

**VILLAGE OF BENSENVILLE
12 S. CENTER STREET
BENSENVILLE, ILLINOIS 60106**

Ordinance No. 53-2025

**An Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Amending
Chapter 19 of Title Three of the Bensenville Village Code Regarding the Amusement Tax**

**ADOPTED BY THE
VILLAGE BOARD OF TRUSTEES
OF THE
VILLAGE OF BENSENVILLE
THIS 18th DAY OF NOVEMBER 2025**

Published in pamphlet form by authority of the President and Board of Trustees of the Village of
Bensenville, DuPage and Cook Counties, Illinois this 19th day of November, 2025

STATE OF ILLINOIS)
COUNTIES OF COOK)
SS AND DUPAGE)

I, Corey Williamsen, do hereby certify that I am the duly appointed Deputy Village Clerk of the Village of Bensenville, DuPage and Cook Counties, Illinois, and as such officer, I am the keeper of the records and files of said Village; I do further certify that the foregoing constitutes a full, true and correct copy of Ordinance No. 53-2025 entitled An Ordinance of the Village of Bensenville, DuPage and Cook Counties, Illinois Amending Chapter 19 of Title Three of the Bensenville Village Code Regarding the Amusement Tax.

IN WITNESS WHEREOF, I have hereunto affixed my official hand and seal on this 19th day of November, 2025.





Corey Williamsen
Deputy Village Clerk

ORDINANCE NUMBER 53-2025

**AN ORDINANCE OF THE VILLAGE OF BENSENVILLE, DUPAGE AND COOK
COUNTIES, ILLINOIS AMENDING CHAPTER 19 OF TITLE THREE OF THE
BENSENVILLE VILLAGE CODE REGARDING THE AMUSEMENT TAX**

WHEREAS, the Village of Bensenville, DuPage and Cook Counties, Illinois (the "*Village*") is a duly organized and existing municipal corporation created under the provisions of the laws of the State of Illinois and under the provisions of the Illinois Municipal Code, as from time to time supplemented and amended; and

WHEREAS, Section 11-42-5 of the Illinois Municipal Code (65 ILCS 5/11-42-5) authorizes the President and Board of Trustees of the Village of Bensenville (the "*Corporate Authorities*") to impose a tax upon amusements; and

WHEREAS, the Corporate Authorities are charged with the responsibility of protecting the health, safety, and welfare of the residents of the Village; and

WHEREAS, the Corporate Authorities have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs, and to review, interpret, and amend Village ordinances, rules, and regulations; and

WHEREAS, the Illinois Mobile Telecommunications Sourcing Conformity Act ("*MTSCA*"), 35 ILCS 638/1 *et seq.*, regulates the taxation of mobile telecommunication services; and

WHEREAS, the Village in accordance with MTSCA, regulates the taxation of mobile telecommunications services with the Village; and

WHEREAS, pursuant to the authority contained in 65 ILCS 5/11-42-5, as from time to time supplemented and amended, the Corporate Authorities have determined it necessary to amend the Bensenville Village Code to impose a municipal tax at a rate of five-percent (5%) on

amusements within the entirety of the corporate boundaries of the Village to compensate the Village for additional services and infrastructure and property repair, maintenance, and installation, and find that such amendment furthers the public health, safety, and welfare of the Village, and is in the best interests of the Village, its residents, and the public.

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, as follows:

Section 1. That the above recitals and legislative findings are found to be true and correct and are hereby incorporated herein and made a part hereof, as if fully set forth in their entirety.

Section 2. The Corporate Authorities find and determine that it is necessary and desirable to amend the Bensenville Village Code for the purpose set forth herein and that the adoption of this Ordinance is in the best interests of the Village.

Section 3. Title Three ("*Business Regulations*") of the Bensenville Village Code is hereby amended by deleting Chapter 19 ("*Amusement Tax*") in its entirety and adding the following language in its place to read, as follows:

CHAPTER 19 AMUSEMENT TAX

3-19-1: APPLICABILITY OF PROVISIONS:

The provisions of this chapter, except as otherwise provided, shall apply to all amusements as hereinafter defined, whether specifically licensed or regulated under other provisions of this code or other ordinances, or not.

