

ORDINANCE NO 86

AN ORDINANCE PROVIDING FOR THE IMPOSITION, ASSESSMENT, LEVYING AND COLLECTION OF A TAX FOR GENERAL REVENUE PURPOSES FOR SOUTH HUNTINGDON TOWNSHIP, WESTMORELAND COUNTY, PENNSYLVANIA, UNDER THE AUTHORITY OF THE ACT OF DECEMBER 31, 1965, P.L. 1257, AS AMENDED, UPON ADMISSIONS TO ANY PLACE OF AMUSEMENT OR ACTIVITY, AS DEFINED IN THE ORDINANCE, WITHIN THE TOWNSHIP; PROVIDING FOR THE ISSUANCE OF PERMITS; PROVIDING FOR INSPECTION OF BOOKS; PRESCRIBING THE METHOD AND MANNER OF COLLECTING SUCH TAX; IMPOSING DUTIES AND CONFERRING POWERS UPON CERTAIN OFFICERS OF THE TOWNSHIP; PROVIDING EXEMPTIONS AND IMPOSING PENALTIES.

By authority of the Local Tax Enabling Act of 1965 (Act of December 31m 1965, P.L. 1257 I. et seq., as amended, 53 PS 6901, et seq.) it is hereby enacted and ordained by the Board of Supervisors of South Huntingdon Township, Westmoreland County, Pennsylvania, as follows:

SECTION 1: This ordinance shall be known and may be cited as "South Huntingdon Township Admissions Tax Ordinance of 2002".

SECTION 2: 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:

- a. Activities – Shall mean all manner and form of entertainment, amusement, recreation, education, exhibition, or sport, including but not limited to theatrical performances, shows, lectures, motion picture exhibitions, historical exhibition, and/or displays, swimming or bathing pools, either natural or man made, amusement parks, museums, golf courses, stadium, circus, carnivals, fair grounds, athletic events, dances, musicals or concerts, and all other forms and manner of sport, recreation, past times, diversion or edification.
- b. Admission – A monetary charge of any character whatever, including donations, contributions, and dues, or membership fees (periodical or otherwise) fixed and (as herein defined) exacted, or in any manner received by Collector (as herein defined) from a person or for the privilege of attending or engaging in any activities (as herein defined); provided that when such activity is conducted at any place where the charge for admission is wholly, or in part, included in the price for refreshment, service or merchandise, the amount paid for admission to such activity shall be deemed to fifty (50%) per centum of the amount paid for such refreshment, service or merchandise. However, monthly membership fees and/or dues in fraternal or beneficial lodges, fire departments, veterans organizations, organizations duly incorporated as non-profit corporations and enjoying a current charitable or tax exempt status with the Internal Revenue Service, and any auxiliaries supporting any of the above organizations are not to be deemed "admissions" upon which the tax is to be imposed.
- c. Collector – Shall mean any person who collects an admission, either directly or indirectly from any person for attending or engaging in an activity.
- d. Person – Shall mean any individual, partnership, limited partnership, estate, trust, association, firm or corporation. Whenever used in any clause prescribing and imposing a civil or criminal penalty, the term "person", as applied to a partnership, limited partnership, firm or association, shall mean the partners or members thereof, and as applied to a corporation, the officers thereof.
- e. Special Tax Collector – Shall mean a person designated by the Township of South Huntingdon to collect the tax imposed by this Ordinance.
- f. Township – Shall mean the Township of South Huntingdon, Westmoreland County, Pennsylvania.
- g. Place of Amusement – Any place in the Township of South Huntingdon, Westmoreland County, Pennsylvania, where a person may, upon payment of any admission, attend or engage in any amusement as herein defined.

