

Kelowna Community Theatre

Conditions of Use & Allocation Guidelines

All fees and charges are as outlined in the Active Living & Culture Fees and Charges Bylaw no. 9609, Schedule H and all amendments thereto.

1 General Information

The Kelowna Community Theatre (KCT) is owned, operated and managed by the City of Kelowna. KCT management and staff are part of the Cultural Services Branch in the Active Living & Culture Division.

Location: 1375 Water Street, on the corner of Water Street and Doyle Avenue.

History: Opened September 13, 1962.

Capacity: Main Auditorium: 847 seats plus six-wheel chair locations and the Black Box Theatre: 125 persons (106 persons when licensed)

KCT is one of several city-owned cultural facilities in Kelowna's Cultural District. KCT's programs and services are delivered in accordance with the City of Kelowna's Cultural Plan, supporting the development of a safe, vibrant and sustainable city.

More Information about the physical features of the facility, stage and technical equipment is provided at theatre.kelowna.ca

2 Theatre Definitions

Season or Performance Series – is a program of individual performances that occur in the theatre between a defined period of time (ex. September to June) and are sold as a subscription ticket package. All the individual performances with accompanying rehearsals must be booked at one time.

Multi-day event – is one rental booking that spans two or more days and may include scheduled rehearsals and performances.

Returning user – is a client that has previously booked the theatre within a 2-year period of the current request. All previous rental invoices must be paid in full prior to any new booking.

New user – is a client who has either never rented the theatre before or is returning after a 2-year absence. New clients are required to pay a 50% deposit.

3 Theatre Fees & Charges

All fees and charges are as outlined in the Active Living & Culture Fees and Charges Bylaw no. 9609, Schedule H and all amendments thereto.

The contract fee for bookings in future years will be subject to the annual increase and will be charged at the rate at the time of the event and not the time of booking.

3.1 Basic Fee – a Basic Fee is applicable for both performance and rehearsal bookings. Rates are in four categories:

- Commercial is the Basic Fee
- NPO is 75% of the Basic Fee
- LNPO is 50% of the Basic Fee
- City of Kelowna is 30% of the Basic Fee

3.2 A local commercial business offering a recital of youth students of the organization (does not include dance competitions) where the primary audience is family and friends of the student are considered

LNPO for this purpose. The City of Kelowna rate refers to conducted meetings, presentations, ceremonies and staff gatherings. Internal transfers only.

- 3.3** The rental cap limits the maximum rent payable for performance days in the main auditorium. It is calculated as the greater of:
- the Basic Fee; or
 - 10% of gross ticket sales revenues, exclusive of tax, capped at 2.5 x the Basic Fee
- 3.4** Rehearsal days on the Main Stage will not be booked as standalone bookings less than three months to the date requested. Main Stage - Rehearsal rates are not applicable to Friday or Saturday bookings unless as part of an Extended Multi-Day Rental of 14 days (excluding dark days) or more.
- 3.5** Additional Rental Hours – Main Stage performance and rehearsal rentals have a maximum total booking time of 12 hours per day, additional rental fees will apply. There are no Technician hours included in additional rental hours.
- 3.6** Technical support – a block of technician hours is included in each Main Stage rental and any additional time is charged to the Agreement Holder. An 8-hour day of Technician time includes 7 hours of work, plus a half hour lunch break and two 15 minutes coffee breaks. If appropriate breaks are not provided, equivalent time will be added to the final invoice.
- 3.7** Front of House Services
- A block of time for Front of House Services (includes box office, ticket takers, ushers, concession and bar service workers and the sale of any merchandise) is included in each Main Stage rental and additional time is charged to the Rental Client.
- Merchandising fees are based on a percentage of gross proceeds, exclusive of taxes, from all client merchandise sales.
 - Bar restocking fees apply when a client requests a specific product to be served through the bar and concession.
- 3.8** Artist and composer royalties – all rental clients are responsible for ensuring that all applicable artist and composer fees and royalties, are paid to the appropriate agencies. KCT will invoice rental clients for these fees and royalties if necessary, and the fees and royalties will be payable along with other fees and charges.
- 3.9** CIF (Capital Improvement Fee) – is applied to each admission whether paid, by donation or complimentary regardless of the ticket price and invoiced by KCT. Admissions are based on total tickets/passes/subscriptions issued for an event. These fees directly support facility and equipment refurbishment and repair. At the discretion of the Theatre Manager and where an event is offered to the community at no charge or by donation, a flat fee may be applied.
- 3.10** Janitorial – basic janitorial services are provided for clean-up after an event, however, if extraordinary expenses are incurred for the clean-up, as determined by the Theatre Manager, this will be billed back to the Agreement Holder.
- 3.11** Post-event settlement - final charges may vary depending upon the Agreement Holder's actual use of space and services. Settlements will be within 10 working days after the event. KCT has the right of first call on all ticket sales revenue to settle outstanding charges. It will directly reduce the settlement of the box office for reimbursement of all outstanding fees to KCT. If ticket revenues are insufficient to cover all outstanding fees, the Agreement Holder will be invoiced for the remainder.

