

BILL NO. 4650

ORDINANCE NO. 3379

INTRODUCED BY: <u>ALDERWOMAN CLEMENTS</u>	<u>ALDERMAN LONG</u>
<u>ALDERMAN GLOWSKI</u>	<u>ALDERMAN REYNDERS</u>
<u>ALDERMAN GOLFIN</u>	<u>ALDERMAN SANDERS</u>
<u>ALDERMAN KELLY</u>	<u>ALDERMAN WILLIAMS</u>

AN ORDINANCE AMENDING CHAPTER 12 OF THE REVISED CODE OF ORDINANCES OF THE CITY OF BRENTWOOD FOR 1987 ESTABLISHING AN ANNUAL LICENSE TAX FOR THE OPERATION OF MOVING PICTURE SHOWS, THEATERS, MOVIE HOUSES, CINEMAS AND OTHER SIMILAR BUSINESSES; PROVIDING FOR THE SUBMISSION OF SUCH TAX TO THE VOTERS OF THE CITY OF BRENTWOOD; PROVIDING FOR THE CURRENT MAINTENANCE OF THE CODE; PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINANCE; AND PROVIDING FOR THE REPEAL OF ALL CONFLICTING ORDINANCES.

WHEREAS, the Board of Aldermen of the City of Brentwood, Missouri (the "City") believe it to be in the best interest of the City and its residents to impose, pursuant to Section 94.270 of Missouri Revised Statutes, 1986, as amended, an annual license tax on moving picture shows, theaters, movie houses, cinemas and other similar businesses operating within the City.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRENTWOOD, MISSOURI AS FOLLOWS:

SECTION 1. Section 12-24(a) of the Revised Code of Ordinances of the City of Brentwood, Missouri for 1987 is hereby amended by deleting therefrom the following sentence:

Theaters, including motion picture houses.....200.00

SECTION 2. Chapter 12 of the Revised Code of Ordinances of the City of Brentwood, Missouri for 1987 is hereby amended by adding new Article VII, Division 4 and new Sections 12-211 through 12-219, all of which to be in words and figures as follows:

DIVISION 4. MOVING PICTURE SHOWS

Sec 12-211. Definitions.

The following words, terms and phrases, when used in this Division 4, shall have the meanings given them in this section, except where the context clearly indicates a different meaning:

"gross receipts" shall mean the total gross receipts from whatever source derived.

"moving picture shows" means any facility where moving pictures are viewed by any person for a fee or charge, including, without limitation, any theater, movie house, cinema or similar facility.

Sec. 12-212. License Required; Application

It shall be unlawful for any person to establish, maintain or operate a moving picture show within the City without making application for and securing a license to do so. Application for such license shall be filed with the city clerk/administrator during the month of January of each calendar year, but in no event later than January 31st. Such application shall include the name and address of the person expecting to operate such moving picture show, the location of the same, the number of viewing screens, the capacity thereof in number of customers that can be accommodated and a statement certifying the gross receipts for the calendar year immediately preceding the year in which the application is made; provided, however, if the preceding calendar year consists of a period of less than twelve (12) full calendar months, then the applicant shall annualize the prior short year gross receipts by dividing the same by the number of full calendar months which the applicant has engaged in business to December 31, and multiplying the quotient by twelve (12), and the product resulting therefrom shall be the gross receipts on which the annual license tax set forth in Section 12-213 shall be determined and paid by the applicant. Such application shall be accompanied by payment of the required business license tax as prescribed in this article.

Sec. 12-213 Annual Business License Tax.

An annual business license tax is hereby levied on each moving picture show operating within the City. Said annual business license tax shall be assessed against the annual gross receipts of the applicant as shown on the application required by Section 12-212, in accordance with the following rate schedule:

- (a) One dollar (\$1.00) on each one thousand dollars (\$1,000.00) or part thereof of gross receipts up to Five Million Dollars (\$5,000,000); plus
- (a) Ninety-five cents (\$.95) on each one thousand dollars (\$1,000.00) or part thereof of gross receipts in excess of Five Million Dollars (\$5,000,000) and up to Ten Million Dollars (\$10,000,000); plus
- (c) Ninety cents (\$.90) on each one thousand dollars (\$1,000.00) or part thereof of gross receipts in excess of Ten Million Dollars (\$10,000,000);

provided, however, the minimum annual business license tax shall in no event be less than five hundred dollars (\$500.00). The annual business license tax shall be due and payable to the City on January 31st of each calendar year.

Sec. 12-214. Inspection of premises, issuance.

Upon receipt of an application for a moving picture show license, the city clerk/administrator shall cause an inspection of the premises to be made from the standpoints of health, sanitation and safety. The city clerk/administrator shall make a report of his inspection, which together with the application, shall be referred to the board of alderman. If the board of alderman is satisfied that the establishment contemplated by the applicant is in compliance with all applicable laws and ordinances, it shall direct the issuance of the license.

Sec. 12-215. Renewal; inspections.

The operator shall in the month of January of every year make application for renewal of his moving picture show license, at which time inspections shall be made as upon original application and the annual license tax paid. The mayor may at any time require the inspection of any moving picture show by city employees and may order any alterations or changes made or the installation of any safety appliance that may be necessary to render the premises sanitary, safe, or suitable for the purposes for which they are used. In the event of failure to comply with any such requirements within a period of thirty (30) days, then the license for such moving picture show may be revoked.

