

ORDINANCE NO. _____
AN ORDINANCE PERTAINING TO THE REGULATION OF VIDEO GAMING
FOR THE VILLAGE OF LA GRANGE PARK

WHEREAS, the VILLAGE of LA GRANGE PARK, Cook 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; and

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; and

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

Ordinance 914 entitled “ORDINANCE PROHIBITING VIDEO GAMING IN THE VILLAGE OF LA GRANGE PARK,” prohibiting video gaming in the Village is hereby repealed.

ARTICLE 3

Title XI Chapter ____ entitled “VIDEO GAMING” is hereby adopted:

CHAPTER ____ : VIDEO GAMING

SECTION 1: APPLICABILITY OF PROVISIONS

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

SECTION 2: DEFINITIONS

- A. Board: the Illinois Gaming Board.
- B. Licensed Establishment: any retail establishment holding a valid Class B, Class D or Class G liquor license issued by the Village, where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on premises, and which is licensed by the State of Illinois to have or operate a video gaming device in the Village, including any licensed fraternal establishment and any licensed veterans establishment as those terms are defined in the VGA.
- C. Licensed Fraternal Establishment: the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.
- D. Licensed Veterans Establishment: the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.
- E. Video Gaming: The activity authorized by the Illinois Video Gaming Act, involving the use of a Video Gaming Terminal.
- F. 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 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.
- G. Video Gaming Café: An establishment whose primary or major focus is video gaming, as provided for pursuant to the VGA, and in which 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 Cafe.

SECTION 3: LICENSE

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.

A. 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 establishment has been in operation at the location for at least 12 months at the time the application is filed;
- 3) The establishment must maintain customer seating outside of the gaming area but within the premises at a ratio of at least five seats for each permitted video gaming terminal;
- 4) The applicant is not in arrears in any tax, fee or bill due to the Village or State of Illinois;
- 5) 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
- 6) The establishment is located in the C-1 or C-2 Zoning Districts as defined by the Village's Zoning Map (*Note: Plymouth Place, which holds a Class G liquor license, is a Planned Unit Development located in the R-4 Zoning District*).
- 7) The applicant holds a valid liquor license from the Illinois Liquor Control Commission and a valid Class B, Class D or Class G liquor license issued by the Village.
- 8) The operation of video gaming terminals shall not be permitted during the hours alcoholic liquor sales are prohibited.
- 9) Video gaming is prohibited in any establishment located within 100 feet of any school (as defined in the VGA) or place of worship.
- 10) All video gaming terminals shall be located in a segregated area which shall be accessible only to persons over 21 years of age.
- 11) The barrier to the segregated area 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.

- 12) The total number of video gaming terminals located in one licensed establishment shall not exceed six (6).
- 13) 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.
- 14) 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.

B. In order to be eligible to have (or continue) to have video gaming at an establishment, the net income generated at the establishment from video gaming cannot exceed 49% of the total gross revenues generated at the establishment from all sources (including but not limited to sales of food, beverage, merchandise and video gaming). The licensee shall be prepared to establish that it has met the 49% standard upon the request of the Village; 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 licensee shall be subject to an annual audit to verify compliance with this section.

C. A new establishment holding a liquor license in the Village must meet the requirements of Sections 3(A) and 3(B) unless the applicant is also a current majority owner of an existing business at another location, that has been in operation for at least 18 months, and the business model for the new establishment is proposed to replicate the existing business location and the applicant can provide satisfactory evidence detailing that in the last 12-month period video gaming net terminal income at the other business location did not exceed 49% of the gross revenues.

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

E. No Video Gaming Cafés shall be allowed to operate in the Village.

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, drawn to scale using a computer, 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 electronic copy of the floor plan as well as a paper printed copy (no smaller than 11 inches by 17 inches) shall be submitted at the time of application; hand-drawn floor plans and floor plans not including a scale will not be accepted;
- 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 (not to exceed six for all establishments);

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 President or designee 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 President 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 the date which is 60 days prior to expiration of the current video gaming license, 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 President, 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 over by the President, the President 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(D).

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 LICENSES

There shall be no more than _____ establishments licensed to operate video gaming terminals in the Village at any given time (*total number of video gaming licenses to correspond with total number of Class B, D, and G liquor licenses*).

SECTION 9: 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.

SECTION 10: 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 11: 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 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 12: 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 13: 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 4

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 5

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 6

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 ____ day of _____, 20_____.

AYES: _____
NAYS: _____
ABSTENTIONS: _____
ABSENT: _____

APPROVED THIS ____ day of _____, 20_____.

Village President

ATTEST:

Clerk