

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: November 26, 2019 (B of T) Date: December 5, 2019

TITLE: Ordinance Repealing the March 17, 2020 Advisory Public Question Concerning Video Gaming and Placing an Ordinance for a November 3, 2020 Advisory Public Question Concerning Video Gaming on a Village Board Agenda After March 17, 2020 and Before August 16, 2020

BACKGROUND/POLICY IMPLICATIONS:

Attached please find information regarding a proposed ordinance that would repeal the ordinance which set forth the March 17, 2020 advisory public question concerning video gaming and provide for consideration of an ordinance for the same advisory public question to be placed on the November 3, 2020 general election ballot on a Village Board agenda after March 17, 2020 and before August 16, 2020.

Please place this item on the December 5, 2019 agenda on first reading under separate action.

Review (as necessary):

Village Attorney X _____ Date _____
Finance Director X _____ Date _____
Village Manager X! *TRUBS* _____ Date 11/26/19

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: November 26, 2019

SUBJECT: **ORDINANCE REPEALING THE MARCH 17, 2020 ADVISORY PUBLIC QUESTION CONCERNING VIDEO GAMING AND PLACING AN ORDINANCE FOR A NOVEMBER 3, 2020 ADVISORY PUBLIC QUESTION CONCERNING VIDEO GAMING ON A VILLAGE BOARD AGENDA AFTER MARCH 17, 2020**

Attached please find the following proposed ordinance:

An Ordinance Repealing Ordinance No. 7646, Adopted April 4, 2019, Entitled, "An Ordinance Providing For and Requiring the Submission of an Advisory Public Question Concerning Whether to Permit Video Gaming in the Village of Lombard, DuPage County, Illinois, to Appear on the Ballot of the Electors of the Village of Lombard at the General Primary Election to be held on March 17, 2020," and Setting a Date for Consideration of an Ordinance That Would Place the Same Advisory Public Question on the November 3, 2020 General Election Ballot.

The proposed ordinance would repeal the ordinance setting the March 17, 2020 advisory public question concerning video gaming and provide for consideration of an ordinance for the same advisory public question to be placed on the November 3, 2020 general election ballot on a Village Board agenda after March 17, 2020 and before August 16, 2020.

The attached Ordinance comes before you following discussion at the November 7th Board of Trustees Meeting where two local businesses holding local VG liquor licenses requested an extension of the current sunset date for video gaming and amendment of the date for the non-binding advisory referendum question on video gaming, citing State licensing delays. To date, the Village of Lombard has issued 10 local VG liquor licenses, the State has 6 license applications currently pending with two approved but only one State license issued. A summary of VG and State license applications pending and approved is attached here for review.

NON-BINDING ADVISORY PUBLIC QUESTION

On April 4, 2019, the Village Board of Trustees approved an ordinance providing for a non-binding advisory question on whether to permit video gaming to be placed on the March 17, 2020 general primary election ballot. The proposed ordinance would (1) repeal the previously approved ordinance providing for the March 17, 2020 ballot question and (2) provide for an ordinance to place the same advisory public question on the November 3, 2020 ballot for consideration on an agenda of the Village Board meeting after March 17, 2020 and before

August 16, 2020. Please be advised that while an ordinance to rescind and remove the March 17, 2020 ballot question can only be approved through December 29, 2019, an ordinance placing the question on the November 3, 2020 ballot cannot be approved by the Village Board until after March 17, 2020.

This ordinance will be considered under separate action on first reading at the December 5, 2019 Village Board meeting with final action on second reading scheduled for December 19, 2019.

Amendment of the sunset date providing for the automatic prohibition of video gaming after June 30, 2020, absent further Board action, from June 30, 2020 to December 31, 2020 will be considered under separate ordinance and cover as a companion to this proposed ordinance (Legistar #190480).

