

ADMISSION TAX POLICIES

Boulder, CO

TITLE 3 REVENUE AND TAXATION

Chapter 4 Admissions Tax¹

¹Adopted by Ordinance No. 4610. Derived from Ordinance No. 3661.

3-4-1 Legislative Intent.

The city council intends that every person who pays to gain admission to any place or event in the city that is open to the public shall pay and every person, whether owner, lessee, or operator, who charges or causes to be charged admission to any such place or event shall collect the tax imposed by this chapter.

3-4-2 Imposition and Rate of Tax.

On and after January 1, 1971 there is levied, and shall be paid and collected, an excise tax of five percent on the price paid to gain admission to any place or event in the city that is open to the public².

²Defined in Section 3-1-1, "Definitions," B.R.C. 1981.

Ordinance No. 5430 (1991).

3-4-3 Liability for Tax.

(a)No person who pays to gain admission to any place or event in the city that is open to the public shall fail to pay and no person, whether owner, lessee, or operator, who charges or causes to be charged admission to any place or event in the city that is open to the public shall fail to collect the tax levied by this chapter. If an owner or operator of a facility leases or rents such facility to another party who conducts an event open to the public in such facility, such owner or operator is not liable for collecting and remitting the tax if the party to whom the facility is leased or rented is at the time of the leasing or rental licensed to collect and remit the tax.

(b)The burden of proving that any transaction is not subject to the tax imposed by this chapter is upon the person upon whom the duty to collect the tax is imposed.

3-4-4 Taxes Collected are Held in Trust.

All sums of money paid by a person to gain admission to any place or event in the city that is open to the public as the admissions tax imposed by this chapter are public monies that are the property of the city. The person

required to collect and remit the admissions tax shall hold such monies in trust for the sole use and benefit of the city until paying them to the city manager.

3-4-5 Exempt Transactions.

The following entities and transactions are exempt from the duty to pay the tax imposed by this chapter but not the duty to collect and remit the tax levied hereby:

(a)The United States Government and the State of Colorado, its departments and institutions, and the political subdivisions thereof including the city, when acting in their governmental capacities and performing governmental functions and activities, and when the government's obligation is paid for directly to the licensee by a purchase card or a draft or warrant drawn on the government's account¹;

(b)Religious, charitable, and quasi-governmental organizations, but only in the conduct of their regular religious, charitable, and quasi-governmental capacities and only if each such organization has obtained an exempt institution license under Section 3-2-12, "Exempt Institution License," B.R.C. 1981, and furnishes the exempt institution license to the person who charges or causes to be charged admission to any place or event in the city that is open to the public, and only if the organization's obligations have been paid for directly by it to the admissions tax licensee without reimbursement therefor;

(c)Any person who refunds an admission price for any reason, either before or after an event has taken place, and refunds the admission tax along with the admission price;

(d)Any person who provides free "passes" or complimentary admission tickets or otherwise fails to charge an admission price for admission to a place or event open to the public, but if such person imposes a reduced admission charge for any such "pass," complimentary admission, or otherwise, the tax imposed by this chapter applies to the actual amount of such reduced admission charge;

(e)Any admission fee paid or charged to gain entry into any event sponsored or conducted by the city.

¹City of Boulder v. Regents, 179 Colo. 420, 501 P.2d 123 (1972).

Ordinance Nos. 5001 (1986); 6090 (1999).

3-4-6 Licensing and Reporting Procedure.

(a)Every owner, operator, or person who has the duty to collect tax imposed by this chapter shall obtain a license to collect the tax and shall report such taxes on forms prescribed by the city manager and remit such taxes to the city within the following time periods:

(1) For regularly continuing or recurring events, including, without limitation, showing films in motion picture theatres, on or before the twentieth day of the month for the preceding month or months under report, and

(2) For single, non-continuing or non-recurring events, including, without limitation, a single performance of a concert, within five calendar days of the performance or event, unless the manager after specific, advance request allows a longer time.

(b) The city manager shall issue an admissions tax license to persons who pay the fee prescribed by Section 4-20-38, "Tax License Fees," B.R.C. 1981, and complete an application therefor stating the name and address of the person and the business and such other information as the manager may require. The license shall be numbered, show the name, residence, place, and character of the business of the licensee, and be conspicuously posted in the place of business for which it is issued. No admissions tax license is transferable. The license is effective until the thirty-first day of December of the year of issue, unless sooner revoked.

(c) The license fee for regularly continuing and recurring events and for single, non-continuing or non-recurring events is that prescribed by Section 4-20-38, "Tax License Fees," B.R.C. 1981.

(d) The license is valid so long as the business remains in continuous operation or the license is canceled by the licensee or revoked by the city.

(e) Whenever a business entity that is required to be licensed under this chapter is sold, purchased, or transferred, so that the ownership interest of the purchaser or seller changes in any respect, the purchaser shall obtain a new admissions tax license.

(f) The license may be revoked as provided in Section 3-2-13, "Revocation of License," B.R.C. 1981.

(g) The city manager may require a deposit from persons applying for an admissions tax license for a single, non-continuing or non-recurring event.

Ordinance No. 5599 (1993).

3-4-7 Maintenance and Preservation of Tax Returns, Reports and Records.

(a) The city manager may require any person to make such return, render such statement, or keep and furnish such records as the manager may deem sufficient and reasonable to demonstrate whether or not such person is liable

under this chapter for the payment or collection of the tax imposed by this chapter.

(b) Any person required to make a return or file a report under this chapter shall preserve such reports as provided in Section 3-2-18, "Taxpayer Duty to Keep Records and Make Reports," B.R.C. 1981.

(c) The city manager shall maintain all reports and returns of taxes required under this chapter as provided in Section 3-2-20, "Preservation of Tax Returns and Reports," B.R.C. 1981.

3-4-8 Interest and Penalties for Failure to File Tax Return or Pay Tax.

(a) Penalties for failure of a person to collect the admissions tax or to make return and remit the correct amount of tax required by this chapter and procedures for enforcing such penalties are as prescribed in Section 3-2-22, "Penalties for Failure to File Tax Return or Pay Tax (Applies to Entire Title)," B.R.C. 1981.

(b) Interest on overpayments and refunds is as prescribed in Section 3-2-24, "Interest on Overpayments and Refunds (Applies to Entire Title)," B.R.C. 1981.

3-4-9 Refunds.

Refunds of taxes paid under this chapter are as prescribed in Section 3-2-23, "Refunds (Applies to Entire Title)," B.R.C. 1981.

3-4-10 Hearings and Appeals.

Repealed.

Ordinance No. 5052 (1987).

3-4-11 Enforcement of Tax Liability.

(a) The admissions tax imposed by this chapter, together with all interest and penalties pertaining thereto, is a first and prior lien on tangible personal property in which the person responsible to collect and remit the tax has an ownership interest, subject only to valid mortgages and other liens of record at the time of and prior to the recording of the notice of lien provided in Subsection 3-2-27(c), B.R.C. 1981.

(b) The provisions of Sections 3-2-27, "Tax Constitutes Lien," 3-2-29, "Sale of Business Subject to Lien," 3-2-30, "Certificate of Discharge of Lien," 3-2-31, "Jeopardy Assessment," 3-2-32, "Enforcing the Collection of Taxes Due (Applies to Entire Title)," 3-2-33, "Recovery of Unpaid Tax by Action at Law," 3-2-34, "City may be a Party Defendant," 3-2-35, "Injunctive Relief," 3-2-36, "Obligations of Fiduciaries and Others," 3-2-37, "Violations of Tax Chapter," and 3-2-38, "Limitations," B.R.C. 1981, providing for enforcement of collection

of taxes due govern the authority of the city manager to collect the taxes, penalties and interest imposed by this chapter.

3-4-12 Duties and Powers of City Manager.

The city manager is authorized to administer the provisions of this chapter and has all other duties and powers prescribed by Section 3-2-17, "Duties and Powers of City Manager," B.R.C. 1981.

3-4-13 City Employee Conflicts of Interest Prohibited.

