

CHAPTER 24 REVENUE

MUNICIPAL AMUSEMENT TAX

24-101. Title:

This Ordinance shall be known and may be cited as the "Village of Oakwood Hills Municipal Amusement Tax Ordinance." The tax herein imposed is in addition to all other taxes imposed by the Village of Oakwood Hills, State of Illinois, or any municipal corporation or political subdivision of any of the foregoing.

24-102. Definitions:

1. "Amusement." Any and all spectator and exhibitor entertainment, including, but not limited to, the following activities: any movie, theatrical, dramatic musical, or spectator performance, promotional show, motion picture show, antique, gun, flower, poultry or animal show; carnival; circus; rodeo; animal act; amusement ride; amusement attraction; any tour, whether guided or by listening device; whether in a vehicle or walking; events where spectators pay a fee to watch an athletic contest, sport, game or similar exhibition such as boxing, wrestling, skating, dancing, swimming, racing or riding on animals or vehicles; baseball, basketball, softball, soccer, football, tennis, golf, hockey, track and field games; any entertainment or recreational activity offered for public participation, or on a membership or other basis including, but not limited to, events where spectators pay a fee to play billiards, watch games, bowl, golf, or play pool. Exceptions to this definition include events sponsored by tax exempt organizations with approved Internal Revenue Code Section 501(c) status, the Village, any local school Districts or regularly sponsored nonprofit youth activities.

For purposes of this Ordinance, amusement shall not mean raffles as defined in the Illinois Compiled Statutes, Chapter 230.

2. "Owner" means: (1) with respect to the owner of a place where an amusement is being held, any person who has an ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement in such place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement in such place; (2) with respect to the owner of an amusement, any person who has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, after payment of reasonable expenses, from the operation, conduct or presentation of such amusement, excluding proceeds from non-amusement services and from sales of tangible personal property.

3. "Person" means any natural individual, firm, society, foundation, institution, partnership, limited liability company, association, joint stock company, joint venture, public or private corporation, receiver, executor, trustee or other representative appointed by the order of any court, or any other entity recognized by law as the subject

of rights and duties. The masculine, feminine, singular and plural are included in any circumstance.

24-103. License:

Every person, entity or organization that operates, organizes, conducts or presents a permanent place of amusement shall obtain an Amusement License from the Village Clerk. All permanent places of amusement shall be licensed no later than January 1, 2017 or, thereafter, prior to opening for business. For any one time or temporary place of amusement an Amusement License must be obtained at least seven (7) days prior to the beginning of the amusement event or activity. Any person, entity or organization need obtain only one (1) such license even if that person, entity or organization holds events in more than one location at various times. Any such license, permanent or temporary, upon issuance is valid until rescinded by the Village and is not transferable from the original applicant to any other party. Any individual, entity, organization, or persons responsible for organizing, operating or presenting a place of amusement, permanent or temporary, that fails to obtain a license is in violation of this ordinance.

24-104. Tax Imposed: (*Amended by Ord. 20-09-01*)

A Municipal Amusement Tax is imposed upon the cost of admission received from spectators or cost of participation paid by patrons of any amusements within the Village of Oakwood Hills, of an amount equal to 2.5/100 Percent (2.50%) of the admission fees or other charges paid for the privilege to enter, participate, or otherwise gain access to the amusement.

24-105. Collection, Payment and Accounting of Municipal Amusement Tax:

It shall be the duty of every owner, manager or operator of an amusement, or of a place where an amusement is being held, to secure said tax applied to the cost of admission from the spectator or cost of participation by the patron and remit said tax to the Village of Oakwood Hills in accordance with the provisions of Section 24.106 herein. A verified statement of such amusement fees and taxation and amusement taxes in the form prescribed from time to time by the Village of Oakwood Hills shall accompany the remittance. Acceptance by the Village of Oakwood Hills of any amount tendered in payment of the tax shall be without prejudice to any claim, demand or right to account for any deficiency of taxes paid and/or owed by the owner, manager or operator.

