

## ORDINANCE NO. 2010-27

AN ORDINANCE SUPPLEMENTING THE BUSINESS REGULATION AND TAXATION CODE OF THE CODIFIED ORDINANCES OF THE CITY OF MONROE TO ESTABLISH AN ADMISSION CHARGE.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MONROE, STATE OF OHIO, THAT:

SECTION 1: The Business Regulation and Taxation Code of the Codified Ordinances of the City of Monroe is hereby supplemented as follows to establish an Admission Charge.

### **“888.01 DEFINITIONS.**

As used in this chapter:

(a) "Admission charge" means, in addition to its usual and ordinary meaning, a charge made for season tickets or subscriptions; a cover charge or a charge made for the use of seats and tables, reserved or otherwise, and similar accommodations; a charge made for food and refreshments in any place where any free entertainment, recreation or amusement is provided; a charge made for the rental or use of equipment or facilities for purposes of recreation or amusement, or a combined charge where the rental of equipment or facilities is necessary to the enjoyment of the privileges for which a general admission is charged; and a charge made for automobile parking including where the amount of the charge is determined according to the number of passengers in an automobile.

(b) "Person" means any individual, receiver, assignee, firm, copartnership, joint venture, corporation, company, joint stock company, association, society or group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit or otherwise.

(c) "Place" includes, but is not restricted to, theaters, cinemas, dance halls, amphitheatres, auditoriums, stadiums, athletic pavilions and fields, golf courses, golf driving ranges, bowling alleys, ice-skating rinks, roller-skating rinks, baseball and athletic parks, circuses, sideshows, flea markets, swimming pools, outdoor amusement parks and such attractions as merry-go-rounds, Ferris wheels, dodge'ems, roller coasters and observation towers.

### **888.02 IMPOSITION AND RATE OF TAX.**

There is hereby levied and imposed upon every person who pays an admission charge to any place, including a tax on persons who are admitted free of charge or at reduced rates to any place to or for which other persons pay a charge or a regular higher charge for the same or similar privileges or accommodations:

(a) A tax of five percent on the amount paid for admission to any place, including admission by season ticket or subscription;

(b) A tax of five percent on the excess of the amount paid for tickets or cards of admission to theaters, operas and other places of amusement, sold at newsstands, hotels and places other than the ticket offices of theaters, operas or other places of amusement, over and above the amount representing the established price therefore at such ticket offices, such tax to be returned and paid in the manner provided in Section 888.04 by the person selling the ticket;

(c) A tax of five percent on the amount paid for admission to any public performance for profit at any roof garden cabaret or other similar entertainment if the charge for admission is in the form of a service charge, cover charge or other similar charge;

(d) A tax of five percent on the amount paid as annual membership dues by every club or organization maintaining a golf course; and

(e) A tax of five percent on green fees collected by golf courses either under club or private ownership.

### **888.03 EXEMPTIONS FROM TAX.**

(a) No tax shall be levied under this chapter with respect to any admission, all the proceeds of which inure:

(1) Exclusively to the benefit of religious, educational or charitable institutions, societies or organizations, if no part of the net earnings thereof inures to the benefit of any private stockholder or individual;

(2) Exclusively to the benefit of persons in the military or naval forces of the United States, or of National Guard organization reserve officer associations or posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if the posts, organizations, units or societies are organized in the State, and if no part of their net earnings inures to the benefit of any private stockholder or individual;

(3) Exclusively to the benefit of persons who serve in the military or naval forces of the United States and are in need;

(4) Exclusively to the benefit of employees of any municipal corporation, or the dependents or heirs of such members; or

(5) Exclusively to the benefit of the general revenue fund of any municipal corporation or exclusively to the benefit of any fund of any municipal corporation under the control of a recreation commission. This exemption from the tax, however, shall not be allowed in cases wherein the admission price is ten dollars (\$10.00) or more.

(b) The exemption from the tax provided by subsection (a) hereof shall not be allowed in the case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, or in the case of admissions to any athletic game or exhibition, the proceeds of which inure wholly or partly to the benefit of any high school, academy, preparatory

school or other school, in cases wherein the admission price is ten dollars (\$10.00) or more, or which inure wholly or partly to the benefit of any college or university.

(c) Immediately after the event for which an exemption from the admission tax has been allowed, the treasurer of the institution, society or organization for whose benefit such event was held shall file an itemized statement with the Director of Finance setting forth the amount of money actually received by the treasurer, together with the expenses of promoting and conducting the event. The statement shall be used as a basis for subsequent requests for exemption from the admission tax for the benefit of the institution, society or organization. If the statement shows a disproportionate expenditure for promoting and conducting the event, in relation to the profits, if any, no such exemption shall thereafter be allowed to the institution, society or organization.

(d) The exemption from the tax provided in subsection (a) hereof shall not be allowed to any institution, society or organization which does not control the sale of admissions to the event for which the exemption is requested. An exemption shall not be allowed where talent, services or other items are compensated for on a percentage basis, if the percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

#### **888.04 COLLECTION OF TAX; INTEREST CHARGES.**

Every person receiving any payment on which a tax is levied under this chapter shall collect the amount of the tax imposed from the person making the admission payment. The tax required to be collected under this chapter shall be deemed to be held in trust by the person required to collect it until it is paid to the Director of Finance as herein provided. Any person required to collect the tax imposed under this chapter who fails to collect it, or, having collected it, fails to remit it to the Director in the manner prescribed by this chapter, whether such failure is the result of his or her own act or the result of acts or conditions beyond his or her control, shall nevertheless be personally liable to the City for the amount of the tax and shall, unless the remittance is made as herein required, be guilty of a violation of this chapter.

