

Ordinance No. 122989

Council Bill No. 116394

AN ORDINANCE relating to the admission tax; providing for an exemption from the admission tax for qualifying music venues and adding a new Section 5.40.028 to the Seattle Municipal Code.

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: Godden

Councilmember

Committee Action:

² ^{LM} Pass as amended - Y - TB, RC ; N - JG

5-26-09 Pass 5-3 (No: JG, RM, TR)

CF No. _____

Date Introduced:	<u>11-10-08</u>	
Date 1st Referred:	To: (committee)	<u>Finance</u>
		<u>Budget</u>
Date Re - Referred:	To: (committee)	<u>Finance + Budget</u>
Date Re - Referred:	To: (committee)	
Date of Final Passage:	Full Council Vote:	
<u>5-26-09</u>	<u>5-3</u>	
Date Presented to Mayor:	Date Approved:	
<u>5-27-09</u>	<u>6-4-09</u>	
Date Returned to City Clerk:	Date Published:	T.O. _____
<u>6-4-09</u>	<u>7 P</u>	F.T. <input checked="" type="checkbox"/>
Date Vetoed by Mayor:	Date Veto Published:	
Date Passed Over Veto:	Veto Sustained:	

This file is complete and ready for presentation to Full Council. Committee: _____ (initial/date)

Law Department

Law Dept. Review

OMP Review

City Clerk Review

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Indexed



City of Seattle

Gregory J. Nickels, Mayor

Office of the Mayor

September 29, 2008

Honorable Richard Conlin
President
Seattle City Council
City Hall, 2nd Floor

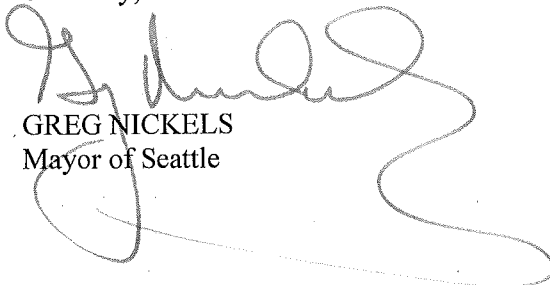
Dear Council President Conlin:

I am pleased to transmit the attached proposed Council Bill for consideration with the 2009 Proposed Budget. The proposed legislation authorizes an admission tax exemption for live music venues within the city limits to encourage the establishment of well-managed concert venues of various sizes, support a wide-variety of musical performances, and offer Seattle residents and visitors increased opportunities to experience the power and pleasure of live music performances.

The admission tax exemption proposed in this Bill responds to a lack of private investment in new live music venues; the closing of establishments such as the OK Hotel, RCKCNDY, Fenix Underground and, most recently, the Crocodile Café; and former live music venues becoming DJ entertainment establishments. In the past two years, Seattle has gained only one new live music venue while losing six others, and has experienced dozens of new DJ establishments opening throughout the city. Touring performers are choosing to play northwest cities like Portland or Vancouver over Seattle due to greater venue options and the ability to earn higher profits in those cities. While the admission tax exemption is expected to result in a \$300,000 reduction in General Subfund revenue, any Business and Occupation taxes paid by new establishments will partially offset that loss.

The tax exemption proposed in this legislation will provide an incentive for business owners to offer live music in Seattle, enhance the city's cultural appeal, and bolster economic development in a variety of neighborhoods. Thank you for your consideration of this legislation. Should you have questions, please contact James Keblas at (206) 684-5030.

Sincerely,



GREG NICKELS
Mayor of Seattle

600 Fourth Avenue, 7th Floor, P.O. Box 94749, Seattle, WA 98124-4749

Tel: (206) 684-4000, TDD: (206) 684-8811 Fax: (206) 684-5360, E:mail: mayors.office@seattle.gov

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ORDINANCE 122989

AN ORDINANCE relating to the admission tax; providing for an exemption from the admission tax for qualifying music venues and adding a new Section 5.40.028 to the Seattle Municipal Code.

WHEREAS, live music is at the core of every great American city, offering opportunities for musicians to hone their craft and for audiences to learn about, listen to, and appreciate various forms of music; and

WHEREAS, a city rich with concert venues of various sizes that support a wide-variety of musicians offers residents and visitors increased opportunities to experience the power and pleasure of live music; and

WHEREAS, these venues enrich our community and serve as catalysts for economic development; and

WHEREAS, Seattle is recognized as a distinctive center for music where a spirit of innovation continually renews a thriving music industry, both economically and culturally; and

WHEREAS, the vitality and the culture of Seattle are greatly enhanced by our ability to attract and keep local live music venues; and

WHEREAS, to increase Seattle's standing as a live music destination, we must encourage private investment in live music; and

WHEREAS, live music venues are part of a business sector that has greater expenses, regulatory requirements, and liabilities than the average business; and

WHEREAS, providing an admission tax exemption presents minimal risk to the City and provides a valuable incentive for investors to open and operate well-managed music venues; and

