**TOWNSHIP OF LOWER SOUTHAMPTON**

**ORDINANCE #602**

AN ORDINANCE OF THE TOWNSHIP OF LOWER SOUTHAMPTON, COUNTY OF BUCKS, COMMONWEALTH OF PENNSYLVANIA, AMENDING PART 1, SECTION 24-102 OF CHAPTER 24 OF THE CODE OF ORDINANCES OF LOWER SOUTHAMPTON TOWNSHIP, BY AMENDING THE AMUSEMENT TAX BY REVISING THE DEFINITIONS OF “ADMISSION,” “AMUSEMENT,” AND “PLACE OF AMUSEMENT,” AS WELL AS INCLUDING A DEFINITION FOR “EXEMPT AMUSEMENTS,” “INSTITUTION OF PURELY PUBLIC CHARITY,” “PATRON,” “PRODUCER,” AND “TAXPAYER,” THIS ORDINANCE ALSO SERVES TO AMEND PART 1, SECTION 24-103, SUBSECTION 3, OF CHAPTER 24 OF THE CODE OF ORDINANCES OF LOWER SOUTHAMPTON TOWNSHIP, TITLED “LEVY OF TAX,” TO REFLECT THE DEFINITIONAL CHANGES PROVIDED BY SECTION 24-102 OF THE AMUSEMENT TAX.

 **WHEREAS,** the Township of Lower Southampton is a Township organized and operating in accordance with the laws of the Commonwealth of Pennsylvania; and

 **WHEREAS,** the Board of Supervisors of Lower Southampton Township enacted the Amusement Tax, which is codified in Chapter 24, Part 1, Sections 24-101 through 24-111, of the Code of the Township of Lower Southampton; and

 **WHEREAS,** the Board of Supervisors of Lower Southampton Township has determined that it is in the best interest of the residents and property owners in the Township of Lower Southampton to amend the Amusement Tax by revising the definitions of “Admission,” “Amusement,” and “Place of amusement,” and “Exempt Amusement,” as well as including a definition for “Exempt Amusements,” “Institution of Purely Public Charity,” “Patron,” “Producer,” and “Taxpayer,” located in Part 1, Sections 24-102, of Chapter 24 of the Code of the Township of Lower Southampton ; and

 **WHEREAS,** the Board of Supervisors of Lower Southampton Township has determined that it is in the best interest of the residents and property owners in the Township of Lower Southampton to amend Part 1, Section 24-103, titled “Levy of Tax” of the Amusement Tax to account for the definitional changes of Section 24-102 of the Code.

 **NOW, THEREFORE,** be it ORDAINED and ENACTED as follows:

 **Section 1.** Chapter 24, Part 1, Section 24-102, titled “Definitions,” of the Code of the Township of Lower Southampton is hereby amended to read as follows:

 ADMISSION OR PRICE – The monetary charge of any character whatever, including donation, contributions, subscriptions, charges, dues, assessment or membership fees, whether periodical or otherwise, fixed or exacted, or in any manner received or charged a person directly or indirectly for the right or privilege to enter any place of amusement, as defined herein. The term Admission shall not include tax added or charge expressly subject 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.

 AMUSEMENT – All manner or form of entertainment, diversion, sport, pastime or recreation, including, but not limited to, concerts, shows, theatres, exhibitions, movies, vaudeville, circus, carnival and side shows; all forms of entertainment at fair grounds and amusement parks; race tracks, contests or feats of talent or skill, athletic contests including wrestling matches, boxing and sparring exhibitions, football, basketball and baseball games, skating, golfing, tennis, hockey, bathing, swimming, archery, shooting, riding, dancing and all other forms of diversion, sport, recreation or pastime; shows, exhibitions, contests, displays and games, and all other methods of obtaining admission charges, donations, contributions or monetary charges of any character, from the general public or a limited or selected number thereof, directly or indirectly, in return for other than tangible property, or specific personal professional services.

 The term amusement includes admission fees paid to access places of entertainment, exhibition, or amusement or to a sporting event or show. The term amusement specifically includes trade shows, exhibitions, builder or home shows, equipment shows, craft shows, and tasting events. The term amusement does not include any Exempt Amusement or any amusement located outside the Township limits. In the case of an amusement that is mobile or located outdoors, an amusement is located in the Township limits if the event either begins or ends within the Township limit.

 EXEMPT AMUSEMENTS – The term amusement shall not include:

1. Private affairs sponsored by nonprofit organizations for members and their guests at which the admission charges or contribution approximate the expenses and the net proceeds, net of reasonable expenses, inure exclusively to benefit the nonprofit organization. However, if members of the general public are invited to the private affair, the event is not an exempt amusement.
2. Membership dues, fees or assessments of charitable, religious, beneficial or nonprofit organizations paid by Patrons, such as sportsmen, recreational, golf or tennis clubs.
3. Any activity that the Township is prohibited from taxing by reason of the U. S. Constitution, federal law, or laws of the Commonwealth. Should any Producer claim that any amusement is exempt from the tax under this Subsection, the Producer shall note the exemption on its filed return and provide a reference to the governing law.

INSTITUTION OF PURELY PUBLIC CHARITY – An organization that qualifies for tax exemption pursuant to “Institution of Purely Public Charity Act”. 10 P.S. §371. Generally, the charity must show that it has a Pennsylvania sales tax exemption to qualify as an Institution of Purely Public charity 10 P.S. §376(a).

PATRON – Anyone participating in the privilege of engaging in the amusement.

PLACE OF AMUSEMENT – Any place indoors or outdoors within the Township where the general public or a limited or selected number thereof may, upon payment of an established price, attend or engage in any amusement as herein defined, including among others, theaters, opera houses, moving picture houses, amusement parks, skating rinks, circus or carnival tents or grounds, fairgrounds, social sporting, athletic riding, gun and country clubs, golf courses, bathing and swimming places, dance halls, tennis courts, rifle or shotgun ranges, roof gardens, cabarets, night clubs and other like places.

PRODUCER – Any person 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.

TAXPAYER – Because the tax is imposed on the patron, the patron is the taxpayer. The Producer is merely the collection agent for the Township.

**Section 2.** Chapter 24, Part 1, Section 24-103, Subsection 3, of the Code of the Township of Lower Southampton, titled “Levy of Tax,” is hereby revised to read as follows:

§ 24-103 LEVY OF TAX.

3. Anything herein to the contrary notwithstanding, no tax shall be due on Exempt Amusements.

 **Section 3.** In all other respects, the provision of Part 1 of Chapter 24 of the Code of the Township of Lower Southampton are reaffirmed and ratified, subject only to modification to same as set forth herein.

 **Section 4.** In the event a court of competent jurisdiction shall declare any portion of this Ordinance invalid, such invalidity shall not affect the Ordinance in its entirety, as it was the intent of the Board of Supervisors that the Ordinance would have been adopted, even if the offending provisions had not been included, as provided by Section AO-12, Chapter AO of the Code of the Township of Lower Southampton.

 **Section 5.** This Ordinance shall become effective five (5) days after enactment.

 ORDAINED AND ENACTED by the Board of Supervisors of Lower Southampton Township on this 9th day of August, 2023.

 LOWER SOUTHAMPTON TOWNSHIP

 BOARD OF SUPERVISORS

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ATTEST: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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Joseph Galdo, Township Manager

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