



PUBLIC MEETING NOTICE AND AGENDA  
COMMITTEE OF THE WHOLE MEETING

JUNE 21, 2022  
7:30 P.M.

AGENDA

1. Call to Order
2. Pledge of Allegiance
3. Audience Participation  
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.
4. Staff Presentations
  - A. Administration
    1. Ordinance approving a Tolling Agreement with Video Gaming Terminal Operators
    2. Ordinance amending Chapter 33, Section 33.08B "Number of Licenses Issued" of the Municipal Code
  - B. Community Development
    1. Ordinance granting variation to Section 13.5 Permitted Accessory Structures Yard(s) allowed at 20 East Oak Street – Pool
    2. Ordinance granting Text Amendments to Section 3 - Definitions, Section 7 – Residential Districts, and Section 18 – Off Street Parking and Loading
5. Board of Trustees
  - A. Trustee Harlfinger
  - B. Trustee Huckins
  - C. Trustee Dustin
    1. Planning and Zoning Commission Liaison Report
  - D. Trustee Bojarski
  - E. Trustee Murphy
  - F. Trustee Anderson
    1. Parks and Recreation Board Liaison Report
6. Village President
  - A. Proclamation – Eagle Scout Brody Michael Sharkey (Thursday)
  - B. Proclamation – Parks & Recreation Month (Thursday)
  - C. Appointment – Brian Crow – Police Pension (Thursday)
7. Adjournment

MEETING LOCATION  
Lake in the Hills Village Hall  
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

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**MEETING DATE:** June 21, 2022

**DEPARTMENT:** Administration

**SUBJECT:** Ordinance Approving a Tolling Agreement

## EXECUTIVE SUMMARY

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The Board voted to implement the Penny-Per-Push Tax ("Push Tax") on October 31, 2021, due to legislation being passed in late October that would have otherwise precluded the Village from ever implementing a Push Tax in the future. The premise of the Push Tax is that the video gaming terminal operators (the companies that provide the video gaming machines to our local businesses) are responsible for collecting and remitting \$0.01 from the players of the video gaming machines for each time the player pushes to wager on a game.

Subsequent to the Push Tax going into effect, no terminal operator has remitted any significant amount that should be owed to the Village. The terminal operators have raised several arguments regarding both the legality of the Push Tax and the alleged unfeasibility of collecting it from the players, due to limitations on the machines, which are manufactured by a third party according to Illinois Gaming Board specifications.

Two lawsuits, involving Oak Lawn and Waukegan, have been battling these arguments through litigation dating back to 2020 and 2021, respectively. Our Village has united with four other home rule communities (Algonquin, Carpentersville, McHenry, and Woodstock), facing the same non-response from the terminal operators, to provide unified responses and actions in communications with the terminal operators. The direction of the group is that there is no value in entering litigation to fight the same legal arguments and issues that are currently working their way through the court system, for which there may not be definitive clarity for more than a year.

Our Village Attorney's office, in representation of the five communities, has engaged in discussions with the terminal operators to enter a Tolling Agreement, whereby the parties would agree to not go through monthly Push Tax objection appeals, hearings, and litigation, until the sooner of the pending litigation with Oak Lawn and/or Waukegan, or if either party chooses to terminate the Tolling Agreement at an earlier date. The concept is that we are saving money by not engaging in avoidable litigation, at this stage, until there is further clarity from the court system as to our right to compel the terminal operators to pay the Push Tax.

Entering the Tolling Agreement provides an efficiency and the latitude for the Village to choose to actively pursue Push Tax remittances if and when the time is appropriate, instead of forcing avoidable controversy through litigation.

## **FINANCIAL IMPACT**

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Entering the Tolling Agreement would save the Village thousands, if not tens of thousands of dollars, in litigation expense. The only potential adverse financial consequence is that the Village would be waiving any claim for late charges or interest in the Push Tax amounts owed, beginning January 1, 2022, until the Tolling Agreement is terminated. However, the cost savings of not forcing litigation at this juncture, without further clarity of the court system, is anticipated to outweigh the potential additional recovery of late charges and interest.

## **ATTACHMENTS**

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1. Ordinance
2. Tolling Agreement

## **RECOMMENDED MOTION**

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Motion to Approve the Ordinance approving the Tolling Agreement.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2022- \_\_\_\_\_

**AN ORDINANCE APPROVING ENTRY INTO AN AGREEMENT  
WITH VIDEO GAMING TERMINAL OPERATORS FOR THE PURPOSE  
OF TOLLING THE VIDEO GAMING 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 power to tax and to incur debt pursuant to its home rule powers and functions as granted in the Constitution of the State of Illinois; and

WHEREAS, subject to said Section, a home rule unit may exercise any power and perform any function pertaining to its government and affairs for the protection of the public welfare; and

WHEREAS, the Village timely imposed an amusement tax of \$0.01 per push upon any person who participates in playing a video gaming terminal within its jurisdiction (collectively, the "Push Tax") to be collected and remitted by the video gaming terminal operators monthly; and

WHEREAS, in addition to the Village of Lake in the Hills, the Village of Algonquin, the Village of Carpentersville, the City of McHenry, and the City of Woodstock all have a genuine dispute relating to the collection and remittance of the Push Tax with the video gaming terminal operators; and

WHEREAS, there is litigation pending in Cook County Circuit Court, *Illinois Gaming Machine Operators Association, et al. v. The Village of Oak Lawn*, Case No. 2020CH02928, and in Lake County Circuit Court, *Illinois Gaming Machine Operators Association v. City of Waukegan*, Case No. 2020CH0514, regarding the same or similar issues as are disputed between the municipalities and the video gaming terminal operators; and

WHEREAS, the Village desires to enter into an agreement, along with the other municipalities, with the video gaming terminal operators for the purpose of tolling the Push Tax through April 30, 2023 and preserving their positions during the pendency of the litigation; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills, pursuant to the Village's home rule powers and all other powers provided to it by Article VII, Section 6 of the Constitution of the State of Illinois, and all other statutory authority, have determined that entering into the agreement with the video gaming terminal operators will serve and be in the best interests of the safety and welfare of the Village, its resident and its visitors.

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

SECTION 1: The facts and statements 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: The Tolling Agreement by and between the Village of Lake in the Hills, the Village of Algonquin, the Village of Carpentersville, the City of McHenry, and the City of Woodstock, and J&J Ventures Gaming, LLC, Gold Rush Amusements, Inc., Accel Entertainment Gaming, LLC, Lattner Entertainment Group Illinois, LLC, Eureka Entertainment, LLC, Velasquez Gaming, LLC, Ashiq Gaming, LLC, and Pocket Aces Gaming, Inc. is hereby approved in substantially the form attached to this Ordinance as Exhibit A, subject to the Village's Attorney review and approval.

SECTION 3: The Village President is hereby authorized and directed to execute on behalf of the Village, the Tolling Agreement and all documentation related thereto.

