

ORDINANCE NO. O2021-34

**AN ORDINANCE AMENDING TITLE 3 OF THE WARRENVILLE CITY CODE  
REGARDING VIDEO GAMING**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, Title 3 of the City Code regulates businesses operating within the City ("**Business Regulations**")

WHEREAS, Chapter 2 of Title 3 of the Warrenville City Code ("**City Code**") regulates the sale of alcoholic liquor within the City and prohibits the service of alcohol without a license issued by the City ("**Liquor Regulations**"); and

WHEREAS, the Illinois General Assembly passed the Video Gaming Act, 230 ILCS 40/1 *et seq.* ("**Video Gaming Act**"), permitting video gaming in certain licensed establishments, subject to certain conditions and criteria; and

WHEREAS, since the Video Gaming Act was enacted, it has been amended to ensure that video gaming is managed in a safe and proper manner, and video gaming has been popular in many places throughout the region; and

WHEREAS, pursuant to Section 4-3-18 of the City Code and Section 27 of the Video Gaming Act, video gaming is currently prohibited within the City; and

WHEREAS, a number of local business owners have requested that video gaming be legalized within the City, subject to regulations and limitations; and

WHEREAS, the City Council desires to amend the Liquor Regulations and the Business Regulations to: (i) allow video gaming in establishments holding certain liquor licenses; and (ii) permit the operation of video gaming terminals pursuant to a business license issued by the City, all in accordance with strict standards regarding the use, installation, and operation of video gaming terminals that balance the benefits of video gaming with its potential negative effects (collectively, "**Text Amendments**"); and

WHEREAS, pursuant to the Video Gaming Act, the Illinois Liquor Control Act, and the home rule authority of the City, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Text Amendments and amend the City Code as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Video Gaming. Title 3, titled "Business Regulations," of the City Code is hereby amended to add a new Chapter 3 as set forth in **Exhibit A**, attached to and, by this reference, made a part of this Ordinance.

[additions are **bold and double underlined**; deletions are ~~struck through~~]

SECTION 3: Video Gaming Prohibited. Section 4-3-18, titled "Video Gaming Prohibited," of Chapter 3, titled "General Offenses," of Title 4, titled "Police Regulations," is hereby amended further to read as follows:

**"4-3-18: VIDEO GAMING PROHIBITED:**

~~Pursuant to section 27 of the Video Gaming Act 1, video gaming is~~ **Video gaming, as defined in the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., as amended, is** hereby prohibited within the corporate boundaries of the City of Warrenville, Illinois **except in accordance with the Illinois Video Gaming Act, as amended, and pursuant to a video gaming terminal license, pursuant to and in accordance with Chapter 3 of Title 3 of this Code, and a Class V liquor license, pursuant to and in accordance with Chapter 2 of Title 3 of this Code.** Any person convicted of any violation of the provisions of this section shall be fined not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for each such offense."

SECTION 4: License Classification, Fees, Number. Section 3-2-7, titled "License Classification, Fees, Number," of Chapter 2, titled "Liquor Control Regulations," of Title 3, titled "Business Regulations," is hereby amended further as set forth on ***Exhibit B***, attached to and, by this reference, made a part of this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall be in full force and effect 10 days after its passage, approval, and publication in the manner provided by law.

PASSED THIS \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:  
NAYS:  
ABSENT:  
ABSTAIN:

APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

[additions are **bold and double underlined**; deletions are ~~struck through~~]

## EXHIBIT A

### CHAPTER 3: VIDEO GAMING.

#### 3-3-1: VIDEO GAMING PERMITTED:

- A. Video gaming, as defined by the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., is permitted in the City subject to the provisions, conditions, and restrictions of this Chapter 3.
- B. No video gaming terminals, activities or operations are permitted within the City unless the following licenses are obtained:
  1. A Class V liquor license from the City, in accordance with, and pursuant to, Section 3-2-7 of this Code;
  2. The terminal operator video gaming license issued by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq.; and
  3. A video gaming terminal license issued by the City covering each video gaming terminal, in accordance with, and pursuant to, Section 3-3-2 of this Code.

#### 3-3-2: VIDEO GAMING TERMINAL LICENSE REQUIRED:

Prior to installing a video gaming terminal in an establishment with a Class V liquor license, the terminal operator, as defined in the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., must apply for and obtain a video gaming terminal license from the City that covers each video gaming terminal to be operated on a Class V licensed premises.

- A. Application: An application for a video gaming terminal license must be submitted on the form provided by the City, which must include at least the following:
  1. The number of video gaming terminals to be installed on the premises, which number may not exceed six;
  2. The serial numbers of each video gaming terminal to be installed on the premises;
  3. A site plan of the premises providing information about the location and operation of the proposed video gaming terminals;
  4. A copy of the applicant's terminal operator's video gaming license issued by the Illinois Gaming Board;
  5. The video gaming terminal license fee required by this section; and
  6. A copy of the Class V liquor license issued to the premises if already issued. If the Class V liquor license has not yet been issued by the City, a copy of the completed Class V liquor license application.
- B. Fees: For the operation of video gaming terminals within the City in establishments holding a Class V liquor license, an annual license fee of \$1,000.00 per terminal is hereby [additions are **bold and double underlined**; deletions are ~~struck through~~]

imposed. The annual fee must be submitted by the video gaming terminal operator at the time of submission of an application for the video gaming terminal license, and annually thereafter.

- C. License Term: A video gaming terminal license shall terminate on the April 30 immediately following its issuance. No prorations are allowed for partial year video gaming terminal license applications.
- D. License is a Personal Privilege Only: A video gaming terminal license is purely a personal privilege and does not constitute property nor is the video gaming terminal license saleable or transferable to any person or entity. Any change in ownership of a licensed premises or video gaming terminal operator will render the video gaming terminal license null and void.

### **3-3-3: VIDEO GAMING TERMINAL LICENSE REGULATIONS:**

Video gaming terminal licenses are issued subject to the following conditions and restrictions with which all video gaming terminal licensees must comply:

- A. Display of Licenses:
  - 1. The terminal operator's State-issued video gaming license must be clearly displayed at all times.
  - 2. A valid City-issued video gaming terminal license must be clearly displayed at all times.
- B. Number of Terminals Allowed: No more than six video gaming terminals may be located on the licensed premises.
- C. Compliance with City Ordinances, State and Federal Laws: The licensee and all licensed video gaming terminals must fully comply with all applicable City ordinances, Federal and State laws and regulations, including the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., as amended, and all rules, regulations, and restrictions imposed by the Illinois Gaming Board.
- D. Notification of State License Revocation or Suspension: Licensees must immediately notify the Finance Director in the event the Illinois Gaming Board revokes or suspends the licensed terminal operator's video gaming license. The revocation, loss, or suspension of a valid State video gaming license shall automatically, and without hearing, result in the revocation, loss, or suspension of the City video gaming terminal license for all video gaming terminals without any refund of any fee.
- E. Video Gaming Cafes Prohibited: Notwithstanding any provision of this Code to the contrary, video gaming cafes are not permitted in the City. In the event any provision of the City Code conflicts with this subsection E, the more restrictive provision shall apply. A "video gaming cafe" is defined for purposes of this section as an establishment whose primary or major focus is video gaming, and the service of alcohol and food is secondary to the video gaming operation. The following factors may be considered when determining if a proposed or operating establishment is a video gaming cafe:

[additions are **bold and double underlined**; deletions are ~~struck through~~]

1. the layout and design of the establishment;
2. the extent and variety of food and beverages offered;
3. whether the number of video gaming terminals relative to the customer seating capacity of the establishment is less than 10 customer seats to 1 terminal;
4. whether the square footage of space devoted to video gaming relative to the amount of space devoted to other activities is less than 4 square feet for non-gaming to 1 square feet for gaming;
5. the percentage of proposed or actual revenue derived from food and beverage sales as a percentage of total gross revenues for the establishment on an annual basis based on audited financial statements, corporate financial reports, tax return information, state liquor license reports, or any other form of information deemed acceptable by the City;
6. whether the establishment is proposed to be marketed as a gaming establishment or have a gambling theme;
7. the number of employees at the establishment and their proposed function; and
8. any other factors as deemed relevant by the Finance Director.