No deputy, agent, clerk, or other officer or employee of the city engaged in any activity governed by this chapter shall engage in the business or profession of tax accounting or accept employment with or without compensation from any person holding an admissions tax license from the city for the purpose, directly or indirectly, of preparing tax returns or reports required by the city, the State of Colorado, its political subdivisions, any other state, or the United States, or accept any employment for the purpose of advising, preparing materials, or data, or auditing books or records to be used in an effort to defeat or cancel any tax or part thereof that has been assessed by the city, the State of Colorado, its political subdivisions, any other state, its political subdivisions, or the United States.

Chicago

ARTICLE I. AMUSEMENTS

4-156-010 Definitions.

For purposes of this chapter:

"Amusement" means: (1) any exhibition, performance, presentation or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition such as boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling or billiard or pool games; (2) any entertainment or recreational activity offered for public participation or on a membership or other basis including, but not limited to, carnivals, amusement park rides and games, bowling, billiards and pool games, dancing, tennis, racquetball, swimming, weightlifting, bodybuilding or similar activities; or (3) any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or similar means.

"Arcade" means a place of amusement that includes four or more automatic amusement devices; provided, however, that when calculating the number of automatic amusement devices, jukeboxes shall not be counted.

"Legal voter" means a person who has registered to vote and whose name appears on a poll sheet from the last preceding election regardless of whether primary, general or special.

"Live theatrical, live musical or other live cultural performance" means a live performance in any of the disciplines which are commonly regarded as part of the fine arts, such as live theater, music, opera, drama, comedy, ballet, modern or traditional dance, and book or poetry readings. The term does not include such amusements as athletic events, races or performances conducted at adult entertainment cabarets (as defined in Chapter 16-16 of this Code).

"Maximum capacity" means the number of persons that an auditorium, theater or other space may accommodate as determined by the building commissioner or the executive director of the department of construction and permits pursuant to Chapter 13-36 of this Code or by any other appropriate government official; provided, however, that "maximum capacity" shall not exceed the maximum number of tickets or **admissions** that may be made available for sale to a performance as stated in any binding written agreement relating to that performance. If the number of tickets or **admissions** actually sold to a performance exceeds the legally permissible limit, for purposes of determining the applicable **tax**, "maximum capacity" shall mean such greater number.

"Owner" means: (1) with respect to the owner of a place where an amusement is being held, any person with an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement in such place; (2) with respect to the owner of an amusement, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from nonamusement services and from sales of tangible personal property; (3) with respect to paid television programming, any person operating a community antenna television system or wireless cable television system, or any person receiving consideration from the patron for furnishing, transmitting, or otherwise providing access to paid television programming.

"Paid television" means programming that can be viewed on a television or other screen, and is transmitted by cable, fiber optics, laser, microwave, radio, satellite or similar means to members of the public for consideration.

"Person" means any natural individual, firm, society, foundation, institution, partnership, limited liability company, association, joint stock company, joint venture, public or private corporation, receiver, executor, trustee or other representative appointed by the order of any court, or any other entity recognized by law.

"Special seating area" means an enclosed or substantially enclosed apartment-style room containing or making available amenities for the exclusive use of the patrons thereof whether denominated as luxury or super suites or skyboxes or by other similar terms. Such amenities may include, but are not necessarily limited to, television (including closed-circuit capacity), bathroom, refrigerator, telephone service, storage sink, living room or lounge furniture, special spectator seating, food, heat, air conditioning and parking.

"Theatrical community center" means a building or a portion thereof used by a not-for-profit organization chartered by the State of Illinois which has as its purposes the promotion, instruction, study and production of the theater as an art form. Any single room within said theatrical community center used for theatrical purposes shall provide for a capacity of less than 300 persons, and shall meet all requirements of the Municipal Code of Chicago which apply to Small Assembly Units, Class C-2, as provided in Section 13-56-090 of the Municipal Code.

(Coun. J. 5-22-91, p. 335; Coun. J. 12-9-92, p. 25465; Amend Coun. J. 11-17-93, p. 42192; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 4-21-99, p. 91752; Amend Coun. J. 7-2-97, p. 48018; Amend Coun. J. 11-12-98, p. 81837; Amend Coun. J. 4-21-99, p. 91752; Amend Coun. J. 3-5-03, p. 104990, § 5)

Tax

4-156-020 Tax imposed.

A. Except as otherwise provided by this article, an amusement **tax** is imposed upon the patrons of every amusement within the city. The rate of the **tax** shall be equal to seven percent of the **admission** fees or other charges paid for the privilege to enter, to witness, to view or to participate in such amusement, unless subsection E of this section provides for a lower rate.

B. The **tax** imposed by subsection A shall not apply to the following persons or privileges:

(1) patrons of automatic amusement machines as defined in Article II of this chapter, or

(2) the privilege of witnessing or participating in any stock show or business show that is not open to the general public, or

(3) the privilege of hiring a horse-drawn carriage licensed under chapter 9-108 of this Code, or

(4) the privilege of witnessing or participating in any amateur production or activity, such as amateur musicals, plays and athletic events, conducted by a not-for-profit organization operated exclusively for charitable, educational or religious purposes, or

(5) subject to satisfying the requirement contained in subsection (C) of this section, the privilege of witnessing or participating in any amusement sponsored or conducted by and the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of:

(a) religious, educational and charitable institutions, societies or organizations;

(b) societies or organizations for the prevention of cruelty to children or animals;

(c) societies or organizations conducted and maintained for the purpose of civic improvement;

(d) fraternal organizations, legion posts, social and political groups which conduct amusements, sponsored occasionally but not more often than twice yearly;

Provided, however, that the entities described in paragraphs (a) to (d) are not-for-profit institutions, organizations, groups or societies, where no part of the net earnings inure to the benefit of any private shareholder or person;

(e) organizations or persons in the armed services of the United States, or National Guard organizations, reserve officers' associations, or organizations or posts of war veterans, or auxiliary units or societies of such posts or organizations, if such posts, organizations, units or societies are organized in the State of Illinois, and if no part of their earnings inure to the benefit of any private shareholder or person;

(f) organizations or associations created and maintained for the purpose of benefiting the members, or dependents or heirs of members, of the police or fire departments of any political subdivision of the State of Illinois.

Provided that the exemptions contained in paragraphs (a) through (f) shall apply only to benefits or other fundraising events and shall not apply to more than two events per calendar year which shall not exceed a total of 14 calendar days;

(g) societies or organizations conducted for the sole purpose of maintaining symphony orchestras, opera performances or artistic presentations, including, but not limited to, musical presentations ("artistic societies or organizations"), if the artistic society or organization (i) receives substantial support from voluntary contributions, (ii) is a not-for-profit institution where no part of the net earnings inure to the benefit of any private shareholder or person, and (iii) either (a) bears all risk of financial loss from its presentation of the amusement and the amusement is limited to an engagement of not more than eight calendar days over the course of a calendar year or (b) is substantially and materially involved in the production and performance of the amusement. Where an amusement is sponsored or conducted by two or more artistic societies or organizations, the requirements of subsections (i) and (ii) of this subsection 4-156-020(B)(5)(g) must be met by each of such artistic societies or organizations, but the requirements of subsection (iii) may be met by any of such artistic societies or organizations, individually or in combination.

C. (1) None of the exemptions contained in subsection B(5) of this section shall apply to a person or privilege unless a written notice of the amusement is filed with the department of revenue at least 30 calendar days prior to the amusement or 15 calendar days prior to the date that **admission** tickets to the amusement are first made available for sale, whichever is earlier. The notice shall be on a form prescribed by the director of revenue, and shall contain all information and materials necessary to permit the department to consider whether the exemption claimed by the applicant is applicable.

(2) Upon the request of the person filing the notice, the department shall indicate within 14 calendar days after receiving the notice whether the claimed exemption does or does not apply, or whether additional information is necessary to make a determination.

D. (1) The **tax** imposed in subsection A of this section shall not apply to or be imposed upon the **admission** fees to witness in person live theatrical, live musical or other live cultural performances that take place in any

auditorium, theater or other space in the city whose maximum capacity, including all balconies and other sections, is not more than 750 persons.

