

ORDINANCE NO. 21-175

AN ORDINANCE AMENDING PART ONE (ADMINISTRATIVE CODE), TITLE NINE (TAXATION), CHAPTER 195 (ADMISSIONS TAX) OF THE CODIFIED ORDINANCES, IN THE MANNER AND WAY SPECIFICALLY SET FORTH HEREINBELOW.

WHEREAS, to provide for additional City services and functions, including improving major roadways and other public infrastructure to promote tourism and economic activity and engaging in economic development and revitalization activities to create and preserve jobs, this City Commission wishes to increase the admissions tax by four percent; and

WHEREAS, to update and modernize the City’s collection of admission tax and create a uniform system for tax returns and remittances this City Commission wishes to repeal and replace the current Admissions Tax section of the Administrative Code; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Municipal Departments of the City of Sandusky, Ohio and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. Part One (Administrative Code), Title Nine (Taxation), Chapter 195 (Admissions Tax) of the Codified Ordinances of the City, is hereby amended by the repeal of current Chapter 195 and the enactment of new Chapter 195 as set forth hereinafter:

**NEW CHAPTER 195
ADMISSIONS TAX**

- 195.01 Title.
- 195.02 Definitions.
- 195.03 Admission Tax Levied.
- 195.04 Exclusions and Exemptions.
- 195.05 Collection of Tax.
- 195.06 Tax Not Paid; Interest; Late Filing Penalty.
- 195.07 Record keeping; Audits.
- 195.08 Rules and Regulations.
- 195.09 Credit or Refund; Claim Procedures.
- 195.10 Taxes Made a Lien.
- 195.11 Notice.
- 195.12 Appeals.
- 195.13 Confidential Information.
- 195.14 Effective Date.
- 195.15 Saving Clause.
- 195.99 Violation; Penalty.

195.01 TITLE.

This chapter shall be known and cited as the "admission tax chapter" and the tax herein imposed shall be known and cited as the "admission tax."

195.02 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

- (a) "Admission charge" means any charge for the right or the privilege to enter any place; a charge made for season tickets or subscriptions, a minimum service charge, a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations, greens fees, charges for the rental of or use of equipment, facilities or other property for purposes of recreation or amusement such as, but not limited to, charges ordinarily made or collected for the rental of personal watercraft, canoes or paddleboats or the rendering of service unless persons not utilizing the property or services are admitted free.
- (b) "City" means the City of Sandusky, Ohio.
- (c) "Person" means any natural person, partnership, joint venture, joint stock company, corporation, estate, trust, business trust, receiver, administrator, executor, assignee, trustee in bankruptcy, firm, company, association, club, syndicate, society, municipal corporation, the State of Ohio, political subdivision of the State of Ohio, the United States, instrumentality of the United States, or any group or combination acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.
- (d) "Place" includes but is not restricted to, circuses, motion picture theatres, dance halls, auditoriums, stadiums, athletic pavilions and fields, exhibition halls, swimming pools, amusement parks, water parks, golf courses and golf ranges, miniature golf courses, ferry boats, charter boats, bowling alleys, night clubs, cabarets, theatres of all kinds, lecture halls, archery and shooting ranges, campgrounds, recreational vehicle parks, and such attractions as merry-go-rounds, ferris wheels, skycoasters, roller coasters, race tracks, and all places where any form of diversion, recreation, sport, or pastime is offered or provided, which are located in the City.
- (e) "Tax" means the Admission Tax imposed pursuant to Section 195.03.

195.03 ADMISSION TAX LEVIED.

To provide funds for the purposes of general municipal operations, procurement of fixed assets or permanent improvements including the payment of costs of acquiring, constructing, reconstructing, rehabilitating, remodeling, renovating, enlarging, improving, equipping or furnishing facilities by contract,

lease, lease-purchase, or otherwise, and including cooperative arrangements with other political subdivisions, nonprofit corporations or other entities, payment of lease rentals, lease-purchase amounts, debt charges or other obligations, the administration of deficits in City funds and for all other lawful purposes, there is hereby levied and imposed upon every person who pays an admission charge to any one place:

(a) A tax of eight percent (8%) on the admission charge for each individual who is admitted to any place in the City. The tax is levied and imposed irrespective of who pays the admissions charge or when the admissions charge is paid. The tax shall apply to every admission within the City for which a charge is made, notwithstanding that the sale of the ticket or other evidence or right of admission thereto is made outside the City.

