

VILLAGE OF DOWNERS GROVE
Report for the Village
11/9/2021

SUBJECT:	SUBMITTED BY:
An Ordinance establishing video gaming regulations	Enza Petrarca Village Attorney

SYNOPSIS

An ordinance has been prepared to amend Chapter 3 of the Downers Grove Municipal Code to establish video gaming regulations.

STRATEGIC PLAN ALIGNMENT

The strategic goals for 2021-2023 include *Exceptional Municipal Services. Consider Allowing Video Gaming for Restaurants with an On-premise Consumption Liquor License* is a priority action item.

FISCAL IMPACT

The Village will collect application fees, annual license fees, and tax revenue from the State. An initial estimate of annual video gaming revenues ranges from \$250,000 to \$500,000. This estimate is dependent primarily upon the number of licenses granted, and the volume of usage of the terminals.

RECOMMENDATION

UPDATE & RECOMMENDATION

This item was discussed at the October 19, and November 2, 2021 Village Council meeting. The Downers Grove DMC Board of Directors voted unanimously to oppose the ordinance due to the impact on the aesthetics in the downtown as it does not restrict signage. The Illinois Administrative Code requires terminal operators to install and maintain video surveillance cameras that continuously record at all times video gaming terminals are in operation.

BACKGROUND

The Illinois Video Gaming Act, adopted in 2009, allows video gaming only at establishments that have a liquor license for on-premise consumption. Currently the Village prohibits video gaming. The Village Council identified the consideration of video gaming as a priority action item in the most recently adopted 2021-2023 Long Range Plan.

Proposed Video Gaming Ordinance At a Glance

- A Video Gaming License is Required to Operate Gaming Terminals

- Licenses are Available for R1, R2, R3, C and B1 Liquor License Classifications
- Maximum of 20 Video Gaming Licenses
- Maximum of 6 Video Gaming Terminals per Licensed Establishment
- An Establishment Must Have Held a Village Liquor License for 12 Months Before it is Eligible to Apply
- The Video Gaming Terminals Must be Placed in a Separate Room with Walls at Least 7 ft High
- The Maximum Size of the Room is Limited to the Lesser of 25% of the Total Facility or 500 sf.
- Signs Must be Posted Prohibiting Anyone under 21 to enter the room
- If the underlying liquor license gets suspended or revoked for a violation so too will the VG license and vice versa
- The Effective Date is January 1, 2022
- The Annual Fee for Each Video Gaming Terminal is \$1,500
- The Initial One-Time Application Fee is \$1,885

State Law Summary

The Illinois Video Gaming Act was adopted in 2009. The act permitted video gaming in establishments with an on-premise consumption liquor license. Local municipalities and counties were given the option to opt-out or establish regulations allowing video gaming. The State Act requires establishments obtain a State video gaming license. To obtain a license, establishments must be in good standing and have a local liquor license.

The Act regulates the licensing of video gaming manufacturers, distributors, terminal operators and technicians. Local jurisdictions typically only deal with terminal operators. Terminal operators are licensed by the State to install, operate, and maintain video gaming machines in authorized establishments. They are also required to submit monthly financial reports to the State on video gaming revenues. Establishments can only obtain video gaming machines from terminal operators licensed by the State. The Act limits the total number of video gaming terminals to 6 per establishment. The Act also establishes strict penalties for establishments and terminal operators that do not comply with the numerous regulations established in the Act. These primarily deal with the proper operation of video gaming machines, proper financial monitoring mechanisms, and timely financial reporting to the State.

The State collects a tax of 30% of the total video gaming revenue and distributes approximately 15% of the total taxes collected back to local municipalities through a specially designated local distributive fund.

Eligibility and Location of Video Gaming Establishments

The draft ordinance limits the maximum number of video gaming licenses available to 20. The ordinance also limits the maximum number of terminals per licensed establishment to 6. Therefore, the maximum number of terminals operating in the Village would be limited to 120. Pursuant to the draft ordinance, establishments holding liquor licenses in the following classifications would be eligible for the issuance of a video gaming license.

Type of Business	Liquor License Classification	Number of License Holders
Restaurants	R-1, R-2 and R-3	46
Brew Pubs	B-1	1
Clubs	C-1	3

Recreational Facilities	REC-1, REC-2	5
Total		55

Currently there are 55 total establishments holding these licenses. The attached map shows the location of these establishments and the current zoning districts. Staff anticipates that not all eligible establishments will pursue video gaming, but initially there may be more demand than the number of licenses available.

The draft ordinance requires that establishments must have held a liquor license for at least 1 year before becoming eligible for a video gaming license, and must be in good standing with the Village. Further, the draft ordinance requires establishments to build a separate room with walls a height of at least 7 feet. The maximum size of the room will be 25% of the total square footage of the building, or 500 SQ FT, whichever is smaller. Individuals under the age of 21 will be prohibited from accessing this room, and establishment employees must be able to see inside the room at all times.

Establishments will be required to submit an application with basic information including a copy of their Illinois Video Gaming license, and their floor plan. Upon preliminary approval of their floor plan, and approval of their application, applicants will also be required to obtain building permits before moving forward with the construction of their video gaming rooms.

Fees

As part of the application process, establishments will be required to pay an application fee to cover the review and approval of their application. They will also be required to pay an annual license fee equal to the number of video gaming terminals in the establishment. The application fee will be \$1,885 as the video gaming license is being treated as a supplemental liquor license. The license fee will be \$1,500 per terminal. Village staff found that communities in DuPage County structure the fees in a variety of ways. Village staff chose a license fee of \$1,500 per terminal, as that matches the highest fee in DuPage County and is consistent with how other municipalities charge the license fees.

Revenue Projections

The Village will receive video gaming revenue through a combination of application fees, video gaming license fees, and tax revenues. Application fees will only be paid once by applicants, video gaming licenses will be paid on an annual basis, and tax revenues will be remitted by the State on a monthly basis. An initial estimate of annual video gaming revenues ranges from \$250,000 to \$500,000. Factors in the revenue estimate were the average amount of tax revenue generated by individual establishments in DuPage County in 2019, the number of establishments, and the number of video gaming terminals. The State collects a tax of 30% of the total video gaming revenue and distributes approximately 15% of the total taxes collected back to local municipalities through a specially designated local distributive fund. The lower estimate assumes ten establishments in operation for a full year with 6 video gaming machines each. The higher estimate assumes twenty establishments in operation for a full year with 6 video gaming machines each.

Neighboring Communities

Neighboring municipalities that currently allow Video Gaming include Westmont, Darien, Oakbrook Terrace, Woodridge, Willowbrook, Lemont, and Lombard. The attached table summarizes the number of terminals and estimated annual revenue for DuPage County municipalities that permit video gaming.

ATTACHMENTS

Map of Eligible Establishments

Zoning Districts of Eligible Establishments

Summary of DuPage Municipalities Allowing Video Gaming
Ordinance

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** November 9, 2021
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

☒ Ordinance
☐ Resolution
☐ Motion
☐ Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE
ESTABLISHING VIDEO GAMING
REGULATIONS", as presented.



SUMMARY OF ITEM:

Adoption of the attached ordinance shall establish video gaming regulations.

RECORD OF ACTION TAKEN:

VILLAGE OF DOWNERS GROVE

COUNCIL ACTION SUMMARY

INITIATED: Village Attorney **DATE:** November 9, 2021
(Name)

RECOMMENDATION FROM: _____ **FILE REF:** _____
(Board or Department)

NATURE OF ACTION:

X Ordinance
 ___ Resolution
 ___ Motion
 ___ Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE
 ESTABLISHING VIDEO GAMING
 REGULATIONS, AS PRESENTED, WITH THE
 INCLUSION OF RESTRICTIONS TO NOT
 ALLOW VIDEO GAMING IN THE DC, DB AND
 DT ZONING DISTRICTS", as presented.

Enya

SUMMARY OF ITEM:

Adoption of the attached ordinance shall establish video gaming regulations, as presented, with the inclusion of restrictions to not allow video gaming in the DC, DB and DT zoning districts.

