

**Memorandum  
General Administration**



**To:** Members of the City Council  
**Subject:** Video Gaming Ordinance  
**Date:** February 14, 2022

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In 2021 the Illinois General Assembly and Governor Pritzker passed Public Act 102-0689 amending Section 65 of the Illinois Video Gaming Act effective January 1, 2022. This amendment requires that all municipal fees imposed pursuant to the Illinois Video Gaming Act, including but not limited to those fees imposed on video gaming terminals, must be shared equally between the terminal operator and the licensed establishment. IGB Rule 1800.350 (b) (6) allows for payments by a terminal operator on behalf of a licensed establishment for these fees, which will be reimbursed through the deduction from net terminal income. Therefore, all terminal operators doing business in the City of Rock Island will remit the applicable municipal fee in its entirety to the City. The amended ordinance reflects these changes and allows the City to only bill the terminal operator.

Additionally, when reviewing the City's current ordinance to implement the changes imposed by the State, it was discovered that in 2019 when the video gaming ordinance was last amended, that the approved increased fee amount from \$1,000 to \$1,200 for terminal operators did not get updated in the published ordinance, but was updated on the video gaming terminal operator application. This proposed amendment to the ordinance makes the correction.

Furthermore, in 2019, the City implemented a new alcohol and food sales requirement that proceeds from video gaming machines would be secondary to the applicant's combined proceeds from alcohol and food sales (less than 50% of total revenue is from gaming). This requirement ensures that the licensed establishment's main business is not video gaming. Because this requirement limits the type of establishments operating video gaming terminals, the amended ordinance proposes increasing the number of licensed establishments from 21 to 25. The City currently has 96 terminals that generated \$143,250 in fees for CY 2021 plus 5% in tax revenue from the State. It is estimated that by increasing the number of licensed establishments from 21 to 25 would generate an additional \$15,000 - \$30,000 annually plus the 5% in tax revenue for the City.

**Recommendation:**

General Administration recommends that the City Council consider the proposed amendments to the Video Gaming Ordinance.

**Submitted by:** Samantha Gange, City Clerk

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**Approved by:** John Gripp, Interim City Manager

# **PROPOSED NEW ORDINANCE**

## AN ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF ORDINANCES OF THE CITY OF ROCK ISLAND, ILLINOIS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCK ISLAND, ILLINOIS

Section One. Chapter 8, Article III, Division 2, Section 8-96 is hereby amended as follows: the term video gaming terminal shall be deleted from section 8-96.

Section Two. Chapter 8, Article III, Division 2, Section 8-97 is modified as follows: paragraph (c) of Section 8-97 is deleted in its entirety.

Section Three. Chapter 8, Article III, Division 2, Sections 8-100 through 8-107 which were previously reserved are hereby amended as follows:

### **SEC 8-100. TERMS DEFINED;**

For purposes of this article, the following terms shall have the meaning ascribed to them:

- (1) **Gambling**. Gambling: Wagering money or something of value on the outcome of an event or activity where the outcome is uncertain, whether based upon skill or luck, but with the intent of winning more money or more of something of value. Examples of gambling include but are not limited to slots, table gaming, digital and video gaming, sports betting, lotteries, sweepstakes, and all forms of betting and wagering.
- (2) **Licensed Establishment**. Licensed Establishment shall mean any licensed retail establishment where alcoholic liquor, wine or beer is drawn, poured, mixed, or otherwise served for consumption on the premises, whether the establishment operates on a nonprofit or for-profit basis. The following classes of City of Rock Island liquor licenses are classified as Licensed Establishments for purposes of this article and are eligible for a Video Gaming Terminal license, if they meet the requirements of this article: Classes D,E,F,G,I, and K.
- (3) **Digital and Video Gambling**: A form of gambling that is facilitated by a digital or video platform, or video display and microprocessors, often called a video gaming terminal, that involves playing a video game or interacting with a digital version of a more traditional form of gambling including but not limited to slots and poker.
- (4) **Terminal Operator**. An individual, partnership, corporation, or limited liability company that is licensed under this ordinance and that owns, services, and maintains video gaming terminals for placement in licensed establishments.
- (5) **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.