#### **3-3-4: COMPLIANCE; INSPECTION:**

The City and its agents must be allowed unrestricted access to enter the licensed establishment at any time upon the verbal request of the City, or any person authorized by the City, for the purposes of determining compliance with this Chapter and the Illinois Video Gaming Act.

#### **3-3-4: PENALTIES:**

It shall be unlawful for any person to violate any provision of this Chapter 3. Except as otherwise specifically provided herein, any person found liable of violating or opposing the enforcement of any provision of this Chapter 3 shall be subject to the following penalties:

- A. First offense in 12-month period: 72-hour video gaming terminal license suspension, in accordance with Section 3-3-5 of this Code, and \$1,000 fine;
- B. Second offense in 12-month period: 72-hour video gaming terminal license suspension, in accordance with Section 3-3-5 of this Code, and \$1,500 fine;
- C. Third offense in 12-month period: Revocation of video gaming terminal license, in accordance with Section 3-3-5 of this Code, and \$2,000 fine.

A separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues.

#### **3-3-5: REVOCATION OR SUSPENSION OF VIDEO GAMING TERMINAL LICENSE:**

[additions are **bold and double underlined**; deletions are ~~struck through~~]

- A. Except as provided in Section 3-3-3.D, no video gaming terminal license shall be revoked or suspended until a hearing has been conducted in accordance with the hearing procedures set forth in Section 3-10-12 of this Code; provided, however, that no hearing will be required to revoke or suspend a City video gaming terminal license for an establishment that has its State video gaming license revoked or suspended.
- B. In addition to all penalties authorized in this section, in the event that the liquor license of the establishment be suspended or revoked, the video gaming terminal license will likewise be suspended or revoked concurrently.
- C. In the event of a revocation or denial of any license or registration under this section, such person shall not be issued any license provided for in this section for one calendar year following the revocation or any appeal thereof.
- D. The local liquor control commissioner may treat any violations of the provisions of Chapter 3 of this Code as a violation of the applicable establishment's Class V City liquor license and may proceed accordingly with respect to the enforcement authority over the establishment's liquor license.

[additions are **bold and double underlined**; deletions are ~~struck through~~]

## EXHIBIT B

### 3-2-7: LICENSE CLASSIFICATION, FEES, NUMBER:

Retail liquor licenses shall be and are hereby divided into the following classes, and none other:

#### A. Class A1:

1. A license which shall authorize the retail sale of liquor for consumption on the premises.
2. The initial fee for a Class A1 license shall be two thousand two hundred dollars (\$2,200.00). The fee for renewal of a Class A1 license shall be ~~one thousand two hundred dollars (\$1,200.00). For Class A1 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be~~ one thousand three hundred dollars (\$1,300.00).
3. The number of such Class A1 licenses is specifically limited to five (5).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A1 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

#### B. Class A2:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. Such licenses shall be issued only to establishments having a seating capacity for not less than one hundred (100) customers and having kitchen, sanitary and parking lot facilities adequate for the seating capacity.
2. The initial fee for a Class A2 license shall be three thousand six hundred dollars (\$3,600.00). The fee for renewal of a Class A2 license shall be two thousand dollars (\$2,000.00).
3. The number of such Class A2 licenses is specifically limited to eight (8).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A2 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

#### C. Class A3:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. Such licenses shall be issued only to establishments having a seating capacity of not less than forty (40) customers and having kitchen, sanitary and parking lot facilities adequate for the seating capacity.
2. The initial fee for a Class A3 license shall be one thousand four hundred dollars (\$1,400.00). The fee for renewal of a Class A3 license shall be eight hundred dollars (\$800.00).
3. The number of such Class A3 licenses is specifically limited to two (2).

[additions are **bold and double underlined**; deletions are ~~struck through~~]

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A3 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D. Class A4:

1. A license which shall authorize the sale of alcoholic liquor in connection with the operation of a catering business within the City, which sale shall be made at the registered office of the licensee, which shall be the licensed premises, and nowhere else. Alcoholic liquor shall only be sold and served by the licensee in connection with the catering of foods.

2. The initial fee for a Class A4 license shall be one thousand one hundred dollars (\$1,100.00). The fee for renewal of a Class A4 license shall be seven hundred dollars (\$700.00).

3. The number of such Class A4 licenses is specifically limited to zero (0).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A4 licensed premises. Class A4 licensees are ineligible for a supplemental Class V license.**

D-1. Class A5:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. The licensee shall also be permitted to maintain facilities on premises for the manufacture of beer, to make sales of the beer manufactured on the premises to importing distributors, distributors and to nonlicensees for use in consumption, to store the manufactured beer upon the premises, and to sell and offer for sale at retail from the licensed premises beer previously manufactured on premises; provided, however, that such licensee shall not sell for off premises consumption more than fifty thousand (50,000) gallons per year. The licensee shall obtain and maintain in good standing a State of Illinois brewpub license as authorized under section 5/5-1(n) of the Illinois liquor control act of 1934, as amended 1. In addition to all records required to be kept by the terms and conditions of the state brewpub license, licensee shall maintain accurate records as to the total gallonage of beer manufactured on premises and the total gallonage of beer manufactured on premises and sold for consumption off premises. That portion of the licensed premises dedicated to the brewing of beer shall be segregated from the remainder of the premises and shall not be generally accessible to the public. This class of license shall be issued only to establishments having a seating capacity of not less than one hundred (100) customers; having kitchen, sanitary, and parking lot facilities adequate for the seating capacity; having a current state of Illinois brewpub license issued pursuant to 235 Illinois Compiled Statutes 5/5-1(n); and having segregated on premises facilities for the manufacture of beer.

2. The initial fee for a class A5 license shall be four thousand dollars (\$4,000.00). The fee for renewal of a class A5 license shall be two thousand five hundred dollars (\$2,500.00).

3. The number of such class A5 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A5 licensed premises without the licensee additionally obtaining a**

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**Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D-2. Class A6:

1. A license which shall authorize the sale of alcoholic liquor to guests invited to private parties in connection with the operation of a banquet room facility within the city, which sale shall be made at the licensed premises and nowhere else. The license is designated as a banquet facility with hours open to the general public limited to no more than six (6) hours per week.

2. The initial fee for a class A6 license shall be two thousand two hundred dollars (\$2,200.00). The fee for renewal of a class A6 license shall be one thousand three hundred dollars (\$1,300.00).

