



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: May 18, 2020

Prepared By: Jon Oliphant, AICP, Planning & Development Director
Pat Brown, City Clerk
Jeff Stevens, Deputy Chief

Agenda Item: First Reading Ordinance – Truck Stop Video Gaming Code Amendment

Explanation: Staff has had several meetings and discussions with Bill Smith and Pat Berry from Beck Oil about their desire to open a fuel center in Washington. Most recently, they have focused on having a new location near the intersection of Business 24 and Eagle Avenue close to the former Todd's Shell, which would be demolished. Their development would be able to accommodate both automobiles and trucks. The tentative project would include a convenience store and likely be part of a larger multi-phased development on Business 24. While the parcels adjacent to Business 24 are annexed, Beck Oil would likely annex a portion of the property to the south that is not currently in the city limits and include slightly more than three acres. It would roughly be situated to be west of a potential future southern extension of Eagle Avenue to eventually connect with Kern Road. However, that is conceptual and would require identifying a funding stream and design consent from IDOT.

Beck Oil has indicated that its projected total annual sales would be approximately \$9.75 million. Gas would comprise about \$5.33 million of that and diesel would result in another \$693,000 in sales based on a \$2.50 per gallon price. The convenience store would generate about \$3.72 million in sales. Video gaming is an important component of its business model. Beck has asked staff about the possibility of amending the City Code to allow for up to six video gaming terminals as part of a small truck stop development. Illinois state statute defines a licensed truck stop establishment as having 1) a three-acre facility with a convenience store, 2) separate diesel islands for fueling commercial motor vehicles, 3) retail sales of more than 10,000 gallons of diesel or biodiesel fuel per month, and 4) parking spaces for commercial motor vehicles. The requirement for meeting item 3) can be met through showing that past or future sales average at least 10,000 gallons per month. Beck would meet each of these conditions as part of its prospective development.

Fiscal Impact: The projected sales could conservatively generate \$60,000 in home rule sales tax. While much of this would be capturing sales from a gap in the market, it would also likely be taking some sales away from similar competitors. Gaming revenue would result if terminals were allowed in the facility. Beck has indicated that it will need video gaming to be allowed in order to proceed with a Washington development.

Action Requested: Following feedback gathered at the May 11 Committee of the Whole meeting, the direction was to proceed with a code amendment to Chapter 136 to insert language specific to video gaming for truck stops. This amendment would also increase the maximum allowable terminal stickers to 54 and the total video gaming establishment licenses to 10. A first reading ordinance is scheduled for the May 18 City Council meeting. A second reading will be scheduled for the June 1 meeting.

ORDINANCE NO. _____

Synopsis: The following ordinance would permit licensed truck stop establishments as defined under the State of Illinois Video Gaming Act to obtain a video gaming license in the City. It would also increase the number of establishments and terminals allowed in the City at one time.

AN ORDINANCE AMENDING CHAPTER 136 OF THE CODE OF ORDINANCES OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, ENTITLED “GAMBLING OFFENSES,” REGARDING LICENSED VIDEO GAMING ESTABLISHMENTS

WHEREAS, the City Code of Ordinances at Chapters 136.50 and 136.51 provide for regulation of Licensed Video Gaming; and

WHEREAS, The City of Washington recognizes that substantial monies flow from the residents and visitors of the City through gaming, and

WHEREAS, it is desirous that the gaming industry that enjoys substantial benefits from its location within the City also contribute substantially toward City services, and

WHEREAS, it is deemed to be in the best interest of the residents of the City that Chapters 136.50 and 136.51 be revised to include truck stop establishments while protecting the interests of the City, its residents, and visitors.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WASHINGTON, TAZEWELL COUNTY, ILLINOIS, an Illinois home rule municipality, as follows:

Section 1. That § 136.50 detailing Licensed Video Gaming be deleted in its entirety and the following inserted in lieu thereof as said sections:

