

VILLAGE OF BARTLETT
SPECIAL BOARD AGENDA
OCTOBER 31, 2021
10:00 A.M.

1. CALL TO ORDER
2. ROLL CALL
3. QUESTION/ANSWER: PRESIDENT & TRUSTEES
4. TOWN HALL: (Note: Three (3) minute time limit per person)
5. STANDING COMMITTEE REPORTS:
 - A. BUILDING & ZONING COMMITTEE, CHAIRMAN HOPKINS
 1. None
 - B. COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE, CHAIRMAN GANDSEY
 1. None
 - C. FINANCE & GOLF COMMITTEE, CHAIRMAN DEYNE
 1. Ordinance Amending Title 3 of the Bartlett Municipal Code to Add New Chapter 35, Municipal Amusement Tax
 - D. LICENSE & ORDINANCE COMMITTEE, CHAIRMAN GUNSTEEN
 1. None
 - E. POLICE & HEALTH COMMITTEE, CHAIRMAN SUWANSKI
 1. None
 - F. PUBLIC WORKS COMMITTEE, CHAIRMAN REINKE
 1. None
6. NEW BUSINESS
7. QUESTION/ANSWER: PRESIDENT & TRUSTEES
8. ADJOURNMENT



Agenda Item Executive Summary

Item Name	Video Gaming Push Tax	Committee or Board	Board
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BUDGET IMPACT

<i>Amount:</i>	N/A	<i>Budgeted</i>	N/A
<i>List what fund</i>	N/A		

EXECUTIVE SUMMARY

On October 28, the General Assembly passed HB 3136, which is the gaming omnibus legislation. HB 3136 passed both chambers and will be sent to Governor JB Pritzker for his consideration.

The legislation preempts home rule communities from imposing a video gaming push tax after October 31, 2021. A home rule community wanting to adopt a push tax before the deadline must pass an ordinance no later than October 31, 2021 ("before November 1, 2021"). Home rule communities that have adopted or do adopt a push tax "before November 1, 2021," are allowed to maintain their push tax, but may not extend, expand or increase the tax after that date.

In response to this state legislation, it is recommended that the Village approve this ordinance imposing a "push tax" using home rule authority and authority under the Illinois Municipal Code to tax amusements in order to preserve its right to enact the tax.

The tax is imposed on the individual playing a video gaming terminal at the rate of \$0.01 (one cent) per play. The "push tax" is not imposed on the sale price or gross receipts, and the cost of the tax may be passed to the player by the terminal operator.

One way to increase operating revenue for municipalities without cutting into mandated state revenue, is the push tax. With the tax being imposed on the individual playing a video gaming terminal at the rate of \$0.01 (one cent) per play. Our estimate for potential revenue from a push tax for Bartlett is up to \$360,000/yr. Our terminal fees are not impacted by this legislation.

ATTACHMENTS (PLEASE LIST)

Memo, Ordinance

ACTION REQUESTED

- For Discussion Only
- Resolution
- Ordinance
- Motion:

I move to approve Ordinance 2021-95, an Ordinance Amending the Bartlett Municipal Code to Add New Chapter 35, Municipal Amusement Tax.

Staff: Paula Schumacher, Village Administrator

Date: 10/29/2021

Memorandum

TO: Kevin Wallace, Village President and
Board of Trustees

FROM: Paula Schumacher, Village Administrator

DATE: October 29, 2021

SUBJECT: Video Gaming Push Tax

The Illinois General Assembly concluded its veto session just before 1:00 a.m. on October 29, 2021.

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We did not pursue this tax earlier because the first community to enact the tax, Oak Lawn is facing litigation in Cook County from the Illinois Gaming Machine Operators Association and a number of gaming operators challenging the ordinance and we wanted to see what the state would do with the legislation in the veto session.

The ordinance enacting the tax is attached for your consideration.

