

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

..title

AN ORDINANCE related to exemption from admission tax; and amending Section 5.40.028 of the Seattle Municipal Code.

..body

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Section 5.40.028 of the Seattle Municipal Code, enacted by Ordinance 122989, is amended as follows:

5.40.028 - Tax exemption—Musical venues.

A. The admission tax as imposed in SMC Section 5.40.020 shall not apply to any person paying an admission charge to any premises or location for which the Director has issued a certificate of exemption pursuant to this Section; PROVIDED, however, that the admission tax shall be due for any and all admission charges paid prior to the issuance of a certificate of exemption, or paid after the Director has cancelled a certificate of exemption, or paid at any time during which a cancellation of a certificate of exemption could or should have been in effect under any one or more of paragraphs 1 through 6 of Subsection G of this Section.

B. A premises or location is eligible for a certificate of exemption if:

1. The premises or location has a certificate of occupancy of fewer than one thousand (1,000) persons; and

~~((2-))~~b. The person conducting or operating the premises or location or any other person authorized by such person hosts or presents live music on at least three (3) separate days per week at the premises or location on a regular schedule. For purposes of this section 5.40.028

~~((Section))~~, "live music" is defined as an active performance of music by an individual or

1 individuals who, at the time of and during the performance, creates music or engages in an
2 audible form of artistic expression, other than, or in addition to, any pre-recorded music, for an
3 audience through the use or manipulation of voice, instruments, or electronic or computerized
4 equipment or formats; and

5 ~~((3-))~~b. The person or persons conducting or operating the premises or location or any
6 other authorized person hires one (1) or more musicians to perform the equivalent of sixteen (16)
7 individual performances per week at the premises or location. Repeat performances by the same
8 individual or group shall each be counted. Where performances are by a duo, trio, band,
9 ensemble or other performing group, the number of individual performances shall be determined
10 by multiplying the number of performing group members by the number of performances by the
11 group; and

12 ~~((4-))~~c. The premises or location is current with all license and tax requirements.

13 2. Or, the premises or location has a certificate of occupancy of five hundred (500)
14 or fewer persons; and

15 a. the person conducting or operating the premises or location or any other person
16 authorized by such a person hosts or presents live music on at least two (2) separate days per
17 week; and

18 b. the premises or location is current with all license and tax requirements.

19 C. A premises or location that has obtained more than three (3) violations of law
20 concerning public health, public safety, noise, licensing, taxing or permitting related to the
21 ownership, possession, occupation, operation, use or maintenance of the location or premises in
22 any twelve (12) month period shall be ineligible for a certificate of exemption for a period of one
23 year from the date of the last violation. For purposes of this Section a premises or location has

1 obtained a violation if there is a legally binding final decision, order, citation, or other finding of
2 violation entered by any court, adjudicative body or government agency against any legal owner,
3 operator, manager, or employee of the premises or location, or any other person hosting or
4 presenting live music at the premises or location.

5 D. Any person conducting or operating a premises or location seeking a certificate of
6 exemption under this Section, who has not previously been issued a certificate of exemption for
7 the same premises or location, shall present to the Director a copy of the certificate of occupancy
8 required under subsection 5.40.028.B~~((paragraph B 1 of this Section))~~, and shall submit a
9 completed application for the certificate of exemption on forms and in a manner prescribed by
10 the Director. The application shall contain a certification that the conditions set forth in
11 subsection 5.40.028.B~~((Subsections B 2 and 3 of this Section))~~ will be satisfied during the period
12 that the certificate of exemption is to be in effect, and a separate certification that the premises or
13 location is not ineligible under subsection 5.40.028.C~~((Subsection C of this Section))~~. The
14 Director shall issue a certificate of exemption for the premises or location, unless the Director
15 finds that the eligibility requirements of subsections 5.40.028.B and 5.40.028.C~~((Subsections B
16 and C of this Section))~~ cannot be met. A certificate of exemption is non-transferable, shall be
17 valid only with respect to the original applicant, and shall apply only to the premises or location
18 that is the subject of the application.