3. The number of such class A6 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A6 licensed premises. Class A6 licensees are ineligible for a supplemental Class V license.**

D-3. Class A7:

1. A license which shall authorize the retail sale of alcoholic liquor in two (2) specified areas of the premises, which areas shall be physically separated from one another pursuant to a floor plan, as approved by the liquor commissioner. In the first area of the premises, only the retail sale of alcoholic liquor for consumption on the premises shall be allowed; provided, however, that liquor sales in such area of the premises shall comply with and are subject to all the terms and conditions applicable to either a class A1, class A2, class A3 or class C license, which classification shall be determined by the liquor commissioner at the time that the initial license is issued. In the second area of the premises, only the retail sale of alcoholic liquor for consumption off the premises shall be allowed.

2. The initial fee for a class A7 license shall be three thousand eight hundred dollars (\$3,800.00). ~~For class A7 licenses renewed for the period beginning May 1, 2002, and thereafter, the fee for renewal~~ **The fee for renewal of a class A7 license** shall be two thousand two hundred dollars (\$2,200.00).

3. The number of such class A7 licenses is specifically limited to three (3).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A7 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D-4. Class A8:

1. A license which shall authorize the retail sale of beer, wine, and mixed drinks ("alcoholic beverages") only for consumption on the licensed premises, as a secondary and accessory use to a principal movie theater business.

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Service of alcoholic beverages shall be limited to a designated lobby area.

Service of alcoholic beverages may be made only to persons purchasing a movie ticket and wearing a tamper resistant wristband approved by the city. The wristband shall be valid only for the date on which it is obtained from the movie theater. Alcoholic beverages may only be drawn, poured, or served, and a wristband may only be issued, by theater personnel who are twenty one (21) years of age or older.

The containers in which alcoholic beverages are served must be of a different color, size and design than those in which nonalcoholic beverages are served.

No more than one alcoholic beverage may be delivered to a customer in any one trip to the designated lobby area, and no customer shall be served more than three (3) alcoholic beverages on any day. The number of alcoholic beverages served to a customer each day shall be recorded on that customer's wristband.

There may be no service of alcoholic beverages unless the movie theater is actually open for the showing of movies. Under no circumstances may alcoholic beverages be served more than one hour prior to the advertised showing time of the first movie to be shown on any day, except for private rentals and events.

2. The initial fee for a Class A8 license shall be three thousand six hundred dollars (\$3,600.00). The fee for renewal of a Class A8 license shall be two thousand dollars (\$2,000.00).

3. The number of such Class A8 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A8 licensed premises. Class A8 licensees are ineligible for a supplemental Class V license**

E. Class B1:

1. A license which shall authorize the retail sale of liquor, but not for consumption on the premises.

2. The initial fee for a Class B1 license shall be two thousand four hundred dollars (\$2,400.00). The fee for renewal of a Class B1 license shall be ~~one thousand three hundred dollars (\$1,300.00). For Class B1 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be~~ one thousand four hundred dollars (\$1,400.00).

3. The number of such Class B1 licenses is specifically limited to five (5).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B1 licensed premises. Class B1 licensees are ineligible for a supplemental Class V license.**

F. Class B2:

1. A license which shall authorize the retail sale of alcoholic liquor for consumption on or off the premises, provided that the principal use of the premises is as a tavern.

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2. The initial fee for a Class B2 license shall be three thousand dollars (\$3,000.00). For Class B2 licenses renewed for the period beginning May 1, 2002, and thereafter, the fee for renewal shall be one thousand eight hundred dollars (\$1,800.00).

3. The number of such Class B2 licenses is specifically limited to three (3).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B2 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

G. Class B3:

1. A license which shall authorize the retail sale of beer, wine and premixed, bottled alcoholic beverages with an alcohol content not exceeding seven and one-half percent (7.5%) only, but not for consumption on the premises.

2. The initial fee for a Class B3 license shall be one thousand three hundred dollars (\$1,300.00). The fee for renewal of a Class B3 license shall be ~~seven hundred fifty dollars (\$750.00)~~. For Class B3 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be eight hundred dollars (\$800.00).

3. The number of such Class B3 licenses is specifically limited to two (2).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B3 licensed premises. Class B3 licensees are ineligible for a supplemental Class V license.**

H. Class B4:

1. A license which shall authorize the retail sale of beer and ale that has been produced on the premises of a microbrewery. No retail sales of beer or ale produced off the premises shall be permitted. Consumption of beer or ale on the premises is prohibited except that up to three (3) samples may be provided without charge to a customer in amounts which do not exceed two (2) fluid ounces per sample.

2. The initial fee for a Class B4 license shall be one thousand three hundred dollars (\$1,300.00). The fee for renewal of a Class B4 license shall be eight hundred dollars (\$800.00).

3. The number of such Class B4 licenses is specifically limited to zero (0).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B4 licensed premises. Class B4 licensees are ineligible for a supplemental Class V license.**

H-1. Class B4A:

1. A license which shall authorize the retail sale of wine that has been produced on the premises of a winery or vineyard, with annual production not to exceed five hundred (500) gallons. No retail sales of wine produced off the premises shall be permitted. Consumption of wine on the

[additions are **bold and double underlined**; deletions are ~~struck through~~]

premises is prohibited; provided, however, that the licensees and their family members and personal guests may consume wine on the premises for non-commercial purposes.

2. The initial fee for a Class B4A license shall be four hundred dollars (\$400.00). The fee for renewal of a Class B4A license shall be two hundred thirty five dollars (\$235.00).

3. The number of such Class B4A licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B4A licensed premises. Class B4A licensees are ineligible for a supplemental Class V license.**

I. Class C:

1. A license which shall authorize the retail sale of liquor for consumption on the premises, granted to a corporation of national scope, organized not for profit.

2. The initial fee for a Class C license shall be one thousand one hundred dollars (\$1,100.00). The fee for renewal of a Class C license shall be ~~six hundred fifty dollars (\$650.00)~~. For Class C licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be seven hundred dollars (\$700.00).

3. The number of such Class C licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class C licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

I-1. Class C-1:

1. A license which shall authorize the retail sale of liquor for consumption on the premises of a special event, for which a temporary use permit has been authorized by the City Council, granted to a not for profit organization.

2. The fee for a Class C-1 license shall be two hundred dollars (\$200.00). The City Council may waive said fee for an organization or institution organized and conducted on a not for profit basis with no personal profit incurring to anyone as a result of the operation.

3. The term of the Class C-1 license shall not exceed the temporary use permit period. The hours of operation shall not exceed the operating hours allowed under the temporary use permit.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class C-1 licensed premises. Class C-1 licensees are ineligible for a supplemental Class V license.**

J. Class D:

1. A license which shall authorize the retail sale of liquor for consumption on the premises specified for a period of twenty four (24) hours.

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2. The fee for a Class D license shall be fifty dollars (\$50.00). The City Council may waive said fee for an organization or institution organized and conducted on a not for profit basis with no personal profit incurring to anyone as a result of the operation. The City Council shall consider waiver requests by established not for profit organizations on an annual basis at its last meeting in December.

3. No more than seven (7) such licenses shall be issued to any organization or person representing such organization in any calendar year.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class D licensed premises. Class D licensees are ineligible for a supplemental Class V license.**

K. Class E:

1. A license which shall be issued only to the holder of a valid class "B3" license and shall authorize the sale and service of wine, beer, and premixed bottled or canned alcoholic beverages with an alcohol content not exceeding seven and one-half percent (7.5%) by the glass for consumption on the licensed premises. Such license shall be issued only to establishments having a seating capacity for not more than sixty (60) customers.