3.12 Promotion and Marketing - events may be included on the KCT's web pages and electronic reader board. Additional promotions can be coordinated through KCT on a fee-for-service basis.

4 Theatre Allocation Principles & Guidelines

To provide a well-equipped and functional facility, and appropriate services to meet the needs of all Agreement Holders:

- 4.1** The City of Kelowna coordinates the use of the facility safely for all events with the goal of maintaining KCT in the best possible condition. KCT reserves the right to have its staff enter any rooms associated with the rental.
- 4.2** A KCT Technician must be present at all times during a facility rental of the Main Stage. A minimum of two (2) Theatre Technicians are required during Main Stage for Performance Bookings. The technicians are present to assist with the rental and are not to be used to fill a permanent gap in the production crew. Extra Technicians may be hired to fill any such gaps at an additional charge.
- 4.3** No technician time is included with rental of the Black Box, however, technical support is required for bookings that involve making changes to the lighting system or sound system. If warranted, Technician time may be added to the booking at the Agreement Holder's expense due to complex technical needs. The requirement for a KCT Technician to be present during the rental of the Black Box will be at the discretion of the Theatre Manager.
- 4.4** Access to KCT and its equipment, is under the supervision of KCT staff. Access to KCT and its systems is limited to those areas as listed in the rental contract. Other areas may be added to the contract if available.
- 4.5** Front-of-house personnel must be present beginning one hour prior until the conclusion of the event and the departure of all audience members from the facility. All products to be served through the bar and concession are the responsibility of KCT and no other merchandise, food or beverage is permitted unless approved by the Theatre Manager. Additional fees, as described in the Bylaw, may apply if additional stock is requested.
- 4.6** KCT has a permanent, non-transferable Liquor Primary license which extends to the main theatre lobby and auditorium. The Black Box Theatre is not included in the Liquor Primary license. Anyone wishing to serve alcohol in the Black Box Theatre is required to obtain a Special Event Permit (liquor license) prior to their event, to provide a copy to the Theatre Manager and to ensure that the License is properly posted and fulfilled.
- 4.7** KCT may feature visual art exhibitions in designated areas of the facility.
- 4.8** KCT reserves the right to limit and direct any signage and decorations added the interior and exterior areas of facility.
- 4.9** KCT is a non-smoking facility. Smoking is not permitted in any part of the facility, including the Green Room and Dressing Rooms.
- 4.10** Any audio or visual recordings planned in association with the rental activity should be reviewed with the Theatre Manager and approved prior to the event.
- 4.11** KCT reserves the right to schedule both routine and special maintenance for any interior or exterior portion of the facility, or any equipment, which may require closure of all or part of the facility.

4.12 To provide a fair process to support equitable access to KCT for events and other activities.

Booking Inquiries fall into the following categories, (the term 'Client' refers to an individual or organization making such an inquiry or booking):

- a. **General Inquiry:** client looking for available date(s) with no expectation of reserving and particular date. No commitments are made by either party.
- b. **Hold Dates:** client is looking for specific date(s).

