

ORDINANCE NUMBER 24- 35

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AMENDING SECTION 116.05, REPEALING SECTION 137.05, AND CREATING A NEW CHAPTER 123 OF THE VILLAGE OF EAST DUNDEE VILLAGE CODE REGARDING VIDEO GAMING REGULATIONS**

**WHEREAS**, the Village of East Dundee (“Village”) is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, on November 6, 2023, the Village Board adopted Ordinance No. 23-49 implementing a one-year moratorium on issuing video gaming licenses to study the economic and social impact of video gaming licenses on public health, safety, and welfare; and

**WHEREAS**, Section 27 of the Illinois Video Gaming Act (“VGA”), 230 ILCS 40/1, 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**, Chapter 116 of the “Code of the Village of East Dundee,” as amended (“Village Code”), sets forth certain restrictions and regulations related to licensing the retail sale of alcoholic beverages the Village; and

**WHEREAS**, Chapter 137 of the Code sets forth certain procedures and regulations for gambling offenses in the Village; and

**WHEREAS**, the Village desires to amend Section 116.05, repeal Section 137.05, and add a new Chapter 123 of the Village Code to (i) increase the video gaming license fee, (ii) allow video gaming in establishments holding certain liquor licenses classifications, (iii) establish additional regulations related to video gaming terminals in the village; and

**WHEREAS**, pursuant to the Video Gaming Act, the Illinois Liquor Control Act, and the Village’s home rule authority, the Village Board has determined that it is in the best

interest of the Village and its residents to repeal Ordinance No. 23-49 and amend the Village Code as set forth in this Ordinance;

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** That the recitals above shall be and are hereby incorporated as Section 1 as if restated herein.

**SECTION 2: Amendment to Section 116.05.** Section 116.05, titled "Licenses," of Chapter 116 titled "Alcoholic Beverages" of the Village Code is hereby amended to be read as follows with the additions in bold and double-underlined and deletions struck through:

**§ 116.05 LICENSES.**

\* \* \*

- (I) Reduction in the number of liquor licenses or video gaming ~~permits~~ **licenses**. If a license of any class or a video gaming ~~permit~~ **license** is revoked, expires without renewal, surrendered by the licensee or is otherwise terminated pursuant to this chapter, the total number of licenses ~~or permits~~ available in that class shall be automatically reduced by that license ~~or permit~~ unless thereafter the number of licenses ~~or permits~~ is increased by the Village Board.
  
- (J) Supplemental video gaming ~~permit~~ **license**.
  - (1) It shall be unlawful to permit any gambling on any premises licensed to sell alcoholic liquor, except as otherwise provided in this Code.
  
  - (2) Only premises licensed to sell alcoholic liquor for consumption on the premises as defined by ILCS Ch. 230, Act 40, § 1 as a "licensed establishment", a "licensed fraternal establishment", or a "licensed veterans establishment", "licensed truck stop establishment" that has a liquor license to sell package goods, or a "licensed large truck stop establishment" that has a liquor license to sell package goods, are authorized to obtain a supplemental video gaming ~~permit~~ **license** to operate video gaming terminals and only when licensed by the Illinois Gaming Board pursuant to the provisions of the Illinois Gaming Act (ILCS Ch. 230, Act 40, §§ 1 et seq.) and in accordance with the regulations contained in Section 137.05 of this Code, except that no convenience store may receive a supplemental video gaming ~~permit~~ **license** from the village, unless (a) the convenience store is

part of gas station; and (b) the convenience store has more than 3,000 square feet of interior floor area.

(3) There shall be no more than 22 supplemental video gaming licenses issued by the Local Liquor Control Commissioner as part of the liquor license process.

**(4) Only establishments having a business license for six months or more are eligible for supplemental video gaming license approval.**

**(5) Video gaming licenses will be issued on January 1 of each year and expires on December 31 of the following year.**

**SECTION 3: Repeal of Section 137.05.** Section 137.05, titled "Video Gaming," of Chapter 137, titled "Gambling Offenses," of the Village Code is hereby repealed in its entirety and reserved for future use as set forth in *Exhibit A* with ~~strike throughs~~ indicating deletions.

