

CHAPTER 119: SAFETY ASSESSMENT FEE LEVY

Section

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§ 119.01 DEFINITIONS.

For purposes of this chapter the following words and phrases shall have the following meanings ascribed to them respectively:

"HIM." and/or "HER." As used in this chapter, refers to the "masculine" and/or "feminine" interchangeably.

"PERSON." An individual, firm corporation, company, partnership, association, or an unincorporated association, and any person acting in a fiduciary capacity.

"PLACE." Includes but is not restricted to, circuses, motion picture theatres, dance halls, auditoriums, stadiums, athletic pavilions and fields, exhibition halls, golf courses, putt-putt golf, zip-line venues, swimming pools, amusement parks, entertainment centers, dinner theatres, banquet facilities, themed attractions of any kind, lecture halls, archery and shooting ranges, campgrounds, recreational vehicle parks, and such attractions as merry-go-rounds, ferris wheels, skycoasters, roller coasters, race tracks, and all places where any form of entertainment, diversion, recreation, sport, or pastime is offered or provided, which are located in the city.

"SAFETY ASSESSMENT FEE LEVY." Any charge for the right to participate in an event or the privilege to enter any place: a charge made for a single ticket, season tickets or subscriptions, a minimum service charge, a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations, greens fees, charges for the rental of or use of equipment, halls, recreational areas, facilities or other property for purposes of recreation or amusement such as, but not limited to, charges ordinarily made or collected for the rental of personal watercraft, canoes or paddleboats or the rendering of service or places of entertainment unless persons not utilizing the property or services are admitted free; also all parking charges where the charge is determined by the number of passengers in an automobile.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.02 SAFETY ASSESSMENT FEE LEVIED.

For the purpose of providing revenues for safety assessment(s) services (police, fire, EMS), maintenance, capital improvements, new equipment and other expenses of the city there is imposed and levied upon the right to participate admission charge for each individual who is admitted to a place in the city, because of or by reason of paying, having paid, or having had paid for him an admission or participation charge, a fee of fifty cents (\$.50 cents) of the single admission charge and/or participation charge on a one (1) time basis only. The fee is levied and imposed irrespective of who pays the admissions charge or when the admissions charge is paid and on a one (1) time basis to participate in an entertainment event or entry into an activity. The fee shall apply to every admission within the city for which a charge is made, notwithstanding that the sale of the ticket or other evidence or right of admission thereto is made outside the city. Where the fee is imposed and levied upon the admission charge for entry to a place, no further fee is imposed and levied upon an admission charge to another place within the physical confines of the place. (Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.03 EXCLUSIONS AND EXEMPTIONS.

(A) The fee levied by this chapter shall not be applicable to an admission charge to an event for which the net proceeds, if any, are to be used exclusively for charitable, school sponsored events, eleemosynary, civic or community improvement.

(B) The fee imposed and levied by this chapter shall not apply to an organization that is organized solely and exclusively for religious purposes or that has been determined by the Internal Revenue Service to be organized solely and exclusively for religious purposes or that has been determined by the Internal Revenue Service to be an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986.

(C) Any person who claims an exclusion or exemption under division (B) hereof shall file a claim therefor upon forms furnished by the Mayor and/or City Clerk and the City Clerk determines that the exclusion or exemption is justified, no admission fee shall be imposed or levied.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.04 COLLECTION OF FEE.

(A) Every person who admits an individual to a place because of or as a result of the payment of an admission charge shall collect and pay to the Mayor and/or City Clerk the amount of the safety assessment fee imposed and levied. The fee required to be collected under this chapter shall be deemed to be held in trust by the person required to collect the same until paid to the City Clerk as herein provided. Any

person required to collect the fee who fails to collect the same, or having collected the same, fails to remit the same to the City Clerk in the manner prescribed by this chapter, whether the failure be the result of his own act or the result of acts or conditions beyond his control, shall nevertheless be liable to the city for the amount of the fee, and shall, unless the remittance be made as herein required, be guilty of a violation of this chapter.