ORDINANCE NO. 2021-95

**AN ORDINANCE AMENDING TITLE 3 OF THE BARTLETT
MUNICIPAL CODE TO ADD NEW CHAPTER 35
MUNICIPAL AMUSEMENT TAX**

WHEREAS, the Village of Bartlett, an Illinois municipal corporation of Cook, DuPage and Kane Counties, Illinois, is a home rule unit of government and, pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution may exercise any power and perform any function pertaining to its government and affairs, including, but not limited to, the power to tax and to incur debt; and

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

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

WHEREAS, pursuant to Article VII, Section 6(a) and Section 6(i) of the Ill. Const. of 1970, together with one or more of 65 ILCS 5/8-11-6a(7), 65 ILCS 5/11-42-2, and 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the Village is authorized to impose a tax upon amusements; and

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

WHEREAS, pursuant to Illinois law, video gaming and its terminals are intricately related to the sale and pouring of alcoholic liquor; and

WHEREAS, license fees and taxes on activities concerning both alcoholic liquor and participation in gaming also have a regulatory effect on both of them as part of the Villages’ policing of both, which further effects the number of such establishments, moderates the intensity of the usage of those activities, all for the benefit of moderation, public safety and welfare of the inhabitants of the Village; and

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

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

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

SECTION ONE: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION TWO: That Title 3 of the Bartlett Municipal Code, as amended, is hereby amended by adding thereto a new Chapter 35, Municipal Amusement Tax, which states as follows

**CHAPTER 35
MUNICIPAL AMUSEMENT TAX**

- 3-35-1: TITLE:**
- 3-35-2: APPLICABILITY OF PROVISIONS:**
- 3-35-3: DEFINITIONS:**
- 3-35-4: AMUSEMENT TAX IMPOSED:**
- 3-35-5: TAX ADDITIONAL:**
- 3-35-6: REGISTRATION:**
- 3-35-7: COLLECTION, PAYMENT AND ACCOUNTING:**
- 3-35-8: RULES AND REGULATIONS AUTHORIZED:**
- 3-35-9: APPLICATION OF VILLAGE CODE:**
- 3-35-10: VIOLATIONS; PENALTIES:**

3-35-1: TITLE:

Title 3, Chapter 25, entitled "MUNICIPAL AMUSEMENT TAX" is hereby adopted.

3-35-2: APPLICABILITY OF PROVISIONS:

The provisions of this chapter, except as otherwise provided, shall apply to all amusements as hereinafter defined, whether specifically licensed or regulated under other provisions of this code or other ordinances, or not.

3-35-3: DEFINITIONS:

- A. The word "amusement" means: (1) Any theatrical, dramatic, musical or spectacular performance, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition for public entertainment, including, without being limited to, boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, billiard and pool games. (2) Any entertainment offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games, or any Video Gaming Terminal.
- B. Terminal Operator: Any individual, partnership, corporation, or limited liability company that is licensed under the Video Gaming Act, 230 ILCS 40/1 et seq., and that owns, services, and maintains Video Gaming Terminals for placement in licensed

establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.

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

3-35-1: AMUSEMENT TAX IMPOSED:

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

3-35-5: TAX ADDITIONAL:

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

3-35-6: REGISTRATION:

- A. Every Terminal Operator of a Video Gaming Terminal(s) located in the Village of Bartlett shall apply for registration as a tax collector with the Village no later than thirty (30) days after commencing such business or thirty (30) days after the effective date of this Ordinance imposing the Push Tax, whichever occurs later.

- B. The application shall be submitted to the Village on the forms provided by the Village and contain such information as reasonably required by the Village to impose, collect, and audit all amounts related to the Push Tax.