## SEC. 8-101. LICENSE REQUIRED;

- (a) No Video Gaming Terminals shall be placed in any Licensed Establishment unless the owner of the Licensed Establishment holds all required licensing from both the State of Illinois and the City pursuant to this article. A Licensed Establishment may have the number of video gaming terminals currently allowed by the State of Illinois on its premises if it meets all rules and regulations for Video Gaming licensing through the State of Illinois and the City. Video Gaming Terminals are not permitted in any other establishment in the City.
- (b) No person shall act as a Terminal Operator of Video Gaming Terminals in the City unless said person holds a valid license for Video Gaming from the Illinois Gaming Board and has obtained a Terminal Operator license from the City pursuant to this article.
- (c) No more than twenty-~~one-five~~ (2125) liquor license establishments (bars, restaurants and clubs/fraternal organizations, including members only establishments not open to the general public) shall be licensed for Video Gaming at any time in the City. No new licenses shall be issued to a licensed establishment until and unless the applicant / establishment has met the following criteria:
- been in operation and open to the public for a minimum of six (6) months
  - provides information to the satisfaction of the Liquor Commissioner that the proceeds from video gaming machines would be secondary to the applicant's combined proceeds from alcohol and food sales (less than 50% of total revenue is from gaming revenue) for the location at which the applicant is making an application for a video gaming license. This percentage shall be monitored and verified by comparing the licensee's dollar amount indicated on line 3 of their Illinois Department of Revenue's ST-1 form filed with the State of Illinois, which indicates their amount of food and beverage taxable receipts, with the dollar amount obtained from gaming revenues computed as follows: Net Terminal Income as reported on the licensee's monthly Video Gaming Report filed with the State of Illinois minus the Net Terminal Income Tax as reported monthly on the Illinois Gaming Board Video Gaming Report.
  - This subsection shall only apply to gaming licenses issued after December 10, 2018 and shall not affect any licensed establishments seeking to renew gaming licenses, which were acquired prior to that date. No new licenses shall be issued until the number of Licensed Establishments falls below twenty-~~one-five~~ (2125).
- (d) All applicants who either apply for or renew their Video Gaming License after the passage of this ordinance must file their local food and beverage taxes at least quarterly with the City of Rock Island. Failure to do so may result in the loss of the non-complying party's video gaming terminal license.
- (e) If no Video Gaming Terminal Licenses are available, applicants may apply to be put on a "Waiting List" after they have received their City liquor license. The application must be completed and returned to the Liquor Commissioner's Office, where it shall be signed, date stamped and held until such time the required waiting period has been met and a license becomes available.
- The applications making up the waiting list shall be considered in the order they are received, first come – first qualified - first served basis.
- (f) The final determination on whether an applicant for a Video Gaming License has satisfied these requirements rests with the sole discretion of the City's Liquor Commissioner.

## 📖 SEC. 8-102. APPLICATION; INSPECTION;

A person desiring either license required by this article shall apply to the City Liquor Commissioner's office therefore; the license shall be issued by the Liquor Commissioner's office upon the certification of the building official and zoning administrator that the premises for which the license is applied or for which Video Gaming shall be located complies with all building construction codes and the zoning and subdivision ordinances of the City of Rock Island, the fee has been paid, and it has been determined by the Liquor Commissioner, in his sole discretion, that the provisions of this article have been complied with or that adequate provision has been made to cause such compliance.

## 📖 SEC. 8-103. FEE; TERM, LATE PENALTY;

~~(a) A Licensed Establishment shall pay an annual fee of fifty dollars (\$50) per year for each Video Gaming Terminal located in the Licensed Establishment.~~

~~(b)(a) Terminal Operators Each Video Gaming Terminal located within the City shall pay an annual fee of be assessed an annual fee of twelve hundred one thousand dollars fifty dollars (\$1,205000.00) per year for each Video Gaming Terminal located within the City. = The Fee shall be split between the terminal operator and the licensed establishment pursuant to statute.~~

~~(e)(b)~~ The term of each license shall be May 1 through April 30. A license issued pursuant to this article is good only for the term of the license and the City may, at any time, choose to prohibit Video Gaming within the City entirely upon expiration of the current license term. A license issued in accordance with this article shall not vest any type of interest with the licensee other than for the term of the existing license.

A license issued in accordance with this article shall terminate immediately upon the voluntary surrender or revocation of the licensee's Video Gaming License issued by the Illinois Gaming Board or the Licensed Establishment's state or local liquor licenses. No license shall be issued or renewed where the applicant owes a debt, fine, fee, or penalty to the City or has violated any City ordinance, including, but not limited to, the liquor code, sign code, or any other of the requirements of this article.

Any licensee licensed pursuant to the Rock Island Code of Ordinances who fails to renew applicable licenses by the due date shall be charged a reinstatement fee equal to the amount of the licensing fee or two hundred dollars (\$200.00), whichever is less. If a licensee does not renew its license within thirty (30) days after the renewal date, the license shall be considered to be voluntarily surrendered and shall not be renewed.

## 📖 SEC. 8-104 TRANSFERABILITY; DISPLAY;

(a) No license issued pursuant to this article shall be transferable from one person to another or from one premises to another, however, licenses shall be transferable from one Video Gaming Terminal to another. For licensees that are a corporation, L.L.C. or partnership, if the percentage of ownership of any shareholders in that corporation, membership in any L.L.C. or ownership interest in a partnership changes by more than fifty percent (50%) or if more than fifty percent (50%) of shares in the corporation are transferred to a new shareholder or shareholders, then the license is considered to be transferred, which is not permitted pursuant to this article and any Video Gaming License owned by that business entity shall be forfeited as of the date of transfer.