2. The initial fee for a class E license shall be seven hundred dollars (\$700). The fee for renewal of a class E license shall be four hundred dollars (\$400).

3. The number of such class E licenses is specifically limited to zero (0).

The fee for any license hereinabove set forth shall be submitted upon approval of a liquor license and prior to such license being issued to the applicant. Fees shall not be prorated except that the initial fee if a license is issued on or after October 1 shall be one-half (½) the stated fee. Forfeiture of a license, whether voluntary or involuntary, shall not be the basis for refund of any part of said fee.

**L. CLASS V VIDEO GAMING LICENSE:**

**1. Class V licenses shall be supplemental in nature and shall only be issued to the holder of a class A1, A2, A3, A5, A7, B2, and C license. A class V license authorizes the licensee to: (a) sell or serve alcoholic liquor in accordance with the restrictions and regulations of licensee's class A1, A2, A3, A5, A7, B2, and C license, and (b) install and allow the use of video gaming terminals, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., on the licensed premises subject to the following conditions and restrictions:**

**a. All video gaming terminals installed in a class V licensed premises must be licensed pursuant to a valid video gaming terminal license issued by the City in accordance with Chapter 3 of Title 3 of this Code.**

**b. In addition to any other eligibility criteria for a class V liquor license set forth in this Section or incorporated by reference, any applicant for a class V license must at the time of initial application or renewal:**

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- i. have held the class A1, A2, A3, A5, A7, B2, or C liquor license for at least 12 consecutive months prior the class V license application date and have not had the liquor license suspended or revoked during the 12 months before the class V license application date;
  - ii. not owe the City any outstanding debts, fees, or other sums of money;
  - iii. submit a copy of the video gaming terminal license for establishment if already issued, or, if the video gaming terminal license has not yet been issued, the completed video gaming terminal license application for the establishment;
  - iv. submit a site plan of the premises showing the proposed location of the video gaming terminals; and
  - v. except for class C licensees, submit proof, in a form acceptable to the City, demonstrating that the licensed establishment serves meals in accordance with subsection L.1.c. of this section.
- c. Except for those with a class C license, all class V licensees must serve meals. For the purposes of this section 3-2-7.L only, a licensee will be deemed to “serve meals” if:
- i. Meals are prepared in and served to patrons from a commercial kitchen located on the premises;
  - ii. The licensed establishment has entered into a written agreement with an establishment with a commercial kitchen to provide meals to patrons; or
  - iii. Food sales constitute at least 20 percent of the licensed establishment’s annual revenue.
- d. All video gaming operations must be conducted pursuant to and in strict accordance with all City codes and ordinances, including, without limitation, Chapters 2 and 3 of Title 3 of the City Code, and all applicable State and federal laws, including, without limitation, the Illinois Video Gaming Act, and all rules, regulations and restrictions imposed by the Illinois Gaming Board.
- e. Video gaming terminals may only be operated and used during such times as the holder of the liquor license hereunder is authorized to serve alcohol.
- f. Licensees must immediately notify the Finance Director in the event the Illinois Gaming Board revokes or suspends the video gaming terminal operator’s Illinois video gaming license. Any denial, revocation or suspension of an Illinois video gaming license by the Illinois Gaming Board or of a video gaming terminal license by the City shall constitute an automatic revocation or suspension of a class V license for the same period without a hearing or refund of any fees; provided however, that an automatic revocation or suspension of a class V license will not constitute an automatic revocation or suspension of the rights and privileges of the licensee’s underlying class A1, A2, A3, A5, A7, B2, B3, and C liquor license.

[additions are **bold and double underlined**; deletions are ~~struck through~~]

g. Only complete applications for a class V license will be accepted for review by the City.

h. Use of Video Gaming Terminals by Underage Persons Prohibited:

- iv. All video gaming terminals must be located in an area restricted to persons over 21 years of age. No licensed establishment, or its employee or agent may permit any person under the age of 21 years to be within the restricted area. Licensed establishments that admit individuals under the age of 21 must have the video gaming restricted area separated from the rest of the premises by a constructed divider that shields gaming machines from view of seated patrons outside the restricted area. The entrance to the restricted area must be within the view of at least one employee of the establishment who is over 21 years of age. Each underage person located within the restricted area constitutes a separate and distinct violation of this subsection.
- v. No licensed establishment, or its employee or agent may permit any person under the age of 21 years to use, play, or operate a video gaming terminal. Each underage person using, playing, or operating a video gaming terminal constitutes a separate and distinct violation of this subsection.
- vi. It is unlawful for any person under 21 years of age to play or operate a video gaming terminal.

g. Video Gaming Cafes Prohibited: Video gaming cafes are prohibited pursuant to Section 3-3-3 of this Code.

h. Signage:

- i. Signage Required by State: Signage must be posted at the entrance to, and inside of, the designated gaming area in accordance with the regulations adopted by the Illinois Gaming Board.
- ii. On-Premises Signs: All exterior signage at the establishment, including any signage pertaining to video gaming, shall comply with the City's sign regulations set forth in Chapter 14 of Title 8 of this Code and shall not feature any flashing, blinking or intermittent lights; provided, however, that temporary advertising banners, as described in Section 8-14-6.B.2.d of this Code, advertising video gaming are not permitted.

2. License fee: The initial fee for a class V license shall be one thousand dollars (\$1,000). The fee for renewal of a class V license shall be one thousand dollars (\$2,000).

3. Number of Licenses: The number of class V licenses is specifically limited to six (6).

The fee for any license hereinabove set forth shall be submitted upon approval of a liquor license and prior to such license being issued to the applicant. Fees shall not be prorated except [additions are **bold and double underlined**; deletions are ~~struck through~~]

that the initial fee if a license is issued on or after October 1 shall be one-half ( $\frac{1}{2}$ ) the stated fee. Forfeiture of a license, whether voluntary or involuntary, shall not be the basis for refund of any part of said fee.”

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## Memorandum

Date: August 31, 2021

To: John Coakley, City Administrator

From: Brooke Lenneman, City Attorney

Re: Regulation of Video Gaming Establishments

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At the August 16, 2021, City Council meeting, the City Council considered the draft ordinance amending the City Code to allow video gaming subject to certain conditions and restrictions. After the meeting, the draft ordinance was revised to incorporate the City Council's direction and input. In order to facilitate the review of the revised ordinance, a summary of the changes made to the ordinance is provided below, and a comparison document is attached. The comparison document compares the newly revised version of the ordinance with the one included in the August 16, 2021 City Council agenda packet is attached.

### Summary of Revisions Made to the August 16, 2021 Draft Ordinance:

- Class A8 liquor licenses (movie theaters) are no longer eligible to obtain a Class V Video Gaming Liquor License.
- All Class V video gaming liquor licensed establishments, except those with a Class C liquor license (currently only the VFW), are now required to serve meals. An establishment will be deemed to "serve meals" if:
  - Meals are prepared in and served to patrons from a commercial kitchen located on the premises;
  - The licensed establishment has entered into a written agreement with an establishment with a commercial kitchen to provide meals to patrons; or
  - Food sales constitute at least 20 percent of the licensed establishment's annual revenue.

Based on City staff's research of their current operations, all of the establishments that have expressed interest in having video gaming, except the VFW, which is exempt from the requirement, would be deemed to "serve meals" using the listed criteria.

