

EMERGENCY

MSS

2024

MODIFYING Chapter 309, “Admissions Taxes,” of the Cincinnati Municipal Code by **ORDAINING** Sections 309-1-M, “Marketplace Facilitator,” 309-1-P, “Pay; Payment,” 309-1-P2, “Place,” 309-1-R, “Reseller; Resold; Resale,” 309-1-S, “Seller; Sold; Sale,” and 309-1-V, “Vendor”; by **AMENDING** Sections 309-1-A, “Admission,” 309-1-P, “Person,” 309-1-T, “Treasurer,” 309-3, “Rate of Tax,” 309-5, “Admission, Exempt from Tax,” 309-7, “Price to be Marked on Ticket or Displayed,” 309-9, “Monthly and Annual Reports; Contents; Payments of Tax,” 309-11, “Administration of Chapter; Adoption of Rules and Regulations; Records; Bond,” 309-13, “License Required; Application; Contents; Fee; Issuance; Restrictions; Renewal; Suspension or Revocation; Liability of Owner of Premises; Exemptions,” 309-17, “Taxes Made a Lien,” 309-19, “Treasurer May Make Additional Assessment; Notice, Hearing,” 309-21, “Estimated Assessment Made; Penalty; Notice,” 309-23, “Estimated Additional Assessment Made; Penalty; Notice, Hearing,” 309-25, “When Taxes by Assessment are Due and Payable,” 309-27, “Application for Reassessment,” 309-29, “Notices Authorized to be Mailed,” 309-31, “Refunds; Application,” and 309-99, “Penalties”; and by **REPEALING** Section 309-15, “Refund,” to address the application and collection of admission taxes to ticket sales that occur through online marketplaces, and to modernize and standardize the administration of the admissions tax.

WHEREAS, the City levies a three percent tax on all nonexempt charges that are paid for admissions that occur within the City; and

WHEREAS, the means of charging for, selling, and reselling admission have changed substantially since the tax was established, including the advent of electronic ticketing and online sales and resales of admission; and

WHEREAS, these changes require the addition of marketplace facilitators as vendors required to collect and remit the tax to the City, in light of their prominent and central role as financial facilitators between buyers, sellers, and resellers of admissions; and

WHEREAS, the process of applying for admissions tax licenses and for exemptions from the admissions tax for certain activities or places requires updating and clarification to streamline administration of the tax; now, therefore,

BE IT ORDAINED by the Council of the City of Cincinnati, State of Ohio:

Section 1. That Sections 309-1-M, “Marketplace Facilitator,” 309-1-P, “Pay; Payment,” 309-1-P2, “Place,” 309-1-R, “Reseller; Resold; Resale,” 309-1-S, “Seller; Sold; Sale,” and 309-1-V, “Vendor,” of Chapter 309, “Admissions Taxes,” of the Cincinnati Municipal Code are hereby ordained as follows:

Sec. 309-1-M. – Marketplace Facilitator.

“Marketplace facilitator” means a person who owns, operates, or controls a physical or electronic marketplace or other service, including a brokerage service, that facilitates the purchase of admission from a seller or reseller in exchange for a fee or compensation, including by offering services, whether or not contracted through others, to connect sellers or resellers of admission with purchasers or payors, or to process, collect, facilitate, or transmit payments related to the purchase of admission, including through an online portal or online services, computer or mobile applications, or other similar electronic means.

Sec. 309-1-P. – Pay; Payment.

“Pay” means to provide compensation or value in exchange for admission, including without limitation in the form of money or other compensation provided by barter or other agreement, and “payment” means the amount of such compensation or value. If a charge for admission is paid in a form other than money, the amount of the payment subject to the tax imposed by this chapter shall be the fair market value of the admission in money.

Sec. 309-1-P2. – Place.

“Place” means, without limitation, indoor and outdoor theaters, dance halls, ball rooms, amphitheaters, auditoriums, stadiums, movie theaters, athletic pavilions, fields, grounds, parks, centers, arenas, clubs, cabarets, bars, saloons, event spaces and venues, conservatories, convention centers, festivals, carnivals, circuses, sideshows, fairs, amusement parks, arcades, escape rooms, and all other similar locations, whether public or private and whether permanent or temporary, located within the city of Cincinnati, including any locations the treasurer may hereafter designate in rules and regulations adopted pursuant to this chapter.

Sec. 309-1-R. – Reseller; Resold; Resale.

“Reseller” means a person who charges admission by offering for purchase or transfer to another person an admission that previously has been purchased or transferred, whether or not payment was made for the previous purchase or transfer of the admission. Such admissions are “resold” or purchased at “resale.”

Sec. 309-1-S. – Seller; Sold; Sale.

“Seller” means a person who charges admission by offering for purchase or transfer to another person an admission that has not previously been purchased or transferred, whether or not payment is made or to be made for the purchase or transfer of the admission. Such admissions are “sold” or purchased through a “sale.”

Sec. 309-1-V. – Vendor.

“Vendor” means a person receiving, facilitating, or transmitting payment for admission taxable under this chapter who, as trustee for the city of Cincinnati, returns and pays to the treasurer, on behalf of the purchaser or payor, the tax on admission imposed by this chapter.