SECTION 4: 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 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6: This Ordinance shall be in full force and effect upon its approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 23<sup>rd</sup> day of June 2022 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 23RD DAY OF JUNE, 2022

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

(SEAL)

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

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

## **TOLLING AGREEMENT**

THIS TOLLING AGREEMENT (the “Agreement”) is made as of this 23rd day of June, 2022, by and between the VILLAGE OF ALGONQUIN, an Illinois municipal corporation, (“Algonquin”); the VILLAGE OF CARPENTERSVILLE, an Illinois municipal corporation, (“Carpentersville”); the VILLAGE OF LAKE IN THE HILLS, an Illinois municipal corporation, (“LITH”); the CITY OF McHENRY, an Illinois municipal corporation, (“McHenry”); and the CITY OF WOODSTOCK, an Illinois municipal corporation, (“Woodstock”), hereinafter individually a “Municipality” and collectively the “Municipalities,” and J&J VENTURES GAMING, LLC, an Illinois limited liability company, (“J&J”); GOLD RUSH AMUSEMENTS, INC., an Illinois corporation, (“Gold Rush”); ACCEL ENTERTAINMENT GAMING, LLC, an Illinois limited liability company, (“Accel”); LATTNER ENTERTAINMENT GROUP ILLINOIS, LLC, an Illinois limited liability company, (“Lattner”); EUREKA ENTERTAINMENT, LLC, an Illinois limited liability company (“UGG”), VELASQUEZ GAMING, LLC (“Velasquez”), an Illinois limited liability company, ASHIQ GAMING, LLC (“Ashiq”), an Illinois limited liability company, and POCKET ACES GAMING, INC. (“Pocket Aces”), an Illinois corporation, hereinafter individually a “Terminal Operator” and collectively the “Terminal Operators.”

### **RECITALS:**

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

WHEREAS, the Municipalities may adopt ordinances regulating video gaming activity within their jurisdictions in accordance with the VGA;

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 Municipalities are authorized to impose a tax upon amusements;

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, preempts 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;

WHEREAS, to preserve its home rule powers, the Municipalities each timely imposed an amusement tax of \$0.01 per push upon any person who participates in playing a video gaming terminal within their respective jurisdiction (collectively, the “Push Tax”);

WHEREAS, the Push Tax is imposed upon the person who participates in the play of a video gaming terminal, to be collected and remitted by the Terminal Operators monthly;

WHEREAS, McHenry has abated its Push Tax through August 31, 2022;

WHEREAS, the Municipalities and the Terminal Operators have a genuine dispute relating to the collection and remittance of the Push Tax;

WHEREAS, there is litigation pending in Cook County Circuit Court, *Illinois Gaming Machine Operators Association, et al. v. The Village of Oak Lawn, Case No. 2020CH02928*, and in Lake County Circuit Court, *Illinois Gaming Machine Operators Association v. City of Waukegan, Case No. 2020CH0514*, regarding the same or similar issues as are disputed between the Municipalities and the Terminal Operators; and

WHEREAS, the Municipalities and the Terminal Operators wish to preserve their positions during the pendency of the litigation referenced above, including any appeals, and toll any statute of limitations, statute of repose, and equitable positions including waiver and laches regarding any claims or defenses the Municipalities and Terminal Operators may have against the other relating to the collection and remittance of the Push Tax.

NOW THEREFORE, in consideration of the promises and agreements contained in this Agreement, and for other good and valuable consideration, the value and receipt of which is acknowledged by each party hereto, this Agreement is entered into as follows:

1. Recitals. The recitals set forth above are incorporated into this Agreement. However, the recitals are for purposes of this Agreement only and not meant to state any binding position, admission, or defense.

2. Tolling. All applicable time periods or time related matters, including, but not limited to, statutes of limitation, statutes of repose, or equitable positions including waiver or laches, with respect to any claims, causes of action, or defenses the Municipalities and Terminal Operators may have against the other shall be tolled from June 23, 2022 through April 30, 2023 (the “Tolling Period”) with the exception that a party may withdraw earlier from this Agreement pursuant to Section 6 of this Agreement. No provision of this Agreement is intended to or shall be deemed to revive any statute of limitation or other applicable time period that has already expired prior to June 23, 2022 and that would not otherwise be tolled prior to June 23, 2022. No provision of this Agreement is intended to or shall be construed to shorten any applicable statute of limitation, or repose, or other applicable time period that has not expired as of June 23, 2022.

3. No Actions. No Municipality nor any Terminal Operator may bring an action on any claim or cause of action against the other until April 30, 2023 or until that specific Municipality or Terminal Operator withdraws from this Agreement pursuant to Section 6 of this Agreement. As to any action on any claim or cause of action brought after the expiration of the Tolling Period or any claim or cause of action brought by a party after said party withdraws from this Agreement pursuant to Section 6 of this Agreement, the Municipalities or Terminal Operators may raise any defense based on any time period or time related matters, except that no claim, cause of action, or defense may include the Tolling Period of this Agreement as a basis of the claim, cause of action, or defense, including but not limited to, statutes of limitation, statutes of repose, waiver or laches. During the Tolling Period, no Municipality need send any notice of failure or deficiency relating to the collection or remittance of the Push Tax and no Terminal Operator need file any written protest to preserve their respective claims (and the failure to do so shall not act as a bar to any claim or defense). Any written protest filed by any Terminal Operator and any pending administrative proceeding pursuant to said written protest as of the date of this Agreement shall be stayed until the expiration of the Tolling Period or until that Terminal Operator or Municipality withdraws from this Agreement pursuant to Section 6 of this Agreement. Any notices related to a Push Tax already issued by any Municipality as of the date of execution of this Agreement do

not need to be responded to by a Terminal Operator, whether by written protest or other similar mechanism, until the expiration of the Agreement or until that Terminal Operator or Municipality withdraws from this Agreement pursuant to Section 6 of this Agreement.

4. Collection, Interest and Penalties. Municipalities are not requiring Terminal Operators to withdraw their receptacles or other means of collection for the Push Tax during the Tolling Period. Terminal Operators can continue to submit tax returns and remit any monies collected for the Push Tax during the Tolling Period; however, no such submittal nor remittance shall suggest that it is payment in full. In addition, remittances, if any, shall be by check, ACH, or other form of payment authorized by a Municipality. Upon the expiration of the Agreement or upon any Municipality or Terminal Operator withdrawing from this Agreement pursuant to Section 6 of this Agreement, the Municipalities shall have the right to seek any Push Tax they believe were owed during the Tolling Period, but waive the right to seek any accrued interest or penalties against the Terminal Operators for any amount of the Push Tax that is not collected or remitted during the Tolling Period.

5. No Admissions. No party to this Agreement makes any admission, express or implied, as to the existence or validity of any claims, causes of action, or defenses which are the subject of this Agreement.

6. Withdrawal. Any party or parties hereto may earlier withdraw from this Agreement upon thirty (30) days written notice to all other parties as provided in Section 9 of this Agreement. Any such withdrawal does not alter the validity and enforceability of this Agreement for the remaining parties thereto and the remaining parties shall continue to be bound by this Agreement.

7. Extensions or Amendments. This Agreement may be extended or amended only by the express written agreement of the parties hereto, stating the exact period by which this Agreement will be extended or exact terms of the amendment.

8. Representations and Warranties. The undersigned individuals executing this Agreement on behalf of their respective parties represent and warrant that said individuals are authorized to enter into and execute this Agreement on behalf of such parties, and that this Agreement shall be binding on the party on whose behalf they are executing this Agreement. All terms and provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective representatives, successors and assigns.

9. Notices. Any notices and other communications required hereunder shall be in writing and deemed to have been given when personally delivered or emailed or three (3) days after being mailed by registered or certified mail, postage prepaid:

If to the Municipalities, addressed to each of the following:

Village Administrator  
Village of Algonquin  
2200 Harnish Drive  
Algonquin, Illinois 60102  
Email:

Village Manager  
Village of Carpentersville  
1200 LW Besinger Drive  
Carpentersville, Illinois 60110  
Email:



Village Administrator  
Village of Lake in the Hills  
600 Harvest Gate  
Lake in the Hills, Illinois 60152  
Email:

City Administrator  
City of McHenry  
333 Green Street  
McHenry, Illinois 60050  
Email:

City Manager  
City of Woodstock  
121 W. Calhoun Street  
Woodstock, Illinois 60098  
Email:

With a copy to:

Brandy S. Quance  
Zukowski, Rogers, Flood & McArdle  
50 N. Virginia Street  
Crystal Lake, Illinois 60014  
Email: [bquance@zrfmlaw.com](mailto:bquance@zrfmlaw.com)

If to the Terminal Operators, addressed to each of the following:

J&J Ventures Gaming, LLC  
1500 S. Raney Street  
Effingham, Illinois 62401  
Email: [matt.h@jjventures.com](mailto:matt.h@jjventures.com)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

Gold Rush Amusements, Inc.  
5277 Trillium Boulevard  
Hoffman Estates, Illinois 60192  
Email: [chris.goluba@golubalaw.com](mailto:chris.goluba@golubalaw.com)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

Accel Entertainment Gaming, LLC  
140 Tower Drive  
Burr Ridge, Illinois 60527  
Email: [JimP@accelentertainment.com](mailto:JimP@accelentertainment.com)

With a copy to:

N/A

Lattner Entertainment Group Illinois, LLC  
4003 Tyler Drive  
Ottawa, Illinois 61350

With a copy to:

Aaron Klein  
Greenberg Traurig, LLP  
77 East Wacker, Suite 3100  
Chicago, Illinois 60601  
Email: [kleina@gtlaw.com](mailto:kleina@gtlaw.com)

Eureka Entertainment, LLC  
240 West Laura Drive  
Addison, IL 60101  
Email: [bharris@ugaminggroup.com](mailto:bharris@ugaminggroup.com)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

Ashiq Gaming, LLC  
2516 Waukegan Road  
Suite 112  
Glenview, IL 60025  
Email: [abidashiqali@gmail.com](mailto:abidashiqali@gmail.com)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

Velasquez Gaming, LLC  
7705 W. 98<sup>th</sup> Street  
Hickory Hills, IL 60457  
Email: [mvelasq1952@comcast.net](mailto:mvelasq1952@comcast.net)  
[velasquez4541@sbcglobal.net](mailto:velasquez4541@sbcglobal.net)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

Pocket Aces Gaming, LLC  
307 S. Milwaukee Avenue  
Suite 113  
Wheeling, IL 60090  
Email: [phil@pocketacesgaming.com](mailto:phil@pocketacesgaming.com)

With a copy to:

Richard Hu  
Taft  
111 East Wacker, Suite 2800  
Chicago, Illinois 60601  
Email: [rhu@taftlaw.com](mailto:rhu@taftlaw.com)

10. Costs and Expenses. Each party shall bear their own cost and expenses, including attorney fees, in the preparation and enforcement of this Agreement.

11. Jurisdiction and Venue. This Agreement is governed by Illinois law and venue for enforcement shall exclusively be in the 22<sup>nd</sup> Judicial Circuit, McHenry County, Illinois.

12. Counterparts. This Agreement may be executed in counterparts, which collectively shall be deemed a complete instrument. Email or facsimile copies shall have the same force and effect as an original signature. This Agreement is the complete agreement of the parties. All prior discussions, negotiations, and writings on the subject matter of this Agreement have been merged into this Agreement. This Agreement cannot be modified except in writing. If any provision of this Agreement is held invalid or illegal by a court of competent jurisdiction, the remaining provisions shall not be affected.

Effective this 23rd day of June, 2022.

VILLAGE OF ALGONQUIN

VILLAGE OF CARPENTERSVILLE

By: \_\_\_\_\_  
Debby Sosine, President

By: \_\_\_\_\_  
John Skillman, President

VILLAGE OF LAKE IN THE HILLS

CITY OF McHENRY

By: \_\_\_\_\_  
Ray Bogdanowski, President

By: \_\_\_\_\_  
Wayne S. Jett, Mayor

CITY OF WOODSTOCK

J&J VENTURES GAMING, LLC

By: \_\_\_\_\_  
Michael A. Turner, Mayor

By: \_\_\_\_\_  
Its: Matt Hortenstine, General Counsel

GOLD RUSH AMUSEMENTS, INC.

ACCEL ENTERTAINMENT  
GAMING, LLC

By: \_\_\_\_\_  
Its: Chris Goluba, General Counsel

By: \_\_\_\_\_  
Its: James Pellum, Asst. General Counsel

LATTNER ENTERTAINMENT GROUP  
ILLINOIS, LLC

EUREKA ENTERTAINMENT, LLC

By: \_\_\_\_\_  
Its: \_\_\_\_\_

By: G. Russell Poore  
Its: Chief Executive Officer

ASHIQ GAMING, LLC

VELASQUEZ GAMING, LLC

By: Abid Ashiqali  
Its: Manager

By: Ed Velasquez  
Its: Manager

POCKET ACES GAMING, INC.

By: Philip D'Angelo  
Its: President



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** June 21, 2022

**DEPARTMENT:** Administration

**SUBJECT:** Ordinance Amending Chapter 33, Section 33.08B "Number of Licenses Issued" of the Municipal Code

## EXECUTIVE SUMMARY

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Attached please find an Ordinance amending Section 33.08B of the Municipal Code providing for an additional Class A Liquor License for Taqueria Taquibs, LLC. d/b/a Taquitos Tacos and Drink. A Class A Liquor License which allows for the retail sale in restaurants, hotels, or country clubs only, of alcoholic liquor for consumption on the premises where sold. Following are the businesses that currently have a Class A Liquor License:

Boulder Ridge Country Club  
AMC Movie Theatre  
Lily Garden  
Bistro Wasabi  
Alfredo's  
Dino's Pizza & Pasta

## FINANCIAL IMPACT

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The revenue for the Class A Liquor License, \$1,666.66, will be replacing the Class A Liquor License, \$2,000.00, that was not renewed by Cachas Tacos in April of this year. The amounts are different because Taquitos Tacos and Drink will be prorated, since they will not be opening until July 1, 2022.

## ATTACHMENTS

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1. Proposed Ordinance

## RECOMMENDED MOTION

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Motion to approve an Ordinance amending Chapter 33, Liquor Control and Liquor Licensing, Section 33.08B "Number of Licenses Issued" of the Lake in the Hills Municipal Code to increase the Class A Liquor Licenses allowed within the Village from six to seven.

VILLAGE OF LAKE IN THE HILLS

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

**An Ordinance Amending Chapter 33, Liquor Control and  
Liquor Licensing, Section 33.08B "Number of Licenses Issued"  
of the Lake in the Hills Municipal Code**

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 to provide for the protection of the public safety and welfare of the Village and its residents, as granted in the Constitution of the State of Illinois; and

WHEREAS, the Village of Lake in the Hills has reviewed the number of liquor licenses issued for each classification of license available to business establishments within the Village; and

WHEREAS, the Village President and Board of Trustees of the Village desire to amend Chapter 33.08B of the Municipal Code to update the maximum number of Class A licenses; 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: That Section 33.08B "Number of Licenses issued" of the Lake in the Hills Municipal Code shall be amended to read as follows:

**33.08 CLASSIFICATIONS, FEES, AND DAILY AND EVENT PERMITS, AND  
AUXILIARY LICENSES**

B. NUMBER OF LICENSES ISSUED: There shall be in the Village not more than:

Class A:	<del>Seven</del> <sup>Six</sup> Licenses
Class A-1:	One License
Class A-2:	Four licenses
Class A-3:	One License
Class B:	Ten Licenses
Class B-1:	Zero Licenses
Class C:	Two Licenses
Class D:	Two Licenses
Class E:	One License
Class E-1	One License

Class F: One License  
 Class G: Zero Licenses  
 Class H: Zero License  
 Class BWT: Zero Licenses  
 Class BWT-1: Zero Licenses  
 Class MBP: Zero Licenses

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 hereby repealed to the extent of such conflict.

SECTION 4: This Ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 23<sup>rd</sup> day of June 2022 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 23RD DAY OF JUNE, 2022

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

(SEAL)

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

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



# REQUEST FOR BOARD ACTION

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**MEETING DATE:** June 21, 2022

**DEPARTMENT:** Community Development

**SUBJECT:** Variation to Section 13 Accessory Structures 13.5, Permitted Accessory Structures Yard(s) Allowed, at 20 East Oak Road

## EXECUTIVE SUMMARY

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Joseph and Sarah Tasic request a variation to Section 13 Accessory Structures 13.5, Permitted Accessory Structures Yard(s) Allowed, at 20 East Oak Road to allow for the installation of a pool in the front yard (side) of their property. Pool installation began without permit application. Permit approval is now currently awaiting variation approval.

The property is located in an R-2 one family residential district and consists of two lots, the original lot and a vacant lot adjacent to the house along Elm Street. The two lots create a corner property with a front yard (front) along Oak Street and a front yard (side) along Elm Street. Section 13.5 Permitted Accessory Structures only allows for pools in the rear yard. However, the house was built very close to the rear property line on the original parcel. There is not enough room between the house and the rear property line to locate a pool. The owners have built a fence in the front yard (side) and would like to locate a pool within the fence.

The Planning and Zoning Commission conducted a public hearing on June 13, 2022. The Commissioners voted 6-0 to recommend approval of the requested variation to allow for the pool in the front yard (side).

## FINANCIAL IMPACT

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None

## ATTACHMENTS

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1. Ordinance
2. Staff Report
3. Plat of Survey
4. Exhibits

## RECOMMENDED MOTION

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Approve an Ordinance for a variation from Section 13.5, Permitted Accessory Structures, Yard(s) allowed, rear yard requirement to allow for a pool accessory structure in the front yard (side) at 20 East Oak Street, Parcels 19-20-331-008 and 19-20-331-000.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2022 - \_\_\_\_

**An Ordinance Granting Variation to Section 13.5 Permitted Accessory Structures Yard(s) Allowed at 20 East Oak Street, Parcels 19-20-331-008 and 19-20-331-000, to Allow for a Pool**

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 to regulate for the protection of the public health, safety, morals, and welfare, as granted in the Constitution of the State of Illinois; and

WHEREAS, Section 13.5, Permitted Accessory Structures Yard(s) Allowed, allows a private swimming pool accessory structure in the rear yard in all residential districts; and

WHEREAS, Joseph and Sarah Tasic, applicants at the subject property at 20 East Oak Street, petitioned the Village of Lake in the Hills requesting a variation to Section 13.5, Permitted Accessory Structures Yard(s) Allowed, to allow for a private swimming pool accessory structure to be located in the front yard (side); and

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation, has made a report and its recommendation relative to the variation for the subject property; and

WHEREAS, the President and Board of Trustees of the Village of Lake in the Hills have considered the report of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Commission; and

NOW, THEREFORE, be it ordained by the President and Board of Trustees of the Village of Lake in the Hills, McHenry County, Illinois that:

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendations of the Planning and Zoning Commission on the question of granting a variation to Section 13.5, Permitted Accessory Structures Yard(s) Allowed, to allow for a private swimming pool to be located in the area of the front yard (side) at 20 East Oak Street, Parcels 19-20-331-008 and 19-20-331-000, are hereby accepted.



SECTION 3: Approval of the Variation to allow for a private swimming pool accessory structure in the area of the front yard (side) at 20 East Oak Street, Parcels 19-20-331-008 and 19-20-331-000, at the location shown on the submitted plat of survey, is hereby granted.

SECTION 4: All other requirements set forth in the Zoning Ordinance of the Village of Lake in the Hills, as would be required by the Village as to any owner of property zoned in the same manner as the Subject Property shall be complied with.

SECTION 5: 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 judgement shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall continue in full force and effect.

SECTION 6: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7: This ordinance shall be in full force and effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 23rd day of June, 2022 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 23rd DAY OF JUNE, 2022

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

(SEAL)

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

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



# REQUEST FOR PUBLIC HEARING AND COMMISSION ACTION

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## PLANNING AND ZONING COMMISSION

**MEETING DATE:** June 13, 2022

**DEPARTMENT:** Community Development

**SUBJECT:** Variation to Section 13 Accessory Structures Table 13.5 Permitted Accessory Structures at 20 East Oak Road

## EXECUTIVE SUMMARY

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### General Information

<i>Requested Action:</i>	Joseph and Sarah Tasic request a variation to Section 13 Accessory Structures 13.5, Permitted Accessory Structures Yard(s) Allowed, at 20 East Oak Road to allow for the installation of a pool.	
<i>Owner:</i>	Joseph and Sarah Tasic	
<i>Applicant:</i>	Joseph and Sarah Tasic	
<i>Purpose:</i>	Install a pool in the Front Yard (Side)	
<i>Location and Size:</i>	20 East Oak Street - approximately 15,800 square feet.	
<i>Zoning and Land Use:</i>	Site:	R-2 One Family/Residential
	North:	R-2 One Family/Residential
	East:	R-2 One Family/Residential
	South:	R-2 One Family/Residential
	West:	R-2 One Family/Residential
	Future Land Use:	Low Density Residential

### Background

The applicant is applying for a variation to locate a pool in the front yard (side) at 20 East Oak Street. The property is located in an R-2 one family residential district. Section 13.5 Permitted Accessory Structures only allows for pools in the rear yard. The property consists of two parcels under the same ownership. However, the house was built very close to the rear property line on the original parcel. There is not enough room between the house and the rear property line to locate a pool. The original lot is smaller than the minimum lot size required in the R-2 district.

The homeowners bought the adjacent property to expand their yard; however, the additional property has now turned the lot into a corner lot. The area where the pool is proposed to be located is the front yard (side). A fence currently exists in this yard and would be the required fencing for the pool.

**The Planning and Zoning Commission may recommend and the Board of Trustees shall permit a variation of the provisions of this Zoning Code, as authorized in this Section, only if the evidence, in the judgement of the Village sustains each of the following three conditions:**

**A. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located;**

The applicants indicate they are unable to reasonably place a pool in the rear of the home due to the positioning of the home on the lot.

Staff finds the property to have a very limited rear yard. The house was built very close to the rear lot line. The owners cannot reasonably install a pool given these circumstances.

**B. The plight of the owner is due to unique circumstances;**

The applicants indicate the home was built in 1950 and is positioned closer to the rear lot line than would be allowed by current standards. A pool would not fit in the rear yard.

Staff finds the property to have a very limited rear yard. The house was built very close to the rear lot line. The owners cannot reasonably install a pool given these circumstances.

**C. The variation, if granted, will not alter the essential character of the locality;**

The applicants indicate other homes in the locality have pools, so the character remains unchanged.

Staff finds the surrounding area to be residential. Pools can be found in this neighborhood. The proposed pool would be located on a combined zoning lot and behind an existing fence. The proposed pool would not alter the essential character of the locality.

**For the purpose of supplementing the above standards, the Village, in making this determination whenever there are practical difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:**

**D. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;**

The applicants indicate the hardship is the physical inability to fit a pool in the rear yard of the home on the lot.

Staff finds the house to have been originally constructed very close to the rear property line and the original lot to be smaller than the minimum allowed for the R-2 zoning district. The addition of the neighboring lot did not alter the size of the small rear yard. The additional property is considered front yard (front) and front yard (side). This particular configuration brings a particular hardship to the owner as the rear yard is extremely limited.

**E. That the conditions upon which the petition for variation is based would not be applicable generally to other property within the same zoning classification; or**

The applicants indicate the positioning of the home on the lot is relatively unique and other owners would not run into the same issues.

Staff finds the property to have a house placed very close to the rear property line. The majority of the properties in this area and in this zoning classification have houses placed farther front the rear lot line and closer the street. The majority of the properties in this area and zoning classification have larger rear yards.

**F. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property.**

The applicants indicate they want to have a pool for their own use and enjoyment. Increasing the home value is a benefit but not the main desire.

Staff finds the installation of a pool at a house to be a common residential amenity and generally used for the enjoyment of the property.

**G. That the alleged difficulty or hardship has not been created by any person presently having interest in the property.**

The applicants indicate they purchased the home as it is currently configured have not altered the house to create the hardship.

Staff finds the hardship was created when the lot was platted and when the house was constructed, not by the current owners.

**H. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located.**

The applicants indicate all required safety standards for pool installation will be met and therefore it will not be dangerous.

Staff finds the property can safely accommodate a pool in the front yard (side) and would enhance the property and neighborhood. The proposed variation would not be detrimental to the public welfare or injurious properties in the neighborhood.

**I. That the proposed variation will not impair an adequate supply of light and air to adjacent property or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.**

The applicants indicate the pool would not impair adequate supply of light and air or substantially increase risks beyond a typical residential pool.

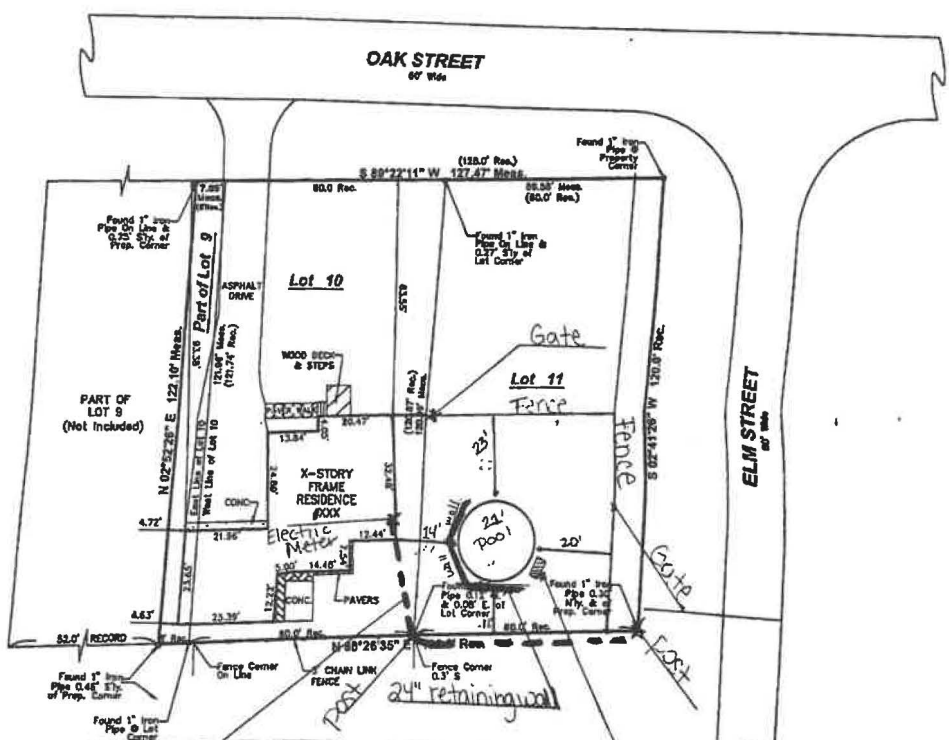
Staff finds the pool would not impair adequate supply of light and air or substantially increase risks beyond a typical residential pool.



# Plat of Survey

LEGAL DESCRIPTION: THE EAST 8 FEET OF LOT 9 AND ALL OF LOTS 10 AND 11 IN BLOCK 1 IN LAKE BY THE HILLS ESTATES, UNIT NO. 3, A SUBDIVISION OF PART OF SECTION 20, TOWNSHIP 43 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED JULY 26, 1948 AS DOCUMENT NO. 212836 IN BOOK 10 OF PLATS, PAGE 87, IN MCHENRY COUNTY, ILLINOIS.

PANSEL AREA 15,428 SQ. FEET



Over head electric line, located more than 10' away from pool.

Equipment pad for pump and filter. Including all shut off & disconnects.

THIS DOCUMENT IS NOT VALID WITHOUT THE SURVEYOR'S SEAL.

STATE OF ILLINOIS )  
 COUNTY OF MCHENRY ) ss

BY MY PROFESSIONAL OPINION, AND BASED ON MY OBSERVATIONS, I HEREBY CERTIFY THAT THE PLAT HEREON DRAWN IS A TRUE REPRESENTATION OF SAID SURVEY.

THIS PROFESSIONAL SERVICE CONFORMS TO THE CURRENT ILLINOIS MINIMUM STANDARDS FOR A BOUNDARY SURVEY.

DATED THIS 24th DAY OF February, A.D. 2020

*[Signature]*  
 JEFFREY A. SPARKS  
 ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3886  
 REGISTERED AGENT FOR LUCCO SURVEYING  
 LICENSE TO BE RENEWED NOVEMBER 30, 2020



NOTES:  
 1. REPRODUCE THE DESCRIPTION ON THIS PLAT WITH YOUR REED AND REPORT ANY DIFFERENCES IMMEDIATELY.  
 2. ALL DIMENSIONS ARE GIVEN IN FEET AND DECIMAL PARTS THEREOF.  
 3. BEARINGS ARE SHOWN AND ASSUMED AND ARE SO INDICATED FOR INTERIOR ANGLES ONLY.  
 4. BOUNDARY LINES AND CORNERS AS SHOWN ARE BASED EXACTLY ON PROVIDED DOCUMENTS.  
 5. UTILITIES WHEN LOCATIONS ARE NOT SHOWN HEREON, UNDERGROUND UTILITIES, INCLUDING BUT NOT LIMITED TO CONDUITS AND CABLES (IF ANY) HAVE NOT BEEN SHOWN HEREON.