3-19-2: DEFINITIONS:

For the purposes of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

AMUSEMENT: Shall mean and include:

A. Any event, exhibition, performance, presentation, or show for entertainment purposes, including, but not limited to, any comedic, theatrical, dramatic, musical, opera, or spectacular performance or production, or similar live or recorded entertainment; motion picture show or motion picture film production; haunted house; escape room; flower, antique, poultry, or animal show; exhibition of art, handicrafts, or products; animal act; circus; rodeo; athletic contest; sport; game or similar exhibition for public entertainment, including, without being limited to, boxing, wrestling, skating, dancing, swimming, racing or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, ice skating, track and field games, bowling, billiard, and pool games,.

B. Any entertainment or recreational activity offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, gun ranges and shooting galleries, bowling, billiard, pool games, rounds or games of golf, miniature golf, using a driving range, laser tag, axe throwing, go-carting, and use of any amusement devices such as virtual reality games, video games, internet café games, pinball machines, and arcade games.

C. Any paid television programming, whether transmitted by wire, cable, fiber optics, laser, microwave, radio, satellite, or similar means.

D. Any video streaming, audio streaming, or remotely-accessed online games made available or delivered electronically to patrons on a rental or subscription basis. The term "amusement" shall not include cable service or video service on a commercial basis offered by a holder subject to a service provider fee pursuant to Section 5/21-801 of the Public Utilities Act (220 ILCS 5/21-801) or such service offered by an incumbent cable operator subject to a fee paid to the local unit of government as described in 47 U.S.C. § 542.

CABLE SERVICE: Shall have the same meaning as set forth in Section 5/21-201(e) of the Public Utilities Act (220 ILCS 5/21-201(e)).

CHARGES PAID: The gross amount of consideration paid for the privilege to enter, to witness, to view, or to participate in an amusement, including amounts paid for the right to access an amusement, valued in money, whether received in money or otherwise, including cash, credits, property, and services, determined without any deduction for costs or expenses whatsoever. The term "charges paid" includes any and all charges that the patron pays incidental to obtaining the privilege to enter, to witness, to view, or to participate in an amusement, including but not limited to any and all related markups, service fees, convenience fees, facilitation fees, cancellation fees, and other such charges, regardless of terminology. The term "charges paid" does not include charges that are added on account of the tax imposed by this chapter or on account of any other tax imposed on the charge.

HOLDER: Shall have the same meaning as set forth in Section 5/21-201(k) of the Public Utilities Act (220 ILCS 5/21-201(k)).

INCUMBENT CABLE OPERATOR: Shall have the same meaning as set forth in Section 5/21-201(m) of the Public Utilities Act (220 ILCS 5/21-201(m)).

OWNER or OPERATOR: Shall mean and include:

A. Any person who sells or resells a ticket or other license to an amusement for consideration or who, directly or indirectly, receives or collects the charges paid for the sale or resale of a ticket or other license to the amusement. The term includes, but is not limited to, persons engaged in the business of selling or reselling tickets or other licenses to amusements, whether online, in person, or otherwise.

B. With respect to the owner of an amusement, any person which has an ownership or leasehold interest in such amusement or any person who has a proprietary interest in the amusement so as to entitle such person to all or a portion of the proceeds, 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.

C. Any person or entity operating a community antenna television system or wireless cable television system, or any person or entity receiving consideration from the patron for furnishing, transmitting, or otherwise providing access to paid television programming.

D. A person or entity operating a system, or any person or entity receiving consideration from the patron, for providing access to or electronically delivering video streaming, audio streaming, or online games to patrons.

PAID TELEVISION: Programming that can be viewed on a television or other screen, and is transmitted by cable, fiber optics, laser, microwave, radio, satellite, or similar means to members of the public for consideration.

PATRON: Any person who acquires the privilege to enter, to witness, to view, or to participate in an amusement; any person who has a primary place of use within the village who purchases the right to access an electronic amusement.

PERSON: Any natural individual that participates in an amusement, including a firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.

VIDEO SERVICE: Shall have the same meaning as set forth in Section 5/21-201(v) of the Public Utilities Act (220 ILCS 5/21-201(v)).

3-19-3: IMPOSITION OF TAX:

A. Except as otherwise provided by this chapter, beginning on March 1, 2026, an amusement tax is levied and imposed upon any person who participates in the privilege to witness, view, or participate in an amusement. This includes not only charges paid for the privilege to witness, view, or participate in amusements in person but also charges paid for the privilege to witness, view, or participate in electronic amusements including, but not limited to, shows, movies,

videos, music, or online games, that take place within the village, or are delivered to a patron with a primary place of use within the jurisdictional boundaries of the village. This tax is not imposed on transactions where the patron pays for the rights of the permanent use of an electronic amusement.

