

CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL _____

..title

AN ORDINANCE related to exemption from admission tax; 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 5.40.028; ~~((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))~~ subsections 5.40.028.G.1 through 5.40.020.G.6.

B. A premises or location is eligible for a certificate of exemption if either subsection 5.40.028.B.1 or 5.40.028.B.2 applies:

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

~~((2-))~~ a. 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))~~

1 separate days per week at the premises or location on a regular schedule. For purposes of this
2 Section 5.40.028, "live music" (~~((is defined as))~~) means an active performance of music by an
3 individual (or individuals) who, at the time of and during the performance, creates music or
4 engages in an audible form of artistic expression, other than, or in addition to, any pre-recorded
5 music, for an audience through the use or manipulation of voice, instruments, or electronic or
6 computerized equipment or formats; and

7 ~~((3.))~~ b. The person or persons conducting or operating the premises or
8 location or any other authorized person hires one (~~((4))~~) or more musicians to perform the
9 equivalent of (~~((sixteen (16)))~~) individual performances per week at the premises or location.
10 Repeat performances by the same individual or group shall each be counted. Where
11 performances are by a duo, trio, band, ensemble, or other performing group, the number of
12 individual performances shall be determined by multiplying the number of performing group
13 members by the number of performances by the group; and

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

16 2. The premises or location has a certificate of occupancy of 500 or fewer
17 persons; and

18 a. The person conducting or operating the premises or location or any
19 other person authorized by such a person hosts or presents live music on at least two separate
20 days per week at the premises or location on a regular schedule; and

21 b. The premises or location is current with all license and tax
22 requirements.

1 C. A premises or location that has obtained more than three (~~((3))~~) violations of law
2 concerning public health, public safety, noise, licensing, taxing or permitting related to the
3 ownership, possession, occupation, operation, use, or maintenance of the location or premises in
4 any (~~((twelve-))~~)12(~~((3))~~) month period shall be ineligible for a certificate of exemption for a period
5 of one year from the date of the last violation. For purposes of this Section 5.40.028 a premises
6 or location has obtained a violation if there is a legally binding final decision, order, citation, or
7 other finding of violation entered by any court, adjudicative body, or government agency against
8 any legal owner, operator, manager, or employee of the premises or location, or any other person
9 hosting or presenting live music at the premises or location.

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

1 E. A person to whom a certificate of exemption has been issued under this Section
2 5.40.028 shall report to the Director as follows:

3 1. ((On a quarterly basis each)) Each person to whom a certificate of exemption
4 has been issued for a premises or location that has a certificate of occupancy for 501 or more
5 persons shall report, on a quarterly basis, on forms prescribed by the Director, information
6 sufficient to verify that, during the corresponding quarter, the premises or location was in
7 compliance with the requirements of this Section 5.40.028, including, but not limited to, the
8 requirements in ((Subsections B 2 and 3 of this Section)) subsection 5.40.028.B, and that the
9 premises or location can continue to meet the requirements. The Director shall establish by rule
10 the information required. The report shall be due in accordance with the provisions pertaining to
11 the quarterly due dates for remittance of tax under ((SMC)) Chapter 5.55.

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

20 F. Each person to whom a certificate of exemption has been issued shall immediately
21 notify the Director if a premises or location for which a certificate of exemption has been issued
22 fails to be eligible under ((Subsection C of this Section)) subsection 5.40.028.C, or fails to be in
23 compliance with any requirement contained in this Section 5.40.028 or any rule or regulation of

the Director implementing it, other than those contained in ~~((Subsections B 2 or 3 of this Section))~~ subsection 5.40.028.B.

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

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

2. That the premises or location is ineligible for a certificate of exemption under ~~((Subsection C of this Section))~~ subsection 5.40.028.C; or

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

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

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

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

A person whose certificate of exemption has been cancelled may re-apply for a certificate for the same premises or location, but no re-application shall be approved unless the person

1 shows that the premises or location is eligible under the requirements of this Section 5.40.028
2 and all rules and regulations of the Director implementing it at the time of the re-application, and
3 further, that the location or premises has been in compliance with ~~((Subsections B 2 and 3 of this~~
4 ~~Section))~~ subsection 5.40.028.B during the 30 day period prior to the re-application. Any person
5 wishing to re-apply shall submit the material required in ~~((Subsection D of this Section))~~
6 subsection 5.40.028.D, which material shall be current as of the date of the re-application, and, in
7 addition, shall submit all information required by the Director as established by rule, including
8 all information required to have been reported pursuant to ~~((Subsection E of this Section))~~
9 subsection 5.40.028.E during any period of time, within the maximum period of limitation
10 applicable under ~~((SMC))~~ Chapter 5.55 for the assessment of tax, that any previous certificate of
11 exemption was in effect.

12 H. The Director shall not issue a certificate of exemption to any person who is found by
13 the Director to have made a false representation on any application or re-application made under
14 this Section 5.40.028.

15 I. Any person to whom a certificate of exemption has been issued shall promptly notify
16 the Director of any change of address. If the Director has cancelled a certificate of exemption,
17 the Director shall provide notice of the cancellation to the person to whom the certificate of
18 exemption was issued by mailing such notice in writing to the address of the person as last
19 reported to the Director. Any person whose certificate of exemption has been cancelled may
20 contest the cancellation by filing a written request for hearing with the Hearing Examiner within
21 ten ~~((10))~~ days after the mailing of the notice of cancellation. If the person whose certificate of
22 exemption has been cancelled files a written request for hearing within the prescribed period, the

- 1 Hearing Examiner shall schedule and conduct a hearing in accordance with the applicable
- 2 Hearing Examiner rules.
- 3

Section 2. This ordinance shall take effect and be in force 30 days after its approval by the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it shall take effect as provided by Seattle Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2015, and signed by me in open session in authentication of its passage this ____ day of _____, 2015.

President _____ of the City Council

Approved by me this ____ day of _____, 2015.

Edward B. Murray, Mayor

Filed by me this ____ day of _____, 2015.

Monica Martinez Simmons, City Clerk

(Seal)