



ADDENDUM
REGULAR VILLAGE BOARD MEETING
OCTOBER 26, 2021
7:00 PM

6. CONSENT AGENDA

- k. Consideration to adopt Ordinance No. 3730 amending Chapter 2 Occupation and Other Business Taxes of Title 3 Business and License Regulations of the Village Code of the Village of Elk Grove Village with regard to the imposition of a Municipal Push Tax on plays of Video Gaming Terminals.
(Video gaming provides a vital source of revenue for the State of Illinois and for municipalities. It allows communities to defer other tax and fee increases, support rising pension costs, and address some of the negative externalities associated with video gaming.
(The State of Illinois has begun to take action to limit local control by advancing legislation that would prohibit municipalities from adopting a Push Tax.
(This Ordinance would set a Push Tax at \$0.01 per push to begin on June 1, 2022 which allows the Village to make a decision in the event that SB521 is signed into law later this year.)

In compliance with the Americans with Disabilities Act and other applicable Federal and State laws, the meeting will be accessible to individuals with disabilities. Persons requiring auxiliary aids and/or services should contact the Village Clerk, preferably no later than five days before the meeting.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OCCUPATION AND OTHER BUSINESS TAXES OF TITLE 3 BUSINESS AND LICENSE REGULATIONS OF THE VILLAGE CODE OF THE VILLAGE OF ELK GROVE VILLAGE WITH REGARD TO THE IMPOSITION OF A MUNICIPAL PUSH TAX ON PLAYS OF VIDEO GAMING TERMINALS

WHEREAS, the Village of Elk Grove Village as a home rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, the Illinois Video Gaming Act, 230 ILCS 40/1, *et seq.*, as amended, regulates the operation, licensing, and administration of video gambling; and

WHEREAS, the Village, in accordance with the Illinois Video Gaming Act, regulates video gaming activities within the Village; and

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

WHEREAS, the Mayor and Board of Trustees find and determine that it is in the best interest of the Village and its residents to impose the Push Tax and that imposing the Push Tax would serve and promote the public’s health, safety and welfare;

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Elk Grove Village, Counties of Cook and DuPage, Illinois as follows:

Section 1: The recitals above shall be and are hereby incorporated in this Section 1 as if restated herein.

Section 2: That Chapter 2, Occupation and Other Business Taxes of Title 3 Business and License Regulations of the Village Code is hereby amended by adding a new section entitled “MUNICIPAL PUSH TAX” which shall read in its entirety as follows:

3-2-14 MUNICIPAL PUSH TAX

A) Definitions: The following words and phrases shall have the meanings below for purposes of this Section, whether capitalized or not:

1. Terminal Operator means any individual, partnership, corporation, or limited liability company that is licensed under the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, as amended, 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. With respect to this chapter, the terminal operator shall deemed to be an agent of the licensed establishment.
2. Person means any natural individual who participates in the play of a Video Gaming Terminal, including a firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.
3. 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.

4. Video Gaming Terminal means 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.

B) Municipal Push Tax:

1. Except as otherwise provided in this Section, a push 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.
2. The rate of the tax shall be equal to one cent (\$0.01) per Play on a Video Gaming Terminal.
3. The Terminal Operator of a Video Gaming Terminal may separately itemize and charge the tax imposed in this Section on each Person who plays a Video Gaming Terminal.
4. 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.

C) Registration:

1. Every Terminal Operator of a Video Gaming Terminal(s) located in the Village shall apply for registration as a tax collector with the Village within the later of thirty (30) days after commencing such business or thirty (30) days after the effective date of the Ordinance imposing the tax.
2. 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 tax imposed in this Section.

D) Collection, Payment and Accounting:

1. 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 tax imposed in this Section.
2. For purposes of this Section, it shall be presumed that the amount of the 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.
3. Tax payments accompanied by tax returns prescribed by the Village shall be remitted to the Village on or before the twentieth (20th) day of the month following the month in which payment for the tax is made.
4. Every Terminal Operator of a Video Gaming Terminal who is required to collect the

tax imposed in this Section shall be considered a tax collector for the Village. All tax amounts collected shall be held by the Terminal Operator as trustee for and on behalf of the Village. The failure of the Terminal Operator to collect the tax shall not excuse or release the Person from the obligation to pay the tax.

