

122-O-17

AN ORDINANCE

Amending Portions of the City Code to Standardize Home Rule Taxes for Due Dates, Deductions Provided, and Late Fees Assessed

NOW BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: Section 3-2-1(D) "Athletic Contest and Exhibitions Tax" within the Evanston City Code of 2012, as amended ("City Code"), is hereby amended to read as follows:

(D) *Payment.* The athletic tax must be paid to the City Collector not later than the twentieth day of each calendar month for all gross receipts during the preceding calendar month. A verified statement of such gross receipts in the form prescribed from time to time by the City Collector must accompany the payment. Acceptance by the City of any amount tendered in payment of the tax is without prejudice to any claim, demand or right on account of any deficiency. Canceled admission tickets and complete and accurate records, books and accounts in detail of all such gross receipts must be kept in the offices of the person engaged in conducting the athletic contests or exhibitions within the City, or such other place as may be designated in writing by the person liable to the tax. The City Collector must have access to the canceled admission tickets, records, books and accounts at all reasonable times for auditing purposes. All taxes imposed by this Section 3-2-1 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month of the tax due.

SECTION 2: Section 3-2-2(D) "Athletic Contests and Exhibitions Attendance Tax" within the City Code is hereby amended to read as follows:

(D) The admission tax must be paid to the City Collector no later than the twentieth day of each calendar month for all gross receipts during the preceding calendar month. A verified statement of such gross receipts in the form prescribed from time to time by the City Collector must accompany the payment. Acceptance by the City of any amount tendered in payment of the tax is without prejudice to any claim, demand or right on account of any deficiency. Canceled admission tickets and complete and accurate records, books and accounts in detail of all such gross receipts must be kept in the

offices of the persons engaged in conducting such athletic contests or exhibitions within the City, or such other place as may be designated, in writing, by the person liable for the tax. The City Collector must have access to the canceled admission tickets, records, books and accounts at all reasonable times for auditing purposes. All taxes imposed by this Section 3-2-2 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month of the tax due.

SECTION 3: Sections 3-2-4-4 and 3-2-4-5 of the "Hotel-Motel Tax"

Chapter within the City Code are hereby amended to read as follows:

3-2-4-4. - ADMINISTRATION AND ENFORCEMENT.

The City Manager or his/her designee is hereby designated as the administration and enforcement officer of the tax hereby imposed on behalf of the City. It is the responsibility and duty of the City Manager or his/her designee to collect all amounts due the City from the owners, operators and licensees of motels and hotels within the City.

The sworn monthly return for each completed calendar month is due within twenty (20) days of the completion of the calendar month. At the time of filing such tax returns, the owner, operator or licensee must pay to the City Manager or his/her designee all taxes due for the period to which the tax return applies.

The City Manager or his/her designee, or any person certified by him/her as his/her deputy or representative, may enter the premises of any hotel or motel for the purposes of inspection and examination of its books and records for the proper administration of this Section, and for the enforcement of collection of the tax hereby imposed. It is unlawful for any person to prevent, hinder or interfere with the City Manager or his/her designee or his/her duly authorized deputy or representative in the discharge of his/her duties hereunder.

3-2-4-5. - ENFORCE PAYMENT OF TAX.

In the event of failure by any hotel or motel owner, operator or licensee to collect and pay to the City Manager or his/her designee the tax required hereunder within 20 days following the completion of the calendar month, a late fee penalty of ten percent (10%), per month, of the tax.

SECTION 4: Subsections 3-2-9-4 and 3-2-9-5 of the "Municipal Utility Tax"

Section within the City Code are hereby amended to read as follows:

3-2-9-4. - RETURNS, PAYMENT OF TAX.

- (A) On or before the twentieth day of every month, the taxpayers described in Section 3-2-9-2 of this Chapter must make a return to the City Finance Director. Said return must state:
1. Name;
 2. Principal place of business;
 3. Gross receipts during those months upon which the basis of the tax is imposed;
 4. Amount of tax;
 5. Such other reasonable and related information as the corporate authorities may require.
- (B) The taxpayer making the return herein provided for must, at the time of making such return, pay to the City Finance Director the amount of tax herein imposed; provided, that in connection with any return the taxpayer may, if he/she so elects, report and pay an amount based upon his/her total billings of the business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any difference between such billings and the taxable gross receipts.
- (C) If it appears that an amount of tax has been paid which was not due under the provisions of this Section, whether as the result of a mistake of fact or an error of law, then such amount must be credited against any tax due, or to become due, under this Section, from the taxpayer who made the erroneous payment; provided, that no amounts erroneously paid more than three (3) years prior to the filing of a claim therefor will be so credited. If a taxpayer under this Section is unable to use a credit authorized by this Subsection solely because the tax imposed by Section 3-2-9-2 of this Chapter has been replaced by the tax imposed under Section 3-2-9-9 of this Chapter, then the taxpayer may apply such credit against any tax due under said Section 3-2-9-9.
- (D) No action to recover any amount of tax due under the provisions of this Section will commence more than three (3) years after the due date of such amount.

