Ordinance No. 3678
(Amending or Repealing Ordinances)

CFN=104 – Finance
Passed 1/20/2004
Admissions Tax

Adding a new Chapter 3.26

Amended by Ord. 3964 (3.26.010)
AN ORDINANCE of the City Council of the City of Kent, Washington, adding a new chapter 3.26 to the Kent City Code, entitled "Admissions Tax," to collect a tax on admission charges.

WHEREAS, RCW 35.21.280 authorizes the City of Kent to collect a tax on admission charges in the City; and

WHEREAS, the City Council has determined it is in the best interests of the City to impose such an admissions tax; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. - Amendment. The following Chapter 3.26 shall be added to the Kent City Code:

CHAPTER 3.26
ADMISSIONS TAX

Sec. 3.26.010. Admissions tax imposed.
A. Tax Imposed. In accordance with RCW 35.21.280, there is levied and shall be collected a tax from every person, without regard to age, who pays an admission charge to any place within the City limits. The tax shall be measured by applying the rate set forth in this chapter to the admission charge. The tax shall be held in trust by the business, association, organization, or other entity charging and collecting admission charges.
taxes until the taxes are remitted to the finance director under KCC 3.26.030. No tax shall be levied on any person who is admitted free of charge and the tax on reduced admission charges shall be calculated on the reduced charge and not on the regular admission charge.

B. Definitions. The following definitions shall apply throughout this chapter:

1. Admission Charge, in addition to its usual and ordinary meaning, means a monetary charge for an event open to the public including, but not limited to the following:
   a. A charge made for season tickets or subscriptions;
   b. A cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations;
   c. A charge made for food and refreshments in any place where any free entertainment, recreation, or amusement is provided;
   d. If a general admission fee is charged for entry onto the premises where a rental occurs and if the rental of equipment or facilities is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge; provided, however, that a general admission fee must be charged for entry onto the premises where a rental occurs before the rental can be taxed under this ordinance.
   e. If a general admission fee is charged for entry onto the premises where an activity occurs (such as, and without limitation, a bowling alley or ice skating rink) and if the activity charge is necessary to the enjoyment of a privilege for which a general admission is charged, the combined charges shall be considered as the admission charge; provided, however, that a general admission fee must be charged for entry onto the premises where an activity occurs before the activity charge can be taxed under this ordinance.
   f. Automobile parking charges if the amount of the charge is determined according to the number of passengers in the automobile;
   g. Any other charge for entrance and observation.
2. Collecting entity means any person, business, association, organization, or other entity entrusted with the collection and remittance of admission taxes under this section.

3. Governmental entity means any federal, state, or local government, or branch thereof, and also includes any public facility or any public facility, service, or utility district that is exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code, as it may be amended from time to time.

4. Nonprofit tax-exempt organization means an organization, corporation, or association organized and operated for the advancement, appreciation, public exhibition or performance, preservation, study and/or teaching of the performing arts, visual arts, history, science, or a public charity providing human services, or a public education entity, which is currently exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code, as it may be amended from time to time.

5. Secondary or elementary school means any public or private primary school, middle school, junior high school, high school, or any accredited college, junior college, university, or the recognized student body association thereof.

C. Exemptions from Tax. No tax shall be imposed under the authority of this chapter on the following:

1. Admission charges for any activity of any elementary or secondary school, any governmental entity, or any nonprofit tax-exempt organization.

2. Events sponsored by nonprofit tax-exempt organizations if the nonprofit tax-exempt organization publicly sponsors and promotes the event and the nonprofit tax-exempt organization receives the use and benefit of the admission charges collected.

D. General Application. By way of illustration only, this tax applies to any non-exempt admission charge, as defined in this section, collected for admission to any theater, cinema, dance hall, cabaret, adult entertainment cabaret, circus, side show, outdoor amusement park, dinner theatre, music concerts, radio shows, and television shows.
Sec. 3.26.020. Tax rate. The amount of the tax charged on admission charges shall be equal to the admission charge multiplied by the rate of five (5) percent.

Sec. 3.26.030. Administration and collection.

A. Administration and collection of the various taxes imposed by this chapter shall be the responsibility of the finance director. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the finance director. The collecting entity shall be required to swear and affirm that the information given in the return is true, accurate, and complete.

B. The finance director is authorized, but not required, to mail to the collecting entity forms for returns. Failure of the collecting entity to receive such a form shall not excuse the collecting entity from making the return and timely paying all taxes due. The finance director shall have forms available to the public in reasonable numbers at its customer services department during regular business hours.

Sec. 3.21.040. Tax due.

A. The tax imposed by this chapter shall be due and payable in quarterly installments and remittance therefore, together with the return forms, shall be made on or before the final day of the month immediately succeeding the quarterly period in which the tax accrued. Such payments shall be due on or before January 31, April 30, July 31, and October 31 of each respective year.

1. Whenever any collecting entity quits business, sells out, or otherwise disposes of its business, or terminates the business, any tax due shall become due and payable immediately, and the collecting entity shall, within ten (10) days thereafter, submit a return form and pay the tax due.

2. Whenever it appears to the finance director that the collection of taxes from any collecting entity may be in jeopardy, the finance director, after not less than ten (10) days’ prior written notice to the collecting entity, is authorized to require that the collecting entity remit taxes due and deliver returns at shorter intervals than
otherwise provided, as the finance director deems it appropriate under the circumstances.