B. The rate of the tax shall be equal to five percent (5%) of the charges paid for such amusement.

C. In the case of amusements that are delivered electronically, as in the case of video streaming, audio streaming, and online games, the rules set forth in the Illinois Mobile Telecommunications Sourcing Conformity Act, 35 ILCS 638, as amended, may be utilized for the purpose of determining which customers and charges are presumed to be subject to the tax imposed by this chapter. If those rules indicate that the tax applies, it shall be presumed that the tax does apply unless the contrary is established by books, records, or other documentary evidence.

D. The tax imposed by this chapter shall not be applicable to any amusement shown, exhibited, or staged by:

1. Any not-for-profit organization which is exempt from taxation pursuant to Section 501 of the Internal Revenue Code of 1986, as amended;

2. Any school district;

3. Any governmental entity; or

4. Any entity that generates a majority of its revenue through charging an admission fee for an instructional class or the participation by a person in the creation of any type of artwork.

3-19-4: TAX ADDITIONAL:

The tax imposed in this chapter is in addition to any and all other taxes and charges imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

3-19-5: TRANSMITTAL OF TAX REVENUE BY OWNER OR OPERATOR; DELINQUENCY:

A. It shall be the joint and several duty of every owner or operator of an amusement under this chapter to secure from each patron or buyer the tax imposed by this chapter.

B. For purposes of this chapter, it shall be presumed that the amount of the amusement tax imposed on each person, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence, has been collected from the person by the owner or operator.

C. The owner or operator shall file tax returns showing the charges paid for amusements and the amount of tax collected during each calendar month period upon forms prescribed by the Village Finance Director. Returns for each calendar month shall be due on or before the 20th day of the next calendar month, (e.g. the return for March shall be due on or before the 20th day of April; the return for April shall be due on or before the 20th day of May; etc.). At the time of the filing of said tax returns, the owner or operator shall remit to the Village Finance Director all taxes due for the period to which the tax return applies.

D. In the event the charges paid for such amusements are paid on credit, the owner or operator shall not be liable for remittance of the tax imposed by this chapter on such a charge until the owner or operator receives payment for the charge.

E. If, for any reason, any tax return due pursuant to this chapter is not filed by the date due, or any tax due pursuant to this chapter is not remitted by the date due, penalties and interest on the amount of the tax due shall be imposed in accordance with the provisions of chapter 23 of this code.

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

F. The ultimate incidence of the tax shall remain on the person and shall never be shifted to the owner or operator.

G. Notwithstanding any other provision of this chapter, in order to permit sound fiscal planning and budgeting by the village, no person shall be entitled to a refund of, or credit for, the tax imposed by this chapter unless the person files a claim for refund or credit within one (1) year after the date on which the tax was paid or remitted to the village.

H. In the event that the village adopts or repeals an amusement tax, changes the tax rate, or extends this tax to any video streaming, audio streaming, or remotely-accessed online games made available or delivered electronically to patrons on a rental or subscription basis, or the village's jurisdictional boundaries change, it shall publish the resolution or ordinance or post a notification, which may include on its website, ninety (90) days prior to the effective date of such adoption or repeal of, or amendment to, this tax.

3-19-6: TRANSMITTAL OF EXCESS TAX COLLECTIONS:

If any person collects an amount upon a sale not subject to the tax imposed by this chapter, but which amount is purported to be the collection of said tax, or if a person collects an amount upon a sale greater than the amount of the tax so imposed herein and does not for any reason return the same to the patron who paid the same before filing the return for the period in which such occurred, said person shall account for and remit over those amounts to the village along with the tax properly collected.

3-19-7: BOOKS AND RECORDS; INSPECTION; CONTENTS:

The Village Finance Director, the Village Treasurer, or any person designated by either of them as their deputy or representative, may enter the premises of an owner or operator's business for inspection, examination, copying, and auditing of books and records including, but not limited to, Illinois Retailers' Occupation Tax and Illinois Service Occupation Tax returns filed with the Illinois Department of Revenue, in order to effectuate the proper administration of this chapter, and to assure the enforcement of the collection of the tax imposed by this chapter. To the extent reasonably possible, said entry shall be done in a manner that is least disruptive to the business of the owner or operator. The Village Finance Director, the Village Treasurer, or their duly designated deputies or representatives may also access said books and records remotely if the owner or operator provides remote access. It shall be unlawful for any person to prevent, hinder, or interfere with the Village Finance Director, the Village Treasurer, or their duly designated deputies or representatives in the discharge of their duties in the performance and enforcement of the provisions of this chapter. It shall be the duty of every owner or operator to keep accurate and complete books and records to which the Village Treasurer, the Village Finance Director, or their duly designated deputies or representatives shall at all times have full access, either in-person or remotely, which records shall include a daily sheet showing the gross amount of consideration the owner or operator received for the amusement services during the day.