3-2-9-5. - FAILURE TO MAKE RETURN; FRAUDULENT RETURN.

Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Section will be fined not less than five hundred dollars (\$500.00), and in addition will be liable in a civil action for the amount of tax due, plus interest and costs.

All taxes imposed by this Section 3-2-9 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month, or fraction thereof. The tax by this Section must be collected by any person pursuant to this Section and constitutes a debt owed by the person to the City.

SECTION 5: Sections 3-2-9-7-3 and 3-2-9-7-5 of the "Evanston Gas Use

Tax" Chapter within the City Code are hereby amended to read as follows:

3-2-9-7-3. - TAX IMPOSED.

- (A) Except as otherwise provided by this Section 3-2-9-7, a tax is imposed on the privilege of using or consuming gas in the City that is purchased in a sale at retail at the rate of 2.5 cents (\$0.025) per therm.
- (B) The ultimate incidence of and liability for payment of the tax is on the retail purchaser, and nothing in this Section 3-2-9-7 must be construed to impose a tax on the occupation of distributing, supplying, furnishing, selling or transporting gas.
- (C) The retail purchaser must pay the tax, measured by therms of gas delivered to the retail purchaser's premises, to the public utility designated to collect the tax pursuant to Section 3-2-9-7-5 of this Chapter on or before the payment due date of the public utility's bill first reflecting the tax, or directly to the Finance Director on or before the twentieth day of the second month following the month in which the gas is delivered to the retail purchaser if no public utility has been designated to collect the tax pursuant to Section 3-2-9-7-5 of this Chapter or if the gas is delivered by a person other than a public utility so designated.
- (D) To prevent multiple taxation, the use of gas in the City by a retail purchaser will be exempt from the tax imposed by this Section 3-2-9-7 if the gross receipts from the sale at retail of such gas to the retail purchaser are properly subject to a tax imposed upon the seller of such gas pursuant to the City's municipal utility tax, Section 3-2-9 of this Chapter, as amended from time to time, authorized pursuant to 65 ILCS 5/8-11-2.
- (E) A purchaser who purchases gas for resale and therefore does not pay the tax imposed by this Section 3-2-9-7 with respect to the use or consumption of the gas, but who later uses or consumes part or all of the gas, must pay the tax directly to the Finance Director on or before the twentieth day of the second month following the month in which the gas is used or consumed.
- (F) The tax will apply to gas for which the delivery to the retail purchaser is billed by a public utility.
- (G) The tax will not apply to the use or consumption of gas by:
 1. A public utility engaged in the business of distributing gas; or
 2. A school district created and operating under the school code of the state; or
 3. A unit of local government.

3-2-9-7-5. - COLLECTION OF TAX.

- (A) The Finance Director is authorized to enter into a contract for collection of the tax imposed by this Section 3-2-9-7 with any public utility providing gas service in the

City. The contract must include and substantially conform with the following provisions:

1. The public utility will collect the tax with respect to gas delivered by it to its customers as an independent contractor;
2. The public utility will remit collected taxes to the Finance Director no more often than once each month;
3. The public utility will not be liable to the City for any tax not actually collected from a retail purchaser; and
4. Such additional terms as the parties may agree upon.

(B) A public utility designated to collect the tax imposed by this Section 3-2-9-7 from its customers must bill each customer for the tax on all gas delivered to the customer unless: 1) the customer's use or consumption is exempt from the tax pursuant to a duly passed and authorized ordinance of the City; or 2) the public utility has received written notification from the City that the customer is exempt from the tax.

SECTION 6: Subsections 3-2-9-8-2 and 3-2-9-8-6 of the “*Telecommunications Tax*” Chapter within the City Code are hereby amended to read as follows:

3-2-9-8-2. - COLLECTION OF TAX.

The tax authorized by this Section 3-2-9-8 must be collected from the taxpayer by a retailer maintaining a place of business in this State and making or effectuating the sale at retail and must be remitted by such retailers to the City on or before the twentieth day of every month. Any tax required to be collected pursuant to this Section and any such tax collected by such retailer will constitute a debt owed by the retailer to the City. Retailers must collect the tax from the taxpayer by adding the tax to the gross charge for the act or privilege of originating or receiving telecommunications when sold for use in the manner prescribed by the City. The tax authorized by this Section 3-2-9-8 will constitute a debt of the purchaser to the retailer who provides such taxable services until paid and, if unpaid, is recoverable at law in the same manner as the original charge for such taxable services. If the retailer fails to collect the tax from the taxpayer, then the taxpayer will be required to pay the tax directly to the City in the manner provided by the City.

