

ORDINANCE O-4726

AN ORDINANCE OF THE CITY OF KIRKLAND, AMENDING CHAPTER 5.12 OF THE KIRKLAND MUNICIPAL CODE RELATING TO ADMISSIONS TAX AND NONPROFIT TAX EXEMPT PERFORMING ARTS ORGANIZATIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

1 WHEREAS, Chapter 5.12 of the Kirkland Municipal Code
2 contains regulations related to the City's Admissions Tax,
3 authorized pursuant to RCW 35.21.280; and
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5 WHEREAS, the City Council recognizes that nonprofit tax
6 exempt performing arts organizations subject to the Admissions
7 Tax ("nonprofit tax-exempt performing arts organizations") offer
8 a great benefit to the residents of Kirkland by unifying the
9 community and fostering economic development; and
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11 WHEREAS, such nonprofit tax-exempt performing arts
12 organizations also provide significant educational benefits to the
13 community by offering scholarship opportunities, generating
14 cultural awareness, creating and supporting programs in local
15 schools, engaging in community outreach, and offering classes
16 and camps to community youth; and
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18 WHEREAS, as an example, in 2019, Studio East Mainstage
19 Theater, a nonprofit tax-exempt performing arts organization,
20 provided \$80,000 worth of ticket discounts and free tickets to over
21 11,000 school children and families attending performances in
22 Kirkland, conducted 31 outreach projects in 19 schools serving
23 828 school children, and provided \$30,000 in scholarships and
24 work study credit; and
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26 WHEREAS, the Kirkland Performance Center, another
27 nonprofit tax-exempt performing arts organization, provides
28 multiple school matinees for students at free or discounted ticket
29 prices, provides scholarships for students as needed, offers
30 experiential education for high school and university students to
31 develop skills in technical theater and arts administration, and
32 donates hundreds of tickets each year to other community and
33 social services to help with their fundraising efforts and connect
34 even more people within our community; and
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36 WHEREAS, the City Council believes it would be in the best
37 interests of the City to provide a rebate for any nonprofit tax-
38 exempt performing arts organizations subject to the Admissions
39 Tax; and
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41 WHEREAS, the loss of City revenue associated with
42 establishing a rebate to nonprofit performing arts tax-exempt

43 organizations related to their events is minimal and incidental in
44 light of the significant public benefits realized by the community.

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46 Now, Therefore, the City Council of the City of Kirkland do
47 ordain as follows:

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49 Section 1. Kirkland Municipal Code Section 5.12.010 is
50 amended to read as follows.

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52 **5.12.010 Definitions.**

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54 For purposes of this chapter, words and terms shall
55 have the following meanings:

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57 (1) "Admission charge" in addition to its usual and
58 ordinary meaning, includes but is not limited in
59 meaning to:

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61 (A) A charge made for season tickets or
62 subscriptions,

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64 (B) A cover charge or a charge made for use of
65 seats or tables, reserved or otherwise, and similar
66 accommodations,

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68 (C) A charge made for rental or use of equipment
69 or facilities for purposes of recreation or
70 amusement and, where the rental of the equipment
71 or facilities is necessary to the enjoyment of the
72 privilege for which a general admission is charged,
73 the combined charge shall be considered as the
74 admission charge,

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76 (D) A charge made for admission to any theater,
77 dance hall, amphitheater, private club, auditorium,
78 observation tower, stadium, athletic pavilion or
79 field, baseball or athletic park, circus, side show,
80 swimming pool, outdoor amusement park or any
81 similar place; and shall include equipment to which
82 persons are admitted for purposes of recreation
83 such as merry-go-rounds, ferris wheels, dodge
84 'ems, roller coasters, go carts and other rides
85 whether such rides are restricted to tracts or not,

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87 (E) A charge made for automobile parking where
88 the amount of the charge is determined according
89 to the number of passengers in an automobile.

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91 (2) "Nonprofit tax-exempt performing arts
92 organization" means" an organization, corporation,
93 or association:

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95 (A) currently recognized by the United States of
96 America as exempt from federal income taxation

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pursuant to Section 501(c)(3) of the Internal Revenue Code, as it be amended or replaced from time to time; and

(B) primarily dedicated to benefiting the community through performing arts including acting, singing, dancing, and other forms of public entertainment; and

(C) subject to the tax imposed under Section 5.12.020.

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

Section 2. A new Section 5.12.140 of the Kirkland Municipal Code is hereby created to read as follows:

5.12.140 Nonprofit Tax-Exempt Performing Arts Organization Rebate.

A nonprofit performing arts tax-exempt organization may receive a rebate on any admissions taxes collected under this chapter, provided the following subsections are met:

(1) The nonprofit performing arts tax-exempt organization:

(A) Publicly sponsors and through its members, representatives or personnel promotes and publicizes the event; or

(B) Publicly sponsors the event and:

(i) Performs a major portion of the performance; or

(ii) Supplies a major portion of the materials on exhibit; or

(iii) When the event is a part of a season or series of performances or exhibitions, performs the major portion of the performances or exhibitions in the season or series or supplies a major portion of the materials on exhibit.

(2) The nonprofit performing arts tax-exempt organization receives the use and benefit of the admission taxes collected.

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(3) The nonprofit performing arts tax-exempt organization identifies their nonprofit status in their application for certificate of registration and provides proof of same, as required by the director of finance and administration.

Section 3. A new Section 5.12.145 of the Kirkland Municipal Code is hereby created to read as follows:

5.12.145 Nonprofit Tax-Exempt Community Service Organization Rebate.

(a) The city council may provide a rebate on admissions taxes collected under this chapter to non-profit tax-exempt organizations whose primary purpose is community service, provided:

(1) The nonprofit tax-exempt community service organization is currently recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(3) of the Internal Revenue Code, as it be amended or replaced from time to time; and

(2) The nonprofit tax-exempt community service organization receives the use and benefit of the admission taxes collected; and

(3) The nonprofit tax-exempt community service organization identifies their nonprofit status in their application for certificate of registration and provides proof of same, as required by the director of finance and administration.

(b) The city council provides such a rebate by resolution that identifies the public benefit of the use of the admission taxes collected and rebated to the nonprofit tax-exempt community services organization.

Section 4. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances is not affected.

Section 5. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law.

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Passed by majority vote of the Kirkland City Council in open meeting this _____ day of _____, 2020.

Signed in authentication thereof this _____ day of _____, 2020.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4726

AN ORDINANCE OF THE CITY OF KIRKLAND, AMENDING CHAPTER 5.12 OF THE KIRKLAND MUNICIPAL CODE RELATING TO ADMISSIONS TAX AND NONPROFIT TAX EXEMPT PERFORMING ARTS ORGANIZATIONS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

SECTION 1. Amends Kirkland Municipal Code ("KMC") Section 5.12.010 adding a definition for "Nonprofit tax-exempt performing arts organization."

SECTION 2. Adds a new KMC Section 5.12.140 related to admissions tax rebates for nonprofit performing arts tax-exempt organizations.

SECTION 3. Adds a new KMC Section 5.12.145 related to admissions tax rebates for nonprofit tax-exempt community service organizations.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the ____ day of _____, 2020.

I certify that the foregoing is a summary of Ordinance 4726 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk