

..T

AN ORDINANCE CREATING A NEW CHAPTER 18 (VIDEO GAMING), OF TITLE 7 (BUSINESS AND LICENSE), OF THE ORLAND PARK VILLAGE CODE AND MAKING OTHER CHANGES RELATIVE TO VIDEO GAMING WITHIN THE VILLAGE

..B

WHEREAS, the Village of Orland Park is a home rule municipality as defined by Article VII, § 6 of the Illinois Constitution of 1970; and

WHEREAS, the Video Gaming Act (230 ILCS 40/1, *et seq.*) became law July 13, 2009, and allows establishments licensed by the State of Illinois to conduct video gaming; and

WHEREAS, recognizing that some Illinois local jurisdictions would desire to prohibit video gaming, Section 27 of the Video Gaming Act permits counties and municipalities to prohibit video gaming by ordinance within their respective corporate limits or unincorporated areas; and

WHEREAS, prior and subsequent to the enactment of the Video Gaming Act, the Orland Park Village Code contains specific prohibitions against gaming and gambling devices in several Sections; and

WHEREAS, pursuant to the authority granted under the Video Gaming Act, and in accordance with the home rule authority granted to home rule municipalities as defined by Article VII, § 6 of the Illinois Constitution of 1970, the President and Board of Trustees of the Village of Orland Park approve the Code Amendments relative to video gaming as set forth below; and

WHEREAS, it is the intention of the Village President and the Board of Trustees of the Village of Orland Park to reexamine the success of and compliance with this Video Gaming Ordinance with the first year being a trial period, with subsequent reviews of compliance each year thereafter following passage of the Ordinance.

BE IT ORDAINED by the Village President and Board of Trustees of the Village of Orland Park, Cook and Will Counties, Illinois, as follows:

SECTION 1:

The above recitals are incorporated as if fully set forth herein as material terms and provisions.

SECTION 2:

The Village of Orland Park exercises its authority consistent with the Illinois Video Gaming Act (230 ILCS 40/1, *et seq.*), to allow video gaming within the Village of Orland Park, effective immediately, pursuant to the terms, conditions and Code provisions set forth herein.

SECTION 3:

Section 7-6-1 of Chapter 6 (Amusement Devices), Title 7, of the Orland Park Village Code is amended to read in its entirety as follows:

“The term ‘automatic amusement device’ shall mean any machine or device which, upon the insertion of a coin, slug, token, plate or disc, or via payment of any form may be operated by the public generally for use primarily as a game, entertainment or amusement, whether or not registering a score. It shall include, but not be limited to, such devices as marble machines, pinball machines, billiard, bagatelle, pigeon-hole or pool tables, video games, games played with any number of balls, spheres or electronically operated devices that are actuated by said balls or spheres or electrical contacts, electrical impulse and/or cathode tube games, and all games, operations or transactions similar thereto under whatever name by which they may be indicated or identified. Each payment location shall indicate a separate device. However, said term shall not include juke boxes and other music box devices where the sole purpose of the device is to produce or reproduce any vocal or instrumental sounds which are controlled by the deposit of a coin or token. ‘Automatic amusement device’ does not include a video gaming terminal as defined in the Act (230 ILCS 40/5) and lawfully licensed and operated in accordance with Chapter 18, Title 7, of this Code and pursuant to the said Act.

Nothing in this Chapter shall in any way be construed to authorize, license or permit movie and video booths or stands or any gambling machine or device whatsoever, including, but not limited to, a bingo device, a card game device, or any class of mechanism that has been judicially determined to be a gambling device, or in any way prohibited by law, provided, however, that devices or mechanisms used for games licensed by the State of Illinois and in compliance with the Village Code and Ordinances shall not be considered gambling.

Notwithstanding contrary provisions of this paragraph, video gaming terminals lawfully licensed by the State of Illinois and lawfully licensed and operated in accordance with Chapter 18, Title 7, of this Code shall not be considered gambling and are permitted as provided in said Chapter 18, Title 7, of this Code.”

SECTION 4:

Chapter 18 (Gaming Devices), Title 7 (Business and License), is hereby amended to read in its entirety as follows:

“CHAPTER 18: VIDEO GAMING

7-18-1: AUTHORIZATION.