RECORD OF ACTION TAKEN:

Memorandum

To: Mayor & Council
From: David Fieldman, Village Manager
Re: Additional Information Regarding Video Gaming Ordinance
Date: November 9, 2021

The Village Council discussed the draft ordinance at the October 19, 2021 meeting and identified a few issues for further discussion. This memo provides additional information about:

- Maximum Size of the Separate Video Gaming Room
- Noise Regulations
- Prohibiting Visibility of Terminals from Outside of the Establishment
- Definition and Prohibition of Video Gaming Cafes
- Revenue from Video Gaming Cafes Compared to Other Establishments
- Dedicated Use of Video Gaming Revenue
- Video Surveillance
- Prohibiting Video Gaming in the Downtown

Size of the Separate Video Gaming Room - The original draft ordinance restricts the size of the separate video gaming room to 25% of the facility or 500 square feet, whichever is less. Under this regulation most of the eligible establishments would be permitted to have a gaming room of 500 square feet (only establishments smaller than 2,000 square feet would be limited to gaming rooms less than 500 square feet). Staff used a small restaurant (2400 s.f. total size) to provide examples of separate gaming rooms of 500 square feet (slightly in excess of the 25% maximum in this case), 250 square feet and 200 square feet (see attached floor plans). It appears that six gaming terminals would fit in the 200 square foot gaming room. **The ordinance has been revised to include a maximum gaming room size of 200 square feet for all establishments.**

Prohibiting Visibility of Terminals from Outside the Establishment- The Village may enact regulations which require that the terminals not be visible from outside of the facilities. **The ordinance has been revised to specifically state that the terminals shall not be visible from outside of the establishment.**

Noise Regulations - The Village may enact regulations regarding noise emitting from the gaming terminals. The requirement to operate the terminals within a separate room with walls at least seven feet in height may address concerns about noise. **The ordinance has been revised to require that noise from the gaming terminals shall not be heard outside of the separate gaming room.**

Prohibition and Definition of Video Gaming Cafes - The draft ordinance contains regulations intended to prohibit video gaming cafes. Four components of the ordinance work together to accomplish this objective.

Define Video Gaming Cafes - The draft ordinance defines a video gaming cafe as *an establishment whose primary focus is video gaming and the sale and service of alcohol, non-alcoholic drinks or food is incidental to the operation of video gaming, and which has an expected revenue to be at least 20% of its gross revenue on an annual basis exclusively from video gaming activities.*

Prohibit Video Gaming Cafes - The draft ordinance prohibits the operation of video gaming cafes.

Restrict the Video Gaming Area to 200 s.f. - The revised draft ordinance limits the video gaming area to a separate room with a maximum size of 200 s.f.

Hold a Liquor License for 12 Months - The draft ordinance requires that establishments hold a liquor license in good standing for 12 months prior to applying for a video gaming license.

The Council discussed the following key questions:

- Is it appropriate and effective to define video gaming cafes based, in part, on the percentage of revenue from gaming?
- If yes, is “expected revenue to be at least 20% of gross revenue on an annual basis” the appropriate percentage?

The percentage of total revenue from video gaming is one of three components of the definition of a Video Gaming Cafe. To be defined as a Cafe, all three components would have to be met. The first two components, the primary focus of the business is video gaming and the sale and service of food and beverages is incidental to the video gaming, are subjective measures. Establishments with video gaming revenue greater than 20% of gross revenue would not automatically classify the establishment as a Video Gaming Cafe. Determining whether an establishment meets the definition of a Video Gaming Cafe would be handled on a case by case basis.

Staff analyzed establishments holding R1, R2, R3 and B1 liquor licenses and compared average annual food and beverage revenue to the expected revenue from six gaming terminals. The information is summarized in the table below.

Table 1 Estimated Video Gaming Revenue as a Percentage of Food & Beverage Revenue (2019)	
Median Annual Revenue from Food & Beverage Sales for R1, R2, R3, and B1 Establishments (40 Establishments in 2019)	\$1,469,714
Estimated Annual Revenue from Six Video Gaming Terminals (based on State-wide average of \$46,786 per terminal)	\$280,716
Estimated Gross Annual Revenue from Food & Beverage Sales & Video Gaming	\$1,750,430
Estimated Median Percent of Gross Revenue from Video Gaming	16%

This analysis suggests that a typical restaurant or brew pub establishment would be expected to generate 16% of its total revenue from video gaming. Establishments with food and beverage revenue above the median would likely generate less than 16% of gross revenue from video gaming. Assuming that each establishment operates 6 terminals that generate \$280,716 or more, 15 of the 40 establishments analyzed would generate more than 20% of gross revenue from video gaming.

Performing the above analysis on establishments holding Club and Recreational liquor licenses is challenging as they generate revenue from sources other than the sale of food and beverages. The Village does not collect information on these other revenue sources.

Revenue from Video Gaming Cafes Compared to Other Establishments - Staff reviewed revenue information from the Village of Westmont to understand if video gaming cafes are likely to generate more revenue per terminal than other establishments. In 2019, terminals located in video gaming cafes generated an average of \$8,817 in municipal tax revenue. Terminals located in other establishments such as restaurants and bars generated an average of \$2,709.

Table 2 Westmont Revenue from Video Gaming Cafes & Other Establishments, 2019				
	Establishments	Municipal Share of State Tax Revenue	Terminals	Municipal Share of State Tax Revenue Per Terminal
Video Gaming Cafes	5	\$220,424	25	\$8,817
Other Establishments	12	\$162,538	60	\$2,709
Total	17	\$382,962	85	\$4,505

Staff then applied the average annual revenue from terminals not located in a video gaming cafe to the Village of Downers Grove revenue estimates (see table below). These results are consistent with the preliminary revenue estimate of \$250,000 to \$500,000.

Table 3 Estimated Annual Revenue for Village of Downers Grove		
	60 Terminals	120 Terminals
One Time Application Fee*	\$18,850	\$37,700
Annual License Fee Revenue (\$1,500 per Terminal)	\$90,000	\$180,000
Municipal Share of State Tax Revenue		
Based on State Average (\$2,339.30 per Terminal)	\$140,358	\$280,716
Based on Average of Westmont Terminals Not in a Cafe (\$2,709 per Terminal)	\$162,540	\$325,080
Estimated Annual Village Revenue	\$249,208 to \$271,390	\$498,416 to \$542,780

*NOTE: Assumes 10 license applications for the 60 terminal analysis and 20 license applications for the 20 terminal analysis.

Dedicated Use of Video Gaming Revenue - The Village Council may direct the use of the revenue from video gaming. This direction could be provided in an ordinance or through the annual long range planning and budgeting process. Directing the use of the funds in an ordinance provides less future flexibility. Any change to the use of the revenue would require an amendment to the Ordinance. Directing the use of funds in conjunction with long range planning and budgeting provides flexibility. The Council would make decisions about the use of the gaming revenue on an annual basis.

Video Surveillance - State regulations require terminal operators to install and maintain video surveillance cameras that continuously record at all times video gaming terminals are in operation. Recordings are required to be maintained for 30 days, and are subject to inspection by the Illinois Gaming Board at all times. Terminal operators are required to back up the data twice a month, and the surveillance recordings are only accessible to the terminal operators and representatives of the Illinois Gaming Board.

Prohibiting Video Gaming in the Downtown - The Village may enact video gaming regulations specific to zoning districts. Therefore, the Council may prohibit the issuance of video

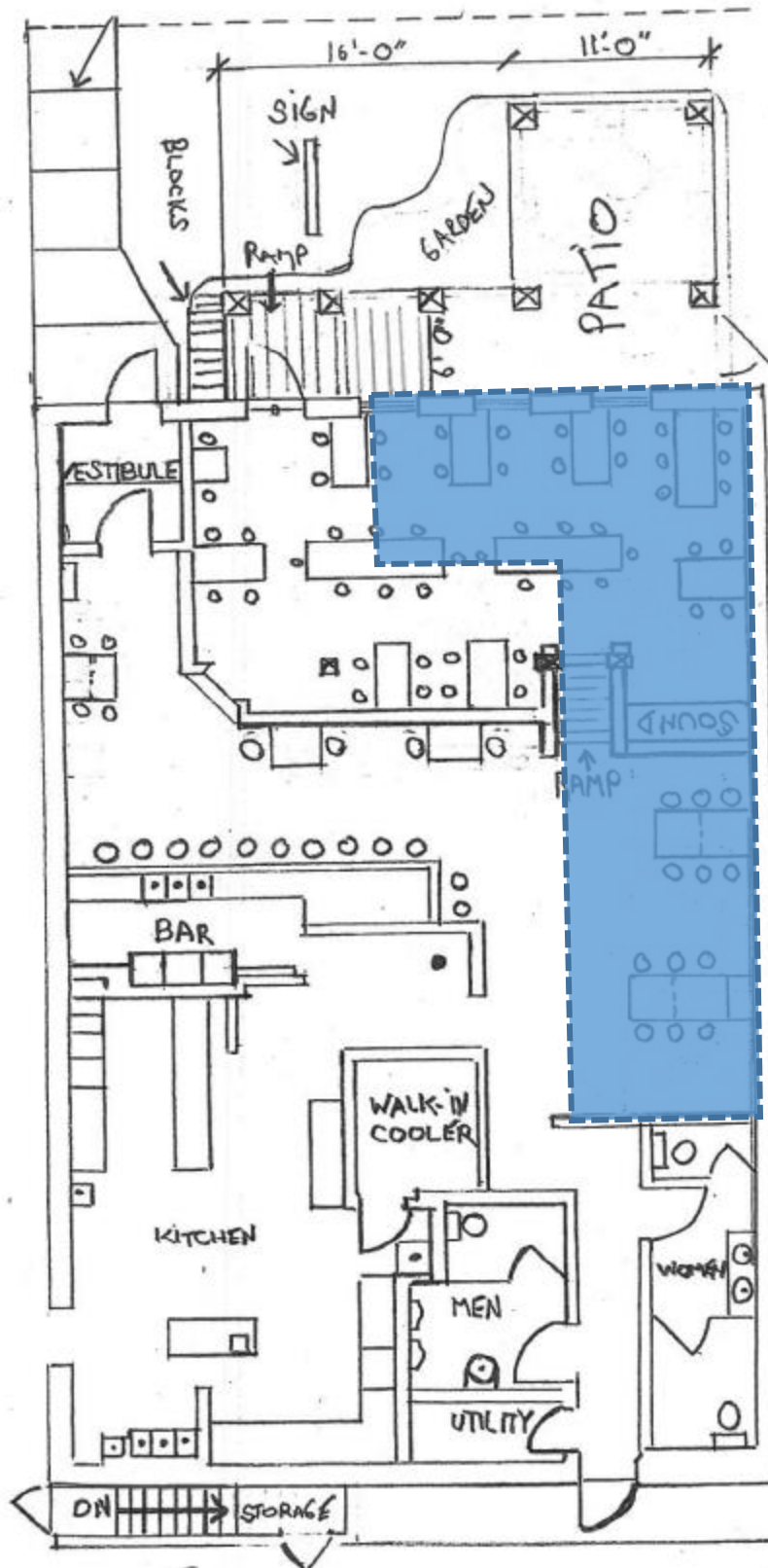
gaming licenses in the Downtown Core, Downtown Business and Downtown Transition zoning districts. By doing so, establishments located in the downtown area would not be able to operate video gaming.