**SECTION 4: Amendment to Article XI.** That Article XI, titled "Business Regulations," of the Village Code is hereby created to add a new Chapter 123, titled "Video Gaming," to be read as set forth in the form attached to this Ordinance as *Exhibit B* with the additions in **bold** and double-underlined.

**SECTION 5: Repeal of Ordinance 23-49.** Ordinance No. 23-49 is hereby repealed in its entirety and is of no further force or effect.

**SECTION 6: Continuation.** That all provisions of the Village Code not amended herein shall remain in full force and effect.

**SECTION 7: Severability.** That if any Section, paragraph, or provision of this Ordinance shall be held to be invalid and unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 8: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict with this Ordinance shall be hereby repealed.

**SECTION 9: Effect.** That this Ordinance shall be in full force and effect upon its adoption, approval, and publication in pamphlet form as provided by law.

[SIGNATURE PAGE FOLLOWS]

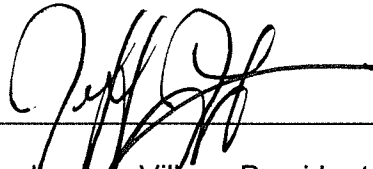
**PASSED** this 7<sup>th</sup> day of October 2024 pursuant to a roll call vote as follows:

AYES: Mahony, Kunze, Saviano, Treiber and Sauder

NAYES: Ø

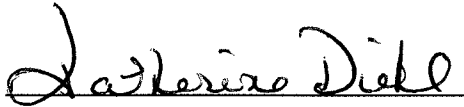
ABSENT: Brittin

**APPROVED** by me this 7<sup>th</sup> of October 2024.



Jeffrey Lynam, Village President

**ATTEST:**



Katherine Diehl, Village Clerk

EXHIBIT A

REPEALING SECTION 137.05 ENTITLED "VIDEO GAMING" OF THE  
EAST DUNDEE CODE OF ORDINANCES

~~§ 137.05 VIDEO GAMING.~~

~~—Video gaming in accordance with the Video Gaming Act (ILCS Chapter 230, Act 40, §§ 1 et seq.) shall be permitted in the village in compliance with the following:~~

~~—(A) Any establishment within the village which holds a liquor license and has obtained a license to operate a video gaming terminal from the Illinois Gaming Board at such premises shall be required to apply for and obtain a supplemental video gaming permit for the establishment from the village pursuant to § 116.05(J) of Code of the Village of East Dundee.~~

~~—(B) No establishment shall operate a video gaming terminal without having obtained a license and video gaming terminal sticker for each video gaming terminal from the village pursuant to the license application procedures of this Code.~~

~~—(C) The fee for a supplemental liquor video gaming establishment license shall be \$1,000 per license year and the fee for each video gaming terminal in an establishment in the village shall be \$250 per machine per license year. The \$250 per machine per license year fee shall be paid 50% by the terminal operator and paid 50% by the licensed establishment, per ILCS Chapter 230, Act 40, § 65. The license year shall be from January 1 through December 31 of the following year. The license fees shall not be prorated or refunded. Notwithstanding any term in this section to the contrary, all licenses in effect as of May 16, 2022 shall expire on June 30, 2022 and such licenses may thereafter be renewed, if the requirements of this section are met, with terms as set forth in this section, which will result in a partial-year term of July 1, 2022 through December 31, 2022, and then with full-year terms thereafter of January 1 through December 31 each year.~~

~~—(D) Video gaming terminals may not be operated on any premises that is located within 100 feet of a school or a place of worship.~~

~~—(E) The number of video gaming terminals at an establishment shall be limited as follows, which square footage shall apply to establishments which are first approved by the village for a supplemental video gaming permit on and after July 18, 2022:~~

~~—(1) There shall not be more than fewer of (a) six video gaming terminals on the premises of any licensed establishment, licensed truck stop establishment, licensed veterans establishment or licensed fraternal establishment, as defined in the Video~~

~~Gaming Act (ILCS Chapter 230, Act 40); and (b) one video gaming terminal per 750 square feet of interior floor area on the premises.~~

