

**ORDINANCE 7647
PAMPHLET**

**AN ORDINANCE AMENDING TITLE XI, CHAPTER 110, SECTION 110.11;
TITLE XI, CHAPTER 112; AND TITLE XI, CHAPTER 115
OF THE LOMBARD VILLAGE CODE IN REGARD TO VIDEO GAMING
AND LIQUOR LICENSES FOR ESTABLISHMENTS WITH VIDEO GAMING**



PUBLISHED IN PAMPHLET FORM THIS 5th DAY OF APRIL 2019, BY ORDER
OF THE CORPORATE AUTHORITIES OF THE VILLAGE OF LOMBARD, DUPAGE
COUNTY, ILLINOIS.

A handwritten signature in black ink, appearing to read "Sharon Kuderna".

Sharon Kuderna
Village Clerk

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BE IT ORDAINED by the President and Board of Trustees of the Village of Lombard, DuPage County, Illinois, as follows:

SECTION 1: That Title XI, Chapter 112, Section 112.02 of the Lombard Village Code is amended as follows:

A. By adding the following definitions thereto:

“Illinois Video Gaming Act. 230 ILCS 40/1 et seq.

Video Gaming. The activity authorized by the Illinois Video Gaming Act, involving the use of a Video Gaming Terminal.

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 pursuant to the Illinois Video Gaming Act, 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.

Video Gaming Café. An establishment whose primary or major focus is Video Gaming, as provided for pursuant to the Illinois Video Gaming Act, and the service of alcohol and food is incidental to the operation of Video Gaming. Any establishment that receives more than forty-nine percent (49%) of its gross revenue from the operation of Video Gaming Terminals shall be classified as a Video Gaming Café.”

- B. By inserting the words “non-Video Gaming” between the words “the” and “gross” in the second sentence of the definition of “Restaurant,” as contained therein.
- C. By inserting the words “non-Video Gaming” between the words “the” and “gross” in the third sentence of the definition of “Self-Service Restaurant,” as contained therein.
- D. By inserting the words “non-Video Gaming” between the words “the” and “gross”

in the second sentence of the definition of "Small Restaurant," as contained therein.

SECTION 2: That Title XI, Chapter 112, Section 112.12(A) of the Lombard Village Code is amended as follows:

- A. The descriptions of the Class "A/B-I," "A/B-II," "A/B-III," "A/B-IV," "C," "D," "E," "EE," "F," "FF," "G," "GG," "GGG," "H," "I," "J," "JJ," "K," "L-I," "L-II," "M," "N-I," "N-II," "O," "P," "Q-I," "Q-II," "R," "S," "T-I," "T-II," "T-III," "U," "V," "VV," "X," "XX," "Y," "Z" and "ZZ" liquor license categories, as contained therein, are amended by adding the following to the end of each description:

"Video Gaming, as provided for under the Illinois Video Gaming Act, shall not be allowed on the licensed premises."

- B. That the following new liquor license classes and descriptions are added thereto:

"Class "A/B-II-VG" — Alcoholic beverages served as an adjunct to food service; no package sales allowed. Gross annual dollar amount of liquor sales of greater than \$100,000.00, but shall not exceed \$400,000.00. (Restaurant) The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "A/B-III-VG" — Alcoholic beverages served as an adjunct to food service; no package sales allowed. Gross annual dollar amount of liquor sales of more than \$400,000.00. (Restaurant) The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "A/B-IV-VG" — Alcoholic beverages served as an adjunct to food service, with a gross annual dollar amount of liquor sales of more than \$400,000.00 (Restaurant). Package sales of specialty wine (wine produced under the name of a current or former professional sports figure) allowed from an on-premises gift shop associated with the restaurant. Package sales of specialty wine (wine produced under the name of a current or former professional sports figure) via phone/catalogue/internet order allowed, provided said sales are processed as a sale from the licensed premises. The operation of Video Gaming Terminals on

