

Committee-of-the-Whole Agenda

6:00 p.m.

Tuesday, May 21, 2019

Proclamation

A Proclamation from the Moline Preservation Society to declare May 2019, as “Preservation Month.”

Questions on the Agenda

Agenda Items

1. Chapters 5 and 3 Video Gaming Advertising (Ryan Berger, Land Development Manager)
2. Other

Public Comment

Members of the Public are permitted to speak after coming to the podium and stating their names.

Explanation

1. **An Ordinance amending Chapter 5, “AMUSEMENTS,” of the Moline Code of Ordinances, Article I, “VIDEO GAMING,” by repealing said article in its entirety and enacting in lieu thereof one new Article I relating to the same subject matter; and Chapter 3, “ADVERTISING AND SIGNS,” of the Moline Code of Ordinances, Table 3-2105.1 of Section 3-2105, by adding video gaming exception provisions to the table’s footnotes for temporary signs (f) and banners (g).** (Ryan Berger, Land Development Manager)

Explanation: The City adopted Council Bill/General Ordinance No. 3051-2018 in December 2018 to establish restrictions for advertising by and for all establishments that possess a City of Moline Class K Video Gaming Establishment liquor license. The intent of the ordinance was to help counter the negative effects of gambling by limiting the advertising of such establishments and thereby lessen enticement to the establishments while still allowing them the opportunity to continue their businesses. This proposed ordinance will further restrict the type of video gaming advertising/signage allowed and impose the restrictions to all Licensed Establishments, as defined in Chapter 5, that are eligible for video gaming; specifically, those that possess a valid City of Moline Class A, AA, B, D or K liquor license, and that meet the remaining requirements of Chapter 5, Article I. (The referenced liquor license classes are: A and AA – Restaurant, B – Tavern, D – Clubs/Fraternal or Veterans Organization, and K – Video Gaming Establishment.)

The video gaming advertising restrictions are as written in Sec. 5-1105 of the proposed redline ordinance attached; they include restrictions on off-premises advertising, temporary signs, freestanding banners, building banners and window signs. Additional changes to Article I have been made for clarification and consistency of definitions and terms, and exception provisions have been added to the footnotes of Table 3-2105.1 of the Advertising and Signs Code to correspond with the proposed changes to Article I. Additional documentation attached.

Staff Recommendation: Approval
Fiscal Impact: N/A
Public Notice/Recording: N/A
Goals Impacted: A Great Place to Live

Chapter 5, Amusements

ARTICLE I. VIDEO GAMING

SEC. 5-1100. TERMS DEFINED.

For purposes of this article, the following terms shall have the meaning ascribed to them:

- (1) **Gambling.** Gambling shall have the meaning ascribed to it in Section 22-5101 of the Moline Code of Ordinances.
- (2) **Licensed Establishment.** Licensed Establishment shall mean any licensed retail establishment where alcoholic liquor is drawn, poured, mixed, or otherwise served for consumption on the premises, whether the establishment operates on a nonprofit or for-profit basis. The following classes of City of Moline liquor licenses are classified as Licensed Establishments for purposes of this article and are eligible for a Video Gaming ~~Establishment~~ Terminal license if they meet the requirements of this article: Class A, AA, B, D, K.
- (3) **Terminal Operator.** Terminal Operator shall mean any person, firm, partnership, corporation or association who owns, sells, leases, rents, or is otherwise responsible for placing or distributing Video Gaming Terminals within the City of Moline.
- (4) **Video Gaming Terminal.** Video Gaming Terminal shall mean any electronic video game machine that, upon insertion of cash, electronic cards or voucher, 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 Illinois Gaming Board, utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine or device that directly dispenses coins, cash, or tokens or is for amusement purposes only.

Commented [FV1]: Video Gaming Establishment is defined by Chap 4 as a licensed establishment where the principal purpose is video gaming and the sale of liquor and/or food is incidental. It applies to a Class K Video Gaming Establishment liquor license only. Using the term Video Gaming Establishment license here & throughout this Art. I does not align with that definition because this Licensed Establishment definition applies to Class A, AA, B, D, and K liquor licenses. Therefore, "Video Gaming Establishment license" has been changed to "Video Gaming Terminal license" throughout Art. I.

SEC. 5-1101. LICENSE REQUIRED.

