



# Village of Lake in the Hills

600 Harvest Gate, Lake in the Hills, Illinois 60156

COMMITTEE OF THE WHOLE MEETING

JUNE 21, 2022

## Call to Order

The meeting was called to order at 7:30 pm. Present were Trustees Huckins, Harlfinger, Dustin, Bojarski, Murphy, Anderson, and President Bogdanowski.

Also present were Village Administrator Shannon Andrews, Assistant Village Administrator Ashley Eccles, Chief of Police Mary Frake, Finance Director Pete Stefan, Interim Public Works Director Ryan McDillon, Community and Economic Development Director Josh Langen, Village Attorney Brad Stewart, and Village Clerk Shannon DuBeau.

Pledge of Allegiance was led by President Bogdanowski.

## Audience Participation

None.

## Administration

### **Request for the Approval of an Ordinance Approving a Tolling Agreement**

Presented by Village Administrator Shannon Andrews

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, which involve 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.



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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**

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

Staff recommends a motion to Approve the Ordinance approving the Tolling Agreement.

Trustee Murphy asked if the Village has received any substantial remittance. Administrator Andrews stated that the most the Village receives in any given month is under \$100. President Bogdanowski noted that thus far, remittances have been returned while awaiting full payment.

Trustee Huckins asked if a method of measuring pushes has been established. Attorney Stewart explained that there are varying degrees of accuracy. While some machines have the technology to audit pushes on a monthly basis, others can only approximate.

Trustee Huckins questioned the nature of the litigation. Attorney Stewart explained that one angle is to determine if the tax is constitutionally legal and the other is to determine if collecting the tax is feasible.

Trustee Bojarski asked if this tolling agreement will limit other avenues for the Village in the future. Attorney Stewart stated that it will not. He added that the agreement can be cancelled at any time.

President Bogdanowski asked if there is a termination date on the agreement. Attorney Stewart stated that while it is set to end on April 30, 2023, it can be renewed.

Trustee Anderson asked if the savings that this agreement may award the Village by avoiding litigation will outweigh the potential interest income that can be gained alternatively. Administrator Andrews stated that while the numbers are hard to project, it would be a risk to put the interest against the litigation. Attorney Stewart added that the ongoing litigation that Waukegan has faced thus far has likely cost several hundred thousand dollars.

Trustee Huckins asked for an update on the push tax litigation. Attorney Stewart stated that the circuit court denied the motion for summary judgment filed by the Illinois Gaming Machine Operators Association and other video gaming entities who filed suit challenging the push tax.

Motion was made to place this item on the Village Board Agenda.



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## **Request to Approve an Ordinance Amending Chapter 33, Section 33.08B “Number of Licenses Issued” of the Municipal Code**

Presented by Village Administrator Shannon Andrews

Attached to the agenda, 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**

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.

Staff recommends a 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.

Motion was made to place this item on the Village Board Agenda.

## **Community Development**

### **Request to Approve and Ordinance for Variation to Section 13 Accessory Structures 13.5, Permitted Accessory Structures Yard(s) Allowed, at 20 East Oak Road**

Presented by Community and Economic Development Director Josh Langen

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.



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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).

Staff recommends a motion to 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.

Trustee Anderson asked for the height of the fence. Joseph Tasic stated that the fence around the perimeter of the front yard (side) is 48" tall; the pool will also be fenced.

Motion was made to place this item on the Village Board Agenda.

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

Presented by Community and Economic Development Director Josh Langen

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. 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 was 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. After researching neighboring municipality zoning ordinances, 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.



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- **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:

Zoning District	Plate Type “In Season” - Current	Plate Type “Off Season” - Current
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>



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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-premises 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, the proposed amendments to Section 3–Definitions, Section 7–Residential Districts, and Section 18–Off-Street Parking and Loading, of the Zoning Ordinance are attached to the agenda. 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.

Staff recommends a motion to approve an Ordinance for a Zoning Text Amendments to Section 3–Definitions, Section 7–Residential Districts, and Section 18–Off-Street Parking and Loading.

President Bogdanowski noted that this change is the result of a discussion at a previous meeting; summarizing the updates as streamlining language and clarifying in-season vs off-season regulations. Director Langen concurred.

Trustee Huckins questioned the storage screening regulation wording. Director Langen explained that screening fences shall be 0-30% open.

Motion was made to place this item on the Village Board Agenda.



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## Board of Trustees

Trustee Murphy asked for an update on beach patrol. Administrator Andrews stated that while there was backlash over relocating the Indian Trail Beach pier, things have been going fairly well. She added that the Village saw \$14k in savings by repurposing the pier for the police patrol boat. Chief Frake stated that after hours complaints have increased in the last week.

## President

President Bogdanowski announced that he will be requesting the Board's consent for Brian Crow's appointment to the Police Pension Fund Board at Thursday's Board of Trustees meeting. In addition, he will deliver proclamations regarding Eagle Scout Brody Michael Sharkey and Parks & Recreation Month.

## Adjournment

There being no further business to discuss, the Committee of the Whole meeting was adjourned at 8:03 pm.

Submitted by,

A handwritten signature in cursive script that reads "Shannon DuBeau".

Shannon DuBeau  
Village Clerk