

CHAPTER 54.1

- VIDEO GAMING LICENSE-

(Adopted, Ordinance No. 2016-80, November 21, 2016)

A TEMPORARY SIX (6) MONTH MORATORIUM ON THE ISSUANCE OF VIDEO GAMING LICENSES FOR NEW APPLICANTS NOT RECEIVED AT THE CITY AS OF JANUARY 1, 2023 FOR THE LOCATION REQUESTED WAS APPROVED BY THE DECATUR CITY COUNCIL ON JANUARY 17, 2023, ORDINANCE NO. 2023-02

1. **DEFINITIONS.** Whenever used herein, unless context otherwise requires, the following words, terms or phrases shall have the meaning ascribed to them in this section:

(a). Video Gaming Terminal shall have the same meaning as ascribed in the State of Illinois Video Gaming Act, 230 ILCS 40/5 et.seq. and any successor statute.

(b). Establishment shall mean any business licensed by the State of Illinois to have or operate a video gaming device in the City of Decatur and shall include any “licensed establishment,” “licensed fraternal establishment,” “licensed veterans establishment,” and “licensed truck stop establishment” as those terms are defined in the State of Illinois Video Gaming Act, 230 ILCS 40/5 et.seq. and any successor statute.

(c). Distributor shall have the same meaning as ascribed in the State of Illinois Video Gaming Act, 230 ILCS 40/5 et.seq. and any successor statute.

(d). Terminal Operator shall mean an individual, partnership, corporation, or limited liability company that is licensed under the State of Illinois Video Gaming Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, or licensed veterans establishments. (Amended, Ordinance No. 2021-01, January 4, 2021)

Amended January 2023

(e). Play shall mean each individual push of the video gaming terminal which initiates the simulation provided by the video gaming terminal. Play shall not include the push of individual wager amounts, selection of types of games on the video gaming terminal, or entry of any information or printing of winning receipts. (Amended, Ordinance No. 2021-46, September 7, 2021)

2. LICENSE REQUIRED. No establishment shall have on its premises nor any terminal operator place any video gaming terminal without first obtaining a video gaming license and paying the appropriate fee. (Amended, Ordinance No. 2021-01, January 4, 2021)

3. LICENSE APPLICATION REQUIREMENTS. Application shall be made as required to the Finance Department and shall state the following:

- (a). The legal name of the applicant;
- (b). The business name of the applicant;
- (c). The address of the establishment where the video gaming terminals are to be located;
- (d). The business office address of the establishment if different from the address of the establishment or business office address of the terminal operator;
- (e). A phone number for the applicant;
- (f). An e-mail address for the applicant, if any;
- (g). The name and address of every person owning more than a five percent (5%) share of the applicant;
- (h). For establishments, the name, address, phone number and e-mail address (if any) of any terminal operator or distributor owning, servicing or maintaining a video gaming terminal;
- (i). A copy of the applicant's State of Illinois Video Gaming License;

(j). A statement as to the number of video gaming terminals which the applicant will have on its premises or place on an establishment's premises;

(k). A statement that the applicant is not in arrears in any tax, fee or bill due to the City of Decatur or State of Illinois;

(l). A statement that the applicant agrees to abide by all State and Federal laws and any local ordinance;

(m). A statement that no owner with more than a five percent (5%) interest or manager of the applicant has ever been convicted of a felony, a gambling offense, or a crime of moral turpitude. In the event that an establishment cannot provide such statement, the applicant may apply for a Certificate of Rehabilitation from the City Manager indicating that the individual who would disqualify the applicant from obtaining the Video Gaming License has been rehabilitated and is no longer a threat to violate the law. The City Manager 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 rehabilitated himself such that he is no longer likely to commit another offense. (Amended, Ordinance No. 2021-01, January 4, 2021)

4. VIDEO GAMING LICENSE FEES. Fees for a Video Gaming License shall be Five Hundred Dollars (\$500.00) per video gaming terminal per year.

(a). For establishments, the fee for a Video Gaming License shall be Two Hundred Fifty Dollars (\$250.00) per video gaming terminal per year. Video Gaming Licenses for establishments shall be issued by the Finance Department and shall be for a twelve-month period commencing on the first day of January of each year. There shall be no pro-ration of any fee except for new licensees.

(b). For terminal operators, the fee for a Video Gaming License shall be Two Hundred Fifty Dollars (\$250.00) per video gaming terminal per year. Video Gaming Licenses for terminal operators shall be issued by the Finance Department and shall be for a twelve-month period commencing on the first day of January of each year, except for the year 2022 in which each license and the privileges there under shall commence on the first day of March 2022. There shall be no pro-ration of any fee except for new licensees.

(c). For all video gaming licenses, a late fee of Twenty-Five Dollars (\$25.00) plus Ten Dollars (\$10.00) per day shall be charged for all days after December 1st of any year for which an application for renewal is incomplete.

(d). This Section 4. shall take effect on March 1, 2022. (Amended, Ordinance No. 2018-37, August 20, 2018) (Amended, Ordinance No. 2020-165, December 7, 2020) (Amended, Ordinance No. 2021-01, January 4, 2021) (Amended, Ordinance No. 2022-01, January 18, 2022)

5. NUMBER OF VIDEO GAMING TERMINALS. No establishment shall have on its premises more video gaming terminals than are permitted by the Video Gaming License.