3-35-7: COLLECTION, PAYMENT, AND ACCOUNTING:

- A. It shall be the joint and several duty of every Terminal Operator of a Video Gaming Terminal(s) to secure from each Person participating in the Play of a Video Gaming Terminal the Push Tax imposed by this Chapter.
- B. For purposes of this Chapter, it shall be presumed that the amount of the Push Tax imposed on each Person, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence, has been collected from the Person by the Terminal Operator.
- C. Push Tax payments accompanied by tax returns prescribed by the Village shall be remitted to the Village on or before the 20th day of the month following the month in which payment for the Push Tax is made.
- D. Every Terminal Operator of a Video Gaming Terminal who is required to collect the Push Tax by this Chapter shall be considered a tax collector for the Village. All Push Tax amounts collected shall be held by the Terminal Operator as trustee for and on behalf of the Village. The failure of the Operator to collect the tax shall not excuse or release the Person from the obligation to pay the tax.
- E. The ultimate incidence of the Push Tax shall remain on the Person and shall never be shifted to the Terminal Operator.
- F. Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the Village, no person shall be entitled to a refund of, or credit for, the Push Tax imposed by this Chapter unless the person files a claim for a refund or credit within one (1) year after the date on which the Push Tax was paid or remitted to the Village.
- G. The Terminal Operator of any Video Gaming Terminal(s) shall be subject to audit, inspection, and record keeping provisions of this Code.
- H. It shall be unlawful for any Terminal Operator and/or Person to prevent, hinder, or interfere with the Village's Officials, employees, and/or agents designated to discharge their respective duties in the performance and enforcement of the provisions of this Chapter.
- I. It is the duty of every Terminal Operator of a Video Gaming Terminal(s) to keep accurate and complete books and records to which the Village's officials, employees, and/or agents will at all times have full access.

3-35-8: RULES AND REGULATIONS; AUTHORIZED:

The Village is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Chapter.

3-35-9: APPLICATION OF VILLAGE CODE:

Any citation under this Chapter may be in addition to any other citations issued by the Village under any and all applicable sections of the Bartlett Municipal Code.

3-35-10: VIOLATIONS; PENALTIES:

It shall be a violation of this Chapter for a Terminal Operator to fail to file a report within the time prescribed in this Chapter.

- A. Report Required: A Terminal Operator who falsely reports or fails to report the amount of Push Tax due as required by this Chapter shall be in violation of this Chapter and is subject to the suspension and/or revocation of their Terminal Operator License. All payments not remitted when due shall be paid together with a penalty assessment on the unpaid balance at a rate of 1.5% per month.
- B. Suspension Or Revocation Of License: The Local Liquor Commissioner or his or her designee shall have the power to suspend for not more than thirty (30) days or revoke any video gaming license issued under the provisions of this Chapter for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this Chapter, any of the statutes of the State or any other valid ordinance or resolution enacted by the corporate authorities of the Village. However, no such license shall be revoked or suspended except after the holding of a public hearing by the Local Liquor Commissioner or his or her designee. Ten (10) days' notice of the hearing shall be given to the Terminal Operator. Alternatively, the Terminal Operator shall have the opportunity to engage in a prehearing conference and agree to negotiated penalties rather than proceed to a hearing.
- C. Fine Imposed: In addition, any Terminal Operator violating the provisions of this Chapter shall be subject to a fine of \$250.00 for the first offense, and \$500.00 for the second offense and \$750.00 for a third offense and subject to a revocation of any license to operate a Video Gaming Terminal for the third offense.
- D. Each day a violation continues shall constitute a separate violation.
- E. It shall be deemed a violation of this Chapter for any Person to knowingly furnish false or inaccurate information to the Village.

SECTION THREE: IMMEDIATE EFFECT. The Corporate Authorities have determined that the imposition and collection of the Push Tax is of immediate concern that will promote the public health, safety and welfare of the Village's residents and

businesses, and this Ordinance will take immediate effect upon its passage and approval by a two-thirds super majority vote of the Corporate Authorities; provided, however, the tax provided for in this Ordinance shall apply to and for all pushes on or after the first day of January, 2022.

SECTION FOUR: REPEAL OF CONFLICTING PROVISIONS. All ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

SECTION FIVE: SEVERABILITY. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED: October 31, 2021

APPROVED: October 31, 2021

Kevin Wallace, Village President

ATTEST:

Lorna Giless, Village Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2021-95 enacted on October 31, 2021 and approved on October 31, 2021, as the same appears from the official records of the Village of Bartlett.

Lorna Giless, Village Clerk