

VILLAGE OF DOWNERS GROVE
Report for the Village Council Meeting
10/17/2023

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

SYNOPSIS

An Ordinance has been prepared to amend Chapters 3 and 15 of the Downers Grove Municipal Code to establish video gaming regulations.

STRATEGIC PLAN ALIGNMENT

The strategic goals for 2023-2025 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 \$230,000 to \$265,000. This estimate is dependent primarily upon the number of licenses granted and the volume of terminal usage.

RECOMMENDATION**UPDATE & RECOMMENDATION**

This item was discussed at the October 3, 2023 Village Council meeting. Staff recommends action at the discretion of the Village Council. Responses to Council Questions can be found immediately after this staff report.

BACKGROUND**Priority Action Item**

Consider Allowing Video Gaming for Restaurants with an On-premise Consumption Liquor License is a priority action item for 2023-25. The project description is as follows:

This project consists of drafting and considering an Ordinance permitting operation of video gaming devices for restaurants holding liquor licenses that allow for on-premise consumption, located in areas outside of the downtown (DB, DT and DC zoning districts). Items for consideration include the number of

video gaming licenses available, the number of video gaming devices permitted at each location, requirements for creating a separate area for video gaming and establishing fees.

The Illinois Video Gaming Act

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 2023-2025 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, REC 1, REC 2, and C liquor license classifications.
- Video gaming in the downtown would be limited to Class C and REC licensed establishments only (currently the Moose and Tivoli Bowl).
- A new DT-R liquor license would be created and would be available to restaurants located in the downtown area. Video gaming would not be permitted for DT-R licensed establishments.
- A maximum of 10 video gaming licenses will be available.
- A 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.
- This ordinance prohibits the operation of video gaming cafes.
- The video gaming terminals must be placed in a separate room with walls at least 7 ft high.
- The maximum size of the video gaming room is limited to 200 s.f. or twenty-five percent (25%) of the seating/dining area, whichever is less.
- Signs must be posted prohibiting anyone under 21 to enter the room.
- Video gaming terminals shall not be visible from outside of the establishment.
- Noise from the video gaming terminals shall not be heard outside of the separate gaming room.
- Establishments with video gaming must be located more than 100 feet from any church or school.
- 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, 2024.
- The annual fee for each video gaming terminal is \$1,500.
- The initial one-time application fee is \$1,885.

The Act regulates the licensing of video gaming manufacturers, distributors, terminal operators, technicians and establishments. Local jurisdictions typically only deal with terminal operators and establishments. 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. 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. The State collects a tax of 34% of the total video gaming revenue and distributes approximately 5% of the total taxes collected back to local municipalities through a specially designated local distributive fund.

Draft Ordinance

Eligibility and Location of Video Gaming Establishments

The draft ordinance allows video gaming for the following liquor license classifications:

- C (Club)
- R (Restaurants)
- REC (Recreational)

As noted in the description of this Priority Action Item project, the Village Council is interested in allowing video gaming in qualified establishments located outside of the downtown area. To accomplish this outcome, staff is proposing to amend liquor license regulations as noted below. These proposed changes will result in allowing video gaming in the downtown area (DC, DB and DT zoning districts) only for Class C (Club) and Class REC (Recreational) liquor license holders. Currently the Moose and the Tivoli Bowl are the only businesses in the downtown area which hold these licenses. No Class R licenses would be issued for establishments located in the downtown area.

All current R Classification liquor license holders located in the downtown area would be issued the proposed DT-R license. Under the proposed ordinance video gaming would not be permitted in establishments with DT-R licenses.

Create DT-R Liquor License Classification - The draft ordinance creates a new DT-R liquor license classification. Both DT-R-1 (full alcohol) and DT-R-2 (beer and wine) licenses would be available. Restaurants located within the DC, DB and DT zoning districts would be eligible for these liquor licenses. The Class R liquor licenses would not be available to these restaurants. Video gaming would not be allowed in establishments holding these licenses. Upon passage of this ordinance, establishments in the downtown area currently holding an R liquor license will be automatically issued a new DT-R license consistent with the type of license currently held by the establishment (i.e. R-1 license holders will be issued DT-R-1 liquor license).

DT-R-1 would be available for restaurants in the downtown area and would allow for on-site sale and consumption of alcoholic beverages, delivery service and “pick-up” service. It would also allow for sale and consumption of alcoholic beverages in outdoor cafes.

DT-R-2 would be available for restaurants in the downtown area and would allow for on-site sale and consumption of beer and wine only, delivery service and “pick-up” service. It would also allow for sale and consumption of beer and wine in outdoor cafes.

Amend the R-1 and R-2 Liquor License Classifications - The draft ordinance amends the R-1 and R-2 licenses to reflect that they are only allowed in establishments that are not located within the downtown area.

Delete the R-3 Liquor License Classification - The draft ordinance eliminates the R-3 liquor license classification. The R-3 currently allows for delivery and “pick-up” services. These services would be allowed with the R-1 and R-2 licenses as noted above. Therefore, the R-3 license would no longer be necessary.

Limited to 10 Video Gaming Licenses, 6 Terminals per Establishment

The draft ordinance limits the maximum number of video gaming licenses available to 10. 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 60. Pursuant to the draft ordinance, establishments holding liquor licenses in the following classifications would be eligible for the issuance of a video gaming license.

Table 1		
Eligible Establishments by Liquor License Classification		
Type of Establishment	Liquor License Classification	Number of License Holders
Restaurants*	R-1 & R-2	29*
Clubs	C-1	3
Recreational Facilities	REC-1 & REC-2	5
	Total	37

**NOTE: The 29 Class R license holders noted in this table exclude the existing Class R license holders located in the downtown area, those that have not held a liquor license for a minimum of 1 year, and those that are ineligible due to the separation requirement (100 ft from a church or school).*

Currently there are 37 total establishments holding these licenses that would be eligible for video gaming. Staff anticipates that not all eligible establishments will pursue video gaming, but initially there may be greater demand than the number of licenses available.

It should be noted that the Loyal Order of the Moose, Downers Grove Lodge 1535, currently operates on-premise video gaming despite the Village’s prohibition on video gaming. In 2021, the Illinois Legislature amended the Video Gaming Act to expressly allow certain fraternal and veterans organizations that derive their charter from a national organization to apply directly to the Illinois Gaming Board for a video gaming license in municipalities that had ordinances prohibiting video gaming. In the spirit of complying with the

legislative intent behind the amendment to the Video Gaming Act, the Village has authorized the Loyal Order of the Moose, Downers Grove Lodge 1535, to operate video gaming without affecting its liquor license. Upon passage of this ordinance, Loyal Order of the Moose, Downers Grove Lodge 1535 will be required to obtain a video gaming license from the Village and comply with all other requirements of this ordinance.

Hold a Liquor License for 12 Months

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.

Separate Video Gaming Room

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 is limited to 200 square feet or twenty-five percent (25%) of the seating/dining area, whichever is less. Six gaming terminals would fit in the 200 square foot gaming room. 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.

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 draft ordinance states that the terminals shall not be visible from outside of the establishment.

100 ft. Separation from Churches and Schools

The draft ordinance requires that establishments with video gaming be located more than 100 feet from any church or school.

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 7n feet in height may address concerns about noise. The draft ordinance requires that noise from the gaming terminals shall not be heard outside of the separate gaming room.

Prohibit Video Gaming Cafes

The draft ordinance prohibits the operation of 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 25% of its gross revenue on an annual basis exclusively from video gaming activities.*

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 25% 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 currently holding R1, R2, & R3 liquor licenses that would be eligible for a video gaming license and were in operation for the full year of 2022 (28 establishments). This analysis compared average annual food and beverage revenue to the expected revenue from six video gaming terminals. The information is summarized in the table below.

