

AN ORDINANCE AMENDING  
CHAPTER 13 OF THE HOFFMAN ESTATES  
MUNICIPAL CODE ESTABLISHING  
AN AMUSEMENT AND ENTERTAINMENT SURCHARGE

WHEREAS, the Village of Hoffman Estates (hereafter the "Village") is a home rule municipality and pursuant to the Illinois Constitution, Article VII, Section 6, has certain powers which it is exercising; and

WHEREAS, the Village may license, tax and regulate athletic contests, carnivals and coin-operated amusement devices pursuant to 65 ILCS divisions 54 and 55 and, further, that no limitation upon home rule municipalities has been exercised by the General Assembly; and

WHEREAS, additionally, in exercise of its home rule authority, the Village, through its President and Board of Trustees, has found and determined that the establishment of a privilege tax now known as a surcharge on a charge or fee for amusements and entertainment within the Village that require significant municipal resources is in the best interest of the Village's citizens.

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

Section 1: That the findings contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

Section 2: That Article 10 of Chapter 13, REVENUE TAXES AND CHARGES, of the Hoffman Estates Municipal Code is hereby created to read as follows:

Article 10

AMUSEMENT AND ENTERTAINMENT SURCHARGE

Section 13-10-1. DEFINITION

For purposes of this Article of the Municipal Code, the following terms, phrases and words shall have the meanings given to them in this section.

A. Amusement and Entertainment. Means any amusement device or any athletic contest, event, activity, exhibition, performance, presentation, or show for entertainment purposes which is exhibited or staged in the Village, including, but not limited to, the following:

1. Any amusement devices as defined in Section 8-4-2 such as virtual reality games, video games, internet café games, pinball machines and arcade games in any restaurant-game room, game room or game area with 11 or more licensed devices;
2. Any licensed concert;
3. Any comedic, theatrical, dramatic, musical, ice show, opera, or spectator performance or production, or similar live or recorded entertainment;

4. Any show, antique or flower show, home show, speech or lecture;
5. Any exhibition of art or handicrafts or products;
6. Any animal exhibition or show, animal act, circus, or rodeo;
7. Any presentation of an athletic contest, sport, game or similar exhibition, including but not limited to, events such as boxing, wrestling, skating, dancing, swimming, racing or riding of animals or vehicles, baseball, basketball, softball, volleyball, football, lacrosse, tennis, golf, hockey, track and field games, bowling, billiard and pool games;
8. Any water park facility.

B. Admission Fee or Charge. Means any fee or charge made or received for admission to any amusement, whether or not represented by a ticket or admission stub or receipt of any kind. An admission fee or charge includes, but is not limited to, all fees or charges for parking and seats, chairs, tables, benches, space to stand or sit, special seating areas, tents, structures, booths, or other similar accommodations made as afore-described for which there is a fee or charge.

C. Amusement and Entertainment Patron. Means:

1. Any person who is admitted to any amusement or entertainment in the Village for which an admission fee or charge is imposed;
2. Any person who purchases or otherwise acquires a ticket or pass of any kind from a place other than the location where such ticket or pass is purchased or acquired for admission to any amusement and entertainment within the Village;
3. Any person who pays a fee or charge to participate in any amusement.

D. Amusement and Entertainment Owner. Means with respect to the owner of an amusement and entertainment, any person who has an ownership or leasehold interest in such amusement and entertainment or any person who has a proprietary interest in the amusement and entertainment so as to entitle such a person to all or a portion of the proceeds from the operation, conduct or presentation of such amusement and entertainment, excluding proceeds from non-amusement and non-entertainment services and from sales of tangible personal property.

E. Property Owner. Means with respect to the owner or lessee of a place where amusement and entertainment is being held, any person with ownership or leasehold interest in a building, structure, vehicle, boat, area or other place who presents, conducts or operates an amusement and entertainment in such a place or who allows, by agreement or otherwise, another person to present, conduct or operate an amusement and entertainment in such a place.

F. 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.

Section 13-10-2. SURCHARGE IMPOSED

A. An amusement and entertainment surcharge of six percent (6%) on the admission fee or charge is imposed upon every amusement and entertainment patron for the privilege of admission to any amusement and entertainment in the Village except that the surcharge for any licensed concert presented in an outdoor venue shall be four percent (4%).

B. The surcharge imposed by Sub-section A shall not apply to the following persons for privileges of witnessing, viewing or participating in any amusement and entertainment:

1. The privilege of witnessing any stock show or business show that is not open to the general public; or

2. The privilege of witnessing or participating in any amusement and entertainment sponsored or conducted by and the proceeds of which, after payment of reasonable expenses, inure exclusively to the benefit of governmental entities.

C. The surcharge imposed by subsection A shall not apply to admission fees or charges paid to:

1. Tennis clubs or athletic clubs.

2. Retail establishments for the rental of video tapes, DVDs or game cartridges.

3. Laser tag facilities.

4. Licensed golf courses and miniature golf courses.

5. Licensed bowling alleys.

6. Licensed billiard and pool halls.

7. Licensed ice skating rinks.

8. Licensed jukeboxes.

9. Licensed roller skating rinks.

10. Licensed sports complexes.

D. Where a patron pays a single fee or charge for admission to any amusement and entertainment and said fee also entitles the patron of the amusement and entertainment to food and/or beverage, the Property Owner, manager, licensee or operator of each amusement shall bear, jointly and severally, the duty to account to the Village for the division of the charges and

collect the amusement surcharge on that portion assessed to amusement and entertainment and collect the Village's food and beverage tax on the portion assessed to food and beverage. In the event any other taxes or fees are charged by the Village, a similar accounting shall occur.

