

ARTICLE XIX
Amusement Tax

§ 39-1901. [Ch. 39, Sec. 401] Definitions.

For the purposes of this Article XIX, the following definitions apply unless the context clearly indicates or requires a different meaning:

AMUSEMENT — Includes the provision of exhibitiv entertainment, including, but not limited to, the following activities and sports:[**Amended 2-14-2022 by Ord. No. 2022-5**]

- A. Any theatrical, dramatic, musical or artistic performance;
- B. Any motion picture show or movie;
- C. Any video, videotape or digital versatile disk (DVD);
- D. Any paid television or other programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite or other means;
- E. Any video streaming, audio streaming or remotely accessed online games made available to patrons on a pay-per-use, rental or other subscription basis, but not transactions where the patron pays for the rights of permanent use; [**Amended 7-11-2022 by Ord. No. 2022-66**]
- F. Any carnival, athletic contest, sport or game, including, but not limited to, archery, shooting galleries and shooting ranges, boxing, wrestling, skating, dancing, swimming, racing or riding animals or vehicles, baseball, basketball, softball, football, tennis, racquetball, handball, golf, hockey, track and field games, soccer, rugby, bowling, billiards and pool games.

GROSS RECEIPTS — All fees or charges received or collected in the form of admission fees or other charges for admission to or for the use or rental of any amusement for the purpose of witnessing, participating in, or utilizing any amusement regardless of whether such fees or charges are characterized as admission fees, membership fees, use charges, rent, rental or service charges, exclusive of any other fee or tax imposed by the United States government, the State of Illinois, the City or any other governmental unit. A fee or charge which entitles the patrons in regard to any amusement operated within the corporate limits of the City to bona fide services in addition to, or unrelated to, the witnessing or watching the amusement, will not be subject to the tax provided for in this section, provided, however:

- A. Where a fee or charge is comprised of identifiable components, packages or tiers, the tax provided for in this Article XIX will be imposed on any such components, packages or tiers that (a) provide solely for admission to any facility for the purposes of witnessing any amusement, or (b) are a condition precedent to being granted permission to witnessing or watching any amusement; and
- B. Where a single fee or charge for admission to any facility for the purpose of witnessing any amusement also entitles the patron of the amusement to the

incidental use of appurtenant services or facilities, the tax provided for in this Article XIX will be imposed on such fee or charge, provided the predominant activity of the facility is an amusement, unless an allocation order has been issued as provided for in § 39-1906 of this Article XIX.

OWNER — [Amended 2-14-2022 by Ord. No. 2022-5]

- A. Any person having an ownership interest in or conducting the operation of a place or business which provides amusements.
- B. With respect to the owner of an amusement, any person who has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds from the operation, conduct or presentation of such amusement, excluding proceeds from nonamusement services and from sales of tangible personal property.
- C. With respect to the owner of an amusement, any person operating a community antenna television system or wireless cable television system, or any person receiving consideration from the patron for furnishing, transmitting or otherwise providing access to paid television programming.

PAID TELEVISION — Programming that can be viewed on a television or other screen, and is transmitted by cable, fiber optics, laser, microwave, radio, satellite or other means to members of the public for consideration. **[Added 2-14-2022 by Ord. No. 2022-5]**

PATRON — [Added 7-11-2022 by Ord. No. 2022-66]

- A. Any person admitted to any amusement in the City for which an admission fee or charge is imposed;
- B. Any person who purchases or otherwise acquires a ticket or pass of any kind from a place other than the location where such ticket or pass is purchased or acquired for admission to any amusement within the City;
- C. Any person with a billing address in the City of Bloomington who purchases the right to access an amusement as defined in Subsection E of the definition of "amusement" in this section.