3-2-9-8-6. - PENALTY.

Any taxpayer who fails to make a return or who makes a fraudulent return, or who willfully violates any other provision of this Section must be fined not less than five hundred dollars (\$500.00), and in addition will be liable in a civil action for the amount of tax due, plus interest and costs.

All taxes imposed by this Section 3-2-9-8 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month, or fraction thereof. The tax by this Section must be collected by any person pursuant to this Section and constitutes a debt owed by the person to the City.

SECTION 7: Sections 3-2-9-9-3, 3-2-9-9-4 and 3-2-9-9-8 of the "*Municipal Utility Electricity Tax*" chapter within the City Code are hereby amended to read as follows:

3-2-9-9-3. COLLECTION OF TAX.

- (A) Subject to the provisions of Section 3-2-9-9-5 of this Chapter regarding the delivery of electricity to resellers, the tax imposed under this Section 3-2-9-9 must be collected from purchasers by the person maintaining a place of business in this state who delivers electricity to such purchasers. This tax will constitute a debt of the purchaser to the person who delivers the electricity to the purchasers and is recoverable at the same time and in the same manner as the original charge for delivering electricity.
- (B) Any tax required to be collected by this Section 3-2-9-9, and any tax in fact collected, will constitute a debt owed to the City by the person delivering the electricity, provided, that the person delivering electricity will be allowed credit of such tax related to deliveries of electricity the charges for which are written off as uncollectible, and provided further, that if such charges are thereafter collected, the delivering supplier will be obligated to remit such tax.
- (C) Persons delivering electricity must collect tax from the purchaser by adding such tax to the gross charge for delivering electricity. For purposes of this Section, any partial payment of a billed amount not specifically identified by the purchasers will be deemed to be for the delivery of electricity.

3-2-9-9-4. – TAX REMITTANCE AND RETURN.

- (A) Every tax collector must on a monthly basis file a return in a form prescribed by the City Finance Director or his/her designee. The return and accompanying remittance will be due twenty (20) days following the completion of the calendar month, following the month during which the tax is collected or is required to be collected under this Chapter.
- (B) If the person delivering electricity fails to collect the tax from the purchaser or is excused from collecting the tax, then the purchaser must file a return in a form prescribed by the City Finance Director or his/her designee and pay the tax directly to the City Finance Director or his/her designee twenty (20) days

following the completion of the calendar month, following the month following the month during which the electricity is used or consumed.

3-2-9-9-8. – FAILURE TO MAKE RETURN; FRAUDULENT RETURN.

If for any reason any tax is not paid when due, a penalty at the rate of ten percent (10%) per month on the amount of tax which remains unpaid will be added and collected. Any taxpayer who makes a fraudulent return; or who willfully violates any other provision of this Section 3-2-9-9 will be fined not less than two hundred dollars (\$200.00), nor more than five hundred dollars (\$500.00), and in addition will be liable in a civil action for the amount of tax due and costs.

SECTION 8: Sections 3-2-12-5 and 3-2-12-8 of the “Municipal Television Consumer Tax” Chapter within the City Code is hereby amended to read as follows:

3-2-12-5. - SUBMIT RETURNS, PAYMENT OF TAX.

The monthly return for each completed calendar month will be due within twenty (20) days of the completion of the calendar month. Each return must state the following:

1. Name;
2. Principal place of business;
3. Gross payment for services in the City as defined in Subsection 3-2-12-4 hereof during the preceding month;
4. Amount of tax;
5. Such other reasonable and related information as the corporate authorities may require.

The persons making the return herein provided for must, at the time of making such return, pay to the City Collector the amount of tax herein imposed; provided, that in connection with any return the person may, if he/she so elects, report and pay an amount based upon his/her total billings of business subject to the tax during the period for which the return is made (exclusive of any amounts previously billed) with prompt adjustments of later payments based upon any differences between such billings and the taxable gross costs.

3-2-12-8. - PENALTY.

Any person who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this Section must be fined not less than two fifty hundred dollars (\$250.00) nor more than five hundred dollars (\$500.00) and in addition, will be liable in a civil action for the amount of tax due. In addition to the foregoing, the City may commence appropriate action in law or equity to enjoin any person providing services covered by this tax who fails to make a return from providing such services within the City.

All taxes imposed by this Section 3-2-12 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month, or fraction thereof. The tax by this Section must be collected by any person pursuant to this Section and constitutes a debt owed by the person to the City.

SECTION 9: Sections 3-2-14-3, 3-2-14-7, and 3-2-14-8 of the "*Liquor Code*" chapter within the City Code are hereby amended to read as follows:

3-2-14-3. - TAX IMPOSED.

A tax is hereby levied and imposed upon the privilege of purchasing beverages containing alcoholic liquor at a lawfully licensed liquor dealer in the City for consumption on or off the premises at the rate of six percent (6%) of the purchase price, exclusive of any other tax charged for such alcoholic liquor.