LEGEND	
	Survey Line
	Property Line
	Easement
	Fence
	Gate
	Pool
	Electric Meter
	Retaining Wall
	Equipment Pad
	Utility
	Found 1\"/>







**Luco Surveying**  
 Professional Design Firm No. 18426772  
 20 E. Oak Street, Lake in the Hills, IL  
 Phone: 630.538.2874  
 Common Address: 20 E. Oak Street, Lake in the Hills, IL  
 PIN # 19-20-331-008 & 009

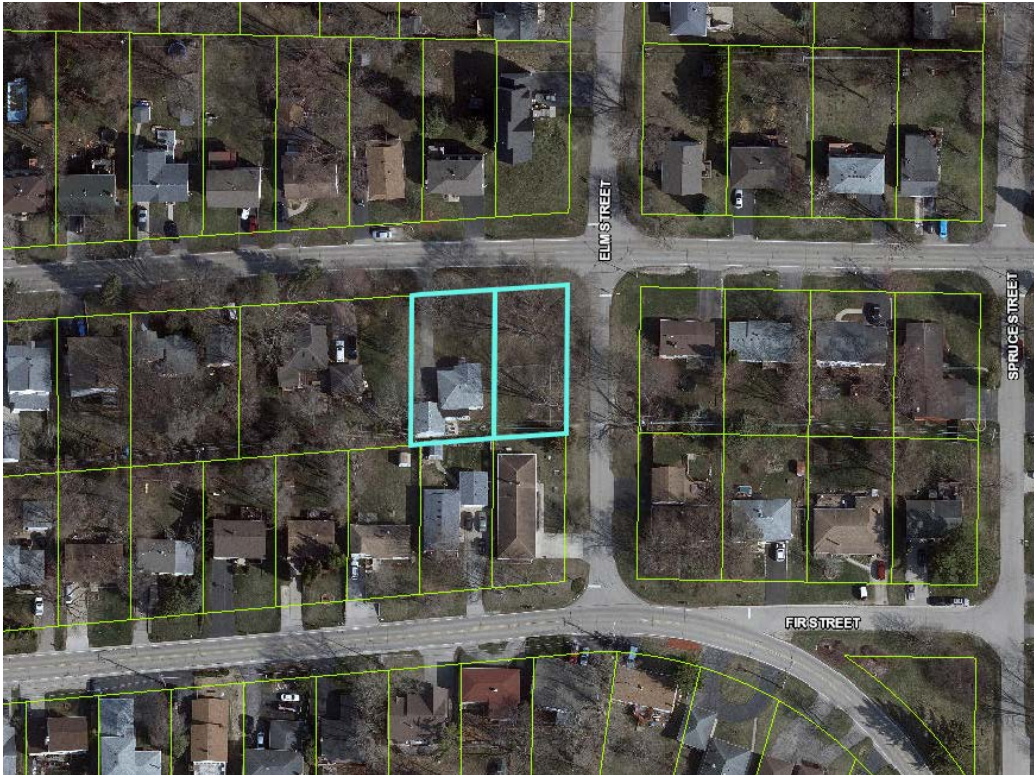
Job Number: 20-61148      Drawn By: LAH  
 Client: CARIN BRIO      Reference: REVIEW  
 Field Work Completion: 02-20-2020  
 Revisions:

# FUTURE LAND USE MAP



-  Estate Residential (< 2.0 units/ac.)
-  Low Density Residential (2.0 to 3.5 units/ac.)
-  Low Density Residential (> 3.5 to 4.5 units/ac.)
-  Medium Density Residential (> 4.5 to 7.5 units/ac.)

## AERIAL PHOTO



## SITE PHOTOS



View of property from Oak Street.



View of property from corner of Oak Street and Elm Street.





View of property from Elm Street.





# REQUEST FOR BOARD ACTION

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**MEETING DATE:** June 21, 2022

**DEPARTMENT:** Community Development

**SUBJECT:** Zoning Text Amendments to Section 3–Definitions, Section 7–Residential Districts, and Section 18–Off-Street Parking and Loading.

## EXECUTIVE SUMMARY

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Community Development Department staff has evaluated the Zoning Code and is proposing amendments to allow smaller trailers to be stored in the front yard driveway year round. Staff has also evaluated the Zoning Code and is proposing amendments to align the Zoning Code with current Illinois Department of State license plate designations and vehicle definitions.

Section 18 has been amended 12 times since 2002. The 2002 edition is the base ordinance upon which the Village’s current zoning code is based on. Two of the amendments are relevant to this item. Staff has included a brief summary of the relevant aspects of those two amendments. Staff has also researched surrounding municipality zoning ordinances and identified potential options to provide increased flexibility.

Section 18 was amended in February 2010 to regulate commercial vehicle and all trailer storage. Commercial vehicles having a class “D” plate or lower were allowed to be stored in residential districts without being fully enclosed, subject to height regulations. Trailers with a classification of “TA” were also allowed to be stored in residential districts without being fully enclosed, with height and length restrictions. Much discussion of these regulations were present in the archived minutes of the Village Board at the time of adoption. No Village Board comments were relevant to seasonal trailer use; however, Planning and Zoning Commission minutes show one Commissioner to have expressed concern that trailers could be used as supplemental storage units.

Section 18 was also amended in March 2018 to move parking regulations from Chapter 12 of the Municipal Code to Section 18 of the Zoning Ordinance, including regulations for “in season”, “off season”, and winter use vehicles. No discussion of the merits or potential negative effects of these regulations were present in the archived minutes of the Village Board or Planning and Zoning Commission at the time of adoption.

Neighboring municipality zoning ordinances were researched and the following relevant regulations have been identified;

- Village of Algonquin - Recreational vehicles shall be parked in a completely enclosed building in a lawful manner or on a hard surface of not less than 2 inches of asphalt or 4 inches of concrete. Not more than two recreational vehicles shall be visible on a zoning lot. Neither yard location, visibility, nor seasonal restrictions are listed.
- City of Crystal Lake - RVs, boats, and trailers (under 11 feet tall and 25 feet long) may be parked in a residential driveway. Anything over those dimensions can be parked in a side or back yard on an approved surface.
- Village of Lakewood - November 1 through March 31, boats, trailers and RVs must be stored indoors or if outdoors, in areas where permitted, then only in the rear yard on a pad.
- Village of Huntley - Recreational vehicles shall be stored completely behind the front of the primary structure and shall not be stored between the primary structure and the street.
- Village of Cary - Recreational vehicles or equipment, including travel trailers, campers, trucks with slide-in campers, watercraft, snowmobiles, jet skis, all-terrain vehicles and any trailers used to transport recreational vehicles or equipment, are divided into two classes – summer and winter use. Winter use vehicles and equipment are defined as snowmobiles and such other recreational vehicles and equipment that are associated primarily with winter use. Only during winter months can winter vehicles be stored in the front yard.

The Village’s Comprehensive Plan contains a land use objective to “Promote and maintain the visual and open space characteristics that make Lake in the Hills visually distinctive”. Regulating the visual impact of trailer storage in residential districts would support this objective.

The following table provides a summary of the vehicles, trailers, and license plates currently allowed to be stored in all yards of residential and commercial properties;

<b>Zoning District</b>	<b>Plate Type “In Season”- Current</b>	<b>Plate Type “Off Season”- Current</b>
B-1 B-2 B-3 B-4 B-5 M-1 M-2 AD-1 AD-2 O-S I-B	<ul style="list-style-type: none"> <li>• No restrictions of vehicle type, only on overnight parking and storage for automotive repair</li> </ul>	<ul style="list-style-type: none"> <li>• No restrictions of vehicle type, only on overnight parking and storage for automotive repair</li> </ul>
R-2 R-3 R-4	<ul style="list-style-type: none"> <li>• Passenger, “D” plate or lower commercial vehicles - with restrictions, trailers with “TA” plate - with restrictions.</li> <li>• Boat, trailers, recreational vehicles.</li> </ul>	<ul style="list-style-type: none"> <li>• Passenger, “D” plate or lower commercial vehicles - with restrictions, trailers with “TA” plate - with restrictions.</li> <li>• Snowmobiles or trailers for the specific purposes of hauling a snowmobile or winter recreational vehicle.</li> </ul>

Proposed amendments to Section 18 include;

- Allowances for trailers with new plate classifications of "Motorcycle TA", "RT", and "UT" would be permitted in residential districts, with restrictions on cargo height & length.
- Commercial vehicles with license plate higher than class "D" are not permitted to be stored or parked on residential properties, beyond deliveries and on-premise construction.
- Trailers with "TB" license plates would be allowed in residential districts.
- Temporary trailer approvals would be issued by Community Development Director.
- Trailer height and length allowances have been raised to 9' and 16', respectively.
- Boats, trailers, and recreational vehicles are to be restricted to back and side yards during the "Off season".
- Side yard storage screening shall be 6 feet in height and no more than 30% open. For front yard (front) and front yard (side) yards on corner lots, fencing shall be the maximum allowable height and within the location allowed in Section 15, fences. Vehicles do not need to be completely screened from view. Recreational vehicles not requiring a license plate do not need to be behind a fence.
- Trailers with a classification of "Motorcycle TA", "UT" Utility Trailer, or those with a gross vehicle weighted rate of 2,000 pounds or less may be stored year-round in any yard.

