

**ORDINANCE NO. 2021-30**

**AN ORDINANCE OF THE VILLAGE OF WEST DUNDEE  
IMPOSING A PUSH TAX ON THE OPERATION OF VIDEO GAMING TERMINALS**

WHEREAS, the Village of West Dundee (hereinafter referred to as the "Village") is an Illinois Municipal Corporation organized pursuant to the laws of the State of Illinois;

WHEREAS, the Village of West Dundee is a home rule unit of local government pursuant to the provisions of Article VII, Section 6(a) of the Illinois Constitution with authority granted pursuant to the Illinois Constitution of 1970, to exercise any power and perform any function pertaining to its local government and affairs, including but not limited to the power to tax and incur debt;

WHEREAS, the Village has in full force and effect a codified set of ordinances which are of a general and permanent nature, which said codified set is known and designated as the Village Code of West Dundee, Illinois, as amended;

WHEREAS, the Village has the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs that protect the health, safety and welfare of its residents including the adoption and imposition of certain taxes;

WHEREAS, the Illinois Video Gaming Act (hereinafter referred to as "VGA"), 230 ILCS 40/1 et seq., regulates the operation, licensing and administration of video gaming;

WHEREAS, the Village in accordance with the VGA regulates video gaming activity within the corporate limits of the Village of West Dundee;

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

WHEREAS, the Village now desires to impose a tax upon the amusement of playing a video gaming terminal with the corporate limits of the Village of West Dundee (hereinafter referred to as "Push Tax");

WHEREAS, the Village's Push Tax will generate much needed revenue to promote the general health, safety and welfare of the Village of West Dundee and its residents and provide adequate funds to offset the adverse effect of gambling with the Village;

WHEREAS, the Corporate Authorities of the Village of West Dundee are of the opinion that that it is in the best interests of the safety, health and welfare of the residents to impose a Push Tax as set forth herein.

NOW, THEREFORE, BE IT ORDAINED, in open meeting assembled by the Village President and Board of Trustees of the Village of West Dundee, Kane County, Illinois pursuant to the Village's Home Rule powers as follows:

**Section One – Recitals**

The Board of Trustees hereby find that all of the recitals hereinbefore stated as contained in the preamble to this ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this ordinance as legislative findings.

## Section Two – Adoption of Push Tax

### APPLICABILITY OF PROVISIONS:

The provisions of this ordinance, 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.

### 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.

### AMUSEMENT TAX IMPOSED

#### PUSH TAX

- A. Except as otherwise provided by this Ordinance, 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 West Dundee.
- 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.

#### TAX ADDITIONAL

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

#### REGISTRATION

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

#### 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 Ordinance.
- B. For purposes of this Ordinance, 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 Ordinance 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 Ordinance, 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 Ordinance 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 Ordinance.

- 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.

#### 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 its Village Code of Ordinances.

#### VIOLATIONS; PENALTIES

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

- A. Report Required: A Terminal Operator who falsely reports or fails to report the amount of Push Tax due as required by this Ordinance shall be in violation of this Ordinance 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 video gaming license issued under the provisions of this ordinance for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this Ordinance, 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 Ordinance 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 Ordinance for any Person to knowingly furnish false or inaccurate information to the Village.

#### APPLICATION OF VILLAGE CODE.

Any citation under this Ordinance may be in addition to any other citations issued by the Village under any and all applicable sections of the Village of West Dundee Code of Ordinances.

#### Section Three – Codification

The title, chapter(s) and section(s) adopted by this Ordinance shall be numbered and placed in an appropriate title, chapter(s), and sections(s) sections when and during the codification of the Village Code of West Dundee, Illinois.

Section Four – Home Rule Preemption

This ordinance represents the Village of West Dundee’s exercise of its home rule powers to the extent that this ordinance preempts or conflicts with Illinois statute to the extent permitted under the Constitution of the State of Illinois.

Section Five – Effective Date

This Ordinance shall be in full force and effect on May 1, 2022.

Section Six – Conflict Clause

That all ordinances, parts of ordinances, resolutions, parts of resolutions and/or board actions in conflict with the terms of this ordinance shall be repealed to the extent of said conflict.

Section Six – Constitutionality Clause

Any part or parts of this ordinance declared by a court of law to be invalid or unconstitutional shall not affect the validity of the remaining provisions of this ordinance or the Village Code of West Dundee, Illinois.

Section Seven – Publication

This ordinance shall be published in book or pamphlet form as provided by the Illinois Municipal Code.

Section Eight – Recording

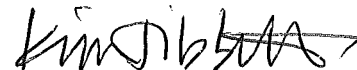
This ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of West Dundee.

PASSED and APPROVED THIS 31st day of October, 2021.

AYES: Trustees Haley, Alopogianis, Anderley, Price and Yuscka  
NAYS: Trustee Wilbrandt  
ABSENT: None

  
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Christopher Nelson  
Village President

ATTEST:

  
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Kim Tibbetts  
Deputy Village Clerk