Sec. 12-216. Annual Business License Tax For New Moving Picture Shows

(a) When any person desires to establish and operate a moving picture show in the City, he shall apply for a license for same; but before any such license shall be issued, said person shall deposit with the city clerk/administrator such sum of money as may be agreed upon by him and the city clerk/administrator sufficient to cover the annual business license tax for the year in which application is made. The annual business license tax for said year shall be based upon the applicants estimated gross receipts of the moving picture show to December 31 of the year in which he commences business. During the month of January of the year following the aforementioned December thirty-first, the licensee shall file with the city clerk/administrator a statement showing his actual gross receipts for the period from which he commenced business to December thirty-first and at the same time shall also file with the city clerk/administrator a statement of gross receipts for the current year in the manner provided for by section 12-212. He shall pay to the city at that time:

- (1) An amount determined to be due above the amount deposited with the city clerk/administrator for the preceding year ; and
 - (2) A business license tax for the current year.
- (b) Upon payment of such sums, such license shall issued for the current year.
- (c) If a person who desires to establish a moving picture show in the City has been engaged in substantially the same business in other areas within the State of Missouri, his experience in that business and the amount of gross receipts may be used in estimating the deposit to be made with the city clerk/administrator as provided in this section, making due allowance for any increase or decrease in the proposed or expected extent or magnitude of the business.

Section 12-217. Surety bonds; Minimum Business License Tax.

If the city clerk/administrator and any person commencing business as provided in section 12-216 are unable to agree on the amount of deposit, the city clerk/administrator may require a corporate surety bond from the licensee, conditioned that he will on or before January 31st next following, furnish the city clerk/administrator with a statement, verified as required by this chapter, as to the gross receipts and that he will pay to the city clerk/administrator the business license taxes due according to the provisions of this chapter, which bond shall be of not more than double the amount of the estimate of such taxes made by the city clerk/administrator, or in such lesser amount as the city clerk/administrator may deem sufficient to protect the city's interest; and his approval shall be endorsed upon such bond before the license shall issue. In addition to the bond, the licensee shall pay a minimum business license tax of five hundred dollars (\$500.00) which shall be credited to his tax and license when his first return is made and the tax thereon paid. If the deposit made by such licensee for the period expiring December thirty-first after he commences business is determined to be in excess of the amount due, the city clerk/administrator shall credit the excess on his next license, or it shall be paid to the licensee if he has discontinued business.

Sec. 12-218. Alternate Method of Calculating Gross Receipts.

Any person operating a moving picture show within the City may, with the prior written consent of the city clerk/administrator, elect, in lieu of furnishing the statements as provided for in sections 12-212 and 12-216, to calculate their gross receipts on a fiscal year basis. If a person operating a moving picture show is permitted to and elects to use this alternative method, he shall note on his application that the determination of gross receipts is being made for the fiscal year

rather than for the calendar year as specified in sections 12-212 or 12-216 and he shall provide a copy of the city clerk/administrators' written consent thereto, and thereafter the annual business tax and license shall be calculated accordingly.

Sec. 12-219. Delinquent charges.

(a) A delinquent charge of ten percent (10%) of the amount of license tax due and payable to the City shall be assessed against any person who fails to pay the full amount of the license tax on or before the due date therefor.

(b) In addition to the late charge described in paragraph (a), any person who fails to pay the full amount of license tax on or before the due date therefor shall pay interest on such delinquency at a rate of one percent (1%) per month for each month which payment is delinquent (up to and not to exceed eight percent (8%)).

SECTION 3. The business license tax specified in Section 2 of this Ordinance shall become effective upon approval of the proposition authorizing the levy and collection of such tax by a majority of the votes cast on such proposition by the qualified voters of the City voting thereon.

SECTION 4. An election is hereby called to submit to the voters of the City of Brentwood, Missouri, at an election to be held on April 4, 1995, Proposition B, to authorize the assessment and collection of the annual business license tax described in Section 2 hereof. The ballot shall be as follows:

PROPOSITION B

Shall the City of Brentwood levy and collect an annual business license tax of up to one dollar (\$1.00) on each one thousand dollars (\$1,000.00) or part thereof of gross receipts generated by any moving picture shows, theaters, movie houses, cinemas and other similar businesses operating within the City of Brentwood?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

SECTION 5. The Deputy City Clerk shall place on the ballot for the general election to be held April 4, 1995 the proposition set forth in Section 4 hereof.

SECTION 6. The sections of this Ordinance shall be severable. In the event that any section (or portion thereof) of this Ordinance is found by a court of competent jurisdiction to be invalid,

unconstitutional or unenforceable, the remaining sections (and/or portions of any invalid, unconstitutional or unenforceable section) of this Ordinance are valid unless the court finds the valid sections (and/or portions thereof) of this Ordinance are so essentially and inseparably connected with, and so dependent upon the void section (or portion thereof) that it cannot be presumed that the Board of Aldermen would have enacted the valid sections (or other portion thereof) without the void one, or unless the Court finds that the valid sections and/or portion thereof, standing alone, are incomplete and incapable of being executed in accordance with the legislative intent.

SECTION 7. In conformity with the provisions of said Code, the Deputy City Clerk shall cause appropriate copies to be made hereof and shall insert such copies in each edition of said Code.

SECTION 8. All Ordinances and parts of Ordinances in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

SECTION 9. This Ordinance shall be in full force and effect from and after the date of its passage and approval by the Mayor.

PASSED BY THE BOARD OF ALDERMEN THIS 6TH DAY OF FEBRUARY, 1995.

APPROVED BY THE MAYOR THIS 6TH DAY OF FEBRUARY, 1995.

Mark E. Kurtz/ss Mark E. Kurtz
Mark E. Kurtz, Mayor

ATTEST:
Lorraine W. Krewson
Lorraine W. Krewson/ss
Lorraine Krewson, Deputy City Clerk

First Reading: February 6, 1995
Second Reading: February 6, 1995