



# **CITY OF PITTSBURGH**

## **NON-RESIDENT SPORTS FACILITY USAGE FEE**

### **REGULATIONS**

Issued Pursuant to the  
City of Pittsburgh Code  
Title II  
Article X, Chapter 271

Effective  
**1/1/2017**



**ARTICLE 1: GENERAL PROVISIONS**

- § 101 Authorization
- § 102 Definitions

**ARTICLE 2: IMPOSITION OF FEE**

- § 201 Levy and Rate
- § 202 Allocation of Earned Income
- § 203 Who Must File
- § 204 Time Frame
- § 205 Obligation of Publicly Funded Facility

**ARTICLE 3: PAYMENT**

- § 301 Registration of Qualified Managing Entities and Contracting Parties
- § 302 Collection of Payment
- §303 Returns

**ARTICLE 4: ADMINISTRATION**

- § 401 Power of Treasurer
- § 402 Records Required
- § 403 Examination of Records
- § 404 Audits

**ARTICLE 5: VIOLATIONS**

- § 501 Not Mutually Exclusive
- § 502 Penalties
- § 503 Violations and Fines
- § 504 Suits
- § 505 Limitations on Enforcement

**ARTICLE 6: SAVINGS**

- § 601 Savings and Severability

**(date)**

## **ARTICLE 1: GENERAL PROVISIONS**

### **§ 101. AUTHORIZATION.**

Pursuant to “The Local Tax Enabling Act,” Act 551 of 1965, P.L. 1257; 53 P.S. § 6924, and the City Code, Title II, Article X, Chapter 271, the Treasurer of the City of Pittsburgh is authorized to prescribe, adopt, promulgate, and enforce regulations pertaining to the administration and enforcement of the Code.

### **§ 102. DEFINITIONS.**

The following terms, phrases, words, and their derivations when used in these Regulations shall have the meaning and effect ascribed to them in this Section, except where the context clearly indicates a different meaning:

**CITY**—the City of Pittsburgh, Pennsylvania.

**CITY CODE**—City of Pittsburgh, Pennsylvania Code of Ordinances, Title II, Article X, Chapter 271.

**NONRESIDENT CONTRACTING PARTY**—a person not domiciled within the City of Pittsburgh who enters into a binding agreement with a Publicly Funded Facility or facility manager to engage in or conduct a non-sporting event for compensation. This may include, but is not limited to, entertainers, performers, touring companies, promoters, booking agents, artist management companies, and other related positions.

**CURRENT YEAR**—the calendar year for which the usage fee is levied.

**DOMICILE**—the voluntary fixed place of habitation of a person. Actual residence is not necessarily domicile. In the intention of the user, domicile is permanent rather than transitory. In cases of a business, the domicile is the place considered to be the center of business affairs and the place from which functions are discharged.

**EARNED INCOME**—salaries, wages, commissions, bonuses, incentive payments, fees, tips, and all other forms of compensation, whether based

on profits or otherwise, earned by a Person or a personal representative of a Person for services rendered, whether directly or through an agent, and whether in cash or in property. This does not include wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness or disability, or payments arising under workers' compensation acts, occupational disease acts, and similar legislation.

**QUALIFIED MANAGING ENTITY**—any person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one (1) or more Nonresident Contracting Parties for salary, wage, commission, or other compensation.

**EMPLOYEE**—any person in the service of an Qualified Management Entity, under an appointment or contract of hire or subcontract, express or implied, oral or written, whether lawfully or unlawfully employed.

**NONRESIDENT**—any person domiciled outside of the City.

**PERSON**—any corporation, partnership, business trust, association, estate, trust, foundation, or natural person. Whenever used in any provision prescribing a fine or penalty, the word “person” as applied to partnerships shall mean the partners thereof, and as applied to corporations and unincorporated associations shall mean the officers thereof.

**PROMOTER**—any business entity, and any agent or representative of the business entity, who engages with a Publicly Funded Facility regarding the organization, marketing, or offering for sale of tickets to an event.