WHEREAS, this exemption, along with other pro-music policies, will help create a healthy business environment, leverage Seattle's competitive advantage in the music industry, and bolster economic development throughout the city; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:



1 **Section 1.** Effective July 1, 2009, a new section 5.40.028 is added to the Seattle
2 Municipal Code, as follows:

3 **5.40.028 Tax exemption – musical venues.**

4 A. The admission tax as imposed in SMC Section 5.40.020 shall not apply to any person
5 paying an admission charge to any premises or location for which the Director has issued a
6 certificate of exemption pursuant to this Section; PROVIDED, however, that the admission tax
7 shall be due for any and all admission charges paid prior to the issuance of a certificate of
8 exemption, or paid after the Director has cancelled a certificate of exemption, or paid at any time
9 during which a cancellation of a certificate of exemption could or should have been in effect
10 under any one or more of paragraphs 1 through 6 of Subsection G of this Section.

11 B. A premises or location is eligible for a certificate of exemption if:

- 12 1. The premises or location has a certificate of occupancy of fewer than one thousand
13 (1,000) persons; and
14 2. The person conducting or operating the premises or location or any other person
15 authorized by such person hosts or presents live music on at least three (3) separate days
16 per week at the premises or location on a regular schedule. For purposes of this Section,
17 “live music” is defined as an active performance of music by an individual or individuals
18 who, at the time of and during the performance, creates music or engages in an audible
19 form of artistic expression, other than, or in addition to, any pre-recorded music, for an
20 audience through the use or manipulation of voice, instruments, or electronic or
21 computerized equipment or formats; and
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1 3. The person or persons conducting or operating the premises or location or any other
2 authorized person hires one (1) or more musicians to perform the equivalent of sixteen
3 (16) individual performances per week at the premises or location. Repeat performances
4 by the same individual or group shall each be counted. Where performances are by a duo,
5 trio, band, ensemble or other performing group, the number of individual performances
6 shall be determined by multiplying the number of performing group members by the
7 number of performances by the group; and
8

9 4. The premises or location is current with all license and tax requirements.

10 C. A premises or location that has obtained more than three (3) violations of law
11 concerning public health, public safety, noise, licensing, taxing or permitting related to the
12 ownership, possession, occupation, operation, use or maintenance of the location or premises in
13 any twelve (12) month period shall be ineligible for a certificate of exemption for a period of one
14 year from the date of the last violation. For purposes of this Section a premises or location has
15 obtained a violation if there is a legally binding final decision, order, citation, or other finding of
16 violation entered by any court, adjudicative body or government agency against any legal owner,
17 operator, manager, or employee of the premises or location, or any other person hosting or
18 presenting live music at the premises or location.
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21 D. Any person conducting or operating a premises or location seeking a certificate of
22 exemption under this Section, who has not previously been issued a certificate of exemption for
23 the same premises or location, shall present to the Director a copy of the certificate of occupancy
24 required under paragraph B 1 of this Section, and shall submit a completed application for the
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1 certificate of exemption on forms and in a manner prescribed by the Director. The application
2 shall contain a certification that the conditions set forth in Subsections B 2 and 3 of this Section
3 will be satisfied during the period that the certificate of exemption is to be in effect, and a
4 separate certification that the premises or location is not ineligible under Subsection C of this
5 Section. The Director shall issue a certificate of exemption for the premises or location, unless
6 the Director finds that the eligibility requirements of Subsections B and C of this Section cannot
7 be met. A certificate of exemption is non-transferable, shall be valid only with respect to the
8 original applicant, and shall apply only to the premises or location that is the subject of the
9 application
10 application

11 E. On a quarterly basis each person to whom a certificate of exemption has been issued
12 shall report, on forms prescribed by the Director, information sufficient to verify that during the
13 corresponding quarter, the premises or location was in compliance with the requirements of this
14 Section, including, but not limited to, the requirements in Subsections B 2 and 3 of this Section,
15 and that the premises or location can continue to meet the requirements. The Director shall
16 establish by rule the information required. The report shall be due in accordance with the
17 provisions pertaining to the quarterly due dates for remittance of tax under SMC Chapter 5.55.
18

19 F. Each person to whom a certificate of exemption has been issued shall immediately
20 notify the Director if a premises or location for which a certificate of exemption has been issued
21 fails to be eligible under Subsection C of this Section, or fails to be in compliance with any
22 requirement contained in this Section or any rule or regulation of the Director implementing it,
23 other than those contained in Subsections B 2 or 3 of this Section.
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1 G. The Director shall cancel the certificate of exemption of a location or premises upon a
2 determination by the Director:

- 3 1. That a person secured the certificate of exemption by making a false representation in
4 the application for the certificate; or
5
6 2. That the premises or location is ineligible for a certificate of exemption under
7 Subsection C of this Section; or
8
9 3. That the premises or location is not in compliance with any requirement contained in
10 this Section or any rule or regulation of the Director implementing it other than the
11 requirements contained in Subsections B 2 or 3 of this Section; or
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13 4. That, during any quarterly period, the premises or location fails to host or present live
14 music on at least 80% of the number of days that the premises is required to present live
15 music under Subsection B 2 during that quarterly period; or
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17 5. That, during any quarterly period, the premises or location fails to hire musicians to
18 perform at least 80% of the number of individual performances required under Subsection
19 B 3 during that quarterly period; or
20
21 6. That the person to whom the certificate of exemption has been issued no longer
22 conducts or operates the premises or location that is the subject of the exemption.

