Ordinance No. 469-2026

Council Member Harsh

Desk copy prepared for 5-18-26 meeting

AN EMERGENCY ORDINANCE

To supplement the Codified Ordinances of Cleveland, Ohio 1976 by amending ~~Section 195.03 as amended by Ordinance No. 305-17 passed April 24, 2017~~ Sections 195.01 and 195.03 as amended by various ordinances related to admissions tax exemptions.

WHEREAS, this ordinance constitutes an emergency measure providing for the immediate preservation of the public peace, property, health, or safety; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That the Codified Ordinances are supplemented by amending, to read as follows:

195.01 Definitions

As used in this chapter:

(a) "Administrative Rulings" or Rulings mean the Rulings issued by the Commissioner of Assessments and Licenses, upon the request of a taxpayer, interpreting this chapter and the Rules and Regulations. Administrative rulings shall be binding and effective upon issuance as to the taxpayer requesting the Ruling.

(b) "Admission charge" means a charge paid for the right or privilege to enter into a place. Admission charge includes, but is not limited to, a charge made for season tickets or subscriptions. However, if the charge includes rental of property or services it shall be deemed to be an admission charge if so designated, unless the charge is for rental or services and persons who do not use such property or services are admitted free. If a lesser charge is made to persons who do not desire to use the property or services offered, the lesser charge shall constitute the admission charge. The designation of the charge as a rental or service charge shall not be construed to avoid the application of the tax if it is in effect a charge for admission.

(c) "Board of Review" means the board created under Section 191.2501 of the Codified Ordinances of Cleveland, Ohio, 1976.

(d) "City" means the City of Cleveland, Ohio.

(e) "Commissioner" means the Commissioner of Assessments and Licenses of the City.

(f) "Person" means individuals, receivers, assignees, trustees in bankruptcy, estates, firms, partnerships, joint ventures, corporations, companies, joint stock companies, associations, societies, clubs, the state and its political subdivisions, or group or combination of individuals of any form. With respect to provisions of this chapter that impose or prescribe a penalty, the term "person" shall include the owners of an association, pass-through entity and unincorporated business entity and the officers of a corporation.

(g) "Place" includes, but is not limited to, indoor and outdoor theaters, dance halls, amphitheaters, auditoriums, stadiums, athletic pavilions and fields, baseball and

athletic parks, circuses, side shows, swimming pools, outdoor amusement parks and observation towers and all other similar places.

(h) "Revised Code" means the codified statutes of the State of Ohio, as amended.

(i) "Rules and Regulations" means the Rules and Regulations adopted by the Commissioner of Assessments and Licenses.

(j) "Taxpayer" means the person charged by this chapter with the duty of collecting and remitting the tax levied and imposed under this chapter.

(k) "Strip Club" means any place, venue, club, cabaret, bar, lounge, theatre, or other establishment that regular features live nude, semi-nude, or topless dancing, erotic dancing, or other substantially similar adult-oriented live entertainment as defined in Section 347.07 of the Codified Ordinance of Cleveland, Ohio, 1976.

Section 195.03 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; societies or organizations for the prevention of cruelty to children or animals or societies or organizations conducted for the sole purpose of maintaining symphony orchestras and receiving substantial support from voluntary contributions, or of improving any municipal corporation, or of maintaining a cooperative or community center, moving picture theater, or swimming pool, 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 organizations, reserve officer associations or posts or organizations of war veterans or auxiliary units or societies of any such posts or organizations, if such 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 members of the police or fire departments of any municipal corporation, or the dependents or heirs of such members;

(4) 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.

(5) Exclusively to a small capacity live entertainment venue that has occupant load capacity of less than or equal to ~~one hundred fifty (150)~~ seven hundred fifty (750) people. For purposes of this section, "small capacity live entertainment venue" is defined as any separate room in a premises where people pay admission to attend a separate active performance by an individual or individuals who, at the time of and during the performance, create live entertainment for an audience through the use or manipulation of voice, instruments, or dance. If the same active performance is occurring for the benefit of more than one separate room, then those separate rooms shall be considered together as one venue.

(b) (1) The exemption from tax provided by this section shall, however, not be allowed in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, unless exclusively for the benefit of those organizations set forth in division (a)(2) of this section, nor 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 or other school or wholly or partly to the benefit of any college or university.

(2) The exemption from tax provided by division (a)(1) of this section shall, however, not be allowed in case of admissions to museums located on land leased by the City pursuant to a lease agreement entered into after August 21, 1991.

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

(d) The exemption from tax provided in this section 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, nor shall any exemption be allowed where talent, services or other items are compensated for on a percentage basis if such percentage results in a payment in excess of the flat rate ordinarily charged for the same talent, services or other items.

(e) The limitation contained in this section, upon the exemption from tax in case of admissions to wrestling matches, prize fights or boxing, sparring or other pugilistic matches or exhibitions, shall not be deemed to apply to any such matches or exhibitions in which all the contestants are amateurs and the entire proceeds thereof are devoted to a legitimate charitable purpose, excepting therefrom the necessary expenses, which shall in no event include payment to any contestant other than his or her necessary traveling expenses.

