

Chapter 10

AMUSEMENTS*

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*Cross reference—Businesses, ch. 22.

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. AMUSEMENT TAX

Sec. 10-31. Definitions.

The following words, terms and phrases when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement means:

- (1) Any entertainment or recreational activity offered for public participation, including, but not limited to, amusement parks, carnivals, bowling, billiard and pool games charged by the hour, dancing, skating (ice or roller), swimming, racquetball, tennis, horseback riding, go-kart tracks or similar activities;
- (2) Any exhibition, performance, presentation or show for entertainment purposes, viewed outside a home or hotel guest room, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, promotional show, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition such as boxing, wrestling, skating, dancing, swimming, racing or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, or billiard and pool games charged by the hour; and
- (3) Any other activity or event where persons engage in or observe a recreational or physical activity, game or performance.

Amusements shall not include those actions where the manner in which one participates in a recreational activity is instructional in nature and constitutes lessons or classes.

Gross receipts means the total selling price or charge imposed upon all persons participating in or witnessing all amusements within the village. Gross receipts shall not include any sums charged

for the right to participate in an activity within an amusement park if the charge for the entry into the amusement park, per paid admission, is more than \$10.00.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Cross reference—Definitions generally, § 1-2.

Sec. 10-32. License required.

No person, firm or corporation shall produce, present, or conduct any amusement for gain or profit without first obtaining a license from the village.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Sec. 10-33. Amusement tax imposed.

A tax is hereby imposed upon all persons participating in or witnessing all amusements within the village in an amount equal to three percent of the gross receipts; provided, however, that the tax shall not apply to nor be imposed upon the privilege of witnessing or participating in any business or trade show or any amusement the proceeds of which, after the payment of reasonable expenses, inure exclusively to the benefit of a public library district or park district, any religious, educational, eleemosynary or charitable institution, society or organization, or any society or organization conducted and maintained for the purpose of civic improvement, provided that no part of the net earnings of such entity inure to the benefit of any shareholder or person.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Sec. 10-34. Tax collection.

(a) The tax shall be collected by any natural person or corporation conducting an amusement from those persons who attend and witness or participate in such amusement.

(b) The tax so collected shall be due and payable on the 15th day of each month for the preceding calendar month. The tax shall be paid to and collected by the village treasurer.

(c) The owner or operator of the amusement shall keep complete and accurate records, books and accounts in detail of all gross receipts for such

amusements and such receipts shall be kept and made available at the place of amusement or such other place in the village as may be designated in writing by the person liable for the tax. The village treasurer, either personally or through his authorized agent, shall have the right at all reasonable times to check the books and records of any person, corporation or any other entity that carries on an amusement for the purpose of auditing the collection of such tax. Every person required to collect a tax pursuant to this article shall be considered tax collector for the village. All amusement taxes 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 exclude or release the obligation to pay the tax.

(d) On or before the 15th day of each calendar month, each person or corporation responsible for collection of the tax provided for in this article shall make a report in writing and file it with the village treasurer stating the total number of paid admissions, if applicable, the gross receipts for paid admissions for the amusement and the total tax collected for such period.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Sec. 10-35. Penalty.

Any person or corporation failing to pay the tax provided for in this article required or refusing to allow the inspection of books or records as required in this article, or failing to file the report of fees and charges required by this article or willfully and knowingly making a false report or violating any of the terms of this article shall be fined a penalty in the sum of not less than \$200.00 and not more than as provided in section 1-11. A separate offense shall be deemed committed on each day during or on which a violation occurs. Upon a finding of a violation of this article, the circuit court may direct and order the person or corporation to pay the tax amounts not paid to the village. In addition to the penalty above, an additional amount of five percent of the tax required to be shown due on the return shall be imposed for a failure to file a tax return on or before the due date prescribed for filing such return and an additional amount of 15 percent of

the tax shown on the return or required to be shown due on the return shall be imposed for a failure to pay such amount on or before the due date prescribed for filing the return.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Sec. 10-36. License suspension or revocation.

The village president may suspend or revoke any license issued to a person or corporation responsible for collecting the tax provided for in this article for failure to comply with the provisions of this article. A revocation or suspension shall take place only after a hearing based upon previously presented written charges and with at least 14 days' prior written notice. At that hearing, the party charged may be represented by counsel and any witnesses called shall be subject to cross examination. The village president shall issue a written opinion, with findings of fact, after the conclusion of the hearing.