6. UNLAWFUL ACTIVITY. No establishment or terminal operator shall permit the use of a video gaming terminal in any manner not authorized by State law including, but not limited to, improper location of terminals, lack of required oversight, payouts in excess of those provided by law, side bets, underage use, and other illegal gambling activities. (Amended, Ordinance No. 2021-01, January 4, 2021)

7. EMPLOYER RESPONSIBILITY. Any action by an employee of an establishment or terminal operator in violation of the provisions of this Ordinance shall be considered a violation committed by the establishment or terminal operator. (Amended, Ordinance No. 2021-01, January 4, 2021)

8. AMUSEMENT PUSH TAX. (Amended, Ordinance No. 2021-46, September 7, 2021)

(a). Effective October 1, 2021, and except as otherwise provided by this Chapter, an amusement push tax is imposed upon any person who participates in the playing of video gaming terminals that takes place in the City of Decatur. The rate of that tax shall be equal to one cent (\$.01) per play on a video gaming terminal.

(b). The tax imposed by this Chapter is in addition to all of the other taxes imposed by the State of Illinois or any municipal corporations or subdivisions thereof.

(c). Every terminal operator of any video gaming terminal located in the City shall apply for registration as a tax collector with the City no later than thirty (30) days after commencing use of the terminal, or thirty (30) days after the effective date of this Section imposing the amusement push tax, whichever comes later. The application shall be submitted to the City on forms provided by the City and shall contain such information as reasonable required by the City to impose, collect, and audit all amounts related to this tax.

(d). It shall be the joint and several duty of any terminal operator and licensed establishment to secure, from each person participating in the play of a video gaming terminal, the amusement push tax imposed by this Chapter. For purposes of this Chapter, it shall be presumed that the amount of amusement push tax imposed on each person has been collected from the person by the terminal operator or licensed establishment, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence.

(1) Amusement push tax payments accompanied by tax returns prescribed by the City shall be remitted to the City on or before the 20th day of the month following the month in which the payment for the amusement push tax is made.

(2) Every terminal operator of a video gaming terminal who is required to collect the amusement push tax by this Chapter shall be considered a tax collector for the City. All amusement push tax amounts collected shall be held by the terminal operator as trustee for, and on behalf of, the City. The failure of the terminal operator to collect the amusement push tax shall not excuse or release the individual person playing the video gaming terminal from the obligation to pay the tax. The ultimate incidence of the amusement push tax shall remain on the individual person playing the video gaming terminal, and shall never be shifted to the terminal operator.

(3) Notwithstanding any other provision of this Chapter, in order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, the amusement push tax imposed by this Chapter unless the person files a claim for the refund or credit within one (1) year after the date on which the amusement push tax was paid or remitted to the City.

(4) All payments not remitted when due shall incur a penalty assessment on the unpaid balance at the rate of one and one half percent (1.5%) per thirty (30) day period, or portion thereof.

(f). Failure to report or false reports of taxes due shall be a violation of this Chapter.

(Amended, Ordinance No. 2021-46, September 7, 2021)

9. LICENSE REVOCATION. Any Video Gaming License may be revoked, after notice and hearing by the City Manager, or his designee, for any of the following reasons;

(a). Failure to pay the Video Gaming License fee;

(b). Violation of any law occurring on the establishment's premises committed by the establishment or terminal operator or an employee of the establishment or terminal operator;

(c). Violation of any law or State regulation regarding video gaming or video gaming terminals;

(d). Violation of any law occurring on the establishment's premises which the establishment or terminal operator did not take adequate means to prevent, or did not respond in an appropriate manner after it became aware of such violation;

(e). Failure to pay or falsely reporting any tax, fee, or bill due to the City of Decatur; or

(f). Failure to provide current information regarding the ownership or location of the business.

The rules of evidence shall not apply at the hearing and hearsay will be permitted. At the hearing, the City Manager, or his designee, shall determine by a preponderance of the evidence whether a lawful reason exists to revoke the license. The City Manager, or his designee, after determining that a lawful reason exists to revoke the license, shall also determine whether that lawful reason merits the sanction of a revocation of the license. (Amended, Ordinance No. 2021-01, January 4, 2021) (Amended, Ordinance, No, 2021-46, September 7, 2021)

10. INSPECTIONS. The holder of a video gaming license is hereby required to make available for inspection by police officers of the City any part of the premises. The terminal operator of any video gaming terminal(s) located in the City shall be subject to audit, inspection, and record keeping provisions of the City Code of Decatur. It shall be unlawful for any terminal operator, licensed establishment, or individual playing a video gaming terminal, to prevent, hinder, or interfere with the City, its officers, employees, or agents from discharging their respective duties in the performance, audit, or enforcement of the provisions of this Section. It is the duty of every terminal operator of any video gaming terminal to keep accurate and complete books and records for each video gaming terminal to which the City's officers, employees, or

agents shall have full and complete access. (Amended, Ordinance No. 2021-46, September 7, 2021)

11. PENALTY. Any person, firm or corporation who shall violate any provision of this Chapter shall be fined not less than Two Hundred Fifty Dollars (\$250.00) nor shall more than Five Hundred Dollars (\$500.00) for each offense, and each day of a continuing violation be deemed a separate offense. The penalties or remedies provided herein shall be cumulative and resort to any one or more shall be no defense to prosecution of another.