



CITY OF WASHINGTON, ILLINOIS

City Council Agenda Communication

Meeting Date: April 5, 2021

Prepared By: Chief McCoy and Deputy Chief Stevens

Agenda Item: Rewrite of Liquor License Classifications and Ordinance

Explanation: Current Washington Liquor Licenses, Fees and Ordinances are believed to be outdated and hard to understand. These proposed changes make the Ordinances easier to understand and reduces the Liquor License Classifications to as more manageable level.

A summary of the proposed classifications is: Class A (Bars & restaurants, may sell for consumption on the premises and package liquor, includes "beer gardens", Class B (package liquor only- for off premise consumption), Class C (caterers and banquet facilities' allows for outdoor areas at a banquet facility) Class D (temporary special event conducted by an educational, fraternal, political civic religious, or not for profit organization), Class E (temporary special event license Class A or Class C retailer)

Fiscal Impact: Proposed pricing with current businesses would preserve on-premise license pricing for this year and increase 1 package retailers license cost from \$1,000.00 to \$1,250.00. The FY 20-21 revenue was \$34,260.00. Licensees will see an administrative credit and price cap in 21-22, resulting in 21-22 revenue of \$15,7840. FY 22-23 and 23-24 project at \$39,850 and \$41,900 (minus up to \$2,000 annually for clubs, if discounted)

Committee Discussion Summary: This was passed in the Public Safety Committee and recommended for passage at the Committee of the Whole

Action Requested: Approval by Washington City Council

Classification changes:

RETAIL SALES

§ 112.03 HOURS OF SALE

- (A) It shall be unlawful to sell or offer for sale at retail any alcoholic liquor in the city, between the hours of 2:00 a.m. and 6:00 a.m.. Notwithstanding the above, on New Year's Day of each year, all Class A license holders may remain open and sell or offer for sale alcoholic beverages for consumption on the premises only until 4:00 a.m.
- (B) It shall be unlawful to keep open for business or to admit the public to any premises or other area in or on which alcoholic liquor is sold at retail for consumption on the premises or other area during the hours within which the sale of such liquor is prohibited; provided, that in the case of restaurants, such establishments may be kept open during such hours, but no alcoholic liquor may be sold or consumed during such hours.

(Ord. 1412, passed 5-21-84; Am. Ord. 1712, passed 4-6-92; Am. Ord. 3021, passed 2-18-2013; Am. Ord. 3028, passed 7-1-13; Am. Ord. 3034, passed 5-6-13; Am. Ord. 3191, passed 7-5-16; Am. Ord. 3332, passed 7-1-19)

Penalty, see § 112.99

§ 112.05 RETAIL SALES NEAR CHURCHES, SCHOOLS, HOSPITALS, AND THE LIKE

- (A) No license shall be issued for the sale at retail of any alcoholic liquor within one hundred (100) feet of any church, school other than an institution of higher learning, hospital, home for aged or indigent persons or for veterans, their spouses or children or any military or naval station, provided, that this prohibition shall not apply to hotels offering restaurant service, regularly organized clubs, or to restaurants, food shops or other places where the sale of alcoholic liquors is not the principal business carried on; nor shall this prohibition apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred (100) feet of any church or school where such church or school has been established within such one hundred (100) feet since the issuance of the original license.

- (B) In the case of a church, the distance of one hundred (100) feet shall be measured to the nearest part of any building used for worship services or educational programs, and not to property boundaries.
- (C) Nothing in this section shall prohibit the issuance of a license to a church or private school to sell at retail alcoholic liquor if any such sales are limited to periods when groups are assembled on the premises solely for the promotion of some common object other than the sale or consumption of alcoholic liquors.

(Ord. 1712, passed 4-6-92)

Penalty, see § 112.99

§ 112.14 ACCESS TO LICENSED AREAS

The Liquor Commissioner and/or any peace officer of the City of Washington's Police Department wearing a uniform or displaying a badge or other sign of authority, shall have unobstructed, unhindered and immediate access to the Premises, including but not limited to all outdoor areas during business hours and/or any time the Premises, outdoor areas and/or special areas are occupied. The licensee, its agents and/or employees shall allow and/or facilitate said access, and shall not hinder or obstruct said access in any way.