(a) No Video Gaming Terminal may be placed in any Licensed Establishment unless the owner of the Licensed Establishment holds a valid license for video gaming from the Illinois Gaming Board and has obtained a Video Gaming ~~Establishment~~ Terminal license from the City pursuant to this article. A Licensed Establishment may have a maximum of five (5) terminals on its premises if it meets all rules and regulations for video gaming licensing through the Board and the City. Video Gaming Terminals are not permitted in any other establishment in the City.

(b) No person may act as a Terminal Operator of Video Gaming Terminals in the City unless said person holds a valid license for video gaming from the Illinois Gaming Board and has obtained a Terminal Operator license pursuant to this article.

(c) No more than thirty (30) ~~Licensed Establishments~~ ~~Video Gaming Establishment licenses~~ shall be licensed for video gaming in existence ~~Establishment licenses shall be in existence~~ at any time. Should there be more than thirty (30) ~~Video Gaming Establishment license holders~~ Licensed Establishments licensed for video gaming in existence at the time of passage of this ordinance, those license holders may continue to be licensed as long as they comply with all requirements of state and local law and there is no lapse in the validity of their licenses. No new licenses shall be issued until the number of licenses falls below thirty (30).

SEC. 5-1102. APPLICATION; INSPECTION.

A person desiring either a license required by this article shall apply to the City's accounts and finance office therefore; the license shall be issued by the accounts and finance office upon the certification of the building official

and zoning administrator that the premises for which the license is applied or for which Video Gaming Terminals will be located complies with all building construction codes and the zoning and subdivision ordinances of the City of Moline, the fee has been paid, and it has been determined that the provisions of this article are complied with or that adequate provision has been made to cause such compliance.

SEC. 5-1103. FEE; TERM, LATE PENALTY.

(a) ~~A Licensed Establishment~~~~Video Gaming Establishments~~ shall pay an annual fee of fifty dollars (\$50.00) per year for each Video Gaming Terminal located in the Licensed Establishment.

(b) Terminal Operators shall pay an annual fee of one thousand dollars (\$1,000.00) per year for each Video Gaming Terminal located within the City.

(c) The term of the each license shall be February 1 to January 31. A license issued pursuant to this ~~chapter article~~ is good only for the term in the license, and the City may, at any time, choose to prohibit video gaming within the City entirely upon expiration of the current license term. A license issued in accordance with this article shall not vest any type of interest with the licensee other than for the term of the existing license. A license issued in accordance with this article shall expire immediately upon the voluntary surrender or revocation of the licensee's video gaming license issued by the Illinois Gaming Board or the Licensed Establishment's state or local liquor license. No license shall be issued or renewed where the applicant owes a debt, fine, fee, or penalty to the City or has violated any City ordinance, including, but not limited to, the liquor code, sign code, or any other of the requirements of this article.

(d) Any licensee licensed by any part of the Moline Code of Ordinances or other act of the City Council who fails to renew applicable licenses by the due date will be charged a reinstatement fee equal to the amount of the license or two hundred dollars (\$200.00), whichever is less. If a licensee does not renew its license within thirty (30) days after the renewal date, the license will be considered to be voluntarily surrendered and shall not be renewed.

SEC. 5-1104. TRANSFERABILITY; DISPLAY.

(a) No license issued pursuant to this article shall be transferable from one person to another or from one premises to another. However, licenses shall be transferable from one ~~machine~~Video Gaming Terminal to another. For licensees that are corporations, if the percentage of ownership of any shareholders in that corporation changes by more than fifty percent (50%) or if more than fifty percent (50%) of shares in the corporation are transferred to a new shareholder or shareholders, then the license is considered to be transferred, which is not permitted pursuant to this article.

(b) A Video Gaming ~~Establishment~~Terminal license shall consist of a display certificate describing the number of ~~the devices~~Video Gaming Terminals exhibited on the premises, the Licensed Establishment's name and address, and the Terminal Operator's name and address, and it must be signed by the accounts and finance office and under seal of the City of Moline.

(c) A Terminal Operator license shall consist of a display certificate listing by address, the name of each Licensed Establishment within the City where Video Gaming Terminals are sold, leased, rented, serviced or otherwise placed or distributed by said Terminal Operator and the number of terminals at each such Licensed Establishment.

