SEATTLE CITY COUNCIL

Legislative Summary

CB 118558

Record No.: CB 118558 **Type:** Ordinance (Ord) **Status:** Passed

Version: 1 124902 **In Control:** City Clerk

File Created: 10/28/2015

Final Action: 12/01/2015

Title: AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Notes:

Sponsors: Licata

Attachments:

Drafter: patrick.wigren@seattle.gov

	Date
Filed with City Clerk:	
Mayor's Signature:	
Vetoed by Mayor:	
Veto Overridden:	
Veto Sustained:	

Filing Requirements/Dept Action:

History of Legislative File **Legal Notice Published:** ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Full Council	11/09/2015	referred	Budget Committee			
	Action Text: The Council Bill (CB) was referred. to the Budget Committee						
	Notes:						
1	Budget Committee	11/16/2015	pass				Pass
	Action Text: The Committee recommends that Full Council pass the Council Bill (CB).						
	Notes:						
		In Favor: 8	Chair Licata, Member Bagshaw, Member Burgess, Member Godden, Member O'Brien, Okamoto, Member Rasmussen, Member Sawant				
		Opposed: 0					
1	Full Council	11/23/2015	passed				Pass
	Action Text: The Council Bill (CB) was passed by the following vote and the President signed the Bill:						
		In Favor: 9	Councilmember Bagshaw, Council President Burgess, Councilmember Godden, Councilmember Harrell, Councilmember Licata, Councilmember O'Brien, Okamoto, Councilmember Rasmussen, Councilmember Sawant				
		Opposed: 0					
1	City Clerk	11/30/2015	submitted for Mayor's signature	Mayor			
	Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor						

Notes:

1	Mayor	12/01/2015	Signed	

Action Text: The Council Bill (CB) was Signed.
Notes:

1	Mayor	12/01/2015	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:

1	City Clerk	12/01/2015	attested by City Clerk

Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:

CITY OF SEATTLE

ORDINANCE 124902

COUNCIL BILL 118558

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.028 of the Seattle Municipal Code, enacted by Ordinance 122989, is amended 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 5.40.028; ((~~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~~)) subsections 5.40.028.G.1 through 5.40.020.G.6.

B. A premises or location is eligible for a certificate of exemption if either subsection 5.40.028.B.1 or 5.40.028.B.2 applies:

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

((~~2.~~)) a. 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 5.40.028, "live music" ((~~is defined as~~)) means 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.~~)) b. 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

((~~4.~~)) c. The premises or location is current with all license and tax requirements.

2. The premises or location has a certificate of occupancy of 500 or fewer persons; and

a. The person conducting or operating the premises or location or any other person authorized by such a person hosts or presents live music on at least two separate days per week at the premises or location on a regular schedule; and

b. 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 5.40.028 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 5.40.028, 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~~)) subsection 5.40.028.B, 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~~)) subsection 5.40.028.B 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~~)) subsection 5.40.028.C. 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~~)) subsections 5.40.028.B and 5.40.028.C 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. A person to whom a certificate of exemption has been issued under this Section 5.40.028 shall report to the Director as follows:

1. ((~~On a quarterly basis each~~)) Each person to whom a certificate of exemption has been issued for a premises or location that has a certificate of occupancy for 501 or more persons shall report, on a quarterly basis, 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 5.40.028, including, but not limited to, the requirements in ((~~Subsections B 2 and 3 of this Section~~)) subsection 5.40.028.B, 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.

2. Each person to whom a certificate of exemption has been issued for a premises or location that has a certificate of occupancy of 500 or fewer persons shall report, on an annual basis, on forms prescribed by the Director, information sufficient to verify that, during the corresponding year, the premises or location was in compliance with the requirements of this Section 5.40.028, including, but not limited to, the requirements in subsection 5.40.028.B, 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 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~~)) subsection 5.40.028.C, or fails to be in compliance with any requirement contained in this Section 5.40.028 or any rule or regulation of

the Director implementing it, other than those contained in ((~~Subsections B 2 or 3 of this Section~~)) subsection 5.40.028.B.