(Ord. 2838, passed 7-6-09)

Penalty, see § 112.99

RETAIL LICENSES

§ 112.20 CLASSIFICATION OF LIQUOR LICENSES; NUMBER OF LICENSES PERMITTED

Licenses to sell liquor at retail are divided into classes, as follows:

- (A) **Class A.** Class A licenses shall authorize the retail sale on the premises of alcoholic liquors for consumption on or off the premises. A Class A licensee may also sell and serve alcoholic liquor for consumption in a designated supplemental outdoor area of its owned or leased property when such outdoor area is described in its license application, otherwise in conformance with ordinance and law, and approved by the Liquor Commissioner. Each and every owner, operator and/or manager licensed to sell alcoholic liquors in an outdoor area shall provide regular, diligent and effective management and employee oversight and control of such outdoor eating, drinking or seating area to assure compliance with the provisions of this Chapter and the Code of Ordinances of the City of Washington, Illinois.

(Am. Ord. 3034, passed 5-6-13; Am. Ord. 3200, passed 9-19-16;
Am. Ord. 3313, passed 3-18-19)

- (B) **Class B.** Class B licenses shall authorize the retail sale of alcoholic liquor in package and not for consumption on the premises where sold. This prohibition of consumption on the premises shall not apply to sampling or tasting conducted in accordance with the Liquor Control Act of 1934, as amended from time to time, and regulations of the State of Illinois.

(Am. Ord. 3313, passed 3-18-19)

- (C) **Class C.** Class C licenses shall authorize the retail sale of alcoholic liquors on the premises only, or on the premises and a designated supplemental outdoor area of its owned or leased property when such outdoor area is described in its license application, otherwise in conformance with ordinance and law, and approved by the Liquor Commissioner, and not for consumption off the premises where sold, and only in connection with and as a part of a private party or a private meeting not generally open to the public. This license shall be known as a Banquet and Caterer's license. When the Washington Area Community Center, 360 N. Wilmor Road, holds a Class C license, it may sell and serve alcoholic liquors at ticketed events as otherwise allowed for private events.

A Class C liquor license shall **also** be an annual or per event license permitting the sale of alcoholic liquor in connection with the operation of a catering business that serves alcoholic liquor in connection with the catering of foods and for consumption only on the property where the food is catered. Class C licenses, when catering within the City, shall be subject to the following:

- (1) Only those licensees holding a caterer retailer license pursuant to Section 5/1-3.34 of the Illinois Liquor Control Act (235 ILCS 5/1-3.34) shall be eligible to serve or sell alcoholic beverages while catering.

- (2) A Class C license shall only be issued to persons who can demonstrate that they are operating a bona fide catering business and / or a bona fide banquet facility.
- (3) While catering away from a licensee's banquet facility, the sale of alcoholic liquor shall be incidental to the food service. The revenue which the licensee derives for the sale of food must comprise at least fifty-one (51%) of the gross revenue earned from the sale of food and alcoholic liquor at each and every event or function.
- (4) While catering away from a licensee's banquet facility, no alcoholic liquor shall be sold or served at a single location for more than eight (8) consecutive hours. Furthermore, the sale or service of alcoholic liquor is prohibited from 2:00 a.m. until 6:00 a.m.
- (5) While catering away from a licensee's banquet facility, the event or function shall not be open to the general public but only to invited guests. The sale of alcoholic liquor may be made in bulk to the person or organization conducting the function or be made to invited guests by the drink.
- (6) One or more employees of the license holder shall at all times be present throughout the event or function and be capable of observing any and all part(s) of the premises or outdoor area where alcoholic liquor is being sold or consumed.
- (7) The licensee must implement measures to ensure that minors are not served alcoholic liquors and do not consume alcoholic liquor on the premises or any place alcoholic liquor is being served or consumed.
- (8) While catering away from a licensee's banquet facility, Class C license holders shall be exempt from Sections 112.05 (RETAIL SALES NEAR CHURCHES, SCHOOLS, HOSPITALS, AND THE LIKE).

