



## Legislation Details (With Text)

**File #:** 3379-2018      **Version:** 2

**Type:** Ordinance      **Status:** Passed

**File created:** 11/27/2018      **In control:** Rules & Reference Committee

**On agenda:** 12/10/2018      **Final action:** 12/13/2018

**Title:** To enact chapter 376 in Columbus City Codes, Admissions Tax for Facility Stabilization.

**Sponsors:** Shannon G. Hardin

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/13/2018	2	ACTING CITY CLERK	Attest	
12/12/2018	2	MAYOR	Signed	
12/10/2018	2	COUNCIL PRESIDENT	Signed	
12/10/2018	1	Columbus City Council	Amended as submitted to the Clerk	Pass
12/10/2018	1	Columbus City Council	Approved as Amended	Pass
12/3/2018	1	Columbus City Council	Read for the First Time	

This ordinance amends Columbus City Codes with the addition of new chapter 376, Admissions Tax for Facility Stabilization.

Nationwide Arena is home to the Columbus Blue Jackets and attracts national events, conventions, conferences and performances. The Arena is a cornerstone for Columbus economic development and directly and indirectly supports thousands of jobs in the city. As Columbus grows, and as the city earns an increasingly elevated status as a destination for concerts, conventions, and other major events, the demands upon the Arena will increase as well. Since the Arena is a publicly-owned facility, there is an inherent responsibility to plan for and support the costs of long-term maintenance and repairs.

In order to provide for the resources necessary to maintain this integral facility, this ordinance enacts a 5% tax on admissions to events in Nationwide Arena. This tax is estimated to yield approximately \$3 million per year in revenue. Of that revenue, 80%, or \$2.4 million, will be directed to Nationwide Arena for long-term capital improvements and building maintenance.

The other 20% of revenue, an estimated \$600,000, will be disbursed by the Greater Columbus Arts Council (GCAC) to outside organizations to invest in other cultural arts facilities, public art, sports venues, and performance arts spaces. GCAC will establish a process for application and consideration of grant proposals.

To enact chapter 376 in Columbus City Codes, Admissions Tax for Facility Stabilization.

**WHEREAS**, Nationwide Arena is an essential component of Columbus' economic development and the city's capacity to attract concerts, conventions, and events; and

**WHEREAS**, the profile of Columbus as a destination city requires increasing demand on the capacity of the Arena; and

**WHEREAS**, the Arena is a publicly-owned facility, and in order to meet the long-term needs of the Arena, it is necessary to dedicate a funding stream to support essential facility maintenance, upgrades, and repairs, and

**WHEREAS**, the tax enacted under this ordinance will provide the resources necessary for not only the capital needs of the Arena, but also support for capital improvements to other major cultural facilities, sports venues, public art, and performance arts spaces; **now, therefore**,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBUS:**

**SECTION 1.** That Columbus City Codes are hereby amended as follows:

**Chapter 376 - Admissions Tax for Facility Stabilization**

**376.01 - Definitions**

(a) "Admissions" means the same as the definition in Section 375.01 of Columbus City Codes.

(1) For the purposes of this definition and this chapter, the charge levied and paid for a "membership" or "subscription" shall equal the cost of a single admission ticket to a place multiplied by the number of persons to be admitted under the terms of the membership or subscription.

(b) "Auditor" means the same as the definition in Section 375.01 of Columbus City Codes.

(c) "College or university" means the same as the definition in Section 375.01 of Columbus City Codes.

(d) "Nationwide Arena" means the same as the definition in Section 375.01 of Columbus City Codes.

(e) "Person" means the same as the definition in Section 375.01 of Columbus City Codes.

(f) "Place" means the same as the definition in Section 375.01 of Columbus City Codes.

(g) "Public or private primary educational institutions" means the same as the definition in Section 375.01 of Columbus City Codes.

(h) "Vendor" means the same as the definition in Section 375.01 of Columbus City Codes.

**376.02 - Establishment and Imposition of Tax**

For the purpose of providing revenue for the support and stabilization of cultural arts facilities, sports facilities, public art, and performance venues in the city, there is hereby levied, and shall be paid and collected, an admissions tax of five percent (5%) on the price paid to gain admission to any event occurring at Nationwide Arena, pursuant to Article XVIII, Section 3 of the Ohio Constitution and Ohio Revised Code Sec. 715.013(B)(1). The tax shall apply to every admission for which a charge is made, excepting those performances and events which are exempted as provided in this chapter, notwithstanding that the sale of the ticket or other evidence of right of admission thereto is made outside of the city.

### **376.03 - Intended Use**

- (a) The full amount of the revenue collected by the City from the admissions tax levied pursuant to Section 376.02 shall be allocated as follows, subject to appropriation and approval of city council, and shall be utilized for the following purposes:
1. Eighty percent (80%) shall be allocated to the Franklin County Convention Facilities Authority and shall be designated for the purpose of making capital improvements, or for debt service on bonds issued for capital improvements, to Nationwide Arena.
  2. Twenty percent (20%) shall be allocated to the Greater Columbus Arts Council and shall be designated for support of cultural arts facilities, sports facilities, public art, and performance venues, other than Nationwide Arena, within the city.
- (b) The payment schedule for the aforementioned allocation shall be determined by the Auditor.
- (c) The Franklin County Convention Facilities Authority and the Greater Columbus Arts Council shall within one hundred twenty (120) days after the end of their respective fiscal years provide to the Auditor financial statements of the organizations for such fiscal year prepared in accordance with generally accepted accounting principles, with an opinion thereon by a firm of certified public accountants.
- (d) The Franklin County Convention Facilities Authority and the Greater Columbus Arts Council shall within one hundred twenty (120) days after the end of their respective fiscal years provide to Council a report of activities with regard to the utilization and distribution of funds associated with the admissions tax.

### **376.04 - Effective Date**

The tax levied and imposed pursuant to the provisions of this chapter shall apply to any admissions charged and paid on and after July 1, 2019.

### **376.05 - Liability**

- (a) No person who pays to gain admission to any place or event in the city shall fail to pay and no person, whether owner, lessee or operator, who charges or causes to be charged admission to any place or event in the city shall fail to collect and remit the tax levied by this chapter, excepting those exemptions set forth in Section 375.09. If an owner or operator of a facility leases or rents such facility to another party who conducts an event in such facility, either the owner or operator or the party to whom the facility is leased may ~~such owner or operator is not liable for collecting and remitting the tax, but rather the party to whom the facility is leased or rented at the time of the leasing or rental is liable to collect and remit the tax.~~
- (b) The burden of proving that any transaction is not subject to the tax imposed by this chapter is upon the person upon whom the duty to collect the tax is imposed.

### **376.06 - Collection and Remittance**

- (a) Each vendor shall on or before the twentieth day of each month make and file a return for the preceding month, on forms prescribed by the Auditor, showing the receipts from admissions charged **for events occurring within the period of the return**, net of the amounts refunded for prior period admissions charged, the amount of tax due from the vendor to the City for the period covered by the return and such other information as the Auditor deems necessary for the proper administration of the tax. The return shall be signed by the vendor or an authorized agent

thereof. Returns shall be filed by mailing , or, if available, via electronic submission as provided for by the division of income tax, same to the division of income tax: excise taxes, together with payment to the city treasurer in the amount of tax shown to be due thereon. Failure to timely file and pay shall result in the assessment of a penalty as set forth in Section 375.14.

- (b) The Auditor may extend the time for making and filing returns. Additionally, the Auditor, if it is deemed necessary in order to ensure the payment of the tax imposed by this chapter, may require returns and payment to be made for other than monthly periods.
- (c) The Auditor may authorize vendors whose tax liability is not such as to merit monthly returns, as determined by the Auditor upon the basis of administrative costs to the City, to make and file returns at less frequent intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.
- (d) All returns shall bear the mark of the date received and shall also reflect the amount of payment received therewith.