“§ 136.50 LICENSED VIDEO GAMING

- (A) Licensed Video Gaming Exemption. The prohibitions of this Chapter 136 and any other chapter or section of the City Code that may reference or govern gambling or gaming shall not apply to any video gaming terminal that has a valid video gaming terminal permit sticker and is being operated by a licensed establishment **or licensed truck stop establishment** that has a valid City video gaming establishment license and is in full compliance with § 136.50.
- (B) Definitions.
 - (1) "Licensed establishment": any establishment that is both licensed to sell liquor at retail in the City under a Class A or E license pursuant to Chapter 112 of the City Code and licensed by the Illinois Gaming Board to operate a video gaming terminal on its premises.
 - (2) **“Licensed truck stop establishment”**: a facility (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel island for fueling commercial motor vehicles, (iii) that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. **“Commercial motor vehicles”** has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The

requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

- (3) "Video gaming terminal": any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, 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.
- (4) "Video gaming terminal operator": any individual, partnership, corporation, or limited liability company that is licensed under this Chapter 136 and that owns, services, and maintains video gaming terminals for placement in licensed establishments.

(C) Video Gaming Establishment and Terminal Operator License.

- (1) In order for a licensed establishment or a licensed truck stop establishment to operate, host, or provide for use a video gaming terminal, the licensed establishment or licensed truck stop establishment is required to obtain an annual video gaming establishment license from the City by submitting a written application, on a form provided by the City, to the Mayor or the party designated by him/her. The burden is upon each applying licensed establishment or licensed truck stop establishment to demonstrate its suitability for licensure. All video gaming establishment licenses issued by the City shall expire April 30, next, after date of issue, with an annual license fee of \$500.00 payable in full at the time the application is filed with the City. A license shall be purely a personal privilege, good for a time period not to exceed one (1) year after issuance, unless sooner revoked as provided by law, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered.
- (2) In order for a video gaming terminal operator to lease, deliver, maintain, or otherwise provide for usage any video gaming terminals to a licensed establishment or licensed truck stop establishment in the City, the video gaming terminal operator is required to obtain for each serviced location, an annual video gaming terminal operator license from the City by submitting a written application, on a form provided by the City, to the Mayor or the party designated by him/her. The burden is upon each applying terminal operator to demonstrate its suitability for licensure. All video gaming terminal operator licenses issued by the City shall expire April 30, next, after date of issue, with an annual license fee of \$500.00 payable in full at the time the application is filed with the City. A license shall be purely a personal privilege, good for a time period not to exceed one (1) year after issuance, unless sooner revoked as provided by law, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered under this article.

(D) Video Gaming Terminal Establishment and Terminal Operator Permit Sticker.

- (1) In order for a video gaming terminal to be operated at a licensed establishment or licensed truck stop establishment, the licensed establishment is required to obtain an annual video

gaming terminal permit sticker from the City for each video gaming terminal located on its premises by submitting a written application, on a form provided by the City, to the Mayor or the party designated by him/her. Each video gaming terminal permit sticker issued by the City shall expire April 30, next, after date of issue, with an annual fee of \$50.00 per video gaming terminal payable in full at the time the application is filed with the City.

- (2) In order for a video gaming terminal to be operated at a licensed establishment **or licensed truck stop establishment**, the licensed video game terminal operator is required to obtain an annual video gaming terminal operator permit sticker from the City for each video gaming terminal leased, delivered, or otherwise provided for usage within the City by submitting a written application, on a form provided by the City, to the Mayor or the party designated by him/her. Each video gaming terminal operator permit sticker issued by the City shall expire April 30, next, after date of issue, with an annual fee of \$500.00 per video gaming terminal payable in full at the time the application is filed with the City.
- (3) In the event that a video gaming terminal currently licensed within the City is replaced, the Mayor or the party designated by him/her may, after verification of the destruction of the original, in-force video gaming terminal permit sticker or video gaming operator terminal permit sticker, issue a replacement sticker upon payment of not more than \$10.00 per video gaming terminal.