The annual fee for the Class C license shall be \$1,000.00. The per-event license applies to a single event at a single location within the City. The fee for a per-event license shall be \$100.00. No per-event license shall be valid for a period exceeding one day.

(Am. Ord. 3066, passed 2-3-14; Am. Ord. 3200, passed 9-19-16;
Am. Ord. 3313, passed 3-18-19)

- (D) **Class D.** Class D liquor licenses shall permit the sale at retail of alcoholic liquor for consumption on the premises or described and authorized outdoor area at a special event conducted by an educational, fraternal, political, civic, religious or not-for-profit organization.

The Liquor Commissioner may authorize package sales of alcoholic liquor at such special event when the Commissioner is satisfied that the licensee will prevent public consumption from multi-serving containers. Such authorization may be conditioned on specific requirements or prohibitions that shall be conditions on the license and enforceable as other requirements specifically within this Code.

The licensee must carry dram shop insurance naming the City as a co-insured and comply in all respects with the requirements necessary for the sale of alcoholic beverage in the State of Illinois, including but not by way of limitation the licensee's Special Event Retail Liquor License issued by the Illinois Liquor Control Commission.

Each and every owner, operator, manager and/or licensee shall provide regular, diligent and effective management and employee or volunteer oversight and control of the premises and outdoor area to assure compliance with the provisions of this Chapter and the Code of Ordinances of the City of Washington, Illinois.

A license fee for such license shall be \$100.00, for a period not to exceed five (5) days.

(Ord. 2505, passed 01-05-04, Am. Ord. 2795, passed 8-18-08;
Am. Ord. 3313, passed 3-18-19)

- (E) **Class E.** Class E liquor licenses shall permit the sale at retail of alcoholic liquor for consumption on the premises or in a designated outdoor area to be sold at a temporary event by a currently licensed retail seller of alcoholic liquor in the City of Washington, for a one (1) day period of time. Such sales shall be by responsible persons and shall be allowed for single day in a specific location as follows:

(1) Definitions.

- (a) "Premises" shall mean the building out of which the licensee primarily operates, and for which a current liquor license is in effect and has previously been issued.
- (b) "Special Area" shall mean the area within which the temporary event will take place, and for which the Temporary Event license is sought.

- (2) Only the holders of current Class A and Class C liquor licenses, issued by the City of Washington, may apply for a Temporary Event license under the provisions of this Paragraph (E).

- (3) A complete liquor license application must be submitted for the Special Area.
- (4) The Special Area must comply with all of the following requirements:
 - (a) The Special Area must be adjoining and adjacent to the Premises, unless otherwise determined by the City Liquor Commissioner; and
 - (b) the Special Area must satisfy all of the requirements for the issuance of a liquor license (which specifically includes ownership of the Special Area or a written lease agreement for the Special Area), with the exception of the requirement that the sales take place in a building; and
 - (c) the Special Area must be fully enclosed by means of a fence or other structure, such that access to and from the area is limited to only one (1) point of access, and such that litter and other debris are or will be wholly contained within the Special Area. The City Liquor Commissioner, by nature of the event and/or location, will determine whether fencing of the event area will be required and whether a Washington Police Officer will be required to be present to monitor the event. If it is determined that a Washington Police Officer is required, the expense of the officer will be the responsibility of the licensee. In any case, each and every owner, operator, manager and/or licensee shall provide regular, diligent and effective management and employee oversight and control of the premises, special area, and outdoor area to assure compliance with the provisions of this Chapter and the Code of Ordinances of the City of Washington, Illinois.
- (5) The Temporary Event license will permit the sale of Alcoholic Liquor for one (1) day only.
- (6) No noise emanating from the Special Area shall be audible from the closest lot line of any residentially zoned lot that is also used for residential purposes. If noise is audible at the closest lot line of any residentially zoned lot that is also used for residential purposes, the Temporary Event license will be immediately revoked, and the sale of alcoholic liquor within the Special Area shall cease and become illegal upon notification thereof by the Chief of Police or his or her designee.
- (7) A license fee for such license must be paid with the application in an amount equal to \$250.00.
- (8) The licensee must satisfy all of the requirements of Chapter 112 of the Code of Ordinances of the City pertaining to the sale of alcoholic liquor, including but not limited to the carrying of dram shop insurance naming the City as a co-insured, and must comply in all respects with the requirements necessary for the sale of alcoholic beverages in the State of Illinois, including but not by way of limitation,