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~~)) subsection 5.40.028.C; or

3. That the premises or location is not in compliance with any requirement contained in this Section 5.40.028 or any rule or regulation of the Director implementing it other than the requirements contained in ((~~Subsections B 2 or 3 of this Section~~)) subsection 5.40.028.B; or

4. That, during any quarterly period, the premises or location fails to host or present live music on at least ((~~80%~~)) 80 percent of the number of days that the premises is required to present live music under ((~~Subsection B 2~~)) subsection 5.40.028.B during that quarterly period; or

5. That, during any quarterly period, the premises or location fails to hire musicians to perform at least ((~~80%~~)) 80 percent of the number of individual performances required under ((~~Subsection B 3~~)) subsection 5.40.028.B 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 5.40.028 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~~)) subsection 5.40.028.B 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~~)) subsection 5.40.028.D, 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~~)) subsection 5.40.028.E 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 5.40.028.

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

Passed by the City Council the 23rd day of Nov., 2015, and signed by me in open session in authentication of its passage this 23rd day of Nov., 2015.

President _____ of the City Council

Approved by me this 1st day of December, 2015.

Edward B. Murray, Mayor

Filed by me this 1st day of December, 2015.

Monica Martinez Simmons, City Clerk

(Seal)

STATE OF WASHINGTON -- KING COUNTY

--ss.

331450

No. 124899,900,902,903,904,05

CITY OF SEATTLE,CLERKS OFFICE

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:TITLE ONLY ORDINANCES

was published on

12/15/15

The amount of the fee charged for the foregoing publication is the sum of $93.00 which amount has been paid in full.

MELISSA M. DOWD
STATE OF WASHINGTON
NOTARY PUBLIC
MY COMMISSION EXPIRES
11-21-19

Subscribed and sworn to before me on

12/15/2015

Notary public for the State of Washington,
residing in Seattle

Affidavit of Publication

State of Washington, King County

City of Seattle

Title Only Ordinances

The full text of the following legislation, passed by the City Council on November 23, 2015, and published below by title only, will be mailed upon request, or can be accessed at http://clerk.seattle.gov. For information on upcoming meetings of the Seattle City Council, please visit http://www.seattle.gov/council/calendar. Document Type Contact: Office of the City Clerk at (206) 684-8344.

Ordinance 124899

AN ORDINANCE authorizing, in 2015, acceptance of funding from non-City sources; authorizing the heads of the Human Services Department, Seattle Fire Department, Seattle Police Department and the Department of Finance and Administrative Services to accept specified grants, private funding and donations and to execute, deliver, and perform corresponding agreements; and ratifying and confirming certain prior acts.

Ordinance 124900

AN ORDINANCE relating to the 2015 Budget; amending Ordinance 124648, which adopted the 2015 Budget, including the 2015-2020 Capital Improvement Program (CIP); changing appropriations to various departments and budget control levels, and from various funds in the Budget; adding new projects; revising project allocations for certain projects in the 2015-2020 CIP; creating both exempt and nonexempt positions; and ratifying and confirming certain prior acts; all by a 3/4 vote of the City Council.

Ordinance 124902

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.028 of the Seattle Municipal Code.

Ordinance 124903

AN ORDINANCE related to exemption from admission tax; amending Section 5.40.085 of the Seattle Municipal Code.

Ordinance 124904

AN ORDINANCE relating to the financing of the Mercer West project; authorizing the loan of funds from the City's Consolidated (Residual) Cash Pool, or its participating funds, to the Transportation Master Fund; and providing for the repayment thereof.

Ordinance 124905

AN ORDINANCE relating to street and sidewalk use; amending the Street Use Permit Fee Schedule authorized by Section 15.04.074 of the Seattle Municipal Code.

Date of publication in the Seattle Daily Journal of Commerce, December 15, 2015.

12/15(331450)