The downtown is recognized as a unique environment with characteristics different from other commercial areas in the Village. Here is an excerpt from the Comprehensive Plan:

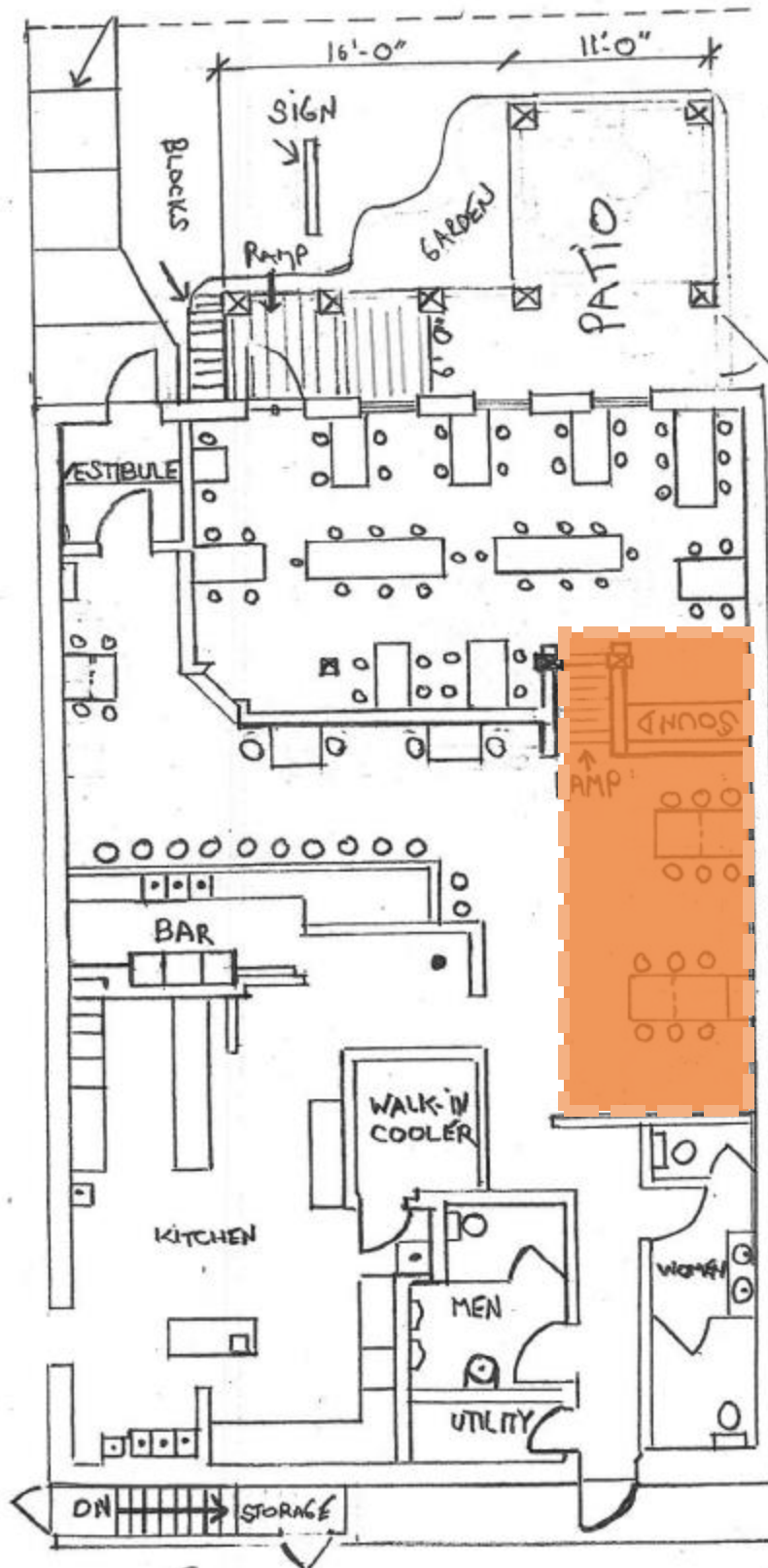
Downtown Downers Grove is characterized by a mix of uses, dense and compact development, and a pedestrian-friendly environment within which to shop, dine, work, and live. The Downtown area, anchored by the Main Street Metra station, provides a unique shopping destination within the community. As the symbolic heart of the Village, providing a unique atmosphere, it is vital that reinvestment, redevelopment, and new development reinforce these qualities and preserve and enhance the pedestrian-oriented atmosphere of Downtown Downers Grove.

Here are some of the attributes unique to downtown:

