

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda

 X Resolution or Ordinance (Blue) _____ *Waiver of First Requested*
_____ Recommendations of Boards, Commissions & Committees (Green)
_____ Other Business (Pink)

TO: PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott Niehaus, Village Manager

DATE: March 13, 2019 (B of T) Date: March 21, 2019

TITLE: An Ordinance Regarding Video Gaming and Liquor Licenses for Establishments
with Video Gaming

BACKGROUND/POLICY IMPLICATIONS:

Attached please find information regarding an ordinance that provides for video gaming and liquor licenses associated with video gaming with certain conditions and restrictions.

Review (as necessary):

Village Attorney X _____	Date _____
Finance Director X _____	Date _____
Village Manager X <u>SRN</u>	Date <u>3/14/19</u>

NOTE: All materials must be submitted to and approved by the Village Manager's Office by 12:00 noon, Wednesday, prior to the Agenda Distribution.

**MEMORANDUM**

TO: Keith Giagnorio, Village President
Village Board of Trustees

FROM: Scott Niehaus, Village Manager

DATE: March 13, 2019

SUBJECT: **ORDINANCE REGARDING VIDEO GAMING AND LIQUOR LICENSES FOR ESTABLISHMENTS WITH VIDEO GAMING**

Pursuant to direction from the Village Board of Trustees from the January 24th and March 7th Village Board workshops on video gaming, staff has prepared a draft ordinance for consideration that, if adopted, would permit video gaming and liquor licenses for video gaming within the Village of Lombard.

ORDINANCE PROVISIONS

The attached ordinance provides for video gaming and liquor licenses associated with video gaming with certain conditions and restrictions which are detailed below. A review and summary of pertinent sections of the proposed ordinance follows below:

SECTION 1 – VIDEO GAMING DEFINITIONS

This language defines the terms “video gaming,” “video gaming terminal,” and “video gaming café.” A “video gaming café” is one whose primary or major focus is Video Gaming, as provided for in the Illinois Video Gaming Act and the service of alcohol and food is incidental to the operation of Video Gaming. In addition, any establishment that receives more than 49% of its gross revenue from the operation of Video Gaming Terminals shall be classified as a Video Gaming Café.

SECTION 2 – DESCRIPTIONS OF LIQUOR LICENSE CATEGORIES

This section is dedicated to refining the descriptions of various liquor license classifications. This section confirms that the currently existing liquor classes shall not permit video gaming and creates new “VG” liquor license classifications where video gaming may be permitted in the following liquor license classes:

Class “A/B-II”	Class “N-I”
Class “A/B-III”	Class “N-II”
Class “A/B-IV”	Class “S”
Class “D”	Class “XX”
Class “I”	Class “Z”
Class “M”	

At present, there are thirty-five (35) active liquor licenses in the categories above. Please note that license holders of the “A/B-I” license may opt to apply for liquor licenses under the “A/B-I-VG” category, at a higher cost.

SECTION 3 – AVAILABILITY OF LICENSES

This section provides for the addition of the “VG” license classes referenced above but provides that initially there shall be “0” available license for each newly created license class.

Accordingly, this means that upon adoption of the ordinance, there are no available “VG” licenses. An ordinance increasing available licenses would need to be adopted by the Village Board in order to approve each individual new video gaming license. The Liquor Commissioner and Village Board of Trustees have discretion to control the number of licenses that are ultimately available in each liquor license class under this section. Further, if an establishment licensed for video gaming was no longer in operation or desirous of having video gaming, a Village ordinance would need to be adopted to reduce the number of available video gaming licenses accordingly.