Proposed amendments to Section 3 include amended and added definitions aligned with State Vehicle Code. Amendments to Section 7.4 Residential Bulk Chart include a note for Yard Requirements that storage of vehicles shall be in conformance with both Section 18 and the Property Maintenance code. This will provide consistency between Zoning Sections and the Property Maintenance code and help to mitigate potential unsightly exterior property violations.

For consideration, attached is the proposed amendments to Section 3-Definitions, Section 7-Residential Districts, and Section 18-Off-Street Parking and Loading, of the Zoning Ordinance.

The Planning and Zoning Commission conducted a public hearing on June 13, 2022. The Commissioners voted 6-0 to recommend approval of the proposed amendments.

#### **FINANCIAL IMPACT**

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None

#### **ATTACHMENTS**

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1. Ordinance

#### **RECOMMENDED MOTION**

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Approve an Ordinance for a Zoning Text Amendments to Section 3-Definitions, Section 7-Residential Districts, and Section 18-Off-Street Parking and Loading.

VILLAGE OF LAKE IN THE HILLS

ORDINANCE NO. 2022-\_\_\_\_\_

**An Ordinance Granting Text Amendments to  
Section 3, "Definitions", Section 7, "Residential Districts",  
and Section 18 "Off-Street Parking and Loading"  
of the Lake in the Hills Zoning Code**

WHEREAS, the Village of Lake in the Hills, McHenry County, Illinois, 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 to ensure the safe and orderly operation of the business in the interest of public welfare, as granted in the Constitution of the State of Illinois.

WHEREAS, a representative of the Village of Lake in the Hills petitioned the Village to consider text amendments to Section 3, "Definitions", Section 7, "Residential Districts", and Section 18 "Off-Street Parking and Loading"; and

WHEREAS, a public hearing was held by the Village of Lake in the Hills Planning and Zoning Commission, after due notice in the manner provided by law; and

WHEREAS, the Planning and Zoning Commission, after deliberation has made a report and made its recommendation relative to the text amendment; and

WHEREAS, the President and Board of Trustees have considered the report and recommendation of the Planning and Zoning Commission and all of the evidence presented by the petitioner at the public hearing before the Planning and Zoning Commission;

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

SECTION 1: The Corporate Authorities find that the statements in the foregoing preamble are true.

SECTION 2: The findings and recommendation of the Planning and Zoning Commission on the question of approving the text amendment to the Zoning Ordinances are hereby incorporated.

SECTION 3: That Section 3, "Definitions", of the Lake in the Hills Zoning Code shall be amended to read as follows:

### SECTION 3 DEFINITIONS

~~**Commercial Vehicle:** Any vehicle having a registration other than a passenger, motorcycle, recreational, "B", or "D" plated vehicle or a "TA" plated trailer under the provisions of the Illinois Vehicle Code and is further restricted in Section 18.4-1 of this Zoning Code.~~

**Commercial Vehicle.** Any vehicle operated for the transportation of persons or property in the furtherance of any commercial or industrial enterprise, For-Hire or Not-For-Hire, but not including a commuter van, a vehicle used in a ridesharing arrangement when being used for that purpose, or a recreational vehicle not being used commercially.

~~**Inoperable Motor Vehicle:** Any motor-vehicle from which, for a period of at least seven days, the engine, wheels or other partshave been removed, or on which the engine, wheels or other partshave been altered, damaged or otherwise so treated that the vehicle is incapable of being driven under its own motor power or drawn on its own wheels.~~

~~**Off-Season Storage:** Temporary storage of any mobile home, boat, trailer ~~or,~~ recreational or other vehicle during the off-season, as defined ~~herein~~ in Chapter 18 Off-Street Parking and Loading.~~

~~**Recreational Vehicle:** Any vehicle designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power, having an "RV" license plate, or is mounted on or drawn by a motor vehicle, having an "RT" license plate. All-terrain vehicles are classified as recreational vehicles for the purposes of this zoning code ~~and/or vehicles with "RV" licenses plates.~~ A rRecreational vehicles also includes but areis not limited to, ~~a travel trailer, camping trailer, truck camper, motor home,~~ golf carts, and other off-road vehicles that do not require license plates.~~

~~**Storage:** The stationary placement of any materials, products, or goods, or any mobile home, boat, trailer ~~or,~~ recreation or other vehicle for a continuous period in excess of 48 hours,~~

Monday through Friday.

**Vehicle:** Every device, in, upon or by which any person or property is or may be transported or drawn upon a highway or requiring a certificate of title under the Illinois Vehicle Code, except devices moved by human power, and devices used exclusively upon stationary rails or tracks and snowmobiles as defined in the Snowmobile Registration and Safety Act.

SECTION 4: That Section 7.4 Residential Bulk Chart, of the Lake in the Hills Zoning Code shall be amended to read as follows:

	Lot/Parcel Area, Frontage		Yard Requirements <sup>1 9</sup>			
	Minimum Area	Minimum Width Frontage	Minimum Front Yard <sup>2,3</sup>	Minimum Rear Yard	Minimum Side Yard Each Side	Max. land coverage of buildings & structures
District	Acres or Square Feet	Feet	Feet	Feet	Feet	Cumulative (percent)
RE-5	5 acres	330	100	75	50	10%
RE-2	2 acres	175	75	50	30	15%
RE-1	1 acre	150	50	50	30	25%
R-1A	16,000 sf	100	30	30	10%/15' <sup>6</sup>	30%
R-1B	12,000 sf	90	25	25	10%/10' <sup>6</sup>	35%
R-2 <sup>5</sup>	10,000 sf	80	25	25	10%/10' <sup>6</sup>	35%
R-3 (Single-family detached dwelling unit)	10,000 sf	80	25	25	10%/10' <sup>6</sup>	40%
R-3 (Two family dwelling unit)	12,000 sf	100	25	25	10%/10' <sup>6</sup>	40%

R-4 (Multiple family dwelling, Single-family attached dwelling unit) <sup>4, 8</sup>	3,800 sf per unit or 10,000 sf, whichever is greater	150	30	75	15' <sup>7</sup>	40%
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9. Storage of vehicles shall be in conformance with Section 18 - Off Street Parking and Loading. The storage of materials or equipment shall be in conformance with the current Village-adopted International Property Maintenance Code.

