

CITY OF OAK FOREST
COMMITTEE OF THE WHOLE

Tuesday, July 26, 2016

7:00 P.M.

City Council Chambers

AGENDA

- 1. CALL TO ORDER**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ROLL CALL**
- 4. DISCUSSION OF VIDEO GAMING**
- 5. CITIZENS PARTICIPATION**
- 6. OLD BUSINESS**
- 7. NEW BUSINESS**
- 8. EXECUTIVE SESSION**
- 9. ADJOURNMENT**



CITY OF OAK FOREST

City Council Agenda Memo

DATE: July 22, 2016
TO: Mayor Kuspa and the City Council
FROM: City Administrator Ishler
SUBJECT: Discussion of Video Gaming – COW Agenda Item

During the City Council meeting on March 24, 2015, aldermen requested a discussion by the City Council as to whether or not the City of Oak Forest should limit the number of video gaming establishments. Any discussion regarding such limitation must start with a discussion of liquor licensing.

Video gaming is regulated by the State of Illinois, but requires a local liquor license from the municipality. Recently, the number of applicants that want to open a small tavern (Class A) or restaurant (Class B) with the idea of receiving a liquor license from the City allowing them to apply to the State for a license to operate video gaming has increased. Discussion at this Committee of the Whole meeting and direction by the City Council is necessary to help develop a plan of action and a means to control the number and type of establishments that are able to offer video gaming.

Toward that end, Klein, Thorpe and Jenkins, our City Attorney, has provided the attached document that will help generate discussion of video gaming. Besides helping to clarify the City's authority relative to both video gaming and liquor licensing, this document offers two options as to how we might be better able to regulate video gaming.



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To: City of Oak Forest
From: Klein, Thorpe & Jenkins
Re: Liquor Control Ordinance Amendments
Videogaming Issues

July 7, 2016

GENERAL MUNICIPAL AUTHORITY

Under State law, the City has the power to prohibit videogaming altogether in the City. See 230 ILCS 40/27 The City also has the authority as a home rule unit and under the Illinois Liquor Control Act to determine "... by general ordinance or resolution to determine the number, kind and classification of licenses, ..." for the service of alcohol by businesses or establishments in the City which are determined appropriate for the issuance of a liquor license. See 235 ILCS 5/4-1 A home rule unit has also been found to have the legal authority to impose a local tax on the operation of videogaming terminals, in addition to the revenues which are now distributed to municipalities under Local Government Video Gaming Distributive Fund of the Act. *Accel Entertainment Gaming, LLC v. Village of Elmwood Park*, 2015 IL App (1st) 143822 (upholding Village licensing fee of \$1,000 per terminal); *Midwest Gaming and Entertainment, LLC v. The County of Cook*, 2015 IL App (1st) 142786 (upholding County videogaming tax of \$1,000). Finally, as a home rule unit, the City has the authority to impose regulations as to its "government and affairs" when not otherwise preempted by State law. Neither the Illinois Videogaming Act nor the Illinois Liquor Control Act generally preempt local home rule authority in these areas. Since videogaming requires and can only be operated in an establishment which has first been issued a liquor license, these separate authorities (liquor control and videogaming) are intertwined. In its simplest terms, videogaming terminals can be located in any establishment which holds a liquor license, unless videogaming has been prohibited (or otherwise limited), if they have been authorized under the Illinois Video Gaming Act.

Liquor Regulation

Relative to liquor licensing regulation the City has broad legislative discretion to determine whether to authorize the sale of liquor in certain businesses or establishments, which establishments will be authorized to serve liquor, and how many of those establishments will be authorized by two methods of regulation. One is by establishing the category or categories of liquor license that will be allowed in the City of Oak Forest. Second, the City has the legislative discretion to then determine how many licenses will be authorized within a particular liquor license category. The City can determine, as is its practice, to create only that number of licenses in its various license categories, as have been applied for by various, operating businesses in the City. The City has reserved the right at all times to determine whether to increase the number of any licenses in the existing license categories. If the City had more licenses created in any particular license category than had been applied for and granted, an application could be made for such an "unassigned" license, and if the business met the

standards in the City Liquor Control ordinance for the grant of a license, the applicant would likely have a right to the license.