SECTION 4 – LICENSE FEES

This section sets forth license fees for each newly created “VG” license category. The cost for each of the “VG” licenses is the same as the liquor license fee for the “non-VG” counterpart. Liquor license fees for all classes are assessed semi-annually. A summary of the semi-annual payment for a “VG” license is reflected below:

Class “A/B-II-VG”	\$1,500.00	Class “N-I-VG”	\$1,500.00
Class “A/B-III-VG”	\$2,500.00	Class “N-II-VG”	\$1,000.00
Class “A/B-IV-VG”	\$3,000.00	Class “S-VG”	\$750.00
Class “D-VG”	\$1,000.00	Class “XX-VG”	\$4,000.00
Class “I-VG”	\$400.00	Class “Z-VG”	\$2,500.00
Class “M-VG”	\$800.00		

SECTION 7 – RESTRICTIONS ON LICENSES

This section includes restrictions on video gaming licenses as recommended by the Standing Advisory Committees that go above and beyond the requirements of the Illinois Video Gaming Act. **The restrictions considered and included within the draft ordinance are matters of policy at the discretion of the Village Board of Trustees. As policy considerations of the Village, the inclusion, scope and extent of these restrictions may be amended at Board direction prior to adoption of the ordinance.** Specific restrictions found in the proposed ordinance are as follows:

SIGNAGE

(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. As previously discussed, the Village seeks to include signage

restrictions in connection with its authority to regulate and place lawful restrictions upon liquor license holders, but recognizes such authority may be subject to legal challenge.

VIDEO SURVEILLANCE

(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.

ALARM CONNECTION

(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.

PERCENTAGE OF INCOME FROM VIDEO GAMING

(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. The 49% threshold standard was initially recommended by the Finance and Administration Committee and subsequently recommended by additional Village standing advisory committees.

VIDEO GAMING CAFÉS PROHIBITED

(E) Expressly prohibits Video Gaming Cafés in the Village, and provides that no liquor license shall be created, maintained or authorized for a Video Gaming Café.

SECTION 12 – LICENSE FEE PER TERMINAL

This language sets the license fee per Video Gaming Terminal (VGT) at \$25.00 which is the maximum permitted under the Illinois Gaming Act for non-home rule municipalities.

SECTIONS 14 & 15 – SUNSET CLAUSE

Language setting forth a "sunset provision" has been included in the draft video gaming ordinance. These "sunset provisions" provide that the permissions authorizing video gaming under the proposed ordinance shall terminate at 11:59 p.m. on June 30, 2020.

This language will automatically go into effect without further need for action by the President and Board of Trustees. As such, the only way for video gaming to be permitted beyond June 30, 2020 is for the Village Board to take affirmative action to adopt legislation to provide for it.

If no further action takes place, video gaming will be prohibited effective July 1, 2020 and the liquor license shall automatically return to its current form and liquor license renewals will revert back to the underlying liquor license that does not permit video gaming.

BUDGETARY CONSIDERATIONS

In the event that an ordinance for video gaming containing a "sunset provision" is approved by the Village Board of Trustees, staff recommends that any revenues generated to the Village from such activity shall not be programmed or budgeted toward operations of the Village under the general fund as the revenue source may not exist beyond one year.

NOTICE TO LICENSEES

Attached as Exhibit A, please find language that will be included in any application for "VG" liquor licenses that affirmatively states the requirements of the "VG" licenses and makes clear that the proposed ordinance provides for termination of right to video gaming at midnight on July 1, 2020. The proposed application language also includes a provision making clear that the President and Village Board retain the right to prohibit video gaming within the Village at any time by Ordinance. Licensees will be required to read and confirm, in writing their understanding of these and other provisions regulating and pertaining video gaming.

FINALITY

If approved, the proposed ordinance and corresponding authority to conduct video gaming shall remain, at all times, subject to revocation by the Village Board of Trustees. The Village Board may prohibit video gaming within the Village at any time by Ordinance, including at any time following the upcoming election and seating of new Trustees.

Should you have any questions or concerns regarding the draft ordinance or this issue, please do not hesitate to contact me.

cc: Nicole P. Aranas, Assistant Village Manager
Tom Bayer, Village Attorney

ORDINANCE NO. _____

**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**

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 for consumption off the licensed premises. In addition to beer products manufactured on the licensed premises, beer, cider and wine, that are not manufactured on the licensed premises, may be sold for consumption on the licensed premises. Tasting of all alcoholic beverages sold on the licensed premises is 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 "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" – \$750.00
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 _____ day of _____, 2019.

