

VILLAGE OF LILY LAKE

ORDINANCE NO. 2023-05

AN ORDINANCE AMENDING THE VILLAGE CODE

(Chapter 7—Public Safety, Subchapter 3—Video Gaming)

**ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE
VILLAGE OF LILY LAKE**

September 25, 2023

Published in pamphlet form by authority of the President and Board of Trustees of
the Village of Lily Lake, Kane County, Illinois

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ORDINANCE NO. 2023-05**AN ORDINANCE AMENDING VILLAGE CODE****(Chapter 7—Public Safety, Subchapter 3—Video Gaming)****RECITALS**

1. The Village of Lily Lake, Kane County, Illinois, (the “Village”) is a non-home rule unit of government.
2. The Illinois Video Gaming Act (the “Act”), (230 ILCS 40/1, *et seq.*), regulates the operation, licensing, and administration of video gaming.
3. Section 27 of the Act authorizes the Village to prohibit video gaming within the corporate limits of the Village and implied within that authorization is the authority to limit, license and regulate video gaming within the corporate limits of the Village.
4. The Village is authorized by Section 4-1 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/4-1) to establish regulations and restrictions upon the issuance of and operations under local licenses for sale at retail of alcoholic liquor not inconsistent with the Illinois Liquor Control Act as the public good and convenience may require.
5. The Village is authorized by Section 11-5-1 of the Illinois Municipal Code (65 ILCS 5/11-5-1) to suppress gaming and gambling houses.

NOW, THEREFORE, BE IT ORDAINED by the President and the Board of Trustees of the Village of Lily Lake, Kane County, Illinois, that the Village Code, as amended, be further amended as follows:

§ 1. Amending Village Code

The Village Code, Chapter 7—Public Safety, Subchapter 3—Video Gaming, is amended in its entirety to read as follows and the remaining sections of Chapter 7 are renumbered accordingly:

§ 750. Applicability of Provisions

The provisions of this subchapter apply to all video gaming in the Village whether or not specifically licensed or regulated under any other provision of this Code or other ordinance.

§ 751. Definitions

(a) **“Board”** means the Illinois Gaming Board.

(b) **“Commercial Motor Vehicles”** has the meaning ascribed to it in Section 18b-101 of the Illinois Vehicle Code (625 ILCS 5/18b-101).

(c) **“Licensed Establishment”** means any business in the Village licensed by the State of Illinois to have or operate a video gaming device, including any licensed fraternal establishment, licensed veterans establishment, licensed truck stop establishment and licensed large truck stop establishment as those terms are defined in the Act.

(d) **“Licensed Fraternal Establishment”** means the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

(e) **“Licensed Veterans Establishment”** means the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

(f) licensed truck stop **“Licensed Truck Stop Establishment”** means a facility that:

(1) is at least three acres in size with a convenience store;

(2) has separate diesel islands for fueling commercial motor vehicles;

(3) sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month evidenced by either past sales or a valid estimate of future sales; and

(4) has parking spaces for commercial motor vehicles.

(g) **“Licensed Large Truck Stop Establishment”** means a facility that:

- (1) is located within three road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs;
- (2) is at least a three acres in size with a convenience store;
- (3) has separate diesel islands for fueling commercial motor vehicles;
- (4) sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month evidenced by past sales or a valid estimate of future sales; and
- (5) has parking spaces for commercial motor vehicles.

(h) **“Video Gaming Terminal”** means any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to, video poker, line up, and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash or tokens or is for amusement purposes only.

§ 752. License

(a) No person, as owner, lessee, manager, officer or agent, or in any other capacity, shall operate or permit to be operated any video gaming terminal at any premises within the Village without first having obtained a video gaming license from the Village. The license provided for in this section will permit a licensee to operate video gaming terminals at the specified establishment.

(b) No person, as owner, lessee, manager, officer or agent, or in any other capacity is eligible for a video gaming license from the Village, nor is an existing licensee entitled to maintain a video gaming license, unless each of the following requirements are met at all times during the term of the license:

- (1) The applicant holds the appropriate certificate or license permitting video gaming from, and is in good standing with, the State of Illinois;
- (2) The establishment has been in operation at the location for at least six months at the time the application is filed;

(3) The applicant is not in arrears in any tax, fee or debt due to the Village or State of Illinois;

(4) The applicant has completed and at all times during the term of the license is in compliance with all the application requirements set forth in § 753 and has not been convicted of a felony, gambling offense, or crime of moral turpitude;

(5) The establishment is located outside of a residential zoning district; and

(6) If the establishment is a licensed truck stop establishment or a licensed large truck stop establishment, the establishment separately meets the requirements of §§ 751(f) or 751(g), as applicable, without reference to the qualifications used by any other establishment.

