



PUBLIC MEETING NOTICE AND AGENDA  
SPECIAL & EMERGENCY MEETING OF THE BOARD OF TRUSTEES

OCTOBER 31, 2021  
2:30 P.M.

AGENDA

Pursuant to the Open Meetings Act, 5 ILCS 120/2.02(a), notice is given that a special and emergency meeting of the Village of Lake in the Hills Board of Trustees will be held on Sunday, October 31, 2021, at 2:30 p.m. at the Lake in the Hills Village Hall, 600 Harvest Gate, Lake in the Hills, Illinois. The purpose of the special and emergency meeting is to address the Illinois General Assembly's HB3136 which passed through both houses on Thursday, October 28, 2021 and was further amended on Thursday, October 28, 2021 to preempt home rule powers if an ordinance imposing an amusement tax on persons who participate in the playing of video gaming terminals was not in place before November 1, 2021. The special and emergency meeting is to consider an ordinance imposing a tax upon the amusement of playing a video gaming terminal (a Push Tax) within the Village.

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Public Comment  
The public is invited to make an issue-oriented comment on any matter of public concern. The public comment may be no longer than 3 minutes in duration.
5. Agenda Item
  - A. Motion to pass Ordinance No. 2021- \_\_\_\_, An Ordinance amending Chapter 34, Occupation and Other Taxes, Section 34.11, Amusement Tax, of the Lake in the Hills Municipal Code pertaining to playing Video Gaming Terminals (Push Tax).
6. Adjournment

MEETING LOCATION  
Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, IL 60156

The Village of Lake in the Hills is subject to the requirements of the Americans with Disabilities Act of 1990. Individuals with disabilities who plan to attend this meeting and who require certain accommodations so that they can observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the Village's facilities, should contact the Village's ADA Coordinator at (847) 960-7410 [TDD (847) 658-4511] promptly to allow the Village to make reasonable accommodations for those persons.

Posted by: \_\_\_\_\_ Date: \_\_\_\_\_ Time: \_\_\_\_\_



# REQUEST FOR BOARD ACTION

---

**MEETING DATE:** October 31, 2021

**DEPARTMENT:** Administration

**SUBJECT:** Amend Municipal Code Chapter 34, Occupation and Other Taxes, and Establish a Video Gaming Terminal Push Tax

## EXECUTIVE SUMMARY

---

Staff is presenting an ordinance to amend Chapter 34 of the Municipal Code to establish a one-cent per push amusement tax on video gaming terminals in the Village. On October 28, the General Assembly passed HB 3136. The legislation preempts home rule communities from imposing a video gaming push tax after October 31, 2021. Home rule communities that have adopted or do adopt a push tax "before November 1, 2021," are allowed to maintain their push tax, but may not extend, expand or increase the tax after that date. This is an express preemption of the Village's home rule authority, grandfathering all actions taken before November 1, but disallowing any such actions on or after November 1, 2021. The attached ordinance creates the one-cent per push amusement tax on video gaming terminals.

## FINANCIAL IMPACT

---

The tax is estimated to add \$150,000 to \$200,000 a year to Village revenues.

## ATTACHMENTS

---

1. Ordinance

## RECOMMENDED MOTION

---

Approve the Ordinance amending Municipal Code Chapter 34, Solicitation and Other Taxes, and create a Video Gaming Terminal Push Tax.

# VILLAGE OF LAKE IN THE HILLS

## ORDINANCE NO. 2021- \_\_\_\_\_

An Ordinance Amending Chapter 34, Occupation and Other Taxes, Section 34.11, Amusement Tax, of The Lake in the Hills Municipal Code pertaining to playing Video Gaming Terminals (Push Tax)

**WHEREAS**, the Village of Lake in the Hills, McHenry County, Illinois (the “Village”) is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the Village’s home rule powers and functions as granted in the Constitution of the State of Illinois, including but not limited to the power to tax and to incur debt; and

**WHEREAS**, the Illinois Video Gaming Act (“VGA”), 230 ILCS 40/1 *et seq.*, regulates the operation, licensing, and administration of video gambling; and