- The Class V license fees are now \$1,000 for the initial application and \$2,000 for renewals.

**AN ORDINANCE AMENDING TITLE 3 OF THE WARRENVILLE CITY CODE  
REGARDING VIDEO GAMING**

WHEREAS, the City is a home rule municipal corporation pursuant to Article VII, Section 6(a) of the Constitution of the State of Illinois of 1970; and

WHEREAS, Title 3 of the City Code regulates businesses operating within the City (***“Business Regulations”***)

WHEREAS, Chapter 2 of Title 3 of the Warrenville City Code (***“City Code”***) regulates the sale of alcoholic liquor within the City and prohibits the service of alcohol without a license issued by the City (***“Liquor Regulations”***); and

WHEREAS, the Illinois General Assembly passed the Video Gaming Act, 230 ILCS 40/1 *et seq.* (***“Video Gaming Act”***), permitting video gaming in certain licensed establishments, subject to certain conditions and criteria; and

WHEREAS, since the Video Gaming Act was enacted, it has been amended to ensure that video gaming is managed in a safe and proper manner, and video gaming has been popular in many places throughout the region; and

WHEREAS, pursuant to Section 4-3-18 of the City Code and Section 27 of the Video Gaming Act, video gaming is currently prohibited within the City; and

WHEREAS, a number of local business owners have requested that video gaming be legalized within the City, subject to regulations and limitations; and

WHEREAS, the City Council desires to amend the Liquor Regulations and the Business Regulations to: (i) allow video gaming in establishments holding certain liquor licenses; and (ii) permit the operation of video gaming terminals pursuant to a business license issued by the City, all in accordance with strict standards regarding the use, installation, and operation of video gaming terminals that balance the benefits of video gaming with its potential negative effects (collectively, ***“Text Amendments”***); and

WHEREAS, pursuant to the Video Gaming Act, the Illinois Liquor Control Act, and the home rule authority of the City, the Mayor and the City Council have determined that it is in the best interest of the City and the public to approve the Text Amendments and amend the City Code as set forth in this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF WARRENVILLE, DUPAGE COUNTY, ILLINOIS, AS FOLLOWS:

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SECTION 1: Recitals. The recitals listed above are incorporated in this Ordinance as if fully set forth in this Ordinance.

SECTION 2: Video Gaming. Title 3, titled "Business Regulations," of the City Code is hereby amended to add a new Chapter 3 as set forth in **Exhibit A**, attached to and, by this reference, made a part of this Ordinance.

SECTION 3: Video Gaming Prohibited. Section 4-3-18, titled "Video Gaming Prohibited," of Chapter 3, titled "General Offenses," of Title 4, titled "Police Regulations," is hereby amended further to read as follows:

**"4-3-18: VIDEO GAMING PROHIBITED:**

~~Pursuant to section 27 of the Video Gaming Act 1 , video gaming is~~ **Video gaming, as defined in the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., as amended, is** hereby prohibited within the corporate boundaries of the City of Warrenville, Illinois **except in accordance with the Illinois Video Gaming Act, as amended, and pursuant to a video gaming terminal license, pursuant to and in accordance with Chapter 3 of Title 3 of this Code, and a Class V liquor license, pursuant to and in accordance with Chapter 2 of Title 3 of this Code.** Any person convicted of any violation of the provisions of this section shall be fined not less than five hundred dollars (\$500.00) nor more than seven hundred fifty dollars (\$750.00) for each such offense."

SECTION 4: License Classification, Fees, Number. Section 3-2-7, titled "License Classification, Fees, Number," of Chapter 2, titled "Liquor Control Regulations," of Title 3, titled "Business Regulations," is hereby amended further as set forth on **Exhibit B**, attached to and, by this reference, made a part of this Ordinance.

SECTION 5: EFFECTIVE DATE. This Ordinance shall be in full force and effect 10 days after its passage, approval, and publication in the manner provided by law.

PASSED THIS \_\_\_\_ day of \_\_\_\_\_, 2021.

AYES:

NAYS:

ABSENT:

ABSTAIN:

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APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2021.

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MAYOR

ATTEST:

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CITY CLERK

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## EXHIBIT A

### CHAPTER 3: VIDEO GAMING.

#### 3-3-1: VIDEO GAMING PERMITTED:

- A. Video gaming, as defined by the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., is permitted in the City subject to the provisions, conditions, and restrictions of this Chapter 3.
- B. No video gaming terminals, activities or operations are permitted within the City unless the following licenses are obtained:
  1. A Class V liquor license from the City, in accordance with, and pursuant to, Section 3-2-7 of this Code;
  2. The terminal operator video gaming license issued by the Illinois Gaming Board in accordance with the provisions of the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq.; and
  3. A video gaming terminal license issued by the City covering each video gaming terminal, in accordance with, and pursuant to, Section 3-3-2 of this Code.

#### 3-3-2: VIDEO GAMING TERMINAL LICENSE REQUIRED:

Prior to installing a video gaming terminal in an establishment with a Class V liquor license, the terminal operator, as defined in the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., must apply for and obtain a video gaming terminal license from the City that covers each video gaming terminal to be operated on a Class V licensed premises.

- A. Application: An application for a video gaming terminal license must be submitted on the form provided by the City, which must include at least the following:
  1. The number of video gaming terminals to be installed on the premises, which number may not exceed six;
  2. The serial numbers of each video gaming terminal to be installed on the premises;
  3. A site plan of the premises providing information about the location and operation of the proposed video gaming terminals;
  4. A copy of the applicant's terminal operator's video gaming license issued by the Illinois Gaming Board;
  5. The video gaming terminal license fee required by this section; and
  6. A copy of the Class V liquor license issued to the premises if already issued. If the Class V liquor license has not yet been issued by the City, a copy of the completed Class V liquor license application.

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- B. Fees: For the operation of video gaming terminals within the City in establishments holding a Class V liquor license, an annual license fee of \$1,000.00 per terminal is hereby imposed. The annual fee must be submitted by the video gaming terminal operator at the time of submission of an application for the video gaming terminal license, and annually thereafter.
- C. License Term: A video gaming terminal license shall terminate on the April 30 immediately following its issuance. No prorations are allowed for partial year video gaming terminal license applications.
- D. License is a Personal Privilege Only: A video gaming terminal license is purely a personal privilege and does not constitute property nor is the video gaming terminal license saleable or transferable to any person or entity. Any change in ownership of a licensed premises or video gaming terminal operator will render the video gaming terminal license null and void.