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 REPEALING ORDINANCE NO. 7646,
ADOPTED APRIL 4, 2019, ENTITLED,
“AN ORDINANCE PROVIDING FOR AND REQUIRING
THE SUBMISSION OF AN ADVISORY PUBLIC QUESTION
CONCERNING WHETHER TO PERMIT VIDEO GAMING IN
THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, TO APPEAR
ON THE BALLOT OF THE ELECTORS OF THE VILLAGE OF LOMBARD
AT THE GENERAL PRIMARY ELECTION TO BE HELD ON MARCH 17, 2020,”
AND SETTING A DATE FOR CONSIDERATION OF AN ORDINANCE
THAT WOULD PLACE THE SAME ADVISORY PUBLIC QUESTION
ON THE NOVEMBER 3, 2020 GENERAL ELECTION BALLOT**

WHEREAS, the Village of Lombard (the “Village”) is a municipal corporation duly organized and existing under the laws of the State of Illinois, and is a non-home rule unit of local government; and

WHEREAS, 65 ILCS 5/3.1-40-60 provides that municipalities may authorize advisory public questions for placement on the ballot at the next regularly scheduled election in the municipality; and

WHEREAS, the President and Board of Trustees (the “Corporate Authorities”) of the Village previously approved Ordinance No. 7646 on April 4, 2019, which called for an advisory public question, concerning whether to permit video gaming in the Village, to be placed on the March 17, 2020 General Primary Election ballot; and

WHEREAS, the time for certification of the foregoing advisory question, by the Village Clerk, for inclusion on the March 17, 2020 General Primary Election ballot, has not yet passed; and

WHEREAS, the Corporate Authorities of the Village have determined that it is in the best interests of the Village to not place an advisory public question, concerning whether to permit video gaming in the Village, on the March 17, 2020 General Primary Election ballot; and

WHEREAS, the Corporate Authorities of the Village have determined that it is in the best interests of the Village that an Ordinance be placed on the agenda for a meeting of the Corporate Authorities of the Village (to be held after March 17, 2020, but before August 16, 2020), in regard to placing an advisory public question, concerning whether to permit video gaming in the Village, on the November 3, 2020 General Election ballot;

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

SECTION 1. That the recitals set forth above are incorporated herein by reference as if set forth herein.

SECTION 2. That Ordinance No. 7646, adopted April 4, 2019, entitled "AN ORDINANCE PROVIDING FOR AND REQUIRING THE SUBMISSION OF AN ADVISORY PUBLIC QUESTION CONCERNING WHETHER TO PERMIT VIDEO GAMING IN THE VILLAGE OF LOMBARD, DU PAGE COUNTY, ILLINOIS, TO APPEAR ON THE BALLOT OF THE ELECTORS OF THE VILLAGE OF LOMBARD AT THE GENERAL PRIMARY ELECTION TO BE HELD ON MARCH 17, 2020", is hereby **repealed**, and shall be of no further force or effect.

SECTION 3. That, after the adoption hereof, and not later than December 20, 2019, the Village Clerk shall certify a copy hereof to the DuPage County Clerk's Election Division (the "Election Division") so that the advisory proposition, as set forth in Ordinance No. 7646, adopted April 4, 2019, is not submitted to the voters of the Village at the March 17, 2020 General Primary Election.

SECTION 4. That the Village Clerk is hereby authorized and directed to take all other actions necessary, and file all additional documentation with the Election Division as is necessary, so that the advisory proposition, as set forth in Ordinance No. 7646, adopted April 4, 2019, is not submitted to the voters of the Village at the March 17, 2020 General Primary Election.

SECTION 5. That Village Manager is hereby directed to place an ordinance on the agenda for a meeting of the Corporate Authorities of the Village, to be held after March 17, 2020, but before August 16, 2020, which calls for the placing of an advisory public question on the November 3, 2020 General Election ballot, concerning whether to permit video gaming in the Village, with the form of said advisory public question to be in the same form as the advisory public question set forth in Ordinance No. 7646, adopted April 4, 2019.

SECTION 6. That all ordinances, or parts thereof, in conflict herewith be and the same are hereby repealed.

SECTION 7. This Ordinance shall be in full force and effect after its adoption and approval 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

VG License Holders	Local License	State Application Date	State Approved	State License
Maxfield's	None	4/24	--	--
Sal's Pizza Pub	A/B II - VG	4/29		
Brauer House	XX-VG	4/30		
Enchanted Castle	M-VG	5/2	11/7	
Otto's Tavern	D-VG	5/10		
O'Neill's Pub	D-VG	6/4		
Punky's Irish Pub	D-VG	7/3	11/7	X
Ramey's Bar and Grill	A/B II - VG	7/11		
Moose Lodge	I-VG	9/12		
Shannon's Deli	A/B II - VG	None	None	None
Sebastian's Ale & Whiskey House	A/B III - VG	None	None	None

Local on-premise consumption licenses	61
Local licensees with VG licenses	10
Local licensees eligible to apply for VG license	25

State approvals pending (excludes Maxfield's)	6
State applications approved	2
State licenses issued	1
Local licensees without a State application	2