Sec. 3.26.050. Method of payment. Taxes payable hereunder shall be remitted to the finance director on or before the time required by bank draft, cashier's check, personal check, money order, credit card, or cash. If payment is made by draft, credit card, or check, the tax shall not be deemed paid until the draft, credit card, or check is honored in the usual course of business, nor shall the acceptance of any sum by the finance director be an acquittance or discharge of the tax, unless the amount paid is the full amount due.

Sec. 3.26.060. Failure to make timely payment of tax or fee; penalties.

1. Delinquent accounts. Except to the extent modified by this subsection, the City will treat all unpaid or uncollected admissions taxes as delinquent accounts under Chapter 3.10 of the Kent City Code.

2. Late charge assessed. If any collecting entity fails or neglects to pay any admission tax within thirty (30) days from the quarterly due date, a charge of one (1) percent of the amount of the unpaid tax or five dollars ($5.00), whichever is the greater amount, will be imposed one month from the date payment was due, and at the end of each succeeding monthly period, until all past due amounts are paid in full.

3. Collection agency. Any tax, invoice, or service charge due under this chapter and unpaid or uncollected shall constitute a debt to the City. The City may, pursuant to Ch. 19.16 RCW, use a collection agency to collect outstanding debts, or it may seek collection by court proceedings, which remedies shall be in addition to all other remedies.

4. Criminal penalties. Any collecting entity that violates or fails to comply with any of the provisions of this chapter or other lawful rule or ordinance adopted by the City, shall be guilty of a misdemeanor and shall be subject to the penalty set forth in section 9.02.410(2) of the Kent City Code, as it may be amended from time to time.

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Sec. 3.26.070. Records required.

A. Each collecting entity shall maintain records respecting that activity which truly, completely, and accurately disclose all information necessary to determine the collecting entity's tax liability during each base tax period. Such records shall be kept and maintained for a period of not less than three (3) years.

B. All books, records, and other items required to be kept and maintained under this section shall be subject to, and immediately made available, for inspection and audit at any time, with or without notice, at the place where such records are kept upon the demand of the finance director, or his or her designee, for the purpose of enforcing the provisions of this chapter.

C. Where the collecting entity does not keep all of the books, records, or items required to be kept or maintained under this section within the jurisdiction of the City so that the auditor may examine them conveniently, the collecting entity shall either:
   1. Produce and make available for inspection in this jurisdiction all of the required books, records, or other items within ten (10) days following a request by the auditor that the collecting entity do so; or
   2. Bear the actual cost of inspection by the auditor or the auditor's designee at the location where the books, records, or items are located. In addition, the collecting entity shall pay in advance to the finance director the estimated costs thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals, and incidental expenses. The actual amounts due or to be refunded for expenses shall be determined following the examination of the records.

D. A collecting entity who fails, neglects, or refuses to produce these books and records, either within or outside this jurisdiction, in addition to being subject to other civil and criminal penalties provided by this chapter, shall be subject to a penalty in the amount of one hundred dollars ($100) per day for each day of non-compliance.

Sec. 3.26.080. Overpayment or underpayment of tax. If, upon application by a collecting entity for a refund, or upon any examination of the returns or records of any collecting entity, the finance director determines that within three (3) years
immediately preceding receipt by the finance director of the application by the collecting entity for a refund or an audit, or in the absence of such an application, within three (3) years immediately preceding the commencement by the finance director of the examination:

A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the City within three (3) years of such period shall be credited to the collecting entity’s account or shall be credited to the collecting entity at the collecting entity’s option. No refund or credit shall be allowed for any excess paid more than three (3) years before the date of the application or examination.

B. A tax or other fee has been paid which is less than that properly due, or no tax or other fee has been paid, the finance director shall mail a statement to the collecting entity, showing the balance due, including the tax amount or penalty assessments and fees. It shall be a separate, additional violation of this chapter, both civil and criminal, if the collecting entity fails to make payment in full within ten (10) calendar days of that mailing.

Sec. 3.26.090. **Failure to make return.** If any collecting entity fails, neglects, or refuses to make and file its return when required under this chapter, the finance director is authorized to determine the amount of tax payable, together with any penalty and/or interest assessed under the provisions of this chapter, and to mail notification to the collecting entity of the amount so determined, which amount shall thereupon become the tax and penalty and/or interest and shall become immediately due and payable.

Sec. 3.26.100. **Tax additional to others.** The taxes levied herein shall be additional to any license fee or tax imposed or levied under any law or other ordinance of the City, except as otherwise expressly provided herein.

Sec. 3.26.110. **Finance director to make rules.** The finance director shall have the power, and it shall be his or her duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this chapter or other applicable laws.
for the purpose of carrying out these provisions, and it is unlawful to violate or fail to comply with those rules or regulations.

Sec. 3.26.120. Effective date. The admissions taxes created and the regulations established by this ordinance shall not commence or take effect until July 1, 2004.

SECTION 2. – Severability. If any one or more section, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 3. – Effective Date. This Ordinance shall take effect and be in force thirty days (30) days from and after its passage as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY


I hereby certify that this is a true copy of Ordinance No. __3678__ passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

[Signature]
BRENDA JACOBER, CITY CLERK

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