Table 2 Estimated Video Gaming Revenue as a Percentage of Food & Beverage Revenue (2022)	
Median Annual Revenue from Food & Beverage Sales for R1, R2, & R3 Establishments (28 Establishments in 2022)	\$1,596,246
Estimated Annual Revenue from Six Video Gaming Terminals (based on Net Terminal Income of Non-VG Cafe average from nearby communities of \$58,440 per terminal)	\$350,640
Estimated Total Gross Annual Revenue from Food & Beverage Sales & Video Gaming	\$1,946,886
Estimated Median Percent of Gross Revenue from Video Gaming	18%

This analysis suggests that a typical restaurant establishment that would be eligible for video gaming in Downers Grove could generate 18% of its total revenue from video gaming. Performing the above analysis on establishments holding Club and Recreational Facility liquor licenses is challenging as they generate revenue from sources other than the sale of food and beverages, and the Village does not collect information on these other revenue sources.

Fees & Revenue

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 based on 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, the cost of which shall be shared equally between the terminal operator and the licensed establishment. 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 revenue through a combination of application fees, video gaming terminal license fees, and tax revenues. Application fees will only be paid once by applicants, video gaming terminal 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 \$230,000 to \$265,000.

Factors in the revenue estimate were the average amount of tax revenue generated by terminals in non video gaming cafe establishments in DuPage County in 2022, the number of licenses issued, and the number of

video gaming terminals. The State collects a tax of 34% of the total video gaming revenue and distributes approximately 5% 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 terminals each. The higher estimate assumes twenty establishments in operation for a full year with 6 video gaming terminals each.

Table 3 Projected Annual Video Gaming VoDG Tax Revenue (2022)			
	60 Terminals (10 Licenses)	90 Terminals (15 Licenses)	120 Terminals (20 Licenses)
Annual Terminal License Fee Revenue	\$90,000	\$135,000	\$180,000
Municipal Share of State Tax Rev Based on AVG of Terminals Not in VG Cafe (\$2,922 Per Terminal)	\$175,320	\$262,980	\$350,640
Est. Total Annual Rev Based on AVG Terminal Rev from Non VG Cafe Establishments in Nearby Communities	\$265,320	\$397,980	\$530,640

Revenue from Video Gaming Cafes Compared to Other Establishments

Staff reviewed revenue information from five communities in DuPage County to understand the revenue generated by video gaming cafes compared to other establishments. In 2022 in the five communities analyzed, terminals located in video gaming cafes generated an average of \$7,067 in municipal tax revenue compared to \$2,922 for terminals located in other establishments.

Table 4 VG Cafés vs. Other Establishments Revenue Comparison (2022)				
	Establishments	Municipal Share of State Tax Revenue	Terminals	Municipal Share of State Tax Revenue Per Terminal
Westmont				
Video Gaming Cafes	6	\$334,644	36	\$9,296
Other Establishments	15	\$236,899	82	\$2,899
Carol Stream				
Video Gaming Cafes	7	\$237,951	42	\$5,666
Other Establishments	13	\$227,824	73	\$3,121

Darien				
Video Gaming Cafes	4	\$159,054	24	\$6,627
Other Establishments	7	\$149,837	42	\$3,568
Addison				
Video Gaming Cafes	9	\$311,952	53	\$5,886
Other Establishments	19	\$281,121	97	\$2,898
Roselle				
Video Gaming Cafes	3	\$178,939	18	\$9,941
Other Establishments	14	\$197,026	80	\$2,427
Summary				
Video Gaming Cafes	29	\$1,222,540	173	\$7,067
Other Establishments	68	\$1,092,707	374	\$2,922

Use of 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.

Communities in DuPage County Allowing Video Gaming

Municipalities in DuPage County that currently allow Video Gaming include Oakbrook Terrace, Westmont, Darien, Hanover Park, Willowbrook, Itasca, Villa Park, Carol Stream, Glendale Heights, Addison, Woodridge, Roselle, Bartlett, Bensenville, Bloomingdale, Wood Dale, and Lombard.

Table 5 summarizes the number of terminals, licensed establishments, and revenue these municipalities received in 2022, while Table 6 summarizes the video gaming related fees assessed by each community.

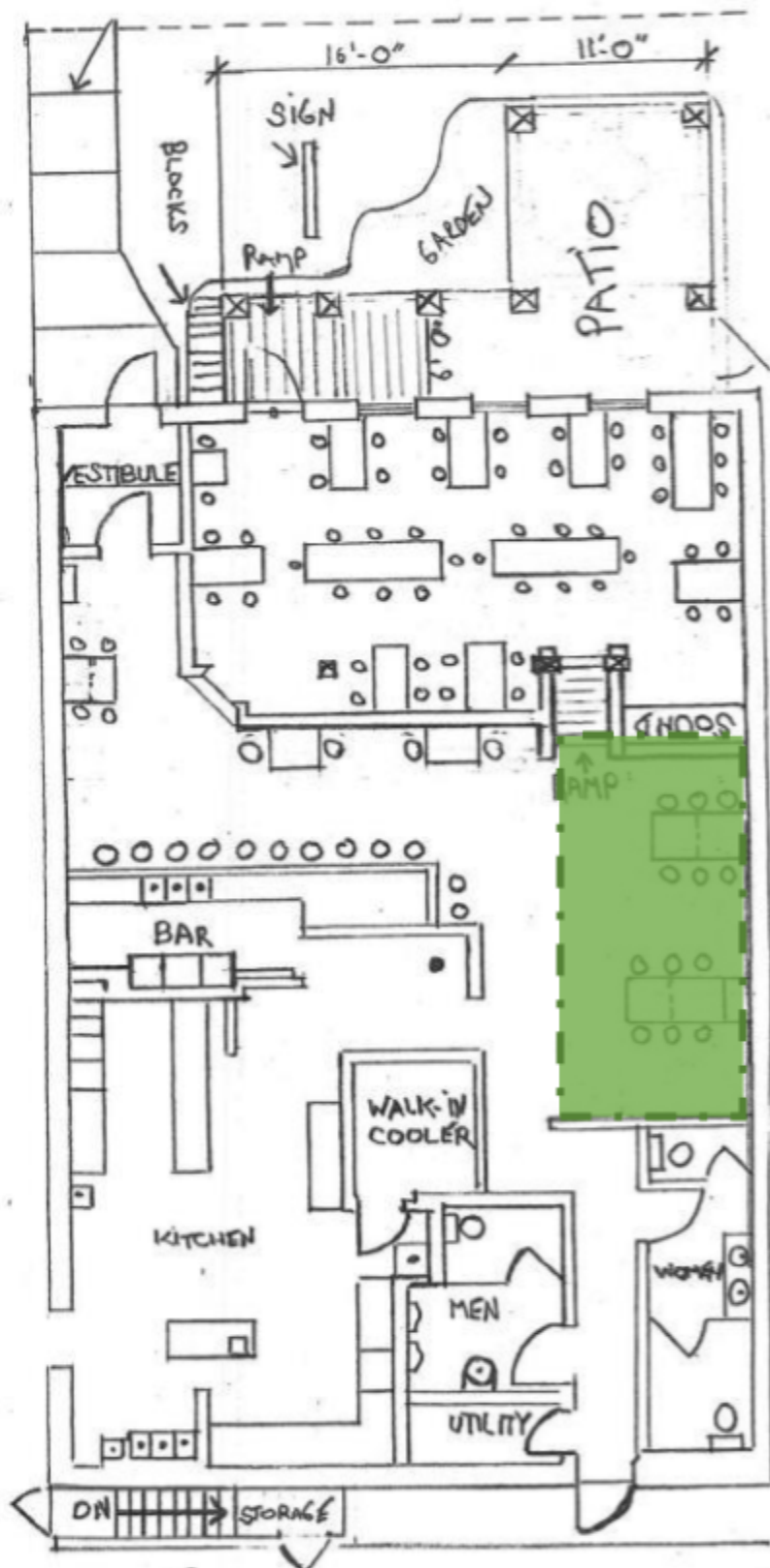
Table 5 2022 DuPage County Video Gaming Tax Revenue (Last Full Year of Revenue)						
Municipality	Revenue	Establishments	Terminals	Terminals/ Establishment	Revenue/ Establishment	Revenue/ Terminal
Oakbrook Terrace	\$ 533,812	17	100	5.88	\$ 31,401	\$ 5,338
Westmont	\$ 571,543	21	118	5.62	\$ 27,216	\$ 4,844
Darien	\$ 308,891	11	66	6.00	\$ 28,081	\$ 4,680
Hanover Park	\$ 227,958	9	52	5.78	\$ 25,329	\$ 4,384