**WHEREAS**, the Village in accordance with the VGA regulates video gaming activity within the Village; and

**WHEREAS**, pursuant to Article VII, Section 6(a) and Section 6(i) of the Ill. Const. of 1970 in conjunction with 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the Village is authorized to impose a tax upon amusements; and

**WHEREAS**, the Illinois General Assembly’s HB3136 which passed through both houses on Thursday, October 28, 2021 and was further amended on Thursday, October 28, 2021 to preempt home rule powers if an ordinance imposing an amusement tax on persons who participate in the playing of video gaming terminals was not in place before November 1, 2021; and

**WHEREAS**, the Village now desires to impose a tax upon the amusement of playing a video gaming terminal within the Village (“Push Tax”); and

**WHEREAS**, the Village’s Push Tax will provide much needed revenue to promote the general health, safety, and welfare of the Village and its residents, and provide adequate funds to offset the adverse effects of gambling within the Village; and

**WHEREAS**, the President and Board of Trustees of the Village of Lake in the Hills, hereby believe that it is in the best interest of the Village and its residents to impose said Push Tax; and

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

**SECTION 1:** Chapter 34.11, Amusement Tax, of the Lake in the Hills Municipal Code shall be amended with the underlined language being added and the stricken language being deleted, as follows:

34.11 AMUSEMENT TAX

A. APPLICABILITY OF PROVISIONS: The provisions of this Section, 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.

AB. DEFINITIONS

1. “Amusement” means: (1) any theatrical, dramatic, musical or spectator performance, ~~or~~ motion picture show, circus, rodeo, flower, poultry or animal show, animal act, sporting event or athletic game, or other similar exhibit or exhibition open and available for public attendance and entertainment for a fee or admission charge within the corporate limits of the Village of Lake in the Hills, 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 and (2) any entertainment offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games, or any Video Gaming Terminal.
2. “Person” means any natural individual that participates in an amusement, including but not limited to a firm, organization, society, foundation, institution, person, trustee, receiver, administrator, executor, conservator, or other representative appointed by order of any court, assignee, trust in perpetuity, trust, estate, firm, partnership, co-partnership, joint venture, joint stock company, limited liability company, public or private corporation, club, company, business trust, domestic or foreign corporation, association, syndicate, society, or any group of individuals acting as a unit, whether mutual, cooperative, or otherwise, or any other entity recognized by law. Whenever the term “Person” is used in any clause prescribing and imposing a penalty, the term as applied to associations shall mean the owners or part-owners thereof, and as applied to corporations, the officers thereof.
3. “Terminal Operator” means any individual, partnership, corporation, or limited liability company that is licensed under the Video Gaming Act, 230 ILCS 40/1 et seq., and that owns, services, and maintains Video Gaming Terminals for placement in licensed establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.
4. “Play” means each individual push of the Video Gaming Terminal which initiates the simulation provided by the Video Gaming Terminal. Play shall not include the push of individual wager

amounts, selection of types of games on the Video Gaming Terminal or entry of any information or printing of winning receipts.

5. “Video Gaming Terminal” any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

**BC. GENERAL AMUSEMENT TAX IMPOSED:**

1. TAX IMPOSED: A tax is hereby imposed upon all persons operating amusements, except as to amusements involving a Video Gaming Terminal(s) which are taxed pursuant to subsection D below, within the corporate limits of the ∗Village, and upon all persons operating places which provide amusements within the corporate limits of the ∗Village, in an amount equal to five percent (5%) of all gross receipts for each amusement. Said taxes shall be in addition to all other taxes imposed by law.

Gross receipts means all fees or charges received or collected in the form of admission fees or other charges for admission to and/or for the use or rental of any amusement for the purposes of witnessing or utilizing any amusement regardless of whether such fees or charges are characterized as admission fees, membership fees, use charges, rent, rental or service charges, exclusive of any tax imposed by the United States government, State of Illinois, the ∗Village or any other governmental unit.

Any person subject to the amusement tax imposed herein may separately itemize and charge to patrons in addition to any admission fee or other charge, the amount of amusement tax attributable to such admission fee or other charge. In the event the tax imposed by this section is not shown or collected as a separate charge, all admission fees or other charges shall be deemed exclusive of the amusement tax specified hereinabove.