So, for example, the City can create a liquor license category for a microbrewery which serves little to no food. It can then determine that it only wants to authorize one such license, or can issue only 3 such licenses, but that no license will be issued until and unless there is a need or request for an increase in the number of licenses by a potential applicant. It could further regulate certain businesses that serve liquor by establishing prerequisites in the liquor license category itself, e.g. certain density requirements within the City limits, such as no microbrewery can be located within 1000 feet of another, or simply that the City does not choose to create more than a certain number of licenses for microbreweries in the City (a maximum of 4).

The City also has the legislative authority to specifically regulate the nature of business operations which propose to serve alcohol. In that regard, the City can determine that the service of alcohol in a business establishment which will include videogaming terminals will be regulated by authorizing a specific category or categories of liquor license authorizing liquor sales and videogaming on the same premises.

City Authority Liquor License and Videogaming

The City has the authority then to determine:

1. Which category or categories of liquor license it will allow within the City limits.
2. The number of licenses in any liquor license category, or whether to create any license in any particular category of license, or to increase or decrease that number.
3. Whether to allow videogaming at any establishment which holds a liquor license or to create a category or categories of liquor license for businesses which include videogaming operation on the premises.
4. Whether to establish a category of liquor license which would allow videogaming as the principal or exclusive use within the City at all, or if so, what additional restrictions might exist in this category to control the number and density of such uses. The City could determine that no such uses will be allowed, could authorize but limit the number of licenses that are actually issued, and/or create criteria in the City Liquor Control ordinance which limits the possible density of such uses with City limits.

Options Regarding Liquor License Categories for Videogaming

We set forth below the potential amendments to the City Liquor control ordinance for the City Council to consider to enhance the City's authority to control which establishments are authorized to operate videogaming on their premises, and under what conditions. We have also attached two potential, draft approaches (**Option 1 & Option 2**) for the City to control the authorization and regulation of videogaming terminals where liquor service is permitted in the City, based largely on the existing liquor license categories, along with an amendment to the Liquor Control Ordinance to prohibit videogaming except as authorized by issuance of a liquor license allowing such use.

1. Proposed amendment to the current City liquor code to prohibit videogaming without a proper liquor license which includes such use:

“No videogaming terminals, activities or operations are permitted within the City, except pursuant to the issuance of a liquor license pursuant to one of the liquor license categories under this Code which specifically authorizes such videogaming terminals and operations on the premises of the particular business or establishment involved, provided however that such prohibition shall not apply to fraternal and veteran establishments as defined in the Illinois Video Gaming Act (420 ILCS 40/5).

It is unlawful for any person under 21 years of age to play or operate a video gaming terminal.

It is unlawful for any licensee, its employees or agents, to allow any person under 21 years of age to play or use a video gaming terminal.”

2. An amendment to the current license categories in the City liquor control ordinance to add a separate liquor license in certain existing license categories (as determined by the City Council) that would also allow videogaming on the premises, as part of the required new license. The redlined provisions below are examples of liquor license categories that could form the basis for a new, additional license that would authorize videogaming on the premises. See **Option 1** attached.
3. As an alternative to # 2 above (**Option 1**), an amendment to the current license classes to add one new license class, specifically for videogaming. That license would then simply identify those various liquor license categories which already exist and which could operate videogaming terminals on the premises, with videogaming being a new separate license category. See **Option 2** attached.
4. An amendment to the Liquor control ordinance to provided for an optional liquor license category drafted specifically for a videogaming parlor or facility as the principal business at a certain location, which serves liquor. Videogaming parlors or halls do not have a right to open or operate, if a municipality does not allow them. This category of license could include specific requirements, conditions and limitations related to the establishment and operation of a videogaming establishment. Even if created, the City reserves the discretion, as with any liquor license, to determine whether to authorize a license in this category (or increase or decrease the number of licenses). The license category could be included as part of either the regulatory structure of **Option 1** or **Option 2**. See **Sample Liquor License Category For Videogaming As A Principal Use** attached.