Video gaming terminals, as defined herein, may be located, possessed, maintained, and otherwise operated on premises within the Village by establishments licensed by the Illinois Gaming Board and by the Village, pursuant to the terms, conditions and requirements of this Chapter and of the Illinois Video Gaming Act, 230 ILCS 40/1, *et seq.*, and by establishments for which special use permits have been issued pursuant to the Village Land Development Code.

7-18-2: DEFINITIONS.

‘The Act’ means the Illinois Video Gaming Act, 230 ILCS 40/1, *et seq.*

‘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 from time to time, utilizing a video display and microprocessors in which the player may receive, in any form, winnings, prizes, free games or credits that can be redeemed for cash. Video gaming terminal does not include a machine that directly dispenses coins, cash or tokens.

7-18-3: LICENSE REQUIRED.

No establishment licensed by the Illinois Gaming Board shall be permitted to operate any video gaming terminal in the Village pursuant to the Act, unless the establishment also has obtained a license and paid a yearly fee to the Village in the amount established by ordinance of the Village President and Board of Trustees from time to time for each video gaming terminal on its premises. No license may be issued where the license applicant owes a debt, fine, fee or penalty to the Village, or where the license applicant is in violation of any Village Code as determined by the Village Code Enforcement and/or Police or Fire Protection District.

7-18-4: ESTABLISHMENTS ELIGIBLE FOR LICENSE.

Establishments eligible for a video gaming terminal license from the Village are limited to licensed retail establishments where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises (i.e., only a Class A Liquor License issued by the Village), provided such licensed retail establishments have been lawfully conducting business on the premises for at least eighteen (18) consecutive months immediately prior to applying for a Village video gaming terminal license. In the event the Class A liquor license of a licensed video gaming establishment is terminated for any reason, the Village video gaming license for such establishment shall terminate and be revoked forthwith without the requirement of any further action by the Village. However, if such licensed video gaming establishment is sold or transferred and the new owner is issued a Class A Village liquor license for such establishment, the said new owner will be eligible to apply for an available six (6) month probationary video gaming terminal license while their application for a regular video gaming terminal license is processed, and the eighteen (18) consecutive month operational requirement may be waived, after the six (6) month probationary period, by the Village Board. Upon and during the suspension of the licensee’s liquor license, the licensee’s video gaming terminal license shall automatically be suspended. In addition, no establishment may be licensed under this Chapter where it is located within one hundred (100) feet of a school or place of worship, or such that it would cause undue economic concentration as defined by the Act and its regulations.

7-18-5: MAXIMUM VIDEO GAMING LICENSES AND TERMINALS.

No more than one (1) video gaming license shall be issued and in force at any one time for each video gaming establishment and no more than five (5) video gaming terminals may be located, maintained or operated in any one (1) licensed video gaming establishment. For the first three hundred and sixty-five (365) days following the enactment of this Chapter, the number of available video gaming terminal licenses shall be capped at no more than 30% percent of the

number Class A Liquor licenses in existence in the Village. Issuance of video gaming terminal licenses beyond that percentage shall be considered on a case-by-case basis, following the expiration of three hundred and sixty-five (365) days after the enactment of this Chapter.

7-18-6: OPERATION OF TERMINALS.

All video gaming terminals shall at all times be kept, operated, placed and monitored pursuant to Illinois state law and applicable regulations including but not limited to the following:

(A) No license issued hereunder shall permit the operation of a video gaming terminal in a manner which will disturb the peace of persons otherwise properly within or without the premises where the terminal is located. No license issued hereunder shall permit the operation of such terminal in such a manner as to constitute a nuisance in fact.