23 A person whose certificate of exemption has been cancelled may re-apply for a certificate
24 for the same premises or location, but no re-application shall be approved unless the person
25 shows that the premises or location is eligible under the requirements of this Section and all rules
26 and regulations of the Director implementing it at the time of the re-application, and further, that
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1 the location or premises has been in compliance with Subsections B 2 and 3 of this Section
2 during the 30 day period prior to the re-application. Any person wishing to re-apply shall submit
3 the material required in Subsection D of this Section, which material shall be current as of the
4 date of the re-application, and, in addition, shall submit all information required by the Director
5 as established by rule, including all information required to have been reported pursuant to
6 Subsection E of this Section during any period of time, within the maximum period of limitation
7 applicable under SMC Chapter 5.55 for the assessment of tax, that any previous certificate of
8 exemption was in effect.
9

10 H. The Director shall not issue a certificate of exemption to any person who is found by
11 the Director to have made a false representation on any application or re-application made under
12 this Section.
13

14 I. Any person to whom a certificate of exemption has been issued shall promptly notify
15 the Director of any change of address. If the Director has cancelled a certificate of exemption,
16 the Director shall provide notice of the cancellation to the person to whom the certificate of
17 exemption was issued by mailing such notice in writing to the address of the person as last
18 reported to the Director. Any person whose certificate of exemption has been cancelled may
19 contest the cancellation by filing a written request for hearing with the Hearing Examiner within
20 ten (10) days after the mailing of the notice of cancellation. If the person whose certificate of
21 exemption has been cancelled files a written request for hearing within the prescribed period, the
22 Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable
23 Hearing Examiner rules.
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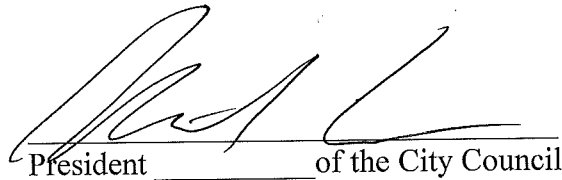
1 **Section 2.** Any act taken pursuant to the authority of this ordinance, and after passage but
2 prior to the effective date of this ordinance, is ratified and confirmed.

3 **Section 3.** This ordinance shall take effect and be in force thirty (30) days from and after
4 its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days
5 after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

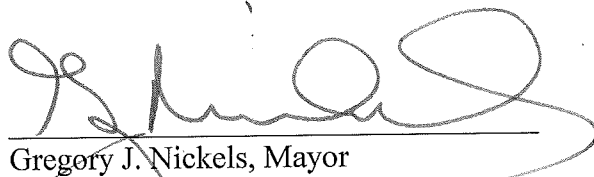
6 Passed by the City Council the 26th day of May, 2008.⁹

7 and signed by me in open session in authentication of its passage this

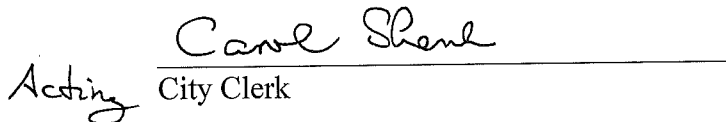
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9 26th day of May, 2008.⁹

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12 
President _____ of the City Council

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14 Approved by me this 4th day of June, 2008.⁹

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16 
17 Gregory J. Nickels, Mayor

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19 Filed by me this 4th day of June, 2008.⁹

20
21 
22 Acting City Clerk

23 (Seal)



2009-2010 BUDGET LEGISLATION FISCAL NOTE

Note: This fiscal note template may be used for most pieces of budget legislation. Certain legislation submitted with the budget (e.g., the Supplemental Ordinance) requires that the standard fiscal note template be used with some modification. Please work with your Budget Analyst so that your fiscal note provides the information that is required during the budget process. The standard template can be found on the Legislation Tracking Page on the inweb at <http://inweb/legislationtracking/>

Department:	Contact Person/Phone:	DOF Analyst/Phone:
Office of Economic Development	James Keblas/4-5030	Janet Credo/4-8687

Legislation Title:

AN ORDINANCE relating to the admission tax; providing for an exemption from the admission tax for qualifying music venues and adding a new Section 5.40.028 to the Seattle Municipal Code.

