

11/18/2024 (Date of First Reading)
12/02/2024 (Date of Public Hearing)

ORDINANCE NO. M- 4481

AN ORDINANCE relating to a Vancouver Cultural Access Program; adding a new chapter 3.45 to the Vancouver Municipal Code; enacting new sections 3.45.010, 3.45.020, 3.45.030, 3.45.040, and 3.45.050; providing for severability and an effective date.

WHEREAS, in 2014 the City of Vancouver designated a section of downtown as the “Vancouver Arts District” in order to increase tourism and further the City’s economic development strategy; and

WHEREAS, in 2018, the Vancouver City Council approved a Culture, Arts and Heritage Plan, the overarching vision of which was to integrate culture, arts and heritage into the daily life of the community by bringing together the diverse interests and talents in Vancouver; and

WHEREAS, one of the visions of the Report was “Vancouver supports the creation of needed space for culture, arts and heritage;” and

WHEREAS, in 2015 the Washington State Legislature enacted Engrossed Substitute House Bill 2263, in which the Legislature expressed its intent to provide local governments and communities the fiscal tools needed “to provide public and educational benefits and economic support for cultural organizations [by] providing local support for the state’s cultural organizations;” and

WHEREAS, the Legislature further declared that “[p]roviding local support for the state’s cultural organizations is in the public interest and will serve multiple public purposes including, among others, enhancing and extending the education reach and offerings of cultural

organizations; ensuring continued and expanded access to the facilities and programs of cultural organizations by economically and geographically underserved populations; and providing financial stability to the organizations to continue and extend the numerous public benefits they provide;” and,

WHEREAS, the 2024 Webb Study suggested the City is lacking an affordable venue for local talent and a mid-size range facility for touring performing groups; and

WHEREAS, the City of Vancouver is currently in design of an Arts Hub to provide affordable performance venue for city performing arts groups and create studio space for City artisans; and

WHEREAS, the City of Vancouver aspires to support a construction of a mid-size Performing Arts Center in the Arts District of the City; and

WHEREAS, the City of Vancouver is also interested in securing funding to provide transportation for school-age children to access and attend arts, science, cultural, and heritage programs so as to overcome one of the recognized barriers to such participation; and

WHEREAS, the City of Vancouver created the Culture, Arts and Heritage Commission to assist with and facilitate the development and promotion of a thriving cultural, arts and heritage environment in the Vancouver; and,

WHEREAS, RCW 36.160.030(3) provides that “[a] city may create a cultural access program if the county legislative authority in which the city is located adopts a resolution stating that the county forfeits its option to create a

program or does not place a proposition before the people to create such a program by December 31, 2024,” and

WHEREAS, the Vancouver City Council finds that Clark County does not intend to exercise its option under RCW 36.160.030(3) to create a cultural access program by December 31, 2024, and

WHEREAS, the City of Vancouver, through the legislative discretion of the Vancouver City Council, wishes to create a cultural access program for the City; and

WHEREAS, consistent with chapter 36.160 RCW, the City Council affirms that any funding the City usually and customarily provides to cultural organizations similar to funding that would be available to those organizations “may not be replaced or materially diminished as a result of funding becoming available under” a Cultural Arts and Sales Tax established under chapter 36.160 RCW; and

WHEREAS, if Clark County has neither created a cultural access program under RCW 36.160 nor imposed a sales and use tax under RCW 82.14.525(1) on or before December 31, 2024, the City Council will be authorized to impose a sales and use tax of up to one-tenth of one percent of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax, for the purposes authorized under chapter 36.160 RCW;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF VANCOUVER:

Section 1. A new chapter is created in Title 3 of the Vancouver Municipal Code (“VMC”), to be codified as chapter 3.45 VMC, which shall be entitled “Vancouver Cultural Access Program.”

Section 2. A new section is enacted and added to chapter 3.45 VMC, to be codified at VMC 3.45.010, and shall read as follows:

3.45.010 Definitions

In construing the provisions of this chapter, the following definitions shall be applied. The definitions provided in RCW 36.160.020 are incorporated herein by reference. Words in the singular number shall include the plural, and the plural shall include the singular:

- A. “City” means the City of Vancouver.
- B. “Director” means the Director of Financial and Management Services of the City, or the Director of any successor department of the City, or any officer, agent, or employee of the City designated to act on the Director’s behalf.
- C. “VCAP” means the Vancouver Cultural Access Program authorized by RCW 36.160.030, now and as amended, and created by VMC 3.45.020.

Section 3. A new section is enacted and added to chapter 3.45 VMC, to be codified at VMC 3.45.020, and shall read as follows:

3.45.020 Cultural Access Program -- Created

Pursuant to RCW 36.160.030, there is hereby created a cultural access program which shall be named the “Vancouver Cultural Access Program.” Pursuant to RCW 36.160.040, the City is authorized to advance funding to establish the VCAP with the expectation that the funding will be repaid by the revenues generated by the sales tax imposed by this chapter.