Summary

The draft provisions in **Options 1 & 2** are examples of possible amendments to the Liquor control ordinance. Although the text amendment is a bit more extensive, **Option 1** may be simpler to administer and provide a greater level of control. **Option 2** may be somewhat more difficult to control by regulating the number of available liquor licenses which authorize videogaming, and the specific use or uses to which they apply (since it would likely apply to multiple categories of liquor licenses), but we believe it is still viable. Videogaming could be

allowed at some or all of the following as well: convenience stores, outdoor cafes, beer gardens, liquor stores or convenience stores. Videogaming could be allowed at some or all of these, with conditions if that is the City Council's determination. At its recent City Council meeting, there were concerns expressed about the possible operation of "videogaming parlors" or "facilities" where the principal or exclusive use of the business is gambling, with the service of alcohol also authorized. We have included a sample Class I license above that would create a license category for a "Video Gaming Parlor" (but not any actual licenses). The provisions of the sample Class I license could be limited to beer, or to beer and wine or could prohibit alcoholic spirits of any kind.

Further regulations or conditions could be established by the City to minimize or eliminate the number of such establishments.

As indicated above, if videogaming is added as a license category, or simply generally permitted with a liquor license, the City also has the authority to tax the operation of videogaming terminals.

OPTION 1

License Classification (License classification criteria and requirements set forth hereinbelow at Section 111.50)	Number of Licenses (Not to exceed #)	Annual Fee
<i>Class A "Tavern"</i>	7	\$1,300.00
<i>Class A "Tavern" (With Videogaming)</i>		
<i>Class B "Restaurant"</i>	12	\$1,300.00
<i>Class B "Restaurant" (With Videogaming)</i>		
<i>Class C "Beer Garden"</i>	6	\$350.00
<i>Class C "Beer Garden (With Videogaming)"</i>		
<i>Class D "Outdoor Café"</i>	0	\$200.00
<i>Class E "Liquor Store"</i>	4	\$1,300.00
<i>Class F "Convenience Store"</i>	17	\$1,300.00
<i>Class G "Combined"</i>	1	\$1,600.00
<i>Class H "Temporary"</i>	No limit.	
<i>Class "___" "Videogaming Parlor"</i>		

§ 111.50 LICENSE CLASSIFICATIONS.

Retail liquor licenses shall be divided into classes as follows: (for each class of license the terms "retail sale," "selling," "sale," "sell" and/or "offer to sell" shall include dispensing, pouring, mixing or otherwise serving any liquor regardless of whether there is any type of compensation.)

(A) *Class A "Tavern."* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

(B) *Class A "Tavern." (With Videogaming)* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

Videogaming is hereby permitted on the premises, provided a proper, current, valid license has been issued to the holder of the liquor license hereunder, pursuant to the Illinois Video Gaming Act (230 ILCS 40/1 et seq.). The holder of the liquor license shall abide at all times by all requirements of the Video Gaming Act and any terms or conditions of the license issued under

the Video Gaming Act. The Video Gaming terminals may only be operated during such times as the holder of the liquor license hereunder is authorized to serve alcohol.

(C) *Class B "Restaurant".* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation doing business as a restaurant for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

(D) *Class B "Restaurant".* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation doing business as a restaurant for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

Videogaming is hereby permitted on the premises, provided a proper, current, valid license has been issued to the holder of the liquor license hereunder, pursuant to the Illinois Video Gaming Act (230 ILCS 40/1 et seq.). The holder of the liquor license shall abide at all times by all requirements of the Video Gaming Act and any terms or conditions of the license issued under the Video Gaming Act. The Video Gaming terminals may only be operated during such times as the holder of the liquor license hereunder is authorized to serve alcohol.

(E) *Class C "Beer Garden."* License shall be issued for a period of one year to any person or persons, organization, association, partnership, or corporation that holds a Class A license and entitles licensee to make sales, at retail, of liquor for use or consumption outdoors on the premises where sold.

(1) Class C "Beer Garden" licenses shall designate on a site or patio plan an area immediately adjoining the licensee's indoor establishment, which contiguous area shall be used for the purposes of the license, and which area will hereinafter be referred to as a beer garden. The beer garden may not exceed 50% of the establishment interior occupancy, and shall have its boundaries clearly marked with the appropriate enclosure as determined by the City Administrator or designees. The Liquor Commissioner, in his or her sole and absolute discretion, shall approve the location of a beer garden or where the zoning ordinance regulates the use will supersede the Liquor Commissioner's discretion.