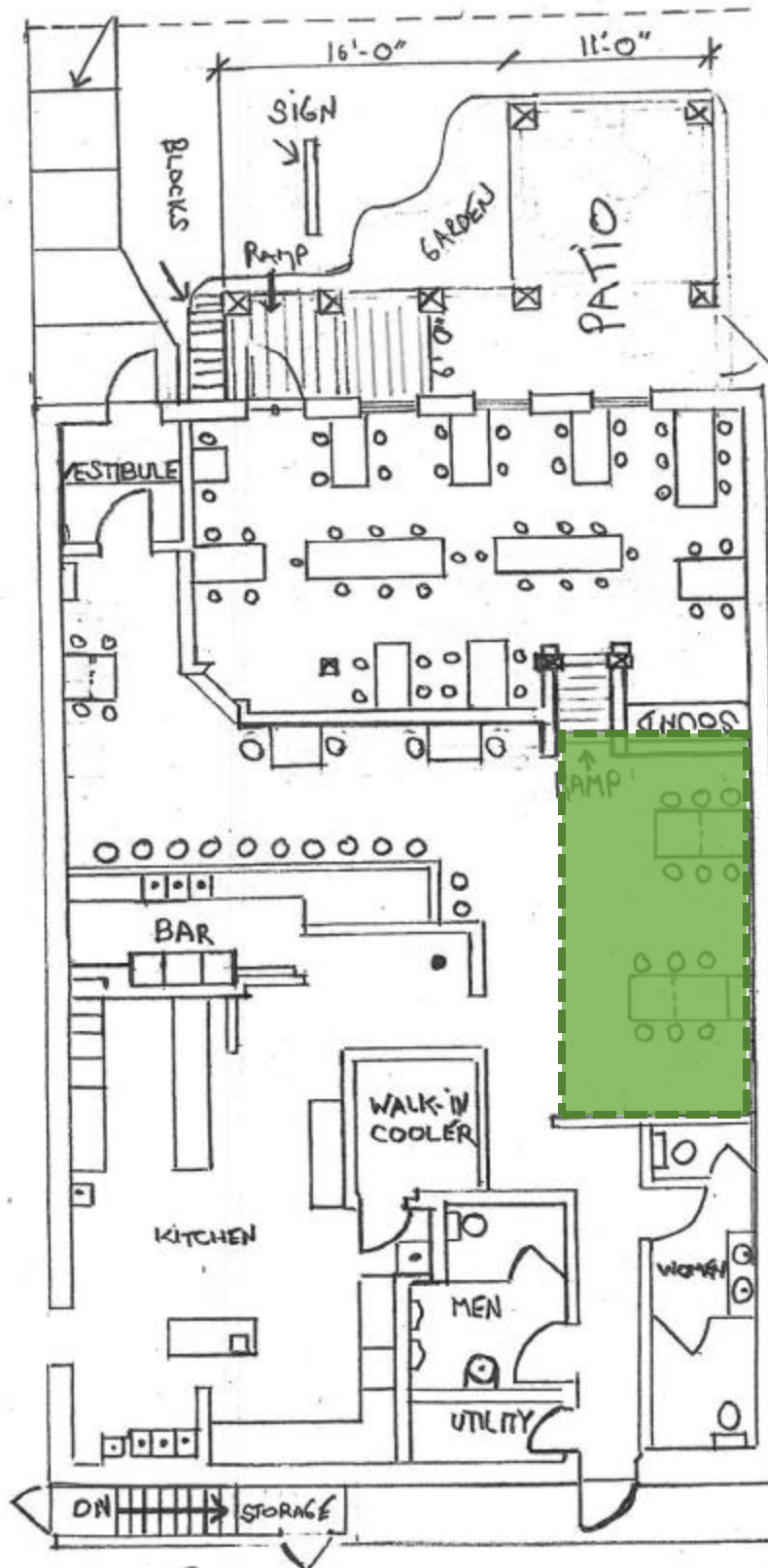
- Many buildings are setback at or near the front lot line and at or near the side lot lines
- Certain development and construction activities are subject to compliance with the downtown design guidelines
- On-site parking is not required for many uses
- Restaurants may participate in the outdoor dining program which allows them to operate outdoor cafes on public property (on sidewalks and in on-street parking spaces)
- Commercial buildings are subject to Special Service Area #11 and pay additional property taxes
- The Village and Downtown Management provide additional services within SSA #11:
 - Promotion and marketing of businesses
 - Economic development of businesses including retention of existing businesses and recruitment of new businesses
 - Promotion and management of community events and activities
 - Enhanced installation and maintenance of streetscape and landscaping
 - More frequent street and sidewalk sweeping and cleaning than is provided to other portions of the Village
 - More frequent and extensive snow and ice removal than is provided to other portions of the Village
 - Additional or more extensive seasonal decorations
 - Enhanced parking for residents, customers and commuters
 - Promotion, maintenance and beautification of the special service area



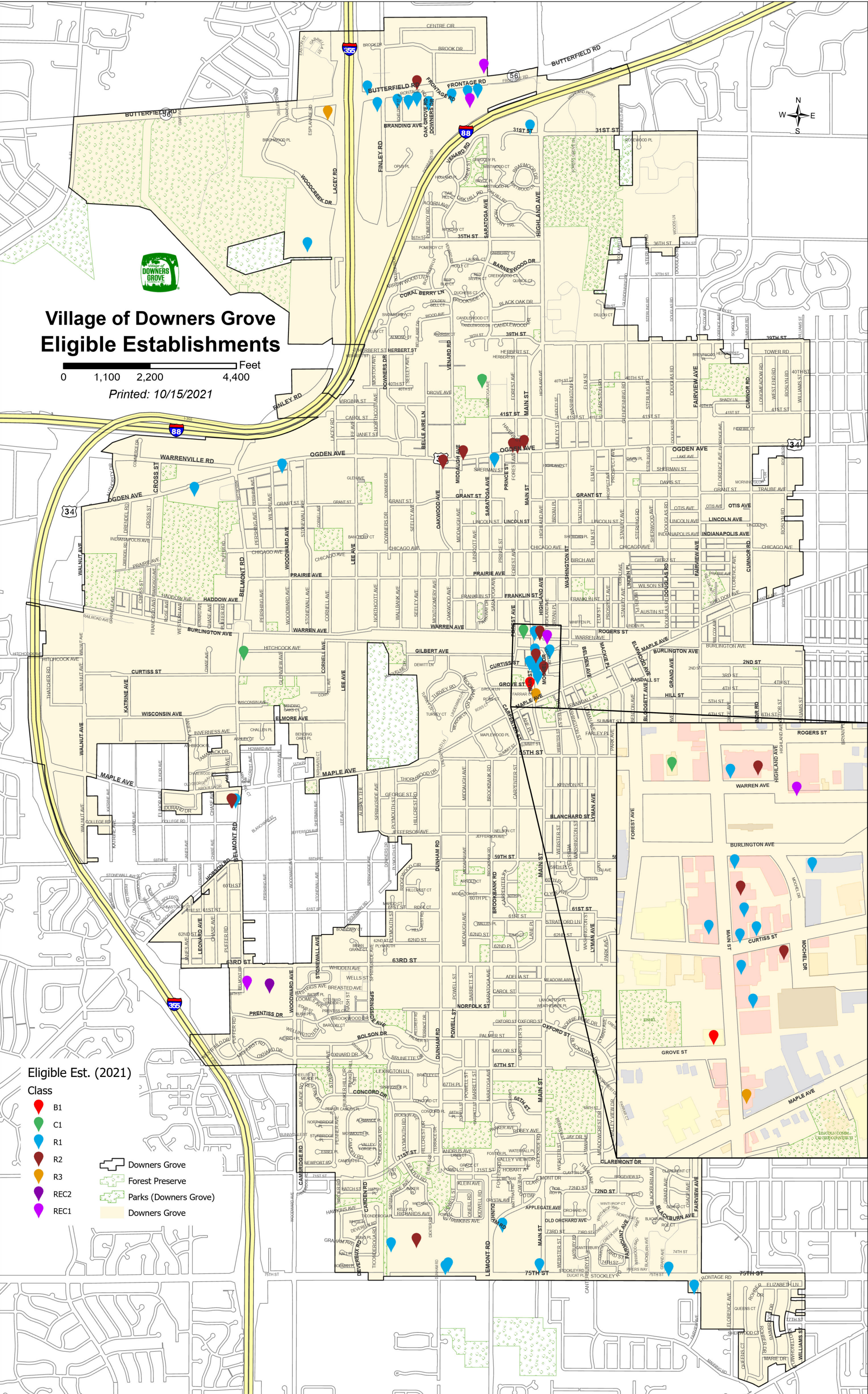
500 Square Foot Video Gaming Room



250 Square Foot Video Gaming Room



200 Square Foot Video Gaming Room



Zoning Districts - Eligible Establishments

Name	Class	Address	Zoning
Emmett's Ale House	B1	5200 Main St	DC
Veteran Century Post #503	C1	5101 Belmont Ave	B2
Downers Grove Loyal Order of Moose	C1	1030 Warren Ave	DB
American Legion Post #80	C1	4000 Saratoga Ave	R1
Parker's Restaurant & Bar	R1	1000 31st St	B2
Chilis Grill & Bar	R1	1330 A W 75th St	B2
Gong Ho Restaurant	R1	1338 75th St	B2
Shikara Restaurant & Ashyana Banquets	R1	1620 75th St	B2
Carnivore & the Queen	R1	2241 Maple Ave	B2
Downers Delight Restaurant	R1	401 75th St	B2
3 Corners Grill & Tap	R1	7231 Lemont Rd	B2
Grand Duke's	R1	980 75th St	B2
Chipotle Mexican Grill	R1	1203 Ogden Ave	B3
The Melting Pot	R1	1205 B Butterfield RD	B3
Bowl O Biryani	R1	1211 A Butterfield Rd	B3
Olive Garden	R1	1211 Butterfield Rd	B3
Hooters of Downers Grove	R1	1303 Butterfield Rd	B3
Casa Margarita	R1	1341 Butterfield Rd	B3
Brick House Tavern & Tap	R1	1461 Butterfield Rd	B3
Bryan's American Grille	R1	2009 Ogden Ave	B3
Tacochela	R1	2321 Ogden Ave Ste A9	B3
Outback Steakhouse	R1	2970 Finley Rd	B3
Honey Jam Café	R1	3000 Oak Grove Rd	B3
Red Lobster	R1	3001 Finley Rd	B3
Chama Gaucha Brazilliaian Steakhouse	R1	3008 Finley Rd	B3
Chula's Bar and Grill	R1	500 75th St	B3
Capri	R1	5101 Main St	DB
Cadence Kitchen	R1	5101 Mochel Dr	DB
Gia Mia	R1	994 Warren Ave	DB
Bar Chido	R1	1012 Curtiss St	DC
Gatto's Restaurant & Bar	R1	5123 Main St	DC
Wasabi Restaurant & Bar	R1	5130 Main St	DC
Pierce Tavern	R1	5135 Main St	DC
Another Round	R1	5141 Main St	DC
Ballydoyle Irish Pub	R1	5157 Main St	DC
Esplanada Lakes by Doubletree	R1	3500 Lacey Rd	ORM
Sushi City	R2	1510 A 75th St	B2
Thai First	R2	2249 Maple Ave	B2
Los Dos	R2	2251 Maple Ave	B2
MOD Pizza	R2	1022 Ogden Ave	B3
City Barbeque	R2	1034 Ogden Ave	B3

