

CHAPTER 707
Admissions Tax

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707.01 DEFINITIONS.

For the purposes of this chapter, words and phrases are defined as follows:

(a) "Admission charge" means the charge made for the right or privilege to enter into a place, provided, however, that if such charge includes rental of property or services it shall be deemed to be an admission charge if so designated, unless the charge is for rental or services and persons who do not use such property or services are admitted free. If a lesser charge is made to the persons who do not desire to use the property or services offered, the lesser charge shall constitute the admission charge. The designation of the charge as a rental or service charge shall not be construed to avoid the application of the tax if it is in effect a charge for admission.

(b) "Commissioner" means the Tax Commissioner of the City of Brook Park.

(c) "Place" includes, but is not restricted to, theatres, dance halls, amphitheaters, auditoriums, convention centers, exhibition centers, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, outdoor amusement parks and such attractions as merry go rounds, ferris wheels, dodge-ems, roller coasters and observation towers.

(d) "Person" means any individual, receiver, assignee, firm, co partnership, joint venture, corporation, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, co operative, fraternal, nonprofit or otherwise.

(Ord. 6910 1986. Passed 9 16 86.)

707.02 IMPOSITION.

There is hereby levied and imposed upon every person who pays an admission charge to any place:

(a) A tax of three percent (3%) on the amounts paid for admission to any place, including admission by season ticket or subscription. The tax shall apply to every admission within the City for which a charge is made, notwithstanding that the sale of ticket or other evidence of right of admission thereto is made outside of the City.

(b) A tax of three percent (3%) on the excess of the amounts paid for tickets or cards of admission to theatres, operas and other places of amusement, sold at news stands, hotels and places other than the ticket offices of such theatres, operas or other places of amusement, over and above the amounts representing the established price therefor at such ticket offices, such tax to be returned and paid in the manner provided in Section 707.04 by the person selling the ticket.

(c) A tax of three percent (3%) on the amount paid for admission to any public performance for profit on any roof garden, cabaret or other similar entertainment in case the charge for admission is in the form of a service charge or cover charge or other similar charge.

(Ord. 6910 1986. Passed 9 16 86.)

707.03 EXEMPTIONS.

(a) No tax shall be levied under this chapter with respect to any admission where all the proceeds of which inure:

(1) Exclusively to the benefit of primary or secondary schools; religious, educational or charitable institutions, societies or organizations; societies or organizations for the prevention of cruelty to children or animals; or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any municipal corporation, or of maintaining a co operative or community center moving picture theatre or swimming pool, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual;

(2) Exclusively to the benefit of persons in the military or naval forces of the United States, or National Guard organizations, reserve officer associations or posts or organizations, if such posts, organizations, units or societies are organized in the State of Ohio, and if no part of their net earnings inure to the benefit of any private stockholder or individual;

(3) Exclusively to the benefit of persons who have served in the military or naval forces of the United States and are in need;

(4) Exclusively to the benefit of the general revenue fund of any municipal corporation, or exclusively to the benefit of any fund of any municipal corporation under the control of a recreation commission. This exemption from the tax, however, shall not be allowed in cases wherein the admission price is one dollar (\$1.00) or more;

(5) Exclusively to the benefit of an organization whose primary function is the sponsorship of amateur athletics, provided such organization is exempt from federal income taxation under subsection 501(a) and described in subsection 501(c)(3) of the Internal Revenue Code, and further provided that all revenue derived from the event for which admission is charged is, after payment of expenses incurred for such event, actually used for the sponsorship of amateur athletics;

(6) Exclusively to the benefit of a political committee, campaign committee or continuing association, as such terms are defined by Ohio R.C. 3517.01, provided that all such proceeds are duly reported in the manner required by Ohio R.C. Chapter 3517, and further provided that none of the proceeds are expended in a manner prohibited for such funds by any provision of Ohio R.C. Title 35; or

(7) To any person or organization, whether for profit or otherwise, where the event for which a tuition fee is charged is an educational class, seminar, training session or other similar event, whether or not such event is accompanied by any audio and/or visual aids.

(b) The exemption from tax provided by this section shall, however, not be allowed in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, unless:

(1) Such event is conducted exclusively for the benefit of those organizations set forth in subsection (a) hereof; or

(2) All the contestants are amateurs and the entire proceeds from such event are devoted to a legitimate charitable purpose, excepting there from the necessary expenses, which shall in no event include payment to any contestant other than his necessary traveling expenses.

(c) Immediately after the event for which an exemption from admission tax has been allowed, upon the demand of the Tax Commissioner, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Commissioner setting forth the amount of money actually received by such treasurer together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from admissions tax for the benefit of such institution, society or organization and if such statement shows a disproportionate expenditure for promoting and conducting of such event, in relation to the profits, if any, no such exemption shall thereafter be allowed to such institution, society or organization.

(d) The exemption from tax provided in this section shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(Ord. 6910 1986. Passed 9 16 86.)

707.04 COLLECTION; PAYMENT; RETURNS; AUDIT; LATE PENALTY.

(a) Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the Tax Commissioner as herein provided.

(b) Any person required to collect the tax imposed under this chapter who fails to collect the same, or having collected the same, fails to remit the same to the Commissioner in the manner prescribed by this chapter, whether such failure be the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be personally liable to the City for the amount of such tax, and shall, unless the remittance be made as herein required, be guilty of a violation of this section.

(c) The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place. The tax shall be reported and remitted in monthly installments and remittances therefore on or before the 30th day of the month next succeeding the end of the monthly period in which the tax is collected or received. Payment or remittance of the tax collection may be made by check, unless

payment or remittance is otherwise required by the Commissioner, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Commissioner unless the check is honored and is in the full and correct amount.

(d) The person receiving any payment for admissions shall make out a return upon such forms and setting forth such information as the Commissioner may require, showing the amount of the tax upon admissions for which he is liable for the preceding monthly period, and shall sign and transmit the same to the Commissioner with a remittance for such amount; provided, that the Commissioner may in his discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he may deem necessary to determine correctly the amount of the tax collected and payable.

(e) Whenever any theatre, circus, show, exhibition, entertainment or amusement makes an admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Commissioner shall be the judge, the Commissioner may require the report and remittance of the admission tax immediately upon the collection of the same, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the Commissioner shall determine; and failure to comply with any requirement of the Tax Commissioner as to report and remittance of the tax as required shall be a violation of this section.

(f) The books, records and accounts of any person collecting a tax herein levied, as to admission charges and tax collections, shall at all reasonable times be subject to examination and audit by the Commissioner.

(g) If the tax imposed by this chapter is not paid when due there shall be added as part of the tax interest at the rate of two percent (2%) per month or fraction thereof from the time when the tax became due until paid.
(Ord. 6910 1986. Passed 9 16 86.)

707.05 CERTIFICATE OF REGISTRATION.

Any person conducting or operating any place for entrance to which an admission charge is made shall, on a form prescribed by the Tax Commissioner make application to and procure from the Commissioner a Certificate of Registration, which Certificate shall continue valid until December 31 of the year in which the same is issued. Such Certificate of Registration or duplicate original copies thereof to be issued by the Commissioner without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets or admission are sold.

(Ord. 6910 1986. Passed 9 16 86.)

707.06 TEMPORARY OR TRANSITORY AMUSEMENT CERTIFICATE OF REGISTRATION.

Whenever a Certificate of Registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lots or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 707.04 by the owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a Certificate of Registration for such purpose shall furnish with the application therefore the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and such owner, lessee or custodian shall be notified by the Commissioner of the issuance of such Certificate and the joint liability for collection and remittance of such tax.

(Ord. 6910 1986. Passed 9 16 86.)

707.07 RULES AND REGULATIONS.

The Tax Commissioner shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied, copies of which rules and regulations shall be made available in the office of the Commissioner. Failure to comply with any such rules and regulations shall be deemed a violation of this chapter.

(Ord. 6910 1986. Passed 9 16 86.)

707.08 CONFIDENTIAL REPORTS.

All returns and information relating to the business of any person required to collect the tax imposed by this chapter, and coming into the possession of the Tax Director or his or her agents and employees, shall be held confidential. No disclosures thereof shall be made unless ordered by a court of competent jurisdiction, or in connection with the performance of that person's official duties or the official business of the Municipal corporation. However, the Director may furnish copies of the returns filed with the United States Internal Revenue Service upon written request.

In addition to the penalty provided in Section 707.99(c), whoever violates this section shall be thereafter disqualified from acting in any official capacity whatsoever in connection with the assessment or collection of taxes under this chapter.

(Ord. 8458-1998. Passed 6-2-98.)

707.09 APPEALS.

Appeals from any ruling of the Tax Commissioner hereunder shall be made to the Board of Review pursuant to the provisions and procedures set forth in Section 1725.02 of the Codified Ordinances.

(Ord. 6910 1986. Passed 9 16 86.)

707.10 SEVERABILITY.

If any sentence, clause, section or part of this chapter or any tax imposed as specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter, and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

(Ord. 6910 1986. Passed 9 16 86.)

707.11 DISBURSEMENT OF FUNDS COLLECTED.

The funds collected under the provisions of this chapter shall be disbursed in the following manner:

(a) First, such part thereof as shall be necessary to defray all expenses of collecting the tax and of administering and enforcing the provisions of the chapter shall be paid; and

(b) The balance remaining after payment of the expenses referred to in subsection (a) hereof shall be deposited in the General Fund.

(Ord. 6910 1986. Passed 9 16 86.)

707.99 PENALTY.

(a) Except as otherwise provided in this section, whoever violates any provision of this chapter shall be guilty of a misdemeanor of the third degree, punishable under Chapter 501 of these Codified Ordinances, if the total amount of the tax involved is three hundred dollars (\$300.00) or less.

(b) Except as otherwise provided in this section, whoever violates any provision of this chapter shall be guilty of a misdemeanor of the first degree, punishable under Chapter 501 of these Codified Ordinances, if the total amount of the tax involved is more than three hundred dollars (\$300.00).

(Ord. 6910 1986. Passed 9 16 86.)

(c) Whoever violates Section 707.08 shall be guilty of a misdemeanor of the third degree, punishable under Chapter 501 of these Codified Ordinances.

(Ord. 8458-1998. Passed 6-2-98.)