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Sec. 10-37. Refund or credit.

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

(Code 1977, § 32.04; Ord. No. 98-135, § 1, 11-16-1998)

Secs. 10-38—10-55. Reserved.

ARTICLE III. AUTOMATIC AMUSEMENT MACHINES

Sec. 10-56. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Automatic amusement machine means any mechanical, electrical or electronic machine or de-

vice, the operation of which is governed or controlled by the deposit of a coin or token, or fee, and may be operated by the public for use as an individual game, entertainment or amusement, the object of which is to achieve either a high or low score which by comparison to the score of other players, whether playing concurrently or not, demonstrates relative skill or competence, or indicates in any other way competitive advantage of one player or team over another, regardless of skill or competence. The term includes devices such as pinball machines or any device which utilizes a video tube to reproduce symbolic figures and lines intended to be representative of real games or activities. It shall include any billiard, pocket billiard pool table or shuffle alley which shall be subject to the provisions of this article. It shall not include amusement uses or games where there is at least one full-time supervisor per game such as in the case of games commonly found at carnivals or fairs.

Automatic amusement machine, permitted accessory use means a use in other than a residential zoning district of less than six automatic amusement machines which is clearly incidental to and subordinate in area, extent or purpose to a principal use and is either in the same ownership as the principal use or is clearly operated and maintained solely for the use, comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

All automatic amusement machines established as permitted accessory uses must be licensed by the village, but do not require a public hearing.

Automatic amusement machine, special accessory use means a use in a residential zoning district of less than six automatic amusement machines or a use of from six to 12 automatic amusement machines in other than a residential zoning district which is clearly incidental to and subordinate in area, extent or purpose to a principal use and is either in the same ownership as the principal use or is clearly operated and maintained solely for the use, comfort, convenience, necessity or benefit of the occupants, employees, customers or visitors of or to the principal use.

All automatic amusement machines established as special accessory uses must comply with the provisions of the village zoning ordinance for special uses including the requirement for a public hearing before the plan commission.

Automatic amusement machine, special use means a use of more than 12 automatic amusement machines located solely within one enclosure and operated as the primary or principal use of such enclosure as regulated by the village zoning ordinance.

All automatic amusement machines established as a special use must comply with the provisions of the village zoning ordinance for special uses including the requirement for a public hearing before the plan commission.

(Ord. No. 83-34, § 1, 9-26-1983)

Sec. 10-57. Licensing and fees.

(a) No person, firm, or corporation shall place, keep, install, maintain, operate, or permit any automatic amusement machine, as defined by this article, within the village for use by the public without first having obtained a license for such machine.

(b) Licenses for such use shall only be issued to the person, firm, or corporation owning, renting, or operating the principal use where the automatic amusement machines are located in the case of a permitted accessory use or special accessory use; or to the person, firm, or corporation owning, renting, or operating the premises where the automatic amusement machines are located in the case of a special use.

(c) Responsibility for compliance with the regulations of this article shall rest with the licensee for the premises where the automatic amusement machines are located.

(d) An application for a license required by this article shall be filed with the office of the zoning administrator on a form prescribed by the office. Each individual automatic amusement machine will require a license, and for the purpose of this section, a separate license fee must be paid for each individual video tube screen regardless of the number of video tube screens which may be incorporated into a single structure. The annual

license fee for automatic amusement machines as a permitted accessory use shall be \$100.00 plus an additional \$50.00 for each individual automatic amusement machine.

(e) The annual licensee fee for automatic amusement machines as a special accessory use shall be \$200.00 plus an additional \$50.00 for each individual automatic amusement machine. The first license to establish this use shall not be acted upon until after the village board has taken final action on the special accessory use application. Subsequent annual licenses shall be issued upon payment of the required fee unless the special accessory use permit has been revoked by the village board.

(f) The annual license fee for automatic amusement machines as a special use shall be \$500.00 plus an additional \$50.00 for each individual automatic amusement machine. The first license to establish this use shall not be acted upon until after the village board has taken final action on the special use application. Subsequent annual licenses shall be issued upon payment of the required fee unless the special use permit has been revoked by the village board.
(Ord. No. 83-34, § 2, 9-26-1983)

Sec. 10-58. Regulations apply to all automatic amusement machines.

