

ORDINANCE NO. 2807

**AN ORDINANCE AMENDING CHAPTER 10
(AMUSEMENTS AND ENTERTAINMENT), ARTICLE V
(VIDEO GAMING) OF THE NEW LENOX VILLAGE CODE**

WHEREAS, the President and Board of Trustees of the Village of New Lenox, Will County, Illinois, have the authority to adopt ordinances and to promulgate rules and regulations that pertain to its government and affairs and protect the health, safety, and welfare of its citizens; and

WHEREAS, Section 27 of the Illinois Video Gaming Act (230 ILCS 40/27) authorizes the Village to completely prohibit video gaming within the Village's corporate boundaries; and

WHEREAS, this grant of authority necessarily implies the authority to reasonably regulate video gaming establishments operating within the Village's corporate boundaries, provided that such reasonable regulation does not conflict with the Video Gaming Act or any other state law; and

WHEREAS, the Village previously exercised its authority to reasonably regulate video gaming establishments, as set forth in Chapter 10 (Amusements and Entertainment), Article V (Video Gaming) of the Village Code; and

WHEREAS, the Illinois General Assembly enacted P.A.101-0031 June 28, 2019, amending the Illinois Video Gaming Act effective immediately; and

WHEREAS, the Corporate Authorities of the Village have determined that it is necessary to amend Chapter 10 (Amusements and Entertainment), Article V (Video Gaming), Section 10-101 (Definitions) to clarify the Village's licensing requirements for video gaming establishments and to codify the licensing of large truck stop establishments in accordance with P.A.101-0031; and

WHEREAS, the Corporate Authorities of the Village have determined that amending the aforementioned Section 10-101 of the Village code as set forth in this Ordinance is in the best interests of the Citizens of the Village.

NOW THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF NEW LENOX, WILL COUNTY, ILLINOIS, PURSUANT TO ITS HOME RULE AND STATUTORY AUTHORITY, AS FOLLOWS:

SECTION 1. The President and Board of Trustees hereby find that all of the recitals contained in the preamble to this Ordinance are true, correct, and complete and are hereby incorporated by reference hereto and made a part hereof.

SECTION 2. That Chapter 10 (Amusements and Entertainment), Article V (Video Gaming), Section 10-101 (Definitions) of the Village Code is hereby amended to read as follows:

Sec. 10-101. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Licensed establishment means any licensed retail establishment where (i) alcoholic liquor is drawn, poured or mixed for consumption on the premises pursuant to a valid liquor license, and (ii) the licensed retail establishment must derive at least 50 percent of its gross revenue on an annual basis from non-video-gaming related activities (that is, the total annual Net Terminal Income, as determined by the Illinois Gaming Board, associated with all video gaming upon the licensed premises cannot exceed 50 percent of all the licensed establishment's total gross revenues from all sources derived for that same annual period). Thereafter, for new licensed establishments: (i) the owner shall certify that it is anticipated that the establishment will derive at least 50 percent of its gross revenue on an annual basis from non-video-gaming related activities and, (ii) if the owner of the establishment has any interest in any other facility or establishment that hosts video gaming, such owner shall provide any and all documents necessary to demonstrate the percentage of each such facility's or establishment's total gross revenues from the preceding year that were derived from video gaming related activities. The determination of whether the 50 percent standard has been met shall be made at the time of license renewal for the subsequent year. The owner shall certify as part of its license application the percentages of gross revenue from video gaming and non-gaming activities for the previous year, and the village shall be entitled to request pertinent business records to verify the certification including but not limited to financial statements, business financial reports, state tax information, or any other record deemed acceptable by the village. The foregoing notwithstanding, a licensed retail establishment shall not include establishments that derive more than 50 percent of their non-video-gaming related activity revenue from the sale of tobacco products, alternative nicotine products, and/or vapor products as defined in Chapter 56, "Smoke Free New Lenox," or under State or federal law. The determination of the amount of non-video-gaming related activity revenue derived from tobacco, nicotine, alternative nicotine or vapor products shall comply with and otherwise

follow the rules and procedures set forth herein for the revenue determination for non-video-gaming related activities.

Licensed fraternal establishment means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

Licensed municipal golf course establishment means an establishment that is owned and operated by a park district and that otherwise complies with the definition of a licensed establishment as defined in 230 ILCS 40/5 of the Illinois Video Gaming Act.

Licensed truck stop establishment has the same meaning as defined in 230 ILCS 40/5 of the Illinois Video Gaming Act.

Licensed large truck stop establishment has the same meaning as defined in 230 ILCS 40/5 of the Illinois Video Gaming Act.

Licensed veterans establishment means the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

Licensee means the person or persons, general or limited partnership, corporation, trust, land trust, joint venturer, or limited liability company holding a video gaming license for a video gaming terminal under the provisions of this article.

Video gaming means the ownership, placement, maintenance, operation or use of a video gaming terminal.

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.