**€2. EXEMPTIONS:** The tax described in Section **B1,** above, shall not be applicable to any persons who generate gross receipts in an amount less than \$2,000 in a calendar year. The tax described in Section **B1** above, also shall not apply to any amusement event held by any religious, charitable, labor, fraternal, educational, veterans’, 501(c) not-for-profit persons or organizations, municipal, park district, school district, or any unit of local government; and shall

not apply to any amusement even that was held to defray the cost of medical expenses of a resident or to defray the cost of displacement expenses suffered by a resident due to a fire, flood, or other natural disaster.

- D3.** BOOKS AND RECORDS; INSPECTIONS; CONTENTS: The Village Finance Director or any person designated by the Finance Director as their respective deputy or representative, may enter the premises of any place which provides amusements 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 ordinance and to assure the enforcement of the collection of the tax imposed by this ordinance. To the extent reasonably possible, said entry shall be done in a manner that is least disruptive to the business of the place providing amusements. It shall be unlawful for any person to prevent, hinder, or interfere with the Village Finance Director or their duly designated deputies or representatives in the discharge of their respective duties in the performance of this subsection. It shall be the duty of every owner of a place which provides amusements to keep accurate and complete books and records to which the Village Finance Director or their respective deputies or representatives shall at all times have full access, which records shall include a daily sheet showing the amount of gross receipts received during that day.
- E4.** TRANSMITTAL OF TAX REVENUE BY OWNER: The owner or owners of each place which provides amusements shall file tax returns showing the gross receipts received 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 20<sup>th</sup> day of the next calendar month, (e.g. the return for January shall be due on or before the 20<sup>th</sup> day of February; the return for February shall be due on or before the 20<sup>th</sup> day of March; etc.).
- F5.** COMMISSION: Owners filing tax returns pursuant to Section 5 shall, at the time of filing such return, pay to the ~~v~~Village the amount of the tax imposed by this ordinance, less a commission of one (1%) percent of the amount of the tax, which is allowed to reimburse the owners for the expense incurred in keeping records, billing, preparing and filing returns, remitting the tax and supplying data to the ~~v~~Village upon request. No commission may be claimed by an owner for taxes not timely remitted to the ~~v~~Village.
- G6.** INTEREST AND PENALTIES: If, for any reason, any tax due pursuant to this ordinance is not paid when due, a penalty of five percent (5%) of the tax will be imposed. In addition, interest shall accumulate and be due upon

said tax at the rate of one and a half percent (1.5%) per month commencing as of the first day of the month following the month for which the tax was to have been collected.

- H7. The obligation to pay the tax as herein described shall commence for each and every Amusement produced, presented, or conducted or otherwise shown within the Village of Lake in the Hills commencing on the first day of January 1, 2017.

D. VIDEO GAMING TERMINAL AMUSEMENT TAX IMPOSED:

1. TAX IMPOSED

- a. Except as otherwise provided by this Section, an amusement tax is imposed upon any person who participates in the Play of a Video Gaming Terminal that takes place within the jurisdictional boundaries of the Village.
- b. The rate of the tax shall be equal to \$0.01 (one cent) per Play on a Video Gaming Terminal.
- c. The Terminal Operator of a Video Gaming Terminal may separately itemize and charge each Person who Plays a Video Gaming Terminal.

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

3. REGISTRATION

- a. Every Terminal Operator of a Video Gaming Terminal(s) located in the Village, shall apply for registration as a tax collector with the Village no later than thirty (30) days after commencing such business or thirty (30) days after the effective date of this Ordinance imposing the Push Tax, whichever occurs later.
- b. The application shall be submitted to the Village on the forms provided by the Village and contain such information as reasonably required by the Village to impose, collect, and audit all amounts related to the Push Tax.

4. COLLECTION, PAYMENT, AND ACCOUNTING

- a. It shall be the joint and several duty of every Terminal Operator of a Video Gaming Terminal(s) to secure from each

Person participating in the Play of a Video Gaming Terminal the Push Tax imposed by this Section.