SECTION 3: Permits

- a. On and after the effective date of this Ordinance, it shall be unlawful for any Collector to continue to conduct, or thereafter, to begin to conduct any activities or form of amusement at any permanent or temporary place of amusement, or any itinerant activities or form of amusement at any permanent or temporary place of amusement, within the Township, unless an amusement permit or permits shall been issued to the Collector as hereinafter prescribed and the tax herein imposed is collected and remitted in accordance with the provisions herein made.
- b. Every Collector, desiring to continue to conduct or hereafter to begin to conduct any amusement or activity (as herein defined) within the Township, shall file an application for a permanent, temporary or itinerant amusement permit or permits, as the case may be, with the Central Tax Bureau of Pennsylvania (CENTAX). Every application for such permit or permits shall be made upon a form prescribed, prepared and furnished by the Central Tax Bureau of Pennsylvania (CENTAX), and shall set forth the name under which the applicant conducts or intends to conduct an activity, whether the applicant conducts or intends to conduct a permanent or temporary activity, or an itinerants form of activity; the location of the permanent or temporary place of amusement or activity and such other information as the Central Tax Bureau of Pennsylvania (CENTAX) may require. If the applicant has or intends to have more than one place of amusement within the Township, the applicant shall state the location of each place of amusement or activity, and in the case of itinerant form of amusement or activity, 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 premises upon which such activity is to be conducted. If the applicant is an association, firm or a corporation, the names and address of the principal officers thereof, and any other information prescribed by the Central Tax Bureau of Pennsylvania (CENTAX) for purposes of identification. If the applicant is a trust or an estate, the names and addresses of all trustees, executors or administrators and any other information prescribed by the Central Tax Bureau of Pennsylvania (CENTAX) for purposes of identification. The application shall be signed and verified by oath or affirmation by the Applicant, if a natural person; and in the case of an association by an authorized member; in the case of a corporation, by an executive officer thereof, or a person specially authorized by the corporation or entity to execute the application, to which shall be attached the written evidence of such authority.

At the time of making such application, the applicant shall pay to the Central Tax Bureau of Pennsylvania (CENTAX) a permit fee of FIFTY (\$50.00) Dollars for each temporary or itinerant permit which shall be good for no more than seven (7) days or a permit fee of ONE HUNDRED (\$100.00) DOLLARS for an annual permit, which shall be valid for the then current calendar year.

Upon approval of the application and the payment of any permit fee or fees herein required, the Central Tax Bureau of Pennsylvania (CENTAX) shall grant and issue to each applicant an annual, itinerant or temporary amusement permit for each place of amusement or activity within the Township as set forth in the application. Amusement permits shall not be assignable, and shall be valid only for the person to whom it is issued, and for the conduct of the amusement or activity at the place therein, and shall at all times be conspicuously displayed at the place of amusement or activity for which issued. Any permit for permanent places of amusements or activities shall expire on the thirty-first (31st) 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. Permits for temporary places of amusement or for forms of itinerant amusement or activities shall expire at the time specified therein.

- c. Permits issued for permanent places of amusement, under the provisions of this Ordinance, may be renewed annual before the first (1st) day of January, upon

application made to the Central Tax Bureau of Pennsylvania (CENTAX), and the payment of a renewal fee of SEVENTY-FIVE (\$75.00) Dollars.

Whenever any permit, issued under the provisions of this Ordinance, is defaced, destroyed or lost, the Central Tax Bureau of Pennsylvania (CENTAX) may issue a duplicate permit to the holder of the defaced, destroyed or lost permit upon payment of a fee of TWENTY-FIVE (\$25.00) DOLLARS.

- d. The Township Board of Supervisors may suspend, or after hearing, revoke, any 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 holder thereof shall surrender immediately all permits, or duplicates thereof issued to him and the holder shall surrender promptly all such permits to the Central Tax Bureau of Pennsylvania (CENTAX) as required. Whenever the Board suspends an amusement permit, the Board shall notify that holder immediately, and afford a hearing, if requested. Any holder who has received a Notice of Suspension must request a hearing, in writing, within TEN (10) days of the date of such suspension notice or the suspension shall become permanent and be converted to a revocation. If the holder timely requests a hearing, then, after such hearing, the Board shall either rescind the order of suspension, shall continue the suspension or revoke the permit.