SECTION 3. That Chapter 10 (Amusements and Entertainment), Article V (Video Gaming), Section 10-102 (Video gaming permitted) of the Village Code is hereby amended to read as follows:

Sec. 10-102. - Video gaming permitted.

- (a) Video gaming is permitted at licensed fraternal establishments, licensed veterans establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed municipal golf course establishments, and

licensed establishments within the village, subject to the provisions of this article.

- (b) An appropriate video gaming license duly issued by the Illinois State Gaming Board is required as a pre-condition to the grant of any video gaming license.
- (c) No video gaming terminal shall be installed, maintained or exist in any location unless the owner or operator of such premises shall first have a video gaming license for each video gaming terminal, duly issued by the village, pursuant to the provisions of this article.
- (d) No business owner or operator shall encourage, permit or allow any video gaming terminal except in strict compliance with the provisions of this article, the provisions of the Illinois Video Gaming Act (230 ILCS 40/1 et seq.) and the regulations promulgated under said Act by the Illinois State Gaming Board.

SECTION 4. That Chapter 10 (Amusements and Entertainment), Article V (Video Gaming), Section 10-104 (Application) of the Village Code is hereby amended to read as follows:

Sec. 10-104. - Application.

- (a) *Applications.* Applications for a video gaming license shall be filed with the village clerk and shall include but is not limited to the following information:
 - (1) The name, address and date of birth of the owner of the video gaming terminal and of the owner or operator of the establishment where the video gaming terminal shall be located;
 - (2) Prior convictions of the owner of the video gaming terminal and the owner or operator of the establishment, if any;
 - (3) The place where the video gaming terminal is to be displayed or operated and the business conducted at that place;
 - (4) A description of the video gaming terminal to be covered by the license;
 - (5) Evidence that licenses have been issued by the Illinois Gaming Board to the owner of the video gaming terminal and the owner or operator of the establishment; and
 - (6) Proof of compliance with the Illinois Video Gaming Act (230 ILCS 40/1 et seq.).

- (b) *Notice.* Upon the filing of an application for a new or renewal video gaming license, the village president shall review the applicant's credentials and requirements to determine if the video gaming license shall be granted.
- (c) *Fee.* The annual license fee for each video gaming license is \$150.00 for each video gaming terminal per year or for any part of a year except for licensed municipal golf course establishments and licensed veterans establishments. The annual license fee for each video gaming license is \$25.00 for each video gaming terminal per year or for any part of a year for licensed municipal golf course establishments and licensed veterans establishments. The fee shall be nonrefundable.
- (d) *Term of license.* All video gaming licenses issued pursuant to this article shall be valid from the date of issuance, or in the case of renewals, from January 1 through the business night of December 31, including the morning hours of January 1. A new or renewed video gaming license will be required in order for the premises to commence operations on January 1 of the New Year.

SECTION 5. That Chapter 10 (Amusements and Entertainment), Article V (Video Gaming), Section 10-109 (Location of terminals) of the Village Code is hereby amended to read as follows:

Sec. 10-109. - Location of terminals.

- (a) For licensed locations including fraternal establishments, veterans establishments, truck stop establishments, large truck stop establishments, golf course establishments, and licensed establishments that admit individuals under the age of 21, the gaming area shall be separated by a half wall or glass partition with a separate door for ingress and egress, and the entrance to the gaming area shall be visible to at least one employee of the establishment who is over 21 years of age, to ensure that no persons under 21 years of age are present in the gaming area.
- (b) For licensed locations including fraternal establishments, veterans establishments, truck stop establishments, large truck stop establishments, golf course establishments, and licensed establishments that restrict admittance to patrons 21 years of age or older, a separate restricted gaming area is not required.

SECTION 6. In the event that any provision or provisions, portion or portions, or clause or clauses of this Ordinance shall be declared to be invalid or unenforceable by a Court of competent jurisdiction, such adjudication shall in no way affect or impair the validity or enforceability of any of the remaining provisions, portions, or clauses of this Ordinance that may be given effect without such invalid or unenforceable provision or provisions, portion or portions, or clause or clauses.

SECTION 7. That all ordinances, resolutions, motions, or parts thereof, conflicting with any of the provisions of this Ordinance, are hereby repealed to the extent of the conflict.

SECTION 8. That the Village Clerk is hereby directed to publish this Ordinance in pamphlet form.

SECTION 9. 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 THIS 9th day of September, 2019 with 7 members voting AYE, with -0- members voting NAY, and with -0- members ABSENT, the Mayor voting aye; and said vote being SMITH aye, BOWDEN aye, MADSEN aye, BUTTERFIELD aye, FINNEGAN aye, and HOWARD aye.

LAURA ZILINSKAS, VILLAGE CLERK

APPROVED this 9th day of September, 2019

TIMOTHY BALDERMANN, MAYOR

ATTEST:

LAURA ZILINSKAS, VILLAGE CLERK