



**VILLAGE BOARD OF TRUSTEES
SPECIAL MEETING NOTICE/AGENDA
October 31, 2021, 5:00 pm**

THE RICHARD T. FLICKINGER MUNICIPAL CENTER, COUNCIL CHAMBERS
6101 CAPULINA AVE, MORTON GROVE, IL 60053

In accordance with the Illinois Open Meetings Act, all Village Board and Commission meetings are open to the public. Vaccinated and unvaccinated individuals are required to wear a mask when attending public Village meetings. Individuals should not attend public meetings if they have tested positive for COVID-19, within the past 14 days have been in contact with another person who has tested positive for COVID-19 during the past 14 days, or have any symptoms associated with COVID-19.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Village Administrator Report**
 - a. **Ordinance 21- 12:** Amending Title 1, Chapter 10 of the Municipal Code, to Add a New Article Q Entitled “Local Push Tax”
5. **Residents’ Comments**
6. **Adjournment**

Legislative Summary

Ordinance 21-12

AMENDING TITLE 1, CHAPTER 10 OF THE MUNICIPAL CODE, TO ADD A NEW ARTICLE Q ENTITLED “LOCAL PUSH TAX

Introduced:	October 31, 2021
Purpose:	This ordinance will amend Title 1, Chapter 10 to add a new Article Q to enact a one penny per play Video Gaming Push Tax.
Background:	<p>The Village in accordance with the Illinois Video Gaming Act (“VGA”), 230 ILCS 40/1 et seq. regulates video gaming activity within the Village. The Village also has the authority pursuant to Article VII, Section 6(a) and Section 6(i) of the Ill. Const. of 1970 and 65 ILCS 5/11-42-5 of the Illinois Municipal Code to impose a tax upon certain types of amusements. Playing a Video Game Terminal is considered an amusement for tax purposes.</p> <p>Numerous municipalities including Niles, Waukegan, Oak Lawn, Schaumburg and Hanover Park have enacted a tax upon the amusement of playing a video gaming terminal known as a Push Tax at a rate of \$0.01 per play. Research has shown that typically a person playing a video gaming terminal plays between 100 to 200 times per session resulting in a Push Tax of \$1.00 to \$2.00 per person per session. The Village has determined that a local push tax could provide much needed revenue to promote the general health, safety, and welfare of the Village.</p> <p>On October 28, 2021, the Illinois General Assembly passed HB 3136 which preempts home rule communities from imposing a video gaming push tax after October 31, 2021. Home rule communities that adopt a push tax before November 1, 2021, are allowed to maintain their push tax, but may not extend, expand or increase the tax after that date. This ordinance approves the adoption of a local Push Tax at the rate of \$0.01 per play.</p>
Programs, Affected	Administration, Legal and Finance Departments
Fiscal Impact:	It is anticipated this tax will generate \$35,000 to \$70,000 per year
Source of Funds:	The tax will be collected and accounted for by the owner/operator of Video Gaming Terminals in the Village.
Workload Impact:	The Finance Department will oversee the administration and collection of this tax
Administrator Recommendation:	Approval
Second Reading:	Require, Code Amendment.
Special Considerations or Requirements:	This ordinance must be adopted before November 1, 2021. Therefore, the Village Administrator requests the Village Board passes a motion to waive the 2 nd reading of the ordinance and adopts this Ordinance at its October 31, 2021 Special Meeting.

Submitted by: Ralph E. Czerwinski, Village Administrator

Reviewed by: Hanna Sullivan, Finance Director

Prepared by: Teresa Hoffman Liston, Corporation Counsel

ORDINANCE 21-12

AMENDING TITLE 1, CHAPTER 10 OF THE MUNICIPAL CODE, TO ADD A NEW ARTICLE Q ENTITLED “LOCAL PUSH TAX”

WHEREAS, the Village of Morton Grove (the “Village”), located in Cook County, Illinois is a home rule unit of government under the provisions of Article 7 of the Constitution of the State of Illinois, and can exercise any power and perform any function pertaining to its government affairs, including but not limited to the power to tax and incur debt; and

WHEREAS, the Village President and Board of Trustees are committed to protecting the health, safety and welfare of the Village and its residents; and