Willowbrook	\$ 152,392	6	35	5.83	\$ 25,399	\$ 4,354
Itasca	\$ 123,829	5	29	5.80	\$ 24,766	\$ 4,270
Villa Park	\$ 627,219	25	148	5.92	\$ 25,089	\$ 4,238
Carol Stream	\$ 465,775	20	115	5.75	\$ 23,289	\$ 4,050
Glendale Heights	\$ 418,592	18	104	5.78	\$ 23,255	\$ 4,025

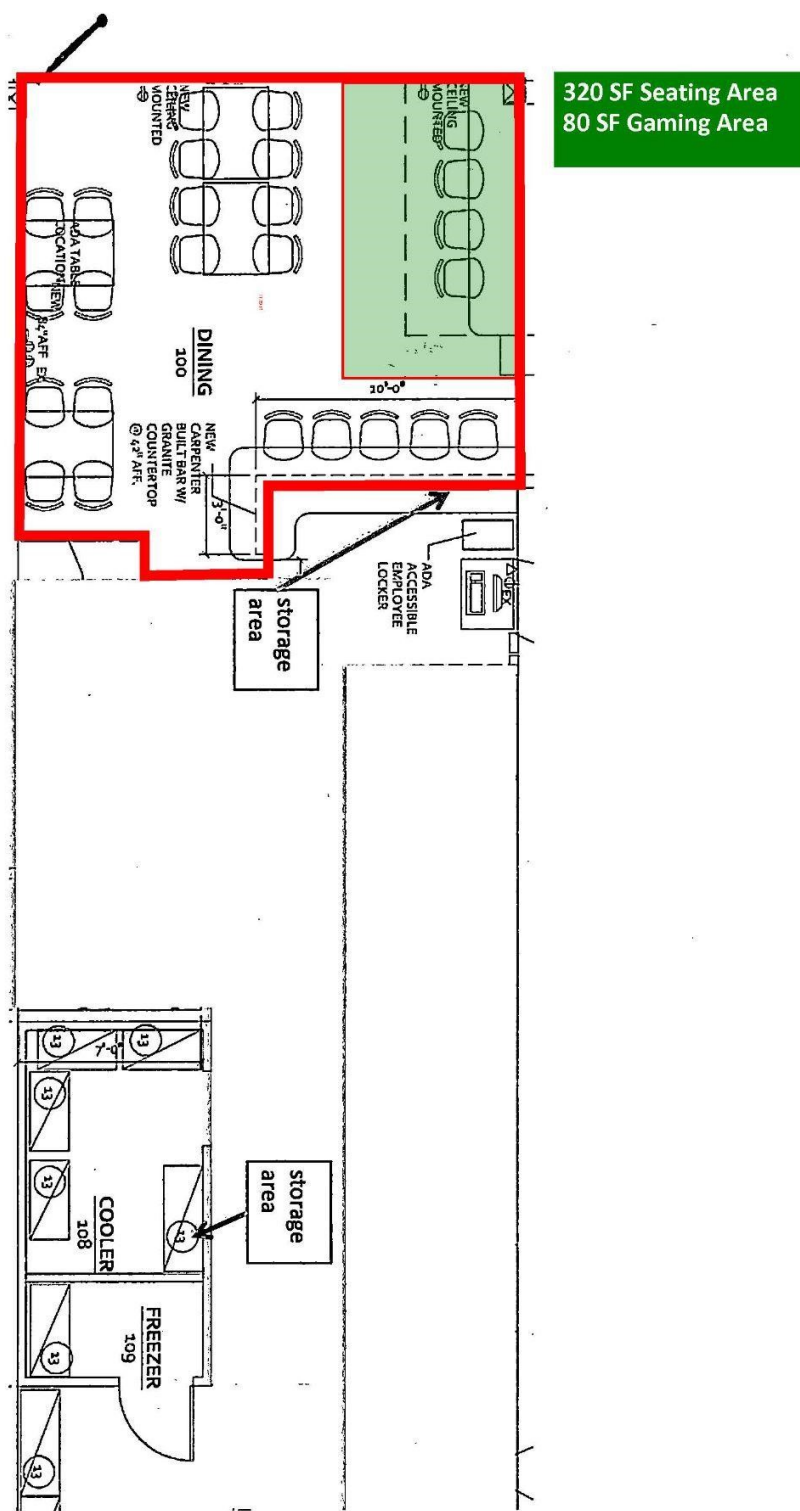
Addison	\$ 593,073	28	150	5.36	\$ 21,181	\$ 3,954
Woodridge	\$ 205,619	9	53	5.89	\$ 22,847	\$ 3,880
Roselle	\$ 375,965	17	98	5.76	\$ 22,116	\$ 3,836
Bartlett	\$ 392,815	20	111	5.55	\$ 19,641	\$ 3,539
Bensenville	\$ 272,199	16	84	5.25	\$ 17,012	\$ 3,240
Bloomington	\$ 117,669	9	43	4.78	\$ 13,074	\$ 2,736
Wood Dale	\$ 230,534	16	85	5.31	\$ 14,408	\$ 2,712
Lombard	\$ 127,509	10	56	5.60	\$ 12,751	\$ 2,277

Table 6 VG Fees Assessed by DuPage County Municipalities				
Municipality	Application Fee	Liquor License Fee	Terminal Fee	License Cap
Addison	-	-	\$250	No
Bensenville	-	-	\$250	No
Bloomington	-	-	\$500	No
Carol Stream	-	-	\$1,000	20
Darien	-	-	\$25	No
Glendale Heights	-	-	\$500	No
Itasca	-	-	\$250	No
Lombard	-	\$500	\$250	No

Oakbrook Terrace	\$100	-	\$1,000	No
Roselle	-	\$500	\$25	15
Villa Park	-	-	\$25	No
Westmont	-	\$1,500	\$250	15 - Non VG Cafes 5 - VG Cafes
Willowbrook	\$1,500	\$5,000	\$500	No
Woodridge	-	\$500	\$250	11
Hanover Park	\$2,000	\$500	\$1,500	10
Bartlett	-	-	\$1,000	No
Wood Dale	-	-	\$25	No



200 Square Foot Video Gaming Room



Eligible Establishments as of 9/1/2023		
Establishment	Address	Liquor License
Veteran Century Post #503	5101 Belmont Rd	C1
Downers Grove Loyal Order of Moose	1030 Warren Ave	C1
American Legion Post #80	4000 Saratoga Ave	C1
3 Corners Grill & Tap	7231 Lemont Rd	R1
Carnivore & the Queen	2241 Maple Ave	R1
Chili's Grill & Bar	1330A 75th St	R1
Gong Ho Restaurant	1338 75th St	R1
Grand Duke's	980 75th St	R1
Parker's Restaurant & Bar	1000 31st St	R1
Shikara Restaurant & Ashyana Banquets	1620 75th St	R1
Bowl O Biryani	1211 Butterfield Rd #A	R1
Brick House Tavern & Tap	1461 Butterfield Rd	R1
Bryan's American Grille	2009 Ogden Ave	R1
Casa Margarita	1341 Butterfield Rd	R1
Chama Gaucha Brazilian Steakhouse	3008 Finley Rd	R1
Chula's Bar and Grill	500 75th St	R1
Honey Jam Café	3000 Oak Grove Rd	R1
Hooters of Downers Grove	1303 Butterfield Rd	R1
Outback Steakhouse	2970 Finley Rd	R1
Red Lobster	3001 Finley Rd	R1
Tacochela	2321 Ogden Ave #A9	R1
The Melting Pot	1205 Butterfield Rd #A	R1
Esplanade Lakes by Doubletree	3500 Lacey Rd	R1
Cooper's Hawk	1801 Butterfield Rd	R1
Beggars Pizza	417 63rd St	R2
Los Dos	2251 Maple Ave	R2
Sushi City	1510A 75th St	R2
Thai First	2249 Maple Ave	R2
Lantern Pizza Co	1420 Ogden Ave	R2
MOD Pizza	1022 Ogden Ave	R2
Omega Restaurant	1300 Ogden Ave	R2