SECTION 4:

- a. There is hereby levied and assessed, for general revenue purposes, a tax of four (4%) per centum of the amount charged for admission to any place of amusement or for any activity within the Township, to be paid by the person so admitted, and collected and remitted to the Township by the Special Tax Collector.
- b. In the case of persons (except bona fide employees of a Collector, or municipal or state officers on official business) admitted free or at reduced rates to any place of amusement or activity at a time when under circumstances under which admission is charged to other persons, the tax, imposed by this Ordinance shall be computed on the admission price charged to such other persons of the same class for the same or similar activities, to be paid by the person so admitted, and collected and remitted to the Special Tax Collector or by the Collector.
- c. In any case of persons having a space, seat or other place designated for him, in any place of amusement or at any activity, or a lease, license or similar grant for the use of such space, area or seat in such place of amusement or at such activity, the tax imposed by this Ordinance shall be computed on the established admission price for which the same or similar space, area or seat is sold for each performance of an activity at which the space, area or seat is used or reserved by or for the lessee, licensee or holders.
- d. No tax shall be imposed or collected on admissions to the following amusements:
 1. Activities conducted, supervised, and controlled by the Yough Area School District.
 2. Activities conducted, supervised, and controlled by the Volunteer Fire Departments of the Township of South Huntingdon.

SECTION 5:

The tax hereby imposed shall be effective January 1, 2003, and remain in full force and effect each and every year thereafter on year to year basis without annual reenactment pursuant to Act of October 9, 1967, P.L. 361, No. 160, 53 P.S., 6904, and the proceeds derived from this Ordinance shall be for general revenue purposes.

SECTION 6:

- a. Collectors shall collect the tax imposed by this Ordinance, and shall be liable to the Township as agents thereof for the payment of the same into the Township Treasury through the Special Tax Collector as hereinafter provided in this Ordinance.

- b. Where permits are obtained for conducting temporary amusements or activities by persons who are not the owners, lessees, or custodians of the places where the amusements or activities are to be conducted, or where the temporary amusement or activity 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 or activity is held or conducted, unless paid by the Collector conducting the amusement or activity.

SECTION 7:

If any Collector shall neglect or refuse to timely make any report, collect any tax, timely remit such taxes collected, or in any other manner fail to comply with any section, provision, term or obligation imposed by this Ordinance, then such Collector shall be deemed to have violated this Ordinance.

SECTION 8:

- a. On or before the fifteenth(15th) day of each month following the collection of any admissions as defined, the collector of said admissions shall transmit to the Special Tax Collector a report of the total admissions charged or collected the previous month and the total amount of tax due, and at the same time, pay to the Special Tax Collector, the total amount of tax due for the operations of the preceding month.
- b. Every Collector conducting a temporary place of amusement or itinerant form of amusement or activity, shall file a report within (3) days after each activity, and shall further tender to the Special Tax Collector on the day of filing of said report, all taxes that may be due and owing to the Township.
- c. All reports required under this Section shall show all information required by this Ordinance and such other information as the Special Tax Collector shall prescribe.
- d. If any Collector shall neglect or refuse to make any report and payment as herein required, an additional ten (10%) percent penalty on the amount of taxes due shall be added by the Township and collected. All such taxes shall bear interest at the rate of one (1%) percent per month, or fractional part of a month, from the date they are due and payable until they are paid.

SECTION 9:

Each person operating an activity or place of admission as defined herein within the Township shall keep an accurate record of admissions charged or collected and the Special Tax Collector, or his properly appointed agent, shall have access to the books and records relating to the number of admissions charged or collected of the person conducting such activity or place of admission, at reasonable times for the purpose of verifying and ascertaining the number of paid admissions received or charged by such person, provided that any information obtained by the Special Tax Collector, or his duly authorized agent, as a result of any reports, investigations or verifications required or authorized by this Ordinance shall be confidential except for official purposes.

SECTION 10:

The Central Tax Bureau of Pennsylvania (CENTAX) is hereby designated the Special Tax Collector and is charged with the enforcement of this Ordinance. The Special Tax Collector is authorized to make such rules and regulations and take such other measures as may be necessary or convenient to carry out the purposes of this Ordinance.