Vendors include but are not limited to sellers, resellers, distributors, promoters, or other persons who sell or resell admission to a purchaser or payor, and marketplace facilitators, brokers, or other persons who facilitate transactions between sellers or resellers of admission and purchasers or payors, whether in person, telephonically, or through electronic means. A vendor is liable to pay the tax imposed by this chapter if the vendor received, facilitated, or transmitted payment for admission taxed by this chapter, regardless of how the vendor characterizes collection of the tax from the purchaser or payor of admission.

Section 2. That Sections 309-1-A, "Admission," 309-1-P, "Person," 309-1-T, "Treasurer," 309-3, "Rate of Tax," 309-5, "Admission, Exempt from Tax," 309-7, "Price to be Marked on Ticket or Displayed," 309-9, "Monthly and Annual Reports; Contents; Payments of Tax," 309-11, "Administration of Chapter; Adoption of Rules and Regulations; Records; Bond," 309-13, "License Required; Application; Contents; Fee; Issuance; Restrictions; Renewal; Suspension or Revocation; Liability of Owner of Premises; Exemptions," 309-17, "Taxes Made a Lien," 309-19, "Treasurer May Make Additional Assessment; Notice, Hearing," 309-21, "Estimated Assessment Made; Penalty; Notice," 309-23, "Estimated Additional Assessment Made; Penalty; Notice, Hearing," 309-25, "When Taxes by Assessment are Due and Payable," 309-27, "Application for Reassessment," 309-29, "Notices Authorized to be Mailed," 309-31, "Refunds; Application," and 309-99, "Penalties," of Chapter 309, "Admissions Taxes," of the Cincinnati Municipal Code are hereby amended as follows:

Sec. 309-1-A. – Admission.

"Admission" ~~shall mean~~ means:

- (a) ~~A~~ Any charge paid for the right or privilege to enter into a ~~any~~ temporary or permanent place or event or, to use any facilities or grounds, or to participate in any tour or itinerant form of amusement within the city of Cincinnati;
- (b) ~~A~~ Any charge of any type made for ~~paid for~~ tickets, licenses, permits, season tickets, subscriptions, dues, fees, and or memberships providing for the right or privilege to enter into any permanent or temporary place or event, to use any facilities or grounds, or to participate in any tour or itinerant form of amusement within the city of Cincinnati, (whether paid yearly, monthly, weekly, or at any other interval);

- (c) ~~Membership~~ Any charge paid in the form of membership dues paid to every any club or organization maintaining a golf course in within the city of Cincinnati, and greens fees paid to golf courses in within the city of Cincinnati, either under either club or private ownership; or
- (d) ~~Amounts~~ Any charge paid for admission the right or privilege to enter into any public performance for profit or entertainment at any place in within the city in any case in which of Cincinnati, including where the charge for admission is in the form of a service charge, cover charge, or similar charge in whatsoever any form.

Sec. 309-1-P1. – Person.

~~“Person” shall include individuals, firms, partnerships, associations, and corporations, municipalities, and other political subdivisions of the state~~ means any individual, firm, corporation, company, business, partnership, association, municipality, political subdivision of the state, or other legally recognized entity.

Sec. 309-1-T. – Treasurer.

~~“Treasurer” shall mean~~ means the city treasurer of the city of Cincinnati.

Sec. 309-3. – Rate of Tax.

- (a) For the purpose of providing revenue to defray a portion of current expenses and other expenditures of the city of Cincinnati, there is hereby levied a tax of ~~3~~ three percent on the amounts paid for admission ~~in the city of Cincinnati, and, including the amounts paid for resale of admissions~~ admission. ~~This tax excludes amounts paid for any other city taxes or for any state taxes in respect to any admission~~ The amounts taxed as provided in this section shall include all amounts paid in relation to an admission, including service or transaction charges or fees paid in connection with the admission, but shall exclude amounts paid for other taxes in respect to any admission.
- (b) ~~If such charge~~ admission is in the form of a fixed minimum service charge ~~to the admittee which that~~ includes provision of food, beverages, or similar services amenities, the tax shall be computed upon one-third of such fixed minimum service charge.
- (c) The above taxes are to be paid by the purchaser or payor, collected by the vendor as trustee for the city of Cincinnati, and returned and paid by the vendor in the manner and subject to the interest provided ~~in Cincinnati Municipal Code Section by section 309-9.~~
- (d) Marketplace facilitators shall collect and remit to the treasurer any tax due under this chapter on admission that is sold or resold by or through, or using services provided by or through, the marketplace facilitator’s physical or electronic marketplace or any transactional, payment processing, or similar service offered thereby. Marketplace facilitators shall collect and remit such tax according to the

requirements of section 309-9 on behalf of sellers and resellers using the marketplace facilitator's services, regardless of whether such sellers or resellers are licensed.

- (e) Vendors are liable for payment of the admissions tax required to be collected and remitted, regardless of whether such tax has in fact been collected from the purchaser or payor of admission.
- (f) The amounts taxed hereunder shall include service charges paid in connection with sales of admissions; and in In the case of resale of admissions admission, the amount taxed as admission shall be reduced by the price amount paid for such admissions admission by the reselling vendor reseller, exclusive of any tax, provided that such price amount is verifiable to the satisfaction of the city treasurer.