These dates are flagged as "Hold" by KCT staff and are released when a:

- Hold date(s) become a confirmed date with a signed contract and the applicable deposit is paid. Deposits are non-refundable, nor are they transferable to other dates.
- Hold date(s) are removed at clients request or approval.
- Hold date is successfully challenged by another client looking for the same date.
- Hold date has not been confirmed within three months of the hold being placed.

- c. **Confirmed Dates:** client has signed the contract and paid the required deposit prior to on-sale ticket date.

4.13 Challenging a date

- 4.13.1 A hold date may be challenged when a client is prepared to sign a contract and pay the required non-refundable/ non-transferable deposit on a date on hold by another client. A challenge must be requested in writing to KCT staff.
- 4.13.2 KCT staff will issue the challenge, in writing, to each client one at a time in order of the hold.
- 4.13.3 Once notified of the challenge, the challenged client has up to three (3) working days to sign a contract and pay the required non-refundable/ non-transferable deposit otherwise the hold will be released.
- 4.13.4 Once the challenged client releases the date, the challenging client has up to three (3) working days from time of notification to sign the contract and present the deposit.
- 4.13.5 In the challenging process, if the client who ends up with the date defaults on the date, they will be held liable for the full Basic Fee for the date.
- 4.13.6 If exceptional circumstances occur that the Theatre Manager deems salient, the Theatre Manager has the right to modify the time permitted.
- 4.13.7 The City reserves the right to challenge any hold date deemed necessary for Theatre operations.

4.14 Priority of bookings

To acknowledge rental priorities at the Kelowna Community Theatre, the following system of booking will be utilized.

- Kelowna Community Theatre no longer employs a Traditional User system for priority bookings.
- Hold dates are not rolled forward automatically. All users are required to make all bookings in writing in accordance with the specified timeline for each booking type.
- All hold dates may be challenged.
- Hold dates for prior Traditional Users already booked with KCT will be honoured to the end of 2022.

The priority of bookings procedure describes the order in which priority will be given to events booked at KCT provided they meet the specified seasonal timeline for requests at each priority level.

- Performance season runs from September 1 to August 31.
 - In order to be eligible for Level 2 & 3 priority booking, season or performance series event dates must be requested by April 30.
- Peak season runs from May 1 to August 31.
 - With the exception of Priority 2 & 3, requests for event dates during the peak season period may only be made one (1) year in advance.
 - Booking requests for dates by Returning Users during this period must be made by July 15.
 - All other requests will be handled on a first-come-first-served basis beginning August 1.

4.15 The Kelowna Community Theatre strives to follow the priority order as defined below:

1. City of Kelowna
2. Local non-profit users who are booking a season or performance series of three (3) or more events AND receive Professional Arts Organization funding from the City of Kelowna (eligible to book up to three (3) seasons in advance)
3. Returning users booking a season or performance series (eligible to book two (2) seasons in advance)
4. Returning users booking multi-day events (eligible to book two years from the desired date)
5. Returning users booking single day events (eligible to book two years from the desired date in advance).
6. New Users booking multi-day events (eligible to book one (1) year from the desired date in advance.
7. New Users booking single day events (eligible to book one (1) year from the desired date in advance.

4.16 Event dates within one year of the current date can be held at any time on a first come first served basis. Should a hold exist on a date that another group wants, a challenge system procedure exists that clearly identifies the process (see 4.3).

- Priority Level 2 events may submit their requests three (3) seasons ahead of the current season. Example: In April of 2021, groups hosting events that meet the criteria of priority 2 can submit a request to hold their dates three (3) seasons from the priority booking deadline of April 30 up to and including August 31, 2024.
- Priority Level 3 events may submit their requests two (2) seasons ahead of the current season. Example: In April 2021, groups hosting events that meet the criteria of priority 3 can submit a request to hold their dates two (2) seasons from the priority booking deadline of April 30 up to and including August 31, 2023.
- Priority Level 4 or 5 events may submit their requests two (2) years from the desired date. Example: On April 1, 2021 groups hosting events that meet the criteria of priority 4 or 5 can submit a request to hold their dates two (2) years up to and including April 1, 2023.
- Priority Level 6 or 7 events may submit their requests one (1) year from the desired date. Example: On April 1, 2021, groups hosting events that meet the criteria of priority 6 or 7 can submit their date up to and including April 1, 2022.