PERSON — Any natural individual, firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.¹

§ 39-1902. [Ch. 39, Sec. 402] Tax imposed. [Amended by Ord. No. 2014-33; 2-14-2022 by Ord. No. 2022-5]

- A. A tax is hereby imposed upon all persons operating amusements within the corporate limits of the City, and upon all persons operating places which provide amusements within the corporate limits of the City in an amount equal to 4.0% of

1. Editor's Note: The definition of "subscription video programming service," added by Ord. No. 2017-28, which immediately followed this definition, was repealed 2-14-2022 by Ord. No. 2022-5.

the gross receipts for each amusement. This tax will be in addition to all other fees and taxes imposed by law.

- B. Any person subject to the amusement tax may separately itemize and charge to patrons in addition to any admission fee or other charge, the amount of amusement tax attributable to the admission fee or other charge. In the event the tax imposed by this section is not shown or collected as a separate charge, all admission fees or other charges shall be deemed exclusive of the amusement tax specified hereinabove.
- C. In the case of amusements that are delivered electronically to mobile devices, as in the case of video streaming, audio streaming and online games, the rules set forth in the Illinois Mobile Telecommunications Sourcing Conformity Act, 35 ILCS 638, as amended, may be utilized for the purpose of determining which customers and charges are subject to the tax imposed by this article.

§ 39-1903. [Ch. 39, Sec. 403] Books and records: inspection; contents.

- A. The Owner shall be subject to the audit, inspection and recordkeeping provisions of Article XV, commonly referred to as the Tax Rights and Responsibility Ordinance. To the extent reasonably possible, entry will be conducted in a manner that is least disruptive to the business of the place providing amusements.
- B. It will be unlawful for any person to prevent, hinder, or interfere with the City Finance Director, the City Treasurer or their duly designated deputies or representatives in the discharge of their respective duties in the performance of this subsection. It is the duty of every Owner which provides amusements to keep accurate and complete books and records to which the City Treasurer, the City Finance Director or their respective deputies or representatives will at all times have full access. **[Ord. No. 2014-33]**

§ 39-1904. [Ch. 39, Sec. 404] Transmittal of tax revenue by owner. [Amended by Ord. No. 2017-28; 2-14-2022 by Ord. No. 2022-5]

- A. Each owner that provides amusements must file tax returns showing the gross receipts received during each calendar month period upon forms provided by the City Finance Director. Returns for each calendar month will be due on or before the 25th day of the next calendar month, (e.g. the return for January shall be due on or before the 25th day of February; the return for February shall be due on or before the 25th day of March; etc.). Notwithstanding the foregoing, in the event that the owner of the place which provides amusements is allowed to file Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns with the Illinois Department of Revenue at intervals which are greater than monthly, that owner will be allowed to file tax returns relative to the tax imposed by this Article XIX with the City at the same intervals. At the time of the filing of said tax returns, the owner will pay to the City Treasurer all taxes due for the period to which the tax return applies.
- B. If, for any reason, any tax due pursuant to this § 39-1904 is not paid when due,

penalties and interest will be imposed in accordance with the provisions of Article XV, § 39-1511, of this Chapter 39.

- C. Any person filing a return may retain 1% of the tax they collect to reimburse them for expenses incurred in connection with collections and remitting the tax.
- D. For purposes of this article, it shall be presumed that the amount of the amusement tax imposed on each person, unless the taxpayer or tax collector provides otherwise with books, records or other documentary evidence, has been collected from the person by the owner. The ultimate incidence of the streaming tax shall remain on the person and shall never be shifted to the owner.

§ 39-1905. [Ch. 39, Sec. 405] Registration. [Ord. No. 2014-33]

Every owner which provides amusements in the City will register with the Finance Department by July 31, 2014 or the date of becoming such an owner, whichever is later.

§ 39-1906. [Ch. 39, Sec. 406] Allocation orders.