195.04 EXCLUSIONS AND EXEMPTIONS.

(a) The tax levied by this chapter shall not be applicable to an admission charge to an event for which the net proceeds, if any, are to be used exclusively for charitable, eleemosynary, educational, cultural, civic, community improvement, or religious purposes.

(b) The tax imposed and levied by this chapter shall not apply to an organization that is organized exclusively for religious purposes or that has been determined by the Internal Revenue Service to be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986.

(c) Any person who claims an exclusion or exemption under subsection (b) hereof shall file a claim therefor upon forms furnished by the Finance Director and if the Finance Director determines that the exclusion or exemption is justified, no admission tax shall be imposed or levied. The Finance Director shall not allow an exclusion or exemption where it appears that there is a disproportionate expenditure for promoting or conducting an event in relation to gross profits, if any, and none shall be allowed when the person does not control the sale of admissions to the event or where talent, services, or other items are compensated for on a percentage basis if the percentage results in payment in excess of the flat rate ordinarily charged for the same talent, services, or other items.

195.05 COLLECTION OF TAX.

(a) Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed by Section 195.03 from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust for the benefit of the City and deemed to be trust funds in the hands of the person required to collect the tax until all such tax collected is paid to the City as herein provided. Any person required to collect the tax imposed under this chapter who fails, refuses or neglects to collect the tax, or having collected the tax, fails, refuses or neglects to remit the tax to the Finance Director in the manner prescribed by this chapter and the Rules and Regulations, whether such failure, refusal or neglect is the result of their own act or the result of acts or conditions beyond their control, shall

nevertheless be personally liable to the City for the amount of such tax, whether or not such tax has been collected.

(b)(1) The tax imposed by this chapter 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 monthly and remittances therefor are due on or before the twentieth (20th) day of the month succeeding the end of the monthly period in which the tax is collected or received. The person receiving any payment for admissions shall make out a return upon such forms prescribed by or acceptable to the Finance Director and set forth such information as the Finance Director may require, showing the amount of the tax collected upon admissions for which he or she is liable for the preceding monthly period, and shall sign and transmit the same to the Finance Director with a remittance for the amount of tax due. Failure to receive or procure any form prescribed by the Finance Director shall not excuse any person from timely filing the return due or from paying any admissions tax due.

(2) The Finance Director may in their discretion require verified annual returns from any person receiving admission payments setting forth such additional information as he or she 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 shall be the judge, the Finance Director may require the report and remittance of the tax immediately upon the collection of the tax, at the conclusion of the performance or exhibition, or at the conclusion of the series of performances or exhibitions or at such other times as the Finance Director shall determine. Failure to comply with any requirement of the Finance Director as to report and remittance of the tax shall be a violation of this chapter.

(c) Transition Period. The provisions of Section 195.05(b)(1) shall take effect on January 1, 2023. For the period between January 1, 2022 and December 31, 2022, the admissions tax imposed and levied hereunder shall accrue at the time an individual is admitted to a place because of or as a result of the payment of an admission charge, irrespective of when or by whom paid, and shall be reported and remitted by the person responsible for the collection of the tax to the Finance Director on or before the twentieth (20th) day of the month next succeeding the end of that month in which the tax accrued. The person receiving any payment for admissions shall make out a return upon such forms prescribed by or acceptable to the Finance Director and set forth such information as the Finance Director may require, showing the amount of the tax collected upon admissions for which he or she is liable, and shall sign and transmit the same to the Finance Director with a remittance for the amount of tax due. Failure to receive or procure any form prescribed by the Finance Director shall not excuse any person from timely filing the return due or from paying any admissions tax due.

195.06 TAX NOT PAID; INTEREST; LATE FILING PENALTY.

(a) Any tax not paid when due shall bear interest at the rate of two

percent (2%) per month, or fraction thereof, until paid.

(b) In addition to any interest charges, any person who fails to make timely payment of taxes shall be subject to a late payment penalty, unless a late filing penalty is due as provided in division (c) below, equal to ten percent (10%) of the taxes not paid timely.

(c) In addition to any interest charges, any person who fails to file a remittance return when due shall be subject to a late filing penalty equal to ten percent (10%) of the taxes reported, or that should have been reported, on the return that is not filed timely.