(f) Notwithstanding anything else in this chapter to the contrary, no tax shall be levied under this chapter with respect to any admission to the indoor arena facility (the "Gateway Arena") constructed by Gateway Economic Development Corporation of Greater Cleveland ("Gateway") pursuant to that certain Agreement Relating to Ownership, Financing, Construction and Operation of a Sports Facility and Related Economic Development Projects, dated as of November 7, 1990, as amended by the First Amendment as authorized by Ordinance No. 325-92 (the "Three-Party Agreement"), between the City, Gateway, and the County of Cuyahoga, Ohio (the "County"), provided, however, that the exemption provided by this division (f) shall apply and be effective only as long as there are outstanding any Arena Bonds to which reference is made in the Cooperative Agreement between the City and County authorized by Ordinance No. 327-92 (the "Cooperative Agreement") (such Bonds being hereinafter referred to as the "Arena Bonds") and only if and as long as the following conditions are met and shall have been certified to be met by the Director of Law to the Commissioner of Assessments and Licenses:

(1) Gateway shall pay or shall cause the lessees or operators of the Gateway Arena to pay to the Trustee (the "Trustee") for the holders of the Arena Bonds amounts equal to the taxes that would have been levied under Section 195.02 but for the exemption provided by this division (f) at the times and in the manner that such taxes would have been payable under this chapter. In computing the amount payable pursuant to this division (f)(1), the admission charges for admissions to the Arena shall be deemed to be net of the amount payable pursuant to this division (f)(1).

(2) The County shall, in its trust agreement or a related agreement with the Trustee, require the Trustee:

A. To retain each Bond Year as defined in the Cooperative Agreement from the amounts paid to the Trustee pursuant to division (f)(1) of this section to secure payments with respect to the Arena Bonds as provided in the Cooperative Agreement, an amount up to the sum of: (a) three percent (3%) of all admissions charges for admissions to the Gateway Arena during the related Collection Year as provided in the

Cooperative Agreement for: basketball games played by the Cleveland Cavaliers at the Gateway Arena during each basketball season (including divisional, conference and championship play-off games); preseason or exhibition basketball games played by said Cavaliers at the Gateway Arena and the NBA All-Star Game and any other event held at the Gateway Arena in which professional basketball players participate (collectively, "Games"), plus (b) in the event that the City increases the taxes payable under this chapter from six percent (6%) to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for Games, and plus (c) in the event that the City increases the taxes payable under this chapter from six percent (6%) to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for any events other than Games;

B. To release and pay to the City at the end of each Bond Year any of such amount described in division (f)(2)A. above not used or needed for such purpose during such Bond Year, together with any investment income earned thereon; and

C. To pay any such amounts in excess of the amount described in division (f)(2)A. above directly to the City at the end of each Bond Year, together with any investment income earned thereon.

(3) Gateway shall prepare and submit to the Director of Finance of the City and the Clerk of City Council, or cause the preparation and submission to the Director of Finance of the City and the Clerk of City Council, such returns and reports regarding the amounts paid to the Trustee pursuant to division (f)(1) of this section as the Directors of Law and Finance shall reasonably require to demonstrate Gateway's compliance with this section.

(4) Gateway shall agree to repay or cause to be repaid to the City from Gateway's future excess revenues any moneys paid to the Trustee pursuant to division (f)(2)A. of this section actually applied to the payments with respect to the Arena Bonds with interest and on such other terms and in such form as are consistent with Gateway's obligations under the trust indentures and related agreements securing Gateway's bonds and the Arena Bonds and as the City's Director of Finance and Director of Law deem acceptable in the interests of the City.

(5) Gateway shall make or cause to be made such other assurances and commitments as the City's Director of Finance and Director of Law deem necessary, and appropriate to protect the City's entitlements under this division (f) and provide copies of such other assurances and commitments to the Clerk of the Council.

(g) (1) Except as otherwise provided in division (b), and notwithstanding anything else in this chapter to the contrary, no tax shall be levied under this chapter with respect to any admission to live theater, live opera, live ballet, or live exhibition of dance, musical performance, or monologue productions which are sponsored by an institution, society or organization that has received a determination from the Internal Revenue Service that the organization is exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code of 1986, as amended; provided that the institution, society or organization actively participates in planning and conducting the event, is responsible for the safety and success of the event, is organized for the purpose of sponsoring live theater, live opera, live ballet, or live exhibition of dance, musical performance, or monologue productions and has among the stated purposes in its charter the promotion of arts education in the communities which it serves, and will receive at least twenty percent (20%) of the net profits, if any, of the events which the institution, society or organization sponsors and will bear the risk of at least twenty percent (20%) of the losses, if any, from the events which the institution, society or organization sponsors.

(2) The exemption from tax provided in this subsection 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.

(3) Immediately after an event for which an exemption from admission tax has been allowed pursuant to this subsection (g), the treasurer of the institution, society or organization shall file an itemized statement with the Commissioner setting forth the amount of money actually received by such treasurer together with the expenses of promoting and conducting such event. Such statement shall be used as a basis of subsequent requests for exemption from admissions tax in accordance with this subsection. If such statement demonstrates a failure to qualify in accordance with paragraph (1) of this subsection (g), no such exemption shall thereafter be allowed to such institution, society or organization.