### 3-3-3: VIDEO GAMING TERMINAL LICENSE REGULATIONS:

Video gaming terminal licenses are issued subject to the following conditions and restrictions with which all video gaming terminal licensees must comply:

- A. Display of Licenses:
  - 1. The terminal operator's State-issued video gaming license must be clearly displayed at all times.
  - 2. A valid City-issued video gaming terminal license must be clearly displayed at all times.
- B. Number of Terminals Allowed: No more than six video gaming terminals may be located on the licensed premises.
- C. Compliance with City Ordinances, State and Federal Laws: The licensee and all licensed video gaming terminals must fully comply with all applicable City ordinances, Federal and State laws and regulations, including the Illinois Video Gaming Act, 230 Illinois Compiled Statutes 40/1 et seq., as amended, and all rules, regulations, and restrictions imposed by the Illinois Gaming Board.
- D. Notification of State License Revocation or Suspension: Licensees must immediately notify the Finance Director in the event the Illinois Gaming Board revokes or suspends the licensed terminal operator's video gaming license. The revocation, loss, or suspension of a valid State video gaming license shall automatically, and without hearing, result in the revocation, loss, or suspension of the City video gaming terminal license for all video gaming terminals without any refund of any fee.
- E. Video Gaming Cafes Prohibited: Notwithstanding any provision of this Code to the contrary, video gaming cafes are not permitted in the City. In the event any provision of the City Code conflicts with this subsection E, the more restrictive provision shall apply. A "video gaming cafe" is defined for purposes of this section as an establishment whose

[additions are **bold and double underlined**; deletions are ~~struck through~~]

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primary or major focus is video gaming, and the service of alcohol and food is secondary to the video gaming operation. The following factors may be considered when determining if a proposed or operating establishment is a video gaming cafe:

1. the layout and design of the establishment;
2. the ~~preparation~~extent and variety of food and beverages offered;
- ~~3. the creation and operation of a commercial kitchen on the premises where gaming is situated or a partnership with an establishment that operates a commercial kitchen;~~
3. ~~4.~~ whether the number of video gaming terminals relative to the customer seating capacity of the establishment is less than 10 customer seats to 1 terminal;
4. ~~5.~~ whether the square footage of space devoted to video gaming relative to the amount of space devoted to other activities is less than 4 square feet for non-gaming to 1 square feet for gaming;
5. ~~6.~~ the percentage of proposed or actual revenue derived from food and beverage sales as a percentage of total gross revenues for the establishment on an annual basis based on audited financial statements, corporate financial reports, tax return information, state liquor license reports, or any other form of information deemed acceptable by the City;
6. ~~7.~~ whether the establishment is proposed to be marketed as a gaming establishment or have a gambling theme;
7. ~~8.~~ the number of employees at the establishment and their proposed function; and
8. ~~9.~~ any other factors as deemed relevant by the Finance Director.

### **3-3-4: COMPLIANCE; INSPECTION:**

The City and its agents must be allowed unrestricted access to enter the licensed establishment at any time upon the verbal request of the City, or any person authorized by the City, for the purposes of determining compliance with this Chapter and the Illinois Video Gaming Act.

### **3-3-4: PENALTIES:**

It shall be unlawful for any person to violate any provision of this Chapter 3. Except as otherwise specifically provided herein, any person found liable of violating or opposing the enforcement of any provision of this Chapter 3 shall be subject to the following penalties:

- A. First offense in 12-month period: 72-hour video gaming terminal license suspension, in accordance with Section 3-3-5 of this Code, and \$1,000 fine;
- B. Second offense in 12-month period: 72-hour video gaming terminal license suspension, in accordance with Section 3-3-5 of this Code, and \$1,500 fine;

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- C. Third offense in 12-month period: Revocation of video gaming terminal license, in accordance with Section 3-3-5 of this Code, and \$2,000 fine.

A separate offense shall be deemed to have been committed on each day during or on which a violation occurs or continues.

**3-3-5: REVOCATION OR SUSPENSION OF VIDEO GAMING TERMINAL LICENSE:**

- A. Except as provided in Section 3-3-3.D, no video gaming terminal license shall be revoked or suspended until a hearing has been conducted in accordance with the hearing procedures set forth in Section 3-10-12 of this Code; provided, however, that no hearing will be required to revoke or suspend a City video gaming terminal license for an establishment that has its State video gaming license revoked or suspended.
- B. In addition to all penalties authorized in this section, in the event that the liquor license of the establishment be suspended or revoked, the video gaming terminal license will likewise be suspended or revoked concurrently.
- C. In the event of a revocation or denial of any license or registration under this section, such person shall not be issued any license provided for in this section for one calendar year following the revocation or any appeal thereof.
- D. The local liquor control commissioner may treat any violations of the provisions of Chapter 3 of this Code as a violation of the applicable establishment's Class V City liquor license and may proceed accordingly with respect to the enforcement authority over the establishment's liquor license.

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## EXHIBIT B

### 3-2-7: LICENSE CLASSIFICATION, FEES, NUMBER:

Retail liquor licenses shall be and are hereby divided into the following classes, and none other:

#### A. Class A1:

1. A license which shall authorize the retail sale of liquor for consumption on the premises.
2. The initial fee for a Class A1 license shall be two thousand two hundred dollars (\$2,200.00). The fee for renewal of a Class A1 license shall be ~~one thousand two hundred dollars (\$1,200.00). For Class A1 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be~~ one thousand three hundred dollars (\$1,300.00).
3. The number of such Class A1 licenses is specifically limited to five (5).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A1 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

#### B. Class A2:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. Such licenses shall be issued only to establishments having a seating capacity for not less than one hundred (100) customers and having kitchen, sanitary and parking lot facilities adequate for the seating capacity.
2. The initial fee for a Class A2 license shall be three thousand six hundred dollars (\$3,600.00). The fee for renewal of a Class A2 license shall be two thousand dollars (\$2,000.00).
3. The number of such Class A2 licenses is specifically limited to eight (8).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A2 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

#### C. Class A3:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. Such licenses shall be issued only to establishments having a seating capacity of not less than forty (40) customers and having kitchen, sanitary and parking lot facilities adequate for the seating capacity.

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2. The initial fee for a Class A3 license shall be one thousand four hundred dollars (\$1,400.00). The fee for renewal of a Class A3 license shall be eight hundred dollars (\$800.00).

3. The number of such Class A3 licenses is specifically limited to two (2).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A3 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D. Class A4:

1. A license which shall authorize the sale of alcoholic liquor in connection with the operation of a catering business within the City, which sale shall be made at the registered office of the licensee, which shall be the licensed premises, and nowhere else. Alcoholic liquor shall only be sold and served by the licensee in connection with the catering of foods.

2. The initial fee for a Class A4 license shall be one thousand one hundred dollars (\$1,100.00). The fee for renewal of a Class A4 license shall be seven hundred dollars (\$700.00).

3. The number of such Class A4 licenses is specifically limited to zero (0).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A4 licensed premises. Class A4 licensees are ineligible for a supplemental Class V license.**

D-1. Class A5:

1. A license which shall authorize the retail sale of liquor for consumption on the premises as an adjunct to meals served. The licensee shall also be permitted to maintain facilities on premises for the manufacture of beer, to make sales of the beer manufactured on the premises to importing distributors, distributors and to nonlicensees for use in consumption, to store the manufactured beer upon the premises, and to sell and offer for sale at retail from the licensed premises beer previously manufactured on premises; provided, however, that such licensee shall not sell for off premises consumption more than fifty thousand (50,000) gallons per year. The licensee shall obtain and maintain in good standing a State of Illinois brewpub license as authorized under section 5/5-1(n) of the Illinois liquor control act of 1934, as amended 1. In addition to all records required to be kept by the terms and conditions of the state brewpub license, licensee shall maintain accurate records as to the total gallonage of beer manufactured on premises and the total gallonage of beer manufactured on premises and sold for consumption off premises. That portion of the licensed premises dedicated to the brewing of beer shall be segregated from the remainder of the premises and shall not be generally accessible to the public. This class of license shall be issued only to establishments having a seating capacity of not less than one hundred (100) customers; having kitchen, sanitary, and parking lot facilities adequate for the seating capacity; having a current state of Illinois brewpub license issued pursuant to 235 Illinois Compiled Statutes 5/5-1(n); and having segregated on premises facilities for the manufacture of beer.