the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "D-VG" — Alcoholic beverages served with the primary purpose of the establishment being the sale of alcoholic beverages; package goods allowed to be sold. (Tavern) The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "I-VG" — Alcoholic beverages served for consumption on the premises of a not-for-profit club, not-for-profit entity or governmental entity; no package sales allowed. The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "M-VG" — As this liquor license category relates solely to the sale of beer and wine by a Class M Restaurant, as defined in § 112.02 of this Code, see said definition of Class M Restaurant for further requirements applicable to the Class "M-VG" liquor license. The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "N-I-VG" — Alcoholic beverages served in relation to food service, with the food service constituting at least 40 percent of the non-Video Gaming gross income of the establishment. Package sales of wine and champagne only shall be allowed. Gross annual dollar amount of liquor sales of more than \$300,000.00. The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the

provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "N-II-VG" — Alcoholic beverages served in relation to food service, with the food service constituting at least 40 percent of the non-Video Gaming gross income of the establishment. Package sales of wine and champagne only shall be allowed. Gross annual dollar amount of liquor sales shall not exceed \$300,000.00. The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "S-VG" — The manufacturing of beer products on the licensed premises, for consumption on the licensed premises, along with the sale of said beer products manufactured on the licensed premises, as well as beer products manufactured by the licensee off of the licensed premises, for consumption off of the licensed premises. In addition to beer products manufactured on the licensed premises, beer, cider, wine and spirits not manufactured on the licensed premises may be sold for consumption on the licensed premises; provided, however, spirits may only be sold for consumption on the licensed premises: (i) at special events, not open to the general public; or (ii) as a single "spirits drink of the day" to the general public, provided that, for the "spirits drink of the day," no more than one drink type containing spirits (i.e., a Manhattan) shall be sold to the general public for consumption on the licensed premises on any day that the licensed premises are open to the public. Tasting of all alcoholic beverages sold on the licensed premises are allowed. A kitchen, offering food service to the public at all times while the licensed premises is open for business, except for the last hour during which the licensed premises is open to the public, and providing food service relative to special events not open to the public, is required. Catered food may be brought in relation to special events not open to the public. The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "XX-VG" — Alcoholic beverages, served as an adjunct to a live entertainment establishment, subject to the following restrictions and requirements:

- (1) The establishment must have a full service kitchen for the preparation of meals for the patrons of the establishment, with said full service kitchen to remain open, and food service to be offered at the establishment, each day that the

establishment is open for business, from the opening time until at least 10:00 p.m.

(2) As the establishment is primarily a live entertainment venue, the liquor license fee, as set forth in § 112.14(A) of this Code, shall cover the licensing relative to the live entertainment at the establishment, and no separate live entertainment license shall be required under § 112.39 of this Code.

(3) No individual under the age of 21 years shall be allowed in the licensed premises at any time period that live entertainment is taking place, including during any break periods for said live entertainment, or during any time period that the full service kitchen is closed, and food service is not being offered.

(4) No package sales of alcoholic beverages shall be allowed.

The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

Class "Z-VG" — Alcoholic beverages served as an adjunct to food service at a location that also brews beer on the licensed premises. The sale of beer brewed on the licensed premises for carry-out shall be allowed; with all other package sales prohibited. (Restaurant/Brew Pub) The operation of Video Gaming Terminals on the licensed premises shall be allowed, so long as Video Gaming is not prohibited within the Village, provided the establishment has been issued a Video Gaming license by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, and further provided the establishment shall comply with all the provisions of Chapter 112 of the Village Code, the Illinois Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board."