**PUBLICLY FUNDED FACILITY**— any sports stadium or arena in the City which has been constructed or maintained, in whole or in part, through the use of public funds. Publicly Funded Facilities include: 1001 -1035 5TH AVE (PPG Paints Arena), 1000 FORT DUQUESNE BLVD (David Lawrence Convention Center), 100 ART ROONEY DR (Heinz Field), 115 FEDERAL ST (PNC Park), 3719 TERRACE ST (Peterson Event Center), and 400 N SHORE DR (Stage AE).

**RESIDENT**—any person domiciled within the City.

**TREASURER**—the Deputy Director of the Department of Finance, his deputies, and their agents. The Deputy Director of Finance serves as City Treasurer.

**USAGE FEE**— Sports Facility Usage Fee.

**USER**—any person required hereunder to remit the usage fee.

## ***ARTICLE 2: IMPOSITION OF FEE***

### **§ 201. LEVY AND RATE.**

A fee for general revenue purposes of three (3) percent of Earned Income is hereby imposed on each Nonresident who uses a Publicly Funded Facility to engage in athletic event or otherwise render a performance for which a Nonresident receives remuneration.

### **§ 202. ALLOCATION OF EARNED INCOME.**

(a) Members of professional athletic teams, other than professional football teams calculate a “total games played within the City of Pittsburgh” versus “total games played (including exhibition, preseason, regular season and post-season games)” fraction. Multiply that fraction against the player’s total compensation. In determining “games played” include exhibition games that are officially sanctioned by the team’s league office in both the numerator and denominator of this fraction.

Earned Income x (Total games played in PGH/Total games played) x .03

(b) Members of professional football teams calculate a “total duty days within the City of Pittsburgh” versus “total duty days” fraction. Multiply that fraction against the player’s total compensation. In determining “duty days”, include preseason and regular season practice sessions; pre-season and regular season games; and post-season games and practice sessions that are officially sanctioned by the team’s league office in both the numerator and denominator of this fraction.

Earned Income x (Total duty days in PGH/Total duty days) x .03

(c) Non-Player Personnel are apportioned on the basis of working days per year. These include team employees, such as coaches, trainers and any other persons required to travel with the team and perform services on behalf of the team; game officials. Divide the total number of working days within the city of Pittsburgh by the total number of working days in the year to arrive at the working days apportionment fraction.

Earned Income x (Total work days in PGH/Total work days) x .03

(d) Entertainers are apportioned based on earned income attributable for the performance in the city's Publicly Funded Facility

Earned Income for performance x .03

(e) In general the taxpayer's apportionable income for the City of Pittsburgh would correspond to the apportionable income reported to PA as earned in the City of Pittsburgh.

### **§ 203. WHO MUST FILE.**

Every Qualified Managing Entity or Nonresident Contracting Party who employs or enters into a contract with an Qualified Managing Entity or independent contractor who earns compensation as the result of services performed within the City, whose services require the use of a Publicly Funded Facility to engage in an athletic event or otherwise render a performance for which a Nonresident receives Earned Income, is required to withhold and remit to the Treasurer the usage fee. In the event the Qualified Managing Entity or Nonresident Contracting Party fails, refuses, or neglects to withhold or remit the usage fee or any portion thereof, the Employee or Nonresident Contracting Party shall be personally liable for payment of the Usage Fee and any applicable penalty.

### **§ 204. TIME FRAME.**

The usage fee imposed under the Code shall be applicable to the Current Year.

### **§ 205. OBLIGATIONS OF PUBLICLY FUNDED FACILITY.**

It shall be the duty of the Person, venue, or entity acting on behalf of the Publicly Funded Facility, to provide the Finance Department with all relevant contracts and/or contract information in a manner acceptable to the Finance Department, and certify correctness thereof, within thirty (30) days of finalization of the aforementioned contract.