(2) Initiation fees and membership dues paid to a health club, racquetball club, tennis club or a similar club or organization, when such club or organization is organized and operated on a membership basis and for the recreational purposes of its members and its members' guests, shall be exempt from the **tax** imposed in subsection A of this section. This exemption shall not be construed to apply to any fees paid or based upon, in any way whatsoever, a per-event or a per-**admission** basis.

E. The rate of the **tax** imposed in subsection A of this section shall be three percent of the **admission** fees or other charges to witness in person live theatrical, live musical or other live cultural performances that take place in any auditorium, theater or other space in the city whose maximum capacity, including all balconies and other sections, is more than 750 persons.

F. The **tax** imposed in subsection A of this section shall apply to and be imposed upon 60 percent of the **admission** fees or other charges (including, but not limited to, the gross lease or rental amount) paid for the privilege of using special seating areas to witness or to view an amusement.

G. It shall be presumed that all amusements are subject to **tax** under this article until the contrary is established by books, records or other documentary evidence.

H. For the purpose of determining the amount of the amusement **tax** due under Section 4-156-020, **admission** fees or other charges shall be computed exclusive of this **tax**, any federal, state or county **taxes** imposed upon the amusement patron and any separately stated charges for nonamusement services or for sales of tangible personal property.

I. It is unlawful for any person to produce, present, conduct, or resell tickets to, any amusement without collection of the **tax**, except as provided in this article.

J. Notwithstanding subsection A of this section, if an owner, manager or operator of an amusement or of a place where an amusement is being held, or if a reseller of tickets to an amusement, is a party to a franchise agreement or any other agreement with the city pursuant to which the owner, manager, operator or reseller compensates the city for the right to use the public way or to do business in the city, liability under the **tax** imposed by subsection A shall be reduced by the amount paid to the city pursuant to the agreement.

(Coun. J. 12-9-92, p. 25465; Amend Coun. J. 12-15-92, p. 27387; Amend Coun. J. 11-10-94, p. 59125; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 7-30-97, p. 48761; Amend Coun. J. 11-12-98, p. 81837; Amend Coun. J. 4-21-99, p. 91752)

4-156-030 Collection, payment and accounting.

A. It shall be the joint and several duty of every owner, manager or operator of an amusement or of a place where an amusement is being held, and of every reseller of tickets to an amusement, to secure from each patron the **tax** imposed by Section 4-156-020 of this article and to remit the **tax** to the department of revenue not later than the last day of each calendar month for all **admission** fees or other charges received during the immediately preceding calendar month; provided, however, that a reseller of tickets shall be required to collect and remit **tax** to the department only on that portion of the ticket price that exceeds the original or face amount of the tickets. A verified statement of **admission** fees or charges in a form prescribed by the director of revenue shall accompany each remittance. Acceptance by the city of any amount tendered in payment of the **tax** shall be without prejudice to any claim, demand or right on account of any deficiency. Effective July 1, 2002, each owner, manager, operator, or reseller that collects and remits **taxes** in accordance with this section may retain 1.0 percent of the **taxes** it collects under this chapter to reimburse itself for expenses incurred in connection with accounting for and remitting the **taxes** to the department; provided that this service fee shall not be allowed for **taxes** not timely remitted to the department; and provided further that this service fee shall not apply to any **taxes** that are collected and remitted pursuant to the terms of a contract between the operator and the City of Chicago.

B. Every person required to collect and remit the **tax** imposed by Section 4-156-020 of this article, or pay the **tax** directly to the department, shall keep accurate books and records of its business or activity, including original source documents and books of entry denoting the transaction that gave rise, or may have given rise, to the **tax** liability or any exemption that may be claimed. All such books, records and accounts shall be available for inspection by the department at all reasonable times during business hours of the day.

C. Every owner, manager, operator, or reseller of tickets, who is required to collect the **tax** imposed by Section 4-156-020 of this article shall be considered a **tax** collector for the city. All amusement **tax** collected shall be held by such **tax** collector as trustee for and on behalf of the city. The failure of the **tax** collector to collect the **tax** shall not excuse or release the patron from the obligation to pay the **tax**.

D. Notwithstanding any other provision of this Code, in order to permit sound fiscal planning and budgeting by the city, no person shall be entitled to a refund of, or credit for, either **tax** imposed by this article unless the person files a claim for refund or credit within one year after the date on which the **tax** was paid or remitted to the department. This provision shall apply to any claim for credit or refund for which the director has not issued a final determination as of the effective date of this subsection 4-156-030(D).

E. Notwithstanding subsection A of this Section 4-156-030, a reseller of tickets shall not be required to collect the **tax** imposed by Section 4-156-020, and remit the **tax** to the department of revenue, if the purchaser of such tickets will in turn act as a reseller of the same tickets, provided that the purchaser supplies to the reseller (1) a written verification that the purchaser intends to resell the tickets and (2) the **tax** registration number issued to the purchaser by the department of revenue.

F. Notwithstanding any other provision of this chapter, for all periods beginning on or after January 1, 2000, (1) all **tax** returns shall be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of this Code, (2) all **tax** payments and remittances shall be made in accordance with either Section 3-4-187 (payment of actual **tax** liabilities) or Section 3-4-188 (payment of estimated **taxes**) and (3) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over any contrary provisions in this chapter regarding the subjects covered by those sections.

(Coun. J. 12-9-92, p. 25465; Amend Coun. J. 12-15-92, p. 27387; Amend Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-12-98, p. 81837; Amend Coun. J. 11-17-99, p. 18040, § 1.2; Amend Coun. J. 12-12-01, p. 75777, § 2.15)

tax

4-156-033 Additional tax imposed on sellers of tickets.

A. In addition to the **tax** imposed by Section 4-156-020 of this article, a **tax** is imposed upon persons that sell tickets in the city for theatricals, shows, exhibitions, athletic events and other amusements within the city at a place other than the theater or location where the amusement is given or exhibited. The rate of this **tax** shall be seven percent of any service fees or similar charges received by the seller in connection with the sale of such tickets in the city, as distinguished from the **admission** fees or other charges paid for the privilege to enter, to witness, to view or to participate in such amusements. This **tax** shall not apply if the theatrical, show, exhibition, athletic event or other amusement is exempt or otherwise not subject to the **tax** imposed by Section 4-156-020.

B. To prevent multiple taxation, upon proof that a taxpayer has paid a similar **tax** in another state or municipality with respect to the service fee or similar charge received by a seller in connection with the sale of tickets in the city, the taxpayer shall be allowed a credit against the **tax** authorized by subsection A. of this section to the extent of the amount of such **tax** properly due and paid in such other state or municipality.

C. Sellers of tickets shall pay the **tax** imposed by this Section 4-156-033 to the department of revenue not later than the last day of the calendar month following the month they receive the service fees or similar charges. A return prescribed by the director of revenue shall accompany each **tax** payment. Such sellers of tickets shall keep accurate books and records of their business, including original source documents and books of entry, which shall be made available for inspection by the department at all times during business hours of the day.

D. Notwithstanding any other provision of this chapter, for all periods beginning on or after January 1, 2000, (1) all **tax** returns shall be filed with the department on an annual basis on or before August 15 of each year in accordance with Sections 3-4-186 and 3-4-189 of this Code, (2) all **tax** payments shall be made in accordance with either Section 3-4-187 (payment of actual **tax** liabilities) or Section 3-4-188 (payment of estimated **taxes**) and (3) the provisions of Sections 3-4-186, 3-4-187, 3-4-188 and 3-4-189 shall control over any contrary provisions in this chapter regarding the subjects covered by those sections.

(Added Coun. J. 11-15-95, p. 11995; Amend Coun. J. 11-17-99, p. 18040, § 1.2)

Santa Cruz, CA

3.36.010DEFINITIONS.

For purposes of this chapter, certain words and phrases shall be construed as follows:

(1)"Admission charge" shall mean any charge, whether or not so designated for the right or privilege to enter, occupy, or use a seat or space in any facility as hereinafter defined, or to participate as a patron in any event. It shall also mean season passes or subscriptions but shall not be construed to include complimentary, promotional or otherwise free-of-charge tickets or passes given by any operator or person.

(2)"Director" shall mean the director of finance of the city or his or her designee.