(2) Class C "Beer Garden." All special events taking place during inclement weather shall require permission from the Liquor Commissioner.

(3) Such sale and consumption of liquor shall be limited to the designated beer garden.

(4) Licensee must have at least one employee stationed in the beer garden at all operational times.

(5) Adequate area for pedestrian flow through the beer garden shall be maintained at all times.

(6) Emergency ingress and egress and access by and to fire apparatus in the beer garden shall be subject to review and approval of the City Fire Chief.

(7) The beer garden shall be maintained in a clean and sanitary condition and shall be kept from debris at all times.

(8) All trash containers located in the beer garden shall be lidded at all times and all refuse shall be regularly removed.

(9) Licensees shall obtain all licenses, certifications, permits, and other approvals required for the legal operation of the beer garden.

(10) Licensees shall comply with all other requirements applicable to the beer garden in the code and other applicable codes, ordinances, and regulations.

(11) It shall be unlawful to sell, offer, give away or permit to be sold, offered or given away, at retail, in or upon a Class C licensed beer garden, any liquor between the hours of 2:00 a.m. and 11:00 a.m. Sunday through Thursday, and between the hours of 3:00 a.m. and 11:00 a.m. on Fridays and Saturdays.

(12) Following the closing times and prior to the opening times set forth in of this section of the city code, every non-licensee person located in the beer garden area shall relocate indoors or otherwise leave the outdoor premises, which shall be closed and remain closed.

(13) All doors directly opening into or out of such location, place or premises for ingress thereto or egress therefrom shall be securely locked during the time that sales in the beer garden are prohibited.

(F) *Class D "Outdoor Café."* License entitles Class A and B licensees to make sales, at retail, of liquor for use or consumption outdoors on the premises where such sales are incidental to and sold in conjunction with the service of food, as the same is defined in § 111.40 of the city code. The sale shall be by responsible entities otherwise duly licensed under the city code and possessing a current, valid license from the city for the sale of liquor at retail for consumption on the premises (e.g., a Class A and B license in addition to a Class D license), and any required outdoor dining permits required by the city code. The sale of liquor at retail for consumption in connection with the service of food by a restaurant with outdoor dining shall be allowed for limited periods of time at the hours specified and subject to the following regulations:

(1) Class D "Outdoor Café" licensees shall designate on a site or patio plan an area immediately adjoining the licensee's indoor establishment, which contiguous area shall be used for the purposes of the license, and which area will hereinafter be referred to as an outdoor café. The outdoor café may not exceed 50% of the establishment interior occupancy, and shall have its boundaries clearly marked with the appropriate enclosure as determined by the City Administrator or designees. The Liquor Commissioner shall approve, in his or her sole and absolute discretion, the location of an outdoor café or where the zoning ordinance regulates the use will supersede the Liquor Commissioner's discretion.

(2) Class D "Outdoor Café." All special events taking place during inclement weather shall require permission from the Liquor Commissioner.

(3) The service of liquor shall be restricted solely to on-premises consumption by customers within the outdoor dining area designated in the application for a Class D liquor license as the outdoor café area, which must be immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.

(4) The outdoor café must be clearly separated from pedestrian traffic.

(5) The licensee shall post a written notice to customers that the drinking or carrying of an open container of liquor is prohibited and unlawful outside the designated outdoor café area.

(6) Adequate area for pedestrian flow through the outdoor café shall be maintained at all times.

(7) Emergency ingress and egress and access by and to fire apparatus in the outdoor café shall be subject to review and approval of the City Fire Chief.

(8) The outdoor café shall be maintained in a clean and sanitary condition and shall be kept from debris at all times.

(9) Condiment and other food storage containers shall be lidded when not in use. Perishable condiments and other food items shall not be stored in the outdoor café.

(10) The tableware utilized in the outdoor café shall be the same china, napkins, flatware, and other tableware used in the restaurant.