(h) Division (f) of this section shall continue to apply unaffected by this division (h) so long as the Arena Bonds as defined in division (f) remain outstanding. From and after the date on which all the Arena Bonds as defined in division (f) cease to be outstanding, notwithstanding anything else in this chapter to the contrary, no tax shall be levied under this chapter with respect to any admission to the Gateway Arena as defined in division (f), provided, however, that the exemption provided by this division (h) shall apply and be effective only as long as there are outstanding any Series 2017 Arena Bonds to which reference is made in the Supplemental Agreement No. 1 (the "Supplemental Agreement"), between the City of Cleveland, Ohio (the "City") and the County of Cuyahoga, Ohio (the "County") supplementing the Cooperative Agreement between the City and the County referenced in division (f), and only if and as long as the following conditions are met and shall have been certified to be met by the Director of Law to the Commissioner of Assessments and Licenses:

(1) Gateway shall pay or shall cause the lessees or operators of the Gateway Arena to pay to the Trustee (the "Series 2017 Bonds Trustee") for the holders of the Series 2017 Arena Bonds amounts equal to the taxes that would have been levied under Section 195.02 but for the exemption provided by division (h) at the times and in the manner that such taxes would have been payable under this chapter. In computing the amount payable pursuant to this division (h)(1), the admission charges for admissions to the Gateway Arena shall be deemed to be net of the amount payable pursuant to this division (h)(1).

(2) The County shall, in the Series 2017 Bonds Trust Agreement (as defined in the Supplemental Agreement), require the Series 2017 Bonds Trustee:

A. To retain in each Bond Year as defined in the Supplemental Agreement from the amounts paid to the Series 2017 Bonds Trustee pursuant to division (h)(1) of this section to fund and secure payments with respect to the Series 2017 Arena Bonds and to fund improvements to sports facilities as provided in the Supplemental Agreement (the "Series 2017 Arena Admissions PILOT"), an amount up to the sum of (a) five percent (5%) of all admissions charges for admissions to the Gateway Arena during the related Collection Year as provided in the Supplemental Agreement for: basketball games played by the Cleveland Cavaliers at the Gateway Arena during each basketball season (including divisional, conference and championship play-off games); preseason or exhibition basketball games played by said Cavaliers at the Gateway Arena and the NBA All-Star Game and any other event held at the Gateway Arena in which professional basketball players participate (collectively, "Games"), plus (b) two percent (2%) of admissions charges for admissions to the Gateway Arena for events other than Games in any Collection Year; plus (c) in the event that the City increases the taxes payable under this chapter from eight percent (8%) to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for Games, and plus (d) in the event that the City increases the taxes payable under this chapter from eight percent (8%) to a higher rate, the percentage equal to such increase times all admissions charges for all admissions during such Collection Year to the Gateway Arena for any events other than Games; and

B. From and after the date in each Bond Year when the full amount needed to pay debt service on the Series 2017 Bonds during that Bond Year has been deposited in the Series 2017 Bond Fund, to deposit any remaining amounts paid to the Series 2017 Bonds Trustee pursuant to division (h)(1) of this section in the Sports Facility Improvement Fund until a maximum amount of $3,500,000 is deposited in the Sports Facility Improvement Fund and then into the Cooperative Reserve, all as defined and

provided in the Supplemental Agreement, to be held and applied as required or permitted by the Series 2017 Bonds Trust Agreement; provided, however, that (A) all deposits of the Series 2017 Arena Admissions PILOT to the Sports Facility Reserve shall be credited to a separate account in the Sports Facility Improvement Fund (the "City Account"), and moneys in the City Account shall be permitted to be used only to fund improvements to sports facilities and not for the payment of debt service on Series 2017 Bonds; (B) any disbursements from the Sports Facility Improvement Fund shall be made first from any moneys in the Sports Facility Improvement Fund not in the City Account; and (C) any moneys in the City Account at the time the Series 2017 Bonds are fully retired or deemed paid and discharged under the Series 2017 Arena Bonds Trust Agreement that are not already encumbered for the purpose of paying outstanding contracts shall revert to the City.

(3) Gateway and the County shall prepare and submit to the Director of Finance of the City and the Clerk of City Council, or cause the preparation and submission to the Director of Finance of the City and the Clerk of City Council, such returns and reports regarding the amounts paid to the Series 2017 Bonds Trustee pursuant to division (h)(1) of this section as the Directors of Law and Finance shall reasonably require to demonstrate Gateway's compliance with this section.

(4) Gateway and the County shall make or cause to be made such other assurances and commitments as the City's Director of Finance and Director of Law deem necessary, and appropriate to protect the City's entitlements under this division (h) and provide copies of such other assurances and commitments to the Clerk of the Council.

"(i) Notwithstanding any provision in this chapter to the contrary, no admission to a strip club shall be eligible for any exemption, reduced rate, wavier, or other preferential tax treatment under this chapter."

Section 2. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

KH:rns
4/13/2026