Sec. 309-5. – Admission, Exempt From Tax; Application for Exemption; Exemption Certificate.

- (a) No Except as prohibited in subsections (b) and (c) of this section, no tax shall be levied under this chapter on the following:
 - (1) During the period December 31, 1959, to August 31, 2019, the first \$1.05 of any admission.
 - (2) Any admissions, Admissions, all the proceeds of which inure:(i) Exclusively exclusively to the benefit of religious or educational organizations, or organizations recognized as charitable under Internal Revenue Code Section 501(c)(3), and receiving substantial support from voluntary contributions, if the following persons, provided that the treasurer has determined prior to the initial sale of such admissions that all the proceeds thereof inure exclusively to the benefit of the person and that no part of the person's net earnings thereof inure, if applicable, inures to the benefit of any private stockholder or individual;
 - (A) Organizations determined by the federal internal revenue service to be tax-exempt under section 501(c)(3) of the Internal Revenue Code of 1986, as amended;
 - (ii)(B) Exclusively to the benefit of persons Persons in the military or naval forces of the United States, or of national guard organizations, including reserve officers' associations or organizations, posts, or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such associations, organizations, posts, organizations, units, or societies are organized in the state of Ohio, and if no part of their net earnings inure to the benefit of any private stockholder or individual;

~~(iii)(C) Exclusively to the benefit of employees~~ Employees or employee organizations of any Hamilton County state of Ohio municipal corporation or the dependents or heirs of such members; or

~~(iv)(D) Exclusively to the benefit of a~~ A county agricultural society if no part of the net earnings of said society inures to the benefit of any private stockholder or individual organized under chapter 1711 of the Ohio Revised Code.

~~(3)~~ Admissions, all the proceeds of which inure exclusively to the benefit of organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code of 1986, as amended, but which are exempted from the requirement to apply for tax-exempt status under section 501(c)(3), if no part of their net earnings inure to the benefit of any private stockholder or individual.

~~(4)~~ Admissions, all the proceeds of which inure exclusively to the benefit of a public or private educational institution serving students through the twelfth grade; or

~~(5)~~ Admissions, all the proceeds of which inure exclusively to the benefit the United States government, the state of Ohio, its departments and institutions, and the political subdivisions thereof, including the city of Cincinnati, when acting in their governmental capacities and performing governmental functions and activities, or any entity exempted by the Ohio Revised Code.

~~(b) The exemption from tax provided by this section shall not be allowed in case of admissions to any athletic game or exhibition, the proceeds of which inure wholly or partly to the benefit of any college or university. Notwithstanding any other provision of this section, no exemption from the tax levied by this chapter shall be provided:~~

~~(1)~~ If the admission is purchased from a reseller;

~~(2)~~ If the treasurer determines that any portion of the revenue or proceeds resulting from the purchase of admission is or could be divided or shared with any person not identified in subsection (a) of this section;

~~(3)~~ If the city provides direct or indirect monetary support for operating expenses to the applicant in connection with the admission or during the fiscal year in which the event related to such admission occurs;

~~(4)~~ If the admission relates to any athletic game, contest, or exhibition, except as required by law;

- (5) If a person other than the applicant exercises effective control over, takes business risk regarding, or directs the expenditure of the proceeds of admission or any portion thereof;
 - (6) If the applicant has not obtained a certificate of exemption from the treasurer, or been excused from doing so pursuant to this section or rules and regulations adopted by the treasurer, prior to the commencement of the sale of admission;
 - (7) If the person fails to provide supporting documentation as determined necessary by the treasurer to support the person's application for an exemption; or
 - (8) If the treasurer has revoked or suspended a certificate of exemption related to a place.
- (c) Furthermore, the exemption from the tax provided by this section shall not be allowed if any portion of the proceeds of ticket sales inures wholly or partly to the benefit of any person other than those listed in section (a)(2) above. The tax levied by this chapter shall be due for any admission that does not strictly comply with the requirements of this section, including admission purchased subject to an exemption certificate that is later revoked, admission purchased prior to the issuance of a certificate of exemption, or admission purchased after a certificate of exemption has been or could have been revoked.
- (d) Every person seeking an exemption from the admission tax shall apply to the treasurer for an exemption certificate, except those persons identified in subsections (a)(3) through (5) of this section. Each application shall be made upon a form prescribed, prepared, and furnished by the treasurer and shall set forth:
- (1) The name under which the applicant intends to sell admission;
 - (2) The place or places to which admission shall be sold;
 - (3) The reason the admission should be exempted from the tax; and
 - (4) Such other information as the treasurer may require.
- (e) The applicant shall provide with the application all documentation that the treasurer may require to verify the applicability of the exemption. The application for an exemption shall be signed and verified by oath or affirmation by the person charging admission.
- (f) The treasurer is authorized to issue an exemption certificate upon satisfaction that the admission identified in the application is exempt under this section, provided that the applicant is otherwise in compliance with the provisions of this chapter and the rules and regulations the treasurer adopts pursuant to this chapter. An exemption

certificate issued pursuant to this section shall be valid only for the person in whose name it is issued and shall not be assignable. The exemption shall apply only to admission specified in the application. Every exemption certificate shall expire on the last date of admission specified therein, shall not be renewable, and shall in no case be valid for admission sold or occurring more than one year after the date of issuance. The treasurer may place additional conditions upon the applicant as the treasurer deems necessary to ensure compliance with the requirements of this section.

- (g) If the treasurer grants an exemption pursuant to this section, the holder of the exemption certificate is excused from applying for the license required by section 309-13 for the exempt admissions only. The exemption certificate shall be considered the equivalent of the license required by that section, and the authorized person shall comply with the provisions of that section regarding use and display of a license, substituting the exemption certificate for the license.
- (h) The treasurer may revoke an exemption certificate for cause, including the applicant's submission of false information, a change in the applicant's circumstances, error in issuing the certificate, or the certificate holder's failure to comply with any conditions under which the exemption was authorized, the provisions of this chapter, or rules or regulations the treasurer has adopted pursuant to this chapter. Whenever the treasurer suspends or revokes an exemption certificate, the treasurer or the treasurer's designee shall notify the holder promptly in writing, and the holder shall promptly surrender the exemption certificate and any copies to the treasurer.

Sec. 309-7. – Price to be Marked on Ticket or Displayed.

- (a) ~~The~~ If admission is by physical ticket, the price of admission, inclusive of any ~~federal and~~ service or transactional charge or fee and any state or city tax, ~~at which every admission ticket or card is sold~~ shall be marked conspicuously and indelibly printed, stamped or written on the face or back of on that part of the ticket which is to be taken up by the management of ~~the theatre, opera, or other~~ the place of amusement at admission, together with the name of the vendor ~~if sold~~ the admission was purchased other than at a ticket office of the ~~place of amusement~~.
- (b) If admission is by electronic ticket, the price of admission, inclusive of any service or transactional charge or fee and any state or city tax, shall be displayed on the face of the electronic ticket and recorded on the management of the place's record of the admission, together with the name of the vendor from which it was purchased if the admission was purchased other than from management of the place.
- (c) If admission is not ~~being~~ done by ticket, the price of admission shall be conspicuously and visibly posted at the entrance to the place or the point of purchase.

Sec. 309-9. – Monthly and Annual Reports; Contents; Payments of Tax.

- (a) ~~Every person receiving any payments for admission taxable under this chapter, vendor shall, on or before the twentieth day of each calendar month, make a return in duplicate to the treasurer in such form as the treasurer may prescribe, showing the number of admissions issued, disposed of, or collected by, through, or for the vendor, or using the vendor's services, during the preceding calendar month, the amount of tax hereby imposed on the same, and such other facts and information as the treasurer may require in the form of returns prescribed by the treasurer. One copy of such return shall be for the use of the treasurer and the other shall be filed with the Finance Department by the treasurer.~~ The person making the return shall certify that it is complete, true, and accurate.
- (b) ~~Every person receiving any payments for admission taxable under this chapter, vendor shall, each year on or before April 15, make a return in duplicate to the treasurer in such form as the treasurer may prescribe, showing the number of admissions issued, disposed of, or collected by, through, or for the vendor, or using the vendor's services, during the preceding calendar year, the amount of tax hereby imposed on the same, and such other facts and information as the treasurer may require in the form of returns prescribed by the treasurer. One copy of such return shall be for the use of the treasurer and the other shall be filed with the Finance Department by the treasurer.~~ The person making the return shall certify that it is complete, true, and accurate.
- (c) All such returns shall be held confidential by the treasurer and auditor and shall not be available for inspection unless ordered by a court of competent jurisdiction, except that the treasurer may furnish copies to the federal Internal Revenue Service, Ohio tax commissioner, city tax commissioner, and to the city manager or person designated by the city manager.
- (d) ~~Each person making such return~~ Every vendor shall, at the time of making the same a return, pay to the treasurer the amount of taxes shown thereby to the treasurer be due. Such payments shall be paid into the city treasury. ~~The treasurer may adopt uniform rules and regulations not inconsistent with this section, governing the method of making returns and payments.~~
- (e) If the tax imposed by this chapter is not paid when due, there shall be added as a part of the tax interest at the rate of one percent per month from the time when the tax became due until paid.

Sec. 309-11. – Administration of Chapter; Adoption of Rules and Regulations; Records; Bond.

- (a) The treasurer shall ~~have power to adopt and promulgate~~ such uniform rules and regulations, consistent with this chapter, ~~as the treasurer may deem be deemed necessary to carry out the provisions of this chapter, including uniform rules and regulations not inconsistent with this chapter~~ but not limited to those governing the

method of making returns and payments, licensing vendors, determining exemptions, and issuing assessments. Such rules and regulations shall be effective upon the city manager's approval and posting on the city's website.