the additional requirements for a Special Event Retailer's License required by 235 ILCS 5/7-1, as amended from time to time.

- (10) Not more than two (2) Temporary Event Licenses may be issued to a single holder of a liquor license during any one (1) liquor license year (May 1st through April 30th), except that a liquor license holder may request and the Liquor Control Commissioner may issue up to two (2) additional Temporary Event Licenses to a single holder of a liquor license when the applicant specifies and warrants that all proceeds from the specified event will be donated to a named nonprofit organization in accordance with the requirements herein;
 - (a) Within 30 days of the event, the applicant must provide the City Clerk with a complete and accurate accounting of all expenses and income related to the event;
 - (b) Within 14 days of providing such accounting, the applicant must provide the City Clerk with proof of payment of the proceeds to the designated nonprofit organization;
 - (c) The specific nonprofit organization to receive the proceeds must be designated on the application and must agree to receive such proceeds;
 - (d) Failure of the applicant to comply with this section after issuance of the Temporary Event License is a violation of this Chapter 112 and subjects the holder to the penalties listed herein, including suspension or revocation of the holder's Class A or Class C liquor license upon which issuance of the Temporary Event License is predicated;
 - (e) The Liquor Control Commissioner may deny issuance of a Temporary Event License applied for to benefit a nonprofit organization on the grounds that the nonprofit organization is not known to be a bona fide nonprofit organization or the expected proceeds to be paid to the nonprofit organization are not substantial in comparison to the event costs or costs or potential costs of related public services;
 - (f) The Liquor Control Commissioner may deny issuance of a Temporary Event License when, in the opinion of the Chief of Police or his/her designee, the City will not be able to efficiently provide required public services, including police services, during the period of the event.
- (11) No Temporary Event License may be issued to the holder of liquor license issued by the City of Washington, if the holder has violated the provisions of Chapter 112 of the Code of Ordinances of the City, or compromised and settled such a liquor

code violation, within the twelve months immediately prior to the filing of the application for a Temporary Event License.

- (12) No more than one Temporary Event License may be in effect on any one day within the City and no licensee may hold more than one Temporary Event License in a calendar month.
- (13) The application for a Temporary Event License must be submitted not less than twenty-one (21) days prior to the temporary event. Upon submission of the application, with the license fee attached, the Chief of Police, or his or her designee, shall inspect the Special Area and advise the Liquor Control Commissioner as to whether the Special Area complies in all respects with the Code of Ordinances of the City, and as to the prior violations of the Liquor Code of the City. Thereafter, the Liquor Control Commissioner will review the application, application materials and attachments, the report of the Chief of Police, and will grant or deny the application for a Temporary Event License within ten days of the filing of the application for the Temporary Event License.
 - (Am. Ord. 3192, passed 7-18-16; Am. Ord. 3200, passed 9-19-16;
 - Am. Ord. 3290, passed 6-18-18; Am. Ord. 3313, passed 3-18-19;
 - Am. Ord. 3331, passed 7-1-19; Am. Ord. 3332, passed 7-1-19)