SECTION 5: That Section 18 Off-Street Parking and Loading, of the Lake in the Hills Zoning Code shall be amended to read as follows:

**18.4 ADDITIONAL PARKING REGULATIONS ~~IN RESIDENTIAL DISTRICTS~~**

18.4-1 *Use of Approved Parking Areas in Residential Districts*: Off-street parking spaces accessory to residential use and developed in any residential district in accordance with the requirements of this Section 18 shall be used solely for the parking of vehicles owned or operated by the occupants of the dwelling structures to which such facilities are accessory or by guests of said occupants. The parking or storage of commercial vehicles and commuter vans must be within a fully enclosed structure, except as allowed as follows. The outside parking and storage of vehicles having a class "D" plate (as defined by the Illinois Vehicle Code) or lower is permitted, however any vehicle with a class "B", "C", or "D" plate must be no higher than 9 feet in height as measured from the ground to the vehicle's highest point including a cargo box, other permanently mounted equipment, or cargo. Commercial Vehicles with a class "F" or higher plate and semi-trailer tractor units shall not be parked or stored in residential zoning districts. Recreational vehicles having a class "RV" plate, recreational trailers with a class "RT" plate, and recreational vehicles not required to have a plate are permitted in residential districts, subject to "off-season"



and other restrictions listed in this section. Trailers with a classification of "TA", "TB", "Motorcycle TA", and "UT" (as defined by the Illinois Vehicle Code) are permitted in residential districts, however the cargo box height shall be no higher than 6-9 feet. Neither "TA" trailers nor "UT" trailers ~~or shall~~ have a length of over 11-16 feet, excluding the trailer tongue. Trailers with a classification of ~~"TB" and "TC"~~ are allowed on a temporary basis not to exceed 7 days and must be approved by the Chief of Police or designee. No more than two temporary trailer authorizations shall be issued to the same property in any calendar year. All vehicles must be located on an approved hard surface as defined in this Zoning Code. All boats, trailers, and recreational vehicles in all residential districts shall meet the requirements of this section and Section 18.4-1.1.

#### 18.4-1.1 Boats, Trailers, and Recreational Vehicles in Residential Districts

- A. *Flammable Liquids:* With the exception of fuels used in the operation of the boat, trailer or recreational vehicle in the primary fuel tanks, the owner of such a vehicle shall not park, or store such vehicle leaving flammable liquids on board.
- B. *Dangerous or Unsafe Storage:* The owner of a boat, trailer, or recreational al vehicle shall not park, or store such vehicle in a manner as to create a dangerous or unsafe condition on the property where parked, or stored. Parking or storing the boat, trailer or recreational al vehicle in a manner that a vehicle may tip, roll, or create a hazard shall be considered a prohibited dangerous and unsafe condition.
- C. *Street Parking:* At no time shall any boat, trailer, or recreational vehicle, ~~or recreational vehicle trailer~~ be permitted to be parked on any Village street for more than 24 hours.
- D. *Proof of Ownership:* A legal or beneficial owner of, or lessee of the property shall have, and

display upon request to authorized Village officials, proof of ownership of a parked, or stored boat, trailer or recreationalal vehicle.

E. *Sewage Disposal*: Sewage shall be disposed only into approved sanitary facilities.

F. *Maintenance*: A boat, trailer or recreationalal vehicle which ~~may be temporarily parked or is~~ stored outdoors, shall be maintained in operable condition, and shall not be stored off the ground except when properly loaded on a trailer. Service utilities, such as electrical power, may not be attached to the stored vehicles ~~except when the vehicle is temporarily parked.~~

G. ~~*Temporary Trailer and Recreational Vehicle Parking and Storage Limits*~~: No more than a combination of two of the following may be ~~parked or~~ stored on any one residential zoning lot: ~~one~~ boat/trailer combination, recreational vehicle/ trailer combination, ~~recreational trailer, "TA", "TB", "Motorcycle TA", "RT", or "UT" trailer free-standing or combined with other use/vehicle,~~ or freestanding recreational vehicle.

H. *Ownership Control*: No person shall store on any property any boat, trailer, or recreationalal vehicle which is not owned by an occupant of the residence for more than 14 days.

I. *Overnight Use*: No boat or recreationalal vehicle shall be used as primary living or sleeping quarters while ~~temporarily~~ parked or stored in the Village. Occasional overnight use may be allowed but only if permission is granted in advance by the Chief of Police or designee.

J. "In season": During the "In season" a boat, trailer or recreational vehicle shall be stored on an approved surface and not encroach on a Village Street or public sidewalk. The boat, trailer, or recreational vehicle must be parked or stored a minimum of 2 feet back from the edge of any street in areas where there are no public sidewalks. Boats, trailers, and recreational vehicles may be parked or stored in any yard, on an approved surface, during the

"In season".

K. "Off season": During the "Off season", a boats, trailers with a classification of "RT", "TA", or "TB" or recreational vehicles shall be stored either indoors; or outdoors in the rear yard on an approved surface. The dimensions of the approved surface shall not be less than the overall width and length dimensions of the stored trailer or vehicle. As an exception, boats, trailers with a classification of "RT", "TA", or "TB", or recreational vehicles which require a license plate trailers and vehicles may be stored in the side yard on an approved surface so long as the side yard and portion of the side yard facing a street is screened with a board on board 6 foot high fence that is a maximum of 30% open. Any boat, Boats, trailers with a classification of "RT", "TA", or "TB", and trailer or recreational vehicles which require a license plate may be stored in the front yard (side), front yard (rear), or front yard (front) yard on an approved surface and shall be behind the a screening fence, shall not be over 6 feet in the maximum height allowed, within a location allowed by Section 15, and a maximum of 30% open height at any point, or contain cargo visible above the height of the screening fence.

K.L. All year storage: Trailers with a classification of "Motorcycle TA", "TA", or gross vehicle weighted rate of 2,000 pounds or less, with or without a loaded vehicle, shall be allowed to be stored year-round in any yard. Trailers shall be stored on an approved surface and not encroach on a Village Street or public sidewalk. The trailers must be parked or stored a minimum of 2 feet back from the edge of any street in areas where there are no public sidewalks. Up to a maximum of (2) canoes, kayaks, or row boats none to exceed 18 feet in length, shall be permitted to be stored in rear yards on the ground and shall be permitted year-round.

L.M. Winter use vehicles: Winter use vehicles are Snowmobiles, or trailers for the specific purposes of hauling a snowmobile or winter recreational vehicle. They shall be considered

"In season" from November 1st through April 30<sup>th</sup> of the subsequent year, and "Off season" otherwise.

18.4-2 *Control of Off-Site Facilities:* When required accessory off-site parking spaces are provided elsewhere than on the lot on which the principal use served is located, they shall be in the same possession, either by deed or long term lease, as the property occupied by such principal use. The owner shall be bound by covenants filed of record in the office of the McHenry County Recorder of Deeds requiring the owner and his or her heirs and assigns to maintain the required number of parking spaces during the existence of said principal use.

18.4-3 *Design and Maintenance in all districts, unless otherwise noted:*

A. *Parking Space and Aisle Size:* A required off-street parking space shall be in accordance with the requirements specified herein (also see Section 18.4-6). These specifications are exclusive of access drives and aisles, ramps, columns and office and work areas accessible from streets or alleys or from private driveways or aisles leading to streets or alleys and to be used for the storage or parking of passenger vehicles or commercial vehicles under 12 ton.

#### **18.7 OFF-STREET LOADING FACILITIES:**

18.7-1 *Design in all districts:*

SECTION 6: 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 7: All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8: This Ordinance shall be in full force and

effect upon its passage, approval and publication in pamphlet form (which publication is hereby authorized) as provided by law.

Passed this 23rd day of June 2022 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 23RD DAY OF JUNE 2022

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

(SEAL)

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

Published: