ORDINANCE NO. 3944

AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 3.26.010 of the Kent City Code, entitled "Admissions Tax Imposed," to limit the exemption for governmental entities to only those not engaging in an activity operated in the manner of a separate business enterprise.

RECITALS

A. In 2004 the Kent City Council adopted Ordinance No. 3678, which enacted the City's current code provisions assessing an admissions tax against every person who pays an admission charge to any place within the Kent city limits. This ordinance is codified in Chapter 3.26 of the Kent City Code, and has not been amended since its original adoption.

B. The City's existing code provisions exempt all governmental entities from the assessment of admissions tax, even when governmental activities engage in a business enterprise.

C. The City Council finds that it is appropriate to amend the City's admissions tax provision to remove the exemption provided to those governmental entities who are engaging in a business enterprise, including without limitation, a golf course or event center.

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

ORDINANCE

SECTION 1. - Amendment to KCC 3.26.010, Governmental Entity Exemption to Admissions Tax Levy. Section 3.26.010 of the Kent City Code, entitled “Admissions tax imposed,” is amended as follows:

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 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;

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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 chapter;

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 chapter;

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. However, governmental activities operated in the manner of a separate business enterprise shall not be exempt from this tax. By way of example and not limitation, a business enterprise subject to the admissions tax levy could include an event center or golf course, if operated as a business activity in a separate fund.

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 nonexempt 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.

SECTION 2. - Severability. If any one or more sections, 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. - Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 4. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke, Mayor

BRENDA JACOBER, CITY CLERK

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APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: 15 day of June, 2010.
APPROVED: 15 day of June, 2010.
PUBLISHED: 18 day of June, 2010.

I hereby certify that this is a true copy of Ordinance No. 3964 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

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