(11) All trash containers located in the outdoor café shall be lidded at all times and all refuse shall be regularly removed. Soiled linens, tablecloths, and napkins shall not be stored in the outdoor café.

(12) Licensees shall obtain all licenses, certifications, permits, and other approvals required for the legal operation of the outdoor café.

(13) Licensees shall comply with all other requirements applicable to the outdoor café in the code and other applicable codes, ordinances, and regulations.

(14) It shall be unlawful to sell, offer, give away or permit to be sold, offered or given away, at retail, in or upon a Class D licensed outdoor café, any liquor between the hours of 9:00 p.m. and 11:00 a.m. Sunday through Thursday, and between the hours of 11:00 p.m. and 10:00 a.m. on Fridays and Saturdays.

(15) Following the closing times and prior to the opening times set forth in this section, every non-licensee person located in the outdoor café area shall relocate indoors or otherwise leave the outdoor premises, which shall be closed and remain closed.

(16) All doors directly opening into or out of such location, place or premises for ingress thereto or egress therefrom shall be securely locked during the time that sales in the outdoor café are prohibited.

(17) The outdoor café area designated in the application for a Class D liquor license must be adjacent to and incidental to the operation of an indoor restaurant and any use of the sidewalk must be confined to the actual sidewalk and public right-of-way frontage of the indoor restaurant building. An outdoor café is only permitted where the sidewalk is wide enough to adequately simultaneously accommodate both the usual pedestrian traffic in the area and the operation of the proposed activity. The outdoor café shall leave not less than six consecutive feet of sidewalk width at every point which is clear and unimpeded for pedestrian traffic. An outdoor café shall not be allowed within ten feet of a fire hydrant, bus or rail stop, fire escape, bus stop, any doorway posted as an exit, loading zone or mail boxes.

(G) *Class E "Liquor Store."* License entitles licensee, doing business as a liquor store, to make package sales, at retail, of liquor for use or consumption off of the premises where sold. A Class E license shall also permit the tasting of wine or other liquor, as an ancillary part of the primary business of selling liquor. The number of such tastings may be limited by the Local Liquor Control Commissioner, in his or her discretion.

(H) *Class F "Convenience Business."* License entitles licensee to make package sales, at retail, of liquor for use or consumption off of the premises where sold.

(I) *Class G "Combined."* License entitles licensee to make sales, at retail, of liquor for use or consumption on the premises where sold and to make package sales, at retail, of liquor for use or consumption off the premises.

(J) *Class H "Temporary."* License shall be issued for a set period of time and license shall permit the sale of any and all liquor as defined herein by the drink only and for consumption on the premises for those hours approved and identified in the license.

Any videogaming terminals or operations authorized by issuance of a liquor license hereinabove, shall be further subject to the following conditions:

1. No more than five video gaming terminals shall be located on any premises issued a Class “ “ license.
2. Upon receipt of proof of the issuance of an Illinois video gaming license, the City Clerk shall issue a video gaming sticker which shall be affixed to each video gaming terminal in a conspicuous place, readily identifiable upon public inspection. Video gaming stickers shall not be transferable. It is unlawful to operate a video gaming terminal in the City without a valid video gaming sticker affixed thereon.
3. Any denial or revocation of a video gaming license application by the Illinois Gaming Board shall constitute a revocation of a Class “ “ license.
4. Every establishment issued a Class “ “ license to operate video gaming shall comply with the provisions of the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., and all rules, regulations and restrictions imposed by the Illinois Gaming Board.
5. The operation of video gaming terminals shall be not be permitted during the hours alcoholic liquor sales are prohibited and only when alcohol is permitted to be served under the applicable license.
6. Video gaming shall be located in an area that is restricted to persons over 21 years of age.

§ 111.51 NUMBER OF LICENSES.

Without the need or requirement for any further action by the City Council, when a license is forfeited or revoked or terminated for any reason, that license is immediately and automatically eliminated, and the number of licenses from that class is lowered by one.