- **Summary of the Legislation:** The proposed legislation provides an exemption from the admission tax imposed under SMC Chapter 5.40 for certain music venues. Music venues that wish to qualify for this exemption must file for a certificate of exemption and meet certain criteria, including, but not limited to, obtaining a certificate of occupancy for less than 1,000 people, hosting or presenting live music at least three times a week, and hiring one or more musicians to perform the equivalent of at least 16 individual performances per week.
- **Background:** *(Include brief description of the purpose and context of legislation and include record of previous legislation and funding history, if applicable):*

Live music is at the cultural and artistic core of every great American city, allowing musicians to hone their craft and establish themselves with an audience. Live music venues bring large groups of people into diverse areas of the city, enriching local communities and serving to bolster economic development. Seattle's vitality and culture is greatly enhanced by its ability to attract and retain local music venues.

Live music venues are subject to more regulatory oversight and face greater liability risks than the average business. Operating a live music venue is an expensive operation with very little profit margin compared to simple DJ entertainment establishments. Live music venues must designate a significant amount of their physical space to a performance stage, pay more performers, hire more technical staff and offer more elaborate sound and lighting systems than non-live music venues. All this gives very little incentive for investors to open live music venues in the city and drives current business owners toward DJ entertainment establishments that simply use prerecorded music.



Late last year in Seattle, the Crocodile Café became the latest in a long line of vaunted live venues, from the OK Hotel to RCKCNDY to the Fenix Underground, that closed its doors. Others, such as the Showbox, Comet, and Chop Suey either have been purchased by out-of-town investors or continue to exist only precariously, threatened by increased residential and commercial development. The admission tax exemption proposed by this Bill represents minimal risk and cost to the City, yet will be a valuable tool to provide incentive for investors to open live music venues in Seattle. This exemption, along with other pro-music policies, will support a healthy business environment and leverage Seattle's competitive advantage in this industry.

- Please check one of the following:

This legislation does not have any financial implications. (Stop here and delete the remainder of this document prior to saving and printing.)

This legislation has financial implications. Please complete all relevant sections that follow.

Summary of Changes to Revenue Generated Specifically From This Legislation: For budget legislation that changes revenue (e.g., fees, taxes, etc.), please provide detail on each revenue-producing item that is being changed, when it was last changed, and how the item's new overall cost compares with similar costs charged elsewhere in the region.

This measure addresses the current lack of private investment in new live music venues, the closing of established venues, and the trend of live music venues changing into DJ entertainment establishments in Seattle. This measure would assist Seattle's live music industry to become more competitive with other northwest cities such as Vancouver and Portland that do not impose admission taxes. In the past two years Seattle has lost six live music venues, and has had only one new music venue open, while dozens of new DJ establishments have opened across the city.

	Revenue Source	2009 Proposed	2010 Proposed
Total Fees and Charges Resulting From Passage of This Ordinance	Unrealized admission taxes as a result of this music venue exemption.	(\$300,000)	(\$300,000)

Notes: 20% of the admission tax revenue is appropriated to the Office of Arts and Cultural Affairs (OACA). The 2009-2010 budget reflects \$60,000 of additional general fund contributions to OACA.



Anticipated Total Revenue from Entire Program, Including Changes Resulting From This Legislation:

Fund Name and Number	Revenue Source	Total 2009 Revenue	Total 2009 and 2010 Anticipated Revenue from Entire Program
General Fund 00100	Admission Tax (SMC 5.40.020)	\$7,300,000	\$14,600,000
TOTAL		\$7,300,000	\$14,600,000

What is the financial cost of not implementing this legislation?

There are no direct financial costs to the City for not implementing this legislation. However, Seattle could stand to lose tax B&O and sales tax revenue that would result from the closure of more music venues, and an increased preference of touring musicians to perform in nearby cities other than Seattle. If more businesses open as a result of this exemption, there will be corresponding increase to B&O Tax and Sales Tax revenue to the City.

- What are the possible alternatives to the legislation that could achieve the same or similar objectives? None.
- Is the legislation subject to public hearing requirements? No public hearing requirement.
- Other Issues:

Please list attachments to the fiscal note below:

None.



Divided Report for C.B. 116394

On Thursday, May 21, the Council's Finance and Budget Committee passed C.B. 116394 out of committee. This bill creates an admission tax exemption for certain live music venues. The City levies a 5% admission tax on all events in which an admission charge is collected (with the exception of non-profits and Quest and Safeco stadiums). In order to qualify for the exemption, the bill requires live music venues to meet the following criteria:

- Must provide live music at least three separate days per week.
- Hire one or more musicians to perform at least 16 individual performances per week (assumes multiple performances on same day).
- Venue occupancy is less than 1,000 people.
- Venue has not incurred three violations regarding public health, public safety, noise, licensing, taxing, or permitting.

The Executive estimates that up to 50 live music venues could qualify for exemption under this bill. If this bears out, annual admission tax revenues could be reduced by \$300,000. (Overall admission tax revenue for 2009 is estimated at \$5.8 million.) The Department of Executive Administration will review and approve requests for exemptions.