SECTION 11:

The Central Tax Bureau of Pennsylvania (CENTAX), in his capacity as enforcer of this Ordinance, may sue in any court with jurisdiction for the recovery of taxes,

interest and penalties due and unpaid under this Ordinance; provided that the election to pursue a civil remedy by the enforcer shall be a bar to any criminal prosecution as provided by this Ordinance.

All such taxes, interest and penalties unpaid shall also be recoverable by the Township Solicitor as other debts are now collected under the laws of Commonwealth of Pennsylvania.

SECTION 12:

Penalties. Whosoever shall violate any provisions of this Ordinance shall, upon conviction thereof, be guilty of a summary offense, punishable by a fine of not more than \$1000.00, and costs; and, in default of payment thereof, shall be subject to imprisonment for a term not to exceed thirty (30) days. Each day or portion thereof in which a violation is found to exist shall constitute a separate offense.

SECTION 13:

Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionally, illegally or invalidity shall not affect or impair any the remaining provisions, sentences, clauses or sections or part of this Ordinance. It is hereby declared as the intent of the Board of Supervisors of the Township of South Huntingdon that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14:

Continuation. The provisions of this Ordinance, so far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall affect any suit or prosecution pending or to instituted to enforce any right or penalty or to punish any offense under the authority of any Ordinance repealed by, this Ordinance.

SECTION 15: This Ordinance shall go into effect on the 27 day of June, 2002.

TOWNSHIP OF SOUTH HUNTINGDON

By: Scott Painter
Chairman

ATTEST: Cindy Thorne
Secretary

ORDINANCE NO. 87

AN ORDINANCE OF THE TOWNSHIP OF SOUTH HUNTINGDON, WESTMORELAND COUNTY, PENNSYLVANIA, TO ENTER INTO A NONEXCLUSIVE AGREEMENT WITH CHARTER COMMUNICATIONS FOR THE CONSTRUCTION AND OPERATION OF A CABLE SYSTEM WITHIN THE TOWNSHIP OF SOUTH HUNTINGDON.

WHEREAS, the Township of South Huntingdon and Charter Communications have discussed and negotiated a non-exclusive Cable Television Franchise Agreement for the construction and operation of a cable system within the Township of South Huntingdon; and

WHEREAS, the Township of South Huntingdon and Charter Communications desire to take all measures necessary and proper to enter into such agreement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, and it is hereby ordained and enacted by the Board of Supervisors of the Township of South Huntingdon, Westmoreland County, Pennsylvania as follows:

SECTION I: The Township of South Huntingdon hereby grants a non-exclusive Cable Television Franchise to Charter Communication to construct and operate a cable system within the Township of South Huntingdon, in accord with the terms, covenants, conditions and restrictions as set forth in a proposed agreement which is marked Exhibit "A", attached hereto, and expressly made a part hereof.

SECTION II: The Chairman of the Board of Supervisors and Secretary-Treasurer of the Township are hereby authorized and directed on behalf of the Township of South Huntingdon to execute the Franchise Agreement attached hereto and marked Exhibit "A".

SECTION III: Said Franchise Agreement, attached as Exhibit "A", shall take effect upon the adoption of this Ordinance, execution of the Franchise Agreement by the authorized officials of the Township of South Huntingdon and upon the execution of the Franchise Agreement by the authorized officials of Charter Communications.

SECTION IV: If any word, phrase, section, sentence, clause or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, invalidity or illegality shall not affect or impair any of the remaining words, phrases, sections, sentences, clauses or parts of this Ordinance. It is hereby declared to be the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid word, phrase, section, sentence, clause or part thereof not been included therein.

SECTION V: General Repealer. Any Ordinance or parts of Ordinances in conflict with this Ordinance are hereby specifically repealed.

ORDAINED AND ENACTED by the Board of Supervisors of the Township of South Huntingdon this 8th day of August, 2002.

TOWNSHIP OF SOUTH HUNTINGDON

BY: Scott Painter
Chairman

ATTEST: Cindy Thorne
Secretary