

ORDINANCE NO. _____, SERIES 2020

AN ORDINANCE AMENDING CHAPTER XX OF THE LOUISVILLE METRO CODE OF ORDINANCES BY CREATING A NEW SECTION REGARDING A SURCHARGE ON TICKETS AND A TAX ON RESTAURANT GROSS RECEIPTS.

SPONSORED BY: COUNCIL MEMBER ACKERSON

WHEREAS, Kentucky Revised Statute (“KRS”) § 153.460 enables Louisville Metro Government to levy a surcharge on tickets and a tax on gross receipts of certain restaurants, both to support a multipurpose arena, as described below;

WHEREAS, as a result of increased pension obligations, Louisville Metro Government has reduced services to the public and been forced to examine all revenue options allowed by state law to avoid further cutbacks;

WHEREAS, Louisville Metro Council acknowledges the amended agreement it codified under Ordinance No. 131, Series 2017 to provide financial assistance to the Louisville Arena Authority, Inc., a Kentucky non-stock, nonprofit corporation (the “Arena Authority”) in refinancing the Series 2008 Arena Bonds for the Louisville Arena Project;

WHEREAS, Louisville Metro Council seeks to continue its commitment to provide financial assistance to the Arena Authority by applying the revenue sources that the Commonwealth makes possible through KRS § 153.460; and

WHEREAS, Louisville Metro Council creates a new chapter of Louisville Metro Code of Ordinances to establish a surcharge on tickets and a tax on restaurant gross receipts.

NOW, THEREFORE, BE IT ORDAINED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT AS FOLLOWS:

SECTION I: A new chapter of the Louisville Metro Code of Ordinances (“LMCO”) is hereby enacted to read as follows: **MULTIPURPOSE ARENA TICKET SURCHARGE AND RESTAURANT TAX**

SECTION II: A new chapter of the LMCO XX is hereby enacted to read as follows:

§ XX.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

MULTIPURPOSE ARENA as defined in KRS § 153.460(1)(a) and specifically the Louisville Arena Project or “the Arena Project.”

RESTAURANT, as defined in KRS § 153.460(1)(b), to include “any facility operated for profit which has minimum seating capacity of fifty (50) people at tables and which receives less than fifty percent (50%) of its annual food and beverage income from the sale of alcohol.”

REVENUE COMMISSION. Louisville/Jefferson County Metro Revenue Commission as established in LMCO § 32.450, *et seq.*

§ XX.02 LEVY AND COLLECTION OF SURCHARGE ON MULTIPURPOSE ARENA TICKETS.

(A) Louisville Metro Government hereby levies a ten percent (10%) surcharge on all tickets sold by the Multipurpose Arena.

(B) Louisville Metro Government shall collect and receive payment of the surcharge imposed by this section.

(C) The Multipurpose Arena shall make payment to Louisville Metro Government on or before the thirtieth day after the end of each calendar quarter. The payment shall be accompanied on the same date by the filing of a completed return on a form furnished by

or obtainable from the Louisville Metro Office of Management and Budget that contains such information as may be needed by Louisville Metro Government for the complete and accurate enforcement and implementation of this chapter.

(D) Louisville Metro's Office of Management and Budget is authorized to take all appropriate actions to collect and enforce payment of the surcharge imposed by this chapter and Louisville Metro Government may adopt regulations as it deems appropriate for the implementation and enforcement of the surcharge imposed by this chapter.

(E) The Multipurpose Arena shall maintain books, records, and other information adequate to support the payments required to be made under this chapter and shall make those books, records, and other information available upon request to Louisville Metro's Office of Management and Budget and its officials, agents, and employees. The Office of Management and Budget and its officials, agents, and employees shall have the authority to perform such audits, investigations, or inspections of any entity or other person as may be necessary or appropriate to enforce, confirm, or verify the payment or collection of the surcharge imposed by this chapter, as well as the accuracy and completeness of the returns required to be filed under this chapter.

(F) The Office of Management and Budget and its officials, agents, and employees shall have the authority to compel the production of books and records and the attendance of all persons, whether as parties or witnesses, whom they reasonably believe to have knowledge relevant to any examination or investigation, through any and all appropriate judicial proceedings.

§ XX.03 LEVY AND COLLECTION OF TAX ON RESTAURANT GROSS RECEIPTS.

(A) Louisville Metro Government hereby levies a one-fourth of one percent (0.25%) tax on gross receipts from the sale of food and beverages on every Restaurant located within Louisville/Jefferson County.