Portillos	1500 Butterfield Rd	R2
Q Pub & Grill	2145 63rd St	REC1
Downers Sand Club	1211B Butterfield Rd	REC1
X Golf	1310 Butterfield Rd	REC1
Tivoli Bowling Lanes	938 Warren Ave	REC1
Legends Indoor Golf	2091 63rd St	REC2

ATTACHMENTS

Council Questions
Ordinance

Staff Responses to Council Questions

10/17/2023

First Reading - A. Ordinance: An Ordinance Establishing Video Gaming Regulations

1. *Using data from the Bureau of Labor Statistics, please determine if there is a difference in the wages paid to employees of Eating and Drinking Establishments in DuPage municipalities that allow video gaming compared to municipalities that do not allow video gaming.*

The data requested is not available at the municipal or zip code level. It is available by metropolitan statistical areas.

2. *Is there a difference in property values, as measured by residential and commercial Equalized Assessed Value, in DuPage municipalities that allow video gaming compared to municipalities that do not allow video gaming?*

Video Gaming Allowed	Commercial EAV			Residential EAV			
	2012	2021	% Change	2012	2021	% Change	# Properties
Addison	\$95,670,541	\$146,111,543	52.7%	\$609,786,540	\$815,868,707	33.8%	10,464
Bartlett	\$59,328,296	**\$66,283,192	11.7%	\$973,691,167	**\$1,099,018,623	12.9%	8,516
Bensenville	\$63,513,000	\$66,724,000	5.1%	\$234,631,000	\$349,983,000	49.2%	4,520
Bloomington	\$189,208,700	\$179,448,220	-5.2%	\$576,001,892	\$707,079,600	22.8%	8,045
Glendale Heights	\$96,257,243	\$127,561,494	32.5%	\$411,998,537	\$535,908,789	30.1%	9,340
Hanover Park	\$74,230,983	\$79,008,127	6.4%	\$480,379,181	\$555,268,334	15.6%	5,736
Itasca	\$150,714,120	\$180,849,800	20.0%	\$242,912,083	\$319,354,300	31.5%	3,213
Lombard	\$358,952,872	\$453,658,224	26.4%	\$946,060,870	\$1,212,705,616	28.2%	15,107
Oakbrook Terrace	\$197,050,540	\$255,521,280	29.7%	\$49,161,778	\$63,607,788	29.4%	669
Roselle	\$50,377,715	\$70,590,092	40.1%	\$556,414,340	\$676,508,141	21.6%	7,678
Villa Park	\$93,620,450	\$126,914,125	35.6%	\$442,899,890	\$553,512,828	25.0%	7,272
Warrenville	\$144,737,529	\$159,030,435	9.9%	\$276,576,265	\$367,850,391	33.0%	5,396
West Chicago	\$82,237,691	\$118,452,799	44.0%	\$367,424,630	\$500,075,590	36.1%	6,637
Westmont	\$200,172,710	\$252,949,922	26.4%	\$574,539,638	\$686,606,125	19.5%	7,209
Willowbrook	\$74,890,770	\$108,822,997	45.3%	\$288,574,369	\$364,227,339	26.2%	3,944
Wood Dale	\$44,830,012	\$50,427,375	12.5%	\$306,944,090	\$385,214,089	25.5%	5,407
Woodridge	*\$183,510,723	\$226,925,857	23.7%	*\$672,295,662	\$931,413,808	38.5%	10,710
MEDIAN			26.4%			28.2%	

Data for Darien and Carol Stream was unavailable

*2013

**2020

The # of properties only references the # of properties in DuPage County. Bartlett, Bensenville, Hanover Park, Roselle, and Woodridge have properties in neighboring counties that are not included here.

Video Gaming Prohibited	Commercial EAV			Residential EAV			
	2012	2021	% Change	2012	2021	% Change	# Properties
Burr Ridge	\$98,421,235	\$156,172,000	58.7%	\$897,849,340	\$1,105,465,278	23.1%	2,828
Clarendon Hills	\$25,907,912	\$27,975,772	8.0%	\$436,963,681	\$597,824,307	36.8%	3,199
Downers Grove	\$434,267,904	\$580,952,014	33.8%	\$1,546,924,741	\$2,276,638,672	47.2%	19,356
Elmhurst	\$168,215,778	\$263,634,180	56.7%	\$1,745,309,515	\$2,436,767,355	39.6%	15,624
Glen Ellyn	\$148,550,855	\$159,031,828	7.1%	\$1,093,650,271	\$1,410,809,207	29.0%	10,417
Hinsdale	\$95,893,580	*\$119,228,100	24.3%	\$1,484,635,447	*\$1,872,107,501	26.1%	5,410
Lisle	\$321,571,538	\$355,857,766	10.7%	\$589,907,226	\$728,680,113	23.5%	7,055
Naperville	\$1,105,830,624	\$1,465,176,271	32.5%	\$4,964,302,585	\$6,450,203,140	29.9%	31,439
Oak Brook	*\$419,122,000	\$546,829,000	30.5%	*\$856,140,000	\$1,129,016,000	31.9%	3,581
Wheaton	*\$314,450,652	\$364,785,382	16.0%	*\$1,515,222,855	\$1,969,590,834	30.0%	17,205
Winfield	\$22,980,090	\$18,748,730	-18.4%	\$302,049,886	\$397,703,471	31.7%	4,120
MEDIAN			24.3%			31.7%	

Data for Wayne was unavailable

*2013

**2020

The # of properties only references the # of properties in DuPage County. Burr Ridge, Hinsdale, and Naperville have properties in neighboring counties that are not included here.

3. Among the municipalities in DuPage County that generally allow video gaming, which of them prohibit video gaming cafes?

Municipality	Video Gaming Cafes Prohibited
Addison	
Bartlett	
Bensenville	
Bloomington	
Carol Stream	
Darien	
Glendale Heights	
Hanover Park	
Itasca	
Lombard	X
Oakbrook Terrace	

Roselle	
Villa Park	
Warrenville	
West Chicago	X
Westmont	
Willowbrook	
Wood Dale	
Woodridge	X

Municipality	Definitions of Video Gaming Cafe Prohibitions
Woodridge	Woodridge does not expressly prohibit gaming cafes, but has a requirement that the premises must serve meals prepared on premises and they have a minimum total floor area of 2,000 square feet, along with adequate and sanitary kitchen and dining facilities.
Lombard	Video Gaming cafés, as defined in § 112.02 of this Code, shall not be qualified to obtain any existing classification of village liquor license, and no such liquor license, allowing video gaming cafés, shall be created, maintained or authorized by Chapter 112 of this Code. A Video gaming cafe is defined as a place where the service of alcohol and food is incidental to the operation of video gaming. Any establishment that receives more than 49% of its gross revenue from the operation of video gaming terminals shall be classified as a video gaming cafe.
West Chicago	Video gaming is prohibited in video gaming cafes and licensed truck stops. Video gaming cafe means an establishment whose primary purpose or major focus is video gaming and the service of alcohol.

4. *Why did staff propose a maximum of ten (10) video gaming licenses to be made available in the draft ordinance? Why did staff propose a maximum of six (6) terminals per establishment?*

The limit of ten licenses was proposed due to interest expressed from the Council in implementing Video Gaming as a pilot program. This approach would limit the number of licenses available before potential consideration of expansion of the number of licenses available in the future.

The maximum of six terminals per establishment is governed by the State Video Gaming Act and all municipalities that allow Video Gaming in DuPage County allow six terminals per establishment. The Village could restrict that number to fewer terminals but could not increase the number past the maximum of six.

5. *Does the proposed 10 license maximum include or exclude the club liquor license establishments?*

The proposed 10 license maximum includes the club liquor license establishments. The three establishments currently holding Class C liquor licenses would have to apply for one of the ten available video gaming licenses, pursuant to the draft ordinance.

6. *Does staff think that the amount of the application and licensing fees will deter establishments from applying for video gaming licenses? Does staff expect that the Village will receive fewer than 10 applications due to the amount of the fees?*

Staff anticipates that there is sufficient demand from the 37 eligible establishments that the fees would not prevent at least ten eligible establishments from applying for licenses. The Illinois Video Gaming Act also requires that these fees be shared between the licensed establishment and the terminal operator, so these fees would be shared equally and not all be placed on the operator of the establishment.

7. *Does the State law or draft Village ordinance require additional training for employees of establishments operating video gaming?*

Additional training for employees of establishments operating video gaming is not required by State law or the draft ordinance.

8. *Please explain how the video gaming ordinance would be enforced. Will enforcement be similar to liquor license enforcement efforts? Will the Village have the right to inspect the video gaming premises at any time?*

Staff will enforce all of the provisions of the Village of Downers Grove ordinance. The Village would have the ability to conduct enforcement activities similar to control buys for liquor sales and service. The Village will have the right to inspect the video gaming premises.

The Illinois Video Gaming Act designates the Illinois Video Gaming Board with the authority to supervise, regulate, and enforce all regulations as it pertains to the Illinois Video Gaming Act and all licenses establishments authorized to operate under that Act. The Video Gaming Act requires the Illinois Video Gaming Board's investigators to follow a model policy and guidelines for the investigation of underage video gaming, which is similar to the standards for the operation of alcohol and tobacco compliance checks by local law enforcement officers. The rules promulgated by the Illinois Video Gaming Board also requires both the Board and local law enforcement to notify each other whenever action is taken with regard to video gaming terminals.

9. *Please provide a summary of how staff enforces the existing regulations of the sign ordinance.*

Staff enforces the sign regulations using both a staff-initiated approach and in response to requests for enforcement. Upon observing a violation of the sign ordinance, Village staff will typically reach out by phone or in-person and request the violating sign be removed. In cases where the sign can be easily removed (e.g. feather flag) or turned-off and staff will remain on-site until the violation is remedied. In cases where the violating sign can not be easily remedied (e.g. a sign company will need to remove the sign from the wall), staff will provide a timeframe for the offense to be remedied. The timeframe may vary depending on the complexity of the violation but is typically seven to 14 days. If the timeframe to correct the violation is not met, staff will issue a Notice of Violation with a timeframe for completion, typically calling for seven days to complete. If this final time frame is not met, the Village will issue citations which will initiate the court process.

10. *How will staff handle simultaneous application filings for the proposed 10 video gaming licenses?*

Because establishments applying for a Village video gaming license must first obtain a State video gaming license, it is highly unlikely that there will be a simultaneous filing. The situation would arise only if the State were to issue ten or more licenses to Downers Grove establishments such that all ten would be able to apply to the Village at the same time. However, if more applications are received simultaneously than the number of licenses available, staff would conduct a lottery to determine the applications that proceed.

11. *Are there any regulations or statutes protecting the municipalities' funds in the video gaming distributive fund?*

No. The Illinois Video Gaming Act does not restrict the State from adjusting the total amount of taxes collected or the amount distributed to municipalities.

12. *Are posting of warning signs required?*

The Illinois Video Gaming Act and rules of the Illinois Gaming Board require the odds of winning each video game to be posted on or near each video gaming terminal, and signs indicating that video gaming terminal play is limited to persons 21 years of age or older to be posted. Currently, responsible gambling warning signs are not required. That being said, the Illinois Gaming Board has proposed a rule that will require terminal operators to provide each establishment with signage that provides the contact information for crisis counseling and referral services for those with gambling addiction.

13. What is the EDC's opinion on video gaming?

The DGEDC Executive Board will consider this question at their October 20, 2023 meeting.

14. Have there been any recent public initiated referendums in Downers Grove?

Yes. In 2015, a referendum question regarding Village facilities was placed on the ballot by the public.

15. Please provide information on or a description of the Naperville video gaming referendum that was mentioned last week.

According to the City of Naperville, there has been no referendum regarding video gaming.

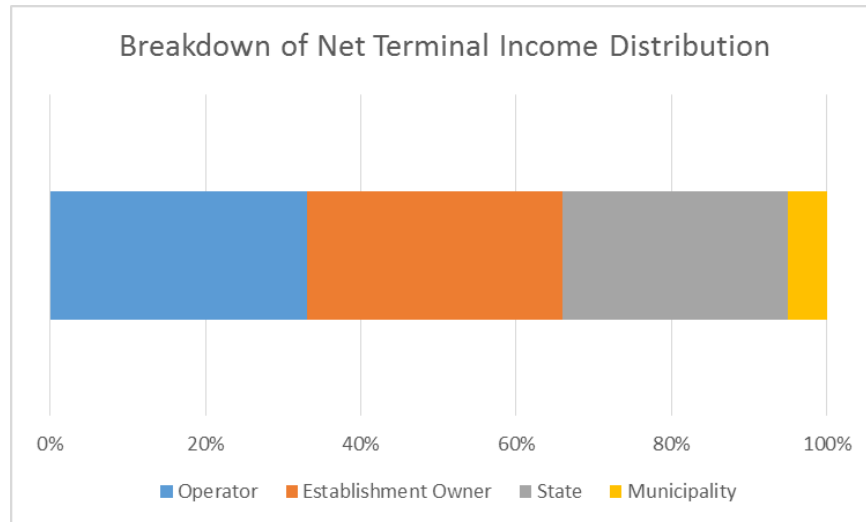
16. Please provide a reminder of the timing and requirements for a referendum question if the Village Council were to go that route.

If the Village Council were to pursue a referendum with regard to Video Gaming, the results of the referendum would be advisory in nature and the results would not be binding upon the Village. In order to have the referendum placed on the ballot of the next municipal election, the Village would have to pass an ordinance or resolution placing such a referendum on the ballot of the next municipal election at least 79 days prior to such election. The passage of the ordinance or resolution would require a simple majority vote in favor of the ordinance or resolution.

The [Video Gaming Act](#) does contemplate a procedure for resident initiated binding referendum, which would require a different procedure. The Village cannot provide residents legal advice as to how to initiate such a referendum.

17. Could we get a breakdown of the take on video gaming? Similar to what we've done previously with property taxes ... ie. for every \$100 in net terminal income:

Distribution of \$100 Net Terminal Income		
Operator	\$33.00	33%
Establishment Owner	\$33.00	33%
State	\$29.00	29%
Municipality	\$5.00	5%



18. Does the draft ordinance require landlord consent to apply for a video gaming license?

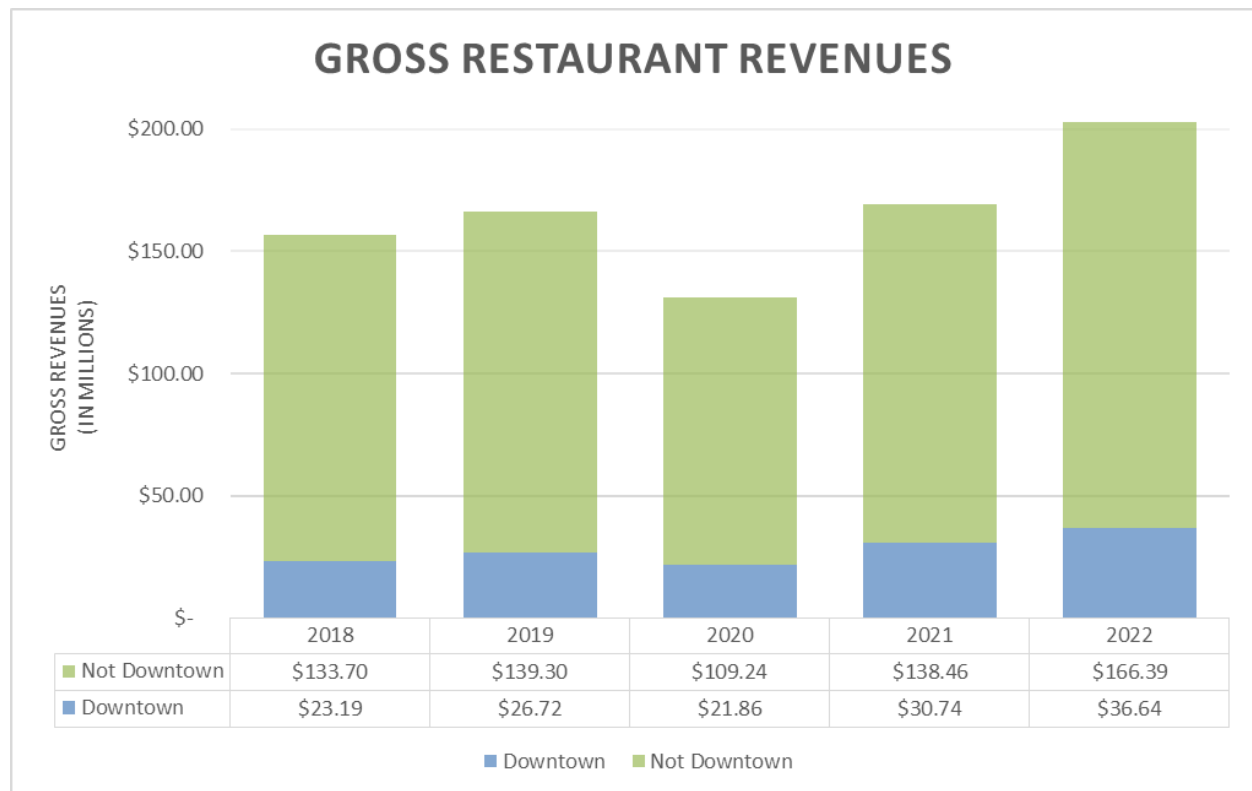
No, it does not require landlord consent.

Staff Responses to Council Questions 10/03/2023

First Reading - D. Ordinance: An Ordinance Establishing Video Gaming Regulations

1. *Can you tell us about the trend of restaurant revenue since 2018? Are revenues increasing or decreasing? Would there be a way to break that out between downtown and non-downtown restaurants?*

The chart below was prepared using food and beverage tax revenue data.



2. *For Table 5 (beginning on page 8) in the gaming report, can you please provide the year gaming was passed in each of those municipalities?*

Table 5 of the staff report has been updated to include this information (see below)

Table 5
2022 DuPage County Video Gaming Tax Revenue (Last Full Year of Revenue)

Municipality	Revenue	Year Approved	Establishments	Terminals	Terminals/ Establishment	Revenue/ Establishment	Revenue/ Terminal
Oakbrook Terrace	\$ 533,812	2012	17	100	5.88	\$ 31,401	\$ 5,338
Westmont	\$ 571,543	2012	21	118	5.62	\$ 27,216	\$ 4,844
Darien	\$ 308,891	2013	11	66	6.00	\$ 28,081	\$ 4,680
Hanover Park	\$ 227,958	2013	9	52	5.78	\$ 25,329	\$ 4,384
Willowbrook	\$ 152,392	2013	6	35	5.83	\$ 25,399	\$ 4,354
Itasca	\$ 123,829	2013	5	29	5.80	\$ 24,766	\$ 4,270
Villa Park	\$ 627,219	2013	25	148	5.92	\$ 25,089	\$ 4,238
Carol Stream	\$ 465,775	2012	20	115	5.75	\$ 23,289	\$ 4,050
Glendale Heights	\$ 418,592	2013	18	104	5.78	\$ 23,255	\$ 4,025
Addison	\$ 593,073	2013	28	150	5.36	\$ 21,181	\$ 3,954
Woodridge	\$ 205,619	2015	9	53	5.89	\$ 22,847	\$ 3,880
Roselle	\$ 375,965	2013	17	98	5.76	\$ 22,116	\$ 3,836
Bartlett	\$ 392,815	2012	20	111	5.55	\$ 19,641	\$ 3,539
Bensenville	\$ 272,199	2013	16	84	5.25	\$ 17,012	\$ 3,240
Bloomington	\$ 117,669	2013	9	43	4.78	\$ 13,074	\$ 2,736
Wood Dale	\$ 230,534	2013	16	85	5.31	\$ 14,408	\$ 2,712
Lombard	\$ 127,509	2019	10	56	5.60	\$ 12,751	\$ 2,277

3. *What would be required to place the video gaming topic on an advisory referendum? Please provide examples of previous Village initiated referenda questions.*

The Village Council could place an advisory referendum question on the next general election (March 24, 2024) by adopting a Resolution placing the question on the ballot. Since 2010, the Village has placed seven advisory referenda questions on ballots regarding:

- Term Limits - 2010
- Consolidation of Local Government Services - 2010
- Electrical Aggregation Authority - 2011
- Public Pension Reform - 2011
- Stormwater Utility (3 Questions) - 2016

4. *Is staff aware of a time that a liquor license category was created for the sole purpose of excluding a business from selling something/providing service?*

No, staff is not aware of a time that a liquor license category was created for the sole purpose of excluding a business from selling something/providing service.

Staff Responses to Council Questions

09/29/2023

First Reading - D. Ordinance: An Ordinance Establishing Video Gaming Regulations

1. *Please provide examples of business activities prohibited by the Village.*

While the Zoning Ordinance regulates the location of businesses within the Village and licensing regulates specific activities within the business (sale of liquor, massage establishments, mobile food vending, etc.), the only business activities specifically prohibited within the Village are:

- The retail sale of dogs, cats and rabbits
- Pawnbrokers.

Section 8.34 of the Municipal Code prohibits the retail sale of dogs, cats and rabbits.

Sec 8.34 Restrictions On The Retail Sale Of Dogs, Cats Or Rabbits

No retail pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of dogs, cats or rabbits unless said animals are obtained from an animal care facility, animal rescue organization or humane society.

(Ord. 5754, Add, 03/05/2019)

Section 8.22 of the Municipal Code prohibits pawnbrokers from operating in the Village.

Sec 8.22 Same; Prohibited

No person or company shall engage in business as a pawnbroker in the Village.

The Village licenses the operation of Mobile Food Vendors and restricts their operation to specific geographic areas (see [map](#)).

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 not 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 "DT-R" Restaurant, On Premise Consumption, Indoor and Outdoor Licenses

"DT-R-1" Restaurant licenses shall authorize the sale of alcoholic liquor for consumption on the licensed premises and the retail sale of alcoholic liquor for consumption off the licensed premises pursuant to DGMC Sections 3.33.4 (delivery service) and 3.33.6 (pick-up service), where the primary business is that of a restaurant, as defined herein and the premises is located within the DC, DB or DT Zoning District.

DT-R-1 Restaurant licenses shall authorize the sale and consumption of alcoholic liquor in an outdoor seating area, upon payment of the proper fee as set forth in the Administrative Regulation entitled "User-Fee, License and Fine Schedule". Food must be available in the outdoor dining area at all times and the sale, service and consumption of alcoholic liquor in an outdoor seating area shall be subject to the provisions set forth in DGMC Section 3.30.

Video gaming shall not be allowed on the licensed premises.

"DT-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 Sections 3.33.4 (delivery service) and 3.33.6 (pick-up service), where the primary business is that of a restaurant, as defined herein and the premises is located within the DC, DB or DT Zoning District.

DT-R-2 Restaurant licenses shall authorize the sale and consumption of beer and wine in an outdoor seating area, upon payment of the proper fee as set forth in the Administrative Regulation entitled "User-Fee, License and Fine Schedule". Food must be available in the outdoor dining area at all times and the sale, service and consumption of alcoholic liquor in an outdoor seating area shall be subject to the provisions set forth in DGMC Section 3.30.

Video gaming shall not 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 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 in an outdoor seating area.

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 Sections 3.33.4 (delivery service) and 3.33.6 (pick-up

service), 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. No R-1 restaurant license shall be issued in relation to an establishment located within the DC, DB or DT Zoning District.

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 Sections 3.33.4 (delivery service) and 3.33.6 (pick-up service), where the primary business is that of a restaurant, as defined herein. No R-2 restaurant license shall be issued in relation to an establishment located within the DC, DB or DT Zoning District.

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.

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 on the licensed premises.

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.
- (g) Video gaming shall not be allowed on the licensed premises.

Class "VG" On-Premise Video Gaming Licenses

"VG" Video Gaming licenses shall authorize video gaming in a designated gaming area where the sale and service of alcohol, beer, wine, 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 C, R-1, R-2, 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.
- (c) Video gaming shall not be allowed on the licensed premises.

Section 2. That Section 3.15 is hereby amended as follows:

Sec 3.15 Limitation On Number Of Licenses

The number of licenses in each classification as defined in DGMC Section 3.13 which it shall be lawful to issue shall be limited so that the licenses in force and effect at any time shall not exceed the following numbers:

License Classification	Amount of licenses not to Exceed
"AS" (Arts & Crafts Studio)	2
"B-1" (Brew Pub)	1
"BF" (Brewing Facility)	2
"BYO" (Bring Your Own - beer/wine)	4
"C-1" (Club, private)	6
"DT-R1" (Downtown Restaurant – full)	Unlimited
"DT-R2" (Downtown Restaurant – beer/wine)	Unlimited
"G" (Golf Course)	1
"H-1" (Hotel)	Unlimited
"K-1" (Catering - full)	4
"K-2" (Catering - Park District - beer/wine)	1
"O" (Outdoor)	Unlimited
"P-1" (Packaged - full)	25
"P-2" (Packaged - beer/wine)	15
"P-O" (Packaged - full off-premise and on-premise consumption - Grocery Store)	3
"REC-1" (Recreation Facility - full)	4
"REC-2" (Recreational Facility - beer/wine)	3

"R-1" (Restaurant - full)	Unlimited
"R-2" (Restaurant - beer/wine)	Unlimited
"RF" (Retirement Facility - full)	Unlimited
"S-1" (Special Event)	Unlimited
"SAL" (Salon - beer/wine)	5
"S-2" (Special Event)	Unlimited
"T" (Theater)	1
"VG" (Video Gaming)	10
"WB" (Wine/Beer Boutique)	4

Section 3. That Section 3.30 is hereby amended as follows:

Sec 3.30 Outdoor Sales

- (a) Subject to receipt of a Class "O" outdoor license, Class "DT – R" downtown restaurant license, the sale, service and consumption of alcoholic liquor in an outdoor seating area may be permitted adjacent to premises licensed to sell alcoholic liquor for consumption on the premises; subject to the following conditions:
- (1) The outdoor area is owned or leased by the licensee, or the licensee has entered into a sidewalk cafe license agreement, as provided in Chapter 4 of the Downers Grove Municipal Code, which shall be required for any outdoor seating area conducted wholly or partially upon Village-controlled property; and
 - (2) The outdoor area is included as part of the regular food service business located on the licensed premises with the exception of Class "BF" Brew Facility and Class "C" Club licensees that do not provide regular food service; and
 - (3) Seating in the outdoor area shall not be included in the overall seating calculation or in any way utilized to expand the number of seats that are allowed in the interior bar/lounge area.
- (b) Applications for the establishment of an outdoor seating area, or the amendment of an existing outdoor seating area, shall be filed on such forms and with such information as may be directed by the Local Liquor Commissioner. The Local Liquor Commissioner may

refer an outdoor seating area application to the Local Liquor Commission for review and comment.

Section 4. That Section 3.33 is hereby amended as follows:

Sec 3.33 Prohibited Activities On Licensed Premises

- (a) Gambling. It shall be unlawful to permit any gambling or video gaming on any premises licensed to sell alcoholic liquor except

in accordance with the provisions of DGMC Section 15.212.

- (b) Solicitation. It shall be unlawful for any licensee, its manager or other person in charge of any licensed premises where alcoholic liquor is sold or offered for sale for consumption thereon to engage, employ or permit the engagement or employment of any person, nor shall any person be permitted to remain on said premises, who shall solicit any patron or customer thereof to purchase alcoholic or nonalcoholic liquor for said person, or any other person therein; nor shall any person, whether or not such person impersonates or presents the appearance of one of the opposite sex, and whether or not such person is an employee or entertainer, solicit any patron or customer therein to purchase alcoholic or nonalcoholic liquor for himself or herself or any other person therein; provided, however, that nothing herein contained shall prohibit any manager, bartender or waitress who shall be regularly employed therein from accepting and serving the order of a patron or customer in the regular course of employment as such manager or waitress.

- (c) It shall be unlawful for any licensee, its manager, or other person in charge of premises licensed to sell alcoholic liquor to permit books, magazines, coin-operated motion picture devices, films, or movies depicting, describing or relating to the following kinds of conduct on such premises:

- (1) The performance of acts, or simulated acts, of sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law.
- (2) The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals.
- (3) The actual or simulated displaying of the breasts, pubic hair, anus, vulva or genitals.

Provided, however, that Class "T" Theater liquor license holders shall be allowed to show motion pictures or films classified by the Motion Picture Industry as rated R or less.

- (d) It shall be unlawful for any licensee, its manager, or other person in charge of premises licensed to sell alcoholic liquor to permit any entertainment, fashion show, presentation or performance which may include any person in a nude or semi-nude state, including, but not limited to, servers, hosts, hostesses, dancers, singers, models or other performance artists, or to permit role playing interactions.

Section 5. That Section 3.33.40 is hereby amended as follows:

Sec 3.33.4 Delivery Service

For purposes of this Section, “delivery” means the movement of beer, wine or alcoholic liquor purchased from a licensee to a consumer through the following methods:

- (a) delivery within the licensee’s parking lot, including curbside, for pickup by the consumer;
- (b) delivery by an owner, officer, director, shareholder, or employee of the licensee; or
- (c) delivery by a third-party contractor, independent contractor, or agent with whom the licensed retailer has contracted to make deliveries of beer, wine or alcoholic liquors.

Under subsections a, b, or c, delivery shall not include the use of common carriers.

Beer, wine or alcoholic liquor delivered to any address located within the Village of Downers Grove which does not hold a valid liquor license is subject to the following restrictions:

- (a) Delivery must be made by an individual at least twenty-one (21) years of age or older.
- (b) Deliveries must be during prescribed hours as set forth in DGMCC Section 3.31(a).
- (c) Deliveries shall be made only within twelve (12) hours from the time the alcoholic liquor leaves the licensed premises for delivery.
- (d) The express company or contract carrier or agent of a liquor license holder that carries or transports alcoholic liquor into or within the Village shall not deliver or leave such deliveries without requiring a signature of an individual twenty-one (21) years of age or older.
- (e) Adequate evidence for proof of age should be produced to the delivery agent in all instances of delivery.
- (f) A record shall be kept by the express company, common carrier or contract carrier or agent of a liquor license holder who delivers alcoholic liquor into or within the Village indicating the purchaser's name, address, driver's license/state identification number, time, date and place of delivery and the individual deliver's identity.