5. The ultimate incidence of the tax imposed in this Section shall remain on the Person and shall never be shifted to the Terminal Operator.
 6. Notwithstanding any other provision of the Village Code, 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 tax imposed in this Section unless the person files a claim for a refund or credit within one (1) year after the date on which the tax was paid or remitted to the Village.
 7. The Terminal Operator of any Video Gaming Terminal(s) shall be subject to audit, inspection, and record keeping provisions in this Village Code.
 8. It shall be unlawful for any Terminal Operator and/or Person to prevent, hinder, or interfere with the Village's officials, employees, contractors and / or agents designated to discharge their respective duties in the performance and enforcement of the provisions of this Section. 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, contractors and / or agents shall at all times have full access.
- E) Rules and Regulations: The Village Manager is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Section.
- F) Failure to Pay Tax:
1. If a Terminal Operator fails to pay to the Village the tax imposed by this Section by the date the same shall be due, interest shall accumulate at a rate of one and a half percent (1.5%) per month until paid.
 2. Whenever any Terminal Operator falsely reports to the Village information regarding the tax levied in this Section, or fails to pay the tax levied in this Section, the Village Attorney shall, upon the request of the Mayor and Village Board of Trustees, bring or cause to be brought an action to enforce the payment of said tax on behalf of the Village in any court of competent jurisdiction.
 3. If the Mayor or his designee, after holding a hearing, shall find that a Terminal Operator as the agent of the licensed establishment, has failed to make payment of the tax imposed by this Section, or has provided false information or reports regarding the tax imposed by this Section, the Mayor may suspend or revoke all Village licenses held by such Terminal Operator and the video gaming license of the licensed establishment. The Terminal Operator may have an opportunity to be heard at such hearing, which shall be held not less than ten (10) days after notice of the time and place of the hearing, with said notice, addressed to the Terminal Operator and the establishment at their last known place of business. Pending notice, hearing and finding, any license which the Terminal Operator and the licensed establishment may possess may be temporarily suspended by the Mayor. Any suspension or revocation of any license as provided for hereunder shall not release or discharge the Terminal

Operator from their civil liability for the payment of the tax nor from prosecution for such offense.

G) Penalties and Enforcement:

1. Violation: It shall be a violation of this Section for a Terminal Operator to fail to file a report or return within the time prescribed in this Section.
2. Report Required: A Terminal Operator who falsely reports, or who fails to report, the amount of tax due as required by this Section shall be in violation of this Section.
3. False or Inaccurate Information: It shall be a violation of this Section for any Person to knowingly furnish false or inaccurate information regarding the tax imposed in this Section to the Village.
4. Fine: Any Terminal Operator violating the provisions of this Section shall be fined not less than One Hundred Dollars (\$100) nor more than Seven Hundred Fifty Dollars (\$750), for each offense. Each day a violation continues shall constitute a separate violation and offense.”

Section 3: All ordinances or parts of ordinances thereof in conflict with the provisions of this Ordinance, are hereby repealed to the extent of any such conflict.

Section 4: Each section, paragraph, clause, and provision of this Ordinance is separable and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such decision.

Section 5: Except as to the Code provision set forth above in this Ordinance, all Chapters and Sections of the Village Code of the Village of Elk Grove, as amended, shall remain in full force and effect.

Section 6: That this Ordinance shall be in full force and effect after its passage, approval and publication in pamphlet form as required by law, provided, however, that the tax provided for herein shall apply to and for all pushes on or after the first day of June, 2022.

VOTE: AYES: _____ NAYS: _____ ABSENT: _____

PASSED this _____ day of _____ 2021.

APPROVED this _____ day of _____ 2021.

APPROVED:

Mayor Craig B. Johnson
Village of Elk Grove Village

ATTEST:

Loretta M. Murphy, Village Clerk

PUBLISHED this _____ day of _____ 2021 in pamphlet form.