File #: 3378-2018, **Version:** 2

This ordinance amends Columbus City Codes with the addition of chapter 375, Admissions Tax.

Columbus is a thriving, vibrant, inclusive city, and one that is increasingly known for its capacity to forge successful public-private partnerships - the Columbus Way. Responsible investments in infrastructure, economic development, and workforce development have been hallmarks of the city's success. This year, Council has led a discussion on the place that the creative economy has in the vision for our growing city, a discussion that has focused on how we can open the doors of arts and culture to all residents.

After receiving considerable input from artists, residents, civic and community leaders, it is clear that the time has come to make a dedicated commitment to supporting the cultural arts in Columbus. To that end, Council is establishing the Creation, Innovation and Inclusion fund. This fund will be supported by an admissions tax on entrance to events within the city. It is estimated that this tax will generate $6 million per year in resources.

The Creation, Innovation and Inclusion fund greatly increases the number of grants available to artists, events and nonprofits enabling them to explore their creativity. Funds will be used by the Greater Columbus Arts Council to distribute grants to artists, musicians, and performers contributing to the city's creative culture. Funds will also be utilized to empower emerging artists and to further advance arts education within Columbus neighborhoods.

To enact chapter 375 in Columbus City Codes, Admissions Tax.

WHEREAS, the creative economy in Columbus serves as not only an integral component of economic development, but also a foundation for the city's profile as a vibrant, inclusive city; and

WHEREAS, in order to foster the next generation of artists, the city has a responsibility to invest in ways to open the doors of arts and culture for all residents; and

WHEREAS, the Creation, Innovation and Inclusion fund represents a commitment to the creative economy by dedicating significant funding for grants to artists, musicians, and performers, enabling them to explore their creativity; and

WHEREAS, the Creation, Innovation and Inclusion fund will further advance arts education and accessibility within our neighborhoods; **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 375 - Admissions Tax

375.01 - Definitions

(a) "Admissions" means the charge levied by a vendor and paid by a person to gain entrance to any performance, place, or event in the city. Admissions includes, but is not limited to, charges for season tickets, ticket packages, movie theater tickets, memberships, subscriptions, golf course green fees, and cover charges, excepting those

performances, places, and events which are exempted as provided in this chapter. Admissions **applies only to the cost of entry and** does not **include service charges, handling fees, food and beverage costs, merchandise, or** ~~include~~ any charge levied for parking.

(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 City Auditor or their designee.

(c) "College or university" means any institution whose primary purpose is to provide post-secondary education or training for the purpose of conferring degrees, certifications, or any equivalency.

(d) "Nationwide Arena" means the structure located at 200 West Nationwide Boulevard within the city of Columbus and which currently bears the designation of Nationwide Arena.

(e) "Person" means, but is not limited to, an individual, group, corporate entity, or other legally-defined entity.

(f) "Place" means, but is not limited to, indoor and outdoor theaters, dance halls, amphitheaters, auditoriums, stadiums, movie theaters, athletic pavilions and fields, baseball and athletic parks, arenas, private clubs, conservatories, convention centers, festivals, carnivals, fairs, amusement parks and all other similar places located within the city of Columbus.

(1) For the purposes of this definition and this chapter, "movie theaters" refers to both single-screen and multi-screen complexes.

(g) "Public or private primary educational institutions" means any institution that provides education to students in grades kindergarten through grade twelve.

(h) "Vendor" means any entity making a sale or re-sale to a purchaser of admission. A vendor may include, but is not limited to, an individual, a place, a reseller, broker, or a ticket sale and distribution company.

375.02 - Establishment and Imposition of Tax

For the purpose of providing revenue for the advancement of cultural arts within the city, there is hereby levied, and shall be paid and collected, an admissions tax of five percent (5%) on the amounts received as admission to any place located within the city of Columbus, 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 within the city for which a charge is made, excepting those performances, places, 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.

375.03 - Intended Use

(a) All revenues received by the City from the admissions tax levied pursuant Section 375.02 shall be designated for the purpose of supporting arts institutions, artists, education, inclusion, and innovation in programming.

(b) The full amount of the revenue collected by the City from the admissions tax shall be allocated to the Greater Columbus Arts Council, subject to appropriation and approval of city council.

(c) No entity which is exempted from the admissions tax as defined in section 375.09 of this chapter shall be allocated any of the revenue collected by the tax, either directly by the city or indirectly by the Greater Columbus

Arts Council, unless that entity voluntarily elects to charge the admissions tax in alignment with the provisions of this chapter.

(d) The payment schedule for the aforementioned allocation shall be determined by the Auditor.

(e) The Greater Columbus Arts Council shall within one hundred twenty (120) days after the end of its fiscal year provide to the Auditor financial statements of the organization for such fiscal year prepared in accordance with generally accepted accounting principles, with an opinion thereon by a firm of certified public accountants.

(f) The Greater Columbus Arts Council shall within one hundred twenty (120) days after the end of its fiscal year provide to Council a report of activities with regard to the utilization and distribution of funds associated with the admissions tax.

375.04 - Prohibition on Use of Revenue for Nationwide Arena

Of the revenue derived by the admissions tax levied under this chapter, no amount shall be provided to the Franklin County Convention Facilities Authority for Nationwide Arena through the provisions in Section 375.03 or by any other means.

375.05 - 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.

375.06 - 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.

375.07 - 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.

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(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.

375.08 - 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.

375.09 - 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) Any performance or event occurring at Nationwide Arena;

(4) 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

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the National Collegiate Athletic Association;

(5) Admission to an event conducted in a place having a capacity of 400 or fewer attendees.

(6) 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.

375.10 - 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.

375.11 - 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.

375.12 - 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.

375.13 - 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.

375.14 - 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.

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