(d) Any payment or return shall be considered paid or filed, respectively, on the date such payment or return is physically received by the Finance Director.

(e) All payments received shall first be applied to penalty due, then interest due and finally the taxes due for the period for which the payment is made.

(f) The Finance Director may abate all or any portion of the penalty imposed for late payment or late filing if the Finance Director determines that such failure was due to reasonable cause and not willful neglect.

195.07 RECORD KEEPING; AUDITS.

(a) Content of Records. Every person responsible for the collection and remittance of the tax herein imposed shall keep accurate and complete books and records of all admissions charges, admissions, or relevant transactions.

(b) Retention of Records. All books, records, and daily record sheets shall be retained by each operator for a period of six (6) years subsequent to the year of transaction.

(c) Access to Records. Each operator shall afford the Finance Director and their designated agents access to all such records and evidence at all reasonable times and shall provide verification or authentication of the same, as the Finance Director may require. The Finance Director and their agents are hereby authorized to examine the books, papers and records of any person responsible for the collection and remittance of the tax in order to verify the accuracy of any return made, or, if no return has been made, to determine the taxes due. Every person responsible for the collection and remittance of tax herein imposed is hereby required and directed to provide to the Finance Director and their designated agents the means, facilities and opportunity to conduct any examinations or investigations as are hereby authorized.

(d) Audits. The Finance Director shall have, at reasonable times during normal business hours, the right to examination and audit of all account books and records of any person responsible for the collection and remittance of the tax herein imposed and levied which, in the Finance Director's opinion, in any way pertain to admissions charges, admissions, or relevant transactions. This audit is to be made by the Finance Director or by accountants employed by the City and at

its own expense. If required by the Finance Director, a complete audit of a person's gross receipts from admissions or relevant transactions shall be provided at the end of each person's fiscal year by an accountant approved by the Finance Director and at the expense of the City. Notwithstanding the foregoing if, as the result of an audit, the Finance Director shall determine that there shall be an unpaid tax liability for a person equal to or greater than 1% of the person's total liability for the period audited, the Finance Director may require such person to pay the expenses of the audit.

195.08 RULES AND REGULATIONS.

The Finance Director is hereby empowered to adopt, promulgate, and to enforce rules and regulations not inconsistent with the terms of this chapter relating to any matter or thing pertaining to the administration and enforcement of the provisions of this chapter, including, but not limited to, provisions relating to recordkeeping. A copy of the rules and regulations shall be kept on file with the Finance Director and available for inspection upon request. Failure or refusal to comply with any rules and regulations shall be deemed a violation of this chapter.

195.09 CREDIT OR REFUND; CLAIM PROCEDURES.

(a) Whenever it appears that an amount of tax, interest or penalty has been paid to the Finance Director in error, whether such amount be paid through a mistake of fact or an error of law other than an error resulting from the tax, any of its provisions or its application being declared invalid or unconstitutional, not later than three (3) years from the date upon which such payment was made, the person paying such tax (hereinafter referred to as "claimant") may file a claim for credit or refund with the City on forms provided by the Finance Director for that purpose. No credit or refund shall be allowed for any amount paid by any claimant unless such claimant bore the burden of such amount and did not shift the burden to another person.

(b) Any credit or refund that is allowed under this section shall be without interest.

(c) A claim for credit or refund shall be considered to have been filed with the Finance Director on the date upon which it is physically received by the Finance Director and receipt of any claim for credit or refund filed under this section shall be acknowledged by the Finance Director, said receipt to describe the claim in sufficient detail as to identify it, and to state the date upon which the claim was received by the Finance Director.

(d) As soon as practicable after a claim for credit or refund is filed, the Finance Director, shall examine the same and determine the amount of credit or refund due, if any, and shall issue a notice of tentative determination of claim and notify the claimant of such determination. If the claimant disagrees with the determination, he shall file a protest and challenge thereto within twenty (20) days after the date of notice of tentative determination of claim has been mailed to him. Upon receipt of such protest within the twenty (20) days allowed, the Finance Director or their designee, shall fix the time and place for a hearing

thereof, giving notice to the claimant of, not less than seven (7) days. At any hearing held as herein provided, the tentative determination of claim shall be prima facie correct and the burden shall be upon the claimant to prove that it is incorrect. Upon the conclusion of the hearing, a decision shall be made by the Finance Director and notice thereof given to the claimant. Such tentative determination of claim shall become final upon the expiration of twenty (20) days from the date notice of the determination is provided to the claimant, unless prior thereto the claimant shall have filed an appeal to the Board of Review pursuant to Section 191.08.