The Finance and Budget Committee made three technical amendments to the bill: changing the effective date from January to July; adding a ratify and confirm clause; and clarifying that public safety violations are one of the violations that could disqualify a venue from exemption.

Following further discussion, the amended bill passed in a 2-1 vote (voting yes: Burgess, Conlin; voting no: Godden).

Majority Position (Burgess and Conlin):

By exempting certain live music venues from the City's admission's tax, the City is demonstrating its support for live music and local musicians and encouraging the creation of more live music venues in Seattle. An admissions tax exemption will provide an incentive for business owners to offer live music, enhance the City's cultural appeal, and bolster economic development.

The Admissions Tax exemption will directly contribute to new business growth-- the Office of Arts and Culture is projecting a minimum of eight new venues over a two year period. The corresponding increase in B&O Tax and Sales Tax revenue to the City from the new venues could help offset the loss of Admissions Tax revenue. Additionally, these projections do not take into account the economic impact to the local area, which increases the city's potential tax revenue, provides jobs and offers new performance opportunities to local musicians.

Minority Position (Godden)

Live music shows provide an important and valued cultural activity within Seattle. However, given the current state of the City's budget, it is not the right time to provide tax exemptions that increase the City's growing gap between revenues and expenditures. \$35 million was cut from the City's budget in 2009 and another \$40 million will likely be needed to balance the budget in 2010. The City is faced with making reductions to a variety of City services, including police, fire, parks, and human services.

In addition, no evidence has been provided to support the notion that this tax exemption is going to provide sufficient impetus for businesses to open more live music venues. The majority of existing live music venues that may qualify for this exemption have an occupancy of less than 500 people (45 out of 48). The average annual tax for this group is \$4,000, with more than half paying less than \$2,000 a year. It seems unlikely that this amount of savings (or expenditure) would sway a business to open (or close). On the other hand, the admission tax revenues from live music venues that could qualify for the exemption add up significantly for the City and could reduce General Fund revenues by \$300,000 annually. This may sound like an insignificant amount, but \$300,000 would pay for nearly three police officers or provide 326 homebound individuals with home delivered meals each week or prevent 150 families from becoming homeless.

During good times, providing an admission tax exemption for live music venues may be a welcome gesture, but during bad times, it is simply unwise.

ORDINANCE _____

AN ORDINANCE relating to the admission tax; providing for an exemption from the admission tax for qualifying music venues and adding a new Section 5.40.028 to the Seattle Municipal Code.

WHEREAS, live music is at the core of every great American city, offering opportunities for musicians to hone their craft and for audiences to learn about, listen to, and appreciate various forms of music; and

WHEREAS, a city rich with concert venues of various sizes that support a wide-variety of musicians offers residents and visitors increased opportunities to experience the power and pleasure of live music; and

WHEREAS, these venues enrich our community and serve as catalysts for economic development; and

WHEREAS, Seattle is recognized as a distinctive center for music where a spirit of innovation continually renews a thriving music industry, both economically and culturally; and

WHEREAS, the vitality and the culture of Seattle are greatly enhanced by our ability to attract and keep local live music venues; and

WHEREAS, to increase Seattle's standing as a live music destination, we must encourage private investment in live music; and

WHEREAS, live music venues are part of a business sector that has greater expenses, regulatory requirements, and liabilities than the average business; and

WHEREAS, providing an admission tax exemption presents minimal risk to the City and provides a valuable incentive for investors to open and operate well-managed music venues; and

WHEREAS, this exemption, along with other pro-music policies, will help create a healthy business environment, leverage Seattle's competitive advantage in the music industry, and bolster economic development throughout the city; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:



1 **Section 1.** Effective January 1, 2009, a new section 5.40.028 is added to the Seattle
2 Municipal Code, as follows:

3 **5.40.028 Tax exemption – musical venues.**

4 A. The admission tax as imposed in SMC Section 5.40.020 shall not apply to any person
5 paying an admission charge to any premises or location for which the Director has issued a
6 certificate of exemption pursuant to this Section; PROVIDED, however, that the admission tax
7 shall be due for any and all admission charges paid prior to the issuance of a certificate of
8 exemption, or paid after the Director has cancelled a certificate of exemption, or paid at any time
9 during which a cancellation of a certificate of exemption could or should have been in effect
10 under any one or more of paragraphs 1 through 6 of Subsection G of this Section.

