

FILED

FEB 16 2022

VILLAGE OF WAYNE CITY

ORDINANCE NO. 602

E. Sigalich, Woodhewer
COUNTY CLERK

**AN ORDINANCE PERTAINING TO THE REGULATION OF VIDEO GAMING
FOR THE VILLAGE OF WAYNE CITY, ILLINOIS**

WHEREAS, the **Village of Wayne City**, Wayne County, Illinois, ("**Village**") is a non-home rule unit of government; and

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

WHEREAS, Section 27 of the VGA authorizes the **Village** to prohibit video gaming within the corporate limits of the **Village** and implied within such authorization is the authority to limit, license and regulate video gaming within the corporate limits of the **Village**;

WHEREAS, the **Village** is authorized by Section 4-1 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/4-1) to establish regulations and restrictions upon the issuance of and operations under local licenses for sale at retail of alcoholic liquor not inconsistent with the Illinois Liquor Control Act as the public good and convenience may require;

WHEREAS, the **Village** is authorized by Section 11-5-1 of the Illinois Municipal Code (65 ILCS 5/11-5-1) to suppress gaming and gambling houses; and

WHEREAS, the corporate authorities of the **Village** have determined that it is advisable, necessary and in the best interest of the **Village** to regulate, consistent with the VGA, the location and operation of video gaming terminals within the **Village**;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

ARTICLE 1

The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

ARTICLE 2

This Ordinance shall regulate the licensing of Video Gaming in the **Village** as follows:

SECTION 1: APPLICABILITY OF PROVISIONS

The provisions of this ordinance, except as otherwise provided, shall apply to all video gaming as hereinafter defined, whether specifically licensed or regulated under other provisions of other ordinances, or not.

SECTION 2: DEFINITIONS

- A. Board: the Illinois Gaming Board.
- B. Commercial Motor Vehicles: as defined in Section 18b-101 of the Illinois Vehicle Code, 625 ILCS 5/18b-101.
- C. Licensed Establishment: any business licensed by the State of Illinois to have or operate a video gaming device in the **Village**, including any licensed fraternal establishment, licensed veterans establishment, licensed truck stop establishment and licensed large truck stop establishment as those terms are defined in the VGA, 230 ILCS 40/5.
- D. Licensed Fraternal Establishment: the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.
- E. Licensed Veterans Establishment: the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.
- F. Licensed Truck Stop Establishment: a facility (i) that is at least a three-acre facility with a convenience store; (ii) with separate diesel islands for fueling commercial motor vehicles; (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month; and (iv) with parking spaces for commercial motor vehicles. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.
- G. Licensed Large Truck Stop Establishment: a facility located within three road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs: (i) that is at least a three-acre facility with a convenience store; (ii) with separate diesel islands for fueling commercial motor vehicles; (iii) that sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month; and (iv) with parking spaces for commercial motor vehicles. The requirement of item (iii) of this definition may be met by showing that estimated future sales or past sales average at least 50,000 gallons per month.
- H. Video Gaming Terminal: 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 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: LICENSE

- A. No person, either as owner, lessee, manager, officer or agent, or in any other capacity, shall operate or permit to be operated any video gaming terminal, as defined herein, at any premises within the **Village** without first having obtained a video gaming license from the

Village. The license provided for in this Article shall permit a licensee to operate video gaming terminals at the specified establishment.

B. No applicant, including any person, either as owner, lessee, manager, officer or agent, shall be eligible for a video gaming license from the **Village**, nor shall an existing license holder be entitled to maintain a video gaming license, unless each of the following requirements are met and continue to be met:

- 1) The applicant holds the appropriate certificate or license from the State of Illinois permitting video gaming and is in good standing with same;
- 2) The applicant is not in arrears in any tax, fee or bill due to the **Village** or State of Illinois;
- 3) The applicant has completed and complies with all the application requirements set forth in Section 4 of this Article and is not disqualified due to a felony, gambling offense, or crime of moral turpitude; and
- 4) The establishment is located outside of a residential zoning district.

C. The **Village Liquor Committee** shall be the approving authority for all licenses. In the event a licensee or prospective licensee disagrees with any action taken by the **Village Liquor Committee**, an appeal may be made directly to the **Board of Trustees** at its next regularly scheduled meeting after written notice of the action from which an appeal is made.

SECTION 4: LICENSE APPLICATION REQUIREMENTS

The license applicant shall provide the following information to the **Village** on a form provided by the **Village**:

- A. The legal name of the establishment;
- B. The business name of the establishment;
- C. The address of the establishment where the video gaming terminals are to be located;
- D. The type of establishment, including whether it is classified as a veteran, fraternal, regular truck stop, large truck stop or liquor establishment and supporting documentation demonstrating the classification;
- E. A floor plan, detailing the overall layout of the establishment, including the location and count of dining seating, the location and count of video gaming terminals and seating for said terminals, and other significant features of the establishment, including exit locations, restrooms and other equipment. A high-resolution paper printed copy of the floor plan shall be submitted at the time of application.