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

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

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

WHEREAS, the Village now desires to impose a tax upon the amusement of playing a video gaming terminal within the Village (“Push Tax”) at a rate of \$0.01 per play; 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

WHEREAS, a similar tax has been enacted in neighboring communities including Niles, Waukegan, Oak Lawn, Schaumburg and Hanover Park; and

WHEREAS, a significant portion of revenue from this tax will be paid by nonresidents of the Village of Morton Grove; and

NOW, THEREFORE BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON GROVE, COOK COUNTY, ILLINOIS AS FOLLOWS:

SECTION 1: The Corporate Authorities do hereby incorporate the foregoing WHEREAS clauses into this Ordinance as though fully set forth herein thereby making the findings as hereinabove set forth.

SECTION 2: Title 1, Chapter 10, of the Municipal Code of the Village of Morton Grove is hereby amended to add a new Article Q entitled “*Local Push Tax*” to read as follows:

TITLE 1
CHAPTER 10. TAXATION
ARTICLE Q. LOCAL PUSH TAX

1-10Q-1: **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.

1-10Q-2: **DEFINITIONS:** Except as otherwise specified, the terms used in this Article shall have the same definitions as those listed in the Video Gaming Act, 230 ILCS 40/1. In addition, for purposes of this Article the following words shall have the following meanings.

- A. Amusement: 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.

1-10Q-3: PUSH TAX IMPOSED

- A. Except as otherwise provided by this Chapter, 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 of Morton Grove.
- 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.
- D. 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.

1-10Q-4: REGISTRATION

- A. Every Terminal Operator of a Video Gaming Terminal(s) located in the Village of Morton Grove 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.

1-10Q-5: 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 Article, 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 Article 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 Article, 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 Article 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 Article.
- 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.

1-10Q-6: 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 Article.

1-10Q-7: APPLICATION OF VILLAGE CODE: Any citation under this Article may be in addition to any other citations issued by the Village under any and all applicable sections of the Village Code.

1-10Q-8: VIOLATIONS; PENALTIES: It shall be a violation of this Article for a Terminal Operator to fail to file a report, file a false report, collect all required taxes, or remit all taxes collected within the time prescribed in this Article. Each day a violation continues shall constitute a separate violation.

- A. **Report Required:** A Terminal Operator in violation of this Article shall be subject to a fine and such other penalties as set forth in Title 1 Chapter 4 Section 2 of the Municipal Code. All reports and payments not timely remitted shall be subject to such penalties and interest as set forth in Title 1 Chapter 10, Article A of the Municipal Code.
- B. **Suspension Or Revocation Of License:** In addition to the imposition of any fine or other penalty, 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 Article for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this Article, any of the statutes of the State or any other valid ordinance or resolution enacted by 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 as set forth in Title 1 Chapter 4 Section 2 of the Municipal Code.
- D. It shall be deemed a violation of this Article for any Person to knowingly furnish false or inaccurate information to the Village.

SECTION 3: Title 1, Chapter 4, Section 2 of the Municipal Code of the Village of Morton Grove entitled “MONETARY PENALTIES AND FINES FOR SPECIFIC VIOLATIONS AND OFFENSES” is hereby amended to add the following new rows:

Code Section	Description Of Violation	Penalty
1-10Q-4 and 1-10Q-5	Terminal Operator’s failure to apply for registration as a tax collector, or failure to file a report or file a false report, failure to collect all required taxes, or remit all taxes collected	First offense: \$500 Second Offense: \$750 Third or more Offense \$1,000 and subject to reporting to the Illinois Gaming Board

SECTION 4: 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 5: 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.

SECTION 6: Except as to code amendments set forth in this ordinance, all chapters and sections of the *Morton Grove Village Code* shall remain in full force and effect.

SECTION 7: This ordinance shall be effective from and after its adoption, approval, and publication as provided by law.

PASSED THIS 31st day of October, 2021

Trustee Gear _____

Trustee Khan _____

Trustee Minx _____

Trustee Thill _____

Trustee Travis _____

Trustee Witko _____

APPROVED BY ME THIS 31st day of October, 2021.

Daniel P. DiMaria, Village President
Village of Morton Grove
Cook County, Illinois

ATTESTED and FILES in my office
This 1st day of November 2021.

Eileen Scanlon Harford, Village Clerk
Village of Morton Grove
Cook County, Illinois