Omega Restaurant	R2	1300 Ogden Ave	B3
Lao Sze Chuan	R2	1331 Ogden Ave	B3
Portillos	R2	1500 Butterfield Rd	B3
Mrs T's Pizza & Pub	R2	4246 Main St	B3
Sushi House	R2	950 Warren Ave	DB
Angelo's Pizza	R2	1001 Curtiss St	DC
Giordano's	R2	5115 Main St	DC
The Foxtail	R3	5237 Main St	DB
Cooper's Hawk	R3	1801 Butterfield Rd	ORM
Q Pub & Grill	REC1	2145 W 63rd St	B2
Downers Sand Club	REC1	1211 B Butterfield Rd	B3
X Golf	REC1	1310 Butterfield Rd	B3
Tivoli Bowling Lanes	REC1	938 Warren Ave	DB
Legends Indoor Golf	REC2	2091 W 63rd St	B2

Liquor License Key	
B1	Brew Pub/Restaurant
C1	Club
R1	Restaurant - Liquor Consumption & Retail Beer/Wine
R2	Restaurant - Beer/Wine Consumption & Retail Beer/Wine
R3	Restaurant - Beer/Wine Consumption & Retail Beer/Wine
REC1	Recreation Facility - Liquor
REC2	Recreation Facility - Beer and Wine

Zoning Key	
B2	General Retail Business
B3	General Services and Highway Business
R1	Residential Detached House 1
DB	Downtown Business
DC	Downtown Core
ORM	Office-Research-Manufacturing

Municipality	2019 Video Gaming Revenue*	Terminals	Rev Per Terminal
Addison	372,452	105	3,547
Bartlett	215,019	69	3,116
Bensenville	86,736	38	2,283
Bloomington	271,936	Not Reported	--
Carol Stream	364,376	75	4,858
Hanover Park	221,852	40	5,546
Itasca	89,021	Not Reported	--
Lemont	207,100	102	2,030
Roselle	164,219	Not Reported	--
Villa Park	272,128	82	3,319
Westmont	383,677	79	4,857
Willowbrook	49,704	20	2,485
Woodridge	106,154	30	3,538

Source: DuPage Mayors and Managers Conference Municipal Revenue Survey, 2020

*NOTE: Revenue includes State-shared revenue and annual terminal fees imposed by the municipality

ORDINANCE NO. _____**AN ORDINANCE ESTABLISHING
VIDEO GAMING REGULATIONS**

BE IT ORDAINED by the Village Council of the Village of Downers Grove in DuPage County, Illinois, as follows: (Additions are indicated by redline/underline; deletions by ~~strikeout~~):

Section 1. That Section 3.13 is hereby amended as follows:**Sec 3.13 Classification Of Licenses**

Such licenses shall be, and are hereby, divided into the following classes

Class "AS" Arts & Crafts Studio Licenses

"AS" Arts & Crafts licenses shall authorize the on-premise consumption of beer and wine where the primary business is that of an Arts & Crafts Studio as defined herein. The following provisions shall apply:

Seventy five percent (75%) of the facility shall be exclusively devoted to craft making activities.

No more than one (1) service bar shall be allowed on the premises. Such service bar shall not have seats for patrons at which to sit.

Beer and wine service shall be limited to patrons participating in craft making activities and shall terminate at the conclusion of each session. Service shall not be allowed at any time when a craft making session is not in actual operation.

The public may participate in regularly scheduled class sessions by pre-registering, walk-in or by invitation to private party function(s).

It is intended that the service of beer and wine is merely an adjunct to the operation of an Arts & Crafts Studio and shall not be advertised or otherwise held out to be a drinking establishment.

Nudity shall not be allowed during any activity, design, exhibition or instruction.

Such premises may include an area where food is prepared, including hot or cold sandwiches, appetizers, tapas, pre-packaged goods or other similar foods.

Video gaming shall not be allowed on the licensed premises.

Class "B" Brew Pub/Restaurant Licenses

"B-1" Brew pub/restaurant licenses shall authorize the retail sale of alcoholic liquor and beer produced on the premises for on-site consumption and the retail sale of beer in original packages, unopened only, produced on the licensed premises for off-premise consumption. Unless otherwise restricted by State law, such licenses may provide delivery service pursuant to DGMG Section 3.33.4 and "pick up" services pursuant to DMGC Section 3.33.6 herein.

Video gaming shall be allowed on the licensed premises.

Class "BF" Brewing Facility Licenses

"BF" licenses shall authorize the on-premise consumption and retail sale of craft beer for consumption off the licensed premises where the premises is that of a brewing facility as defined herein. Unless otherwise restricted by State law, such licenses may provide delivery service pursuant to DGMC Section 3.33.4 and "pick up" services pursuant to DGMC Section 3.33.6 herein. The following provisions shall apply:

Product sampling shall be permitted in accordance with State law at no charge,

On-premise consumption shall be limited to the retail portion of the licensed premises except during supervised tours and private events. The retail portion shall not exceed three thousand (3,000) square feet.

Patrons under the age of twenty-one (21) shall be allowed on the premises when accompanied by an individual twenty-one (21) years of age or older, however, classes and seminars shall be limited to patrons twenty-one (21) years of age or older.

Video gaming shall not be allowed on the licensed premises.

Class "BYO" Bring Your Own Licenses

"BYO" licenses shall authorize the consumption of beer and wine which has been brought onto the premises by a patron or patrons twenty-one (21) years of age or older for on-site consumption where the premises is that of a restaurant as defined herein. The following provisions shall apply:

BYO shall be permitted in conjunction with the purchase and consumption of a meal while seated at a table and served by wait staff.

No more than one (1) 750ml bottle of wine per patron or no more than thirty-six (36) ounces of beer per patron (unopened) shall be permitted to be brought into the premises.

BYO shall be allowed only during the restaurant hours of operation and only along with and during regular food service.

BYO licensees may provide glass ware and ice to patrons; may uncork, pour and control its consumption and may charge a corkage fee;

Employees who have successfully completed a certified training program may perform corkage/serving duties. Such employees must be at least nineteen (19) years of age or older and shall serve in accordance with all State and local laws.

BYO licensees shall provide a certificate of insurance reflecting coverage for dram shop or equivalent liability for BYO service.

At a patron's request, the licensee shall re-seal any unconsumed portion of wine in accordance with State law,

BYO licensees are prohibited from storing alcoholic liquor on the premises, unless as otherwise provided by a separate license classification validly held by the licensee.

Packaged and on-site sales of alcoholic liquor is prohibited, unless as otherwise provided by a separate license classification validly held by the licensee.

BYO licensees shall be liable for violations of this Chapter in the same manner as the holder of any other classification of liquor license, including but not limited to violations for service to minors and the over-serving of patrons.

Video gaming shall not be allowed on the licensed premises.

Class "C" Club (Private) Licenses

"C-1"- Private club licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises where the business is that of a club as defined herein.

Video gaming shall be allowed on the licensed premises.

Class "G" Golf Course Licenses

"G" Golf course licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises operated by the Downers Grove Park District. Sales shall be authorized in the clubhouse, an outdoor area and upon the golf course. Sales of alcoholic liquor from a motorized food and beverage cart operating on the public golf course are authorized provided not more than fifty percent (50%) of the designated storage/display capacity shall be devoted to the display and sale of alcoholic liquor. No more than one (1) such motorized food and beverage cart shall be on the course and in operation at any one time. Non-alcoholic beverages and food shall at all times be stocked and available for sale in such cart.

Video gaming shall not be allowed on the licensed premises.

Class "H" Hotel Licenses

"H-1" Hotel licenses shall authorize the retail sale of alcoholic liquor for consumption on the premises of a hotel as defined herein, and the retail packaged sale of beer and wine in original packages to hotel patrons. This shall include sales occurring at facilities, or as part of activities, normally operated as an integral part of the hotel, such as, but not necessarily limited to, restaurants, cocktail lounges, room service and banquets. Provided, the licensed premises shall have at least one restaurant with a seating capacity of not less than one hundred twenty-five (125) operated as an integral part of the hotel.