(F) REQUIREMENTS FOR LICENSING AND OPERATING SUPPLEMENTAL OUTDOOR AREAS

Only Class A or Class C liquor licenses may authorize, in supplementation to sale and service of alcoholic liquors for consumption in the licensed premises, the sale and consumption of alcoholic liquor off-premises in a supplemental outdoor area. All other provisions of the Washington Municipal Code pertaining to the respective Class A or Class C liquor license shall apply to the outdoor licensed area unless otherwise provided herein. For purposes of this Subsection (F) only, the term "Off-Premises" shall mean an area outside and adjacent to a building for which a liquor license to sell and consume alcoholic liquor is issued, and on which it shall be lawful to sell and consume alcoholic liquors if so authorized through a valid Class A or Class C license including the outdoor area.

- (1) The outdoor eating, drinking or seating area must comply with the following: a) be immediately adjacent and contiguous to the Class A or Class C licensed premises, b) be accessible to customers and patrons from the interior of the licensed premises only; be entirely and completely contained by fencing or other suitable material at least three feet in height (material appropriateness to be determined by outdoor area location), measured from the finished floor elevation of the outdoor eating, drinking or seating area, which defines the seating area and sets that area apart from the surrounding property, and provides for limited and controlled access to the outdoor eating, drinking and seating area.

A Class A licensee who holds a State of Illinois wine-maker's premises license and who produces wine using grapes or other fruit grown on the licensee's property may also sell and serve alcoholic liquor for consumption in a designated outdoor area of its owned or leased property when such outdoor area is described in its license application and approved by the Liquor Commissioner. Such area may be exempted from the fencing requirement when the placement and layout of the property makes it unlikely that further control of the area is required for monitoring, safety, or security purposes.

- (2) At least one, fully operable, emergency only exit shall be provided from the supplemental outdoor area directly to the outside where the only other means of egress is through the interior of the licensee's premises. Said emergency-only exits shall be in addition to the access provided directly from the licensed premises, may be used to provide a means of egress/ingress for persons whose physical limitations or handicaps preclude their entrance or exit from the interior of the licensed premises and may be used for the purpose of taking delivery of products, materials and supplies.
- (3) The total square footage of the outdoor eating, drinking or seating area shall be included in the total parking calculations and requirements for the site, except that that all establishments holding annual Class A or Class D licenses on August 1, 2008, shall be exempt from this additional parking requirement.
- (4) No amplified sound or music nor any live entertainment shall be permitted in the supplemental outdoor area after 10:00 p.m. and shall at all times be subject to all noise limitations of the City.
- (5) Each and every owner, operator, manager and/or licensee shall provide regular, diligent and effective management and employee oversight and control of the premises and outdoor area to assure compliance with the provisions of this Chapter and the Code of Ordinances of the City of Washington, Illinois. The presence of an intoxicated minor or a minor in possession of, or consuming alcoholic liquor in the licensed outdoor area shall be prima facie proof of ineffective oversight and control of the outdoor area. A trier of fact may consider control measures taken by a licensee, including fencing or containment that exceeds the minimum described in this chapter.

(Am. Ord. 3142, passed 8-3-15)

(Ord. 3332, passed 7-1-19)

- (G) Number of licenses. Effective May 1, 2021;

- (1) There shall be no more than 17 Class A licenses for the sale of alcoholic liquor at retail in the City in force at any one time.
- (2) There shall be no more than 11 Class B licenses for the sale of alcoholic liquor at retail in the City in force at any one time.
- (3) There shall be no more than 3 Class C licenses for the sale of alcoholic liquor at retail in the City in force at any one time.
- (4) There shall be no more than two (2) Class E licenses for the sale of alcoholic liquor at retail in the City in force at any one time.