If an establishment that has gaming machines is sold and is re-opening under new ownership, the new owners may be given priority and not have to enter into the waiting list line if: 1) the current business is in good standing with all licensing, all municipal bills, loans, City code requirements and any delinquencies that exist regarding monies due from the licensed establishment to the city; 2) the new business maintains the same liquor license classification and otherwise fits the criteria for operating Video Gaming Terminals; 3) the new owner applies for and is granted a new gaming license, the licenses themselves are not transferable; 4) there is no more than a 30 day period where the business is closed between the closing of the current business and re-opening of the new business under new ownership.

- (b) A Video Gaming Terminal license shall consist of a display certificate describing the number of Terminals exhibited on the premises, the Licensed Establishment's name and address, and the Terminal Operator's name and address, and it must be signed by the Mayor and under seal of the City of Rock Island.
- (c) A Terminal Operator license shall consist of a display certificate listing by address, the name of the Licensed Establishment within the City where Terminals are sold, leased, rented, serviced or otherwise placed or distributed by said Terminal Operator and the number of terminals at each such Licensed Establishment.
- (d) In the event the number of terminals change after issuance of a license, but before renewal thereof, the license shall be considered to have been amended to a new license; provided, the licensee of the Licensed Establishment and the Terminal Operator notify the Liquor Commissioner's office in writing of the change within ten (10) days after the change in number of terminals has occurred and pay any additional fees required by an increase in the number of terminals. The license shall then be reissued; indicating the amended number of terminals licensed. The renewal date of the license, however, shall not be amended and will remain the same as originally issued. The act of operation without the notification required herein and payment of fees required herein shall constitute operation without holding a valid license.
- (e) Each license issued pursuant to this article shall be displayed at all times by the Licensed Establishment in a conspicuous place on the licensed premises and in an area accessible to business invitees during all hours of operation.

#### **SEC. 8-105. RESTRICTIONS ON ADVERTISING;**

All Licensed Establishments, Terminal Operators, and Video Gaming shall be subject to any and all restrictions listed in the City's Sign Ordinance, Section 4.

#### **SEC. 8-106. SUSPENSION; REVOCATION;**

- (a) The Liquor Commissioner in the City of Rock Island shall oversee all aspects of the Video Gaming Terminal licenses and may fine, suspend or revoke or refuse to renew a license issued hereunder for cause. The Liquor Commissioner shall give written notice to the licensee of the cause of the suspension or revocation or refusal to renew and provide the licensee at least ten (10) days before such suspension or revocation or refusal to renew is to be effective to request a hearing by filing such request in writing with the Liquor Commissioner. If such a request is filed, the Liquor Commissioner shall schedule a hearing as soon as practicable, but in no case later than thirty (30) days after a request for hearing has been filed. Pending hearing, a licensee may continue to operate as long as their licenses are still in good standing.

- (b) The City shall have the burden of proof by a preponderance of the evidence meaning more likely than not that cause exists at any hearing to suspend, revoke, or refuse to renew a license. The liquor commissioner shall render any decision in writing and give the licensee a copy thereof.
- (c) Service of notices and decision required in this section shall be obtained by mailing same by certified mail or hand delivered.

## **SEC. 8-107 HEARING PROCEDURES;**

**Notice of Hearing:** Upon receipt of a request for a hearing regarding a violation of this chapter, the liquor commissioner shall set the matter for hearing and shall serve notice upon the licensee of the time and place of such hearing and of the particular charge. Notice as herein required shall be served in person at the licensed place of business at least three (3) days prior to the date set for hearing. Such hearings shall be open to the public, and written minutes of all proceedings shall be maintained.

- (b) **Witnesses:** Witnesses shall be sworn; but in all respects, hearings shall be informal, and the strict rules of evidence shall not apply.
- (c) **Record of Proceedings:** A complete record of all evidence, testimony and comments before the commission shall be taken by a certified court reporter or certified shorthand reporter.
- (d) **Review of Proceedings:** Review of the proceedings before the local license control commission shall be limited to a review of the official record of the proceedings. No new or additional evidence shall be admitted or considered.
- (e) **Initial Cost:** An hourly fee for the certified court or shorthand reporter at attendance at the formal hearings before the local license control commission shall be paid by the city.
- (f) **Costs of Preparation, Transcription of Record:** All costs of preparing and transcribing an official record on appeal to the state license control commission shall be borne by the licensee requesting a review of the official proceedings. (Ord. 91-91, 8-26-1991)
- (g) A decision of a liquor commissioner regarding a parties' local gaming license shall be considered final and subject to administrative review when the decision is served on the party pursuant to the paragraph below. Every action to review a final administrative decision shall be commenced by the filing of a complaint and the issuance of summons within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision, except that:

The method of service of the decision shall be as provided in the Act governing the procedure before the administrative agency, but if no method is provided, a decision shall be deemed to have been served either when a copy of the decision is personally delivered or when a copy of the decision is deposited in the United States mail, in a sealed envelope or package, with postage prepaid, addressed to the party affected by the decision at his or her last known residence or place of business.

Section Four. All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as they do so conflict.

Section Five. This ordinance shall be in full force and effect 10 days after its passage and approval, as required by law.