Cancelled admission tickets or participation receipts, and complete accurate records, books and accounts in detail of all such receipts shall be kept at the place of amusement or at such other place within the city limits as may be designated in writing by the person liable for the collection of the Municipal Amusement Tax. The Village of Oakwood Hills shall have access to the place of amusement and to the cancelled admission tickets, participation receipts, records, books and accounts at all reasonable times for an audit. Every owner, manager or operator referred to herein, which is required to collect the tax imposed by this article, shall be considered a tax collector for the Village of Oakwood Hills. All municipal amusement taxes collected shall be held by such tax collector as trustee for and on behalf of the Village of Oakwood Hills. Failure of the tax collector to collect the tax herein imposed shall not excuse or release the patron and/or the owner,

manager or operator from obligation to pay the Municipal Amusement Tax.

Notwithstanding any other provision of this Ordinance, in order to permit sound fiscal planning and budgeting by the Village of Oakwood Hills, no person shall be entitled to a refund of, or credit for, the tax imposed by this Ordinance based on an error in the calculation of the tax unless the person files a claim for refund or credit within six (6) months after the date on which the tax was paid or remitted to the Village of Oakwood Hills.

24-106. Reporting; Transmittal; Delinquency; Penalty.

1. *Monthly reporting.* The owner or owners of each amusement within the Village shall file monthly tax returns showing the total sales and the tax receipts received with respect to each amusement during each month. The returns shall be due on or before the last day of the month for the preceding calendar month.

2. *Transmittal of tax.* The tax shall be due on the day the monthly return is due as provided herein. At the time of filing such return, the owner shall pay to the treasurer all taxes, interest and penalties, if any, due for the period to which the return applies.

3. *Failure to pay tax.* If for any reason any tax is not paid when due, a penalty and interest, as set by subsection (Section 24-106(4.a.) and (4.b.)), on the amount of tax which remains unpaid shall be added and collected. Whenever any person shall fail to pay any tax as herein provided, the Village Attorney upon the request of the Village Board shall bring or cause to be brought an action to enforce the payment of the tax on behalf of the Village in any court of competent jurisdiction.

4. *Schedule of certain rates.* The following rates are hereby set for purposes of this Section; provided that, the treasurer may from time to time increase or decrease any rate hereunder in order to equal those rates that may be set forth from time to time by Levy and Collection of Taxes statute for municipalities [65 ILCS 5/8-3 et seq.]:

- a. Penalty, seven and one-half (7.5) percent added to the amount of tax unpaid and uncollected.
- b. Interest, one and one-quarter (1.25) percent added per month to the amount of tax unpaid and uncollected.

24-107. Violation – Penalty:

Any person violating any of the provisions of this Ordinance shall be fined not less than Two Hundred and 00/100 Dollars (\$200.00) and not more than Seven Hundred Fifty and 00/100 Dollars (\$750.00) for each offense. Each day such violation occurs shall be regarded as a separate offense. Any enforcement action by the Village related to this Section shall not relieve the violator from paying any tax due under the terms of this Section.

24-108. Enforcement:

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

24-109. Suspension of Licenses:

If the Village, after a hearing held by the President or for him by his designee, shall find that any owner has willfully avoided the payment of any tax imposed by this Section, he may suspend or revoke all Village licenses held by such tax evader. The owner shall have an opportunity to be heard at such hearing to be held not less than ten (10) days after being mailed notice of the time when and the place where the hearing is to be held, addressed to him at last known place of business. Any suspension or revocation of any license(s) shall not release or discharge the owner from his civil liability for the payment of the tax nor from prosecution for such offense.

MUNICIPAL UTILITY TAX ON ELECTRICAL USE

24-201. Imposition of Electricity Tax. A tax is hereby imposed on all persons engaged in the privilege of using or consuming electricity acquired in a purchase at retail and used or consumed within the corporate limits of the municipality at the following rates, calculated on a monthly basis for each purchaser:

- (i) For the first 2,000 kilowatt-hours used or consumed in a month; 0.61 cents per kilowatt-hour;
- (ii) For the next 48,000 kilowatt-hours used or consumed in a month; 0.40 cents per kilowatt-hour;
- (iii) For the next 50,000 kilowatt-hours used or consumed in a month; 0.36 cents per kilowatt-hour;
- (iv) For the next 400,000 kilowatt-hours used or consumed in a month; 0.35 cents per kilowatt-hour;
- (v) For the next 500,000 kilowatt-hours used or consumed in a month; 0.34 cents per kilowatt-hour;
- (vi) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.32 cents per kilowatt-hour;
- (vii) For the next 2,000,000 kilowatt-hours used or consumed in a month; 0.315 cents per kilowatt-hour;
- (viii) For the next 5,000,000 kilowatt-hours used or consumed in a month; 0.31 cents per kilowatt-hour;
- (ix) For the next 10,000,000 kilowatt-hours used or consumed in a month; 0.305 cents per kilowatt-hour; and
- (x) For all electricity used or consumed in excess of 20,000,000 kilowatt-hours in a month, 0.30 cents per kilowatt-hour.