F. The amount of time the establishment has been in business under the ownership of the applicant at the location where video gaming is proposed to take place;

G. The business office address of the establishment if different from the address of the establishment;

H. In the case of a corporation, limited liability company or trust, the name and address of an agent authorized and designated to accept service on behalf of the licensee;

I. A phone number for the establishment;

J. An e-mail address for the establishment;

K. The name and address of every person owning more than a 5% share of the establishment;

L. The name, address, phone number and e-mail address of any terminal operator or distributor proposed to own, service or maintain video gaming terminals at the establishment;

M. A copy of the establishment's State of Illinois video gaming license;

N. In the case of a corporation, limited liability company or partnership, a copy of the establishment's state certificate of good standing;

O. A statement as to the number of video gaming terminals which the establishment proposes to have on its premises;

P. A statement that the establishment is not in arrears in any tax, fee or bill due to the **Village** or State of Illinois;

Q. A statement that the establishment agrees to abide by all state and federal laws and any local ordinance;

R. A statement that no manager or owner with more than 5% interest in the establishment has ever been convicted of a felony, a gambling offense or a crime of moral turpitude. In the event that an establishment cannot provide such statement, the establishment may apply for a certificate of rehabilitation from the **Village Liquor Committee** indicating that the individual who would disqualify the establishment from obtaining the video gaming license has been rehabilitated and is no longer a threat to violate the law. The **Village Liquor Committee** may consider the nature of the offense, the length of time since the offense, the length of time since release from custody and other factors to determine if the individual has been rehabilitated such that he or she is no longer likely to commit another offense;

S. If the application is for a new establishment based on the business model of another existing location, information regarding the existing business location must be provided, including the type of business, the gross receipts as compared to any video gaming revenue for

the prior 12-month period, proof of the length of time the existing business has been operational and proof of ownership verifying the applicant's ownership rights;

T. For renewal applications, a report or reports showing its gross annual revenue for the previous calendar year by category of revenue generated and showing the percentage of gaming revenue payable to the establishment as compared to the total gross revenues of the establishment.

SECTION 5: APPLICATION FILING; RENEWALS

A. Applications shall be processed by the **Village Clerk** on a first come, first served basis. Every application shall be date and time stamped upon filing. An application received in the mail shall be considered filed on the date and time it is opened by the **Village Clerk's** department.

B. Every video gaming license holder shall be required to file a renewal application, which may contain the same or similar information as set forth in Section 4. Renewal applications shall be due on or before April 1 of each year unless that day falls on a holiday, in which case the application may be received by the Clerk on the following business day.

SECTION 6: LICENSE FEES

The fee for operation of a video gaming terminal shall be \$250.00 per terminal annually. The cost of this fee shall be shared equally between the terminal operator and the applicable licensed establishment.

The application fee is not subject to reimbursement or refund upon denial of a license.

Said fees are not subject to proration or refund and are due prior to issuance of the license.

All licenses required by this division shall be prominently displayed next to the video gaming terminal.

SECTION 7: LICENSE REVOCATION OR SUSPENSION

The **Village Liquor Committee**, at any time, may notify any licensee under this division within five (5) business days of any charge of a violation of any of the provisions of this Article in connection with the operation of any video gaming terminal. After a hearing presided before the **Village Liquor Committee**, the **Village Liquor Committee** may order the revocation of the license upon a finding that the violation has occurred, and the license shall thereupon be terminated. The licensee may appeal the revocation as prescribed in Section 3(C).

In the event of the revocation or denial of any license or registration under this Section, such person shall not be issued any license provided for in this Article for one calendar year following the revocation or any appeal thereof.

SECTION 8: LIMITATION ON NUMBER OF VIDEO GAMING TERMINALS ON PREMISES

There shall be no more than 6 video gaming terminals allowed and permits issued therefore under this Article for each licensee at any one location, other than a licensed large truck stop establishment.

There shall be no more than 10 video gaming terminals allowed and permits issued therefore under this Article for each licensee at any licensed large truck stop establishment.

SECTION 9: PROHIBITION

Except as otherwise excepted in this Article, it shall be unlawful for any person to gamble within the corporate limits of the **Village**, or for any person or entity which owns, occupies or controls an establishment within the **Village** to knowingly permit others to gamble on the premises.

SECTION 10: EXCEPTIONS

Nothing in this Article shall be deemed to prohibit or make unlawful the following activities or forms of gambling: the keeping, possession, ownership, use or playing of a video gaming terminal in a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment, which is licensed by the Board to conduct or allow such specific activities under the VGA, 230 ILCS 40/1, *et seq.*

SECTION 11: LICENSED ESTABLISHMENTS

Any business, liquor or food licensee within the corporate limits of the **Village** that allows gambling to occur on premises in violation of this Section shall be subject to having his/her/its license immediately revoked for a period of sixty (60) days. Any business, liquor or food licensee within the corporate limits of the **Village** that allows gambling to occur on premises in violation of this Article a second time shall have his/her/its license permanently revoked and, thereafter, barred from obtaining any business, liquor or food license within the **Village**.

SECTION 12: SEIZURE OF UNAUTHORIZED GAMBLING DEVICES AND GAMBLING FUNDS

Any gambling device which is not authorized by this Article shall be subject to immediate seizure and confiscation by the **Village**. Any money or other thing of value intrinsically related to acts of gambling not authorized by this Article shall be seized and forfeited as contraband. Disposition of such gambling devices and funds seized or confiscated shall be made in accordance with the law.

ARTICLE 3

REPEAL OF CONFLICTING PROVISIONS. All ordinances, resolutions, and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

ARTICLE 4

SEVERABILITY. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

ARTICLE 5

EFFECTIVE DATE. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS 7th day of February, 2022.

AYES:

Austin, Peyton, Greene, Buxton, Piper, Noe

NAYS:

0

ABSTENTIONS:

0

ABSENT:

0

APPROVED THIS 7th day of February, 2022.

Rocky Hedden
ROCKY HEDDEN, President

ATTEST:

Staci Choate
STACI CHOATE, Clerk