**Section 13-10-3. PAYMENT AND COLLECTION OF SURCHARGE.**

The Property Owner, manager, licensee or operator of each amusement and entertainment shall bear, jointly and severally, the duty to collect the surcharge from each amusement and entertainment patron. Every person required to collect the surcharge levied by this subchapter shall secure said surcharge from the amusement and entertainment patron at the time that he collects the admissions fee or charge for the amusement and entertainment. The surcharge shall be paid to the person required to collect it as trustee for and on behalf of the Village.

**Section 13-10-4. PROPERTY OWNER DUTY OR OBLIGATION.**

Every property owner who allows by agreement or otherwise another person to present, conduct or operate an amusement and entertainment upon his property or property to which he has a leasehold interest shall provide the amusement and entertainment owner of written notification of the Village of Hoffman Estates amusement and entertainment surcharge.

**Section 13-10-5. ADMINISTRATION AND ENFORCEMENT**

The Director of Finance, or his designee, is designated as the administration and enforcement officer of the amusement and entertainment surcharge hereby imposed on behalf of the Village. It shall be the responsibility and duty of the Director of Finance or his designee to collect all amounts due the Village from property owners, managers, licensees, and operators of amusement and entertainment in the Village.

A sworn monthly amusement and entertainment surcharge return, prepared on a calendar month basis, shall be filed by each Property Owner, manager, licensee or operator of each amusement and entertainment in the Village with the Director of Finance on forms prescribed or approved by him, showing the gross receipts from the amusement and entertainment, the number of admission tickets sold and issued, and the amount of amusement and entertainment surcharge collected. Said surcharge returns and payment of the amusement and entertainment surcharge collected during the reporting period, are to be received by the Village no later than the last day of the calendar month succeeding the end of the monthly filing period.

The Director of Finance, or his designee, may enter the premises of any amusement and entertainment during its normal business hours, upon reasonable notice, for the purpose of inspection and examination of its books and records for the proper administration of this surcharge, and for the enforcement of the collection of the surcharge hereby imposed. It is unlawful for any person to prevent, hinder, or interfere with the Director of Finance or his designee in the discharge of his duties hereunder. It shall be the duty of every owner, manager, licensee or operator to keep accurate and complete books of records, containing all information necessary for the collection of the surcharge herein imposed, to which the Director of Finance or his designee shall have full access, which records shall include a daily sheet showing; (a) the number of tickets of admission issued during the twenty four (24) hour period, and (b) the actual amusement and entertainment surcharge receipts collected for the date in question. In the event that the inspection and examination by the Director of Finance, or his designee, discloses a discrepancy in excess of five percent (5%) from the information furnished by the owner, manager, licensee or operator of an amusement and entertainment, the cost of said inspection and examination shall be borne by said person.

Section 13-10-6. SUIT FOR COLLECTION; REVOCATION OF LICENSE.

Whenever any person shall fail to pay any surcharges herein provided, or when any owner, manager, licensee or operator of an amusement and entertainment shall fail to collect the surcharge hereby imposed from any person who has the ultimate liability for payment of the same, the Corporation Counsel, or his designee, shall, upon request of the Director of Finance, bring or cause to be brought an action to enforce the payment of said surcharge on behalf of the Village in any court of competent jurisdiction. Hearings to suspend or revoke a Village license shall be held as provided in Section 8-1-14 of the Hoffman Estates Municipal Code creating and administering such licenses or as may be established by the corporate authorities from time to time. Any such suspension or conviction resulting from such hearing shall not relieve or discharge any civil liability for non-payment of the surcharge due.

Section 13-10-7. LATE PAYMENT PENALTY

If any tax imposed by this Article is not paid when due, a late payment penalty equal to two percent (2%) of the unpaid tax shall be added for each month, or any portion thereof, that such tax remains unpaid, and the total of such late payment penalty shall be paid along with the tax imposed by this Article.

Section 13-10-8. PROCEEDS OF SURCHARGE

All proceeds resulting from the imposition of this surcharge, including penalties, shall be paid into the treasury of the Village.

Section 13-10-9. PENALTY

Any person failing or omitting to pay said tax when due or failing or omitting to collect, account for or pay over said tax, together with any late payment penalty, or failing to maintain or allow the examination of the required records shall, in addition to any other payment or penalty provided by law, be fined not less than Fifty Dollars (\$50.00) nor more than Five Hundred Dollars (\$500.00) for each offense, and each day a violation continues shall be considered a separate and distinct violation.

Section 13-10-10. CONFIDENTIALITY

All information received by the Village from returns filed pursuant to this Article or from any investigations conducted pursuant to this Article, except for official Village purposes, or as required by the Freedom of Information Act, shall be confidential.

Section 3: That the Village Clerk is hereby authorized to publish this ordinance in pamphlet form.

Section 4: That this Ordinance shall be in full force and effect immediately from and after its passage and approval as required by law on January 1, 2006.

PASSED THIS 25th day of September, 2006

APPROVED THIS 25th day of September, 2006

VOTE	AYE	NAY
Trustee Mills	<u>  x  </u>	<u>      </u>
Trustee Boester	<u>  x  </u>	<u>      </u>
Trustee Rusakiewicz	<u>  x  </u>	<u>      </u>
Trustee Collins	<u>  x  </u>	<u>      </u>
Trustee Kincaid	<u>  x  </u>	<u>      </u>
Trustee Crespo	<u>  x  </u>	<u>      </u>

APPROVED:

William P. McLeod  
Village President

ATTEST:

Virginia Mary Hayler  
Village Clerk

Published in pamphlet form this 28th day of September, 2006.