(3)"Facility" shall mean and include any building, structure, place or location wherein or at which any form of event is or can be held, carried on or conducted.

(4)"Event" shall mean any entertainment, amusement or recreational activity, for which an admission charge is made, and shall include, but shall not be limited to: circuses, motion picture shows, shows of all kinds, all sporting contests and athletic events, including exhibitions, concerts, lectures, theatrical and musical performances, bowling, dancing, golf (including miniature golf), swimming and bathing, speeches, fairs, carnivals, menageries, amusement rides and devices and all forms of recreation in or at amusement parks, billiards, pool, or any other form of diversion, sport, pastime or recreation.

(5)"Operator" shall mean any person conducting, operating, or maintaining in whole or in part as principal, agent, officer, employee or independent contractor any event, or facility, as defined in this chapter, taxable under this chapter. For purposes of collecting the tax provided for in this chapter, there are two classes of operators, as follows: (a) one who conducts, operates, or maintains an established fixed facility, wherein events are held, carried on or conducted in the operator's normal course of business, hereinafter referred to as a "fixed operator"; and (b) any other operator, hereinafter referred to as a "nonfixed operator."

(6)"Patron" shall mean any person who pays or on account of whom is paid any admission charge or admission price for the right or privilege of being admitted to or to use any facility, or to participate in any event. The term "patron" shall not include (i) a bona fide employee of the operator when admission to the facility is incident to said employee's duties, and (ii) any employee or official of the state of California, or any agency, instrumentality or department thereof, the city, or United States Government whose official duty makes it necessary to gain admission to any event.

(7)"City" shall mean the city of Santa Cruz.

(Ord. 86-44 § 1 (part), 1986).

3.36.020TAX IMPOSED.

There is hereby imposed a tax in an amount equal to five percent of the price of the admission charge, including a season ticket or subscription, for the privilege of admission to any event in or at a facility. Such tax is a debt owed by the patron to the city, which debt shall be extinguished only by payment to the operator or to the city. Such tax shall be in addition to all other taxes or fees imposed by law.

(Ord. 86-44 § 1 (part), 1986).

3.36.030OPERATOR'S DUTIES.

Each operator shall collect the tax imposed by this chapter from any patron when he or she pays an admission charge or purchases an admission ticket or season ticket or subscription. Every operator shall hold the tax imposed by this chapter in trust until the same is paid to the director as hereinafter provided.

(Ord. 86-44 § 1 (part), 1986).

3.36.040EXEMPTIONS.

An application may be filed with the director for exemption from the tax imposed by this chapter if the charge paid for the event is one specified by this section. The director may require such information in the application for the certificate of exemption, or in addition hereto, as will enable the director to

determine whether the charge for which the exemption is sought is eligible therefor.

The following charges shall be exempt:

(1)The charge to play and/or operate an amusement ride, amusement device or amusement game, where the total cost to play and/or operate is less than thirty cents;

(2)The charge to play and/or operate any coin or token operated pinball machine or electronic game;

(3)Charges levied as membership fees for memberships in social, fraternal, or nonprofit clubs or organizations, where annual membership is required as a condition to admission to the club's or organization's facilities;

(4)Charges for registration or participation in educational events or activities held or conducted by established public or private schools which operate and maintain fixed facilities devoted to educational purposes;

(5)Charges levied as tuition fees for the privilege of attendance at a class or lecture or series of classes or lectures of an educational nature, conducted by any public or private high school or college.

(Ord. 97-03 § 1, 1997; Ord. 86-44 § 1 (part), 1986).

3.36.050REGISTRATION.

(1)Prior to conducting, operating, or maintaining any event or facility which is subject to this chapter, each operator shall register with the director and obtain from him or her an "admission tax collection certificate" to be at all times posted in a conspicuous place on the premises, or on file with the manager of the facility.

(2)Upon registration, a nonfixed operator shall make an advance deposit with the director equal to the estimated amount of the tax to be collected by the operator.

(Ord. 86-44 § 1 (part), 1986).

3.36.060CONTENTS OF CERTIFICATE.

The certificate issued pursuant to Section 3.36.040, shall include, among other things, the following:

(1)The name of the operator;

(2)The address of the facility;

(3)The date upon which the certificate was issued;

(4)If issued to a nonfixed operator, the period of time during which the event, or if successive events on consecutive days, the total period for all events;

(5)"This admission tax collection certificate signifies that the person named on the face hereof has fulfilled the requirements of the city's admission tax regulations by registering with the director for the purpose of collecting from patrons the admission tax and remitting said tax to the director. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner. This certificate does not imply that the business is either lawful or lawfully conducted and it does not constitute a permit."

(Ord. 86-44 § 1 (part), 1986).

3.36.070TERM OF CERTIFICATE.

All certificates issued pursuant to Section 3.36.050 shall be valid for the following periods:

(1)Permits issued to fixed operators shall be valid for one year, and may be renewed annually thereafter.

(2) Permits issued to nonfixed operators shall be valid for the period of each specific event for which the certificate is issued. A separate certificate shall be required for each individual event, except events which are scheduled to occur on consecutive days, in which case a single certificate shall be valid for all successive occurrences of the event.

(Ord. 90-04 § 1 (part), 1990; Ord. 86-44 § 1 (part), 1986).

3.36.080 RENEWAL OF CERTIFICATE.

The director shall issue or renew a certificate under this chapter except on a finding that:

(1) The applicant for such certificate or renewal has willfully failed to remit or has expressed his or her intent to fail to remit the tax imposed by this chapter; or

(2) The applicant for such certificate or renewal has failed to supply the director with any information or records required to be submitted pursuant to this chapter.

(Ord. 86-44 § 1 (part), 1986).

3.36.090 NONTRANSFERABILITY.

No admission tax collection certificate may be transferred or assigned.

(Ord. 86-44 § 1 (part), 1986).

3.36.100 REPORTING AND REMITTING.

Each operator shall, on the date or within the time hereafter prescribed, make a return to the director, on forms provided by the director, of the total admissions charges collected and received and the amount of tax collected from patrons. At the time the return is filed, the full amount of any tax collected and due shall be remitted to the director. Those amounts not paid shall immediately become delinquent. The director may establish special reporting periods for any operator if the director deems it necessary to assure collection of the tax, and the director may require further information to be included in the return. Returns and payments are due and payable immediately upon cessation of business by the operator for any reason.

The regular reporting and remittance period shall be as follows:

(1) For each fixed operator, on or before the last day of the month following the close of the prior month, or at the close of any shorter reporting period that may be established by the director;

(2) For each nonfixed operator, not later than ten days after the conclusion of the event, or within such shorter reporting period that may be established by the director. The director shall calculate any additional tax due that exceeds the amount of the nonfixed operator's deposit, and that amount shall be immediately paid by the operator to the director. If reconciliation of the deposit amount with the return indicates a refund is due, it will be refunded to the operator within fifteen days.

(Ord. 86-44 § 1 (part), 1986).

3.36.110 COLLECTION SECURITY.

The director, whenever he or she deems it necessary to assure faithful compliance with this chapter, may require any operator subject to the provisions of this chapter to deposit with the director security for payment of taxes. The amount of the security shall be fixed by the director but shall not be greater than twice the estimated average liability for the period for which accounting and return are required under Section 3.36.080. Such security may be in the form of cash, cashiers' check made payable to the city, certified

check made payable to the city, or a surety bond inuring to the benefit of the city, which bond shall be executed by a corporation authorized to do business in the state of California.

(Ord. 86-44 § 1 (part), 1986).

3.36.120PENALTIES AND INTEREST.

(1)Tax Returns and Remittance of Deficiency Determinations.

(a)Original Delinquency. Any operator who fails to file a tax return or pay a deficiency determination within the time required shall pay a penalty of ten percent of the tax in addition to the amount of the tax.

(b)Continued Delinquency. Any operator who fails to file a tax return or pay a deficiency determination on or before a period of thirty days following the date on which it first became delinquent shall pay a second delinquency penalty of fifteen percent of the amount of tax in addition to the amount of tax and and the ten percent penalty first imposed.

(c)Interest. Interest shall accrue as prescribed in subsection (3) below.

(2)Tax Returns and Deficiency Determinations.

(a)Negligence. If the director determines that any tax found to be due under this chapter or the delinquent filing of a tax return is due to negligence, a penalty of fifteen percent of the amount of tax shall be added thereto in addition to any other penalties which may be imposed.

(b)Fraud. If the director determines that any tax found to be due under this chapter or the delinquent filing of tax return is due to fraud or an intentional disregard or an intent to evade this part or authorized rules and regulations, a penalty of forty percent of the tax shall be added thereto in addition to any other penalties which may be imposed.

(c)Interest. Interest shall accrue as prescribed in subsection (3) below.

(3)Interest. In addition to the penalties imposed, any operator who fails to remit any tax imposed by this chapter shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of tax, exclusive of penalties, from the last day of the month following the monthly period for which the amount or any portion thereof should have been paid until the date of payment.

(4)Relief from Penalties and Interest.

(a)Excusable Delay. If the director finds that an operator's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the operator's control, and occurred, notwithstanding the exercise of ordinary care and the absence of willful neglect, the director may waive the penalty provided for in subsection (1) above. Any person seeking to be relieved of the penalty shall file with the director a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(b)Natural Disaster. If the director finds that an operator's failure to make a timely return or payment is due to disaster, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the director may waive the interest provided by subsection (3) above. Any person seeking to be relieved of the interest shall file with the director a statement under penalty of perjury setting forth the facts upon which the claim for relief is based.

(5)Penalties Merged with Tax. Every penalty and such interest as accrues under the provisions of this section shall become part of the tax herein required to be paid.

(Ord. 86-44 § 1 (part), 1986).

3.36.130 FAILURE TO COLLECT.

If any operator required to collect and remit the tax imposed by this chapter fails to file and return a remittance, the director shall proceed in such manner as he or she may deem best to obtain facts and information on which to base his or her estimate of the tax due. As soon as the director obtains such facts and information on which to base the assessment of any tax imposed by this chapter and payable by any operator who has failed or refused to collect the same and to make such report and remittance, he or she shall proceed to determine and assess against such operator the tax, interest and penalties provided for by this chapter.

(Ord. 86-44 § 1 (part), 1986).

3.36.140 DEFICIENCY DETERMINATION.

If the director has reasonable cause to believe the return or returns of the amount of tax required to be paid to the city by any operator are erroneous, he or she shall compute and determine the amount required to be paid upon the basis of (i) facts contained in the return or returns, (ii) other substantial evidence, or (iii) application of standard accounting techniques. A deficiency determination for one period shall not constitute a release or waiver for other deficiencies in the same or another period.

(Ord. 86-44 § 1 (part), 1986).

3.36.150 OFFSETTING OF OVERPAYMENT.

In making a determination pursuant to Sections 3.36.110 and 3.36.120, the director may offset any overpayments for a period or periods, against penalties, and against interest on underpayments. Interest on overpayments (for purposes of offsetting as in this section provided) and underpayments shall be computed in the manner set forth in Section 3.36.100, subsection (2).

(Ord. 86-44 § 1 (part), 1986).

3.36.160 NOTICE OF DETERMINATION.

The director shall give to the operator written notice of any determinations made pursuant to Sections 3.36.110 and 3.36.120. This notice may be served personally or by depositing in the United States postal service, postage pre-paid, and addressed to the operator at his or her address as it appears in the records of the director. In case of service made by mail of any notice required under this chapter, the service is complete at the time of deposit of the notice.

(Ord. 86-44 § 1 (part), 1986).

3.36.170 HEARING.

Any operator served pursuant to Section 3.36.160 may within fifteen days after servicing or mailing such notice, make application in writing to the director for a hearing by the director to review the amounts determined and assessed under Sections 3.36.110 and 3.36.120. If application by the operator for a hearing is not made within the time prescribed, the tax, interest and penalties, if any, determined by the director shall become final and conclusive and immediately due. Any operator against whom interest or penalties have been assessed pursuant to Section 3.36.120 may make an application in writing for a hearing with the director to review the amounts of tax owing and accrued penalties and interest thereon within thirty days after notice of delinquency. If such application is made, the director shall give not less than five days' written notice in the manner prescribed by Section 3.36.140 to the operator to show cause at a time and place fixed in such

notice why such amount specified therein should not be assessed including such tax interest and penalties, if any. At such hearing, the operator may appear and offer evidence why such specified tax, interest and penalties should not be so fixed. After such hearing the director shall determine the proper tax together with interest and penalties thereon to be remitted and shall thereafter give written notice thereof to the operator in the manner prescribed in Section 3.36.140. The amount determined to be due shall be payable after fifteen days unless an appeal is taken as provided in Section 3.36.180.

(Ord. 86-44 § 1 (part), 1986).

3.36.180APPEAL.

Any operator aggrieved by any decision of the director with respect to the amount of such tax or interest and penalties, if any, may appeal to the city council in accordance with the provisions of Chapter 1.16 of this code. The decision of the council shall be final and conclusive. Any amounts determined shall be due and payable on the service of notice of the decision, which shall be served in the manner set forth in Section 3.36.140.

(Ord. 86-44 § 1 (part), 1986).

3.36.190RECORDS.

Every operator liable for the collection and payment to the city of any tax imposed by this chapter shall keep and preserve all records sufficient in nature to determine the amount of such tax as the operator may have been liable for the collection of payment to the city. Records which shall be kept shall include, but are not limited to, records of admission on a daily basis by number and price and all cash register tapes. The director may examine the books, papers, records and equipment of any operator liable for the tax imposed by this chapter and may investigate the character of the business of the operator in order to verify the accuracy of any return made, or if no return is made by the operator, to ascertain and determine the amount required to be paid.

(Ord. 86-44 § 1 (part), 1986).

3.36.200REFUNDS.

(1)Whenever the amount of any tax, interest or penalty has been overpaid or paid more than once or has been erroneously or illegally collected or received by the city under this chapter, it may be refunded as provided herein; provided, that a claim in writing therefor, stating under penalty of perjury the specific grounds upon which the claim is founded, is filed with the director within one year of the date of payment. The claim shall be on forms furnished by the director.

(2)An operator may claim a refund or take as credit against taxes collected and remitted any amount overpaid, paid more than once or erroneously or illegally collected or received. Neither a refund nor a credit shall be allowed unless the amount of the tax so collected has either been refunded to the patron or credited to an admission charge subsequently payable by the patron to the operator.

(3)A patron may obtain a refund of taxes overpaid or paid more than once or erroneously or illegally collected or received by the city by filing a claim in the manner provided in subsection (1), but only when a tax was paid by the patron directly to the director or when the patron, having paid the tax to the

operator, establishes to the satisfaction of the director that the patron has been unable to obtain a refund from the operator who collected the tax.

(4) No refund shall be paid unless the claimant establishes his or her right thereto by written records showing entitlement thereto.

(Ord. 86-44 § 1 (part), 1986).

3.36.210 ACTIONS TO COLLECT.

Any tax required to be paid by any patron under the provisions of this chapter shall be deemed a debt owed by the patron to the city. Any such tax collected by an operator which has not been paid to the city shall be deemed a debt owed by the operator to the city. Any person owing money to the city under the provisions of this chapter shall be liable to an action brought in the name of the city for the recovery of such amount.

(Ord. 86-44 § 1 (part), 1986).

Seattle

SMC 5.40.010 Definitions.

For the purposes of this chapter, the words and terms contained in SMC Chapter 5.30 shall apply throughout this chapter unless expressly provided otherwise herein. The following additional definitions shall apply throughout this chapter:

A. "**Admission** charge" means the price required or paid for entering a premise or location and includes but is not limited in meaning to:

1. A charge made for season tickets or subscriptions;
2. A cover charge or a charge made for use of seats or tables, reserved or otherwise, and similar accommodations;
3. A charge made for food or refreshments in any place where any free entertainment, recreation or amusement is provided;
4. A charge made for rental or use of equipment or facilities for purposes of recreation or amusement and, where the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which a general **admission** is charged, the combined charge shall be considered as the **admission** charge;
5. A charge made for **admission** to any theater, dance hall, amphitheater, private club, auditorium, observation tower, stadium, athletic pavilion or field, baseball or athletic park, circus, side

show, swimming pool, outdoor amusement park or any similar place; and includes equipment to which persons are admitted for purposes of recreation such as merry-go-rounds, ferris wheels, dodgems, roller coasters, go-carts and other rides whether such rides are restricted to tracks or not;

6. A charge made for automobile parking where the amount of the charge is determined according to the number of passengers in an automobile.

B. "Cabaret" means a room where musical entertainment is permitted in connection with a restaurant business.

C. "College" or "university" means any accredited public or private college, junior college or university, or the recognized student body association thereof insofar as the **admission** charges received by the college, university, or student body association are budgeted, and applied solely for exhibition, performance, study and/or teaching of the performing arts, visual arts, history or science. It specifically excludes any athletic department or division or activities of the college or university or of the recognized student body association thereof.

D. "Nonprofit organization" means an organization in which no part of the income can be distributed to its members, director or officers and that holds a current **tax** exempt status as provided under Sec. 501(c)(3), (4) or (6) of the Internal Revenue Code of 1986, as amended, or is specifically exempted from the requirement to apply for **tax** exempt status under Sec. 501(c)(3).

E. "Department" means the Department of Executive Administration of The City of Seattle, or its functional successor.

F. "Director" means the Director of Executive Administration of The City of Seattle, or his or her functional successor, and shall include the Director's authorized representatives.

(Ord. 121253 Section 1, 2003; Ord. 120794 Section 111, 2002; Ord. 120668 Section 12, 2001; Ord. 108608 Section 1, 1979; Ord. 102719 Section 1, 1973; Ord. 91775 Section 1, 1963; Ord. 72495 Section 1, 1943.)

Cases: The word "refreshment" as used in Seattle Ordinance No. 72495 includes alcoholic as well as nonalcoholic beverages. *Ropo, Inc. v. Seattle*, 67 Wn.2d 574, 409 P.2d 148 (1965.)

SMC 5.40.020 Tax levied.

A. There is levied and imposed a **tax** upon everyone, without regard to age, who pays an **admission** charge as defined in Section 5.40.010 or is admitted, without payment, where an **admission** charge is collected from other persons as contemplated by Section 5.40.053.

B. The **tax** here imposed shall be in the amount of five (5) percent on each **admission** charge or charge for season or series ticket. Any fraction of **tax** One-half Cent (\$.005) or more shall result in a **tax** at the next highest full cent.

C. Amounts paid for **admission** by season ticket or subscription shall be exempt if the amount which would be charged to the holder or subscriber for a single **admission** is One Dollar and Fifty Cents (\$1.50) or less.

D. Anyone having the use of a box or seat permanently or for a specified period, shall pay a **tax** in the amount of five (5) percent of the price of such box or seat, the same to be collected and remitted in the manner provided in Section 5.40.070 by the person selling such tickets.

E. If the ticket price is accompanied by a service charge, mailing fee or other ancillary payment, per ticket and/or per order, the **admission tax** shall be based upon the total sum of the **admission** price plus any such surcharge(s), whether or not they are printed on the ticket or order.

F. Anyone who is admitted free of charge or at reduced rates to any place for which other persons pay a charge or a regular higher charge for the same privileges or accommodations shall pay an **admission tax** as contemplated by Sections 5.40.053 and 5.40.056, respectively.

G. When entertainment or **admission** to an event or activity accompanies the sale of food, refreshments, merchandise, lodging or services, **admission taxes** are measured by the total price of the

combined transaction, unless the **admission** price for the entertainment, amusement, rental or use of equipment is printed separately on the ticket or invitation and reflects its true market value as an independent element.

H. The **tax** levied in this chapter shall be paid by the person paying the **admission** charge and shall be collected and remitted by the person to whom the same is paid in the manner provided in Sections 5.40.070 and 5.40.090.

I. A discount **admission** shall be subject to **tax** as contemplated by Section 5.40.056 even though the discounted price is One Dollar and Fifty Cents (\$1.50) or less, unless a criterion in Section 5.40.056 for applying the lower price is satisfied.

(Ord. 121253 Section 2, 2003; Ord. 115957 Section 1, 1991; Ord. 111449 Section 1, 1983; Ord. 110374 Section 1, 1982; Ord. 110275 Section 1, 1981; Ord. 102719 Section 2, 1973; Ord. 98403 Section 1, 1969; Ord. 91775 Section 2, 1963; Ord. 88748 Section 1, 1959; Ord. 87103 Section 1, 1958; Ord. 72495 Section 2, 1943.)

Cases: The Seattle **admission tax** is not a municipal excise upon liquor as proscribed by the Washington State Liquor Act, since the sale of liquor and other "refreshments" is only a measure of the **tax** rather than its incidence. *Ropo, Inc. v. Seattle*, 67 Wn.2d 574, 409 P.2d 148 (1965).

SMC 5.40.025 Tax exemptions -- Minimum charge -- Specific exemptions -- Colleges -- Universities -- Nonprofit organizations.

A. The **admission tax** as imposed in SMC Section 5.40.020 shall not apply to anyone paying an **admission** charge:

1. In the amount of One Dollar and Fifty Cents (\$1.50) or less; or
2. To any activity of any elementary or secondary school as contemplated by RCW 35.21.280; or
3. To any activity of any Parent-Teacher-Student Association (PTSA), Parent-Teacher Association (PTA), or similar organization, provided

that the proceeds of the activity are used to benefit an elementary or secondary school; or

4. To the annual Bumbershoot Festival held on Labor Day and the preceding Thursday, Friday, Saturday and Sunday;

5. To the Woodland Park Zoo; or

6. To the Folklife Festival held on Memorial Day and the preceding Thursday, Friday, Saturday and Sunday.

7. To an event sponsored by a college or university or nonprofit organization, when all of the following three (3) criteria are met:

a. A college or university or nonprofit organization, as both are defined in Section 5.40.010 and registered under Section 5.40.080, that meets one (1) or more of the following criteria:

i. Publicly sponsors and through its members, representatives, or personnel promotes, publicizes and distributes most of the tickets for **admission**; or

ii. Publicly sponsors and presents the event at a facility it owns or leases as lessee for a term of not less than one (1) month; or

iii. Publicly sponsors and:

(a). Performs a major portion of the performance, or

(b). Supplies a major portion of the materials on exhibition, or

(c). When the event is part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series; and

b. The college, university or nonprofit organization receives the use and benefit of **admission** charges collected; and

c. In the case of a performance, the seating capacity of the location where the event occurs is three thousand one hundred (3,100) people or less, or, in the case of an exhibition, no more than three thousand one hundred (3,100) people are permitted on the premises at any one (1) time.

B. The exemption to the **admission tax** as provided in subsection A(7) of this section shall not apply to:

1. The **admission** to an athletic event, including, but not limited to, football games, basketball games or baseball games; or

2. The **admission** for recreational activities, including, but not limited to, golf, skating or swimming; picnicking or

3. An event in which a college, university or nonprofit organization lends its name to an endorsement for an ineligible person for the purpose of invoking the **tax** exemption.

(Ord. 121253 Section 3, 2003; Ord. 120668 Section 13, 2001; Ord. 116577 Section 1, 1993; Ord. 115957 Section 2, 1991; Ord. 114708 Section 1(part), 1989; Ord. 113498 Section 1(part), 1987; Ord. 112813 Section 1(part), 1986; Ord. 111449 Section 2(part), 1983.)

SMC 5.40.120 Receipts to General Subfund and Arts Account.

All receipts from the **admission tax** levied in this chapter shall be placed in the General Subfund of the General Fund, except that from and after January 1, 2005, twenty (20) percent of all **admission tax** receipts, other than receipts generated by men's professional basketball games, shall be deposited into the Arts Account of the General Subfund of the General Fund. Money in the Arts Account of the General Subfund shall be annually appropriated to the Office of Arts and Cultural Affairs for the following purposes:

A. Initiatives to keep artists living, working and creatively challenged in Seattle;

B. Initiatives to build community through the arts and create opportunities for the public to intersect with artists and their work; and

C. For each new generation, initiatives that include art opportunities for youth in and out of school.

(Ord. 121006 Section 8, 2002: Ord. 120975 Section 1, 2002: Ord. 120644 Section 1, 2001: Ord. 120183 Section 2, 2000: Ord. 106058 Section 3, 1976: Ord. 79849 Section 1, 1951: Ord. 72495 Section 11-1, 1943.)