3-2-14-7. - FILING OF RETURN.

The owner or owners of each lawfully licensed liquor dealer within the City must file tax returns showing tax receipts received during each month period on forms prescribed by the City Manager. The returns will be due on or before the twentieth day of the calendar month succeeding the end of the monthly filing period. At the time of filing said returns, the owner will pay to the City all taxes due for the period to which the tax return applies.

3-2-14-8. - FAILURE TO PAY TAX.

If for any reason any tax is not paid when due, a penalty at the rate of ten percent (10%) per month on the amount of tax which remains unpaid must be added and collected. Whenever any person fails to pay any tax as herein provided, the Corporation Counsel, may bring an action to enforce the payment of said tax on behalf of the City in any court of competent jurisdiction.

SECTION 10: Section 3-2-15-5 of the "*Municipal Parking Tax*" chapter within the City Code is hereby amended to read as follows:

3-2-15-5. - FILING OF RETURN.

- (A) The monthly return for each completed calendar month will be due within twenty (20) days of the completion of the calendar month. Every person operating or conducting a parking lot, parking area, or garage must file tax returns showing tax receipts received with respect to each parking place during each month period ending on the last day of each month upon forms prescribed by the City Manager or his/her designee. At the time of filing said

tax returns, the operator must pay over to the City Manager or his/her designee all taxes due for the period to which the tax return applies.

- (B) All taxes imposed by this Section 3-2-15 and remaining unpaid after they are due will bear interest at a rate of ten (10) percent per month, or fraction thereof.

SECTION 11: Sections 3-2-16-4 and 3-2-16-7 of the "Motor Fuel Tax"

chapter within the City Code are hereby amended to read as follows:

3-2-16-4. - COLLECTION OF TAX.

The dealer must collect the tax imposed by this Section from each purchaser. The monthly return for each completed calendar month will be due within twenty (20) days of the completion of the calendar month and submitted to the Finance Director or his/her designee on such form and in the manner prescribed by the Finance Director or his/her designee. Each report of sale of motor fuel must be accompanied by a remittance of the appropriate amount of tax applicable to the sale reported

3-2-16-7. - FAILURE TO PAY TAX.

Any violation of this Section 3-2-16 will be punishable by a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00). It will be deemed a violation of this Section 3-2-16 for any person knowingly to furnish false or inaccurate information as required herein.

Criminal prosecutions pursuant to this Section will in no way bar the right of the City to institute civil proceedings to recover delinquent taxes, interest and penalties due and owing as well as costs incurred for such proceedings. Civil penalties assessed pursuant to this Section will not exceed five hundred dollars (\$500.00) for each offense.

All taxes imposed by this Section 3-2-16 and remaining unpaid after they are due will bear interest at a rate of ten percent (10%) per month, or fraction thereof. The tax by this Section must be collected by any dealer pursuant to this Section and constitutes a debt owed by the dealer to the City.

SECTION 12: Section 3-2-17-4 and 3-2-17-5 of the "Amusement Tax"

Chapter within the City Code is hereby amended to read as follows:

3-2-17-4. – COLLECTION, PAYMENT AND ACCOUNTING.

- (A) Every owner, manager or operator of amusement or of a place where an amusement is being held must collect from each patron the tax imposed by this Section 3-2-17. The monthly verified return for each completed calendar month shall be due within twenty (20) days of the completion of the previous calendar month. A verified statement of admission or charges in a form

prescribed by the Finance Director must accompany each remittance. Acceptance by the City of any amount tendered in payment of the tax must 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 must 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 will be open to inspection by the Finance Director or his/her 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 Section 3-2-17 will be considered a tax collector for the City. All amusement taxes collected must 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 will not excuse or release the patron from the obligation to pay the tax.

3-2-17-5. - 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 Section 3-2-17.
- (B) If for any reason any tax is not paid on or before the twentieth day of the month, a penalty at the rate of ten percent (10%) per thirty (30) day period, or portion thereof, from the day of delinquency will be added and collected.
- (C) Any person who violates any of the provisions of this Section 3-2-17 shall, upon conviction thereof, be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00). Each fee or charge paid by a person for admission for amusement without payment of the tax will constitute a separate offense. All fines will be in addition to the unpaid amusement taxes plus interest and penalties. The payment of a fine will not relieve the person so fined from liability for the tax herein provided.

SECTION 13: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 14: This ordinance shall be in full force and effect on January 1, 2018.

SECTION 15: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

Introduced: Nov 20, 2017

Adopted: Nov 27, 2017

Approved:

December 4, 2017


Stephen H. Hagerty, Mayor

Attest:



Devon Reid, City Clerk

Approved as to form:


W. Grant Farrar, Corporation Counsel