Video Gaming Statement November 14, 2019

The issue of lifting the prior ban on video gaming was brought to the Village Board for consideration by businesses in August 2018. After extensive discussion, the Board of Trustees voted to permit video gaming for a trial period beginning April 4, 2019 under two conditions:

- A non-binding advisory referendum question on video gaming would be placed on the March 17th, 2020 ballot for consideration; and,
- In the absence of further Board Action or legislation, video gaming in Lombard would have a sunset clause, under which video gaming would automatically be prohibited after June 30, 2020

At the Village Board Meeting on November 7, 2019, two businesses spoke during public comment to request that the Board of Trustees consider rescheduling the March 2020 video gaming non-binding advisory referendum question and the automatic “sunset” of video gaming scheduled for June 30, 2020.

The video gaming trial period (from April 4, 2019 – June 30, 2020) was initially proposed to permit video gaming on a temporary basis for the purposes of observation. Businesses have requested a change in the dates of the non-binding advisory referendum question and automatic sunset of video gaming due to the delayed approval of pending video gaming applications by the State of Illinois. Since April 2019, the Village of Lombard has issued ten local Video Gaming licenses. Eight of the businesses approved for local licenses requested required approval of State licenses by the Illinois Gaming Board. The State of Illinois approved its first two licenses to Lombard business on November 7th with six applications remaining pending before the State and two businesses not yet having applied to the State.

At the November 7th meeting, Trustee Bill Ware requested that the Village Board consider the following course of action:

- At the upcoming December 5th Board of Trustees meeting, consider an ordinance to repeal the non-binding advisory referendum question, currently scheduled for March 17th (with the intent to move the referendum question to November 3, 2020).
- Commit to placing an ordinance on the March 19, 2020 Village Board Agenda to reschedule the non-binding advisory referendum question on video gaming to November 3, 2020. The formal ordinance to set the advisory referendum question on the November 3rd ballot cannot be formally discussed by the Village Board until after March 17th election date.
- At the upcoming December 5th Board of Trustees meeting, consider an ordinance to change the sunset date of video gaming, absent further legislation, from June 30th to December 31st, 2020.

Four board members (majority consensus) confirmed their interest in discussing the above requests at the Village Board of Trustees Meeting on December 5th.

The Board of Trustees will consider the proposed ordinances to amend the automatic sunset of video gaming and repeal the March 17th non-binding advisory referendum question on first reading, at a regularly scheduled Board of Trustees Meeting, on Thursday, December 5th. Final action and second

reading would not anticipated to occur until December 19th. Formal action to reschedule the non-binding advisory referendum question cannot be considered until after March 17th.

The ordinances being considered deal exclusively with the scheduled dates for the non-binding advisory referendum question and automatic sunset of video gaming, not the merits of whether video gaming should or should not be permitted within the Village of Lombard on a permanent basis. Meetings take place at Village Hall, 255 E. Wilson Ave., at 7 p.m., and are open to the public. If you cannot attend these meetings and would like to share your opinions on the matter, please email videogaming@villageoflombard.org.

Video Gaming Update
FAQ November 14, 2019

1. Refresh my memory. What is the status of Video Gaming in the Village of Lombard?

The issue of lifting the prior ban on video gaming was brought to the Village Board for consideration by businesses in August 2018. After extensive discussion, the Board of Trustees voted to permit video gaming for a trial period beginning April 4, 2019 under two conditions:

- A non-binding advisory referendum question on video gaming would be placed on the March 17th, 2020 ballot for consideration; and,
- A sunset clause automatically ends video gaming after June 30, 2020, unless the Village Board revisits the topic and takes action to allow video gaming on a permanent basis.

2. How many licenses have been issued by the Illinois Gaming Board?

A business must receive a local video gaming license from the Village, as well as a license from the Illinois Gaming Board, before offering video gaming to patrons. Since April 2019, 10 local video gaming licenses have been issued from the Village. As of November 11, 2019, the State of Illinois approved two licenses to Lombard business on November 7, with six applications remaining pending before the State, and two businesses having not yet applied to the State.

3. What was requested/discussed at the November 7th Village Board of Trustees meeting?

On Thursday, November 7th, two business owners approached the Village Board during public comment at a regularly scheduled Board Meeting, to request that the video game trial period be extended, due to a slow rate of issued licenses from the Illinois Gaming Board.