(B) Every licensee shall strictly comply with all of the conditions, rules and regulations imposed by the state and the Village, and specifically shall comply with the following:

1. No video gaming terminal may be played unless all state and Village licenses and registrations required herein, including but not limited to, all state and Village licenses required by the Act and any amendments thereto, and any Village business licenses or occupancy certificates, are current and valid.
2. No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed video gaming establishment, however in no instance shall a video gaming terminal be operated prior to 11:00 am on any day.
3. No licensee shall cause or permit any person under the age of 21 years to use or play a video gaming terminal.
4. The video gaming area shall be personally monitored at all times of legal gaming operation by an employee of the licensed video gaming establishment who is 21 years of age or older. Lighting and sounds produced by the video gaming terminals must be limited so as not to be seen or heard outside of the video gaming area.
5. All video gaming terminals shall be located in a segregated area of the licensed video gaming establishment which shall not be accessible to minors. Applicants shall submit a site plan clearly indicating the proposed location of all video gaming terminals and the type of barrier to be utilized to segregate the area, provided, however, that such barrier shall not obstruct the view of the video gaming area which shall be visible to at least one employee of the licensed video gaming establishment at all times who must likewise be 21 years of age or over. The site plan must be approved by the Village Board or their designated agent. The Village Board may require a mandatory identification process for all individuals entering the segregated area designated for video gaming terminals and such other requirements as are deemed necessary to ensure compliance with this Section.

7-18-7: ALARMS.

All licensed video gaming establishments shall be equipped with a burglar alarm system, which shall alert the licensed video gaming establishment's alarm system monitor who will in turn notify the Village Police Department in instances of unpermitted entry into the licensed video gaming establishment. Alarm systems operating within the Village shall have an alarm permit issued by the Village and such system shall be approved by the Chief of Police.

7-18-8: VIDEO CAMERA SURVEILLANCE.

The licensee shall install and maintain in good working order video recording and monitoring equipment pursuant to specifications as determined from time to time by the Chief of Police and shall maintain video recordings for a period of at least thirty (30) days. Video recordings must be accessible to the Chief of Police or his/her designee, upon request at any time. Licensees shall record all persons entering or leaving the building, persons entering or leaving the gaming area, the operation and playing of all video gaming terminals, and all payouts/distributions of winnings from video gaming activities. A written notice that 'ALL GAMING IS VIDEO RECORDED' shall be conspicuously posted near the gaming area. The Chief of Police will provide report(s) to the Village Board as to unlawful activities related to the use of video gaming terminals.

7-18-9: GROUNDS FOR DISCIPLINARY ACTIONS.

(A) The owner and/or operator of the licensed video gaming establishment shall be subject to imposition of fines, suspension, revocation or restriction of license, or other disciplinary action for any act or failure to act by him/her or by his/her agents or employees that violates any provision of this Chapter, is injurious to the public health, safety, morals, good order and general welfare of the people of the state or the Village, or that would discredit or tend to discredit the state video gaming industry, the state or the Village. Without limiting the provisions of this Subsection (A), the following acts or omissions may be grounds for discipline:

1. Failing to comply with or make provision for compliance with the Act, the regulations promulgated under the Act and this Chapter, any federal, state or local law or regulation, or a control system or protocol mandated by the Illinois Gaming Board or the Village;
2. Failing to comply with any order or ruling of the Illinois Gaming Board or its agents pertaining to the regulation of video gaming in the state;
3. Failing to comply with any order or ruling of the Village Board or the Village's officers, employees or agents pertaining to the regulation of video gaming in the Village;
4. Receiving goods or services from a licensee or other person in violation of the Act's or this Chapter's licensing requirements, or in violation of any restriction, condition or prohibition of a license;
5. Being suspended or ruled ineligible or having a license revoked or suspended by the Illinois Gaming Board, the Village or in any state of gaming or video gaming jurisdiction;

6. Employing, associating with, or participating in any enterprise or business with a documented or identifiable organized crime group or recognized organized crime figure;
7. Employing, associating with, or participating in any enterprise or business with persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body;
8. Failing to establish and maintain standards and procedures designed to prevent ineligible or unsuitable persons from being employed by the licensee, including any person known to have been found guilty of cheating or using any improper device in connection with any game or gaming device regulated under the Act or under the law of any gaming jurisdiction;
9. Misrepresenting any information to the Illinois Gaming Board, the Village Board or the Village;
10. Intentionally making, causing to be made, or aiding, assisting, or procuring another to make any false statement in any report, disclosure, application, permit, form, or any other document, including improperly notarized documents, required by the Act, the regulations promulgated under the Act or this Chapter;
11. Submitting tardy, inaccurate or incomplete material or information to the Village Board;
12. Obstructing or impeding the lawful activities of the Illinois Gaming Board or its agents, the Village Board or the Village's officers, employees or agents;
13. Willfully or repeatedly failing to pay amounts due or to be remitted to the state or the Village;
14. Failing to timely pay amounts due or to be remitted to the state or the Village;
15. Failing to timely pay a fine imposed by the Illinois Gaming Board or the Village;
16. Failing to respond in a timely manner to communications from the Illinois Gaming Board or the Village;
17. Being unavailable to the Illinois Gaming Board, the Village or their representatives or agents;
18. Aiding and abetting a violation by an Illinois Gaming Board member, Village officer or employee, or other government official, of a requirement established by statute, resolution, ordinance, personnel code or code of conduct;
19. Violation of the Act, the regulations promulgated under the Act or this Chapter by any person identified as a person with significant influence or control over the operation of the licensed video gaming establishment;