(E) Regulations Governing Licensed Establishments and **Licensed Truck Stop Establishments** Operating Video Gaming Terminals. The following regulations apply to all licensed establishments **and licensed truck stop establishments** operating a video gaming terminal on its premises with a valid gaming establishment license and valid video gaming terminal permit stickers for each of its video gaming terminals:

- (1) A valid City video gaming establishment license must be clearly displayed at all times.
- (2) A valid City video gaming terminal permit sticker and video gaming terminal operator permit sticker shall be clearly displayed at all times on each video gaming terminal.
- (3) No more than six (6) video gaming terminals may be located on the licensed establishment's **or licensed truck stop establishment's** premises.
- (4) Other than having up to six (6) video gaming terminals with valid video gaming terminal permit stickers, a licensed establishment **or licensed truck stop establishment** is prohibited from having, anywhere on its premises, an electronic video gaming machine that may be available to play or simulate the play of poker, line up, blackjack, faro, roulette, craps, slots, or any other card or dice game or other game of chance, or that is otherwise akin to a gambling or gaming device under Chapter 136 of the City Code, even if solely for amusement purposes.
- (5) All video gaming terminals must be located in an area ("gaming area") restricted to persons twenty-one (21) years of age or older. The entrance to such area must, at all times, be within the view of at least one (1) employee who is at least twenty-one (21) years of age.
- (6) No licensed establishment **or licensed truck stop establishment** may cause or permit any

person under the age of twenty-one (21) years to use, play or operate a video gaming terminal.

- (7) No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed establishment **or for the package sale of alcoholic liquor at a licensed truck stop establishment** pursuant to Chapter 112 of the City Code.
 - (8) The licensed establishment, **licensed truck stop establishment**, and terminal operator must fully comply with the Illinois Video Gaming Act (230 ILCS 40/1, et seq.) and all rules, regulations and restrictions imposed by the Illinois Gaming Board.
 - (9) The licensed establishment, **licensed truck stop establishment**, and terminal operator must fully comply with Chapter 112 of the City Code and all other provisions of the City Code as well as federal and Illinois law and regulations.
- (F) Inspection of Premises. Every licensed establishment and **licensed truck stop establishment** where a video gaming terminal is kept shall be subject to inspection by the Chief of Police or his/her authorized agents, at any time, to ensure compliance with the City Code. This includes licensed establishments **and licensed truck stop establishments** applying for a video gaming establishment license and/or video gaming terminal permit sticker. It shall be unlawful for any person to hinder, resist, oppose or attempt to hinder, resist or oppose the Chief of Police or his/her respective agents in the course of an inspection.
- (G) Revocation/Suspension of License and Permit Sticker. The City's Public Safety Committee may revoke or suspend any video gaming establishment license, video gaming terminal operator license, video gaming terminal operator permit sticker and any video gaming terminal permit sticker issued by the City if it determines that the licensed establishment, **licensed truck stop establishment**, or terminal operator has violated any of the provisions of this Chapter 136. No license shall be so revoked or suspended, except after a public hearing before the Public Safety Committee, with a three (3) day written notice to the licensed establishment, **licensed truck stop establishment**, or terminal operator affording the licensed establishment, **licensed truck stop establishment**, or terminal operator an opportunity to appear and defend. Notwithstanding the foregoing, any licensed establishment **or licensed truck stop establishment** that has its liquor license revoked or suspended by the City under § 112.31 of the City Code or by the Illinois State Liquor Commission, or has its video gaming license revoked or suspended by the Illinois Gaming Board, shall automatically, without a hearing before the Public Safety Committee, have its City video gaming establishment license and all City video gaming terminal permit stickers revoked or suspended for the same time frame as its liquor and/or Illinois Gaming Board gaming license is suspended, whichever the case may be.
- (H) Seizure of Unlawful Video Gaming Terminals. Every video gaming terminal that does not have a valid video gaming terminal permit sticker or is otherwise unlawful shall be considered a gambling device subject to seizure under § 136.06, and shall be turned over to the Illinois Gaming Board, in accordance with Board regulations and applicable law, unless otherwise ordered by a court of competent jurisdiction.
- (I) Monetary Penalty. Whoever violates any provision of § 136.50 shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) for a first offense in any twelve (12) month period, and a fine of not less than Seven Hundred Fifty Dollars (\$750.00) for a second offense and each