~~—(2) There shall not be more than the fewer of (a) ten video gaming terminals on the premises of any large truck stop establishment, as defined in the Video Gaming Act (ILCS Chapter 230, Act 40); and (b) one video gaming terminal per 750 square feet of interior floor area on the premises.~~

~~—(F) Video gaming terminals must be located in an area that is restricted to persons over 21 years of age. The entrance to such area must be within the view of at least one employee.~~

~~—(G) No license may cause or permit any person under the age of 21 years to use or play a video gaming terminal.~~

~~—(H) Each establishment that desires to operate a video gaming terminal must possess a valid liquor license issued by the Illinois Liquor Control Commission and the village.~~

~~—(I) Those establishments that are licensed establishments, licensed fraternal establishments, licensed veterans establishments and licensed large truck stop establishments, all as defined in the Video Gaming Act (ILCS Chapter 230, Act 40), may operate video gaming terminals only during the hours of operation for the consumption of alcoholic beverages at the establishment.~~

~~—(J) Noise from video gaming terminals shall not extend beyond the portion of the establishment within which video gaming terminals are located.~~

~~—(K) Every licensed establishment shall comply with all provisions of the Video Gaming Act and all rules, regulations and restrictions imposed by the Illinois Gaming Board.~~

EXHIBIT B

CREATING CHAPTER 123 OF THE  
EAST DUNDEE CODE OF ORDINANCES

CHAPTER 123: VIDEO GAMING

§123.01: APPLICABILITY OF PROVISIONS

Video gaming in accordance with the Video Gaming Act (ILCS Chapter 230, Act 40, §§ 1 et seq.) shall be permitted in the village in compliance with the provisions of this chapter, except as otherwise provided, whether specifically licensed or regulated under other provisions of this code or other ordinances.

§123.02: DEFINITIONS

- A. Words or phrases as used herein shall be defined as provided by An Act Relating to Alcoholic Liquors, passed by the Second Special Session of the 58th General Assembly, ILCS Chapter 235, Act 5, §§ 1-1 et seq.
- B. For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMERCIAL MOTOR VEHICLES: as defined in the Illinois Vehicle Code, 625 ILCS 5/18b-101.

GAMING CAFE: An establishment whose primary or a major focus is video gaming, and the service of alcohol and food is secondary to the video gaming operation, as determined by the Village Board.

LICENSED ESTABLISHMENT: any business licensed by the State of Illinois to have or operate a video gaming terminal 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 Video Gaming Act, 230 ILCS 40/5.

LICENSED FRATERNAL ESTABLISHMENT: the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

LICENSED VETERANS ESTABLISHMENT: the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

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.

**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.

**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 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.

#### **§123.03: SUPPLEMENTAL VIDEO GAMING 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 chapter shall allow 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 video gaming 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 establishment holds a valid liquor license issued by the Illinois Liquor Control Commission and the village;
  - 2) The applicant holds the appropriate certificate or license from the Illinois Gaming Board permitting it to operate a video gaming terminal at such establishment and is in good standing with same, may apply for and obtain a supplemental video gaming license for the establishment from the village pursuant to §116.05(J) of Code of the Village of East Dundee;



- 3) The establishment has been in operation at the same location for at least six months at the time the application is filed;
- 4) 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;
- 5) The applicant is not in arrears in any tax, fee or bill due to the village or State of Illinois;
- 6) The applicant has completed and complies with all the application requirements set forth in Section 123.03 of this chapter and is not disqualified due to a felony, gambling offense, or crime of moral turpitude;
- 7) The establishment is located outside of a residential zoning district;
- 8) The establishment is not located within 100 feet of a school or place of worship;
- 9) Only establishments that hold 1) a valid liquor license from the State of Illinois and 2) a liquor license issued by the village Liquor Control Commissioner can obtain a license to operate a video gaming terminal;
- 10) No establishment shall operate a video gaming terminal without having obtained a license and video gaming terminal sticker for each video gaming terminal from the village pursuant to the video gaming license application procedures of this Code;
- 11) No establishment shall operate a gaming café in the B-1 downtown business district.

C. Large truck stop and regular truck stop establishments do not need to meet the requirements set forth in Section §123.03(B) of this chapter.