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2. The initial fee for a class A5 license shall be four thousand dollars (\$4,000.00). The fee for renewal of a class A5 license shall be two thousand five hundred dollars (\$2,500.00).

3. The number of such class A5 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A5 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D-2. Class A6:

1. A license which shall authorize the sale of alcoholic liquor to guests invited to private parties in connection with the operation of a banquet room facility within the city, which sale shall be made at the licensed premises and nowhere else. The license is designated as a banquet facility with hours open to the general public limited to no more than six (6) hours per week.

2. The initial fee for a class A6 license shall be two thousand two hundred dollars (\$2,200.00). The fee for renewal of a class A6 license shall be one thousand three hundred dollars (\$1,300.00).

3. The number of such class A6 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A6 licensed premises. Class A6 licensees are ineligible for a supplemental Class V license.**

D-3. Class A7:

1. A license which shall authorize the retail sale of alcoholic liquor in two (2) specified areas of the premises, which areas shall be physically separated from one another pursuant to a floor plan, as approved by the liquor commissioner. In the first area of the premises, only the retail sale of alcoholic liquor for consumption on the premises shall be allowed; provided, however, that liquor sales in such area of the premises shall comply with and are subject to all the terms and conditions applicable to either a class A1, class A2, class A3 or class C license, which classification shall be determined by the liquor commissioner at the time that the initial license is issued. In the second area of the premises, only the retail sale of alcoholic liquor for consumption off the premises shall be allowed.

2. The initial fee for a class A7 license shall be three thousand eight hundred dollars (\$3,800.00). ~~For class A7 licenses renewed for the period beginning May 1, 2002, and thereafter, the fee for renewal~~ **The fee for renewal of a class A7 license** shall be two thousand two hundred dollars (\$2,200.00).

3. The number of such class A7 licenses is specifically limited to three (3).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A7 licensed premises without the licensee additionally**

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**obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

D-4. Class A8:

1. A license which shall authorize the retail sale of beer, wine, and mixed drinks ("alcoholic beverages") only for consumption on the licensed premises, as a secondary and accessory use to a principal movie theater business.

Service of alcoholic beverages shall be limited to a designated lobby area.

Service of alcoholic beverages may be made only to persons purchasing a movie ticket and wearing a tamper resistant wristband approved by the city. The wristband shall be valid only for the date on which it is obtained from the movie theater. Alcoholic beverages may only be drawn, poured, or served, and a wristband may only be issued, by theater personnel who are twenty one (21) years of age or older.

The containers in which alcoholic beverages are served must be of a different color, size and design than those in which nonalcoholic beverages are served.

No more than one alcoholic beverage may be delivered to a customer in any one trip to the designated lobby area, and no customer shall be served more than three (3) alcoholic beverages on any day. The number of alcoholic beverages served to a customer each day shall be recorded on that customer's wristband.

There may be no service of alcoholic beverages unless the movie theater is actually open for the showing of movies. Under no circumstances may alcoholic beverages be served more than one hour prior to the advertised showing time of the first movie to be shown on any day, except for private rentals and events.

2. The initial fee for a Class A8 license shall be three thousand six hundred dollars (\$3,600.00). The fee for renewal of a Class A8 license shall be two thousand dollars (\$2,000.00).

3. The number of such Class A8 licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class A78 licensed premises ~~without the licensee additionally obtaining. Class A8 licensees are ineligible for a supplemental Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.~~**

E. Class B1:

1. A license which shall authorize the retail sale of liquor, but not for consumption on the premises.

2. The initial fee for a Class B1 license shall be two thousand four hundred dollars (\$2,400.00). The fee for renewal of a Class B1 license shall be ~~one thousand three hundred~~

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dollars (\$1,300.00). For Class B1 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be one thousand four hundred dollars (\$1,400.00).

3. The number of such Class B1 licenses is specifically limited to five (5).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B1 licensed premises. Class B1 licensees are ineligible for a supplemental Class V license.**

F. Class B2:

1. A license which shall authorize the retail sale of alcoholic liquor for consumption on or off the premises, provided that the principal use of the premises is as a tavern.

2. The initial fee for a Class B2 license shall be three thousand dollars (\$3,000.00). For Class B2 licenses renewed for the period beginning May 1, 2002, and thereafter, the fee for renewal shall be one thousand eight hundred dollars (\$1,800.00).

3. The number of such Class B2 licenses is specifically limited to three (3).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B2 licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

G. Class B3:

1. A license which shall authorize the retail sale of beer, wine and premixed, bottled alcoholic beverages with an alcohol content not exceeding seven and one-half percent (7.5%) only, but not for consumption on the premises.

2. The initial fee for a Class B3 license shall be one thousand three hundred dollars (\$1,300.00). The fee for renewal of a Class B3 license shall be ~~seven hundred fifty dollars (\$750.00)~~. For Class B3 licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be eight hundred dollars (\$800.00).

3. The number of such Class B3 licenses is specifically limited to two (2).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B3 licensed premises. Class B3 licensees are ineligible for a supplemental Class V license.**

H. Class B4:

1. A license which shall authorize the retail sale of beer and ale that has been produced on the premises of a microbrewery. No retail sales of beer or ale produced off the premises shall be permitted. Consumption of beer or ale on the premises is prohibited except that up to three (3) samples may be provided without charge to a customer in amounts which do not exceed two (2) fluid ounces per sample.

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2. The initial fee for a Class B4 license shall be one thousand three hundred dollars (\$1,300.00). The fee for renewal of a Class B4 license shall be eight hundred dollars (\$800.00).

3. The number of such Class B4 licenses is specifically limited to zero (0).

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B4 licensed premises. Class B4 licensees are ineligible for a supplemental Class V license.**

H-1. Class B4A:

1. A license which shall authorize the retail sale of wine that has been produced on the premises of a winery or vineyard, with annual production not to exceed five hundred (500) gallons. No retail sales of wine produced off the premises shall be permitted. Consumption of wine on the premises is prohibited; provided, however, that the licensees and their family members and personal guests may consume wine on the premises for non-commercial purposes.

2. The initial fee for a Class B4A license shall be four hundred dollars (\$400.00). The fee for renewal of a Class B4A license shall be two hundred thirty five dollars (\$235.00).

3. The number of such Class B4A licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class B4A licensed premises. Class B4A licensees are ineligible for a supplemental Class V license.**

I. Class C:

1. A license which shall authorize the retail sale of liquor for consumption on the premises, granted to a corporation of national scope, organized not for profit.

2. The initial fee for a Class C license shall be one thousand one hundred dollars (\$1,100.00). The fee for renewal of a Class C license shall be ~~six hundred fifty dollars (\$650.00).~~ For Class C licenses renewed for the period beginning May 1, 1991, and thereafter, the fee for renewal shall be seven hundred dollars (\$700.00).

3. The number of such Class C licenses is specifically limited to one.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class C licensed premises without the licensee additionally obtaining a Class V license, subject to the criteria, qualifications and regulations for Class V licenses set forth in this section.**

I-1. Class C-1:

1. A license which shall authorize the retail sale of liquor for consumption on the premises of a special event, for which a temporary use permit has been authorized by the City Council, granted to a not for profit organization.