Section 4. A new section is enacted and added to chapter 3.45 VMC, to be codified as VMC 3.45.030, and shall read as follows:

3.45.030 Additional sales and use tax for cultural access

- A. There is hereby imposed an additional sales and use tax, separate and apart from any other sales and use tax imposed by this chapter, upon every taxable event occurring in the city, for cultural access as authorized by RCW 82.14.525.
- B. As used in this section, the term “taxable event” has the meaning set forth in RCW 82.14.020.
- C. The rate of the sales and use tax imposed by this section shall be one-tenth of one percent of the selling price, in the case of a sales tax, or the value of the article used, in the case of a use tax.
- D. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to chapters 82.08 and 82.12 RCW.
- E. Unless reimposed by separate ordinance amending this section pursuant to RCW 82.14.525(4), the tax imposed by this section shall expire on January 1, 2032.

Section 5. A new section is enacted and added to chapter 3.45 VMC, to be codified as VMC 3.45.040, and shall read as follows:

3.45.040 Designated Entity

- A. Pursuant to RCW 36.160.060, the City designates the Culture, Arts, and Heritage Commission (CAHC) established under chapter 2.88 VMC as the designated entity under RCW 36.160.020(4).
- B. The CAHC shall collaborate with the school districts in the City to develop and provide a Public School Cultural Access Program (PSCAP) as provided in RCW 36.160.100 and RCW 36.160.110(4).

Section 6. A new section is enacted and added to chapter 3.45 VMC, to be codified at VMC 3.45.050, and shall read as follows:

3.45.050 Use of funds -- Allocation

- A. Moneys collected from the tax imposed under this chapter shall be used solely for the purposes authorized by RCW 36.160.110 as follows:
 - 1. Start-up program costs, including direct and indirect administrative costs, shall not exceed five (5) percent of the total annual collected revenue. Eligible costs, including repaying any start-up funding provided under RCW 36.160.040 and VMC 3.45.020 shall be reimbursed.
 - 2. A total of five (5) percent of the annual revenue collected under this chapter is to be reserved for the PSCAP as provided in RCW 36.160.100, RCW 36.160.110(4), and VMC 3.45.040. The PSCAP shall be established to increase access to cultural activities and programming for public school students, including transportation to off-site cultural experiences for all students at schools in the City that are located within a school district in which at least forty percent of the district's students are eligible for the federal free and reduced-price school meals program.
 - 3. All remaining funds shall be reserved until such time as provided in subsection (C) of this section.
- B. Not later than July 1, 2025, the CAHC, in collaboration with City staff, shall develop and deliver to the City Council a proposal containing the following:
 - 1. Identifiable discernable public benefits to be realized by the VCAP over the life of the program not to exceed 7 years. The term "public benefits" shall be interpreted consistently with RCW 36.160.090 as amended.
 - 2. Guidelines, consistent with the requirements of this chapter, deemed necessary or appropriate for determining the eligibility of cultural organizations to receive funding under this chapter;
 - 3. Criteria for the award of funds to eligible cultural organizations, including the public benefits to be derived from projects submitted for funding;
 - 4. The amount of funding to be allocated to support the City's and/or CAHC's administrative costs;

5. Criteria for the identification by the City or CAHC of any cultural organization or organizations that would receive annual distributions of funds in such amounts determined by the City or CAHC;
 6. Procedures to be used by the CAHC in awarding funding to other cultural organizations that may, but are not required to include a periodic competitive process for awarding funds for particular purposes or projects proposed by eligible cultural organizations.
 7. A set of guidelines establishing a baseline standard of continuous performance with respect to the provision of public benefits required under this chapter and for evaluating the eligibility of any cultural organization to receive funds under this chapter based on the continuous performance of the organization in the provision of the public benefits. The guidelines must include: (a) Procedures for notifying any organization at risk of losing its eligibility to receive funds under this chapter for failure to achieve the program's baseline standard of performance with respect to the continuous provision of public benefits; and (b) measures or procedures available to the organization for either retaining or recovering eligibility, as appropriate.
- C. Not later than October 1, 2025, the City Council shall by resolution adopt a policy implementing the components of the CAHC's proposal with such amendments as the Council deems appropriate to guide distribution of funds under subsection (A)(3) of this section.
- D. Funds distributed to cultural organizations may be used to support cultural and educational activities, programs, and initiatives; public benefits and communications; and basic operations. Funds may also be used for: (1) Capital expenditures or acquisitions including, but not limited to, the acquisition of or construction of improvements to real property; and (2) technology, equipment, and supplies reasonably related to or necessary for a project otherwise eligible for funding under this chapter.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This ordinance shall become effective January 1, 2025, PROVIDED that the Clark County Council does not create a county cultural access program under RCW 36.160.030 and impose a sales and use tax under RCW 82.14.525 on or before December 31, 2024. If the Clark County Council creates a county cultural access program under RCW 36.160.030 and imposes a sales and use tax under RCW 82.14.525 on or before December 31, 2024, this ordinance shall be null and void in its entirety.

DATE OF FINAL PASSAGE at a Regular Meeting of the Vancouver City Council:
December 2, 2024.

SIGNED this 2nd day of December, 2024.

DocuSigned by:
Anne McEnerny-Ogle
6C89D9089EC5424...

Anne McEnerny-Ogle, Mayor

Attest:

DocuSigned by:
Natasha Ramras
403E940444AE4BD...

Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:
Jonathan Young
9A7DC2E31F694A2...

Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4481

AN ORDINANCE relating to a Vancouver Cultural Access Program; adding a new chapter 3.45 to the Vancouver Municipal Code; enacting new sections 3.45.010, 3.45.020, 3.45.030, 3.45.040, and 3.45.050; providing for severability and an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).