- (A) Class A shall not exceed seven.
- (B) Class A (With Videogaming) shall not exceed ____.
- (C) Class B shall not exceed 12.
- (D) Class B (With Videogaming) shall not exceed ____.
- (E) Class C shall not exceed six.
- (F) Class C (With Videogaming) shall not exceed ____.
- (G) Class D shall not exceed zero.
- (H) Class E shall not exceed four.
- (I) Class F shall not exceed 17.
- (J) Class G shall not exceed one.
- (K) Class H shall not be limited.
- (L) Class I shall not exceed ____.

OPTION 2

As an alternative to adding a “videogaming” provision to specific A, B, C, D, etc. licenses as a new license, a general provision as follows could be added to the Liquor Control Ordinance:

License Classification (License classification criteria and requirements set forth hereinbelow at Section 111.50)	Number of Licenses (Not to exceed #)	Annual Fee
<i>Class A “Tavern”</i>	7	\$1,300.00
<i>Class B “Restaurant”</i>	12	\$1,300.00
<i>Class C “Beer Garden”</i>	6	\$350.00
<i>Class D “Outdoor Café”</i>	0	\$200.00
<i>Class E “Liquor Store”</i>	4	\$1,300.00
<i>Class F “Convenience Store”</i>	17	\$1,300.00
<i>Class G “Combined”</i>	1	\$1,600.00
<i>Class H “Temporary”</i>	No limit.	
<i>Class I “Videogaming”</i>		
<i>Class “_” “Videogaming Parlor”</i>		

§ 111.50 LICENSE CLASSIFICATIONS.

Retail liquor licenses shall be divided into classes as follows: (for each class of license the terms “retail sale,” “selling,” “sale,” “sell” and/or “offer to sell” shall include dispensing, pouring, mixing or otherwise serving any liquor regardless of whether there is any type of compensation.)

(A) *Class A “Tavern.”* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

(B) *Class B “Restaurant.”* License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation doing business as a restaurant for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold subject to the other terms and conditions of this code.

(C) *Class C “Beer Garden.”* License shall be issued for a period of one year to any person or persons, organization, association, partnership, or corporation that holds a Class A license and entitles licensee to make sales, at retail, of liquor for use or consumption outdoors on the premises where sold.

(1) Class C “Beer Garden” licenses shall designate on a site or patio plan an area immediately adjoining the licensee’s indoor establishment, which contiguous area shall be used for the purposes of the license, and which area will hereinafter be referred to as a beer garden. The beer garden may not exceed 50% of the establishment interior occupancy, and shall have its boundaries clearly marked with the appropriate enclosure as determined by the City

Administrator or designees. The Liquor Commissioner, in his or her sole and absolute discretion, shall approve the location of a beer garden or where the zoning ordinance regulates the use will supersede the Liquor Commissioner's discretion.

(2) Class C "Beer Garden." All special events taking place during inclement weather shall require permission from the Liquor Commissioner.

(3) Such sale and consumption of liquor shall be limited to the designated beer garden.

(4) Licensee must have at least one employee stationed in the beer garden at all operational times.

(5) Adequate area for pedestrian flow through the beer garden shall be maintained at all times.

(6) Emergency ingress and egress and access by and to fire apparatus in the beer garden shall be subject to review and approval of the City Fire Chief.

(7) The beer garden shall be maintained in a clean and sanitary condition and shall be kept from debris at all times.

(8) All trash containers located in the beer garden shall be lidded at all times and all refuse shall be regularly removed.

(9) Licensees shall obtain all licenses, certifications, permits, and other approvals required for the legal operation of the beer garden.

(10) Licensees shall comply with all other requirements applicable to the beer garden in the code and other applicable codes, ordinances, and regulations.

(11) It shall be unlawful to sell, offer, give away or permit to be sold, offered or given away, at retail, in or upon a Class C licensed beer garden, any liquor between the hours of 2:00 a.m. and 11:00 a.m. Sunday through Thursday, and between the hours of 3:00 a.m. and 11:00 a.m. on Fridays and Saturdays.

(12) Following the closing times and prior to the opening times set forth in of this section of the city code, every non-licensee person located in the beer garden area shall relocate indoors or otherwise leave the outdoor premises, which shall be closed and remain closed.

(13) All doors directly opening into or out of such location, place or premises for ingress thereto or egress therefrom shall be securely locked during the time that sales in the beer garden are prohibited.