D. All applications for a video gaming license must be approved by the Village Board.

**§123.04: SUPPLEMENTAL VIDEO GAMING LICENSE APPLICATION REQUIREMENTS**

The video gaming 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 video gaming 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, in accordance with §123.07;
- 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 federal, state, and local laws;
- 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 a statement, the establishment may apply for a certificate of rehabilitation from the Village Administrator or the Village Administrator's 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 Administrator or the Village Administrator's designee 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;

**§123.05: 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 received by the Village Clerk.
- B. Every video gaming license holder shall be required to file a renewal application annually, which may contain the same or similar information as set forth in Section §123.04. Renewal applications shall be due on or before December 31 unless that day falls on a holiday, in which case the Clerk may receive the application on the following business day.

**§123.06: SUPPLEMENTAL VIDEO GAMING LICENSE FEES**

- A. The fee for a supplemental video gaming license shall be \$1,000 per license year, and the fee for each video gaming terminal in an establishment in the village shall be \$500 per machine per license year. The terminal operator and licensed establishment must share the video gaming terminal fee equally, per ILCS Chapter 230, Act 40, § 65. The video gaming license fees shall not be prorated or refunded.
- B. The application fee is not subject to reimbursement or refund upon denial of a video gaming license.
- C. Said fees are not subject to proration or refund and are due prior to issuance of the video gaming license.

**§123.07: OPERATIONAL REQUIREMENTS**

**A. The number of video gaming terminals at any establishment shall be limited as follows, which square footage shall apply to establishments that are first approved by the village for a supplemental video gaming license on and after July 18, 2022:**

**1. There shall not be more than fewer of (a) six video gaming terminals on the premises of any licensed establishment, licensed truck stop establishment, licensed veterans establishment, or licensed fraternal establishment, as defined in the Video Gaming Act (ILCS Chapter 230, Act 40); and (b) one video gaming terminal per 750 square feet as measured by each of interior floor area on the premises that is accessible to patrons and excluding any unfinished basements.**

**2. There shall not be more than the fewer of (a) ten video gaming terminals on the premises of any large truck stop establishment, as defined in the Video Gaming Act (ILCS Chapter 230, Act 40); and (b) one video gaming terminal per 750 square feet as measured by each of interior floor area on the premises that is accessible to patrons and excluding any unfinished basements.**

**B. Video gaming terminals must be located in an area that is restricted to persons over 21 years of age. The entrance to such area must be within the view of at least one employee of the video gaming licensee.**

**C. Those establishments that are licensed establishments, licensed fraternal establishments, licensed veterans establishments, and licensed large truck stop establishments, all as defined in the Video Gaming Act (ILCS Chapter 230, Act 40), may operate video gaming terminals only during the hours of operation for the consumption of alcoholic beverages at the establishment.**

**D. Noise from video gaming terminals shall not extend beyond the portion of the establishment within which video gaming terminals are located.**

**E. Every licensed establishment shall comply with all provisions of the Video Gaming Act and all rules, regulations, and restrictions imposed by the Illinois Gaming Board.**

#### **§123.08: VIDEO GAMING LICENSE REVOCATION OR SUSPENSION**

**The Village President, at any time, may give written notice to any video gaming licensee within ten business days of any charge of a violation of any of the provisions of this chapter in connection with the operation of any video gaming**

terminal. The license may be revoked after a determination by the Village Board that a violation has occurred and the video gaming license shall be terminated.

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

#### §123.09: 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 its video gaming license immediately revoked for a period of 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 chapter a second time shall have its video gaming license permanently revoked and, thereafter, barred from obtaining any business, liquor, or food license within the village.

#### §123.10: SEIZURE OF UNAUTHORIZED VIDEO GAMING TERMINALS AND GAMBLING FUNDS

Any video gaming terminal which is not authorized by this chapter 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 chapter shall be seized and forfeited as contraband. Disposition of such video gaming terminal and funds seized or confiscated shall be made in accordance with the law.

#### §123.11: TRANSFERABILITY

Video gaming licenses are a personal privilege and nontransferable in accordance with §116.06 of this code.