(B) The safety assessment fee imposed and levied hereunder shall accrue at the time an individual is admitted to a place because of or as a result of the payment of an admission charge, irrespective of when or by whom paid, and shall be reported and remitted by the person responsible for the collection of the fee to the City Clerk on or before the twentieth day (20th) of the month next succeeding the end of that month in which the fee accrued.

(C) Whenever the safety assessment fee is imposed and levied on the admission charges to a place where an event or group or series of events, of a temporary or transitory nature as determined by the City Clerk is being held, the report and remittance of the safety assessment fee shall be made upon the conclusion of the performance or exhibition or upon the conclusion of the series of performances or exhibitions. In such a case, it shall be the responsibility of the owner, lessee, or custodian of the place where the event or group or series of events is held to report and remit the fee levied and imposed by this chapter to the City Clerk unless a certificate of registration, as provided for in the next succeeding section of this chapter, has been issued to the person conducting the event or group or series of events. The City Clerk, however may require the person conducting the event or group or series of events to furnish a bond to insure that each person makes the report and remittance of any fee due.

(D) The payment or remittance of the fee collected may be made by check, unless payment or remittance is otherwise required by the City Clerk, but payment by check shall not relieve the person collecting and paying the fee from liability for payment and remittance of the fee to the City Clerk unless the check is honored and is in the full and correct amount. The person responsible for the collection of any payment for admissions shall complete such forms and shall submit such information as the City Clerk may require, showing the amount of the safety assessment fee for which he is liable, and shall sign and submit the same to the City Clerk with a remittance for the amount. Where warranted by a person's collection procedures applicable to gross admissions receipts, a reasonable estimate of the receipts may be used as the basis for the monthly remittance of the fee. If the estimate is used it must be clearly indicated on the return and a final reconciliation reporting the true gross admission receipts and the adjusted fee liability shall be included within the person's final remittance under his current certificate of registration.

(E) If the fee imposed and levied by this chapter is not paid when due, there shall be added as a penalty a sum of money amounting to one percent (1%) of the unpaid fee liability for each month or part thereof from the time the fee was due and payable. For good cause shown, the City Clerk may waive the penalty.

(F) The Mayor and/or City Clerk shall have, at reasonable times during normal business hours, the right to examination and audit of all account books and records of any person responsible for the collection and remittance of the fee herein imposed and levied which, in the City Clerk's opinion, in any way pertain to the gross admission receipts. This audit is to be made by the City Clerk or by accountants employed by the city and at its own expense. If required by the City Clerk, a complete audit of a person's gross admission receipts shall be provided at the end of each person's fiscal year by an accountant approved by the Mayor and at the expense of the city. Notwithstanding the foregoing if, as the result of an audit, the Mayor shall determine that there shall be an unpaid fee liability for a person equal to or greater than one thousand dollars (\$1000) per monthly period audited, the Mayor may require such person to pay the expenses of the audit.
(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.05 CERTIFICATE OF REGISTRATION OR EXEMPTION.

(A) Certificate of registration. Any person who conducts or operates any place for which an admission charge is made and who is required to file a report and remit safety assessment fee shall make application to and procure from the City Clerk a certificate of registration, the fee for which shall be twenty dollars (\$20.00).

(B) Certificate of exemption. Any person conducting or operating any place for which an admission charge is made who claims an exemption or exclusion under § 119.03 shall make application to and procure from the City Clerk a certificate of exemption for which there will be no charge and which certificate shall remain valid until the termination of the event or series of events, to which the exemption applies.
(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.06 RULES AND REGULATIONS.

The Mayor and/or his designee shall have power to adopt ordinances not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection, and remittance of the fee herein levied. A copy of the rules and regulations shall be published in a newspaper of general circulation within the city at least once before they shall become effective, and copies shall be made available in the office of the Mayor. Failure or refusal to comply with any rules and regulations shall be deemed a violation of this chapter.
(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.07 CONFIDENTIAL REPORTS.

