

CHAPTER 10
AMUSEMENTS

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CHAPTER 10 - AMUSEMENTS
(Created by Ordinance 75-016, 02.25.75)

ARTICLE 1 - TAX ON ENTERTAINMENTS AND AMUSEMENTS

Section 10-101. DEFINITIONS. When used in this Article, the following words and phrases shall have the meaning set out herein:

- (A) Admission Charge. The term "admission charge" shall mean any charge for the right or privilege to any entertainment or amusement and shall include, without being limited to, the following: all charges for space, seats, chairs, tables, benches, reserved or otherwise, and other similar accommodations; all charges made for the use or rental of equipment or facilities for purposes of entertainment and amusement; and all automobile parking charges in connection with any place of entertainment or amusement where the charge is determined by the number of passengers in an automobile; and any other charge normally made for admission, food, goods or services which in fact represents a charge for an entertainment or amusement.
- (B) Amusement Ride. The term "amusement ride" means any device, conveyance, seat or vehicle designed or intended for occupancy by one or more persons, propelled electrically, mechanically, manually, or by an internal combustion engine, and which, when set in motion, conveys the occupant or occupants on or through a prescribed or repetitive course, over rails or tracks, or in a revolving, rotating, or undulating motion in a horizontal or vertical plane, or any combination thereof, and that provides either regular, or startling and surprising motions and sensations for the occupant or occupants thereof, such as, but not limited to, merry-go-rounds, ferris wheels, roller coasters, tilt-a-whirls, loop-the-loop devices, bump and go carts and other similar contrivances commonly known as carnival rides.
- (C) Entertainment or Amusement. The term "entertainment or amusement" shall include, all forms of diversion, sport, pastime or recreation, including but not limited to, the following: amusement rides, carnivals, circuses, pony rides, motion pictures, plays, shows and theatrical performances of all kinds, all sporting contests and athletic events, exhibitions, concerts, lectures, skating, bowling, dancing, golf, swimming, billiards, pool, amusement parks, arcades, centers and places, and all forms of recreation therein, and coin operated and mechanical devices of entertainment and games of skill or amusement.
- (D) Not for Profit. The phrase "not for profit" when used with respect to any entertainment or amusement shall mean an entertainment or amusement both (a) operated and (b) sponsored by any governmental agency or any not-for-profit civic, religious or philanthropic agency, the admission charges for which are devoted exclusively to defraying the costs of such amusement or entertainment and to the furtherance of the purposes for which such agency is established.
(Ordinance 98-085, 07.28.98)
- (E) Operator. The term "operator" shall mean any person who provides or conducts entertainments or amusements within the limits of the Village of Bolingbrook for which an admission charge is collected or any person who engages in the sale of tickets for entertainments or amusements within the limits of the Village of Bolingbrook for which an admission charge is collected. The term "operator" shall also mean any person (a "third party operator") who charges for the use or rental of facilities or equipment for the purposes of entertainment of amusement on premises

which are owned, leased, possessed or otherwise controlled by the third party operator. (Ordinance 98-098, 08.25.98)

- (F) Person. The term "person" shall include an individual, firm, corporation, company, partnership or association.
- (G) Temporary. The term "temporary" when used with respect to any entertainment or amusement shall mean an entertainment or amusement which is:
 - (1) Operated or offered in the Village for a limited period, not to exceed 21 days in any calendar year,
 - (2) By an operator who is not engaged in the business of regularly providing a series of such entertainments or amusements in the Village.

Section 10-102. AMUSEMENT TAX BASED ON ADMISSIONS. There is hereby imposed on every operator of an entertainment or amusement as defined in this Article I of Chapter 10, an amusement tax of three per cent (3%) of every admission charge. Said amusement tax is in addition to all other taxes imposed by law. (Ordinance 98-085, 07.28.98)

Section 10-103. REGISTRATION REQUIRED. Every operator of an amusement or entertainment subject to the tax imposed by this Article shall, prior to commencing the operation of such amusement or entertainment, register with the Director of Finance as an amusement operator. Forms for such registration shall be provided by the Director of Finance.

Section 10-104. FILING OF STATEMENT AND PAYMENT OF THE TAX. Every operator of an entertainment or amusement subject to the tax imposed by this Article shall, on or before the fifteenth day of each month, file with the Director of Finance of the Village a statement signed and sworn to by such person indicating the number and respective prices of admission charges and the total admission charges collected by such person during the next preceding calendar month. A remittance for the amount of the tax imposed by this Article shall accompany the statement.

Section 10-105. INSPECTION OF RECORDS. The Director of Finance, or his authorized agents, shall have the right to inspect and examine the records of every operator of an amusement or entertainment within the Village.

