

Request For Board Action

REFERRED TO BOARD: June 22, 2022

AGENDA ITEM NO: 5 & 6

ORIGINATING DEPARTMENT: Community Development

SUBJECT: Consideration of approval of Ordinance reimposing a ticket tax for the Antioch Theatre and Ordinance approving a Rebate Agreement with DDS Investments, LLC.

SUMMARY AND BACKGROUND OF SUBJECT MATTER:

Based on previous discussions, Staff is bringing two ordinances to Village Board for your consideration related to the \$400,000 sale of the theatre to a new owner. The current owner, Tim Downey, is proposing to sell the theater to Linda Monty. The proposed sale will be a privately financed transaction and a newly imposed ticket tax will rebated back to the purchaser, Linda Monty. The purchaser will be responsible to pay the current owner of the theatre for the agreed upon sales price.

Staff is taking this opportunity to enclose an Ordinance that reimposes the theatre ticket tax and a rebate agreement between the Village, the existing owner, and the purchaser of the theatre. Staff has been working with our attorney, the existing owner, and the purchaser over the past month on the terms of the proposed rebate agreement.

Pursuant to previous discussions, the Village has agreed to reimpose a ticket tax for movies and create a new tax for live events. The proposed ticket tax rate is as follows:

Financial Impact:

1. Movie ticket sales tax: \$1.50
2. Special event ticket sales tax: \$2.50
3. Theatre rentals tax, per rental: \$10

Attachments

- 1) Ticket Tax Ordinance
- 2) Rebate Agreement Ordinance

Based on the foregoing analysis, Staff would make the following motion:

We move that the Village Board approve the herewith attached "Ticket Tax Ordinance" and "Antioch Theatre Rebate Agreement Ordinance."

VILLAGE OF ANTIOCH

22-05-xx

**AN ORDINANCE AMENDING TITLE 3 OF THE ANTIOCH
VILLAGE CODE TO ADD A NEW CHAPTER 6, ESTABLISHING
A SALES TAX ON TICKETS SOLD TO MOTION PICTURE
VIEWINGS AND LIVE PERFORMANCE EVENTS AND RENTAL
AGREEMENTS AT MOTION PICTURE THEATERS**

ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES

OF THE

VILLAGE OF ANTIOCH, ILLINOIS

ON

MAY __, 2022

**Published in pamphlet form by authority of the Village Board
of the Village of Antioch, Lake County, Illinois,
this __th day of May, 2022**

SCOTT J. GARTNER	President	BRENT C. BLUTHARDT	Trustee
		PETRINA BURMAN	Trustee
LORI K. ROMINE	Clerk	MARY C. DOMINIAK	Trustee
		ED MACEK	Trustee
		MARY J. PEDERSEN	Trustee
DEL GALDO LAW GROUP	Attorney	SCOTT A. PIERCE	Trustee

ORDINANCE 22-05-xx

AN ORDINANCE AMENDING TITLE 3 OF THE ANTIOCH VILLAGE CODE TO ADD A NEW CHAPTER 6, ESTABLISHING A SALES TAX ON TICKETS SOLD TO MOTION PICTURE VIEWINGS AND LIVE PERFORMANCE EVENTS AND RENTAL AGREEMENTS AT MOTION PICTURE THEATERS

WHEREAS, the Village of Antioch (“Village”) is an Illinois non-home rule municipality organized and operating under the Illinois Municipal Code (65 ILCS 5/1, et seq.) (the “Code”); and

WHEREAS, under 65 ILCS 5/11-42-1 and 65 ILCS 5/11-42-5, Illinois municipalities have the power to tax certain businesses, including theatrical events, shows and exhibitions; and

WHEREAS, the Village President (the “President”) and the Village Board of Trustees (the “Village Board”, and together with the President, the “Corporate Authorities”) are committed to promoting, protecting and preserving the vitality of the downtown business district for the benefit of its residents; and

WHEREAS, the Corporate Authorities acknowledge that the Antioch Theater located at 378 Lake Street in the Village (the “Theater”) has been an important fixture in the community for approximately a century, providing entertainment for generations of residents; and

WHEREAS, the Corporate Authorities have determined that the Theater’s continuing operation is essential to the economic health and vitality of the downtown business district; and

WHEREAS, the Corporate Authorities desire to impose a tax on each ticket sold for motion picture viewings and live performance events and any rental agreement between an operator of a theater for motion picture viewing and a person, and to dedicate the tax revenues generated from the ticket sales and rental agreements to assist the Theater and for other corporate purposes; and