(a) *Gambling.* It shall be unlawful to permit gambling on the premises where any automatic amusement machines are located.

(b) *School-age children.* It shall be unlawful for anyone less than 16 years of age to operate an automatic amusement machine during normal school hours unless accompanied by his parent or legal guardian.

(c) *Age; alcoholic beverages.* It shall be unlawful for anyone less than 21 years of age to operate an automatic amusement machine in any establishment serving alcoholic beverages unless accompanied by his parent or legal guardian.

(d) *Noise.* It shall be unlawful to permit on the premises where any automatic amusement machines are located, noise, either by mechanical means or noise on the part of patrons which shall cause a disturbance to the adjacent and surround-

ing uses as would cause the normal operation or enjoyment of such use to be damaged or unreasonably disturbed.

(e) *Circulation.* It shall be unlawful to allow the placement of any automatic amusement machine in such a manner as to interfere with the normal or emergency entrances or exits for a premises or to interfere with the normal pedestrian circulation of the premises or to permit overcrowding.

(f) *Machine placement.* No automatic amusement machine shall be located within a required yard as prescribed by the zoning district in which the machine is located.

(g) *Location restrictions.* All automatic amusement machines shall comply with the location restriction requirements specified in section 10-61 of this article.
(Ord. No. 83-34, § 3, 9-26-1983)

Sec. 10-59. Regulations applying to automatic amusement machines as special accessory uses.

(a) All automatic amusement machines established as special accessory uses must comply with the provisions of the village zoning ordinance for special uses, including the requirement for a public hearing before the plan commission.

(b) At the public hearing, in addition to providing evidence of compliance with the standards for special use, the applicant shall provide information concerning the requirements for any special facilities required by the automatic amusement machine, special accessory use including, but not limited to:

- (1) Parking requirements.
- (2) Bicycle racks.
- (3) Restroom facilities.
- (4) Signage.
- (5) Machine location, spacing and noninterference with the activities of the principal use.
- (6) Noise.

- (7) Satisfaction of the location restrictions specified in section 10-61.
(Ord. No. 83-34, § 4, 9-26-1983)

Sec. 10-60. Regulations applying to automatic amusement machines as special uses.

(a) All automatic amusement machines established as a special use may comply with the provisions of the village zoning ordinance for special use, including the requirement for a public hearing before the plan commission.

(b) In addition to satisfying the standards for special use as specified in the village zoning ordinance, the automatic amusement machine, special use must comply with the following:

- (1) *Parking.* One parking space shall be provided for each three automatic amusement machines on the premises. Provisions for shared parking facilities with other uses may be approved where peak parking requirements occur at distinctly different times of the day or at different times of the week as determined by the village board, pursuant to the recommendations of the plan commission as provided for in the village zoning ordinance.
- (2) *Bicycle racks.* At least one bicycle rack must be provided adequate to accommodate at least one bicycle for each three automatic amusement machines on the premises unless specifically modified by the village board after a recommendation by the plan commission. The bicycle rack must be properly located to avoid conflicts with automobile and pedestrian circulation.
- (3) *Restroom facilities.* Two restrooms, one for males and one for females, must be provided for an automatic amusement machine, special use. Any provision for shared use of restroom facilities with any other use must be approved by the village board after a recommendation by the plan commission.
- (4) *Supervision.* An attendant who is 21 years of age or over shall have his name posted

in a visible location to the general public and shall be on the premises at all times in which the business is open to the public, unless specifically modified by the village board after a recommendation by the plan commission.