- (b) Each person required by this chapter to collect or to pay the taxes imposed hereby, or granted an exemption from collection or payment of the tax pursuant to Section 309-05, shall keep such records or receipts, ticket stubs, other ticket records, other records of admission charged in the absence of ticket records, complimentary tickets, and any record otherwise documenting any admission charged or foregone for an event, membership, or entertainment at which admission was or could have been charged, and other pertinent documents, in such form as the treasurer may by such regulation require. Every person selling admission, regardless of whether an exemption has been granted pursuant to section 309-05 and whether sales take place through a marketplace facilitator, shall keep a record of each admission, including at a minimum the number, type, place, and date of each admission and the amounts charged, paid, waived, or forgone for such admission, together with any service or transactional fees or similar charges, and the amount of any state or city taxes paid on such admission. Every marketplace facilitator, reseller, or similar broker of admission shall keep a record of each admission purchased from, by, through, or using its services, including at a minimum the charges paid for such admission and the number, type, date, and place of each admission, together with any related service or transactional fees or similar charges, and the amount of any state or city taxes paid on such admission.
- (c) Such records and other documents shall be open at any time during business hours to the inspection of the treasurer or copies or the treasurer's designee. Copies of such records or documents shall be provided to the treasurer, and or the treasurer's designee, at the treasurer's office or a place designated by the treasurer, promptly in response to a written request. Such records shall be preserved for a period of not less than three years after the vendor is required to submit the annual return required by section 309-9(b) to the city, unless the treasurer shall in writing consent to their destruction within that period; or in writing require that they be kept longer.
- (d) The treasurer may require any person required by this chapter to collect and pay or to pay the tax hereby imposed vendor to file with the treasurer a bond, subject to the approval of the city solicitor, with security to the approval of the finance director of the city, and in such amount as the treasurer may fix, conditioned for the collection and payment, or the payment, of any such taxes due or which may become due from such person. Such bond, when approved by the treasurer, shall be deposited in the treasurer's office.
- (e) The treasurer may by such regulations permit any person making a refund to a payor or purchaser of any payment upon which a tax is collected under this chapter also to repay therewith the amount of the tax collected on such payment, and provide for the crediting of the amount so repaid against amounts included in any subsequent return returns.

Sec. 309-13. – License Required; Application; Contents; Fee; Issuance; Restrictions; Renewal; Suspension or Revocation; Liability of Owner of Premises; Exemptions and Marketplace Facilitators.

- (a) ~~No~~ Except as provided in section 309-5, no person shall charge admission sell, resell, or facilitate the sale or resale of admission at to any permanent or temporary place of amusement or event, or any tour or itinerant form of amusement within the city of Cincinnati, without a license therefor, as hereinafter provided as required by this section.
- (b) Every vendor shall apply for a license.
- (1) Every person desiring intending to charge sell admission at to any permanent or temporary place of amusement or event, or any tour or itinerant form of amusement within this city, within the city of Cincinnati shall file an application apply to the treasurer for a permanent, an annual or temporary, or itinerant form of amusement license, or licenses, or an exemption request, as the case may be, with the treasurer. Every application for certificate under section 309-5. Every such license or licenses application shall be made upon a form prescribed, prepared, and furnished by the treasurer, and. Every application shall set forth the name under which the applicant conducts or intends to conduct an amusement, whether the applicant conducts or intends to conduct a permanent or temporary form of amusement sell admission, the location of the permanent or temporary place of amusement to which admission shall be sold, and such other information as the treasurer may require. If the applicant has or intends to have sell admission to more than one place of amusement within the city, the application the applicant shall state the location of each place of amusement, and in the case of itinerant form of amusement. If the applicant intends to sell admission to a temporary place, the applicant shall state the date and length of time such amusement is to be conducted at each place. In the case of an application for a license for a for which admission shall be required for entry into such temporary place of amusement, the application shall state the, together with the name and address of the owner, or lessee, or custodian of the premises upon which such amusement is to temporary place shall be conducted, located. The application shall be signed and verified by oath or affirmation by the person selling admission. At the time of making such application, the applicant shall pay to the treasurer a fee of \$50.00 for each license and furnish a bond pursuant to section 309-11, if required.
- (2) Every person intending to resell, or facilitate the sale or resale of, admission to any other information prescribed by place in the city of Cincinnati shall apply to the treasurer for purposes of identification. In the case of an application for an exemption as provided in Section 309-05, the an annual or temporary license. Every application shall include supporting documentation as determined necessary by state the name under which the treasurer applicant intends to support resell, or facilitate the sale or resale of, admission, the intended scope of the applicant's claim for an exemption.

activities, and such other information as the treasurer shall require. The application shall be signed and verified by oath or affirmation by the person conducting the amusement if a natural person, or in the case of an association, by a member or partner thereof, or in the case of a corporation by an executive officer thereof or some person specifically authorized by the corporation to sign the application, to which shall be attached the written evidence of the signer's authority. reselling, or facilitating the sale or resale of, admission. At the time of making such application, the applicant shall pay to the treasurer a fee of \$50.00 for each license and furnish a bond pursuant to section 309-11, if required.

- (c) Upon the treasurer's approval of the an application and, the applicant's payment of any license fee or fees therein, and provision of a bond pursuant to section 309-11, if required, the treasurer shall is authorized to grant and issue to each applicant (unless withheld for a cause) a permanent, temporary, or itinerant amusement an annual or temporary license for charging admission at each place of amusement within this city set forth in the application. An amusement, or an annual or temporary license for the resale, or facilitation of the sale or resale, of admission as set forth in the application, unless such license is withheld for cause.
- (d) A license granted pursuant to this section shall be valid only for the person in whose name it is issued and for the conduct of amusements at the place designated therein and shall not be assignable. A license for the sale of admission shall be valid only for charging admission to the place or places, or for the activities, designated therein. A license for the resale, or facilitation of the sale or resale, of admission shall be valid only for the activities specified therein.
- (e) All licenses issued pursuant to section 309-13(b)(1) and exemption certificates granted pursuant to section 309-5 shall be conspicuously displayed at the place or places for which issued described therein during the period of ticket sale sales and conduct of amusement until admission as described therein is no longer permitted.
- (f) All annual licenses for permanent places of amusement shall be for a period of 12 months following the beginning on the date upon which they are issued through the following December 31, and all temporary licenses shall be for the period specified therein, unless sooner surrendered by the licensee, or suspended or revoked for cause by the treasurer. Licenses for temporary places of amusement or for forms of itinerant amusement shall expire at the time specified therein. The holder of an itinerant amusement license shall notify surrenders a license sooner or the treasurer promptly of any change in the original contemplated itinerary, either as to date or time of the conduct of the amusement at each place.
- (e) Licenses issued for permanent places of amusement under the provisions of this chapter suspends or revokes a license for cause. Annual licenses may be renewed annually upon application made to the treasurer, and the payment of a renewal fee of \$50.00 for each license, and the furnishing of a bond pursuant to section 309-11, if required. Licenses for temporary places may not be renewed.

- ~~(f)~~(g) The treasurer may decline to issue, suspend, or revoke an amusement a license whenever the holder thereof has failed to comply with any of the provisions of this chapter or any rules or regulations ~~of the treasurer promulgated~~ has adopted pursuant to this chapter. Upon suspending or revoking any amusement suspension or revocation of a license, the treasurer shall notify the licensee in writing of the reason for the decision and the licensee shall require the holder thereof to surrender immediately surrender all licenses or duplicates thereof issued to such holder to the treasurer and immediately cease to engage in the activities identified in the license, and the holder shall surrender promptly all such licenses to the treasurer as required. Whenever the treasurer suspends or revokes an amusement license, the holder shall be notified immediately and may appeal as provided in this section.
- (i) Review by the City Manager or his or her Designee.
- ~~(h)~~ Any decision of the treasurer rendered ~~A person may be appealed by timely appeal the treasurer's denial, suspension, or revocation of a license authorized by this chapter only by filing an appeal to with the city manager or his or her the city manager's designee. Any such appeal shall be made in writing and shall state within thirty days of issuance of the treasurer's notice of such suspension or revocation, stating all the facts and arguments supporting the appeal. An appeal shall be filed no later than thirty (30) days after the date of the treasurer's written determination to suspend or revoke a license. The decision of the treasurer pursuant to subsection (f) shall become final upon the expiration of 30 days from the date notice is mailed to the petitioner, unless prior thereto the petitioner files If an appeal to is received, the city manager or his or her the city manager's designee shall fix the a time and place for a hearing on the such appeal and shall notify the petitioner appellant thereof in writing, giving notice to the petitioner of not less than seven ten business days prior to the hearing. The treasurer's determination and assessment by the treasurer shall be prima facie presumed correct, and the burden shall be on the petitioner appellant to prove otherwise. The city manager or his or her the city manager's designee shall have the authority to amend, vacate, or affirm any such the treasurer's decision appealed from, in conformity with the intent and purpose of this chapter. Decisions of the city manager or his or her designee shall become final upon being placed in the mail to the petitioner. The findings of the city manager or the city manager's designee shall be final and conclusive, and the appellant shall be notified thereof in writing.~~
- ~~(g)~~(i) No owner, lessee, or custodian of the premises upon which ~~an amusement is to be conducted,~~ a temporary or permanent place is located shall lease or permit the same to be used by ~~any a person who is not the owner of a license charging admission, unless the person both holds a current license or exemption certificate duly issued by the treasurer hereunder for the use of such premises for the location, purpose, and date range specified therein and has filed and paid the monthly or annual returns and taxes levied by this chapter. Any such owner, lessee, or custodian who leases to or permits the use of such premises to be used for such purpose, to a person who is not the owner of a license duly issued hereunder, in violation of the foregoing requirement shall be liable for the amount of taxes levied under the provisions of by this chapter for admission sold in connection with any amusement so conducted~~

entry into the place or places located upon such premises, and such taxes shall be a lien upon such premises.

Sec. 309-17. – Taxes Made a Lien.

- (a) The taxes imposed by this chapter shall be a lien upon all of the property of any person required to collect and pay or to pay the same. If such person shall sell out or quit business, such person shall be required to make out the return and pay such taxes as are due, as provided for under this chapter, within ~~30~~ thirty days after the date of sale of such business, or retirement therefrom, and the successor in business shall be required to withhold a sufficient amount of the purchase money to cover the amount of said ~~taxes so collected and~~ unpaid taxes, together with interest, if any, until such time as the former owner shall produce a receipt from the treasurer showing that the taxes have been paid; or a certificate that no taxes are due.
- (b) If the purchaser of a business shall fail to withhold purchase money as ~~above~~ provided above, and the taxes ~~so collected shall be due and~~ are unpaid after the ~~30~~ thirty-day period allowed, the purchaser shall be liable for the payment of the ~~taxes collected and~~ unpaid taxes on account of the operation of the business by the former owner, together with interest, as provided by this chapter.
- (c) The lien for unpaid taxes herein imposed shall not become effective until such time as the treasurer shall certify to the county auditor of Hamilton county the amount of taxes delinquent, and such certification is placed on record by the county recorder of said county in a book maintained for that purpose.