4.17 Once the specified timeline has passed the event has no priority over other events that are eligible to hold a date.

- 4.18** Where multiple users apply for the same date within the specified timeline:
- a. The Theatre Manager will attempt to achieve a positive solution for all parties involved through discussion and negotiation.
 - b. Should this not be possible, the groups will be required to commit to the date with a signed contract as per the challenge process.
 - c. Should both groups be willing and able to contract and pay the non-refundable deposit, the decision will be based on the following criteria:
 - i. The length of booking (the more days, the higher priority)
 - ii. Prior booking history of the date in question
 - iii. At the discretion of the Divisional Director of Active Living & Culture or their designate
 - d. The date of request, as long as it is received within the specified period, will not be used as a factor to determining priority among groups. All requests made in the appropriate time period will be considered equally.

The fee(s) for bookings made for future years will be the fee(s) in effective at the time of the event and not at the time of the signed agreement.

5 Rental Deposit

- 5.1** All bookings, except the Main Stage, require payment in full, no later than 30 days prior to the booked date, unless ticketing for the event is being conducted by the KCT Box Office and revenue is expected to exceed the rental rate.
- 5.2** Main Stage Bookings, where ticketing is being conducted by the KCT Box Office, do not require a rental deposit. For un-ticketed events, the City reserves the right to require a rental deposit up to the full Basic Fee dependent on their history with KCT.

6 Cancellations

Cancellation by Agreement Holder:

- 6.1** All bookings, except the Main Stage, may be cancelled up to 30 days prior to the booking without penalty. Within 30 days, the full rental fee will be retained.
- 6.2** Main Stage Bookings are subject to the full Basic Fee regardless of the number of days' notice provided of the cancellation. A transfer of dates may be permitted where the request is made not less than 90 days prior to the booking and space is available. All challenged dates are non-refundable/non-transferable.

7 Damage Deposit:

The Agreement Holder is liable for any damages and may be required to provide a Deposit to the City in advance of the event. The City reserves the right to determine the amount of the Damage Deposit based on the nature of the event and the Agreement Holder agrees that the City may keep all or part of the Deposit as a payment toward the repair of damage to the Facility and/or to cover any outstanding charges. If damages Fees exceed the amount of the deposit the Agreement Holder will pay all additional amounts owed. Even though the City may keep the Deposit, the City is still entitled to pursue other legal remedies to pursue amounts owing from the Agreement Holder.

8 Box Office

Box office and ticketing – As of August 1, 2022, the City of Kelowna operates its own box office and ticketing service. All Main Stage performances are required to ticket their events through the KCT Box Office. For existing rental contracts prior to this date, a transition plan must be established, contact the Theatre Manager for details.

All mainstage rentals will be required to ticket their events through the KCT Box Office.

9 Babes-in-Arms

9.1 Everyone entering the KCT to attend a performance requires a ticket, with the exception a Babe-in-Arms or anyone attending a free and open event. A "Babe-in-Arms" is an infant who meets all of the following criteria:

- is not yet walking; and
- is under the age of two (2) years; and
- does not require an individual seat; and
- is accompanied by and held by the parent/guardian for the duration of the event.

Any infant that does not meet the above criteria must have a regular seat assigned and ticket purchased.

9.2 "Babes-in-Arms" will be allowed entry to a ticketed performance at KCT under the following conditions:

- Patrons are to present themselves at the box office window to receive a pass by indicating their name, contact information, seat location, and the date/time of performance for emergency purposes. Passes are not issued in advance.
- To avoid interruption to others, patrons with infants are encouraged to book seats close to an aisle for easy entry/exit.
- Patrons whose infants are disrupting a performance will be asked to remove themselves to the lobby and may continue to observe the performance in progress through the live feed on the close-circuit televisions.
- Patrons with infants re-entering from the lobby may be asked to wait for a suitable break in performance to be re-seated.

10 Settlement

10.1 All fees owing to the City of Kelowna by the Agreement Holder will be deducted from the revenue collected by the box office.

10.2 The Agreement Holder is responsible for fees owing to the City after the settlement where the fees charged exceed the revenue collected. The Agreement Holder shall be invoiced for the difference.