### **ARTICLE 3: PAYMENT**

#### **§ 301. REGISTRATION OF QUALIFIED MANAGING ENTITIES AND CONTRACTING PARTIES.**

- (a) Every Qualified Managing Entities not registered with the City employing or contracting with Nonresidents receiving Earned Income within the City shall, within sixty (60) days of first becoming a Qualified Managing Entity, register with the Treasurer the Qualified Managing Entity's name, address, and such other information as the Treasurer may require. Every registration shall be made upon a form authorized and furnished by the Treasurer. Every Person completing this form shall certify the correctness thereof.
- (b) Every Nonresident Contracting Party not registered with the City employing or contracting with Nonresidents receiving Earned Income within the City shall, within sixty (60) days of entering into an agreement with a Publicly Funded Facility to engage in an event held in a Publicly Funded Facility for which compensation is earned, register with the Treasurer with the Nonresident Contracting Party's name, address, and any other information as the Treasurer may require. Every registration shall be made upon a form authorized and furnished by the Treasurer. Every Person completing this form shall certify the correctness thereof.

#### **§ 302. COLLECTION OF PAYMENT.**

- (a) **Sporting Events.** Any Qualified Managing Entity who employs one (1) or more Nonresidents who earn compensation as the result of services performed within the City that require the use of a Publicly Funded Facility, shall deduct monthly, or more often than monthly the



usage fee imposed by this chapter based on the earned income paid or payable to and/or any compensation attributable to any Nonresident Employee.

Every Qualified Managing Entity shall, on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return on a form prescribed by the Treasurer and pay to the Treasurer the amount of usage fees deducted during the preceding three (3) month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively.

- (b) **Non-Sporting Events.** Any Nonresident Contracting Party who enters into a contract for the use of Publicly Funded Facility to engage in a non-sporting event for compensation shall deduct from the contract, the Usage Fee based on the Earned Income paid or payable to and/or any compensation attributable to any Nonresident Employee, Nonresident Contracting Party, their agents, or associates.

The Nonresident Contracting Party shall on or before April 30 of the current year, July 31 of the current year, October 31 of the current year, and January 31 of the succeeding year, file a return on a form prescribed by the Treasurer shall pay to the Treasurer the amount of usage fees deducted during the preceding three (3) month periods ending March 31 of the current year, June 30 of the current year, September 30 of the current year, and December 31 of the current year, respectively.

- (c) **The usage fee should not be reported in the local tax box on the W-2 form, because this is a fee, not a tax.**
- (d) Those individuals liable for the usage fee shall be exempt from any income tax imposed by a City of the second class pursuant to this Act and any such tax imposed under Section 652.1 of the Act of March 10, 1949 (P.L. 30, No. 14) known as the "Public School Code of 1949."

### **§ 303. RETURNS.**

- (a) All returns filed shall include information as prescribed in the form authorized and furnished by the Treasurer, including but not limited to, the names of Employees, Contracting Parties, and/or subcontracting parties and their respective home addresses, city residency, phone numbers, social security numbers, nature of relationship, nature of work performed, dates of work performed, and locations of work performed.
- (b) Failure to complete a form is deemed non-filing.

#### **ARTICLE 4: ADMINISTRATION**

##### **§ 401. POWER OF TREASURER.**

- (a) It shall be the duty of the Treasurer to collect and receive the usage fees, fines, and penalties imposed by the Code. It shall also be the duty of the Treasurer to keep a record showing the date of such receipt.
- (b) The Treasurer is charged with the administration and enforcement of the Code and these Regulations. The Treasurer is empowered to prescribe, adopt, promulgate, and enforce regulations pertaining to administration and enforcement of the Code. This power includes, but is not limited to:
  - (1) The power to reexamine and correct declarations and returns, payments alleged or found to be incorrect, and overpayments claimed or found to have occurred;
  - (2) The power to examine the books, papers, records, or other relevant documentation of any supposed Qualified Managing Entity or Nonresident Contracting Party, or any user or supposed user in accordance with these Regulations and as described in Section 403 of these Regulations;
  - (3) The power to prescribe forms necessary for the administration of these Regulations; and

- (4) The power to issue citations for violations of these Regulations and institute penalties, including but not limited, to those prescribed in Section 502.
- (c) The Treasurer is authorized to issue a ruling upon written request of a user.
- (d) The Treasurer shall annually provide to all Publicly Funded Facilities a copy of applicable City Code, City Regulations, and current policies related to the Nonresident Sports Facilities Usage Fee.

