

40-O-99

**AN ORDINANCE
ESTABLISHING AN AMUSEMENT TAX**

WHEREAS, the City of Evanston (the "City") is a home-rule municipality in accordance with the constitution of the State of Illinois 1970, and

WHEREAS, the City has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the health, safety and welfare of its citizens, and

WHEREAS, in exercise of its home-rule authority, the City Council, has found and determined that the establishment of a tax on a charge or fee for amusement within the City is in the best interest of the public health, safety, and welfare of its citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, ILLINOIS, as follows:

SECTION 1: That Title 2 of the Evanston City Code of 1979, as amended, is hereby further amended by adding a new **Section 3-2-18: Amusement Tax**, which reads as follows:

3-2-18-1: Amusement Tax. A tax of four (4%) on the admission fee or charge is imposed upon every amusement patron for the privilege of admission to any amusement in the City provided, however, that the amusement tax shall not apply to the following:

- A. Governmental agencies;

- B. Religious societies or organizations;
- C. Live performances conducted or sponsored by not-for-profit institutions, organizations, groups or societies where no part of the net earnings inure to the benefit of any private shareholder or person.

3-2-18-2: Definitions. For purposes of this Section 3-2-18, the following terms, phrases, and words shall have the meanings given to them in this Section.

A. Amusement means any event, exhibitions, performance, presentation, or show for amusement purposes which is exhibited or staged in the City, including, but not limited to, the following:

1. Any comedic, theatrical, dramatic, musical, opera, or spectator performance (except athletic contests) or production, or similar live or recorded amusement;
2. Any show, motion picture show, antique or flower show, speech or lecture;
3. Any exhibition of art or handicrafts or products;
4. Any poultry or animal show, animal act, circus, or rodeo.

B. Admission fee or charge means any fee or charge made or received for admission to any amusement, whether or not represented by a ticket or admission stub or receipt of any kind. An admission fee or charge includes, but is not limited to, all fees or charges for seats, chairs, tables, benches, space to stand or sit, special seating area, tent, structure, booth,

or other similar accommodations made as aforescribed for which there is a fee or charge.

C. Amusement patron means:

1. Any person admitted to any amusement in the City for which an admission fee or charge is imposed;

2. 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.

D. Owner means (1) with respect to the owner of a place where amusement is being held, any person with an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate amusement in such place; (2) with respect to the owner of an amusement, any person which 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 non-amusement services and from sales of tangible personal property.

E. Person means any natural individual, firm, society, foundation, institution, partnership, limited liability company, association, joint stock company,

joint venture, public or private corporation, receiver, executor, trustee or other representative appointed by the order of any court, or any other entity recognized by law.

3-2-18-3: Computation of Amusement Tax. For the purpose of determining the amount of the amusement tax due under this article, admission fees or charges shall be computed exclusive of the amusement tax, any federal or state taxes imposed upon the amusement patron and any separately stated charges for non-amusement services or for sales of tangible personal property.

3-2-18-4: Collection, Payment and Accounting.

A. It shall be the duty of every owner, manager or operator of amusement or of a place where an amusement is being held to secure from each patron the tax imposed by this article and to remit the tax to the finance department of the City not later than the last day of each calendar month for all admission fees or other charges received during the immediately preceding calendar month. A verified statement of admission or charges in a form prescribed by the finance director shall accompany each remittance. Acceptance by the City of any amount tendered in payment of the tax shall be without prejudice to any claim, demand or right on account of any deficiency.

B. Canceled admission tickets, stubs, receipts, and complete and accurate records, books and accounts in detail of all receipts shall be kept at the place of amusement or such other place in the city as may be designated in writing by the person liable for collection of the tax, addressed to the finance director. All

such books, records and accounts shall be open to inspection by the finance director, or his designee, at all reasonable times during regular business hours.

C. Every owner, manager or operator who is required to collect the tax imposed by this article shall be considered a tax collector for the City. All amusement taxes collected shall be held by such tax collector as trustee for and on behalf of the City. The failure of the tax collector to collect the tax shall not excuse or release the patron from the obligation to pay the tax.

D. In order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, the tax imposed by this article unless the person files a claim for refund or credit within one year after the date on which the tax was paid or remitted to the finance department of the City.

3-2-18-5: Penalties.

A. It is unlawful for any person to produce, present or conduct any amusement, without collection of the amusement tax, except as otherwise provided in this article.

B. If the person required to collect the amusement tax falls to remit amusement taxes to the finance department of the City within 10 days after such remittance is due, a penalty of 10 percent of the amusement taxes due shall be assessed against such person. Additionally, interest shall be due upon any such unpaid amusement taxes at a rate of 1 percent per month commencing on the first day of the month immediately following the month in which such amusement taxes were required to be remitted to the finance department of the City.

C. Any person who violates any of the provisions of this article shall, upon conviction thereof, be punished by a fine of not less than \$500 nor more than \$1,000. Each fee or charge paid by a person for admission for amusement without payment of the tax shall constitute a separate offense. All fines shall be in addition to the unpaid amusement taxes plus interest and penalties. The payment of a fine shall not relieve the person so fined from liability for the tax herein provided.

SECTION 2: Each provision of this ordinance is severable. If any provision of this ordinance or the application of any provision of this ordinance to any person or circumstance is held invalid, the remainder of this ordinance and the application of the provisions of this ordinance to other persons or circumstances shall not be affected thereby and shall remain valid, enforceable, and otherwise in full force and effect.

SECTION 3: That all Ordinances or parts of Ordinances conflicting with this Ordinance be and the same are hereby repealed.

SECTION 4: That this Ordinance shall be in force and effect from and after its passage, approval, and publication in the manner provided by law.

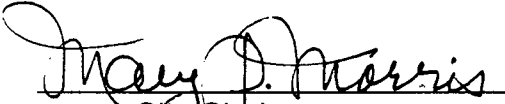
Introduced: March 22, 1999

Adopted: April 5, 1999

Approved April 9, 1999

Edmund B. Moran, Jr.
Mayor pro tem

ATTEST:



City Clerk

Approved as to form:



Corporation Counsel