Sec. 309-19. – ~~Treasurer May Make Additional Assessment; Notice, Hearing.~~

~~If not satisfied with the~~ a vendor has made a return and payment of taxes made by any person under the provisions of this chapter, paid the tax shown by the return to be due, but the treasurer determines that additional tax is hereby authorized and empowered to due, the treasurer may make an additional assessment of the tax due by such taxpayer, from the vendor based upon the facts contained in the return or otherwise acquired by the city. Promptly after the date of such The treasurer shall notify the vendor in writing of the additional assessment, the treasurer shall give or send by mail a notice thereof to such person, together with written notice of the time when, and date by which the place where, such person vendor may be heard on a petition must pay the assessed tax or file an application for reassessment as hereinafter provided pursuant to section 309-27.

Sec. 309-21. – Estimated Assessment ~~Made~~; Penalty; Notice.

~~If a person whose duty it is to collect and pay or to pay the taxes imposed by this chapter shall neglect or refuse~~ vendor fails to file any a return required by this chapter, or having tendered a return shall neglect or refuse fails to pay the amount of taxes imposed by this chapter as shown by such return shown to be due, the treasurer shall make an estimated assessment of the probable amount of the taxes payable by the delinquent vendor based upon the facts contained in the return or otherwise acquired by the city, to which shall be

~~added a penalty of 10 ten percent of the amount assessed. The treasurer shall promptly thereafter give or send by mail notice of notify such the vendor in writing of the estimated assessment and penalty together with notice of the date by which the vendor must pay the assessed tax or may file an application for reassessment pursuant to the person against whom the same shall have been made section 309-27. The treasurer may waive or reduce the ten percent penalty upon concluding that the failure to pay the amount of taxes due was the result of mistake or inadvertence.~~

Sec. 309-23. – ~~Estimated Additional Assessment Made~~ When Access to Records Is Refused; Penalty; Notice; Hearing.

~~The treasurer shall have the power to make an estimated additional assessment to which shall be added a penalty of 10 percent of the assessment, against any person who has filed any return as required by this chapter but who If a vendor refuses the treasurer or the treasurer's designee access to permit records as required by section 309-11(c), the treasurer or a duly authorized deputy, to examine the books of account and papers pertaining to may make an estimated assessment of the business for which the return was made probable amount of the additional tax due from the vendor, to which shall be added a penalty of fifteen percent of the amount assessed. The treasurer shall promptly thereafter give or send by mail notice of such notify the vendor in writing of the estimated additional assessment and penalty to such person, together with written notice of the time when and date by which the place where such person vendor may be heard on a petition must pay the assessed tax or file an application for reassessment, as hereinafter provided pursuant to section 309-27.~~

Sec. 309-25. – ~~When Taxes by Assessment are~~ and Penalties Are Due and Payable.

~~All taxes and penalties resulting from any assessment made imposed by the treasurer pursuant to sections 309-19, 309-21, or 309-23 shall be due and payable 10 fourteen calendar days after notice thereof is given or sent by mail to the person against whom such assessment shall have been made the treasurer has notified the vendor in writing of the assessment and penalty, unless the vendor timely files an application for reassessment, in which case all taxes and penalties resulting from the assessment shall be due and payable at the time required by section 309-27.~~

Sec. 309-27. – ~~Application for Reassessment; Hearing; Notice.~~

~~Any person against whom A vendor who has received notice of an additional assessment, estimated assessment, or estimated additional assessment shall be made by the treasurer penalty imposed pursuant to sections 309-19, 309-21, or 309-23 may file an application for reassessment with the treasurer. Such application shall be filed within 30 fourteen calendar days after receipt of notice of such estimated assessment and penalty from the treasurer, and shall has notified the vendor of the assessment and penalty, provided, however, that the treasurer may extend the time to file the application for good cause. The application shall contain all the argument and reasons why such assessment and/or penalty should be reversed, vacated, or modified. Within 20 28 calendar days of the filing of such application for reassessment, the treasurer shall redetermine the former assessment, estimated assessment, or estimated additional assessment and shall either affirm, reverse, vacate, or~~

modify the same and shall promptly notify the applicant of the decision in writing. Such determination shall be final, and all taxes and penalties resulting from the assessment, estimated assessment, or estimated additional assessment shall become payable 14 fourteen calendar days after notice thereof is given or sent by mail to the person filing the application the treasurer has notified the applicant of the treasurer's decision.

Sec. 309-29. – Notices Authorized ~~to be~~ To Be Mailed or Delivered Electronically.

Any notice authorized or required under the provisions of this chapter may be given by mailing the same to the a person for whom it is intended, in a post-paid envelope addressed to such person at the address given provided in the last filed return filed by the person pursuant to the provisions of this chapter, or, if no return has been filed, then to such address as may be obtainable. Such notice may, either in addition to or in the alternative, be given to a person electronically by mailing the same to a person at the electronic mail address provided in the last filed return or, if no return has been filed, then to such electronic mail address as may be obtainable. The mailing of such notice, whether by U.S. mail or by electronic mail, shall be prima facie evidence of the receipt of the same by the person to whom addressed. Any period of time which is determined according to the provisions of this chapter by the giving of notice shall commence to run from the date of mailing such notice, inclusive of such date.