SECTION 3: That Title XI, Chapter 112, Section 112.13(A) of the Lombard Village Code is amended by adding the following thereto:

Class "A/B-II-VG" – 0

Class "A/B-III-VG" – 0

Class "A/B-IV-VG" – 0

Class "D-VG" – 0

Class "I-VG" – 0

Class "M-VG" – 0

Class "N-I-VG" – 0

Class "N-II-VG" – 0

Class "S-VG" – 0

Class "XX-VG" – 0

Class "Z-VG" – 0"

SECTION 4: That Title XI, Chapter 112, Section 112.14(A) of the Lombard Village Code is amended by adding the following thereto:

“Class “A/B-II-VG” – \$1,500.00
Class “A/B-III-VG” – \$2,500.00
Class “A/B-IV-VG” – \$3,000.00
Class “D-VG” – \$1,000.00
Class “I-VG” – \$400.00
Class “M-VG” – \$800.00
Class “N-I-VG” – \$1,500.00
Class “N-II-VG” – \$1,000.00
Class “S-VG” – \$1,000.00
Class “XX-VG” – \$4,000.00
Class “Z-VG” – \$2,500.00”

SECTION 5: That Title XI, Chapter 112, Section 112.14(E) of the Lombard Village Code is amended by adding the following between “a” and “Class A/B-I”:

“Class A/B-II-VG, Class A/B-III-VG,”

SECTION 6: That Title XI, Chapter 112, Section 112.17(D) of the Lombard Village Code is amended by adding the following between “date” and “Class A/B-I”:

“Class A/B-II-VG, Class A/B-III-VG,”

SECTION 7: That Title XI, Chapter 112, Section 112.18 of the Lombard Village Code is amended by adding new subsections (D) and (E) thereto, which shall read in their entirety as follows:

“(D) The following restrictions apply to all liquor licenses which allow for and authorize the operation of Video Gaming Terminals upon the licensed premises:

- (1) The operation of Video Gaming Terminals shall not be permitted during the hours alcoholic liquor sales are prohibited, as provided in Section 112.36 of this Code.
- (2) As required by the Illinois Video Gaming Act, Video Gaming is prohibited in any establishment located within 100 feet of any school (as defined in the Illinois Video Gaming Act) or place of worship.
- (3) As required by the Illinois Video Gaming Act, Video Gaming shall be located in an area that is restricted to persons 21 years of age or older.
- (4) As required by the Illinois Video Gaming Act, the total number of Video Gaming Terminals located in the establishment shall not exceed five (5).
- (5) The establishment shall comply with all of the Village’s sign regulations and it shall be unlawful to advertise for Video Gaming via a sign visible from any street, alley or public right-of-way within the Village. This includes temporary or permanent signage that may include a business name, name, identification, description, display, illustration or attention-getting device which is affixed to or painted or represented directly or indirectly upon a building or

other outdoor surface or lot, and which directs attention to a person, business, product, service, place, organization or entertainment.

(6) The establishment shall be required to install, operate and maintain a video camera surveillance system capable of recording clear and unobstructed photographic representations of the segregated area of the establishment where the Video Gaming Terminals are located, and shall retain the video recordings produced therefrom for a minimum of thirty (30) days. Said video recordings shall be subject to inspections by the Village's Police Department upon request therefor.

(7) The establishment shall be equipped with a direct connect burglar alarm system to the Village's Police Department, or to such other location as directed by the Village's Police Department, to address instances of unpermitted entry into the establishment.

(8) The percentage of income received from Video Gaming shall not exceed forty-nine percent (49%) of the establishment's gross revenue. The liquor licensee shall be prepared to establish that the liquor licensee has met the forty-nine percent (49%) standard upon the request of the Village and this determination shall be based upon, but not be limited to, audited financial statements, corporate financial reports, tax return information, State liquor license reports, or any other form of documentation/information deemed acceptable by the Village. At the Village's discretion, each liquor licensee shall be subject to an annual audit to verify compliance with this subsection.

(9) As required by the Illinois Video Gaming Act, all Video Gaming Terminals shall be located in a segregated area which shall be accessible only to persons over 21 years of age. Applicants shall submit a site plan clearly indicating the proposed location of all Video Gaming Terminals and the type of barrier to be utilized to segregate the area; provided however, that such barrier shall not obstruct the view of the Video Gaming area, which shall be visible to an employee of the liquor licensee, who is over 21 years of age, at all times.