All returns and information relating to the business or any person required to collect or remit the fee imposed by this chapter and coming into the possession of the City Clerk, his agents, and employees, shall be confidential. Any person divulging such information unless ordered to do so by a court of competent jurisdiction shall be subject to a fine or penalty of not more than five hundred dollars (\$500.00) or imprisoned for not more than six months, or both. Each disclosure shall constitute a separate offense. In addition to the above penalties, any employee of the city who violates the provisions of this section relative to disclosures of confidential information shall be immediately dismissed from the service of the city.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.08 APPEALS.

Appeals from any ruling of the Mayor shall be made to the City Council and the City Council shall have authority to annul, modify, or affirm any such ruling appealed from, in conformity with the intent and purpose of this chapter.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.09 FEES MADE A LIEN.

(A) The fees and other charges imposed by this chapter shall be a lien upon all of the property of any person required to collect and pay or to pay the same. If such person shall sell out or quit business, such person shall be required to make out the return provided for in this chapter within thirty days after the date of sale of such business or retirement therefrom, and the successor in business shall be required to withhold a sufficient amount of purchase money to cover the amount of said fees and other charges so collected and unpaid, together with penalties, if any, until such time as the former owner shall produce a receipt from the City Clerk showing that the fees and other charges have been paid, or a certificate that no fees are due.

(B) If the purchaser of a business shall fail to withhold purchase money as above provided, and the fees and other charges so collected shall be due and unpaid after the thirty-day period allowed, the purchaser shall be liable for the payment of the fees and other charges collected and unpaid on account of the operation of the business by the former owner, together with interest, as provided by this chapter.

(C) The lien for unpaid fees and other charges imposed herein shall not become effective until such time as the City Clerk shall certify to the County Clerk of Grant County the amount of fees delinquent, and such certification is placed on record by the County Clerk of said county in a book maintained for that purpose.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)

§ 119.99 PENALTY.

(A) Whoever being a person charged by this chapter with the duty of collecting or paying the fee imposed by this chapter willfully fails or refuses to charge and collect or pay the fees, or to submit a return to the City Clerk, or to permit the Mayor and/or City Clerk or his duly authorized agent to examine his books and other records in or upon any premises where the same are kept to the extent necessary to verify any return made or to ascertain and assess the fee imposed by this chapter if no return was made, or to maintain and keep such books and other records for three years or such lesser or greater time as may be permitted or required by the Mayor and/or City Clerk, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00) for the first offense, and for a second or other subsequent offense, shall if a corporation, be fined not less than two hundred fifty dollars (\$250.00) nor more than one thousand dollars (\$1,000.00), or, if any individual or member of a partnership, firm, or association, be fined not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1000.00) or imprisoned more than sixty days, or both.

(B) Any person charged by this chapter with the duty of collecting or paying fees imposed by this chapter who fails to procure a certificate of registration, as provided in this chapter, shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(C) Any person convicted or found guilty of a violation of any of the provisions of this chapter for which another penalty is not provided shall be fined not less than one hundred dollars (\$100.00) nor more than five hundred dollars (\$500.00).

(D) Any person violating the provisions of this chapter shall be subject to a civil penalty of five hundred dollars (\$500.00) plus the city's attorneys' fees and costs expended in enforcing such civil penalty, and each day of the continuation thereof shall be a separate and distinct offense, which shall be recovered by the city in a civil action in the nature of debt. In addition, any violation of said sections are hereby declared to be a nuisance per se. In addition to, or in lieu of, seeking to enforce said sections hereof by any other method means set forth herein, the city may institute an appropriate action in a court of competent jurisdiction seeking injunctive and equitable relief.

(Ord. 2017-03, passed 4-18-17; Am. Ord. 2017-07, passed 6-13-17; Am. Ord. 2017-11, passed 8-15-17)