Section 10-106. RECORDS. All records pertaining to admission charges collected and taxes paid by any operators pursuant to this Article shall be retained by such operator for a period of seven (7) years.

Section 10-107. PENALTIES FOR NON - PAYMENT. An operator who fails to remit the amount of any tax due hereunder when due shall, in addition to all other penalties, pay a penalty of five (5) percent of the amount of the tax due. For each successive thirty (30) days elapsing before payment there shall be added an additional penalty of one (1) percent of the amount of the tax due.

Section 10-108. LIENS FOR UNPAID TAXES. A tax due and unpaid under this ordinance, together with penalties thereon, shall be a debt due to the Village of Bolingbrook. By the filing of a registration pursuant to Section 10-103 of this Article 1, an operator of an entertainment or amusement shall be deemed to have consented and agreed that any taxes becoming due pursuant to this Article 1 shall be a personal obligation of the operator and shall be a lien upon all of the real and personal property of the operator devoted to or used in the operation of entertainments or amusements subject to tax under this Article 1. Said lien shall have priority over all other liens and obligations except those due to the State of Illinois and the United States.

Section 10-109. DETERMINATION OF TAX DUE BY DIRECTOR OF FINANCE. If an operator fails to file a statement as required by this Article, or if the Director of Finance has reasonable cause to believe that an erroneous statement has been filed, the Director of Finance may proceed to determine and assess the amount of the tax due, and any penalty incurred by reason of the non-payment thereof, and in connection therewith shall make such investigations and take such testimony and evidence as may be necessary; provided, however, that the operator shall be given notice and an opportunity to be heard before any determination is made by the Director of Finance.

Any tax or penalty determined and assessed pursuant to this Section shall be due and collectible immediately upon notice thereof to the operator.

Section 10-110. RULES AND REGULATIONS. The Director of Finance shall have power to adopt rules and regulations not inconsistent with the terms of this Article for the purpose of carrying out and enforcing the assessment and collection of the tax herein established. Such rules and regulations shall become effective upon the approval thereof by the President and Board of Trustees of the Village. A copy of such rules and regulations shall be on file and available for public examination in the office of the Director of Finance. Failure or refusal to comply with any rules and regulations promulgated under this section shall be deemed a violation of this Article.

Section 10-111. EXEMPTION FOR CERTAIN AMUSEMENTS AND ENTERTAINMENTS. The following amusements and entertainments shall be exempt from the provisions of this Article:

- (A) An entertainment or amusement both (a) operated by and (b) sponsored by any governmental agency or any not-for-profit civic, religious, or philanthropic agency, the admission charges for which are devoted exclusively to defraying the costs of such amusement or entertainment and to the furtherance of the purposes for which such agency is established; provided, however, any charges paid by the not-for-profit, civic, religious or philanthropic agency to a third party operator for the use or rental of equipment or facilities under the ownership, possession or control of the third party operator for conducting the amusement or entertainment shall not be exempt from the amusement tax provided for herein and shall be taxable as an Admission Charge as set forth in this Article. (Ordinance 98-098, 08.25.98)
- (B) Temporary amusements and entertainments.

Section 10-112. VIOLATIONS AND PENALTIES. Every person who violates any of the provisions of this Article shall, upon conviction thereof, be fined not less than twenty-five dollars (\$25.00) nor more than five hundred dollars (\$500.00) for each offense. Each day on which such violation continues shall be deemed to be a separate offense.

Section 10-113. SEVERABILITY. Each of the provisions of this Article are severable, and if any provision is held invalid, the remaining provisions shall not be affected but shall remain in full force and effect.

ARTICLE 2 - LICENSING OF PARTICIPATORY AMUSEMENTS (Ordinance 92-045, 05.12.92)

Section 10-201. DEFINITIONS. "Participatory amusement" means any business premises used for entertainment or amusement in which the customer actively participates in the entertainment or amusement and shall include billiard parlors, pool halls, game rooms, miniature golf, go-cart tracks and bowling alleys.

Section 10-202. LICENSE REQUIRED. It shall be unlawful to operate a place of participatory amusement within the Village without first having obtained a license therefor.