11 B. A premises or location is eligible for a certificate of exemption if:

12 1. The premises or location has a certificate of occupancy of fewer than one thousand
13 (1,000) persons; and

14 2. The person conducting or operating the premises or location or any other person
15 authorized by such person hosts or presents live music on at least three (3) separate days
16 per week at the premises or location on a regular schedule. For purposes of this Section,
17 “live music” is defined as an active performance of music by an individual or individuals
18 who, at the time of and during the performance, creates music or engages in an audible
19 form of artistic expression, other than, or in addition to, any pre-recorded music, for an
20 audience through the use or manipulation of voice, instruments, or electronic or
21 computerized equipment or formats; and
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1 3. The person or persons conducting or operating the premises or location or any other
2 authorized person hires one (1) or more musicians to perform the equivalent of sixteen
3 (16) individual performances per week at the premises or location. Repeat performances
4 by the same individual or group shall each be counted. Where performances are by a duo,
5 trio, band, ensemble or other performing group, the number of individual performances
6 shall be determined by multiplying the number of performing group members by the
7 number of performances by the group; and
8

9 4. The premises or location is current with all license and tax requirements.

10 C. A premises or location that has obtained more than three (3) violations of law
11 concerning public health, noise, licensing, taxing or permitting related to the ownership,
12 possession, occupation, operation, use or maintenance of the location or premises in any twelve
13 (12) month period shall be ineligible for a certificate of exemption for a period of one year from
14 the date of the last violation. For purposes of this Section a premises or location has obtained a
15 violation if there is a legally binding final decision, order, citation, or other finding of violation
16 entered by any court, adjudicative body or government agency against any legal owner, operator,
17 manager, or employee of the premises or location, or any other person hosting or presenting live
18 music at the premises or location.
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21 D. Any person conducting or operating a premises or location seeking a certificate of
22 exemption under this Section, who has not previously been issued a certificate of exemption for
23 the same premises or location, shall present to the Director a copy of the certificate of occupancy
24 required under paragraph B 1 of this Section, and shall submit a completed application for the
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1 certificate of exemption on forms and in a manner prescribed by the Director. The application
2 shall contain a certification that the conditions set forth in Subsections B 2 and 3 of this Section
3 will be satisfied during the period that the certificate of exemption is to be in effect, and a
4 separate certification that the premises or location is not ineligible under Subsection C of this
5 Section. The Director shall issue a certificate of exemption for the premises or location, unless
6 the Director finds that the eligibility requirements of Subsections B and C of this Section cannot
7 be met. A certificate of exemption is non-transferable, shall be valid only with respect to the
8 original applicant, and shall apply only to the premises or location that is the subject of the
9 application
10 application

11
12 E. On a quarterly basis each person to whom a certificate of exemption has been issued
13 shall report, on forms prescribed by the Director, information sufficient to verify that during the
14 corresponding quarter, the premises or location was in compliance with the requirements of this
15 Section, including, but not limited to, the requirements in Subsections B 2 and 3 of this Section,
16 and that the premises or location can continue to meet the requirements. The Director shall
17 establish by rule the information required. The report shall be due in accordance with the
18 provisions pertaining to the quarterly due dates for remittance of tax under SMC Chapter 5.55.

19
20 F. Each person to whom a certificate of exemption has been issued shall immediately
21 notify the Director if a premises or location for which a certificate of exemption has been issued
22 fails to be eligible under Subsection C of this Section, or fails to be in compliance with any
23 requirement contained in this Section or any rule or regulation of the Director implementing it,
24 other than those contained in Subsections B 2 or 3 of this Section.
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1 G. The Director shall cancel the certificate of exemption of a location or premises upon a
2 determination by the Director:

- 3 1. That a person secured the certificate of exemption by making a false representation in
4 the application for the certificate; or
5
6 2. That the premises or location is ineligible for a certificate of exemption under
7 Subsection C of this Section; or
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9 3. That the premises or location is not in compliance with any requirement contained in
10 this Section or any rule or regulation of the Director implementing it other than the
11 requirements contained in Subsections B 2 or 3 of this Section; or
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13 4. That, during any quarterly period, the premises or location fails to host or present live
14 music on at least 80% of the number of days that the premises is required to present live
15 music under Subsection B 2 during that quarterly period; or
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17 5. That, during any quarterly period, the premises or location fails to hire musicians to
18 perform at least 80% of the number of individual performances required under Subsection
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21 6. That the person to whom the certificate of exemption has been issued no longer
22 conducts or operates the premises or location that is the subject of the exemption.

23 A person whose certificate of exemption has been cancelled may re-apply for a certificate
24 for the same premises or location, but no re-application shall be approved unless the person
25 shows that the premises or location is eligible under the requirements of this Section and all rules
26 and regulations of the Director implementing it at the time of the re-application, and further, that
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1 the location or premises has been in compliance with Subsections B 2 and 3 of this Section
2 during the 30 day period prior to the re-application. Any person wishing to re-apply shall submit
3 the material required in Subsection D of this Section, which material shall be current as of the
4 date of the re-application, and, in addition, shall submit all information required by the Director
5 as established by rule, including all information required to have been reported pursuant to
6 Subsection E of this Section during any period of time, within the maximum period of limitation
7 applicable under SMC Chapter 5.55 for the assessment of tax, that any previous certificate of
8 exemption was in effect.
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10 H. The Director shall not issue a certificate of exemption to any person who is found by
11 the Director to have made a false representation on any application or re-application made under
12 this Section.
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14 I. Any person to whom a certificate of exemption has been issued shall promptly notify
15 the Director of any change of address. If the Director has cancelled a certificate of exemption,
16 the Director shall provide notice of the cancellation to the person to whom the certificate of
17 exemption was issued by mailing such notice in writing to the address of the person as last
18 reported to the Director. Any person whose certificate of exemption has been cancelled may
19 contest the cancellation by filing a written request for hearing with the Hearing Examiner within
20 ten (10) days after the mailing of the notice of cancellation. If the person whose certificate of
21 exemption has been cancelled files a written request for hearing within the prescribed period, the
22 Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable
23 Hearing Examiner rules.
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Section 2. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2008,
and signed by me in open session in authentication of its passage this
____ day of _____, 2008.