20. Employing, associating with, or participating in any enterprise or business with a person who has facilitated, enabled, or participated in the use of coin-operated devices for gambling purposes or who is under the significant influence or control of such a person, such that he or she is determined unsuitable to be an applicant or licensee by the Illinois Gaming Board, the Village Board or any other gaming jurisdiction;

21. The imposition of fines, suspension, revocation or restriction of a state license, or other disciplinary action by the Illinois Gaming Board for any act or failure to act by him/her or by his/her agents or employees that violates any provision of the Act or the regulations promulgated under the Act; or

22. The occurrence of a disturbance at the licensed premises provided that the Village Board or their designee finds, upon the recommendation of the Police Chief, that as a result of the disturbances or incidents involving injury or bodily harm a public nuisance exists therein or threat endangering the health, safety and welfare of the citizens of the Village.

(B) A video gaming licensee whose employment has been terminated is subject to revocation of the video gaming license for any act or failure to act that occurred while licensed.

(C) A person who has had his/her video gaming license revoked by the Village Board may not reapply for a license without permission from the Village Board.

7-18-10: COMPLIANCE MONITORING.

The Village Manager, Village Code Enforcement Officers, the Chief of Police, or any of their respective designees, each has the authority to monitor compliance with the provisions of this Chapter.

7-18-11: SIGNAGE.

(A) The owner and/or operator of the licensed video gaming establishment shall post a conspicuous official decal or sign, provided by the Village, at each public entrance to the establishment advising patrons that the establishment is a licensed video gaming establishment.

(B) On-premises signage shall comply with the standards as set forth in Section 6-307 of the Village Land Development Code.

(C) Off-premises signs are prohibited in the Village in accordance with Section 6-307 of the Village Land Development Code.

7-18-12: ADVERTISING.

It shall be unlawful and a violation of this Chapter to advertise any licensed video gaming establishment in any street, alley, right-of-way or public place within the Village.

7-18-13: APPLICATION.

Application to the Village for a video gaming terminal license shall be made in conformity with Title 7, Chapter 6, of this Code except as otherwise may be provided in this Chapter. The application shall attach a copy of the state license, and shall in addition set forth:

- (1) The location of the premises where the video gaming terminal is to be located, maintained, or operated;
- (2) The charge to be made to the player for operating the device; and
- (3) Such other information as the Village may determine is necessary.

7-18-14: APPLICANT ELIGIBILITY AND LICENSE ISSUANCE.

(A) No licenses may be issued where the license applicant is a person who has facilitated, enabled, or participated in the use of coin-operated devices for gambling purposes or who is under the significant influence or control of such a person who is ineligible for a video gaming terminal license under this Chapter.

(B) Each person seeking a video gaming terminal license for an establishment shall submit to a background investigation conducted by the Village with the assistance of the Village Police or other law enforcement. To the extent that the corporate structure of the applicant allows, the background investigation shall include any or all of the following as the Board deems appropriate or as provided by rule for each category of licensure: (i) each beneficiary of a trust, (ii) each partner of a partnership, (iii) each member of a limited liability company, (iv) each director and officer of a publicly or non-publicly held corporation, (v) each stockholder of a non-publicly held corporation, (vi) each stockholder of 5% or more of a publicly held corporation, or (vii) each stockholder of 5% or more in a parent or subsidiary corporation.

