

EMERGENCY

City of Cincinnati

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An Ordinance No. \_\_\_\_\_

- 2020

**MODIFYING** the provisions of Chapter 313, "Outdoor Advertising Sign Excise Tax," of Title III, "Financial, Personnel, Procurement and Real Property Procedures," of the Cincinnati Municipal Code by **AMENDING** Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," and by **REPEALING** Section 313-7, "Tax Not to be Separately Stated or Charged"; and further **MODIFYING** the provisions of Chapter 895, "Outdoor Advertising Signs," of Title VIII, "Business Regulations," of the Cincinnati Municipal Code by **AMENDING** Section 895-1-O, "Outdoor Advertising Sign," and Section 895-2, "Applicability," by **REPEALING** Section 895-10, "Additional Permitted Uses of Outdoor Advertising Signs," and by **ORDAINING** new Section 895-29, "Severability," to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

WHEREAS, the City Council wishes to modify the provisions of Chapter 313, "Outdoor Advertising Sign Tax," and Chapter 895, "Outdoor Advertising Signs," of the Cincinnati Municipal Code to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs; and

WHEREAS, this includes Council's desire to repeal the provisions of Section 313-7, "Tax Not to be Separately Stated or Charged," of the Cincinnati Municipal Code in order to remove that section from the Cincinnati Municipal Code; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," of Chapter 313, "Outdoor Advertising Sign Excise Tax," are hereby amended to read as follows:

**Sec. 313-1-O. - Outdoor Advertising Sign.**

"Outdoor Advertising Sign" shall mean an outdoor advertising sign as that term is defined in Cincinnati Municipal Code section 895-1-O, "Outdoor Advertising Sign," ~~and shall include an outdoor advertising sign used from time to time as a noncommercial sign or an on-site commercial sign as provided in section 895-10, "Additional Permitted Uses of Outdoor Advertising Signs."~~

**Sec. 313-5. - Exemptions.**

- (a) The tax shall not apply to the installation, placement, or maintenance of the following outdoor advertising signs:

- (i) Those signs that are not offered or made available by an advertising host for use by an advertiser in exchange for rent or other consideration within the applicable tax year, and for which signs the advertising host does not receive, or accrue the right to receive, rent or other consideration from an advertiser in exchange for the use of the sign within the same tax year ~~Those signs owned, controlled, leased, licensed, or otherwise used by the United States, the State of Ohio, or the city of Cincinnati;~~
  - (ii) ~~Those signs exempt from outdoor advertising sign regulations pursuant to Cincinnati Municipal Code section 895-2, "Applicability," or Cincinnati Municipal Code Section 1427-07, "Signs Located on Public Property"; or~~
  - (iii) Those signs not exceeding 36 square feet in total sign face area.
- (b) No exemption claimed under paragraph (a)(i) of this section shall be granted except upon a claim made, under penalty of perjury, at the time a return is filed pursuant to section 313-11.

Section 2. That existing Section 313-1-O, "Outdoor Advertising Sign," and Section 313-5, "Exemptions," of Chapter 313, "Outdoor Advertising Sign Excise Tax," are hereby repealed.

Section 3. That Section 313-7, "Tax Not to be Separately Stated or Charged," of Chapter 313, "Outdoor Advertising Sign Excise Tax," is hereby repealed.

Section 4. That Section 895-1-O, "Outdoor Advertising Sign," and Section 895-2, "Applicability," of Chapter 895, "Outdoor Advertising Signs," are hereby amended to read as follows:

**Sec. 895-1-O. - Outdoor Advertising Sign.**

"Outdoor Advertising Sign" means either of the following: (i) a sign for which its owner or operator receives, or is entitled to receive, rent or other consideration from another person or entity in exchange for the use of the sign, including for the placement of a message on the sign; or (ii) a sign that is offered or made available by its owner or operator for use by another person or entity, including for the placement of a message on the sign, in exchange for rent or other consideration shall have the same meaning as "Off Site Sign," as that term is defined in Section 1427-03-O, "Off Site Sign," of the Cincinnati Municipal Code.

**Sec. 895-2. – Applicability.**

The provisions of this Chapter apply to all outdoor advertising signs except as otherwise provided by law. Signs not governed by this Chapter include:

- (a) Signs erected or displayed in the public right-of-way and authorized under Chapter 723 of the Municipal Code; and
- (b) Signs erected or displayed on Fountain Square pursuant to Rules and Regulations for the Use of Fountain Square as authorized by Chapter 713 of the Municipal Code; and
- (c) Signs approved by the City for a special event authorized under chapter 765 of the Municipal Code or other event authorized under Park Board rules; and
- (d) Signs erected or displayed on city-owned property by the City of Cincinnati or by a third-party pursuant to a contract with the city subject to reasonable, uniform, viewpoint-neutral limitations that ensure the signs do not undermine the city's interests, including its interests in aesthetics and traffic safety; and
- (e) Signs erected or displayed on property owned by a governmental entity pursuant to a contract with the city subject to reasonable limitations that ensure the signs do not undermine the city's interests, including its interests in aesthetics and traffic safety.

Section 5. That existing Section 895-1-O, “Outdoor Advertising Sign,” and Section 895-2, “Applicability,” of Chapter 895, “Outdoor Advertising Signs,” are hereby repealed.

Section 6. That Section 895-10, “Additional Permitted Uses of Outdoor Advertising Signs,” of Chapter 895, “Outdoor Advertising Signs,” is hereby repealed.

Section 7. That Section 895-29, “Severability,” of Chapter 895, “Outdoor Advertising Signs,” is hereby ordained to read as follows:

**Sec. 895-29. - Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this chapter or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this chapter or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

Section 8. That if any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance or any part thereof is for any reason held to be unconstitutional, such

decision shall not affect the validity of the remaining portions of this ordinance or any part thereof. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

Section 9. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is the immediate need to provide additional clarity regarding the applicability of the City's outdoor advertising excise tax to the owners and operators of outdoor advertising signs.

Passed: \_\_\_\_\_, 2020

\_\_\_\_\_  
John Cranley, Mayor

Attest: \_\_\_\_\_  
Clerk

\_\_\_\_\_  
New language underscored. Deleted language indicated by strikethrough.