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10.3 The City reserves the right to withhold funds at any time as the City determines to be necessary for the processing and settlement of all refunds, disputed charges, chargebacks, customer complaints, allegations of fraud, and other discrepancies and as otherwise permitted pursuant to the Agreement.

11 Ticket Fees

11.1 Ticket pricing is solely determined by the Agreement Holder. The Agreement Holder is responsible for ensuring that all taxes are included in the ticket price and is solely responsible for remitting those taxes.

11.2 The City will add a basic service fee, a Capital Improvement Fee, and applicable taxes to each admission paid, by donation or complimentary.

11.3 KCT reserves the right to receive six complimentary tickets for each performance.

12 Account Settlement

12.1 The City will forward those monies owing to the Agreement Holder no later than 10 business days after the conclusion of the Event. If the Event has not taken place, the City will hold the money in trust until such time that the Event actually takes place (and for up to five business days thereafter) or the City receives a written request from the Agreement Holder to refund the monies to ticket purchasers due to the Event being cancelled.

12.2 The City reserves the right to withhold funds at any time as the City determines to be necessary for the processing and settlement of all refunds, disputed charges, chargebacks, customer complaints, allegations of fraud, and other discrepancies and as otherwise permitted pursuant to this Agreement.

12.3 Any credit card chargebacks initiated by a purchaser for any reason with respect to the Event will be charged back to the Presenter.

13 Event Cancellation

The Agreement Holder will notify the City promptly upon the cancellation of the Event. Upon the cancellation of the Event, the Agreement Holder will be liable for any permitted refund of monies paid for the Event by ticket purchasers. The Fees are not refundable. The Presenter will also be required to pay KCT the amount of any reasonable costs incurred as a result of the cancellation. Reasonable costs include, but not limited to staffing costs and transaction costs.

14 Customer Service, Disputes and Refunds

14.1 The Agreement Holder is responsible for the accuracy of the information it provides to the City. The City assumes no responsibility or liability for disputes or misunderstandings arising from sales of tickets. Notwithstanding this, the City will make reasonable attempts to ensure the best customer service is available in resolving any misunderstanding or disputes.

14.2 KCT reserves the right to make a refund or exchange a ticket to correct a ticketing error or to resolve a customer complaint. The City will make reasonable attempts to contact the Presenter to advise of the situation prior to making this refund or exchange.

15 Ticketing Platform

15.1 The Agreement Holder acknowledges and accepts that the City has entered into an agreement with a ticketing platform ("Platform Agreement") for the use of its ticketing systems for inventory control and to facilitate the sales transaction.

15.2 The Agreement Holder further acknowledges and accepts that the City's obligations under this Platform Agreement are subject to its obligations under the Platform Agreement and that the term of this Agreement will not extend beyond the term of the Platform Agreement.

16 Promotions and Marketing

16.1 The City has available marketing packages to promote the sale of event tickets.

- 16.2** The Agreement Holder agrees to promote the City as a source for tickets for the Event in manners appropriate with the Agreement Holder's communications options.
- 16.3** The City retains all control over the City's website, and any of its content including advertising and promotion of other events and sponsor recognition.
- 16.4** Marketing packages are designed to supplement the Agreement Holders marketing efforts. Neither KCT nor the City of Kelowna assume any responsibility for undersold events.

17 Privacy

- 17.1** All information collected by the City in connection with the Event is governed by the City's Privacy Policy, a copy of which is available on the City's website, which is incorporated by reference into this Agreement. The Agreement Holder should note that the City may use information it receives or collects regarding ticket purchasers in accordance with the terms of its Privacy Policy, which may include use for marketing or promotion of other events or services.
- 17.2** At the time a ticket is purchased, the City will ask the ticket purchaser for consent to the City providing the purchaser's contact information to the Agreement Holder. If the purchaser consents, the City will provide this contact information to the Presenter no later than 10 business days after the conclusion of the Event.
- 17.3** The City may insert a link (to be provided by the Agreement Holder) in the event information section of the website where online ticket buyers can go to sign up to receive information directly from the Agreement Holder. The Agreement Holder will be responsible for ensuring that it is in compliance with applicable legislation.