TOWNSHIP OF MIDDLESEX
Cumberland County, Pennsylvania

ORDINANCE NO. 3-93

AN ORDINANCE OF THE TOWNSHIP OF MIDDLESEX, CUMBERLAND COUNTY, PENNSYLVANIA, IMPOSING AND PROVIDING FOR THE LEVY AND COLLECTION OF A TAX FOR GENERAL TOWNSHIP PURPOSES ON ADMISSIONS TO AMUSEMENTS WITHIN THE TOWNSHIP OF MIDDLESEX, PROVIDING DEFINITIONS OF TERMS, ESTABLISHING PROCEDURES AND PROVIDING MEANS FOR ENFORCING COLLECTION AND REMITTANCE OF SUCH TAX, INCLUDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Township of Middlesex is a municipal township of the second-class situated in Cumberland County, Pennsylvania, which provides various local governmental functions and services for the residents of said municipality; and

WHEREAS, the Board of Township Supervisors in and for said Township of Middlesex has determined the need for additional revenue to fund its governmental functions and services; and

WHEREAS, The Local Tax Enabling Act (Act of December 31, 1965, P.L. 1257, Act 511, as amended; 53 P.S. §6901 et seq.) permits local municipalities, including townships of the second-class, to levy, assess or collect a tax on sales of admission to places of amusement and for the privilege of attending or engaging in amusements; and

WHEREAS, the Board of Township Supervisors desires to implement such tax as an additional means of generating revenue to fund its governmental functions and services;

NOW, THEREFORE, BE IT ENACTED AND ORDAINED and it is hereby enacted and ordained by the Board of Township Supervisors in and for the Township of Middlesex, Cumberland County, Pennsylvania, as follows:

SECTION 1: Unless otherwise expressly stated herein, the following terms shall have, for the purpose of this Ordinance, the meaning herein indicated:

(a) the term "**admission**" shall mean monetary charge of any character whatever, including donations, contributions and dues or membership fees (periodical or otherwise) charged or paid for the privilege of attending or engaging in amusements as hereinafter defined; provided, however, that in the case of persons (except bona fide employees of the person conducting the amusement) admitted free or at reduced rates at a time when, and under circumstances under which an established price is charged to other persons, the term "admission" shall mean the established price as charged to other persons.

(b) the term "**amusement**" shall mean all manner and form of entertainment, including among others, the following: theatrical performance, operatic performance, carnival, circus, show, concert, lecture, sports event, vaudeville show, side show, amusement park and all forms of entertainment therein, dancing, golf, bowling, billiards or pool, athletic contests, including wrestling matches, boxing and sparring exhibitions, football, basketball and baseball games, ice skating, roller skating, tennis, hockey, bathing, swimming, archery, shooting, riding, racing and any other form of diversion, sport, pastime or recreation, shows, exhibitions, contests, displays and games; provided, however, that "amusement" shall not include any form of entertainment the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of religious, educational or exclusively charitable institutions, societies, or organizations, volunteer firemen's organizations or civic activities supported by tax funds; and provided further, that "amusement" shall not include (1) motion picture exhibitions nor sound motion picture exhibitions, (ii) camping, or (iii) any activities the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education or weight control.

(c) the term "**person**" shall include natural person, firm, association, co-partnership, corporation or other entity.

(d) the term "**producer**" shall mean 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.

(e) the term "**Secretary**" shall mean the township secretary as duly appointed by the Board.

(f) the term "**Board of Supervisors**" shall mean the Board of Township Supervisors in and for this Township.

(g) the term "**Township**" shall mean the Township of Middlesex situated in Cumberland County, Pennsylvania.

SECTION 2: A tax is hereby imposed for general township municipal purposes upon the admission fee or privilege to attend or engage in any amusement within the Township, at the rate of two per centum (2%) of the admission price, which shall be paid by the person acquiring such privilege, on and after the day of , 1993; provided, however, that where no established price is charged, the tax shall be based upon the gross admissions collected.

SECTION 3: After 3 April , 1993, any person desiring to conduct, or continue to conduct, any amusement within the Township, shall before conducting the same file with the Secretary an application on a form to be furnished by the Township, for 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 thirty (30) days a permanent amusement permit shall be issued at a fee of Five Dollars ($5.00). In the case of any amusement that is to continue for a period of thirty (30) days, or less, a temporary permit shall be issued at a fee of Three Dollars ($3.00).

Permanent permits shall expire on December 31 of the year after the year in which issued. Temporary permits shall be valid until the last day the amusement is conducted, but not exceeding 30 days from the date of issue.

The Secretary shall procure, at the expense of the Township, a sufficient number of permit forms, on each of which the following information shall be printed or inserted in ink or by typewriter:

(a) the name of the Township;
(b) whether a temporary or a permanent permit;

(c) the name and address of the person receiving the permit;
(d) the location of the amusement covered by the permit;
(e) the type of amusement;
(f) the period for which the permit is issued;
(g) the number of the permit;
(h) the date when the permit is issued;
(i) the signature of the Secretary of the Township.

Every permit shall be issued in duplicate. The original, to which the seal of the Township shall be affixed, shall be delivered to the person applying for the permit and the duplicate shall be kept on file by the Secretary.

In case of the loss, defacement or destruction of any permit, the person to whom the permit was issued shall apply to the Secretary, who may issue a new permit, for which a fee of Two Dollars ($2.00) shall be charged.

SECTION 4: (a) Producers of amusements shall collect the tax imposed by this Ordinance and shall be liable to the Township, as agents thereof, for the payment of same into the Township treasury, as hereinafter provided in this Ordinance.