Video gaming shall not be allowed on the licensed premises.

Class "K" Catering Licenses

"K-1" Catering licenses shall authorize the sale of alcoholic liquor in connection with the operation of an off-site catering business as defined herein that serves alcoholic liquor in connection with the catering of foods for private functions and for consumption only on the premises where the food is catered. The sale of alcoholic liquor shall be incidental to the food service and if the catered event does not qualify as a private function, a special event license shall also be required for the location of the catered event. No cash bar shall be permitted. No alcoholic liquor shall be served at a single location for more than eight (8) consecutive hours. A licensee shall submit a report to the Village within thirty (30) days following each July 1 and January 1 setting forth the location of each event the licensee has catered within the Village and the number of hours for which liquor and food were served at such events during the six (6) months prior. In addition, such report shall describe any planned events currently scheduled by the licensee.

"K-2" Catering licenses shall authorize the sale of beer and wine at the Downers Grove Park District Recreation Center located at 4500 Belmont Road. Provided, a catering license may be issued to a sub-contractor who solely provides beer and wine service on behalf of and in conjunction with an off-site food catering business under contract with the Downers Grove Park District. The sub-contractor may not utilize the Class K-2 catering liquor license in any other facility in the Village, operate independently at the Recreation Center or provide beer and wine without food service being available. Service of beer and wine shall be limited to service from a designated portable bar area. No table service of wine or beer shall be allowed. In all instances, the sale of alcoholic liquor shall be incidental to the food service. No cash bar shall be permitted. No alcoholic liquor shall be served at a facility rental for more than six (6) consecutive hours. The licensee shall submit a report to the Village within thirty (30) days following each July 1 and January 1 setting forth the date, time and type of any planned events currently scheduled by the licensee in order for the Village to monitor compliance. In addition, the Village may request that the licensee include information on the dates, times and types of events at the Center during the six (6) months prior.

Class "O" On-Premise Consumption, Outdoor Licenses

"O" Outdoor licenses shall authorize the sale and consumption of alcoholic liquor in an enclosed outdoor seating area. This license may only be issued to establishments holding a valid Class B, BF, BYO, C, H, P-O, REC, RF, R or WB license and shall be limited to the conditions of the respective license classification issued to the establishment. Except for Class BF and Class C, food must be available in the outdoor dining area at all times and shall be subject to the provisions set forth in DGMC Section 3.30. Operation of the outdoor area for a Class C license is limited to private party rentals and shall be subject to the provisions set forth in DGMC Section 3.32.

Video gaming shall not be allowed outdoors.

Class "P" Off-Premise Consumption Licenses

"P-1" Packaged liquor licenses shall authorize the retail sale on the premises specified, of alcoholic liquor in packages with the seals unbroken, only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses may provide delivery service pursuant to DGMC Section 3.33.4 herein. Such licenses shall be only authorized in locations where the sale of packaged liquor is the primary business and/or in locations where the primary business is that of a grocery store, gas/fueling station or convenience store as defined herein.

Video gaming shall not be allowed on the licensed premises.

"P-2" Packaged liquor licenses shall authorize the retail sale on the premises specified, of beer and wine in original packages, unopened only, and not for consumption on the premises, except that tastings shall be permitted on such premises in accordance with State law. Such licenses may provide delivery service pursuant to DGMC Section 3.33.4 herein.. Such licenses shall be only authorized in locations where the primary business is that of a grocery store, gas/fueling station, wine shop or convenience store as defined herein.

Video gaming shall not be allowed on the licensed premises.

Class "P-O" On Premise and Off Premise Consumption Licenses

"P-O" Packaged liquor licenses shall authorize the retail sale of alcoholic liquor. Such licenses shall be only authorized in locations where a grocery store is the primary business.

- a. The sale of alcoholic liquor, in original packages, unopened only, shall be permitted subject to the following conditions:
 - 1) No more than ten percent (10%) of the retail sale square footage area shall be devoted to the sale of tobacco products.
 - 2) Free tastings, classes or seminars shall be permitted on such premises in accordance with State law.
 - 3) Alcohol sold in original packages and intended for off-premise consumption shall not be opened or consumed on the premises or in any designated seating/serving area.
- b. The sale of alcoholic liquor shall also be permitted for consumption on the premises subject to the following conditions:
 - 1) The premises shall exceed five thousand five hundred (5,500) square feet.
 - 2) The seating/serving area for customers consuming alcohol on the premises shall not exceed twenty percent (20%) of the retail square footage area of the premises or three thousand (3,000) square feet, whichever is less.
 - 3) Consumption of alcoholic liquor on the premises shall be limited to the designated seating/serving area and signage shall be posted that patrons may not leave the area with open alcohol.
 - 4) Such premises shall include an area where food is prepared and regularly served, including hot or cold sandwiches, appetizers, tapas, baked goods or other similar foods.
 - 5) It is intended that the service of alcoholic liquor is merely an adjunct to the operation of a grocery store and shall not be advertised or otherwise held out to be a drinking establishment.
- c. Video gaming shall not be allowed on the licensed premises.

Class "REC", Recreational Facility, On Premise Consumption Licenses

"REC-1" Recreational Facility licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises, where the primary business is a recreational facility as defined herein.

Video gaming shall be allowed on the licensed premises.

"REC-2" Recreational Facility licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises, where the primary business is a recreational facility, as defined herein.

Video gaming shall be allowed on the licensed premises.

Class "R" Restaurant, On Premise Consumption, Indoor Licenses

"R-1" Restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises and the retail sale of beer, wine and mixed drinks for consumption off the licensed premises pursuant to DGMC Section 3.33.6 herein, where the primary business is that of a restaurant, as defined herein. Such licensees may provide delivery service pursuant to DGMC Section 3.33.4.

Video gaming shall be allowed on the licensed premises.

"R-2" Restaurant licenses shall authorize the retail sale of beer and wine for consumption on the licensed premises and the retail sale of beer and wine for consumption off the licensed premises pursuant to DGMC Section 3.33.6 herein, where the primary business is that of a restaurant, as defined herein. Such licensees may provide delivery service pursuant to DGMC Section 3.33.4.

Video gaming shall be allowed on the licensed premises.

"R-3" Restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises and the retail sale of alcoholic liquor for consumption on or off the licensed premises, where the primary business is that of a restaurant, as defined herein, provided that bar/lounge seating shall be no more than twenty percent (20%) of the total seating provided for patrons of the establishment. Such licenses may provide delivery service pursuant to DGMC Section 3.33.4 and "pick-up" service pursuant to DGMC Section 3.33.6 herein.

Video gaming shall be allowed on the licensed premises.

Class "RF" Retirement Facility Licenses

"RF"- Retirement Facility licenses shall authorize the sale of alcoholic liquor for consumption on the premises to temporary or permanent residents of a retirement facility and their bona fide guests. On-site consumption shall be allowed within the confines of dining rooms and outdoor patio areas where meals are regularly served. No packaged sales of alcoholic liquor shall be allowed. The facility shall not be permitted to advertise or promote the sale of alcoholic liquor nor offer alcoholic liquor for sale to the public.

Private functions shall be allowed in common areas as part of regular activities integral to the facility. Marketing programs conducted by the facility shall be allowed provided they are private, by invitation only, and are limited to age-appropriate prospective clientele.

Video gaming shall not be allowed on the licensed premises.

Class "SAL" Salon, On Premise Consumption Licenses "SAL" Salon licenses shall authorize the sale or service of beer and wine for on premise consumption where the primary business is that of a salon, as defined herein.

- a. The service of beer or wine, shall be permitted subject to the following conditions:
 - 1) No more than three (3) drinks (each limited to a twelve-ounce serving of beer or a six-ounce serving of wine) shall be served per patron, per calendar day.
 - 2) No beer or wine may be sold, given, or delivered to persons who are not receiving salon services.
 - 3) Bring Your Own (BYO) alcohol is prohibited.
 - 4) It is intended that the sale or service of beer and wine is merely an adjunct to the operation of a salon and the salon shall not be advertised or otherwise held out to be a drinking establishment.
 - 5) No licensee shall advertise, whether on or off the licensed premises, that beer or wine is "free" or "complimentary", but rather may advertise that it is "included" with the purchase of a salon service.
 - 6) Serving of beer and wine shall take place only during the operating hours of the business and no beer or wine may be sold or served for off premise consumption.

- b. Video gaming shall not be allowed on the licensed premises.

Class "S" Special Event Licenses

"S" Special Event licenses shall be issued for the temporary sale of alcoholic liquor during special events.