St. Louis

Chapter 8.08

ENTERTAINMENT LICENSE TAX

Sections:

8.08.010 Imposed.

8.08.020 Computation--Issuance of license.

8.08.030 New businesses.

8.08.040 Single instance or limited time businesses.

8.08.050 Religious, educational or charitable purposes.

8.08.060 Application.

8.08.070 Other tax liability.

8.08.080 Rules and regulations.

8.08.090 Intent.

8.08.100 Penalty for violation of Sections 8.08.010--8.08.090.

8.08.110 Acts in permanent proscenium theaters--Tax levied.

8.08.120 Acts in permanent proscenium theaters--License application.

8.08.130 Acts in permanent proscenium theaters--Penalty for violation.

8.08.140 Motion picture shows--Tax imposed.

8.08.150 Motion picture shows--Penalty for violation.

8.08.010 Imposed.

Any person or persons, partnership of whatever form, or corporation in the business of admitting persons or groups upon payment of an admission charge to a pleasure ride or cruise, wrestling match, show or exhibition, boxing match, show or exhibition, sporting event, including but not restricted to baseball, football, rugby, soccer, hockey, basketball, rodeo, and other like entertainment presentation, are taxed upon the amount of gross receipts derived from such admission charges at the rate of five percent of the gross receipts, payable on quarterly calendar intervals; where the business is conducted for a period of time less than the licensing period hereinafter, the

same rate of tax shall be levied and the amount thereof shall be paid for the period of time the business has been conducted.

Notwithstanding the foregoing paragraph, any person or persons, partnership of whatever form, or corporation in the business of admitting persons or groups upon payment of an admission charge to a pleasure ride or cruise, wrestling match, show or exhibition, boxing match, show or exhibition, sporting event, including but not restricted to baseball, football, rugby, soccer, hockey, basketball, rodeo, and other like entertainment presentation, and who or which: 1) has been designated the developer or redeveloper or co-developer or co-redeveloper (a "Redeveloper"), pursuant to a redevelopment plan approved by the City by ordinance and a redevelopment agreement ("Redevelopment Agreement") approved by the LCRA, for the construction or substantial rehabilitation of a new or redeveloped sports arena, sports stadium, field house, ballpark or other type of sports or recreation facility to be constructed or rehabilitated after the effective date of this ordinance ("Recreation Facility") and for the development of a substantial mixed-use development adjacent to the Recreation Facility which may include, but is not limited to, housing, offices, museums, entertainment venues, retail stores, restaurants or other similar facilities, all of which such facilities, including the Recreation Facility, are or will be located within a blighted and/or insanitary area, as determined by the City by ordinance, or 2) is the primary tenant, occupant or operator of the Recreation Facility, or has been designated as such pursuant to the Redevelopment Agreement ("Tenant"), or 3) is an Affiliate (as hereinafter defined) of such Redeveloper or Tenant, shall be taxed upon the amount of gross receipts derived from such admission charges at such Recreation Facility during the term of the Redevelopment Agreement at the rate corresponding to the estimated total amount of Private Investment for the construction or rehabilitation of the Recreation Facility as set forth in the Redevelopment Agreement in accordance with the following tax rate schedule:

Amount of Estimated Private Investment in the Recreation Facility

Tax Rate

less than \$50,000,000

5% of gross receipts

\$50,000,000-\$99,999,999

4% of gross receipts

\$100,000,000-\$199,999,999

2% of gross receipts

\$200,000,000 and above

0% of gross receipts

The tax imposed pursuant to this paragraph shall be payable on quarterly calendar intervals. Upon expiration or termination of the Redevelopment Agreement, the Redeveloper, Affiliate or Tenant shall be subject to the same rate of tax as set forth in the preceding paragraph of this Section 8.08.010. For purposes of this section, "Private Investment" shall mean the total amount to be provided by the Redeveloper, Affiliate, Tenant or any other private party for the construction or rehabilitation of the Recreation Facility as calculated pursuant to the terms of the Redevelopment Agreement. For purposes of this section, "Affiliate" shall mean any corporation, partnership, sole proprietorship or other person or entity that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with the Redeveloper. (Ord. 65669 § 2, 2002; Ord. 62515 § 1, 1992; prior Ord. 56912 § 1 (1), 1975; prior Ord. 56178 § 1 (1), 1972; Ord. 55522 § 1 (1), 1970; Ord. 55390 § 1, 1969.)

For exclusion see §§ 8.08.110--8.08.130

Charter:

Art. I § 1 (24) License taxes

Art. XX License taxes

V.A.M.S.:

71.610 et seq. Taxing powers

City Counselor Ops.: 10214

McQuillin:

26.32 et seq. Charges, taxes and fees for licenses

8.08.020 Computation--Issuance of license.

The tax imposed by Section 8.08.010 shall be computed upon the currently expired, immediately preceding quarter of the annual calendar. Initially, all businesses so taxed shall make payments of the amount levied on gross receipts received for the period August 16, 1969, to September 30, 1969, inclusive, and for any subsequent calendar quarter which has expired on March 6, 1975. Thereafter, the tax due shall be payable on the first day of the commencing calendar quarter for the immediately past quarter expired; provided further, a period of fifteen days grace, after the expiration of a quarter shall be allowed a taxpayer in making payment of the tax due.

The City License Collector may vary or adjust the intervals of payment of tax due to other than the quarterly calendar period where the character or method of operation of the taxpayer's business reasonably so requires.

Upon payment of the tax due, the Collector, upon proper application, shall issue the license as is hereinafter provided, for the immediately following calendar quarter or such other following period or interval as established by the Collector. (Ord. 56912 § 1 (2), 1975: prior Ord. 56178 § 1 (2), 1972: prior Ord. 56178 § 1 (2), 1972: Ord. 55522 § 1 (2), 1970: Ord. 55390 § 2, 1969.)

City Counselor Ops.: 10214

8.08.030 New businesses.

Any person or persons, partnership or corporation initially commencing business after August 16, 1969, upon making proper application to conduct such business as is hereinafter provided, shall be issued a license to conduct

such business for the then current calendar quarter, or such other allowed period, on condition that a true and accurate report of the gross receipts on admission charges for the quarter or other period be made at the close thereof to the Collector and the tax due thereon paid. At the expiration of the quarter or other period, the licensee shall render the report, and pay the tax to the Collector as provided in Section 8.08.020. (Ord. 56912 § 1 (3), 1975:prior Ord. 56178 § 1 (3), 1972: Ord. 55522 § 1 (3), 1970: Ord. 55390 § 3, 1969.)

City Counselor Ops.: 10214

8.08.040 Single instance or limited time businesses.

Any person or persons, partnership or corporation intending to conduct a business as is taxed by Section 8.08.010, but for a single instance or a limited time shall make proper application for a license as is hereinafter provided, in advance of the event, instance or limited period of activity, and shall deposit a cash amount, or give bond at the Collector's discretion, to the city for a sum equal to the Collector's estimate of the actual tax to become due upon conducting the business. Upon the application and making the deposit or bond the Collector shall issue a license to conduct the business for the instance or limited period. Within forty-eight hours after the occurrence of the instance, event or limited license period, the licensee shall pay to the Collector the actual tax due less any cash previously deposited. (Ord. 56912 § 1 (4), 1975: prior Ord. 56178 § 1 (4), 1972: Ord. 55522 § 1 (4), 1970: Ord. 55390 § 4, 1969.)