President _____ of the City Council

Approved by me this ____ day of _____, 2008.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2008.

City Clerk

(Seal)



STATE OF WASHINGTON – KING COUNTY

--SS.

240064
CITY OF SEATTLE, CLERKS OFFICE

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

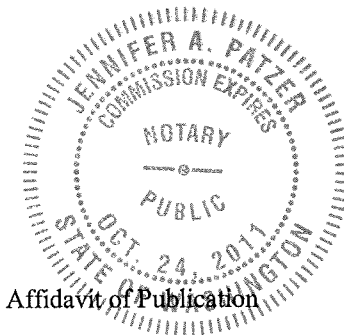
The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:122989 ORDINANCE

was published on

06/10/09

The amount of the fee charged for the foregoing publication is the sum of \$ 374.98, which amount has been paid in full.



Affidavit of Publication

[Signature]
Subscribed and sworn to before me on
06/10/09 *[Signature]*
Notary public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 122989

AN ORDINANCE relating to the admission tax; providing for an exemption from the admission tax for qualifying music venues and adding a new Section 5.40.028 to the Seattle Municipal Code.

WHEREAS, live music is at the core of every great American city, offering opportunities for musicians to hone their craft and for audiences to learn about, listen to, and appreciate various forms of music; and

WHEREAS, a city rich with concert venues of various sizes that support a wide-variety of musicians offers residents and visitors increased opportunities to experience the power and pleasure of live music; and

WHEREAS, these venues enrich our community and serve as catalysts for economic development; and

WHEREAS, Seattle is recognized as a distinctive center for music where a spirit of innovation continually renews a thriving music industry, both economically and culturally; and

WHEREAS, the vitality and the culture of Seattle are greatly enhanced by our ability to attract and keep local live music venues; and

WHEREAS, to increase Seattle's standing as a live music destination, we must encourage private investment in live music; and

WHEREAS, live music venues are part of a business sector that has greater expenses, regulatory requirements, and liabilities than the average business; and

WHEREAS, providing an admission tax exemption presents minimal risk to the City and provides a valuable incentive for investors to open and operate well-managed music venues; and

WHEREAS, this exemption, along with other pro-music policies, will help create a healthy business environment, leverage Seattle's competitive advantage in the music industry, and bolster economic development throughout the city; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Effective July 1, 2009, a new section 5.40.028 is added to the Seattle Municipal Code, as follows:

5.40.028 Tax exemption - musical venues.

A. The admission tax as imposed in SMC Section 5.40.020 shall not apply to any person paying an admission charge to any premises or location for which the Director has issued a certificate of exemption pursuant to this Section; PROVIDED, however, that the admission tax shall be due for any and all admission charges paid prior to the issuance of a certificate of exemption, or paid after the Director has cancelled a certificate of exemption, or paid at any time during which a cancellation of a certificate of exemption could or should have been in effect under any one or more of paragraphs 1 through 6 of Subsection G of this Section.

B. A premises or location is eligible for a certificate of exemption if:

1. The premises or location has a certificate of occupancy of fewer than one thousand (1,000) persons; and

2. The person conducting or operating the premises or location or any other person authorized by such person hosts or presents live music on at least three (3) separate days per week at the premises or location on a regular schedule. For purposes of this Section, "live music" is defined as an active performance of music by an individual or individuals who, at the time of and during the performance, creates music or engages in an audible form of artistic expression, other than, or in addition to, any pre-recorded music, for an audience through the use or manipulation of voice, instruments, or electronic or computerized equipment or formats; and

3. The person or persons conducting or operating the premises or location or any other authorized person hires one (1) or more musicians to perform the equivalent of sixteen (16) individual performances per week at the premises or location. Repeat performances by the same individual or group shall each be counted. Where performances are by a duo, trio, band, ensemble or other performing group, the number of individual performances shall be determined by multiplying the number of performing group members by the number of performances by the group; and

State of Washington, King County

4. The premises or location is current with all license and tax requirements.

C. A premises or location that has obtained more than three (3) violations of law concerning public health, public safety, noise, licensing, taxing or permitting related to the ownership, possession, occupation, operation, use or maintenance of the location or premises in any twelve (12) month period shall be ineligible for a certificate of exemption for a period of one year from the date of the last violation. For purposes of this Section a premises or location has obtained a violation if there is a legally binding final decision, order, citation, or other finding of violation entered by any court, adjudicative body or government agency against any legal owner, operator, manager, or employee of the premises or location, or any other person hosting or presenting live music at the premises or location.