- A. A person, obligated to pay the tax provided for in this Article XIX may apply for an allocation order by submitting a written application to the Finance Department, on a form provided by the Finance Department, together with an application fee in an amount established from time to time by the Finance Director.
- B. The Finance Director will select a reasonable time and place for a hearing upon each application, provide the applicant with written notice of the hearing date, by certified mail, not less than 15 days prior to such hearing, and preside over the hearing. Any person or owner may appear at the hearing or by attorney. The Finance Director will forward written recommendations to the City Manager within 30 days of the close of such hearing.
- C. The Finance Director will not recommend, and the City Manager will not issue an allocation order unless the applicant establishes, by clear and convincing evidence at the hearing, that a specific portion or portions of the fee or charge is attributable to nonamusement items, services or facilities. An allocation order will set forth the specific portion or portions of the fee or charge attributable to nonamusement items, services or facilities and the specific portion or portions attributable to an amusement. From and after the issuance of an allocation order, the owner named in the allocation order will pay the tax imposed under this Article XIX, with respect to the subject fee or charge, based only upon the portion or portions of the subject fee or charge attributable to the amusement. **[Ord. No. 2017-28]**

§ 39-1907. [Ch. 39, Sec. 407] Exemptions.

- A. The provisions of this section do not apply to any amusement sponsored and conducted by, and the proceeds of which inure exclusively and solely to the benefit of, any bona fide religious, charitable, or not-for-profit person or organization; provided, however, that such person or organization has received an exemption from the State of Illinois and the United States Internal Revenue Service exempting

that person or organization from the payment of state and federal income taxes.

- B. The provisions of this section do not apply to any non-City operated amusement whenever both of the following conditions exist:
- (1) The amusement is operated or conducted by a park district, a school district, a public or private university, any other unit of local government, or interscholastic organization, whether individually or jointly; and
 - (2) The place where the amusement is conducted is owned by a park district, a school district, a public or private university, or any other unit of local government, whether individually or jointly. **[Ord. No. 2014-33]**

§ 39-1908. [Ch. 39, Sec. 408] Collection. [Amended by Ord. No. 2014-33; 2-14-2022 by Ord. No. 2022-5]

Whenever any person shall fail to pay the tax imposed by this Article XIX, the City Attorney will, upon request of the City Manager, bring or cause to be brought an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction.

§ 39-1909. [Ch. 39, Sec. 409] Suspension of licenses. [Ord. No. 2014-33]

If the City Manager, after a hearing held by him or for him by his designee, shall find that any person has willfully avoided the payment of any tax imposed by this Article XIX, he may suspend or revoke all City licenses held by such tax evader. The person shall have an opportunity to be heard at such hearing to be held not less than 15 days after being mailed notice, by certified mail, of the time when and the place where the hearing is to be held, addressed to said person at said person's last know place of business or home address. Any suspension or revocation of any license(s) shall not release or discharge the person from his civil liability for the payment of the tax nor from prosecution for such offense.

§ 39-1910. [Ch. 39, Sec. 410] Penalties.

- A. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or unlawfully resisting or opposing the enforcement of any of the provisions of this Article XIX, except when otherwise specifically provided, upon conviction will be punished by a fine of not less than \$200 nor more than \$750 for the first offense, and not less than \$500 nor more than \$750 for the second and each subsequent offense in any 180-day period.
- B. Each day upon which a person continues any violation of this Article XIX, or permit any such violation to exist after notification thereof, will constitute a separate and distinct offense.
- C. Any person subjected to the penalties provided for by this § 39-1910 will not be discharged or released from the payment of any tax due.
- D. Notwithstanding any of the foregoing provisions of this section, the penalties for

late payment or late filing described in Article XV shall be the exclusive remedies against an owner which files either the tax return or tax payment after the due date but before the City issues a notice of tax delinquency. After the City issues a notice of tax delinquency, the Owner may be liable for both the failure to file penalty described in Article XV and for the penalties for violating this chapter as herein described. **[Ord. No. 2014-33]**

§ 39-1911. [Ch. 39, Sec. 411] Rules and regulations. [Ord. No. 2017-28]

The Finance Director shall cause the provisions of this article to be enforced and administered and in order to do so is authorized to promulgate and publish such rules and regulations and make such rulings and decisions not in conflict with this article which he/she may deem necessary to administer and enforce the provisions of this article.