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2. The fee for a Class C-1 license shall be two hundred dollars (\$200.00). The City Council may waive said fee for an organization or institution organized and conducted on a not for profit basis with no personal profit incurring to anyone as a result of the operation.

3. The term of the Class C-1 license shall not exceed the temporary use permit period. The hours of operation shall not exceed the operating hours allowed under the temporary use permit.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class C-1 licensed premises. Class C-1 licensees are ineligible for a supplemental Class V license.**

J. Class D:

1. A license which shall authorize the retail sale of liquor for consumption on the premises specified for a period of twenty four (24) hours.

2. The fee for a Class D license shall be fifty dollars (\$50.00). The City Council may waive said fee for an organization or institution organized and conducted on a not for profit basis with no personal profit incurring to anyone as a result of the operation. The City Council shall consider waiver requests by established not for profit organizations on an annual basis at its last meeting in December.

3. No more than seven (7) such licenses shall be issued to any organization or person representing such organization in any calendar year.

**4. Video gaming, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., is not allowed in a Class D licensed premises. Class D licensees are ineligible for a supplemental Class V license.**

K. Class E:

1. A license which shall be issued only to the holder of a valid class "B3" license and shall authorize the sale and service of wine, beer, and premixed bottled or canned alcoholic beverages with an alcohol content not exceeding seven and one-half percent (7.5%) by the glass for consumption on the licensed premises. Such license shall be issued only to establishments having a seating capacity for not more than sixty (60) customers.

2. The initial fee for a class E license shall be seven hundred dollars (\$700). The fee for renewal of a class E license shall be four hundred dollars (\$400).

3. The number of such class E licenses is specifically limited to zero (0).

The fee for any license hereinabove set forth shall be submitted upon approval of a liquor license and prior to such license being issued to the applicant. Fees shall not be prorated except that the initial fee if a license is issued on or after October 1 shall be one-half (½) the stated fee. Forfeiture of a license, whether voluntary or involuntary, shall not be the basis for refund of any part of said fee.

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**L. CLASS V VIDEO GAMING LICENSE:**

**1. Class V licenses shall be supplemental in nature and shall only be issued to the holder of a class A1, A2, A3, A5, A7, ~~A8~~, B2, and C license. A class V license authorizes the licensee to: (a) sell or serve alcoholic liquor in accordance with the restrictions and regulations of licensee's class A1, A2, A3, A5, A7, ~~A8~~, B2, and C license, and (b) install and allow the use of video gaming terminals, as defined by the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., on the licensed premises subject to the following conditions and restrictions:**

- a. All video gaming terminals installed in a class V licensed premises must be licensed pursuant to a valid video gaming terminal license issued by the City in accordance with Chapter 3 of Title 3 of this Code.**
- b. In addition to any other eligibility criteria for a class V liquor license set forth in this Section or incorporated by reference, any applicant for a class V license must at the time of initial application or renewal:**

- i. have held the class A1, A2, A3, A5, A7, ~~A8~~, B2, or C liquor license for at least 12 consecutive months prior the class V license application date and have not had the liquor license suspended or revoked during the 12 months before the class V license application date;**
- ii. not owe the City any outstanding debts, fees, or other sums of money;**
- iii. submit a copy of the video gaming terminal license for establishment if already issued, or, if the video gaming terminal license has not yet been issued, the completed video gaming terminal license application for the establishment; ~~and~~**
- iv. submit a site plan of the premises showing the proposed location of the video gaming terminals.; ~~and~~**

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- v. except for class C licensees, submit proof, in a form acceptable to the City, demonstrating that the licensed establishment serves meals in accordance with subsection L.1.c. of this section.**
- c. Except for those with a class C license, all class V licensees must serve meals. For the purposes of this section 3-2-7.L only, a licensee will be deemed to "serve meals" if:**
  - i. Meals are prepared in and served to patrons from a commercial kitchen located on the premises;**
  - ii. The licensed establishment has entered into a written agreement with an establishment with a commercial kitchen to provide meals to patrons; or**

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- iii. Food sales constitute at least 20 percent of the licensed establishment's annual revenue.
- d. All video gaming operations must be conducted pursuant to and in strict accordance with all City codes and ordinances, including, without limitation, Chapters 2 and 3 of Title 3 of the City Code, and all applicable State and federal laws, including, without limitation, the Illinois Video Gaming Act, and all rules, regulations and restrictions imposed by the Illinois Gaming Board.
- de. Video gaming terminals may only be operated and used during such times as the holder of the liquor license hereunder is authorized to serve alcohol.
- ef. Licensees must immediately notify the Finance Director in the event the Illinois Gaming Board revokes or suspends the video gaming terminal operator's Illinois video gaming license. Any denial, revocation or suspension of an Illinois video gaming license by the Illinois Gaming Board or of a video gaming terminal license by the City shall constitute an automatic revocation or suspension of a class V license for the same period without a hearing or refund of any fees; provided however, that an automatic revocation or suspension of a class V license will not constitute an automatic revocation or suspension of the rights and privileges of the licensee's underlying class A1, A2, A3, A5, A7, ~~A8~~, B2, B3, and C liquor license.
- fg. Only complete applications for a class V license will be accepted for review by the City.
- gh. Use of Video Gaming Terminals by Underage Persons Prohibited:
- iv. ~~i.~~ All video gaming terminals must be located in an area restricted to persons over 21 years of age. No licensed establishment, or its employee or agent may permit any person under the age of 21 years to be within the restricted area. Licensed establishments that admit individuals under the age of 21 must have the video gaming restricted area separated from the rest of the premises by a constructed divider that shields gaming machines from view of seated patrons outside the restricted area. The entrance to the restricted area must be within the view of at least one employee of the establishment who is over 21 years of age. Each underage person located within the restricted area constitutes a separate and distinct violation of this subsection.
- v. ~~ii.~~ No licensed establishment, or its employee or agent may permit any person under the age of 21 years to use, play, or operate a video gaming terminal. Each underage person using, playing, or operating a video gaming terminal constitutes a separate and distinct violation of this subsection.
- vi. ~~iii.~~ It is unlawful for any person under 21 years of age to play or operate a video gaming terminal.

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g. Video Gaming Cafes Prohibited: Video gaming cafes are prohibited pursuant to Section 3-3-3 of this Code.

h. Signage:

i. Signage Required by State: Signage must be posted at the entrance to, and inside of, the designated gaming area in accordance with the regulations adopted by the Illinois Gaming Board.

ii. On-Premises Signs: All exterior signage at the establishment, including any signage pertaining to video gaming, shall comply with the City's sign regulations set forth in Chapter 14 of Title 8 of this Code and shall not feature any flashing, blinking or intermittent lights; provided, however, that temporary advertising banners, as described in Section 8-14-6.B.2.d of this Code, advertising video gaming are not permitted.

2. License fee: The initial fee for a class V license shall be one thousand dollars (\$1,000). The fee for renewal of a class V license shall be one thousand dollars (\$~~1,000~~2,000).

3. Number of Licenses: The number of class V licenses is specifically limited to six (6).

The fee for any license hereinabove set forth shall be submitted upon approval of a liquor license and prior to such license being issued to the applicant. Fees shall not be prorated except that the initial fee if a license is issued on or after October 1 shall be one-half (½) the stated fee. Forfeiture of a license, whether voluntary or involuntary, shall not be the basis for refund of any part of said fee."

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