- b. For purposes of this Section, it shall be presumed that the amount of the Push 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 Terminal Operator.
- c. Push Tax payments accompanied by tax returns prescribed by the Village shall be remitted to the Village on or before the 20th day of the month following the month in which payment for the Push Tax is made.
- d. Every Terminal Operator of a Video Gaming Terminal who is required to collect the Push Tax by this Section shall be considered a tax collector for the Village. All Push Tax amounts collected shall be held by the Terminal Operator as trustee for and on behalf of the Village. The failure of the Operator to collect the tax shall not excuse or release the Person from the obligation to pay the tax.
- e. The ultimate incidence of the Push Tax shall remain on the Person and shall never be shifted to the Terminal Operator.
- f. Notwithstanding any other provision of this Section, 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 Push Tax imposed by this Section unless the person files a claim for a refund or credit within one (1) year after the date on which the Push Tax was paid or remitted to the Village.
- g. The Terminal Operator of any Video Gaming Terminal(s) shall be subject to audit, inspection, and record keeping provisions of this Code.
- h. It shall be unlawful for any Terminal Operator and/or Person to prevent, hinder, or interfere with the Village's Officials, employees, and/or agents designated to discharge their respective duties in the performance and enforcement of the provisions of this Section.
- i. It is the duty of every Terminal Operator of a Video Gaming Terminal(s) to keep accurate and complete books and records to which the Village's officials, employees, and/or agents will at all times have full access.



5. RULES AND REGULATIONS; AUTHORIZED: The Village is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Section.

6. APPLICATION OF VILLAGE CODE: Any citation under this Section may be in addition to any other citations issued by the Village under any and all applicable sections of the Village Code.

7. VIOLATIONS; PENALTIES: It shall be a violation of this Section for a Terminal Operator to fail to file a report within the time prescribed in this Section.

a. Report Required: A Terminal Operator who falsely reports or fails to report the amount of Push Tax due as required by this Section shall be in violation of this Section and is subject to the suspension and/or revocation of their Terminal Operator License. All payments not remitted when due shall be paid together with a penalty assessment on the unpaid balance at a rate of 1.5% per month.

b. Suspension Or Revocation Of License: The Local Liquor Commissioner or his or her designee shall have the power to suspend for not more than thirty (30) days or revoke any video gaming license issued under the provisions of this Section for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this Section, any of the statutes of the State or any other valid ordinance or resolution enacted by the corporate authorities of the Village. However, no such license shall be revoked or suspended except after the holding of a public hearing by the Local Liquor Commissioner or his or her designee. Ten (10) days' notice of the hearing shall be given to the Terminal Operator. Alternatively, the Terminal Operator shall have the opportunity to engage in a prehearing conference and agree to negotiated penalties rather than proceed to a hearing.

c. Fine Imposed: In addition, any Terminal Operator violating the provisions of this Section shall be subject to a fine of \$250.00 for the first offense, and \$500.00 for the second offense and \$750.00 for a third offense and subject to a revocation of any license to operate a Video Gaming Terminal for the third offense.

d. Each day a violation continues shall constitute a separate violation.

e. It shall be deemed a violation of this Section for any Person to knowingly furnish false or inaccurate information to the Village.

**SECTION 2:** If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment

shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

**SECTION 3:** All ordinances or parts of ordinances in conflict herewith are provisionally repealed to the extent of such conflict during the term of effectiveness of this Ordinance.

**SECTION 4:** This Ordinance shall take effect immediately upon its passage, due to the urgency of implementing a Push Tax in light of HB3136.

Passed this 31<sup>st</sup> day of October, 2021 by roll call vote as follows:

	Ayes	Nays	Absent	Abstain
Trustee Stephen Harlfinger	_____	_____	_____	_____
Trustee Bob Huckins	_____	_____	_____	_____
Trustee Bill Dustin	_____	_____	_____	_____
Trustee Suzette Bojarski	_____	_____	_____	_____
Trustee Diane Murphy	_____	_____	_____	_____
Trustee Wendy Anderson	_____	_____	_____	_____
President Ray Bogdanowski	_____	_____	_____	_____

APPROVED THIS 31ST DAY OF OCTOBER, 2021

\_\_\_\_\_  
Village President, Ray Bogdanowski

(SEAL)

ATTEST: \_\_\_\_\_  
Village Clerk, Shannon DuBeau

Published: \_\_\_\_\_