City Counselor Ops.: 10214

8.08.050 Religious, educational or charitable purposes.

The taxes imposed by this chapter shall not be levied upon any religious, educational or charitable organization or undertaking otherwise included as taxable, under Sections 8.08.010, 8.08.110 or 8.08.140, where a substantial part of the net proceeds derived are solely used for religious, educational or charitable purposes. In determining whether a religious, educational or charitable purpose exists, the Collector may require the production of all relevant documents, take testimony under oath to be administered by him and inspect premises and arrangements to be used. The decision of the Collector shall be approved by the Comptroller. Upon granting any such exemption as herein provided, the Collector shall issue a license to the religious, educational or charitable applicant, as is hereinafter provided, plainly evidencing the exemption. Further, where a religious, education or charitable

organization or undertaking is granted an exemption from taxation under this section, no person or entity rendering an entertainment, artistic or athletic service or performance for such undertaking shall be subject to the tax imposed by Section 8.08.010. Provided further, where a tax exemption is granted and the Collector at any time thereafter discovers that a true religious, educational or charitable purpose was substantially nonexistent, he shall upon the comptroller's approval revoke the exemption and levy the tax owing with interest at the legal rate. In such cases, the tax shall be paid forthwith; and in making such determination the Collector shall have the same powers as is provided for determining questions of exemptions initially. (Ord. 62515 § 2, 1992: prior Ord. 56912 § 1 (5), 1975: prior Ord. 56178 § 1 (5), 1972: Ord. 55522 § 1 (5), 1970: Ord. 55390 § 6, 1969.)

City Counselor Ops.: 10214

8.08.060 Application.

Every person or persons, partnership or corporation subject to the tax imposed by Section 8.08.010, shall before commencing business make an application to the License Collector for a license to be termed "gross receipts license." The application shall identify the applicant and disclose the authority of the applicant to apply for the license, the particulars of the type of business sought to be licensed, the location where the business is to be conducted, the period of time the proposed business is to be conducted and such other information as the License Collector may determine to be pertinent to the applicant's application and business. A license may, upon the Collector's determination, be required for each location where the applicant proposes to conduct business, or a collective license may be issued showing thereon each location lawfully licensed; provided further that the licensing requirements provided for herein shall in no way relieve the requirements for licensing made by Chapters 8.26, 8.32, 8.34, 8.58, 8.100 and 25.36, except the fees, charges or amounts of tax therein levied shall be abrogated where such businesses are required to be licensed hereunder, so that only the tax herein levied shall be imposed in such cases. (Ord. 56912 § 1 (6), 1975: prior Ord. 56178 § 1 (6), 1972: Ord. 55522 § 1 (6), 1970: Ord. 55390 § 7, 1969.)

City Counselor Ops.: 10214

8.08.070 Other tax liability.

No license hereunder shall be issued unless the applicant therefor, otherwise qualifying, has satisfied all other tax liability owing to city. (Ord. 56912 § 1 (7),

1975: prior Ord. 56178 § 1 (7), 1972: Ord. 55522 § 1 (7), 1970: Ord. 55390 § 8, 1969.)

City Counselor Ops.: 10214

8.08.080 Rules and regulations.

In order to administer the provisions of Sections 8.08.010--8.08.100, the License collector Shall have rule-making power, and in adopting rules for general application, the Collector shall ascribe definitions of terms used in Chapter 8.06, to words and terms used in this chapter as far as applicable. Any rules so adopted shall have the prior approval of the Comptroller.

The Collector is further empowered to adjust the total tax due for businesses licensed under Sections 8.08.010--8.08.100 having licenses unexpired on August 16, 1969, by giving allowance for the unexpired remaining term after August 16, 1969, on a basis proportioned to the total term of the unexpired license. (Ord. 56912 § 1 (8), 1975: prior Ord. 56178 § 1 (8), 1972: Ord. 55522 § 1 (8), 1970: Ord. 55390 § 9, 1969.)

City Counselor Ops.: 10214

8.08.090 Intent.

It is hereby declared to be the intent of Sections 8.08.010--8.08.100 to treat all businesses reasonably falling within the inclusion of Section 8.08.010 as one class; to this end businesses heretofore taxed under other city ordinances have been included herein so far as the levying of a business license tax is concerned; provided, however, it is the further intent of Sections 8.08.010--8.08.100 not to completely abrogate any licensing taxes, and if for any reason the imposition of the taxes imposed by Sections 8.08.010--8.08.100 are declared invalid as to any business or person, persons, partnership or corporation, the prior existent ordinance provisions levying taxes shall have continued life and full force and legal effect as if Sections 8.08.010--8.08.100 had not attempted to repeal any prior taxing provisions. (Ord. 56912 § 1 (10), 1975: prior Ord. 56178 § 1 (10), 1972: Ord. 55522 § 1 (10), 1970: Ord. 55390 § 11, 1969.)

City Counselor Ops.: 10214

8.08.100 Penalty for violation of Sections 8.08. 010--8.08. 090.

Every person, persons, partnership or corporation convicted of violating any section of Sections 8.08.010--8.08.090 shall be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or in the case of natural persons, by imprisonment for not more than ninety days or by both fine and imprisonment. Each day that any violation shall continue shall constitute a separate offense. (Ord. 56912 § 1 (13), 1975: prior Ord. 56178 § 1 (13), 1972: Ord. 55522 § 1 (13), 1970: Ord. 55390 § 14, 1969.)

City Counselor Ops.: 10214

8.08.110 Acts in permanent proscenium theaters--Tax levied.

There is levied an occupational and business license tax on any person or persons, partnership of whatever form, or corporation engaging in the business of admitting persons or groups of persons upon payment of an admission charge to scripted legitimate stage plays presenting comedy, drama and musicals live on stage in permanent proscenium theaters. The rate of the tax shall be as follows:

A. Fifty dollars for one month or less of operation;

B. One hundred and fifty dollars for not more than three months of operation;

C. Two hundred dollars for not more than six months of operation; and

D. Three hundred dollars for more than six months and not more than one year of operation.

The tax shall be immediately due and payable to the License Collector and an occupational or business license shall be required for the continued operation of any existing occupation or business upon the expiration of any heretofore issued lawful license, and before the commencement of any new such occupation or business taxed and licensed hereunder. (Ord. 56907 § 1, 1975.)

8.08.120 Acts in permanent proscenium theaters--License application.

Any person or persons, partnership of whatever form, or corporation intending to engage in the occupation or business taxed by Section 8.08.110 shall, before engaging in such occupation or business, make application for a license to the License Collector and therein fully disclose the applicant's true identity and the particular nature of the occupation or business sought to be licensed, and shall pay the tax levied in Section 8.08.110. The License Collector is empowered to make and enforce rules for the administration of Sections 8.08.110--8.08.130. (Ord. 56907 § 2, 1975.)

8.08.130 Acts in permanent proscenium theaters--Penalty for violation.

Any person or persons, partnership of whatever form, and corporation, or the servants, agents, representatives, directors or officers of the same who violate the provisions of Sections 8.08.110 and 8.08.120 shall, upon conviction thereof, be punished by a fine of not less than fifty dollars and not more than five hundred dollars, or in the case of natural persons, by imprisonment for not more than ninety days or by both fine and imprisonment. Each day that any violation shall continue shall constitute a separate offense. (Ord. 56907 § 3, 1975.)

8.08.140 Motion picture shows--Tax imposed.

A tax is levied upon motion picture shows according to the following schedule:

A. For 1 month, \$50;

B. For 3 months, \$150;

C. For 6 months, \$200; and

D. For 1 year, \$300.

The tax shall be due and payable to the license collector and a license required for the continued operation of such business immediately upon the expiration of any heretofore lawful license period, or before the commencement of any new motion picture business. Licenses shall be issued showing the period of lawful operation thereunder. (Ord. 56179 § 1, 1972.)

8.08.150 Motion picture shows--Penalty for violation.

Any person, firm or corporation, who or which under Section 8.08.140 is required to pay a license tax and secure a license for the operation of a motion picture show, and fails to do the same prior to the commencement or continuation of business as provided in Section 8.08.140, shall be in violation of Section 8.08.140 and upon conviction be punished by a fine of not less than twenty-five dollars nor more than five hundred dollars or in the case of natural persons, by imprisonment for not more than ninety days or by both fine and imprisonment. Each day that any violation shall continue shall constitute a separate offense. (Ord. 56179 § 2, 1972.)