(H) FEES FOR RETAIL SALE LIQUOR LICENSES

- (1) The license fee for a Class A licenses as of May 1, 2021, shall be \$1,250.00 per year, but no licensee who held a license of any Class for the same business between May 1, 2020, and April 30, 2021, and whose fee for that 2020-2021 license was not prorated, shall be charged more for its 2021-2022 Class A license than the business was charged for its 2020-2021 license for that business, regardless of license classification. The fee for Class A licenses as of May 1, 2023, shall be \$1,300.00 per year.
- (2) The license fee for a Class B licenses as of May 1, 2021, shall be \$1,250.00 per year. The fee for Class B licenses as of May 1, 2022, shall be \$1,300.00 per year. The fee for Class B licenses as of May 1, 2023, shall be \$1,400.00 per year.
- (3) The City Council may authorize by resolution a reduction of up to \$1,000.00 in the annual Class A liquor license fee for any regularly organized club. For purposes of this section, a "regularly organized club" is defined as follows: a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common object other than the sale and consumption of alcoholic liquors, which conforms to a definition of a club, as provided by state law. No reduction in the fee for said license shall be issued until the City Council has found that the club applying for the license was actually and, in fact, organized for some purpose or object other than the sale or consumption of alcoholic liquor.

(Ord. 979, passed 1-8-70; Am. Ord. 1469, passed 10-7-85; Am. Ord. 1474, passed 12-16-85; Am. Ord. 1525, passed 7-6-87; Am. Ord. 1712, passed 4-6-92; Am. Ord. 1822, passed 2-22-94; Am. Ord. 1843, passed 6-6-94; Am. Ord. 1897, passed 2-20-95; Am. Ord. 1918, passed 5-15-95; Am. Ord. 2083, passed 12-2-96; Am. Ord. 2077, passed 6-16-97; Am. Ord. 2110, passed 3-9-98; Am. Ord. 2152, passed 11-2-98; Am. Ord. 2191, passed 7-6-99; Am. Ord. 2199, passed 9-20-99; Am. Ord. 2271, passed 1-22-01; Am. Ord. 2405, passed 9-3-02;

Am. Ord. 2424, passed 12-16-02; Am. Ord. 2494, passed 12-1-03;
Am. Ord. 2505, passed 1-5-04; Am. Ord. 2513, passed 2-16-04; Am. Ord. 2518, passed 4-5-04;
Am. Ord. 2563, passed 10-18-04; Am. Ord. 2564, passed 10-18-04;
Am. Ord. 2594, passed 2-21-05; Am. Ord. 2666, passed 3-20-06; Am. Ord. 2682, passed 7-3-06;
Am. Ord. 2693, passed 9-18-06; Am. Ord. 2714, passed 1-2-07; Am. Ord. 2770, passed 3-3-08;
Am. Ord. 2772, passed 4-7-08; Am. Ord. 2795, passed 8-18-08; Am. Ord. 2797, passed 9-2-08;
Am. Ord. 2819, passed 3-2-09; Am. Ord. 2829, passed 4-20-09; Am. Ord. 2848, passed 8-17-09;
Am. Ord. 2855, passed 9-21-09; Am. Ord. 2877, passed 3-1-10; Am. Ord. 2880, passed 4-5-10;
Am. Ord. 2936, passed 6-20-11; Am. Ord. 2965, passed 2-20-12;
Am. Ord. 3001, passed 8-20-12; Am. Ord. 3013, passed 12-10-12;
Am. Ord. 3021, passed 2-18-13; Am. Ord. 3028, passed 4-15-13; Am. Ord. 3042, passed 7-1-13;
Am. Ord. 3066, passed 2-3-14; Am. Ord. 3113, passed 2-2-15; Am. Ord. 3130, passed 6-1-15;
Am. Ord. 3141, passed 8-3-15; Am. Ord. 3174, passed 4-4-16; Am. Ord. 3176, passed 4-18-16;
Am. Ord. 3201, passed 9-19-16; Am. Ord. 3203, passed 9-19-16;
Am. Ord. 3224, passed 3-20-17; Am. Ord. 3298, passed 8-20-18; Am. Ord. 3331, passed 7-1-19;
Am. Ord. 3332, passed 7-1-19)