(D) *Class D "Outdoor Café."* License entitles Class A and B licensees to make sales, at retail, of liquor for use or consumption outdoors on the premises where such sales are incidental to and sold in conjunction with the service of food, as the same is defined in § 111.40 of the city code. The sale shall be by responsible entities otherwise duly licensed under the city code and possessing a current, valid license from the city for the sale of liquor at retail for consumption on the premises (e.g., a Class A and B license in addition to a Class D license), and any required outdoor dining permits required by the city code. The sale of liquor at retail for consumption in connection with the service of food by a restaurant with outdoor dining shall be allowed for limited periods of time at the hours specified and subject to the following regulations:

(1) Class D "Outdoor Café" licensees shall designate on a site or patio plan an area immediately adjoining the licensee's indoor establishment, which contiguous area shall be used for the purposes of the license, and which area will hereinafter be referred to as an outdoor café. The outdoor café may not exceed 50% of the establishment interior occupancy, and shall have its boundaries clearly marked with the appropriate enclosure as determined by the City Administrator or designees. The Liquor Commissioner shall approve, in his or her sole and

absolute discretion, the location of an outdoor café or where the zoning ordinance regulates the use will supersede the Liquor Commissioner's discretion.

(2) Class D "Outdoor Café." All special events taking place during inclement weather shall require permission from the Liquor Commissioner.

(3) The service of liquor shall be restricted solely to on-premises consumption by customers within the outdoor dining area designated in the application for a Class D liquor license as the outdoor café area, which must be immediately adjacent to and abutting the indoor restaurant which provides it with food and beverage service.

(4) The outdoor café must be clearly separated from pedestrian traffic.

(5) The licensee shall post a written notice to customers that the drinking or carrying of an open container of liquor is prohibited and unlawful outside the designated outdoor café area.

(6) Adequate area for pedestrian flow through the outdoor café shall be maintained at all times.

(7) Emergency ingress and egress and access by and to fire apparatus in the outdoor café shall be subject to review and approval of the City Fire Chief.

(8) The outdoor café shall be maintained in a clean and sanitary condition and shall be kept from debris at all times.

(9) Condiment and other food storage containers shall be lidded when not in use. Perishable condiments and other food items shall not be stored in the outdoor café.

(10) The tableware utilized in the outdoor café shall be the same china, napkins, flatware, and other tableware used in the restaurant.

(11) All trash containers located in the outdoor café shall be lidded at all times and all refuse shall be regularly removed. Soiled linens, tablecloths, and napkins shall not be stored in the outdoor café.

(12) Licensees shall obtain all licenses, certifications, permits, and other approvals required for the legal operation of the outdoor café.

(13) Licensees shall comply with all other requirements applicable to the outdoor café in the code and other applicable codes, ordinances, and regulations.

(14) It shall be unlawful to sell, offer, give away or permit to be sold, offered or given away, at retail, in or upon a Class D licensed outdoor café, any liquor between the hours of 9:00 p.m. and 11:00 a.m. Sunday through Thursday, and between the hours of 11:00 p.m. and 10:00 a.m. on Fridays and Saturdays.

(15) Following the closing times and prior to the opening times set forth in this section, every non-licensee person located in the outdoor café area shall relocate indoors or otherwise leave the outdoor premises, which shall be closed and remain closed.

(16) All doors directly opening into or out of such location, place or premises for ingress thereto or egress therefrom shall be securely locked during the time that sales in the outdoor café are prohibited.

(17) The outdoor café area designated in the application for a Class D liquor license must be adjacent to and incidental to the operation of an indoor restaurant and any use of the sidewalk must be confined to the actual sidewalk and public right-of-way frontage of the indoor restaurant building. An outdoor café is only permitted where the sidewalk is wide enough to adequately simultaneously accommodate both the usual pedestrian traffic in the area and the operation of the proposed activity. The outdoor café shall leave not less than six consecutive feet of sidewalk width at every point which is clear and unimpeded for pedestrian traffic. An outdoor café shall

not be allowed within ten feet of a fire hydrant, bus or rail stop, fire escape, bus stop, any doorway posted as an exit, loading zone or mail boxes.

