements.

The tax base upon which the tax shall be levied shall be:

1. on admissions to golf courses, forty percent (40%) of the greens fees;

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2. on admissions to bowling alleys, forty percent (40%) of the charged imposed to engage in a game of bowling;
3. on mechanical amusement devices one-hundred percent (100%) of the gross receipts;
4. on cover charges one-hundred percent (100%) of the increased cost of admission; and
5. on admissions to all other amusements one-hundred percent (100%) of the cost of admission.

Where no fixed admission fee is charged per individual, the tax shall be based upon the gross admission fees collected or received.

The maximum tax imposed on mechanical amusement devices shall be twenty-five dollars (\$25.00) per device per annum.

SECTION 5 EXEMPTIONS

The tax shall not be imposed on:

1. admission accompanying or incidental to the serving of food or drink or sale of merchandise, where the charge for admission is wholly included in the price paid for food, refreshment or merchandise, and a cover charge is not imposed;
2. admission where the proceeds thereof inure exclusively to the benefit of any religious, charitable, civic, educational, or non-profit organization.

SECTION 6 PERMIT REQUIREMENTS

Any person who desires to conduct an amusement in the Township of West Caln shall make application to the Township in writing for that purpose. No amusement shall be conducted without first obtaining a permit from the Township. Permits shall not be required for amusements conducted by any religious, charitable, civic, educational or non-profit organizations.

If the applicant has or intends to have more than one place of amusement within the township, an application shall be made for each location. Applications shall be made, and permits will be issued, separately for mechanical amusement devices.

Such application shall be made upon forms to be furnished by the Township and shall set forth:

1. the name and address of the person receiving the permit,
2. the location of the amusement covered by the permit,
3. the type of amusement and type of permit,
4. the period for which the permit is issued,
5. the permit number,
6. the date the permit is issued,

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7. the admission price to be charged,
8. the names and addresses of the owner(s), partners, members, and/or officers conducting the amusement,
9. the signature of the Township Secretary and owner of the amusement - if the application is filed by a corporation, it shall be signed by two officers. If the application is filed by a co-partnership, association, or joint venture, the application shall be signed by all partners and members, and
10. the approximate total receipts anticipated.

Every permit shall be issued in duplicate. The original shall be given to the permittee and the Township shall keep the duplicate on file. Whenever any permit issued under the provisions of this ordinance becomes defaced, destroyed or lost, a duplicate permit shall be obtained.

A permit certificate, supplied by the Township, shall be displayed prominently at the location of the amusement. Each mechanical amusement device shall require its own permit sticker. Stickers, provided by the Township, shall be affixed to each machine.

A permanent permit shall be issued to an amusement that is to continue for a period longer than thirty (30) days. An application for a permanent permit must be filed with the Township before January 1st of each year. If an amusement is to begin after that date an application must be made to the Township within ten (10) days prior to conducting that amusement.

A temporary permit shall be issued to an amusement that is to continue for a period not to exceed thirty (30) days. An application for a temporary permit must be made to the Township within ten (10) days prior to conducting the amusement.

Permits are non-transferable and are valid only for the location and the person in whose name they were issued. Owners shall notify the Township promptly of any change in the permit application information.

SECTION 7 PERMIT EXPIRATION

Permanent permits shall expire on December 31st of the year for which the permit was issued. If the amusement is discontinued for a period exceeding thirty (30) days, then the permit becomes void. Temporary permits are valid until the last day the amusement is conducted, but not exceeding thirty (30) days from the date of issue.

SECTION 8 PAYMENT OF TAX DUE AND REPORTING REQUIREMENTS

The owner of the amusement shall collect the tax imposed by this Ordinance and shall be liable to the

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Township of West Caln, or its agents thereof, for the payment of the tax, as hereinafter provided.

1. Every holder of a permanent permit shall, on or before the last day of every calendar month, transmit to the tax collector under oath or affirmation, on a form provided by the tax collector, a report of the total admissions charged or collected during the preceding calendar month and of the total tax due thereon under this ordinance. The holder shall make payment to the tax collector of the entire amount of tax due at the time the report is being submitted. On or before the end of January of each year, the holder of a permanent permit shall report to the Township a monthly summary of the total taxes collected for the prior year.