#### **§ 402. RECORDS REQUIRED.**

Qualified Managing Entity and Contracting Parties subject to the requirements of these Regulations are required to keep such records as will enable the filing of true and accurate returns of the Usage Fee, and such records shall be preserved for a period of not less than three (3) years from the filing date or due date, whichever is later, in order to enable the Treasurer to verify the correctness of those declarations or returns.

#### **§ 403. EXAMINATION OF RECORDS.**

- (a) The Treasurer and agents designated by him or her are hereby authorized to examine the books, papers, and records of any supposed Qualified Managing Entity or Nonresident Contracting Party, or of any user or supposed user, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the fee due. Every Person is directed and required to give the Treasurer and/or his or her designees the means, facilities, and opportunity for such examinations and investigations as are hereby authorized.

- (b) If records are not available to the City to support the returns which were filed or should have been filed, the Qualified Managing Entity or Nonresident Contracting Party will be required to make them available to the Treasurer either by producing them in a City location or by paying for the expenses incurred by the Treasurer in traveling to the place where the records are regularly kept.
- (c) Any information gained by the Treasurer, or by any other official or agent of the City, as a result of any declarations, returns, investigations, hearings, or verifications required or authorized by the Code shall be confidential except for official purposes and shall not be divulged except in accordance with a proper judicial order, or as otherwise provided by law.

#### **§ 404. AUDITS.**

If, as a result of an examination conducted by the Treasurer, a return is found to be incorrect, the Treasurer is authorized to issue a deficiency notice and collect any underpayments of the usage fee. If no return has been filed and an amount is found to be due, the amount may be billed and collected with or without the formality of obtaining a return. Notices of deficiency (i.e., where the return has been filed, but found to be deficient) shall include deficiencies for up to three(3) years prior to the date when the notice is issued. Where no return was filed, there shall be no limit to the period of notification of deficiency.

#### ***ARTICLE 5: VIOLATIONS***

#### **§ 501. NOT MUTUALLY EXCLUSIVE.**

The remedies provided in this Article are not mutually exclusive. The utilization by the Treasurer of one or more remedies does not preclude the utilization of another. Moreover, use of the aforementioned remedies does not preclude the City's use of any other legal or administrative procedure which can bring about compliance with the provision of the Code and these Regulations.

#### **§ 502. PENALTIES.**

- (a) If for any reason the usage fee is not paid when due, a penalty at the rate of one (1) percent per month on the amount of the usage fee will be added, during the time the usage fee goes unpaid but the amount shall not exceed fifteen percent (15%) in the aggregate.
- (b) On any additional usage fee determined to be due as a result of a deficiency notice, penalty will be assessed from the day the usage fee should have been paid to the date of payment. Penalty is calculated as described above in Section 502(a).
- (c) Where suit is brought for the recovery of the usage fee, the Person liable therefore shall, in addition, be liable for the costs of collection and the penalties herein imposed. A Person's belief that no usage fee is due and owing, or the failure of any such Person to receive or obtain the forms required for making the returns required by the Code is not a valid defense to the imposition of penalties for violation herein. Good faith shall not be a defense to the imposition of penalty.

### **§ 503. VIOLATIONS AND FINES.**

- (a) **Violations.** No Person shall:
  - (1) Fail, neglect or refuse to make any declaration or file a return as required under these Regulations;
  - (2) Fail, neglect, or refuse to pay or deduct in part or in whole the Usage Fee when it is due as required by these Regulations;
  - (3) Refuse to keep or supply to the Treasurer books, records, or accounts of any business, taxable or otherwise, to determine liability as required by these Regulations;
  - (4) Make any incomplete, false, or fraudulent return, or to attempt to avoid full disclosure of the amount of the usage fee due, or to avoid payment in part or in whole of the usage fee; or
  - (5) Divulge information which is confidential under Chapter 201.6 of the Code.