The tax imposed under 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 Director in monthly installments and remittances on or before the tenth day of the month next succeeding the end of the monthly period in which the tax is collected or received. The payment or remittance of the tax collected may be made by check, unless payment or remittance is otherwise required by the Director, but payment by check shall not relieve the person collecting the tax from liability for payment and remittance of the tax to the Director unless the check is honored and is in the full and correct amount.

The person receiving any payment for admissions shall make out a return upon such forms and shall set forth such information as the Director may require, shall show the amount of the tax upon admissions for which he or she is liable for the preceding monthly period and shall sign and transmit the return to the Director with a remittance for that amount. The Director may, at his or her discretion, require verified annual returns from any person receiving admission payments,

setting forth such additional information as he or she believes necessary to determine correctly the amount of tax collected and payable.

Whenever any theater, circus, show, exhibition, entertainment or amusement makes any admission charge which is subject to the tax herein levied, and the same is of a temporary or transitory nature, of which the Director shall be the judge, the Director may require the report and remittance of the admission tax immediately upon the collection of the charge, at the conclusion of the performance or exhibition, at the conclusion of the series of performances or exhibitions or at such other times as the Director determines. Failure to comply with any requirement of the Director as to report and remittance of the tax as required shall be a violation of this chapter.

The books, records and accounts of any person collecting a tax herein levied shall, as to admission charges and tax collections, be, at all reasonable times, subject to examination and audit by the Director. If the tax imposed by this chapter is not paid when due, there shall be added, as part of the tax, interest at the rate of one percent per month from the time when the tax became due until the tax is paid.

#### **888.05 CERTIFICATES OF REGISTRATION; FEE.**

Any person conducting or operating any place where an admission charge is made for entrance shall, on a form prescribed by the Director of Finance, make application to and procure from the Director a certificate of registration, the fee for which shall be five dollars (\$5.00). The certificate shall be valid until December 31 of the year in which it is issued. The certificate of registration, or duplicate copies thereof to be issued by the Director without additional charge, shall be posted in a conspicuous place in each ticket or box office where tickets of admission are sold.

#### **888.06 CERTIFICATES OF REGISTRATION FOR TEMPORARY AMUSEMENTS.**

Whenever a certificate of registration is obtained for the purpose of operating or conducting a temporary or transitory amusement, entertainment or exhibition by persons who are not the owners, lessees or custodians of the building, lot or place where the amusement is to be conducted, the tax imposed by this chapter shall be reported and remitted as provided in Section 888.04 by the owner, lessee or custodian, unless paid by the person conducting the amusement. The applicant for a certificate of registration for such purpose shall furnish with the application the name and address of the owner, lessee or custodian of the premises upon which the amusement is to be conducted, and the owner, lessee or custodian shall be notified by the Director of Finance of the issuance of the certificate and the joint liability for collection and remittance of the tax.

#### **888.07 RULES AND REGULATIONS.**

The Director of Finance may adopt rules and regulations not inconsistent with this chapter for carrying out and enforcing the payment, collection and remittance of the admissions tax levied in this chapter. A copy of the rules and regulations shall be posted in a manner provided by

ordinance at least once before they become effective and copies shall be made available in the office of the Director. Failure or refusal to comply with any such rules and regulations shall be deemed a violation of this chapter.

Until such time as rules and regulations are promulgated under this section, the rules and regulations of the State Department of Taxation relating to admission taxes in effect on August 31, 1947, except as they may conflict with the provisions of this chapter, shall be deemed to be rules and regulations hereunder.

**888.08 EFFECTIVE DATE.**

The tax herein levied and imposed shall be collected and paid after February 1, 2011.

**888.09 CONFIDENTIALITY OF INFORMATION.**

All returns and information relating to the business of any person required to collect the tax imposed by this chapter and coming into the possession of the Director of Finance and his or her agents and employees shall be held confidential. No person shall make any disclosure thereof unless he or she is ordered by a court of competent jurisdiction to do so, except that the Director may furnish the Bureau of Internal Revenue, Treasury Department of the United States, with copies of returns filed.

**888.10 VIOLATIONS.**

No person charged by this chapter with the duty of collecting or paying the tax imposed by this chapter shall willfully fail or refuse to:

Charge and collect or pay such tax;

Make a return to the Director of Finance as required by this chapter;

Permit the Director or his or her duly authorized agent to examine books and other records upon any premises where they are kept to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made; or

Maintain and keep books and other records for three years or such lesser or greater time as may be permitted or required by the Director.

**888.99 PENALTY.**

(a) Whoever violates or fails to comply with any of the provisions of this chapter, for which no penalty is otherwise provided, is guilty of a minor misdemeanor for a first offense and shall be fined not more than one hundred dollars (\$100.00). For a second or subsequent offense, such person is guilty of a misdemeanor of the third degree and shall, if an organization, as set forth in Section 505.08 of the General Offenses Code, be fined not more than three thousand dollars

(\$3,000), or shall, if an individual, be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense.

(b) Whoever violates Section 888.09 is guilty of a misdemeanor of the third degree and shall be fined not more than five hundred dollars (\$500.00) or imprisoned not more than sixty days, or both, for each offense, and, in addition, shall thereafter be disqualified from acting in any official capacity in connection with the assessment or collection of taxes under this chapter."

PASSED: January 11, 2011

ATTEST:

APPROVED:



Clerk of Council



Mayor

*First Reading December 14, 2010*

"I, the undersigned Clerk of Council of the City of Monroe, Ohio, certify that the foregoing (ordinance or resolution) was published as Required by Section 7.16 of the Charter of the City of Monroe.



Clerk of Council  
City of Monroe, Ohio"

This legislation was enacted in an open meeting pursuant to the terms and provisions of the Sunshine Law, Section 121.22 of the Ohio Revised Code.