### **376.07 - Records**

- (a) Each vendor shall keep complete and accurate records of admissions sales for which an admissions tax is liable, together with a record of the tax collected thereon, which shall be the amount due under this chapter, and shall keep all invoices and such other pertinent documents.
- (b) If a vendor who has previously engaged in transactions for which an admissions tax is applicable during the prior twelve (12) month period also engages in transaction for which an admissions tax is exempted, that vendor shall maintain records of aforementioned exempted transactions, including designations of the reasons for which the transaction is exempted.
- (c) All records and other documents required under this section shall be open during business hours to the inspection of the Auditor, and shall be preserved for a period of four (4) years, unless the Auditor, in writing, consents to their destruction within that period, or by order requires that they be kept longer.

### **376.08 - Exemptions**

(a) No tax shall be levied with respect to any admissions at a place provided the proceeds exclusively inure to the benefit of the following:

(1) The United States government, the State of Ohio, its departments and institutions and the political subdivisions thereof including the city, when acting in their governmental capacities and performing governmental functions and activities;

(2) Any entity which has been certified as a tax-exempt organization under Section 501(c) of the Internal Revenue Code, excepting the National Collegiate Athletic Association. This exemption shall not apply to cultural and arts organizations that **receive operating support from** are managed, funded, or supported by the Greater Columbus Arts Council, **except as it applies to events that serve as fundraising events solely for the benefit of the operation of the organization;**

(3) Public and private primary educational institutions;

(4) Those entities exempted under the existing provisions of Ohio Revised Code.

(b) The following transactions are exempt from the tax imposed by this chapter:

- (1) Any admission fee paid or charged to gain entry into any event sponsored or conducted by the City;
  - (2) Admissions to an event wherein the charge for admission is \$10 or less;
  - (3) Admission to any sporting event **or golf course** for which the proceeds wholly or partly benefit a college or university, excepting tournament or playoff events organized, sponsored by, or promoted by the National Collegiate Athletic Association;
  - (4) Those transactions exempted under the existing provisions of Ohio Revised Code.
- (c) The exemptions defined in this section shall be reassessed every three (3) years.

### **376.09 - Refunds of Erroneous or Exempted Payments**

- (a) A vendor may request a refund or credit of taxes paid:
  - (1) When that vendor has erroneously remitted payment of taxes;
  - (2) When that vendor has remitted taxes liable from admissions charges that were exempted under the provisions of this chapter;
  - (3) When it has been determined by the Auditor that taxes were levied erroneously by the City;
- (b) Applications for refund shall be filed with the Auditor, on the form so prescribed, within ninety (90) days from the date it is ascertained that the assessment or payment was erroneous; provided, however, that in any event such applications for refund must be filed with the Auditor within four (4) years from the date of the erroneous payment of the tax. On filing of such application, the Auditor shall determine the amount of refund due to certify such amount. The Auditor shall draw a warrant for such certified amount on the treasurer to the person claiming such refund.

### **376.10 - Collection of Unpaid Taxes**

- (a) All taxes imposed by this chapter, shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable.
- (b) The Auditor is authorized, in addition to other duties of the office, to cause civil law suits to be filed to collect delinquent taxes due and owing the City by virtue of the provisions of this chapter. The Auditor is authorized to waive penalties, compromise tax liability and the right to accept waiver of applicable statutes of limitations.

### **376.11 - Four-Year limitation on assessments of tax**

- (a) No assessment shall be made or issued against a vendor or person for any tax imposed by or pursuant to this chapter more than four (4) years after the return date for the period in which the admission was charged, or more than four (4) years after the return for such period is filed, whichever is later. This section does not bar an assessment:
  - (1) When the Auditor has substantial evidence of amounts of taxes collected by a vendor which were not returned to the City;
  - (2) When the vendor assessed failed to file a return as required.

### **376.12 - Penalty**

Whoever violates any section of this chapter shall be guilty of a minor misdemeanor and shall be fined not more than one hundred dollars (\$100.00). Upon subsequent conviction, such individual shall be deemed guilty of a misdemeanor of the

third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned for not more than sixty (60) days or both in addition to any other penalties as imposed by this chapter.

**376.13 - Severability**

If any section, subsection, clause, sentence, or paragraph of this chapter or the application thereof to any person or circumstances shall be held unconstitutional or otherwise invalid by a court of competent jurisdiction, such holding shall not affect the other provisions of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

**SECTION 2.** That this ordinance shall take effect at the earliest date allowable under law.