WHEREAS, the Corporate Authorities have determined that it is appropriate, necessary and in the best interest of the Village to impose a tax on each ticket sold for a motion picture viewing in the amount of one dollar and fifty cents (\$1.50) and a tax on

each ticket sold for a live performance event in the amount of two dollars and fifty cents (\$2.50), and to impose a tax on the rental of any area within a motion picture theater; and, therefore, the Corporate Authorities desire to amend Title 3 of the Village Code to add Chapter 6; and

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Antioch, Lake County, Illinois, as follows:

Section One. Title 3 of the Antioch Village Code is hereby amended by adding the following new Chapter 6, which shall hereafter read as follows:

Chapter 6. Ticket Sales and Rental Agreement Tax

3-6-1. Tax Imposed. Pursuant to the power granted to the Village by the provisions of 65 ILCS 5/11-42-1 and 65 ILCS 5/11-42-5, a tax is imposed on each ticket sold for admission to a motion picture viewing or live performance event at a theater within the Village of Antioch. Also, a tax is imposed on each rental agreement between the operator of any theater for motion picture viewing and a person.

A. Definitions. Whenever used in this Chapter, the following terms or phrases shall have the meanings set forth below, unless the context requires a different meaning.

“Live Performance Event” means any act, play, dance, pantomime, song, or other activity performed by actors or performers in front of a live audience.

“Motion Picture” means any series of pictures projected on a screen in rapid succession with objects shown in successive positions slightly changed so as to produce the optical effect of a continuous picture in which the objects move. This definition shall be construed broadly to include not only traditional films, but also recorded, broadcast or internet video, including, but not limited to, pay-per-view events shown in commercial settings and for which a ticket or admission charge is required by the exhibitor or venue.

“Person” means an individual, partnership, association or corporation.

- B. Exemptions: The following exhibitions of motion picture and live performance events are exempt from this tax:
- a. Tickets sold by any person or group of persons for exhibition within any school building;
 - b. Tickets sold by the Village or any other unit of local government for exhibition anywhere within the Village, including any outdoor venue;
 - c. Tickets sold by any recognized or chartered homeowners' association or charitable institution where proceeds from the exhibition are intended to be used for fundraising purposes;
 - d. Tickets sold by any organization exempt from federal income tax under section 501(c)(3) of the Internal Revenue Code; and
 - e. Any other specific exhibition granted a waiver from this tax by the Village Board upon a written petition brought prior to the exhibition.

3-6-2. Tax Rate. The taxes imposed by section 3-6-1 hereinabove are set as follows:

- A. One dollar and fifty cents (\$1.50) per ticket for a motion picture viewing, regardless of the face price of the ticket and regardless of whether the ticket is offered for sale at any discount.
- B. Two dollars and fifty cents (\$2.50) per ticket for a live performance event, regardless of the face price of the ticket and regardless of whether the ticket is offered for sale at any discount.
- C. Ten dollars (\$10.00) for each rental agreement between the operator of a theater for motion picture viewing and a person.

3-6-3. Tax Forms. An operator of any motion picture theater and any live performance event venue within the Village shall report all ticket sales and rental agreements, if applicable, for the preceding month to the Village Treasurer using forms supplied by the Village Treasurer by the tenth (10th) day of the following month.

3-6-4. Payments. An operator of any motion picture theater or live performance event venue within the Village shall paid, in full, to the Village Treasurer at such

time as the tax forms described in 3-6-3 are filed all taxes collected during the preceding month.

3-6-5. Audit. The Village Treasurer shall have the right to audit the books and records of any or all operators of motion picture theaters and live performance event venues to ensure that they are in full compliance with the provisions of this Chapter.

- A. To commence the audit, the Village Treasurer shall issue a written notice to the operator requiring the operator to produce a copy of all sales receipts and related ledgers and/or journals to the Treasurer.
- B. Such notice shall allow the operator not less than five (5) business days to comply.
- C. Upon completion of the audit, the Village Treasurer shall issue a written report to the operator with his or her findings.
- D. Within five (5) business days of issuance of the audit report, the operator shall pay any sums found to be due and owing.
- E. The decision of the Village Treasurer shall constitute a final administrative action of the Village, appealable to the Village Board pursuant to the Administrative Review Act.

3-6-6. Enforcement. Any person found to be in violation of any provision of this Chapter shall be subject to a penalty of \$100.00 per violation, with each sale of each violative ticket to constitute a separate penalty.

Section Two. The tax imposed by this Ordinance shall begin on July 1, 2022 and continue in effect until December 31, 2032.

Section Three. This Ordinance shall be in full force and effect following its passage, approval and publication as required by law.

[Signature page follows]

Adopted by the Board of Trustees of the Village of Antioch, Illinois, on this ____
day of _____, 2022.

