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Berea, OH Code of Ordinances

**CHAPTER 193
Admissions Tax**

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CROSS REFERENCES

Taxation - see CHTR. Sec. XI

193.01 DEFINITIONS.

For the purposes of this chapter, words and phrases shall have the following meaning:

- (a) "Admission charge" means the charge made for the right or privilege to enter into a place, provided, however, that if the charge includes a 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 the property or services are admitted free. If a lesser charge is made to 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) "Place" includes, but is not restricted to, theaters, dance halls, amphitheatres, auditoriums, stadiums, athletic pavilions and fields, baseball and athletic parks, circuses, side shows, swimming pools, outdoor amusement parks, and any attractions as merry-go-rounds, ferris wheels, dodge'ems, roller coasters, observation towers and amusements operated for profit at the Cuyahoga County Fair Board Grounds.
- (c) "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(Ord. 951. Passed 9-29-47.)

193.02 ADMISSIONS TAX LEVIED; RATES.

There is 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 the fact that the sale of the 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 admissions to theaters, operas and other places of amusement sold at newsstands, hotels and places other than the ticket office of the theaters, operas or other places of amusement, over and above the amounts representing operas or other places of amusement, over and above the amounts representing the established price therefor at the ticket offices, such tax to be returned and paid in the manner provided in Section 193.04 hereof 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 at 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.

- (d) A tax of three percent (3%) on the amount paid as annual membership dues by every club or organization maintaining a golf course, and a tax of three percent (3%) on green fees paid to golf courses either under club or private ownership.

(Ord. 1983-89. Passed 11-21-83.)

193.03 ADMISSIONS EXEMPT FROM TAX.

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

- (a) Exclusively to the benefit of 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 cooperative 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.
- (b) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organizations, reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if the 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.
- (c) Exclusively to the benefit of persons who have served in the military or naval forces of the United States and are in need.
- (d) Exclusively to the benefit of members of the police or fire departments of any municipal corporation, or the dependents of heirs of the members.
- (e) Exclusively to the benefit of the general revenue fund of any municipal corporation under the control of a recreation commission.

(Ord. 1968-71. Passed 7-22-68.)

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 exclusively for the benefit of those organizations set forth in subsection (b) hereof, nor in the case of admissions to any athletic game or exhibition the proceeds of which inure wholly or partly to the benefit of any private school, college or university.

(Ord. 1968-71. Passed 7-22-68.)

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

(Ord. 1968-71. Passed 7-22-68.)

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 the percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(Ord. 951. Passed 9-29-47.)

193.04 COLLECTION OF TAX.

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 Finance Director as herein provided. 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 Finance Director in the manner prescribed by this chapter, whether the failure is 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 the

tax, and shall, unless the remittance is made as herein required, be guilty of a violation of this chapter. The tax imposed hereunder shall be collected at the time the admission charge is paid by the person seeking admission to any place and shall be reported and remitted by the person receiving the tax to the Finance Director in monthly installments and remittances therefor on or before the thirtieth 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 collected may be made by check, unless payment or remittance is otherwise required by the Finance Director, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Finance Director unless the check is honored and is in the full and correct amount.

The person receiving any payment for admissions shall make out a return upon the forms and setting forth the information as the Finance Director 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 Finance Director with a remittance for the amount. However, the Finance Director may in his discretion require verified annual returns from any person receiving admission payments setting forth the additional information as he may deem necessary to determine correctly the amount of tax collected and payable. Whenever any theater, 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 Finance Director and the Law Director shall be the judge, the Finance Director 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 any other times as the Finance Director shall determine; and failure to comply with any requirement of the Finance Director as to report and remittance of the tax as required shall be a violation of this chapter. The books, records and accounts of any person collecting a tax herein levied shall, as to admission charges and tax collections, be at all reasonable times subject to examination and audit by the Finance Director. 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 one percent (1%) per month from the time when the tax became due until paid.

(Ord. 951. Passed 9-29-47.)

193.05 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 Finance Director, make application to and procure from the Finance Director a certificate of registration, the fee for which shall be one dollar (\$1.00), which certificate shall continue valid until December 31 of the year in which the same is issued. The certificate of registration, or duplicate original copies thereof to be issued by the Finance Director without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

(Ord. 951. Passed 9-29-47.)

193.06 CERTIFICATE OF REGISTRATION IN CASE OF TEMPORARY OR TRANSITORY AMUSEMENT.

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 193.04 hereof by the owner, lessee or custodian, unless paid by the person conducting the place. The applicant for a certificate of registration for this purpose shall furnish with the application therefor the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and the owner, lessee or custodian shall be notified by the Finance Director of the issuance of the certificate and the joint liability for collection and remittance of the tax.

(Ord. 951. Passed 9-29-47.)

193.07 RULES AND REGULATIONS.

The Finance Director shall have 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, and a copy of the rules and regulations shall be published in a newspaper of general circulation at least once before they shall become effective. Failure or refusal to comply with any rules and regulations shall be deemed a violation of this chapter.

(Ord. 951. Passed 9-29-47.)

193.08 APPEALS.

Appeals from any ruling of the Finance Director hereunder shall be made to a Board of Appeals, consisting of the Mayor, President of Council and Law Director within ten days, and the Board shall have authority to annul, modify or affirm any ruling appealed from, in conformity with the intent and purpose of this chapter and shall also have the power to subpoena.

(Ord. 951. Passed 9-29-47.)

193.09 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 Finance Director, the Board of Appeals, their agents and employees, shall be held confidential. No disclosures thereof shall be made unless ordered by a court of competent jurisdiction, except, however, that the Finance Director may furnish the Bureau of Internal Revenue, Treasury Department of the United States with copies of returns filed. Any violator of the provisions of this section shall be fined not exceeding five hundred dollars (\$500.00) or imprisoned not more than thirty days, or both, for each violation and shall thereafter be disqualified from acting in any official capacity whatsoever in connection with the assessment or collection of taxes under this chapter.

(Ord. 951. Passed 9-29-47.)

193.99 PENALTY.

Any person charged by this chapter with the duty of collecting or paying the taxes imposed by this chapter who willfully fails or refuses to charge and collect or to pay the taxes, or to make return to the Finance Director as required by this chapter, or to permit the Finance Director or his duly authorized agent or agents, to examine his books and other records, in or upon any premises where the same are kept, to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep for three years or a lesser or greater time as may be permitted or required by the Finance Director, shall be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00), and for a second or subsequent offense shall, if a corporation, be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) or, if an individual or member of a partnership, firm or association, be fined not less than twenty-five dollars (\$25.00) nor more than one hundred dollars (\$100.00) or imprisoned not more than sixty days, or both.

(Ord. 951. Passed 9-29-47.)