Section 10-203. APPLICATION FOR LICENSE. Applications for a license under this Article shall be made to the community development director, in writing, signed by the applicant if an individual, signed by each individual partner if a partnership, or signed by a duly authorized agent thereof, if a club or corporation, verified by oath of affidavit, and shall contain the following statements and information:

- (A) The applicant's name, mailing address and telephone number.
- (B) The name and address of the applicant's business.
- (C) If applicable, the date of the filing of the "Assumed Name" of the business with the County Clerk or Will or DuPage County.
- (D) In the case applicant is a partnership, the date of the formation of the partnership, the full name, age, address and telephone numbers of all persons with an ownership interest in the partnership, or who have a right to receive a direct or indirect benefit from the profits of the partnership.
- (E) An Illinois corporation must state the date of its incorporation, a statement of the object for which the corporation was organized, the full name, age, address and telephone number of all shareholders with an aggregate of more than five percent (5%) of the capital stock of the corporation.
- (F) The name, age, address and telephone number of the person(s) who will manage the business of the applicant in the Village.
- (G) The character of the business of the applicant.
- (H) The length of time that applicant has been in business of that character.
- (I) The location and description of the premises or place of business which is to be operated under such license, and the following information:
 - (1) If a leased premises, a copy of the lease shall be provided and the lease shall be for a term of sufficient length to encompass the term of the license sought; and
 - (2) The name and address of the owner or owners of the premises and the names and addresses of all the owners of the beneficial interest of any trust if said premises is held in trust.

- (J) A statement whether applicant has made similar application for a similar other license on premises other than described in this application, and the disposition of such application.
- (K) Whether a previous license by any state or subdivision thereof, or by the Federal government has been issued, and if so, where and when, or if any such license has been revoked, state the reasons therefor.
- (L) A statement that the applicant and all individuals required to be identified in the application have not in the past and will not in the future violate any of the laws of the State of Illinois, or of the United States, or any ordinance of the Village in the conduct of this business.
- (M) The applicant's Retailer's Occupational Tax (ROT) Registration number and a statement whether the applicant is delinquent in the payment of the Retailer's Occupation Tax (sales tax), and if so, the reasons therefor; and
- (N) Whether the applicant possesses a current federal wagering and gaming device stamp, and if so, the reasons therefor.

Section 10-204. APPLICATION - ADDRESSING AND FILING. All new applications and all renewal applications shall be addressed to the Community Development Director and shall be accompanied by a non-refundable application fee of \$600.00.

Upon a change in officers, manager, director or any stockholder owning in the aggregate of more than five percent (5%) of the capital stock, a new application must be submitted to the director. At the time of submission of this application, a non-refundable fee of \$300.00 per amended individual shall be paid.

If a license is issued to a partnership and there is a change of membership in the partnership resulting in a new partner, a new application shall be submitted and a non-refundable fee of \$300.00 shall be paid. If such an application is not submitted within fifteen (15) days after such change, the director shall have the authority to terminate the license or to temporarily suspend such license.

Section 10-205. PERSONS INELIGIBLE FOR LICENSE.
No business license shall be issued to:

- (A) A person who has not attained the age of twenty-one (21) years;
- (B) A person who has been convicted of a felony under any federal or state law, and such person has not been sufficiently rehabilitated to warrant public trust;
- (C) A person who has been convicted of pandering or other crime or misdemeanor opposed to decency and morality;
- (D) A person whose license issued under this Article has been revoked for cause;
- (E) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- (F) A co-partnership, unless all the persons forming a part of such co-partnership shall be qualified to obtain a license;

- (G) A corporation or association, if any officer, manager or director thereof, or any stockholder(s) or member(s) owning in the aggregate more than five percent (5%) of the stock of such corporation or association, would not be eligible to receive a license hereunder;
- (H) A corporation, unless it is incorporated in Illinois or unless it is a foreign corporation which is qualified under the Illinois Business Corporation Act to transact business in Illinois;
- (I) A person whose place of business is conducted by a manager unless said manager possesses the same qualifications required of the licensee;
- (J) A person who does not beneficially own the premises for which a license is sought, or does not have a lease thereon for the full period for which the license is to be issued;
- (K) A person who is not a beneficial owner of the business to be operated by the licensee; or
- (L) A person who has been convicted of a gambling offense as prescribed by **Ill.Rev.Stat.** Ch. 38, sec. 28-3, as heretofore or hereafter amended, or as prescribed by a statute replacing any of the aforesaid statutory provisions, or any person who has been convicted of a gambling offense as prescribed by an ordinance of the Village.

Section 10-206. RENEWAL. All licenses are valid for one year unless revoked or suspended prior to expiration. All licenses must be renewed on or before July 1 of each year.

Section 10-207. DENIAL, SUSPENSION AND REVOCATION. Any license may be denied, suspended or revoked by the Village Manager after notice and hearing for any of the following causes:

- (A) Fraud or misrepresentation made in the course of carrying on the business of vending.
- (B) Conduct of the licensed business in such manner as to create a public nuisance, or otherwise violate any code or ordinance of the Village.
- (C) Conduct which is contrary to the provisions of this Article.

Section 10-208. BUSINESS HOURS. The licensed premises shall close daily no later than 2:00 a.m.

Section 10-209. PENALTY. Any person violating any provision of this Article shall be guilty of a misdemeanor and upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00).