Scott J. Gartner, Mayor

ATTEST:

Lori K. Romine, Village Clerk

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

CERTIFICATE

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on May __, 2022, the Corporate Authorities of such municipality passed and approved **Ordinance No. 22-05-xx**, entitled **“AN ORDINANCE AMENDING TITLE 3 OF THE ANTIOCH VILLAGE CODE TO ADD A NEW CHAPTER 6, ESTABLISHING A SALES TAX ON TICKETS SOLD TO MOTION PICTURE VIEWINGS AND LIVE PERFORMANCE EVENTS AND RENTAL AGREEMENTS AT MOTION PICTURE THEATERS”** which provided by its terms that it should be published in pamphlet form.

The pamphlet form of **Ordinance No. 22-05-xx**, including the Ordinance and cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on _____, 2022 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this ___ day of _____, 2022.

Lori K. Romine, RMC/CMC
Village Clerk

VILLAGE OF ANTIOCH

22-__-__

AN ORDINANCE APPROVING A TICKET SALES TAX REBATE AGREEMENT

**ADOPTED BY THE PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF ANTIOCH, ILLINOIS
ON
_____, 2022**

**Published in pamphlet form by authority of the Village Board of the Village of
Antioch, Lake County, Illinois,
this __ day of _____, 2022.**

SCOTT J. GARTNER	President	MARY C. DOMINIAK	Trustee
		MARY J. PEDERSEN	Trustee
LORI K. ROMINE	Clerk	ED MACEK	Trustee
		SCOTT A. PIERCE	Trustee
DEL GALDO LAW GROUP, LLC	Attorney	PETRINA A. BURMAN	Trustee
		BRENT C. BLUTHARDT	Trustee

Ordinance No. 22-__-__

AN ORDINANCE APPROVING A TICKET SALES TAX REBATE AGREEMENT

WHEREAS, the Village of Antioch (“Village”) is an Illinois non-home rule municipality organized and operating under the Illinois Municipal Code (65 ILCS 5/1, *et seq.*) (the “Code”); and

WHEREAS, the Village President (the “President”) and the Village Board of Trustees (the “Village Board”, and together with the President, the “Corporate Authorities”) are committed to promoting, protecting and preserving the health, safety, and welfare of its residents; and

WHEREAS, Illinois law allows the Village to incentivize and provide subsidies to stimulate the economic growth of the Village; and

WHEREAS, attached hereto and incorporated herein as Exhibit A is a copy of a ticket sales tax rebate agreement, which sets forth the terms and conditions under which the Village will provide a subsidy to stimulate the economic growth of the Village (the “Agreement”); and

WHEREAS, based on the foregoing, the Corporate Authorities have determined that it is necessary, advisable, and in the best interests of the Village, and its residents, to approve and enter into the Agreement;

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Antioch, Lake County, Illinois, as follows:

SECTION 1: The Corporate Authorities hereby approve the Agreement. The Corporate Authorities hereby authorize and direct the President, or his designee, to execute the Agreement in accordance with its terms, or any modification thereof, and to ratify all previous action taken to effectuate the intent of this Ordinance. The Corporate Authorities hereby authorize the Village to conduct due diligence on the Property. The Corporate Authorities hereby further authorize and direct the President, or his designee, to perform all necessary acts to effectuate the intent of this Ordinance and to authorize and direct the expenditure of all costs related thereto or resulting therefrom including paying the seller the purchase price of the Property.

SECTION 2: All ordinances, resolutions and orders or parts of ordinances in conflict with this Ordinance are superseded to the extent of such conflict.

SECTION 3: The Village Clerk shall cause this Ordinance to be published in pamphlet form.

SECTION 4: This Ordinance shall be in full force and effect after passage and publication as provided by law.

PASSED by the President and Board of Trustees of the Village this __ day of _____, 2022.

Voting Aye (list names):

Voting Nay (list names):

Abstaining (list names):

Absent (list names):

SCOTT J. GARTNER, MAYOR

ATTEST:

LORI K. ROMINE, VILLAGE CLERK

STATE OF ILLINOIS)
) SS
COUNTY OF LAKE)

CERTIFICATE

I, Lori K. Romine, certify that I am the duly appointed Municipal Clerk of the Village of Antioch, Lake County, Illinois.

I certify that on _____, 2022, the Corporate Authorities of such municipality passed and approved Ordinance No. 22-__-__, entitled “***AN ORDINANCE APPROVING A TICKET SALES TAX REBAE AGREEMENT***” which provides that it should be published in pamphlet form.

The pamphlet form of **Ordinance No. 22-__-__**, including the Ordinance and cover sheet thereof, was prepared, and a copy of such Ordinance was posted in the municipal building, commencing on _____, 2022 and continuing for at least ten days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Municipal Clerk.

DATED at Antioch, Illinois, this ___th day of _____, 2022

Lori K. Romine, RMC/CMC
Village Clerk

EXHIBIT A
[AGREEMENT]