- a. It shall be unlawful for any person who does not hold a valid liquor license pursuant to the provisions of this Chapter, to dispense or cause to be dispensed alcoholic beverages at a grand opening, tasting, open house or other special event open to the public, without first having obtained a special event license from the Local Liquor Commissioner. It shall be unlawful for any person holding a valid liquor license to conduct a special event which exceeds the limitations on liquor sales or otherwise fails to meet the requirements inherent in the applicable license classification without first having obtained a special event license from the Local Liquor Commissioner.
- b. Applications for a license under the provisions of this Section shall be filed on forms provided by the Village. The general application procedures set forth in DGMC Section 3.9 and DGMC Section 3.12 shall not apply to licenses issued under this Section except for the requirement under DGMC Section 3.9(c)(9) concerning dram shop insurance coverage. Provided, the Local Liquor Commissioner may refer any application under this section to the Local Liquor Commission for review and comment. The application shall include such information as the Local Liquor Commissioner determines is necessary to process such application and may include, but is not limited to, the estimated number of persons attending the event, the location and layout of liquor sales at the event and at the premises, the persons responsible for dispensing of alcoholic liquor, steps to be taken by applicant to protect against any violations of the Village's ordinances and information regarding the manner in which and what type of liquor shall be dispensed and consumed. Additional information and material may be required during the processing of such application related to applicant's qualifications and information provided in the original submittal, including attachments. In the event the applicant is made aware that any information or document submitted as part of this application process is inaccurate or incomplete, the applicant shall immediately notify the Village and provide appropriate corrections. Failure to accurately and completely provide, or as necessary update, required information may delay the processing of such application or result in its denial.
- c. A fee shall be paid along with the application submittal as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".
- d. Where the applicant is a governmental unit and/or charitable organization, the Local Liquor Commissioner may waive the fee otherwise required by this Section under his sole discretion.
- e. Upon submittal of a properly completed application and payment of fee, the Local Liquor Commissioner may issue a special events license subject to such reasonable restrictions as the Local Liquor Commissioner may require to protect the public health, safety and welfare, including, but not limited to the following:
 - 1) No more than six (6) such special event licenses shall be issued for the same location within any calendar year.
 - 2) The special event license holder shall take proper precautions and fully comply with the applicable provisions of this Chapter during the special event.

- 3) The special event will last no longer than three (3) days, provided that two (2) consecutive licenses can be utilized for an event which shall not exceed six (6) days.
- 4) The provisions of Section 3.11(b) regarding proximity of the proposed special event shall not apply to licenses issued under this section.
- 5) The following restrictions apply to community special events sponsored by a governmental entity:
 - a. At least two (2) persons twenty-one (21) years of age or older shall be present at all times in the liquor consumption area to monitor compliance with applicable regulations and laws of the Village and State of Illinois regarding the consumption of liquor.
 - b. The licensee shall incorporate such other measures as the Local Liquor Commissioner may direct to protect the public health, safety and welfare, including measures to protect against violations of the regulations and laws of the Village and State of Illinois regarding the consumption of liquor.
- 6) The provisions of DGMC Section 3.30 regarding outdoor sales shall not apply to special event licenses issued under this Section and a special event may include outdoor sales, service and consumption as approved by the Local Liquor Commissioner.
- 7) Except as otherwise provided in this Section, the applicant shall comply with all applicable provisions of the Downers Grove Municipal Code, including but not limited to, zoning, building, health and safety regulations.
- f. The Local Liquor Commissioner may issue a special event license as provided under this Section to permit the sale and consumption of alcoholic liquor on public property. Provided, except for Village-sponsored or co-sponsored community-wide celebrations, special events and other similar activities or functions, a temporary use license as provided in Chapter 4 of the Downers Grove Municipal Code shall be required for any special event conducted wholly or partially upon Village-controlled property. An application shall be completed as provided in subsection (b) above and submitted to the Local Liquor Commissioner for decision. Provided, in addition to any other requirements which may be imposed, issuance of any special event license involving public property shall be contingent upon proof of dram shop insurance, up to the statutory limit, and such other liability insurance as the Village may from time to time direct, listing the Village, its officers and employees, as an additional insured.
- g. It is recommended that at least one (1) person on-site shall possess a certified training certificate pursuant to DGMC Section 3.33.3.
- h. Video gaming shall not be allowed under a Special Event license.

Class "T" Theater Licenses

"T" Theater licenses shall authorize the retail sale of alcoholic liquor for consumption on the licensed premises where the primary business is that of a Theater as defined herein, subject to the following conditions:

- a. Sales of alcoholic liquor shall be limited to contracted theater rentals, theater production/box office events and regularly scheduled motion pictures or films. Under no circumstances may alcoholic liquor be served more than one (1) hour prior to a scheduled event, rental or the advertised time of the first motion picture or film showing on any day.

- b. Sales shall be made from service bars containing alcoholic liquor, mixes and related preparation materials. Such service bars shall not have seats or stools for patrons at which to sit.
- c. Food service must be available during all times alcoholic liquor is available on the premises..
- d. The licensee shall not serve or deliver more than one (1) alcoholic beverage to a person at a time and no person shall have in his/her possession at any given time more than one (1) alcoholic beverage.
- e. Containers in which alcoholic liquor is served must be of a different color, size and design of those in which non-alcoholic beverages are served.
- f. Alcoholic liquor shall be served only in single-servings, no bottles, pitchers, buckets, etc.

Video gaming shall not be allowed on the licensed premises.

Class "VG" On-Premise Consumption, Video Gaming Licenses

"VG" Video Gaming licenses shall authorize video gaming in a designated gaming area where the sale and service of alcohol, non-alcoholic drinks or food is available and where gaming is incidental to the primary operation of the establishment. This license shall only be supplemental to establishments holding a Class B-1, C, R-1, R-2, R-3, REC-1 and REC-2 liquor license. Operation of the video gaming area shall be subject to provisions set forth in DGMC Article 3.VI of this Chapter.

Class "WB" Wine/Beer Boutique Licenses

"WB" Wine/Beer Boutique licenses shall authorize the retail sale of wine and/or beer in original packages with the option for delivery service pursuant to DGMC Section 3.33.4 herein and for consumption on the premises. Tastings, classes or seminars shall be permitted on such premises in accordance with State law and Village ordinances. Such licenses shall be only authorized in locations where the sale of wine and/or beer is the primary business. The sale of wine and/or beer shall be permitted for consumption on the premises subject to the following conditions:

- a. The premises shall not exceed three thousand six hundred (3,600) square feet.
- b. Such facilities shall provide food service on the premises, including hot or cold sandwiches, appetizers or other similar foods.

Video gaming shall not be allowed on the licensed premises.

Section 2. That Section 3.40 is hereby amended as follows:

Sec 3.40 Revocation Or Suspension Of Local License; Notice; Hearing

- (a) The Local Liquor Commissioner may revoke or suspend any license issued, require mandatory certified training or impose any additional conditions if the Local Liquor Commissioner determines that the licensee has violated any of the provisions of this Chapter or any State law pertaining to the sale of alcoholic liquor **or video gaming**. In addition to or in lieu of suspension, the Local Liquor Commissioner may levy a fine on the licensee for such violations. Each day on which a violation continues shall constitute a separate violation. However, no such license shall be revoked or suspended, and no fine shall be imposed, except after a public hearing by the Local Liquor

Commissioner with at least three (3) days prior written notice, to the licensee, as provided in DGMC Section 3.41, affording the licensee an opportunity to appear and defend. If the licensee fails to appear for such public hearing after receiving notice as provided in DGMC Section 3.41, a default judgment may be entered and the Local Liquor Commissioner may revoke or suspend the license, and/or impose a fine.

- (b) If the Local Liquor Commissioner has reason to believe that any continued operation of a particular licensed premises will immediately threaten the welfare of the community, the Local Liquor Commissioner may, upon the issuance of a written order stating the reason for such conclusion, and without notice or hearing, order the licensed premises closed for not more than seven (7) days, giving the licensee an opportunity to be heard during that period. Provided, if such licensee shall also be engaged in the conduct of another business on the licensed premises, such order shall not be applicable to such other business.
- (c) In determining the appropriate penalty for violating any of the provisions of this Chapter or any State law pertaining to the sale of alcoholic liquor, the Local Liquor Commissioner may consider such matters and information as the Local Liquor Commissioner deems relevant including, but not limited to, the nature and circumstances surrounding the violation, the past record of the licensee and the penalties previously imposed by the Local Liquor Commissioner for similar violations. The past record shall include the record of the current licensee as well as the record of any other existing or prior licensee where there is, or was, not less than forty percent (40%) common identity between the owners of the current licensee and the owners of such other licensee. Such common identity shall be established where persons holding an ownership interest of not less than forty percent (40%) of the licensee under consideration also hold or held an ownership interest of not less than forty percent (40%) of another existing or prior licensee. Where the licensee under consideration, or such other prior or existing licensee, is a business entity such as a corporation or partnership, the ownership interest includes the equity holdings of the stockholder or partner. The consideration of the past record of such other or prior licensee shall only include that time period when such common identity is found.
- (d) The Local Liquor Commissioner shall, as promptly as practicable and in any event within thirty (30) days after such hearing, if the Local Liquor Commissioner determines after such hearing that the license should be revoked or suspended, and/or a fine should be imposed, state the reasons for such determination in a written order of revocation or suspension, and/or a fine should be imposed and shall serve a copy of such order upon the licensee.
- (e) Any licensee found guilty by the Local Liquor Commissioner for violating any provision of this Chapter, in addition to any other penalty which may be imposed, shall be assessed and required to pay to the Village an amount to cover administrative costs associated with the hearing, including, but not limited to, attorney's fees, investigation fees and court reporting fees. The Local Liquor Commissioner shall designate the amount of costs in his/her Findings and Order. Provided, such costs shall not exceed one thousand dollars (\$1,000.00).
- (f) Any license may be denied or revoked when it is determined that the application, plans, or other supporting documents required by this Ordinance reflect a false statement or misrepresentation of a material fact.