24-202. Definitions. Words and phrases, when used in this Ordinance, shall have the meanings ascribed to them in Section 8-11-2 of the Illinois Municipal Code (65 ILCS 5/8-11-2).

24-203. Collection of Electricity Tax. The electricity tax authorized by the Ordinance shall be collected from the purchaser by the person maintaining a place of business in this State who delivers the electricity to the purchaser. This tax shall constitute a debt of the purchaser to the person who delivers the electricity to the purchaser and if unpaid, is recoverable in the same manner as the original charge for delivering the electricity. Any electricity tax required to be collected pursuant to this ordinance and any such tax collected by a person delivering electricity shall constitute a debt owed to the municipality by such person delivering the electricity, provided, that the person delivering electricity shall be allowed credit for 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 shall be obligated to remit such tax. For purposes of this subsection, any partial payment not specifically identified by the purchaser shall be deemed to be for the delivery of electricity. Persons delivering electricity shall collect the tax from the purchaser by adding such tax to the gross charge for delivering the electricity. Persons delivering electricity shall also be authorized to add to such gross charge an amount equal to 3% of the tax to reimburse the person delivering electricity for the expense incurred in keeping records, billing customers, preparing and filing returns, remitting the tax and supplying data to the municipality upon request. If the person delivering electricity fails to collect the tax from the purchaser, then the purchaser shall be required to pay the tax directly to the municipality. On or before the last day of each month, the person delivering electricity shall make a return to the Village for the preceding month and shall, at the time of filing such return, pay the municipality the amount of the tax collected pursuant to this ordinance.

24-204. Reports to the Village. On or before the last day of each month, each taxpayer who has not paid the electricity tax imposed by this ordinance to a person delivering electricity as set forth in Section 2(b) of this ordinance and who is not otherwise exempted from paying such tax shall make a return to the Village Treasurer for the preceding month stating:

- (i) His Name;
- (ii) His principal place of business;
- (iii) His kilowatt-hour usage during the month upon the basis of which the tax is imposed;
- (iv) Amount of tax; and
- (v) Such other reasonable and related information as the corporate authorities may require.

24-205. Payment of Tax. The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer the amount of tax herein imposed; provided that in connection with any return, the taxpayer may, if he so elects, report and pay an amount based upon his 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 difference between such billings, and the taxable gross receipts.

24-206. Maintaining Books and Records. Every person subject to this subchapter shall keep books, records, papers, and other documents which are adequate to reflect the information which such person is required to report to the Village by filing monthly returns. All books and records and other papers and documents required herein shall be kept in the English language

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and shall, at all times during business hours of the day, be subject to inspection by the officials and agents of the Village.

24-207. Taxes in Addition. Each such tax described above shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer's business.

24-208. Exceptions; Exemptions

A. None of the taxes authorized by this Ordinance may be imposed with respect to any transaction in interstate commerce or otherwise to the extent to which the business or privilege may not, under the Constitution and statutes of the United States, be made the subject of taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing, or selling or transmitting gas or electricity, or using or consuming electricity acquired in a Purchase at Retail, be subject to taxation under the provisions of this Chapter for those transactions that are or may become subject to taxation under the provisions of the "Municipal Retailers' Occupation Tax Act" authorized by Section 8-11-1 of the Illinois Municipal Code; nor shall any tax authorized by this Chapter be imposed upon any person engaged in a business or on any privilege unless the tax is imposed in like manner and at the same rate upon all persons engaged in businesses of the same class in the Village, whether privately or municipally owned or operated, or exercising the same privilege within the Village.

B. Any local governmental body or school district whose territory includes the municipality shall be exempted from the taxes imposed by this Chapter for such accounts attributable to buildings and facilities located in the Village. The Village shall be exempt from all taxes imposed pursuant to this Ordinance.

24-209. Credit for Overpayment. If it shall appear that an amount of tax has been paid which was not due under the provisions of this ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this ordinance 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 therefore shall be so credited.