(b) Where permits are obtained for conducting temporary amusements by persons who are not the owners, lessees, or custodians of the place 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: Every holder of a permanent permit shall, on or before the last day of every calendar month, transmit to the Secretary, a report under oath or affirmation, on a form to be furnished by the Township, of the total amount of admissions charged and collected by him during the last preceding calendar month and of the total amount of tax due thereon under this Ordinance, and at the same time shall pay over to the Secretary the entire amount of said tax.

Every holder of a temporary permit shall, at the close of each day on which the amusement is held, pay over to the Secretary the amount of tax due under this Ordinance from such person upon admissions charged or collected for such day, and at the same time shall submit to said Secretary a report on the form to be furnished by the Township of the total admissions charged or collected on such day and the total amount of tax due under this Ordinance, on such admissions. On the day of expiration of such temporary permit, the person to whom such permit is issued shall, in addition, submit to said Secretary, a report on a form to be furnished by the Township, under oath or affirmation, of all admissions charged or collected during the period in which such temporary permit was in effect and of all taxes due and at the same time pay over to the Secretary the entire amount of all taxes due and remaining unpaid; provided, however, that any holder of a temporary permit who is a resident of this Township, or who has a permanent place of business therein, may submit the reports hereinabove required of the holder of a temporary permit and may make the payment hereinabove required of the holder of a temporary permit on the day following the days hereinabove specified; and further provided, however, that in every case, the Secretary shall furnish to the person paying any tax levied under this Ordinance a receipt for the payment of such tax.

SECTION 6: If any report required to be filed in pursuance of this Ordinance shall not be filed within the prescribed time, or if any tax levied in pursuance of this Ordinance shall not be paid when due, a penalty of five per centum (5%) of the amount of the tax due and unpaid shall be added thereto, if the failure to file the return or to pay the tax is for not more than thirty (30) days, with an additional five per centum (5%) for each additional thirty (30) days, or fraction thereof, during which failure continues, not to exceed twenty-five per centum (25%) in the aggregate.

SECTION 7: Every person required by the provisions of this Ordinance to pay to the Township any tax on admissions must keep or cause to be kept an accurate record of admissions, and reduced rate admissions. The records must show as to each class of admissions:

(a) All figures and other information necessary to determine the amount of tax due.

(b) The amount of tax due.

The records must be kept on file at the place of business within this Township or at some other convenient location in this Township, and shall be available for inspection by the Secretary, or other person designated by the Board.

Such records shall contain sufficient information to enable the Secretary, or other person designated by the Board, to determine whether the correct amount of tax has been paid. The records shall at all times be open to inspection by the Secretary or other persons designated by the Board.

Any information gained by the Secretary, or any other agent of the Board as a result of any reports or investigations required or authorized by this Ordinance, shall be confidential, except for official purposes, and except in accordance with proper judicial order, or as otherwise provided by law. Any divulgence of any such information so gained is hereby declared to be a violation of this Ordinance.

SECTION 8: The Secretary, or other person designated by the Board, is hereby authorized to examine any relevant books, papers and records of any person required under this Ordinance to secure a permit, in order to verify the accuracy of any report made or to ascertain and assess the tax imposed by this resolution.

SECTION 9: If any person required to secure a permit under this Ordinance shall fail to file a report at the time stipulated by this Ordinance, or shall file a report which on the face appears inaccurate, incorrect or incomplete, the Secretary shall make an assessment of such tax, or any deficiency thereof, against such person of the amount of the tax, or deficiency, for which such person is liable, or for which said Secretary believes such person is liable, to which such assessment the Secretary shall add the penalties herein provided for, and the aggregate amount so obtained shall be the basis of taxation.

After such assessment the Secretary shall give written notice of such assessment to the person liable for the tax imposed thereby. Such assessment shall finally and irrevocably fix and determine the tax due unless such person shall appeal in writing to the Board for a hearing within thirty (30) days of the date of such notice. Such hearing by the Board shall be held within thirty (30) days of the request for hearing. Any person aggrieved by any decision of the Board shall have the right to appeal to the Court of Common Pleas of Cumberland County within thirty (30) days from the date of such decision, provided, however, that such appeal shall not act as a supersedeas unless specifically allowed by the Court. Promptly upon the filing of such appeal, the petitioner shall serve a copy of any petition therefor and any Rule granted by the Court upon the Secretary.

SECTION 10: All taxes imposed by this Ordinance, together with all penalties, shall be recoverable by the Board as other debts of like amount are recoverable.

SECTION 11: Any person convicted before a District Justice of violation of any of the provisions or requirements of this Ordinance or of neglecting, failing or refusing to furnish complete and correct reports or returns or to pay over any tax levied by this Ordinance at the time required, shall be liable to pay a fine or penalty not exceeding Five Hundred Dollars ($500.00), for each and every offense, and the costs of prosecution thereof, and in default of payment thereof, to undergo imprisonment in the Cumberland County Prison for a period not exceeding thirty (30) days. Such fine or penalty shall be in addition to any other penalty imposed by any other section of this Ordinance.

SECTION 12: The provisions of this Ordinance shall be severable. If any section, clause or sentence 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 or sections or parts of this Ordinance. It is hereby declared as the intent of the Board that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof, not been included herein.

SECTION 13: This Ordinance shall take effect on the 3rd day of April, 1993.

ENACTED AND ORDAINED this 3rd day of March, 1993.

BOARD OF TOWNSHIP SUPERVISORS IN AND FOR THE TOWNSHIP OF MIDDLESEX

By Robert M. Eppley
Chairman

ATTEST:

[signature]
Secretary

(Township Seal)