19 E. A person to whom a certificate of exemption has been issued under section
20 5.40.028 shall report to the Director as follows:

21 1. On a quarterly basis each person to whom a certificate of exemption has been
22 issued for a premises or location that has a certificate of occupancy of five hundred one (501) or
23 more persons shall report, on forms prescribed by the Director, information sufficient to verify

1 that during the corresponding quarter, the premises or location was in compliance with the
2 requirements of this Section, including, but not limited to, the requirements in subsection
3 5.40.028.B~~((Subsections B 2 and 3 of this Section))~~, and that the premises or location can
4 continue to meet the requirements. The Director shall establish by rule the information required.
5 The report shall be due in accordance with the provisions pertaining to the quarterly due dates for
6 remittance of tax under ~~((SMC))~~ Chapter 5.55.

7 2. On an annual basis each person to whom a certificate of exemption has been
8 issued for a premises or venue that has a certificate of occupancy of five hundred (500) or fewer
9 persons shall report, on forms prescribed by the Director, information sufficient to verify that
10 during the corresponding year, the premises or location was in compliance with the requirements
11 of this Section, including, but not limited to, the requirements in subsection 5.40.028.B, and that
12 the premises or location can continue to meet the requirements. The Director shall establish by
13 rule the information required. The report shall be due in accordance with the provisions
14 pertaining to the quarterly due dates for remittance of tax under Chapter 5.55.

15 F. Each person to whom a certificate of exemption has been issued shall
16 immediately notify the Director if a premises or location for which a certificate of exemption has
17 been issued fails to be eligible under Subsection C of this Section, or fails to be in compliance
18 with any requirement contained in this Section or any rule or regulation of the Director
19 implementing it, other than those contained in subsection 5.40.028.B~~((Subsections B 2 or 3 of~~
20 ~~this Section))~~.

21 G. The Director shall cancel the certificate of exemption of a location or premises
22 upon a determination by the Director:

1 1. That a person secured the certificate of exemption by making a false
2 representation in the application for the certificate; or

3 2. That the premises or location is ineligible for a certificate of exemption under
4 Subsection C of this Section; or

5 3. That the premises or location is not in compliance with any requirement contained
6 in this Section or any rule or regulation of the Director implementing it other than the
7 requirements contained in subsection 5.40.028.B~~((Subsections B 2 or 3 of this Section))~~; or

8 4. That, during any quarterly period, the premises or location fails to host or present
9 live music on at least 80% of the number of days that the premises is required to present live
10 music under subsection 5.40.028.B~~((Subsection B 2))~~ during that quarterly period; or

11 5. That, during any quarterly period, the premises or location fails to hire musicians
12 to perform at least 80% of the number of individual performances required under subsection
13 5.40.028.B~~((Subsection B 3))~~ during that quarterly period; or

14 6. That the person to whom the certificate of exemption has been issued no longer
15 conducts or operates the premises or location that is the subject of the exemption.

16 A person whose certificate of exemption has been cancelled may re-apply for a certificate
17 for the same premises or location, but no re-application shall be approved unless the person
18 shows that the premises or location is eligible under the requirements of this Section and all rules
19 and regulations of the Director implementing it at the time of the re-application, and further, that
20 the location or premises has been in compliance with subsection 5.40.028.B~~((Subsections B 2
21 and 3))~~ of this Section during the 30 day period prior to the re-application. Any person wishing
22 to re-apply shall submit the material required in Subsection D of this Section, which material
23 shall be current as of the date of the re-application, and, in addition, shall submit all information

1 required by the Director as established by rule, including all information required to have been
2 reported pursuant to Subsection E of this Section during any period of time, within the maximum
3 period of limitation applicable under SMC Chapter 5.55 for the assessment of tax, that any
4 previous certificate of exemption was in effect.

5 H. The Director shall not issue a certificate of exemption to any person who is found
6 by the Director to have made a false representation on any application or re-application made
7 under this Section.

8 I. Any person to whom a certificate of exemption has been issued shall promptly
9 notify the Director of any change of address. If the Director has cancelled a certificate of
10 exemption, the Director shall provide notice of the cancellation to the person to whom the
11 certificate of exemption was issued by mailing such notice in writing to the address of the person
12 as last reported to the Director. Any person whose certificate of exemption has been cancelled
13 may contest the cancellation by filing a written request for hearing with the Hearing Examiner
14 within ten (10) days after the mailing of the notice of cancellation. If the person whose certificate
15 of exemption has been cancelled files a written request for hearing within the prescribed period,
16 the Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable
17 Hearing Examiner rules.

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