3-19-8: REGISTRATION:

A. Every owner or operator providing services to customers subject to this tax within the village shall register as a tax collector with the Finance Department no later than thirty (30) days after the effective date of the ordinance imposing the tax or the date of commencing such business, whichever is later.

B. The registration shall be submitted to the Finance Department on forms provided by the Finance Department, which shall contain such information as reasonably required by the village to impose, collect, and audit all amounts related to the amusement tax.

3-19-9: RULES AND REGULATIONS:

The Village Treasurer or other person designated by the Village President, with the advice and consent of the village, may adopt, promulgate, and enforce rules and regulations not inconsistent with any and all laws, ordinances, rules and, regulations concerning the interpretation, collection, administration, and enforcement of this chapter. The term "rules and regulations" includes, but is not limited to, a case-by-case determination of whether or not the tax imposed by this chapter applies.

3-19-10: SUIT FOR COLLECTION:

Whenever any person fails to pay the tax imposed by this chapter, or when any owner or operator fails to collect the tax from the patron or remit to the village the tax collected, the Village Attorney

or Village Prosecutor shall, upon request of the Village Manager, bring or cause to be brought an action to enforce the payment, collection, or remittance of said tax to the village in any court of competent jurisdiction, with costs of such enforcement to be borne by the defendant.

3-19-11: SUSPENSION OF LICENSES:

If the Village President, after a hearing held by the Village President or for the Village President by the Village President's designee, shall find that any owner or operator has willfully avoided the collection or remittance to the village of any tax imposed by this chapter, the Village President may suspend or revoke all village licenses held by such tax evader. The owner or operator shall have an opportunity to be heard at such hearing to be held not less than fifteen (15) days after being mailed notice of the time when and the place where the hearing is to be held, addressed to the owner or operator at the owner or operator's last known place of business. Any suspension or revocation of any license(s) shall not release or discharge the owner or operator from the owner or operator's civil liability for the collection and remittance of the tax nor from prosecution for such offense.

3-19-12: APPLICATION OF VILLAGE CODE:

Any citation under this chapter may be in addition to any other citations issued by the village under any and all applicable sections of this code.

3-19-13: PENALTIES:

A. Any person found guilty of violating, disobeying, omitting, neglecting, or refusing to comply with or unlawfully resisting or opposing the enforcement of any of the provisions of this chapter, except when otherwise specifically provided, upon conviction thereof shall be punished by a fine of not less than two hundred dollars (\$200.00) nor more than seven hundred fifty dollars (\$750.00) for the first offense, and not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for the second and each subsequent offense in any 180-day period.

B. Each day upon which a person shall continue any violation of this chapter, or permit any such violation to exist after notification thereof, shall constitute a separate and distinct offense.

C. Any owner or operator subjected to the penalties provided for by this section shall not be discharged or released from the remittance of any tax due.

D. It shall be deemed a violation of this chapter for any person to knowingly furnish false or inaccurate information to the village.

3-19-14: SEPARABILITY:

If any subsection, sentence, clause, or phrase of this chapter, or the application thereof to any person or circumstance, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of this chapter, or the application of such portion to other persons or circumstances.

Section 4. This Ordinance, and its parts, are declared to be severable and any section, paragraph, clause, provision, or portion of this Ordinance that is declared invalid shall not affect the validity of any other provision of this Ordinance, which shall remain in full force and effect.

Section 5. The findings and recitals herein are declared to be prima facie evidence of the law of the Village and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Section 6. All ordinances, resolutions, motions, or orders in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 7. This Ordinance shall be in full force and effect upon its passage, approval and publication as provided by law.

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PASSED AND APPROVED by the President and Board of Trustees of the Village of Bensenville, DuPage and Cook Counties, Illinois, this 18th day of November, 2025, pursuant to a roll call vote, as follows:

APPROVED:



Frank DeSimone, Village President

ATTEST:



Nancy Quinn, Village Clerk

AYES: Carmona, Franz, Lomax, Panicola, Perez

NAYES: None

ABSENT: None