subsequent offense in a twelve (12) month period. This penalty may be enforced by issuance of a "Notice of Violation" for the fine amount, or by issuance of a "Notice to Appear." Each day any violation continues shall constitute a separate offense. This monetary penalty shall be in addition to any and all other remedies which may be available to the City under Chapter 136 or any other provision of the City Code, or federal or Illinois law."

Section 2. That § 136.51 detailing Requirements for Video Gaming Establishment License and Terminal Permit Stickers be deleted in its entirety and the following inserted in lieu thereof as said sections:

**"§ 136.51 REQUIREMENTS FOR VIDEO GAMING ESTABLISHMENT LICENSE AND
TERMINAL PERMIT STICKERS**

Subject to the limitations and restrictions set forth in this chapter, and all other lawful limitations and restrictions, the Mayor of the city, or anyone designated by him may, from time to time, grant a Video Gaming Establishment License and Terminal Permit Sticker(s) to any licensed establishment **or licensed truck stop establishment** within the city, subject to the following requirements;

- (A) For a new **licensed establishment** applicant, each of the two years prior to applying for a license to operate video gaming terminals, the applicant's establishment in which the applicant is seeking approval to operate video gaming terminals must show it has generated at least 80 percent of its revenue from the sale of food or beverages;
- (B) For an applicant who has been previously issued a **licensed establishment license** under this article, the applicant's establishment must show at a minimum, 60 percent of total revenue annually from the sale of food or beverages;
- (C) Each **licensed establishment** applicant must provide the city with a report or reports showing its gross annual sales totals and categories, including food and beverage sales. Any applicant who shall not include this report or reports shall be ineligible for a Video Gaming Establishment license;
- (D) Each applicant's licensed establishment **or licensed truck stop establishment** must maintain customer seating outside the gaming area but within the premises at a rate of 10 seats for each permitted video gaming terminal and for each square foot of floor space in the gaming area, the licensed establishment **or licensed truck stop establishment** must maintain 5 square feet of general use customer-accessible area outside the gaming area;
- (E) **Each licensed truck stop establishment applicant, must provide the city with an estimated future sales or past sales average of at least 10,000 gallons of diesel or biodiesel fuel per month. Any applicant who shall not include this report or reports shall be ineligible for a Video Gaming Establishment license. Upon issuance of a licensed truck stop establishment license, the establishment must submit monthly diesel fuels sales reports to the City;**
- (F) There shall be no more than **ten (10)** Video Gaming Establishment Licenses in the City in force at any one time;
- (G) There shall be no more than **fifty-four (54)** Video Gaming Terminal Permit Stickers in the City in force at any one time;

- (H) The licensed establishment must operate continually with a bona fide full bar;
- (I) For an applicant who has been issued a Video Gaming Establishment license under § 136.50 prior to the establishment of this ordinance, the requirements (A)-(D) of this §136.51 shall have no effect;
- (J) For an applicant who has purchased an establishment subject to subsection (I) of this §136.51 and which becomes an operating licensed establishment and which obtains a City Video Gaming Establishment license within 1 year of that purchase, subsection (A) of this §136.51 shall have no effect, but said establishment must show continual compliance with subsection (B) quarterly during its first year of operation and annually thereafter as required by this Chapter, as amended from time to time;
- (K) For an applicant who has continuously held a City of Washington Class E liquor license issued prior to the establishment of this ordinance, the requirements (A)-(D) of this §136.51 shall have no effect.”

Section 3. That all ordinances, or parts thereof, in conflict herewith are hereby expressly repealed.

Section 4. That this ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2020.

AYES _____

NAYS _____

Mayor

ATTEST:

City Clerk