

## ARTICLE 304

### First Responder's Fee/Amusement Tax

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### CROSS REFERENCE

#### 304.01 Authority for Enactment

This article is enacted under the authority of the Local Tax Enabling Act, P.L. 1257, No. 511, December 31, 1965, 53 P.S. §6901, et seq., as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.

#### 304.02 Definitions; Word Usage

(a) Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meanings herein indicated:

- (1) "Admission" means the established price or regular monetary charge of any character whatsoever, 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, for the privilege of attending or engaging in any amusement, as herein defined.
- (2) "Amusement" means any manner or form of entertainment within the City of Bethlehem, including, but not limited to, the following:

circuses, shows, concerts, lectures, sports events, amusement parks, athletic contests, auto races, and any other form of diversion, sport, pastime or recreation, for which admission is charged or paid.

(3) "Person" means any natural person, entity, firm, association, foundation, institution, partnership, copartnership, 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, or both, the term "person," as applied to a corporation or association, shall include the officers thereof.

(4) "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.

(b) In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

#### 304.03 Imposition of Tax

(a) A tax is hereby imposed, for general revenue purposes, at the rate of 5% of the price of admission to each and every amusement within the City of Bethlehem, Lehigh and Northampton 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 \$2.00.

(Ord. 2014-49-Passed 12/16/14.)

#### 304.04 Exemption; Limitations

(a) The tax herein levied and imposed shall not be charged and collected on admissions where the maximum venue capacity is 200 or less, based on the permitted occupancy capacity of the venue as determined by applicable building codes, or where the admission price is \$10.00 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 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.

(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.

#### 304.05 Permit Required

(a) After the effective date of this article, any person desiring to conduct or to continue to conduct any amusement, the price of admission to which is subject to tax under this article, shall file with the Business Administrator, or his designee, an application for either a permanent amusement permit or a temporary amusement permit, as the case may be. Every application for such permit shall be made upon a form prescribed, prepared and furnished by the Business Administrator. In the case of any amusement that is to continue for longer than 30 days, a permanent amusement permit shall be issued. In the case

of any amusement that is to continue for 30 days or less, a temporary permit shall be issued.

(b) Information required:

- (1) The application shall be in such form as the Business Administrator shall prescribe and shall include the following requests for information:
  - a. The proper legal names and addresses of the persons conducting the amusement;
  - b. The proper legal names and addresses of the persons owning the facility at which the amusement is to be conducted;
  - c. The type of permit being applied for;
  - d. The location of the amusement covered by the permit;
  - e. The admission price or prices charged or to be charged;
  - f. The approximate total receipts anticipated;
  - g. The names and addresses of copartners, members and/or officers of the persons conducting the amusement;
  - h. Type/description of amusement; and
  - i. Period for which the permit is to be issued.
- (2) 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.

(c) At the time of making such application, the applicant shall pay to the Business Administrator, or his designee, any permit fee established by the City Council of the City of Bethlehem, for each annual permit or for each temporary permit.

(d) Upon approval of the application and the payment of any permit fee herein required, the Business Administrator, or his 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 names they are issued and for the conduct of amusements at the places designated therein. All permits for permanent places of amusement shall expire on December 31 next succeeding the date upon which they are issued. Permits for temporary places of amusement shall expire at the time specified therein.

(e) Permits issued for permanent places of amusement under the provisions of this article shall be renewed annually before January 1, upon application made to the Business Administrator, or his designee, and the payment of any renewal fee established by the City Council for the City of Bethlehem.

#### 304.06 Payment of Tax

(a) Each producer holding a permit shall, on or before the last day of each month 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 month of the year. Said report shall be submitted under oath or affirmation of the producer. Reports shall be due, respectively for each month, on or before the last day of the succeeding month.

(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.

(Ord. 2014-49-Passed 12/16/14.)

#### 304.07 Duties of the Business Administrator

(a) The Business Administrator is charged with the duty of collecting and receiving the taxes, permit fees, fines and penalties imposed by this article. It shall be the duty of the Business Administrator, or his designee, to keep a record showing the amount received by him from each person paying the tax, fees, fines and penalties, and the date of such receipt.

(b) The Business Administrator and his designee are hereby empowered, to prescribe, adopt and promulgate rules and regulations relating to any matter pertaining to the

administration and enforcement of this article, including provisions for the examination and correction of returns, and payments alleged or found to be incorrect, or as to which an overpayment is claimed, or found to have occurred, and charged with enforcing the provisions of this article and any rules and/or regulations promulgated pursuant hereto.

(c) The Business Administrator and his designee are hereby authorized to examine the books, papers and records of any person or persons subject to or supposed to be subject to the tax imposed by this article, in order to verify the accuracy of the report made, or if no report was made, ascertain the tax due.

304.08 Fine for Nonpayment, Recoverability.

If any tax levied in pursuance of this article shall not be paid when due, a penalty of 10% of the amount of tax due and unpaid shall be added thereto.

304.09 Suits on Collection and Penalty

(a) The Business Administrator, or his designee, shall have the power in the name of the City to institute proceedings against any and all persons who violate the provisions of this article.

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

304.10 Confidentiality of Information.

Any information gained by the Business Administrator or any other official agent or employee of the City of Bethlehem as a result of any reports, investigations, hearings or verifications required or authorized by this article shall be kept confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law.

304.11 Applicability

Nothing in this article shall be construed to empower the City of Bethlehem to levy and collect the taxes hereby imposed on any person, business or any portion of any business not within the taxing power of the City of Bethlehem under the laws and Constitution of the United States and the laws and Constitution of this Commonwealth.

304.12 Severability

(1) Each section, paragraph, part, term and/or provision of this chapter shall be considered severable, and if, for any reason, any paragraph, part, term and/or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation, such shall not impair the operation or affect the remaining portions, sections, paragraphs, parts, terms and/or provisions of this article, and the latter will continue to be given full force and effect, and said invalid sections, parts, paragraphs, terms and/or provisions shall be deemed not to be a part of this article.

(b) The provisions of this article are severable, and if any of its provisions shall be held illegal, invalid or unconstitutional, said determination shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the intention of City Council of the City of Bethlehem that this article would have been adopted if such illegal, invalid or unconstitutional provisions had not been included herein.

#### 304.13 Effective Date

This article shall become effective on February 1, 2015, and shall continue on a calendar-year basis thereafter without annual reenactment.

#### 304.99. Violations

(a) Any person who violates any provision of this article or who neglects, fails or refuses to furnish complete and correct reports, or who fails to pay over any tax levied at the time required, or who knowingly makes any incomplete, false or fraudulent return, or who attempts to do anything whatsoever to avoid the payment of the whole or any part of the tax imposed by this article, shall be subject to a fine or penalty not exceeding \$600 for each and every offense, and the costs of prosecution thereof, or to undergo imprisonment for not more than 90 days, or both.

(b) Each day on which a person violates any of the provisions of this article may be considered as a separate offense and punishable as such.

(c) Such fine or penalty shall be in addition to any other penalty imposed by any other section of this article.

(Ord. 2013-1. Passed 1/15/13; Ord. 2014-49. Passed 12/16/14.)