(c) Except for truck stop establishments and large truck stop establishments, has net terminal income during the immediately preceding six months, that is not more than 30% of the total gross revenues generated during the same period.

(d) A new establishment must meet the requirements of § 752(b)(2) unless the applicant is also a current majority owner of an existing business at another location, that has been in operation for at least 12 months, and the business model for the new establishment is proposed to replicate the existing business location and the applicant can provide satisfactory evidence detailing that in the last 12-month period video gaming net terminal income at the other business location did not exceed 30% of the gross revenues.

(e) The Village Liquor Commission is the approving authority for all licenses. In the event a licensee or prospective licensee disagrees with any action taken by the Liquor Commission, an appeal may be made directly to the President and Board of Trustees of the Village at its next regularly scheduled meeting after written notice of the action from which an appeal is made is given to the licensee or prospective licensee .

§ 753. License application requirements

The applicant shall provide the following information to the Village on a form provided by the Village:

- (a) The legal name of the establishment;
- (b) The business name of the establishment;
- (c) The address of the establishment where the video gaming terminals are to be located;
- (d) The type of establishment, including whether it is classified as a veteran, fraternal, regular truck stop, large truck stop or liquor establishment and supporting documentation demonstrating that the classification is correct;
- (e) A floor plan, drawn to scale using a computer, detailing the overall layout of the establishment, including the location and count of dining seating, the location and count of video gaming terminals and seating for the terminals, and other significant features of the establishment, including exit locations, restrooms and other equipment. A high-resolution electronic copy of the floor plan as well as a paper printed copy (no smaller than 11 in. by 17 in.) must be submitted at the time of application; hand-drawn floor plans and floor plans not including a scale will not be accepted;
- (f) The amount of time the establishment has been in business under the ownership of the applicant at the location where video gaming is proposed to take place;
- (g) The business office address of the establishment if different from the address of the establishment;
- (h) In the case of a corporation, limited liability company or trust, the name and address of an agent authorized and designated to accept service on behalf of the licensee;
- (i) In the case of a corporation, the names and addresses of all officers and directors; in the case of a limited liability company or limited liability partnership, the names and addresses of all officers or managers or general partners, as the case may be;

- (j) A phone number for the establishment;
- (k) An e-mail address for the establishment;
- (l) The name and address of every person owning more than a 5% share of the establishment;
- (m) The name, address, phone number and e-mail address of any terminal operator or distributor proposed to own, service or maintain video gaming terminals at the establishment;
- (n) A copy of the establishment's State of Illinois video gaming license;
- (o) In the case of a corporation, limited liability company or partnership, a copy of the establishment's state certificate of good standing;
- (p) A statement as to the number of video gaming terminals which the establishment proposes to have on its premises;
- (q) A statement that the establishment is not in arrears in any tax, fee or bill due to the Village or State of Illinois;
- (r) A statement that the establishment agrees to abide by all state and federal laws and local ordinances;
- (s) A background check from Kane County for any manager and for any owner with more than a 5% interest in the establishment showing that such individual has never been convicted of a felony, a gambling offense or a crime of moral turpitude. If the background check reveals a conviction, the establishment may apply for a certificate of rehabilitation from the Village President indicating that the individual who would disqualify the establishment from obtaining the video gaming license has been rehabilitated and is no longer a threat to violate the law. The Village President may consider the nature of the offense, the length of time since the offense, the length of time since release from custody and other factors to determine if the individual has been rehabilitated such that he or she is no longer likely to commit another offense;
- (t) If the application is for a new establishment based on the business model of another existing location, information regarding the existing business location must be provided, including the type of business, the gross receipts as

compared to any video gaming revenue for the prior 12-month period, proof of the length of time the existing business has been operational and proof of ownership verifying the applicant's ownership rights;

(u) For renewal applications, a report or reports showing its gross annual revenue for the previous calendar year by category of revenue generated and showing the percentage of gaming revenue of the establishment as compared to the total gross revenues of the establishment.

§ 754. Application filing; renewals

(a) Applications will be processed by the Village Clerk on a first come, first served basis. Every application will be date and time stamped upon filing. An application received in the mail will be considered filed on the date and time it is opened by the Clerk's office.