(E) *Class E "Liquor Store."* License entitles licensee, doing business as a liquor store, to make package sales, at retail, of liquor for use or consumption off of the premises where sold. A Class E license shall also permit the tasting of wine or other liquor, as an ancillary part of the primary business of selling liquor. The number of such tastings may be limited by the Local Liquor Control Commissioner, in his or her discretion.

(F) *Class F "Convenience Business."* License entitles licensee to make package sales, at retail, of liquor for use or consumption off of the premises where sold.

(G) *Class G "Combined."* License entitles licensee to make sales, at retail, of liquor for use or consumption on the premises where sold and to make package sales, at retail, of liquor for use or consumption off the premises.

(H) *Class H "Temporary."* License shall be issued for a set period of time and license shall permit the sale of any and all liquor as defined herein by the drink only and for consumption on the premises for those hours approved and identified in the license.

(I) *Class I license.*

1. A Class " " license shall authorize holders of a Class A, Class B and Class C licenses to operate video gaming devices upon the licensed premises upon receipt of a video gaming license issued by the Illinois Gaming Board in accordance with the provisions of the Video Gaming Act, 230 ILCS 40/1 et seq.

2. Not more than ___ Class " " licenses shall be issued. The annual fee for such license shall be \$ ___ for each terminal located upon the licensed premises. No more than five video gaming terminals shall be located on any premises issued a Class " " license.

3. Upon receipt of proof of the issuance of an Illinois video gaming license, the City Clerk shall issue a video gaming sticker which shall be affixed to each video gaming terminal in a conspicuous place, readily identifiable upon public inspection. Video gaming stickers shall not be transferable. It is unlawful to operate a video gaming terminal in the City without a valid video gaming sticker affixed thereon.

4. Any denial or revocation of a video gaming license application by the Illinois Gaming Board shall constitute a revocation of a Class " " license.

5. Every establishment issued a Class " " license to operate video gaming shall comply with the provisions of the Illinois Video Gaming Act, 230 ILCS 40/1 et seq., and all rules, regulations and restrictions imposed by the Illinois Gaming Board.

6. The operation of video gaming terminals shall be not be permitted during the hours alcoholic liquor sales are prohibited and only when alcohol is permitted to be served under the applicable license.

7. Video gaming shall be located in an area that is restricted to persons over 21 years of age.

§ 111.51 NUMBER OF LICENSES.

Without the need or requirement for any further action by the City Council, when a license is forfeited or revoked or terminated for any reason, that license is immediately and automatically eliminated, and the number of licenses from that class is lowered by one.

(A) Class A shall not exceed seven.

(B) Class B shall not exceed 12.

(C) Class C shall not exceed six.

- (D) Class D shall not exceed zero.
- (E) Class E shall not exceed four.
- (F) Class F shall not exceed 17.
- (G) Class G shall not exceed one.
- (H) Class H shall not be limited.
- (I) Class I shall not exceed ____.
- (J) Class “_” shall not exceed ____.

SAMPLE LIQUOR LICENSE CATEGORY FOR VIDEOGAMING AS A PRINCIPAL USE

(K) Class “ ” “Videogaming Parlor”. License shall be issued for a period of one year to any person or persons, organization, association, partnership or corporation, the principal business of which is the operation of videogaming terminals, for the sale of any and all liquor as defined herein by the drink only and for consumption on the premises where sold, in connection with and secondary to the videogaming operations, subject to the other terms and conditions of this code. The license shall be conditioned upon:

1. No other establishment holding a Videogaming Parlor license being located within 1000 feet of any part of the property comprising this business.
2. Such establishment must be at least _____ square feet in usable interior improved space.
3. Full, continuous compliance with all City Codes, including the building, sign and property maintenance codes.
4. No part of the property shall be located within 1000 feet of any residence, school, church, child or day care center, public park, library or City building.
5. The hours of operation shall be _____.

The determination of whether a business meets the criteria for this license would include the following:

1. No full service kitchen.
2. Seating area for videogaming exceeds the seating for food/beverages.
3. Net revenue from overall business operation which is greater than _____ % from videogaming.
4. Total square footage of 2000 feet or less.