195.10 TAXES MADE A LIEN.

(a) The taxes and other charges imposed by this chapter shall be a lien upon all of the property of any person required to collect and pay or to pay the same. If such person shall sell out or quit business, such person shall be required to make out the return provided for in this chapter within thirty days after the date of sale of such business or retirement therefrom, and the successor in business shall be required to withhold a sufficient amount of purchase money to cover the amount of said taxes and other charges so collected and unpaid, together with penalties, if any, until such time as the former owner shall produce a receipt from the Finance Director showing that the taxes and other charges have been paid, or a certificate that no taxes are due.

(b) If the purchaser of a business shall fail to withhold purchase money as above provided, and the taxes and other charges so collected shall be due and unpaid after the thirty-day period allowed, the purchaser shall be liable for the payment of the taxes and other charges collected and unpaid on account of the operation of the business by the former owner, together with interest, as provided by this chapter.

(c) The lien for unpaid taxes and other charges imposed herein shall not become effective until such time as the Finance Director shall certify to the County Auditor of Erie County the amount of taxes delinquent, and such certification is placed on record by the County Recorder of said county in a book maintained for that purpose.

195.11 NOTICE.

Unless otherwise provided in this chapter, whenever notice is required by this chapter, such notice may be given by the United States registered or certified mail, addressed to the person concerned at their last known address, and proof of such mailing shall be sufficient for the purposes of this chapter. Notice of any hearing provided for by this chapter shall be given not less than seven (7) days prior to the date fixed for a hearing. Following the initial contact of a person represented by an attorney, the Finance Director shall not thereafter contact the person concerned but shall only contact the attorney representing the person concerned.

All hearings provided for in this chapter shall be at a location determined by the Finance Director.

195.12 APPEALS.

Any person dissatisfied with any ruling of the Finance Director which is made under the authority conferred by this chapter or any rules or regulations related thereto, may appeal therefrom to the Board of Review within thirty days of the ruling or decision of the Finance Director, and the Board of Review shall, on hearing, have jurisdiction to annul, affirm, reverse or modify any such ruling or decision, or any part thereof, in accordance with the intent and purpose of this chapter. Notice of appeal, in written form, shall be delivered, or directed by certified mail, to the Finance Director of the City.

195.13 CONFIDENTIAL INFORMATION.

(a) General Rule. Except as otherwise provided in this section, information provided to the Finance Director by a taxpayer or revealed by such in the course of an investigation or private hearing shall be confidential and no person shall disclose such information except in compliance with a proper judicial order from a court of competent jurisdiction, or in the connection with the performance of that person's official duties or the official business of the City as authorized under the Codified Ordinances.

(b) Disclosure to Other Tax Authorities. The Finance Director may furnish any information obtained under this chapter to the Internal Revenue Service and to the State Tax Commissioner upon request.

(c) Disclosure in the Course of Proceeding. The Finance Director may disclose information in the course of any public proceeding or action to collect taxes assessed by the Finance Director.

195.14 EFFECTIVE DATE.

The tax shall be effective as of January 1, 2022.

195.15 SAVING CLAUSE.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter and the application of such provisions to other persons or circumstances shall not be affected thereby.

195.99 VIOLATION; PENALTY.

Any person found guilty of violating any of the provisions of this chapter shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense and not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1000.00) for the second and third offense in any one hundred eighty (180) day period. A person who commits offenses in excess of three (3) within any one hundred eighty (180) day period is guilty of a misdemeanor of the first degree. A separate and distinct offense shall be regarded as committed each day on which said person shall commit any such violation or after notification thereof permit any such violation to exist.

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Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. This Ordinance shall be in full force and effect from and after January 1, 2022.



RICHARD R. BRADY
PRESIDENT OF THE CITY COMMISSION



ATTEST:

CATHLEEN A. MYERS
CLERK OF THE CITY COMMISSION

Passed: November 8, 2021 (effective after 30 days)