(10) The liquor licensee applicant/business establishment must be in good standing with the Village at the time of the application for a liquor license which allows for the operation of Video Gaming Terminals on the licensed premises. To be in "in good standing":

(a) the liquor license applicant shall owe no sums of money to the Village at the time of submitting an application for a liquor license which allows for the operation of Video Gaming Terminals on the licensed premises;

(b) the liquor license applicant shall have had no violations causing a suspension of its liquor or business license in the twelve (12) months prior to submitting an application for a liquor license which allows for the operation of Video Gaming on the licensed premises; and

(c) the liquor license applicant shall be in compliance with all dram shop and Video Gaming laws, rules and regulations of the Village and the State of Illinois.

(E) Video Gaming Cafés are expressly prohibited in the Village, and no liquor license shall be created, maintained or authorized for a Video Gaming Café.”

SECTION 8: That Title XI, Chapter 112, Section 112.33(B) of the Lombard Village Code is amended by adding the following between “Class” and “A/B-I”, at both locations where same exists in said Section 112.33(B):

“A/B-II-VG, A/B-III-VG, A/B-IV-VG, M-VG, N-I-VG, N-II-VG, Z-VG,”

SECTION 9: That Title XI, Chapter 112, Section 112.36(B) of the Lombard Village Code is amended by adding “or Class M-VG” between “Class “M” ” and “liquor,” as contained therein.

SECTION 10: That Title XI, Chapter 112, Section 112.36(D) of the Lombard Village Code is amended by adding “ “D-VG,” “I-VG,” “M-VG” ” between “Class” and “ “D” ”, as contained therein.

SECTION 11: That Title XI, Chapter 112, Section 112.40(A) of the Lombard Village Code is amended by adding “A/B-II-VG, A/B-III-VG, A/B-IV-VG, D-VG, I-VG, M-VG, N-I-VG, N-II-VG, S-VG, XX-VG, Z-VG” between “Class” and “A/B-I”, as contained therein.

SECTION 12: That Title XI, Chapter 110, Section 110.11 of the Lombard Village Code is amended to read in its entirety as follows:

“§ 110.11 – Video Gaming.

- (A) Video Gaming, as provided for by the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, and defined in Section 112.02 of this Code, is prohibited in the Village, except as expressly authorized pursuant to Chapter 112 of this Code. Video Gaming is prohibited in licensed truck stop establishments, as defined by the Illinois Video Gaming Act. Video Gaming Cafés, as defined in Section 112.02 of this Code, shall not be qualified to obtain any existing classification of Village liquor license, and no such liquor license, allowing Video Gaming Cafés, shall be created, maintained or authorized by Chapter 112 of this Code.
- (B) Any establishment operating pursuant to a liquor license which allows for and authorizes Video Gaming Terminals on the licensed premises must pay, in addition to the applicable liquor license fee, an annual fee to the Village in the amount of \$25.00 per Video Gaming Terminal operated in the establishment. Failure to pay said fee will result in the suspension of any Village licenses issued to said establishment, as well as fines as provided for by Section 10.99 of this Code. For purposes of this subsection, the annual Video Gaming Terminal license year shall be from July 1st through June 30th of the following year. There shall be no proration of the license fee in regard to a Video Gaming Terminal license issued after July 1st.”

SECTION 13: That Title XI, Chapter 115 of the Lombard Village Code is amended by adding a new Section 115.08 thereto, which shall read in its entirety as follows:

“§ 115.08 – Video Gaming Prohibition.

Video Gaming, as provided for by the Illinois Video Gaming Act, 230 ILCS 40/1 *et seq.*, and defined in Section 112.02 of this Code, is prohibited at those business establishments, licensed under this Chapter 115, which constitute licensed truck stop establishments, as defined in the Illinois Video Gaming Act.”

SECTION 14: That Title XI, Chapter 115, Section 115.08 of the Village Code shall be repealed, effective at 11:59:59 p.m. on June 30, 2020, without need for further action of the President and Board of Trustees of the Village.