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

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

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2019.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2019.

Sharon Kuderna, Village Clerk

EXHIBIT A

Section 29 and Section 30

Proposed Language

29. By signing below, the applicant hereby confirms that the applicant understands as follows relative to Video Gaming on the licensed premises, in the event that a liquor license is issued by the Village, which allows for Video Gaming on the licensed premises:
- A. Pursuant to Section 112.18(D) of the Lombard Village Code, 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.
 - (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.

- B. Pursuant to Section 110.11(B) of the Lombard Village Code, in addition to a liquor license, a license must be obtained from the Village, at an annual fee of \$25.00, for each Video Gaming Terminal located on the licensed premises.
- C. Currently, the provisions of the Lombard Village Code, which allow Video Gaming, are set to expire at 11:59:59 p.m. on June 30, 2020, with Video Gaming being thereafter prohibited in the Village. In the event that said prohibition of Video Gaming 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 prohibition goes into effect.
- D. Pursuant to Section 27 of the Video Gaming Act (230 ILCS 40/27), the President and Board of Trustees of the Village retain the right to prohibit Video Gaming within the Village at any time by ordinance. In the event that the President and Board of Trustees of the Village adopt an ordinance prohibiting Video Gaming within the Village, Video Gaming shall cease upon the licensed premises, notwithstanding the fact that the current active liquor license, relative to the licensed premises, allowed for Video Gaming when issued; however, the sale of alcohol on the licensed premises may continue pursuant to the other terms and conditions of the current active liquor license. Thereafter, any renewal of a liquor license, relative to the licensed premises, 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, unless the

liquor licensee makes application for a liquor license in a different liquor license classification. For example, a Class "A/B-II" liquor license would be issued in lieu of a Class "A/B-II-VG" liquor license.

I confirm that I have read, and understand, the foregoing provisions of this Lombard Liquor License Application.

Signature: _____

Name (Print): _____

Relationship to Proposed Liquor Licensee: _____

30. Upon receipt of authorization to operate Video Gaming Terminals from the Illinois Gaming Board, the applicant/liquor licensee shall provide a copy of said authorization documentation to the Village.



20 N. Wacker Drive, Ste 1660
Chicago, Illinois 60606-2903
T 312 984 6400 F 312 984 6444

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www.ktjlaw.com

MEMORANDUM

To: Scott Niehaus, Village Manager, Village of Lombard
Nicole Aranas, Assistant Village Manager

From: Tom Bayer, Village Attorney

Via email only

Date: March 26, 2019

Subject: **Video Gaming**

Attached please find a further updated version of the following Ordinance, for approval on second reading at the April 4, 2019 Village Board meeting:

**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**

The only revisions relate to an update to the description of, and semi-annual license fee for, the Class "S-VG" Liquor License category, in Sections 2.B. and 4. of the Ordinance, so that it tracks the new description of, and license fee for, the Class "S" Liquor License category, as agreed to with Noon Whistle Brewing.

So as to differentiate this further revised Ordinance from the previous version, the lower left-hand corner has the following document number: 411695_4

Finally, also enclosed please find an updated redlined version of Chapter 112 of the Village Code, which shows the revisions that are being made thereto by the attached further revised Ordinance. So as to differentiate this revised document from the previous version, the lower left-hand corner has the following document number: 410578_6.

If there are any questions, please feel free to contact me.

encls.

cc: Janet Downer, Business Administrator (w/ encls.; via email)

ORDINANCE NO. _____

**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**

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," "W," "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 _____ day of _____, 2019.

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

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

AYES: _____

NAYS: _____

ABSENT: _____

APPROVED by me this _____ day of _____, 2019.

Keith Giagnorio, Village President

ATTEST:

Sharon Kuderna, Village Clerk

Published by me in pamphlet form this _____ day of _____, 2019.

Sharon Kuderna, Village Clerk