(b) Every video gaming license holder must file a renewal application, that may contain the same or similar information as set forth in § 753. Renewal applications will be due on or before April 1 of each year before the expiration of the license unless that day falls on a weekend or legal holiday, in which case the application may be received by the Clerk on the following business day.

§ 755. License Fees

(a) The fee for the operation of a video gaming terminal is \$50 per terminal for new applications or applications for renewal filed in 2023. The fee for new applications or applications for renewal filed in 2024 is \$150 per terminal. The fee for new applications or applications for renewal filed in 2025 and thereafter is \$250.00 per terminal annually. This fee must be shared equally between the terminal operator and the applicable licensed establishment.

(b) The application fee is nonrefundable even if the license is denied.

(c) The application fee is not pro-ratable and is the same regardless of when the application is filed during the year. No licenses will be issued prior to the payment in full of all applicable fees.

(d) All licenses must be prominently displayed next to the video gaming terminal.

§ 756. License revocation or suspension

(a) The Liquor Commission may, at any time, give any licensee notice of an alleged violation of any of the provisions of this subchapter in connection with the operation of any video gaming terminal. Notice of a violation must be given by first class mail, postage prepaid, addressed to the licensee at the address shown on the application filed with the Clerk not less than 15 days before the date set for the hearing.

(b) After a hearing presided over by the Chairman of the Liquor Commission, the Commission may order the revocation or suspension of the license upon a finding that the violation has occurred, and the license will then be terminated or suspended for the period specified. The licensee may appeal the ruling as prescribed in § 752(e).

(c) If the application of any person for an available license is denied or if the license of any person is revoked under this section, such person is ineligible to reapply for a license for one calendar year from the date the denial or revocation becomes final.

§ 757. Limitation on number of video gaming licenses**§ 758. Limitation on number of video gaming terminals on premises**

(a) No more than 18 licenses to operate video gaming terminals in the village will be issued and outstanding at any given time and no more than six video gaming terminals will be licensed to any one establishment, other than a licensed large truck stop establishment.

§ 759. Prohibition

Except as authorized under this subchapter, it is unlawful for any person to gamble within the corporate limits of the Village, or for any person or entity that owns, occupies or controls an establishment within the Village to knowingly permit others to gamble on the premises.

§ 760. Suspension or revocation of other licenses

Any business, liquor or food licensee within the corporate limits of the Village that allows gambling to occur on premises in violation of this subchapter is subject to having its licenses immediately suspended for a period of 60 days. Any business, liquor or food licensee within the corporate limits of the Village that allows gambling to occur on premises in violation of this subchapter a second time will have its licenses permanently revoked and, thereafter, will be barred from obtaining any business, liquor or food license within the Village.

§ 761. Seizure of unauthorized gambling devices and gambling funds

Any gambling device that is not authorized under this subchapter is subject to immediate seizure and confiscation by the Village. Any money or other thing of value intrinsically related to acts of gambling not authorized by this subchapter will be seized and forfeited as contraband. Disposition of such gambling devices and funds seized or confiscated will be made in accordance with the law.

§ 2. Repealer

Any ordinance or any provision of any ordinance in conflict with the provisions of this ordinance is, to the extent of the conflict, repealed.

§ 3. Severability

If any provision of this subchapter or the application of this subchapter to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity will not affect any other provision or application of this subchapter that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this subchapter is severable.

§ 4. Effective Date

This ordinance is effective when it is passed, approved and published as provided by law.

Adopted by roll call vote on September 25, 2023:

[Signature page follows.]

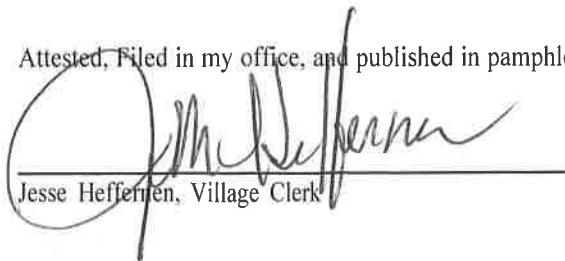
Trustee	Yes	No	Absent	Abstain
Anderson			X	
Butler	X			
Conn	X			
Dell	X			
Ormond	X			
Parry	X			
Diehl				
Totals	5	0	1	0

Approved September 25, 2023.



Kelly Diehl, Village President

Attested, Filed in my office, and published in pamphlet form on September 25, 2023.



Jesse Heffernan, Village Clerk