SECTION 15: That the additions to Title XI, Chapter 112 of the Lombard Village Code, as provided for in Sections 1 through 11 of this Ordinance, are hereby repealed effective at 11:59:59 p.m. on June 30, 2020, without need for further action of the President and Board of Trustees of the Village, with the Sections and subsections of Title XI, Chapter 112 of the Lombard Village Code, that were amended by Sections 1 through 11 of this Ordinance, reverting to the form in which they appeared, prior to the effective date of this Ordinance, but as further amended after the effective date of this Ordinance, as of 11:59:59 p.m. on June 30, 2020. In the event that the repeal, as provided for in this Section, goes into effect, any renewal of a liquor license that provides for Video Gaming, for the July 1, 2020 through December 31, 2020 license period, shall, provided the liquor licensee otherwise continues to qualify for a liquor license, result in the issuance of a liquor license in the liquor license classification that provides for the same liquor sales limitations, conditions and restrictions as the liquor license that allowed for Video Gaming, but does not permit Video Gaming. For example, a Class “A/B-II” liquor license would be issued in lieu of a Class “A/B-II-VG” liquor license for the July 1, 2020 through December 31, 2020 license period, if the repeal goes into effect.

SECTION 16: That Title XI, Chapter 110, Section 110.11 of the Lombard Village Code shall be amended, effective at 11:59:59 p.m. on June 30, 2020, to read in its entirety as follows:

“§ 110.11 - Video Gaming Prohibition.

(A) *Authority.* This Section is promulgated pursuant to the authority to prohibit Video Gaming (as defined below) in the Village, as contained in 230 ILCS 40/27, all as may be amended from time to time.

(B) *Definitions.*

For purposes of this Section, the following terms shall be defined as follows:

Video Gaming means the ownership, placement, maintenance, operation or use of a Video Gaming Terminal (as defined below) in a licensed establishment, licensed fraternal establishment, licensed veterans establishment or licensed truck stop

establishment, as said terms are defined within the Illinois Video Gaming Act (230 ILCS 40/1 *et seq.*) (hereinafter the "Establishment(s)"), within the Village.

Video Gaming Terminal means any electronic video game machine that, upon insertion of cash, 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.

(C) *Prohibition.*

- (1) Video Gaming is prohibited within the Village.
- (2) A Video Gaming license issued by the State of Illinois is not effective within the Village.
- (3) A prohibited Video Gaming Terminal shall be immediately removed by the owner or operator from the Establishment(s).
- (4) It shall be unlawful for a person, firm or corporation to permit or allow any Video Gaming Terminal to be played or remain within any Establishment(s) within the Village.

(D) *Enforcement.*

Authorized representatives of the Village's Police Department, including sworn peace officers and other individuals as the Chief of the Village's Police Department may designate from time to time, may make inspections of the premises of Establishment(s) or any premises where there is cause to believe Video Gaming occurs, for the purpose of determining whether a violation of this Section is taking place. These inspection rights are in addition to any other statutory or common law powers of the Village's Police Department.

(E) *Penalties.*

- (1) Any person, firm or corporation who violates any provision of this Section shall be subject to a fine of not less than \$750.00.
- (2) In lieu of prosecution under subsection (1) above, any person, firm or corporation who violates any provision of this Section may be subject to prosecution under the gambling provisions of the Illinois Criminal Code, 720 ILCS 5/28-1, *et seq.*"

SECTION 17: That this Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form, as provided by law.

Passed on first reading this 21st day of March, 2019.

First reading waived by action of the Board of Trustees this ____ day of _____, 2019.

Passed on second reading this 4th day of April, 2019, pursuant to a roll call vote as follows.

AYES: Village President Giagnorio, Trustee Fugiel, Pike and Ware

NAYS: Trustee Whittington, Foltyniewicz and Johnston

ABSENT: None

APPROVED by me this 4th day of April, 2019.


Keith Giagnorio, Village President

ATTEST:


Sharon Kuderna, Village Clerk

Published by me in pamphlet form this 5th day of April, 2019.


Sharon Kuderna, Village Clerk