(C) Each person seeking video gaming terminal license for an establishment shall disclose the identity of every person, association, trust, corporation, or limited liability company having a greater than 1% direct or indirect pecuniary interest in the video gaming terminal operation for which the license is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries; if a corporation, the names and addresses of all stockholders and directors; if a limited liability company, the names and addresses of all members; or if a partnership, the names and addresses of all partners, both general and limited.

(D) No person may be licensed under this Chapter if the applicant has been found by the Village to: (1) have a background, including a criminal record, reputation, habits, social or business associations, or prior activities that pose a threat to the public interests of the State or to the security and integrity of video gaming; (2) create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of video gaming; or (3) present questionable business practices and financial arrangements incidental to the conduct of video gaming activities.

(E) Any applicant has the burden of proving his or her qualifications to the satisfaction of the Village.

F) License issuance shall be approved by the Village Board, subject to the availability of licenses pursuant to Section 7-18-5 and other restrictions as provided by this Chapter.

G) In the event that more applicants are in line than the maximum number of licenses allowable under this Ordinance at the commencement of video gaming terminal license sales, the following procedure shall be followed: Each applicant in line at the opening of sales shall be allowed to apply, however video gaming terminal licenses will then be granted (subject to the other requirements of this Ordinance and the Act) in the order of the age of the applicant's Class A liquor license (oldest first), until such maximum number of allowable licenses is reached. In the event that there are fewer applicants in line than the maximum number of allowable video gaming terminal licenses, then the video gaming terminal licenses shall be processed in the order that they are received, until the maximum number of licenses is reached.

7-18-15: FEE.

The annual fee for each licensee to locate, maintain or operate video gaming terminal(s) shall be ONE THOUSAND DOLLARS (\$1,000.00) plus ONE THOUSAND DOLLARS (\$1,000.00) for each video gaming terminal on the licensed premises. The Village shall issue a decal or sticker for each licensed terminal to each establishment that obtains a license to locate, maintain or operate a video gaming terminal on its premises. This decal or sticker must be affixed by the applicant to the licensed video gaming terminal in a conspicuous place and must be kept on the device during all times the device is in use.

7-18-16: INITIAL LICENSE APPLICATION FEE.

In connection with the first application of any person applying for a license under this Chapter (whether or not the issuance of such license would require an amendatory ordinance authorizing an increase in the number of video gaming terminal licenses authorized to be issued), said person shall pay at the time of such application a non-refundable initial license application fee of ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00) in addition to the license fees required in this Chapter. The license application fee shall be for the purpose of defraying any and all costs which the Village may incur as a result of the consideration and investigation of said application and applicant(s). This initial license application fee shall be retained by the Village regardless of whether or not person/applicant is granted a license.

7-18-17: PENALTY.

(A) Any person violating any of the provisions of this Chapter shall, upon conviction, be punished by a fine according to the fine schedule located in Appendix B of Title 1, Chapter 4, Section 1-4-1 of the Village Code. Each day such violation continues constitutes a separate fineable offense. Fines may be assessed in administrative adjudication, through a local ordinance violation brought in the Circuit Court, or local administrative adjudication, or by the Village Board of Trustees following a hearing as set forth below.

(B) Licenses issued under this Chapter may be revoked, or suspended for a period not to exceed thirty (30) days, by the Village Board, after notice and hearing as provided in Title 7, Chapter 1, Section 7-1-16 of the Village Code.

(C) Revocation, if ordered, shall not preclude prosecution and imposition of any other penalties include the seizure of any video gaming terminal provided for the violation of other applicable Codes or ordinances.

7-18-18: NON-TRANSFERABLE.

No license issued under this Chapter shall be transferable.

SECTION 5:

All ordinances, or parts of ordinances, in conflict with the provisions of this Ordinance, to the extent of such conflict, are repealed.

SECTION 6:

Each section, paragraph, clause and provision of this Ordinance is separable, and if any provision is held unconstitutional or invalid for any reason, such decision shall not affect the remainder of this Ordinance, nor any part thereof, other than that part affected by such holding.

SECTION 7:

Except as to the Code amendments set forth above in this Ordinance, all Chapters and Sections of the Orland Park Village Code, as amended, shall remain in full force and effect.

SECTION 8:

This Ordinance shall be in full force and effect from and after its adoption and publication in pamphlet form as provided by law.