Penalty, see § 112.99

§ 112.32 PRIVILEGES GRANTED UNDER LICENSE

- (A) A license issued under this chapter shall permit the sale of alcoholic liquor only in the premises and outdoor area described in the application and license, and only under the conditions and restrictions imposed in this chapter on the particular class of license described therein.
- (B) There shall be no refund of any license fee paid under the provisions of this chapter, except as above provided. Any licensee holding an annual license shall have the right to a renewal of such license, subject to the terms, conditions and restrictions in effect for such license in the renewal term, provided that the licensee is then qualified to receive a license and the premises and outdoor area for which such renewal is sought are suitable for such purpose. The renewal right shall not be deemed to restrict the right of the Mayor to revoke any such license. The renewal right does not apply to temporary licenses.

(Ord. 1712, passed 4-6-92; Am. Ord. 3021, passed 2-18-13)

§ 112.40 VIDEO GAMING MACHINES PROHIBITED

Except for liquor licensees lawfully operating as licensed establishments under Section 136.50 (entitled "Licensed Video Gaming"), all liquor licensees under Chapter 112 are prohibited from having, anywhere on their premises or property, 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, even if solely for amusement purposes. Any liquor licensee that violates this Section 112.40 may subject to a fine and/or revocation or suspension of its license pursuant to Section 112.31. Additionally, any electronic video gaming machine operated on a liquor licensee's premises in violation of Section 112.40 may be subject to seizure by the City and forfeiture.

(Ord. 3003, passed 9-4-2012)

LICENSED VIDEO GAMING

§ 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 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 licenses 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.

(Ord. 2995, passed 7-2-12, Am. Ord. 3020, passed 2-18-13; Am. Ord. 3247, passed 10-2-17;
Am. Ord. 3317, passed 4-15-19; Am. Ord. 3341, passed 9-3-19;
Am. Ord. 3386, passed 6-1-20)

§ 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. For the purposes of this section, a "full bar" regularly offers and sells, for consumption on the premises, beer, wine, and spirits including whiskey, vodka, gin, rum, tequila and brandy or cognac, and provides drink service to standing or seated patrons at a permanent physical bar with a top at least 15' in length for service of food and/or drink, whether in addition to other seating and service areas or not;
- (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;
- (L) For an applicant who has continuously held a City of Washington Class E liquor license issued prior to the establishment of this ordinance, and who subsequently and continuously held a Class A license and continuously operated as a regularly organized club, the requirements (A)-(D) of this §136.51 shall have no effect. For purposes of this section, a "regularly organized club" is defined as follows: a corporation organized under the laws of this state, not for pecuniary profit, solely for the promotion of some common

object other than the sale and consumption of alcoholic liquors which conforms to a definition of a club, as provided by state law.

(Am. Ord. 3247, passed 10-2-17; Am. Ord. 3317, passed 4-15-19;
Am. Ord. 3341, passed 9-3-19; Am. Ord. 3386, passed 6-1-20)

§ 136.52 REQUIREMENTS FOR VIDEO GAMING TERMINAL OPERATOR LICENSE AND TERMINAL OPERATOR 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 Terminal Operator License and Terminal Operator Permit Sticker(s) to any licensed terminal operator who shall lease, deliver, or otherwise provide video gaming terminal(s) for usage within the City, subject to the following requirements;

- (A) Each applicant shall show proof of current licensure in accordance with 230 ILCS 40/1 et. seq.;
- (B) Each applicant must provide a complete listing of the video gaming establishments it intends to serve within the City during the license period, including the number of video gaming terminals it intends to provide to each establishment;
- (C) Other than having up to six (6) video gaming terminals with valid video gaming terminal operator permit stickers, a terminal operator is prohibited from leasing, delivering, or otherwise providing, anywhere within an establishment licensed under this Chapter 136, 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.

(Ord. 3317, passed 4-15-19; Am. Ord. 3341, passed 9-3-19)

§ 136.99 PENALTY

Whoever violates the provisions of this chapter, for which another penalty is not already provided, shall be fined not more than five hundred dollars (\$500.00) for each offense.