Unless otherwise restricted by State law, only Class B, BF, DT-R-1, DT-R-2, R-1, R-2, P-1, P-2 and WB liquor license holders may deliver, beer, wine or alcoholic liquor in accordance with the type of liquor license they hold.

Section 6. That Section 3.33.6 is hereby amended as follows:

Sec. 3.33.6 "Pick-Up" Sales

Only Class B, DT-R-1, DT-R-2, R-1, R-2, and WB liquor licenses may provide "Pick-Up" Sales in accordance with the type of license they hold, and subject to the following restrictions:

1. For purposes of this Section, the following definitions apply:

- (a) "Mixed Drink" means any beverage obtained by combining ingredients alcoholic in nature, whether brewed, fermented, or distilled, with ingredients non-alcoholic in nature, such as fruit juice, lemonade, cream, or a carbonated beverage.
- (b) "Original Container" means a container that is filled, sealed, and secured by a retail licensee's employee at the retail licensee's location with a tamper-evident lid or cap.
- (c) "Sealed Container" means a rigid container that contains a mixed drink, is new, has never been used, has a secured lid or cap designed to prevent consumption without removal of the lid or cap, and is tamper-evident. Sealed Container does not include a container with a lid with sipping holes or openings for straws or a container made of plastic, paper, or polystyrene foam.
- (d) "Tamper Evident" means a lid or cap that has been sealed with tamper-evident covers, including, but not limited to, wax dip or heat shrink wrap.
- (e) "To Go" means the sale of alcoholic liquor for off-premises consumption via pick-up only by the purchaser at the licensee's location.

2. Pre-packaged beer and wine and Mixed Drinks placed in a sealed container at the licensee's location, may be transferred and sold for off-premises consumption only if the following requirements are met:

- (a) Only in conjunction with a food purchase;
- (b) Only for pick-up at the licensee's location;
- (c) Sold by an employee of the licensee who is twenty-one (21) years of age or older;
- (d) Placed in the trunk of the vehicle, or if there is no trunk, in the vehicle's rear compartment that is not readily accessible to the passenger area;
- (e) For a Mixed Drink, the sealed container shall be affixed with a label or tag that contains the following information: (1) the mixed drink ingredients, type, and name of the alcohol; (2) the name, license number, and address of the retail licensee that filled the original container and sold the product; (3) the volume of the mixed drink in the sealed container; and (4) the sealed container was filled less than seven (7) days before the date of sale.

Section 7. 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 or video gaming, 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 8. That Article 3.VI is hereby added as follows:

Article 3 .VI Video Gaming

Section 9. That Section 3.601 is hereby added as follows:

Sec. 3.600 Definitions

Act, as used in this Article VI, means Illinois' Video Gaming Act, 230 ILCS 40/5.

Board means the Illinois Gaming Board.

Dining Area means an area that contains tables, stools and chairs that is open to the public for the purpose of on-premise consumption of food and beverages.

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.

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.

Redemption Terminal means a device that is wholly separate from a video gaming terminal, the collective hardware, software, communications technology and other ancillary equipment of which is used to convert the vouchers or credits issued video gaming terminals to a U.S. currency. A redemption terminal is not a video gaming terminal.

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 twenty-five percent (25%) 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, vouchers 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.

Video Gaming Room means that portion of a licensed establishment, where video gaming terminals and redemption terminals are located.

Village means the Village of Downers Grove, Illinois.

Section 10. 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 license from the Village, which shall be a supplemental license to Class C, R-1, R-2, 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 refund and are due prior to issuance of the license. For any license issued on or after the first day of May of any year, the license fee shall be prorated by dividing the fee by twelve (12) and multiplying the resulting sum by the number of months, or parts thereof, remaining in the license year.

Section 11. 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, taxes, 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 C, R-1, R-2, 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 12. 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:
 - a. be executed by the applicant or its duly authorized representative;
 - b. not contain material misrepresentations, misstatements or omissions;
 - c. be accompanied by a floor plan that is drawn to scale, with sufficient detail to depict the number and location of the dining tables and booths, the location of any bar(s), if applicable, the design features and number of the video game terminals and redemption terminals in compliance with the requirements of Section 3.607(a) of the DGMC;
 - d. state the name and license number of the terminal operator with whom the person has entered into a "Use Agreement" with; and
 - e. be accompanied by the appropriate non-refundable application fee set forth in Administrative Regulation entitled "User-Fee, License and Fine Schedule".
 - (2) Such 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 fees.

Section 13. 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 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 C, R-1, R-2, REC-1 or REC-2 liquor license.

Section 14. 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 ten (10) VG licenses issued by the Village at any given time. Said licenses shall be issued on a first come – first served basis.

Section 15. That Section 3.607 is hereby added as follows:

Sec. 3.607 Video Gaming Terminals

- (a) Location. The location of video gaming terminals and redemption terminals in a licensed establishment shall be in a video gaming room. 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 two hundred (200) square feet or twenty-five percent (25%) of the retail square footage area dedicated indoor dining area, whichever is less. 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.
- (g) Noise. Noise from the video gaming terminals shall not be able to be heard outside of the video gaming room.

- (h) Fee. The appropriate annual fee established by the “User-Fee, License and Fine Schedule” shall be remitted to the Village for each video gaming terminal.
- (i) Use Agreements. No video gaming terminal may be placed or operated in any licensed establishment unless the owner or agent of the owner of the licensed establishment has entered into a written use agreement with the operator of the video gaming terminal for placement of the terminals. A copy of the use agreement shall be on file in the licensed establishment and available for inspection in accordance with Section 3.21.2.
- (j) Violation. Any video gaming terminal in violation is subject to seizure, confiscation and destruction.

Section 16. That Section 3.608 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 17. That Section 15.212 is hereby amended as follows:

Sec 15.212 Gambling

- (a) No person shall, upon any premises or within any building within the Village occupied or controlled by him, set up, keep, maintain or operate or permit to be set up, kept, maintained or operated any card game or instrument, device or thing for the purpose of gambling or with which money or property, or anything representing money or property or anything of value shall in any manner be lost or won; provided, however, that the game commonly known as "bingo", when conducted in accordance with the provisions of the Illinois Bingo License and Tax Act¹, pull tab and jar games when conducted in accordance with the provisions of the Illinois Pull Tabs and Jar Games Act², "charitable games" when conducted in accordance with the provisions of the Illinois Charitable Games Act³, and lotteries when conducted by the State of Illinois in accordance with the Illinois Lottery Law, shall be permitted and shall not be construed as a violation of this Section.
- (b) No person shall upon any premises or within any building within the Village occupied or controlled by him, set up, keep, maintain or permit to be set up, kept, maintained or operated any video gaming terminal unless such person has been lawfully issued and currently holds a VG license in accordance with Chapter 3, Article VI of the Downers Grove Liquor Control Ordinance.

Section 18. That upon passage of this Ordinance:

- (a) Any liquor licensee that currently holds an R-1 liquor license and is located within the DC, DB or DT Zoning District shall be granted an DT R-1 liquor license;
- (b) Any liquor licensee that currently holds an R-2 liquor license and is located within the DC, DB or DT Zoning District shall be granted an DT R-2 liquor license;

- (c) All liquor licensees who currently hold an R-3 license shall be issued either an R-1 license or DT-R-1 based upon its location;
- (d) All R-1 liquor licenses and R-2 liquor licenses that were issued to a licensee in relation to an establishment located within the DC, DB or DT Zoning Districts shall be declared null and void; and
- (e) All R-3 liquor licenses shall be declared null and void.

Section 19. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 20. Except as provided for in Section 18 of this Ordinance, all other provisions of this ordinance shall be in full force and effect January 1, 2024.

Mayor

Passed:

Published:

Attest: _____
Village Clerk