24-210. Statute of Limitations. No action to recover any amount of tax due under the provisions of this ordinance shall be commenced more than three (3) years after the due date of such amount.

24-211. Penalty. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due.

24-212 Notification of Utility Companies. The Village Clerk is hereby directed to send a certified copy of this Ordinance to each utility company which provides the affected service to customers within the Village and to cooperate with such utilities in determining addresses of

premises subject to the taxes herein described, including but not limited to the names and addresses of each unit of local government which owns facilities within the corporate limits of the Village.

MUNICIPAL UTILITY TAX ON NATURAL GAS

24-301. Imposition of Municipal Gas Tax. A tax is imposed on all persons engaged in the business of distributing, supplying, furnishing, or selling gas for use or consumption within the corporate limits of Village, and not for resale, at the rate of five percent (5%) of the gross receipts therefrom.

No tax is imposed by this ordinance with respect to any transaction in interstate commerce or otherwise to the extent to which such business may not, under the constitution and statutes of the United States, be made subject to taxation by this State or any political subdivision thereof; nor shall any persons engaged in the business of distributing, supplying, furnishing or selling gas be subject to taxation under the provisions of this ordinance for such transactions as are or may become subject to taxation under the provisions of the “Municipal Retailers’ Occupation Tax Act” authorized by Section 8-11-1 of the Illinois Municipal Code.

24-302. Taxes in Addition. Such tax shall be in addition to the payment of money, or value of products or services furnished to this municipality by the taxpayer as compensation for the use of its streets, alleys, or other public places, or installation and maintenance therein, thereon or thereunder of poles, wires, pipes or other equipment used in the operation of the taxpayer’s business.

24-303. Definitions. For the purposes of this ordinance the following definitions shall apply:

a. **“Gross receipts”** means the consideration received for distributing, supplying, furnishing or selling gas for use or consumption and not for resale, as the case may be; and for all services rendered in connection therewith valued in money, whether received in money or otherwise, including cash, credit, services and property of every kind and material and for all services rendered therewith; and shall be determined without any deduction on account of the cost of the service, product or commodity supplied, the cost of materials used, labor or service cost, or any other expenses whatsoever; provided, however that “gross receipts” shall not include any amounts specifically excluded from the definition of gross receipts in Section 8-11-2(d) of the Illinois Municipal Code. The term “gross receipts” shall not include that portion of the consideration received for distributing, supplying, furnishing or selling gas to school districts or units of local government within the corporate limits of the Village.

b. **“Persons”** means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint adventure, corporation, limited liability company, municipal corporation, the State or any of its political subdivisions, any State university created by statute, or a receiver, trustee, guardian or other representative appointed by order of any court.

24-304. Effective Date of Tax. The tax provided for in Section 24-301 shall be based on the gross receipts, as herein defined, actually paid to the taxpayer for services billed on or after January 1, 2017.

24-305. Reports to the Village. On or before the last day of February 2017, each taxpayer shall make a return to the Village Treasurer for the month of January 2017, stating:

1. His name;
2. His principal place of business;
3. His gross receipts during those months upon the basis of which the tax is imposed.
4. Amount of tax;
5. Such other reasonable and related information as the corporate authorities may require.

On or before the last day of every month thereafter, each taxpayer shall make a like return to the Village Treasurer for a corresponding one month period.

24-306. Payment of Gas Tax. The taxpayer making the return herein provided for shall, at the time of making such return, pay to the Village Treasurer, the amount of tax herein imposed; provided that in connection with any return the taxpayer may, if he so elects, report and pay an amount based upon his 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 receipts.

24-307. Credit for Overpayment. If it shall appear that an amount of tax has been paid which was not due under the provisions of this ordinance, whether as the result of a mistake of fact or an error of law, then such amount shall be credited against any tax due, or to become due, under this ordinance 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 therefore shall be so credited.

24-308. Statute of Limitations. No action to recover any amount of tax due under the provisions of this ordinance shall be commenced more than three (3) years after the due date of such amount.

24-309. Penalty. Any taxpayer who fails to make a return, or who makes a fraudulent return, or who willfully violates any other provision of this ordinance is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than one hundred dollars (\$100) nor more than seven hundred fifty dollars (\$750) and in addition shall be liable in a civil action for the amount of tax due.