D. Any person conducting or operating a premises or location seeking a certificate of exemption under this Section, who has not previously been issued a certificate of exemption for the same premises or location, shall present to the Director a copy of the certificate of occupancy required under paragraph B 1 of this Section, and shall submit a completed application for the certificate of exemption on forms and in a manner prescribed by the Director. The application shall contain a certification that the conditions set forth in Subsections B 2 and 3 of this Section will be satisfied during the period that the certificate of exemption is to be in effect, and a separate certification that the premises or location is not ineligible under Subsection C of this Section. The Director shall issue a certificate of exemption for the premises or location, unless the Director finds that the eligibility requirements of Subsections B and C of this Section cannot be met. A certificate of exemption is non-transferable, shall be valid only with respect to the original applicant, and shall apply only to the premises or location that is the subject of the application.

E. On a quarterly basis each person to whom a certificate of exemption has been issued shall report, on forms prescribed by the Director, information sufficient to verify that during the corresponding quarter, the premises or location was in compliance with the requirements of this Section, including, but not limited to, the requirements in Subsections B 2 and 3 of this Section, and that the premises or location can continue to meet the requirements. The Director shall establish by rule the information required. The report shall be due in accordance with the provisions pertaining to the quarterly due dates for remittance of tax under SMC Chapter 5.55.

F. Each person to whom a certificate of exemption has been issued shall immediately notify the Director if a premises or location for which a certificate of exemption has been issued fails to be eligible under Subsection C of this Section, or fails to be in compliance with any requirement contained in this Section or any rule or regulation of the Director implementing it, other than those contained in Subsections B 2 or 3 of this Section.

G. The Director shall cancel the certificate of exemption of a location or premises upon a determination by the Director:

1. That a person secured the certificate of exemption by making a false representation in the application for the certificate; or

2. That the premises or location is ineligible for a certificate of exemption under Subsection C of this Section; or

3. That the premises or location is not in compliance with any requirement contained in this Section or any rule or regulation of the Director implementing it other than the requirements contained in Subsections B 2 or 3 of this Section; or

4. That, during any quarterly period, the premises or location fails to host or present live music on at least 80% of the number of days that the premises is required to present

live music under Subsection B 2 during that quarterly period; or

5. That, during any quarterly period, the premises or location fails to hire musicians to perform at least 80% of the number of individual performances required under Subsection B 3 during that quarterly period; or

6. That the person to whom the certificate of exemption has been issued no longer conducts or operates the premises or location that is the subject of the exemption.

A person whose certificate of exemption has been cancelled may re-apply for a certificate for the same premises or location, but no re-application shall be approved unless the person shows that the premises or location is eligible under the requirements of this Section and all rules and regulations of the Director implementing it at the time of the re-application, and further, that the location or premises has been in compliance with Subsections B 2 and 3 of this Section during the 30 day period prior to the re-application. Any person wishing to re-apply shall submit the material required in Subsection D of this Section, which material shall be current as of the date of the re-application, and, in addition, shall submit all information required by the Director as established by rule, including all information required to have been reported pursuant to Subsection E of this Section during any period of time, within the maximum period of limitation applicable under SMC Chapter 5.55 for the assessment of tax, that any previous certificate of exemption was in effect.

H. The Director shall not issue a certificate of exemption to any person who is found by the Director to have made a false representation on any application or re-application made under this Section.

I. Any person to whom a certificate of exemption has been issued shall promptly notify the Director of any change of address. If the Director has cancelled a certificate of exemption, the Director shall provide notice of the cancellation to the person to whom the certificate of exemption was issued by mailing such notice in writing to the address of the person as last reported to the Director. Any person whose certificate of exemption has been cancelled may contest the cancellation by filing a writ on request for hearing with the Hearing Examiner within ten (10) days after the mailing of the notice of cancellation. If the person whose certificate of exemption has been cancelled files a written request for hearing within the prescribed period, the Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable Hearing Examiner rules.

Section 2. Any act taken pursuant to the authority of this ordinance, and after passage but prior to the effective date of this ordinance, is ratified and confirmed.

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of May, 2009, and signed by me in open session in authentication of its passage this 26th day of May, 2009.

Richard Conlin

President of the City Council

Approved by me this 4th day of June, 2009.

Gregory J. Nickels, Mayor

Filed by me this 4th day of June, 2009.

(Seal) Judith Pippin

City Clerk

Publication ordered by JUDITH PIPPIN, City Clerk

Date of publication in the Seattle Daily Journal of Commerce, June 10, 2009.

6/10(240064)