- (5) *Visibility.* The automatic amusement machines shall be arranged, and appropriate lighting shall be provided in all areas, so that the management attendant may easily observe and supervise the operation of all machines and areas of the premises.
- (6) *Hours of operation.* It shall be unlawful for any automatic amusement machine, special use to be open to the public at any time other than the following:

Monday—Thursday	10:00 a.m.— 11:00 p.m.
Friday	10:00 a.m.— 12:00 a.m.
Saturday	9:00 a.m.— 12:00 a.m.
Sunday	11:00 a.m.— 10:00 p.m.
- (7) *School-age children.* It shall be unlawful to permit anyone 16 years of age or less to enter the premises of an automatic amusement machine premises, special use during normal school hours unless accompanied by his parent or legal guardian.
- (8) *Litter.* Adequate waste receptacles both inside and outside of the automatic amusement machine premises, special use must be provided.
- (9) *Signage and exterior lighting.* Signage and exterior lighting shall at a minimum comply with the sign ordinance of the village. In addition, proposed signage and exterior lighting shall be presented to the plan commission at the public hearing for comment with final action by the village board.
- (10) *Space requirements.* The total capacity of an automatic amusement machine, special use shall be limited to one automatic amusement machine for each 35 square feet of floor area devoted to use for auto-

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matic amusement machines and shall not include such support areas as restrooms, storage, or other areas.

- (11) *Location restrictions.* The proposed special use shall satisfy the location restrictions specified in section 10-61 of this article.

(c) The plan commission may recommend, and the village board may impose such conditions and restrictions upon the establishment, maintenance,

and operation of the special use as deemed necessary for the protection of the public interest. (Ord. No. 83-34, § 5, 9-26-1983)

Sec. 10-61. Location restrictions.

The minimum distance in feet between any main entrance to an automatic amusement machine use and the closest property line of the location restriction factor listed in the table, Automatic Amusement Machine Use, shall be:

Location Restriction Factor	<i>Automatic Amusement Machine Use</i>			
	Permitted Accessory (1—5 Machines*) (in feet)	Special Accessory (1—5 Machines**) (in feet)	Special Accessory (6—12 Machines*) (in feet)	Special Use (+12 Machines***) (in feet)
Church	300	300	400	500
School	200	200	300	500
Park	100	100	200	300
Residential zoning district	100	—	100	200

* In other than a residential zoning district

** In a residential zoning district

*** In the C/B-2 and C/S-1 zoning districts only (Ord. No. 83-34, § 6, 9-26-1983)

Sec. 10-62. Existing automatic amusement machines and uses.

(a) Any and all automatic amusement machines which existed in the village at the adoption of the ordinance from which this article is derived and which do or are made to comply with all provisions of this article, with the exception of the required public hearing, shall be allowed to continue provided that the number of machines existing at the adoption of the ordinance from which this article is derived shall not be increased. To maintain this total permitted number of machines, all annual license fees must continuously be paid without interruption on an annual basis.

(b) Any and all automatic amusement machines which existed in the village at the adoption of the ordinance from which this article is derived and which do not or are not made to comply with all provisions of this article, with the exception of the required public hearing, shall cease to exist in accordance with the following:

- (1) *One to five machines.* Within six months of the adoption of the ordinance from which this article is derived.
- (2) *Six to 12 machines.* Within one year of the adoption of the ordinance from which this article is derived.
- (3) *More than 12 machines.* Within two years of the adoption of the ordinance from which this article is derived.

(c) Automatic amusement machines which are incorporated as uses incidental to operation of a theme park shall be exempt from the provisions of this article, provided that:

- (1) The theme park has heretofore obtained or does hereafter obtain a special use permit for operation as a theme park pursuant to the provisions of the village zoning ordinance.
 - (2) A general admission fee is charged to patrons for entrance into the theme park grounds.
 - (3) The patrons of the theme park are subject to the provisions of the village amusement tax.
 - (4) The theme park annually registers the number, location and types of automatic amusement machines located within the theme park and pays an annual flat registration fee of \$2,000.00 to the village.
- (Ord. No. 83-34, § 7, 9-26-1983)

Sec. 10-63. Penalty.

(a) Any person, firm or corporation, or agents, employees, or contractors of such, who violate, disobey, omit, neglect, or refuse to comply with, or who resist enforcement of, any provision of this article, shall be subject to a fine of not more than \$200.00 or imprisonment for not more than six months, or both, for each offense; and each day a violation continues to exist shall constitute a separate offense.

(b) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and subject to the penalties set forth in subsection (a) of this section.

(c) In addition, the village may also take other lawful action as it deems necessary to prevent or remedy any violation of any provisions of this article.
(Ord. No. 83-34, § 8, 9-26-1983)