

**CITY OF O'FALLON, ILLINOIS  
ORDINANCE NO. 4324**

**AN ORDINANCE PERTAINING TO AMUSEMENT TAXES  
FOR THE CITY OF O'FALLON, ILLINOIS**

WHEREAS, the **City of O'Fallon, Illinois (City)** is a home rule unit of government and, pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution, may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

WHEREAS, pursuant to Article VII, Section 6(a) and Section 6(i) of the Illinois Constitution in conjunction with 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the **City** is authorized to impose a tax upon amusements; and

WHEREAS, the **City's** Amusement Tax will provide much needed revenue to promote the general health, safety and welfare of the **City** and its residents within the **City**; and

WHEREAS, the **City Council** of O'Fallon, Illinois, hereby determines that it is in the best interest of the **City** and its residents to impose said Amusement Tax; and

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

ARTICLE 1

The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

ARTICLE 2

Title X\ Chapter 125 entitled "AMUSEMENTS" is hereby adopted:

Chapter 125  
AMUSEMENTS

SECTION 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.

SECTION 2: DEFINITIONS:

For purposes of this chapter, unless the context otherwise requires, the following words or terms shall have the meanings respectively applied to them:

A. Amusement: 1. Any exhibition, performance or show for entertainment purposes, including, but not limited to, any theatrical, dramatic, musical or spectacular performance, motion picture show, flower, poultry or animal show, 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, track and field games, bowling, billiard and pool games. 2. Any entertainment or recreational activity offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games.

B. Amusement charge means the total amount of consideration collected by an amusement owner from any patron for the privilege of admission to or participation in any amusement, regardless of terminology.

C. Owner or Operator: 1. 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; 2. 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.

D. Amusement tax means the tax based on the amusement charge for an amusement as imposed by this chapter.

E. Patron means a person who enjoys the privilege of admission to or participation in an amusement within the corporate limits of the City.

F. 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.

### SECTION 3: AMUSEMENT TAX IMPOSED

#### SECTION 3.1: TAX ADDITIONAL

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

#### SECTION 3.2: TAX IMPOSED RATE

A. Commencing on July 1, 2025, a tax, in addition to all other taxes, is imposed upon the privilege of admission to or participation in an amusement within the City, if the amusement owner or operator has entered into a redevelopment agreement with the City, at a rate

of five percent (5%) of the amusement charge; however, the tax shall not be imposed upon the privilege of admission to or participation in any amusement the proceeds of which, after the payment of reasonable expenses, inure exclusively to the benefit of a governmental entity or non-profit organization. The amount due under the tax levied by this chapter shall be stated separately upon the bill, invoice, receipt, or statement of the amusement charge due issued to the patron. The ultimate incidence of and liability for payment of the tax shall be upon the patron of the amusement. The tax shall be in addition to any and all other taxes.

B. Notwithstanding the language in the previous paragraph, no amusement tax would accrue on any owner or operator until the effective date of the applicable redevelopment agreement.

#### SECTION 3.3: COLLECTION OF TAX

The owner and operator of each amusement within the City, that has entered into a redevelopment agreement with the City, shall jointly and severally have the duty to collect the tax from each patron at the time they collect the amusement charge for the amusement and account for said tax by filing a sworn tax return with the City's Director of Finance or their designee. Said return shall be prepared and submitted on forms prescribed by the City and shall be filed with the City by the last day of the month following the month in which such tax was collected. Said return shall also be accompanied by payment to the City of all taxes imposed by this chapter which are due and owing for the period covered in the return.

#### SECTION 3.4: REGISTRATION AND MAINTENANCE OF BOOKS AND RECORDS

The owner and operator of each amusement within the City shall each register with the City within thirty (30) days after the commencement of such business, or the enactment of this tax, whichever is later, on forms provided by the City's Director of Finance or their designee. The owner and operator of each amusement shall have the duty to maintain complete and accurate books, records, and accounts showing the gross receipts for admission to or participation in the amusement and the taxes collected from the patrons thereof, which shall be available for examination and for audit by the City upon reasonable notice during customary business hours.

#### SECTION 3.5 RULES AND REGULATIONS; AUTHORIZED

The **City** is authorized to adopt, promulgate and enforce any additional rules and regulations pertaining to the interpretation, collection, administration and enforcement of this Chapter.

#### SECTION 3.6 APPLICATION OF **CITY** CODE.

Any citation under this Chapter may be in addition to any other citations issued by the **City** under any and all applicable sections of the **City** Code.

#### SECTION 3.7: PENALTIES

A. If any tax imposed by this article is not paid over to the City when due, a late payment penalty equal to 10% of the unpaid tax, shall be assessed to the owner and operator and added to the tax. In addition if for any reason any tax is not paid when due, interest at a rate of 1.5% per month on the amount of tax which remains unpaid, shall be added to the tax.. The City may bring an action to collect any unpaid tax or penalty and any legal fees and costs incurred by the city, in the collection of any tax, shall be paid by the owner or operator.

B. In addition to any late payment penalty or interest, , any owner and operator of the Amusement violating any provision of this Chapter upon conviction thereof shall be fined not less than one hundred dollars (\$100.00) nor more than seven hundred fifty dollars (\$750.00) for each such offense. Each failure to collect the tax imposed hereby or each failure to pay such tax over to the City shall constitute a separate violation thereof.

#### SECTION 3.8: TRANSMITTAL OF EXCESS TAX COLLECTIONS

If any amusement owner collects an amount upon a sale not subject to the tax imposed, but which amount is purported to be the collection of said tax, or if any amusement owner 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 amusement owner shall account for and pay over those amounts to the City along with the tax properly collected.

#### SECTION 3.9: SUSPENSION OR REVOCATION OF LICENSE

Payment and collection of the tax and any late payment penalty may be enforced by the City by action in any court of competent jurisdiction. If, after a hearing, it is found that any amusement owner has willfully evaded its responsibility to collect, account for, and/or pay over said tax, such finding shall be cause for suspension or revocation of any City license applicable to the amusement in addition to any other penalty in this chapter.

### ARTICLE 3

REPEAL OF CONFLICTING PROVISIONS. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

### ARTICLE 4

SEVERABILITY. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

### ARTICLE 5

EFFECTIVE DATE. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect on July 1, 2025.

Passed by the City Council this 21<sup>st</sup> day of April 2025.

\*\*\*\*\*

ATTEST:

(seal)



Jerry Mouser, City Clerk

Approved by the Mayor this 21<sup>st</sup> day

of April 2025.

Herb Roach, Mayor

ROLL CALL:	Rosenberg	Muyleart	Albrecht	Lotz	Carney	Fohne	Roach, T.	SUB TOTALS
Aye	X	X	X	X	X	X	X	7
Nay								0
Absent								0

ROLL CALL:	Smallheer.	Hudson	Blackburn	Vorce	Campbell	Parchman	Van Hook	SUB TOTALS	SUM OF TOTALS
Aye	X	X	X	X	X		X	6	13
Nay								0	0
Absent						X		1	1