- (b) **Fines.** Pursuant to the Local Tax Enabling Act, as amended, in addition to any other penalties or enforcement of fees:
- (1) Any Qualified Managing Entity required to collect, account for, and remit the Usage Fee who willfully fails to collect or truthfully account for and remit the Usage Fee to the City commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding \$25,000.00 or to imprisonment not exceeding two (6) months, or both;
  - (2) Any Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully refuses to file a Usage Fee return as required by these Regulations shall, upon conviction, be sentenced to pay a fine of not more than one thousand dollars (\$1,000) and/or to a term of imprisonment of not more than six (6) months;
  - (3) Any Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully makes any false or untrue statement on the Usage Fee return shall upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) and/or a term of imprisonment of not more than six (6) months;
  - (4) Any Qualified Managing Entity or Nonresident Contracting Party who negligently or willfully fails to remit the entire amount of the usage fee, as determined and required by these regulations, shall upon conviction, be sentenced to pay a fine of not more than two thousand dollars (\$2,000) and/or to a term of not more than six (6) months;
  - (5) Any Person who willfully fails or refuses to appear before the Treasurer in person with the requested books, records, accounts, or other materials when required by the Code, or who willfully refuses to permit inspection by the Treasurer of those books, records, accounts, or other materials in the Person's custody or control when required by the Code, shall, upon conviction be sentenced to pay a fine of not more than five hundred dollars (\$500) and costs for each offense, and in

default of payment thereof may be imprisoned for not more than fifty (50) days;

- (6) The fines and terms of imprisonment imposed under this Section shall be in addition to any other relief granted to the City of a monetary nature under the provisions of these Regulations;
- (7) Each and every day that the violation continues shall constitute a separate offense for which a fine can be imposed;
- (8) Anyone found to be guilty of violations delineated in Section 503(b) may be denied future use of the Publicly Funded Facility.

#### **§ 504. SUITS.**

The Treasurer may sue in the name of the City, in law or in equity, for the recovery of those fees due and unpaid under the provisions of the usage fee, to compel the production of records, or to enforce any other provisions of the law.

#### **§ 505. LIMITATIONS ON ENFORCEMENT.**

- (a) The following periods of limitation shall apply to suits for collection of usage fees:
  - (1) When a return has been filed but no usage fee paid, any suit brought to recover the usage fee due and unpaid shall be filed within three (3) years after the return was due or filed, whichever is later. Where no return was filed, there shall be no limit to file suit for the collection of fees;
  - (2)
- (b) The limitations set forth in paragraph (a) shall not prevent the filing of a suit for the collection of any usage fee due or determined to be due in the following cases:

- (1) Where no return was filed, there is no limitation;
  - (2) Where the return is fraudulent, there is no limitation;
  - (3) When there is an understatement of liability of twenty-five (25) percent or more, and not due to fraud, the suit shall be filed within six (6) years after the return was due or filed, whichever is later.
- (c) A return filed before the due date is deemed to be filed on the due date.

## **ARTICLE 6: SAVINGS**

### **§ 601. SAVINGS CLAUSE AND SEVERABILITY.**

- (a) If a final decision of a court of competent jurisdiction holds any provisions of these Regulations, or the application of any provision to any circumstances, to be illegal or unconstitutional, the other provisions in these regulations, or the application of such provision to other circumstances, shall remain in full force and effect. The intent of the Treasurer is that the provisions of these Regulations shall be severable and that they would have been adopted if any such illegal or unconstitutional provisions had not been included herein.
- (b) Should a court of competent jurisdiction determine this provision to be invalid for any reason, Persons subject to the Usage Fee shall not be exempt from any previously applicable earned income tax.