Every holder of a temporary permit shall within five business days of the close of the last day the amusement was held, transmit to the tax collector under oath or affirmation, a report of the total admissions charged or collected during the period in which the temporary permit was in effect and of the total tax due thereon under this ordinance. The holder shall make payment to the tax collector of the entire amount of tax due at the time the report is being submitted. Temporary permit holders may, at the option of the Township, be required to post, at the time of permit application, sufficient bond, collateral, or other payment assurance to cover the estimated tax due on the permit application form.

2. The owner of a mechanical amusement device may, at the person's option, elect to forgo the reporting requirements outlined in Section 8.1 and 8.2. If this election is made, the person shall, at the time of permit application, pay the maximum tax due per device.

If the owner of an amusement is not the same person conducting the amusement, each party shall be responsible for proper reporting of tax due and payment of the tax.

Every holder of an amusement permit shall keep and maintain complete records showing the daily admissions charged or collected, the amount of tax due and any other information necessary to determine the amount of tax due. The records shall be retained by the holder of an amusement permit for a three year period following payment of the tax.

SECTION 9 DUTIES OF THE TAX COLLECTOR

The Board of Supervisors shall appoint a tax collector to collect the tax imposed by this ordinance. The tax collector is charged with the duties of collecting and receiving taxes, fines, and penalties, imposed by this ordinance and reporting requirements to the Township, as shall be required by the Board of Supervisors. The tax collector shall keep a record showing the amount received, from whom, received, and the date of the receipt.

The tax collector and its duly-appointed agents are empowered with the approval of the West Caln

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Township Board of Supervisors to:

1. Adopt rules relating to the administration and enforcement of this ordinance and
2. Enforce the provisions of this ordinance and any rules promulgated under Section 9.1.

If any person required to secure a permit under this ordinance shall fail to file a report at the time specified under Section 8 or shall file a report which on its face appears incorrect or insufficient, the tax collector or his duly appointed agents shall assess that person an amount of tax which the tax collector or its agents deem reasonable. In all cases of assessment, the tax collector or its agents shall give the parties assessed a notice in which it shall be stated the amount of tax imposed or levied.

Any person aggrieved by any decision of the tax collector shall have the right to appeal to the Court of Common Pleas, as in all other cases.

SECTION 10 CONFIDENTIAL NATURE OF RETURNS

Except as authorized by law, any information gained by the tax collector or any other official, agent, or employee of the Township of West Caln as a result of this ordinance shall be confidential.

SECTION 11 ENFORCEMENT

The tax collector or its duly appointed agents shall have the power to institute civil enforcement proceedings, in the name of West Caln Township, against any person who violates the provisions of this ordinance.

SECTION 12 PENALTIES AND INTEREST

Any person, firm or corporation who shall violate any provision of this ordinances shall, upon conviction thereof, be sentenced to pay fine of not more than six hundred dollars (\$600.00); and in default of payment, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this ordinance continues shall constitute a separate offense.

If any person shall fail to pay the amount of tax due under this ordinance, interest at the rate of ten percent (10%) per annum of the amount of tax due, and an additional penalty of one-half of one percent (0.05%) of the amount of the unpaid tax for each month or fraction thereof shall be added to the amount of tax owed.

If for any reason the tax is not paid when due and suit is brought for the recovery of any tax, the person liable, shall in addition be liable for the costs of collection, court costs, and interest imposed under this section.

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SECTION 13 REPEALER

All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed.

SECTION 14 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, sections or parts of this ordinance. It is hereby declared as the intent of the 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.

SECTION 15 EFFECTIVE DATE

This ordinance shall become effective on December 31, 2002 and shall continue on a calendar year basis, thereafter, without annual reenactment.

ORDAINED AND ENACTED THIS 9TH DAY OF December, 2002.

ATTEST

Gary L. Durlap
Gary L. Durlap
Secretary

TOWNSHIP OF WEST CALN
BOARD OF SUPERVISORS

Paul E. Pfitzermeyer
Paul E. Pfitzermeyer, Chairman
Donald H. Hannum
Donald H. Hannum, Vice Chairman
Joseph P. Hess
Joseph P. Hess, Member

(Seal)