In the event of the revocation of any license under this Chapter, such person shall not be issued any license provided for in this Chapter for one (1) calendar year following the revocation or disposition of any appeal thereof.

Section 3. That Article 3.VI is hereby added as follows:

Article 3 .VI Video Gaming

Section 4. That Section 3.601 is hereby added as follows:

Sec. 3.600 Definitions

Act means Illinois' Video Gaming Act, 230 ILCS 40/5.

Board means the Illinois Gaming Board.

Licensed Establishment means any retail establishment where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises, and which is also licensed by the State of Illinois to have or operate a video gaming device in the Village, including any licensed fraternal establishment or licensed veterans' establishment.

Liquor License means a license issued by the Village authorizing the holder to sell and offer for sale at retail alcoholic liquor for on-premises use or consumption.

Person means an individual, corporation, partnership, limited liability company or trust.

State means the State of Illinois.

Sweepstakes Kiosks or Electronic Product Promotions Sweepstake Kiosk means any standalone, table top, or similar mechanically, electrically or electronically operated device in which, upon payment, a participant is automatically entered into a sweepstakes or similar promotion wherein the participant has the option to reveal the results of entry into said sweepstakes or promotion via a display mimicking slot machines, poker, keno, bingo or any form of a printed ticket or otherwise, for cash or merchandise as a prize. Any such device shall be considered a sweepstakes kiosk regardless of whether a coupon for a product or service is provided in exchange for the payment.

Video Gaming Café means an establishment whose primary focus is video gaming and the sale and service of alcohol, non-alcoholic drinks or food is incidental to the operation of video gaming, and which has an expected revenue to be at least 20% of its gross revenue on an annual basis exclusively from video gaming activities.

Video Gaming Terminal means any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, 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. A sweepstakes kiosk or electronic product promotions sweepstakes kiosk shall be considered a video gaming terminal for purposes of this Article.

Village means the Village of Downers Grove, Illinois.

Section 5. That Section 3.602 is hereby added as follows:

Sec 3.602 License Required

- (a) No person shall operate or maintain or permit to be operated or maintained any video gaming terminal at any premises within the Village without first having obtained a VG liquor license from the Village, which shall be a supplemental liquor license to Class B-1, C, R-1, R-2, R-3, REC-1 and REC-2 licenses.
- (b) The term for such license shall be from November 1 through October 31.
- (c) The annual fees for a VG license shall be as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule". These fees are in addition to any fees payable to the State or the Board. Said fees are not subject to proration or refund and are due prior to issuance of the license.

Section 6. That Section 3.603 is hereby added as follows:

Sec. 3.603. Eligibility

- (a) No applicant shall be eligible for a VG license from the Village, nor shall an existing license holder be entitled to maintain a VG license, unless each of the following requirements are met and continue to be met:
 - (1) The applicant holds the appropriate certificate or license from the State permitting video gaming and is in good standing with same;
 - (2) The applicant has been in operation and held a Village liquor license in good standing (no violations, suspensions or fines) at the proposed location for at least twelve (12) months at the time the application is filed;
 - (3) The applicant must maintain customer seating outside of the video gaming room as hereinafter defined, but within the licensed premises;
 - (4) The applicant has no outstanding fees, fines, assessments, debt or penalties payable to the Village;
 - (5) The applicant has completed and complies with all the application requirements and is not disqualified due to a felony, gambling offense, or crime of moral turpitude; and
 - (6) The establishment holds a Class B-1, C, R-1, R-2, R-3, REC-1 or REC-2 liquor license from the Village.

(b) No VG license shall be issued or renewed to any person who is not eligible for a license under the provisions of the Act or in the Village's discretion.

Section 7. That Section 3.604 is hereby added as follows:

Sec. 3.604 Application

(a) Initial application.

- (1) A person seeking to obtain a Class VG license shall submit an application on a form provided by the Village. The application shall be executed by the applicant or its duly authorized representative and shall not contain material misrepresentations, misstatements or omissions. In addition to all the information and documents required to be submitted with the application, a non-refundable application fee as set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule" shall be required with the filing of any application.
- (2) An application shall be processed in accordance with the procedures set forth in Section 3.12 of this Chapter, except that no hearing before the Liquor Commission is required as set forth in Section 3.12(d).
- (3) If an application is withdrawn or denied, the applicant may not reapply for a Class VG license within one (1) year from the date of withdrawal or denial.

(b) Renewal application. The renewal application for a Class VG license shall be part of the renewal application for the underlying liquor license. A Class VG license may only be renewed if the licensee is in good standing, as defined above, and continues to meet all the eligibility requirements and upon receipt of a copy of the current State video gaming license, the applicable renewal application and annual fee.

Section 8. That Section 3.605 is hereby added as follows:

Sec. 3.605. Restrictions on Issuance

No supplemental VG license shall be issued to any establishment:

- (a) which is located within one hundred feet (100') of any church or school, provided:
 - (1) This prohibition shall not apply to the renewal of a license where such church or school has been established within such one hundred feet (100') since the issuance of the original license.
- (b) that meets the definition of a video gaming café.
- (c) that does not hold a Class B-1, C, R-1, R-2, R-3, REC-1 or REC-2 liquor license.

Section 9. That Section 3.606 is hereby added as follows:

Sec. 3.606 Limitation on Number of Video Gaming Licenses

There shall be no more than twenty (20) VG licenses issued by the Village at any given time. Said licenses shall be issued on a first come – first served basis.

Section 10. That Section 3.607 is hereby added as follows:

Sec. 3.607 Video Gaming Terminals

- (a) Location.** The location of a video gaming terminal in a licensed establishment shall be in a separate enclosed room from the dining area. The walls of the video gaming room must be solid, except for the entrance, cannot have windows or be glass or be otherwise transparent and are not required to extend from floor to ceiling, but shall be at least seven (7) feet high or as otherwise authorized by the Community Development Director. The video gaming room cannot be larger than five two hundred (5200) square feet, ~~nor more than twenty-five percent (25%) of the total square footage of the licensed establishment.~~ The entrance door to the video gaming room must be within the view of at least one employee of the licensed establishment who is at least twenty-one (21) years of age. The video gaming terminals shall not be visible from the exterior of the licensed establishment.
- (b) Age requirement.** No person under the age of twenty-one (21) may enter the video gaming room. Signs must be posted on the exterior and interior of the video gaming room restricting entrance to persons at least twenty-one (21) years of age.
- (c) Time of play.** A video gaming terminal can only be played during the legal hours of operation allowed for the consumption of alcohol at the licensed establishment.
- (d) Registration.** Each video gaming terminal shall have the registration tag issued by the Board affixed thereto.
- (e) Limitation on number.** There shall be no more than six (6) video gaming terminals allowed for each licensee at any one licensed establishment.
- (f) Display of License.** The licensed establishment shall prominently display its video gaming license next to the video gaming terminals.
- ~~**(f)(g)**~~ **Noise.** Noise from the video gaming terminals shall not be able to be heard outside of the video gaming room.
- ~~**(g)(h)**~~ **Violation.** Any video gaming terminal in violation is subject to seizure, confiscation and destruction.

Section 11. That Section 3.603 is hereby added as follows:

Sec. 3.608 Right of Entry

The Village shall have unrestricted access to enter the licensed establishment at any time when persons are present in the licensed establishment, for the purposes of inspection and investigating compliance with this Article, any ordinance of the Village, or any State law or regulation regarding video gaming.

Section 12. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 13. That this ordinance shall be in full force and effect January 1, 2022.

Mayor

Passed:

Published:

Attest: _____
Village Clerk

I:\ord.21\Video Gaming