(B) On behalf of Louisville Metro Government, the Revenue Commission shall collect and receive payment of the tax imposed by this section.

(C) Every Restaurant subject to the tax on gross receipts imposed by this chapter shall pay the tax on or before the thirtieth day after the end of each calendar quarter. The payment of the tax shall be accompanied on the same date by the filing of a completed return on a form furnished by or obtainable from the Revenue Commission that contains such information as may be needed by the Revenue Commission for the complete and accurate enforcement and implementation of this chapter.

(D) The Revenue Commission is authorized to take all appropriate actions to collect and enforce payment of the tax imposed by this chapter and according to its authority in LMCO § 32.450, *et seq.* The Revenue Commission may adopt regulations as it deems appropriate for the implementation and enforcement of the tax imposed by this chapter.

(E) Every Restaurant subject to the tax imposed by this chapter shall maintain books, records, and other information adequate to support the returns required to be filed under this chapter as well as the amounts of taxes due and shall make those books, records, and other information available upon request to the Revenue Commission and its officials, agents, and employees. The Revenue Commission and its officials, agents, and employees shall have the authority to perform such audits, investigations, or inspections of any Restaurant or other person as may be necessary or appropriate to enforce, confirm, or verify the payment or collection of the tax imposed by this chapter, as well as the accuracy and completeness of the returns required to be filed under this chapter.

(F) The Revenue Commission and its officials, agents, and employees shall have the authority to compel the production of books and records and the attendance of all persons, whether as parties or witnesses, whom they reasonably believe to have knowledge relevant to any examination or investigation, through any and all appropriate judicial proceedings.

§ XX.04 DEPOSIT AND ALLOCATION OF REVENUE.

All moneys collected from the surcharge on tickets and the Restaurant tax shall be deposited in a separate fund to be used to defray operating expenses of the Arena Project and used by Louisville Metro Government as one of the sources of revenue deemed the “Pledged Receipts” under Ordinance No. 131, Series 2017 for the payment of the obligations of Louisville Metro Government to the Arena Authority.

§ XX.05 SUNSET PROVISION.

This chapter shall remain in effect for the duration of time that Louisville Metro Government is under obligation to make annual payments to the Louisville Arena Authority, pursuant to Ordinance No. 131, Series 2017, at which time it shall “sunset,” and its provisions expire.

§ XX.06 ALTERNATIVE SOURCES OF REVENUE.

Louisville Metro Government shall use its best efforts to encourage the Kentucky General Assembly to provide Louisville/Jefferson County with alternative methods of raising revenue. Louisville Metro Government shall revisit the provisions of this chapter in the event alternative revenue options become available.

§ XX.98 SEVERABILITY.

If any provision of this chapter as now or later amended or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions that can be given effect without the invalid provision or application.

§ XX.99 PENALTY; PAYMENT OF SURCHARGE AND TAX NOT DELAYED; CLAIMS FOR REFUND OR CREDIT.

(A) Any Multipurpose Arena, Restaurant, or other person or entity who fails to remit and pay the surcharge required under § XX.02 or the tax required under § XX.03 to Louisville Metro Government on or before the due dates prescribed above when the same become due shall be charged a penalty of 5% if the delay is not more than one month, or fraction thereof, with an additional 5% for each month or fraction thereof, but not over a total of 25% of the amount of such unpaid surcharge or taxes; and shall be liable for simple interest at a rate of 12% upon the entire amount of surcharges and taxes imposed by this chapter which were not paid when due until such amounts are paid in full.

(B) No suit shall be maintained in any court to restrain or delay the collection or payment of the surcharge required under § XX.02 or the tax required under § XX.03.

(C) No refund of any surcharge or tax imposed by this chapter shall be made unless it is established that the surcharge or tax was invalid or erroneously paid. Furthermore, no refund shall be made unless a written application is filed with the Office and Management, in the case of the surcharge, and the Commission in the case of the tax, within two years from the date payment of the tax or surcharge were due, or when the surcharge or tax were in fact paid, whichever is later. The Commission shall be vested with exclusive authority to authorize refunds or credits of or for taxes that have been shown to be invalid or erroneously paid and the Office of Management and Budget shall have be vested with

exclusive authority to authorize refunds or credits of or for surcharges that have been shown to be invalid or erroneously paid.

SECTION III: This Ordinance shall take effect upon its passage and approval.

Sonya Harward
Metro Council Clerk

David James
President of the Council

Greg Fischer
Mayor

Approved Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

By: _____

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