Sec. 309-31. – Refunds; Application; Hearing; Notice.

(a) If within one year from the payment of any tax or penalty the payer thereof or the executors, administrators, successors or assigns of the payer shall make Upon the treasurer's initiative or upon application for a made as provided in this section, the treasurer shall refund thereof, for the amount of any taxes the benefit of the person from whom the same was treasurer determines to have been erroneously collected, and if the treasurer shall determine determines both that such the tax or penalty, or any portion thereof, was erroneously or illegally collected, or paid in error and that the same can and will be duly refunded to the payors, purchasers, or other persons from whom the same it was collected,

(b) A person who has paid a tax to the treasurer shall issue or that person's executors, administrators, successors, or assigns may apply to the treasurer, on behalf of and for the benefit of a person or persons from whom it was collected, for a refund. For like cause and of any tax erroneously collected and paid. Such application shall be made in writing within the same period, one year of the person's payment of such tax and shall contain all the argument and reasons why such tax should be refunded. The treasurer shall set a time and place for the applicant to be heard and shall notify the applicant of the same in writing. Within 28 calendar days from the date of such hearing, the treasurer shall determine whether a refund may be so made on the initiative of the treasurer; but is due and shall promptly notify the applicant of the decision in writing. The treasurer shall pay a refund, if any, to the applicant within 28 calendar days of the issuance of the decision.

~~(c) Notwithstanding the foregoing, no refund shall be made of a tax or penalty paid pursuant to a determination of the treasurer as provided for in Section sections 309-19 through 309-27, unless inclusive, except pursuant to the treasurer, after a hearing as in said section process provided, in those sections or on motion of the treasurer, shall have reduced the tax or penalty or upon the city's receipt of an unappealable judgment from a court of competent jurisdiction shall have ruled that such determination was erroneous or illegal, in which event, a refund shall be made as herein provided, upon the termination of such appeal. An application for a refund made as herein provided shall be deemed a petition for reassessment within the meaning of Section 309-27, and the treasurer may receive additional evidence with respect thereto. After making a determination, the treasurer shall give notice thereof to the applicant stating that the tax or penalty has been collected in error.~~

Sec. 309-99. – Penalties.

- (a) ~~No person shall charge sell or resell, or facilitate the sale or resale of, admission for any form of amusement at any permanent or temporary place of amusement or event, or any tour or itinerant form of amusement without having holding a valid license or exemption certificate therefore, as provided in required by the provisions of this chapter.~~
- (b) ~~No person charged by any section of this chapter with the duty of collecting or paying the taxes imposed by this chapter shall willfully fail or refuse to charge and collect or to pay such taxes, or to make return to the treasurer as required by this chapter, or to permit the treasurer, or a duly authorized agent, to examine the books and other records, in or upon any premises where the same are kept, to the extent necessary to verify any return made or to ascertain and assess the tax imposed by this chapter if no return was made, or to maintain and keep for three years or such lesser or greater time as may be permitted or required by the treasurer such records, ticket stubs and other documents pertaining to the sale or other disposition of admissions, as may be required by the treasurer do any of the following as required by the provisions of this chapter:~~
- ~~(1) charge and collect such taxes;~~
 - ~~(2) remit such taxes to the treasurer;~~
 - ~~(3) make true and accurate returns to the treasurer;~~
 - ~~(4) submit true and accurate information to the treasurer when applying for a license or exemption pursuant to this chapter;~~
 - ~~(5) permit the treasurer or the treasurer's designee to examine the books and other records of admission; or~~
 - ~~(6) maintain and keep for three years, or such lesser or greater time as may be permitted or required by the treasurer, such records of admissions as the treasurer may require.~~

- (c) No holder of a license issued under the provisions of this chapter shall use or display such license, at the place for which such a license was issued, during a period of suspension or after revocation of the same by exemption certificate that the treasurer has suspended or revoked, and during a period of ticket sale and conduct of amusement.
- (d) Whoever violates any provision of this ~~Chapter~~ section shall be guilty of a misdemeanor of the first degree, and shall be fined not more than \$500, or imprisoned not more than 60 days, or both.

Section 3. That existing Section 309-15, “Refund,” of Chapter 309, “Admissions Taxes,” of the Cincinnati Municipal Code is hereby repealed in its entirety.

Section 4. That the proper City officials are authorized to do all things necessary and proper to carry out the terms of Sections 1 through 3, including the promulgation and adoption of rules and regulations to implement Chapter 309.

Section 5. That Sections 1 through 3 shall become effective on April 1, 2024.

Section 6. That this ordinance shall be an emergency measure necessary for the preservation of the public peace, health, safety, and general welfare and shall, subject to the terms of Article II, Section 6 of the Charter, be effective immediately. The reason for the emergency is to permit the Department of Finance to take appropriate steps to notify those affected by these legislative changes before they take effect.

Passed: _____, 2024

Aftab Pureval, Mayor

Attest: _____
Clerk

New language is underscored. Deleted language is struck through.