4. In response to this request, were any recommendations made?

Trustee Bill Ware recommended that the Village Board consider the following course of action:

- At the upcoming December 5th Board of Trustees meeting, consider an ordinance to repeal the advisory referendum question, currently scheduled for March 17th (with the intent to move the advisory referendum question to November 3, 2020).
- Commit to approving an ordinance after March 17th to reschedule the advisory referendum question on video gaming to November 3, 2020. The formal ordinance to set the advisory referendum question on the November 3rd ballot cannot be formally approved by the Village Board until after March 17th.
- At the upcoming December 5th Board of Trustees meeting, consider an ordinance to change the sunset date of video gaming, absent further legislation, from June 30th to December 31st, 2020.

At the upcoming December 5th Board of Trustees meeting, consider an ordinance to change the sunset date of video gaming, absent further legislation, from June 30th to December 31st, 2020.

5. Will there be discussion/vote on whether the village should permanently have video gaming at the upcoming December 5th meeting?

No. The discussion on December 5th will be limited to considering an extension of the video gaming trial period and a delay of the non-binding advisory referendum question.

6. Is this extension for sure happening?

No. The Village Board will discuss the topic on December 5th Board of Trustees Meeting.

7. What happens if the Village Board decides not to delay the referendum?

Nothing will change. A referendum question pertaining to video gaming in the Village will be placed on the March 17, 2020 ballot, and the video gaming trial will end June 30, 2019, unless the Village Board takes further action.

8. I wanted to vote on the referendum. Is the Village taking away the referendum?

The current schedule for the referendum includes a question on the March 2020 ballot. The new timeline proposed would push the referendum back to November 2020. If the request for the delay is approved, then the current March 2020 referendum question must be legally repealed or repealed, in order to move it to a future ballot.

9. If the referendum question for March 2020 is repealed, what next actions must happen in order to ensure that it is on the November 2020 ballot?

Due to legal restrictions on referendums, the Village Board would not be able to place it on a future ballot, until after March 17th, 2020. Trustee Bill Ware proposed a referendum on the November 2020 ballot be discussed by the Village Board on March 19, 2020.

10. Is the Village Board committed to placing an ordinance on an agenda after March 17 to ensure that the referendum will be placed on the ballot for November 3, 2020?

Per Section 5 of the ordinance that would repeal the referendum question, language has been included that states:

SECTION 5. That the Village Manager is hereby directed to place an ordinance on the agenda for a meeting of the Corporate Authorities of the Village, to be held after March 17, 2020, but before August 16, 2020, which calls for the placing of an advisory public question on the November 3, 2020 General Election ballot, concerning whether to permit video gaming in the Village, with the form of said advisory public question to be in the same form as the advisory public question set forth in Ordinance No. 7646, adopted April 4, 2019.

11. Are there other ways for a referendum to be placed on a ballot?

A referendum can be scheduled in two ways as follows:

- 1. BINDING REFERENDUM TO PROHIBIT VIDEO GAMING - Pursuant to 230 ILCS 40/70 (the Video Gaming Act), the petition for the referendum must be filed with the Village Clerk at

least 90 days prior to the election (December 18, 2019 would be 90 days prior to the March 17, 2020 general primary election), and the petition would have to contain the signatures of at least 25% of the registered voters of the Village.

- 2. NON-BINDING ADVISORY REFERENDUM RELATIVE TO VIDEO GAMING - Pursuant to 10 ILCS 5/28-2, the petition for the referendum must be filed with the Village Clerk at least 92 days prior to the election (December 16, 2019 would be 92 days prior to the March 17, 2020 general primary election), and pursuant to 10 ILCS 5/28-6, the petition for the referendum would have to contain the signatures of registered voters of the Village in an amount equal to at least 8% of the total votes cast for candidates for governor, by the registered voters of the Village, in the last election for governor.

12. What is the purpose of the non-binding referendum?

The Village board will use the results of the non-binding referendum a tool to help them make their final decision of whether or not to allow video gaming in Lombard beyond the trial period.

13. How will the referendum question be worded?

The language of the non-binding advisory referendum question is based upon the language provided for under the Illinois Gaming Act for a binding referendum with the exception of a word change recommended at the Village Board Workshop that occurred on March 7th, 2019. The agreed upon language for a referendum will read:

Shall video gaming be permitted in the Village of Lombard *Yes/No*

14. Where can I provide my thoughts and feedback on the topic?

You can email videogaming@villageoflombard.org to provide your feedback.