(d) In the event the ~~devices~~Video Gaming Terminals or number of ~~terminals~~devices change after issuance of a license, but before renewal thereof, the license shall be considered to have been amended to a new license; provided, the licensee of the Licensed Establishment and the Terminal Operator notify the accounts and finance office in writing of the change within ten (10) days after the change in number of ~~devices~~terminals has occurred and pay any additional fees required by an increase in the number of ~~devices~~terminals. The act of operation without the notification required herein and payment of fees required herein shall constitute operation without holding a valid license.

(e) Each Video Gaming ~~Establishment~~Terminal license issued pursuant to this article shall be displayed at all times by a Licensed Establishment in a conspicuous place on the licensed premises and in an area accessible to business invitees during all hours of operation.

SEC. 5-1105. RESTRICTIONS ON LOCATIONS AND ADVERTISING.

(a) ~~Video Gaming Licensed~~ Establishments, Terminal Operators, and Video Gaming Terminals shall be subject to the restrictions of the Video Gaming Act, 230 ILCS 40/1, et. seq.

(b) ~~Any advertising for video gaming by or for all existing video gaming Licensed Establishments that have a City of Moline Class K liquor license shall be restricted as follows: See Section 3-2102 of the Moline Code of Ordinances for definitions of each sign type referenced herein.~~

(1) ~~From Upon the effective date of this ordinance until June 30, 2019, no new additional video gaming advertising of any of the following types shall be permitted: off-site advertising for any Class K video gaming establishment shall be permitted.~~

- ~~a. Off-premises advertising, including but not limited to billboards, box trucks, sound trucks, and printed pamphlets, fliers and ads;~~
- ~~b. Temporary signs; and~~
- ~~c. Freestanding banners and building banners.~~

(2) ~~As of July 1, 2019, no video gaming advertising of any of the following types shall be permitted:~~

- ~~a. Off-premises advertising, including but not limited to billboards, box trucks, sound trucks, and printed pamphlets, fliers and ads;~~
- ~~b. Temporary signs;~~
- ~~c. Freestanding banners and building banners; and~~
- ~~d. Window signs in any window of a Licensed Establishment.~~

(2) ~~As of July 1, 2019, no off-site advertising for any Class K video gaming establishment shall be permitted. This includes billboards, box trucks, pamphlets, fliers and ads.~~

(3) ~~As of July 1, 2019, no advertising in any window of any Class K video gaming establishment shall be permitted.~~

(34) ~~As of January 1, 2023, advertising for video gaming Class K video gaming establishments may only have up shall be limited to one (1) exterior building sign that attached to the Licensed Establishment. The sign must conform to all requirements of Chapter 3, "Advertising and Signs," of the Moline Code of Ordinances and will count toward the number of signs allowed per building under the Code. Except for Licensed Establishments with a Class K liquor license, additional exterior building signs that are for purposes other than video gaming shall be permitted as long as they conform to all requirements of Chapter 3.~~

a. **Class K Liquor Licensees.** Licensed Establishments that hold a Class K Video Gaming Establishment liquor license shall be limited to one (1) exterior building sign attached to the establishment that identifies the licensee's legal name or "doing business as" name of the establishment only. The sign must conform to all requirements of Chapter 3, "Advertising and Signs," of the Moline Code of Ordinances. No other exterior building signs are permitted for a Class K liquor licensee after January 1, 2023.

ba. All existing exterior building signs for video gaming signs at Class K video gaming Licensed Establishments are hereby deemed to be non-conforming.

cb. Nonconforming Signs. From the effective date of this ordinance until January 1, 2023, such nonconforming building signs may be continued until any of the following activities affect

the subject sign or sign location, at which time the nonconforming sign(s) must be removed unless it is the only exterior video gaming sign and it meets the listed requirements of this subsection (34) above:

1. Change of use classification; or
2. Change in name of the licensee/license holder; or
3. Replacement or repair of any portion of the sign in excess of fifty percent (50%) of the replacement value; or
4. Removal or replacement of the entire sign structure; or
5. Building permit application review by the City of Moline or zoning administrator.

(c) If the number of video gaming licenses issued to Licensed Establishments falls below thirty (30) and a new license is issued to a Licensed Establishment prior to any of the effective dates set forth in subsection (b) above, the license shall be subject to those advertising restrictions as of the date of its issuance rather than the effective dates listed in subsection (b).

SEC. 5-1106. SUSPENSION; REVOCATION.

(a) The mayor may suspend or revoke or refuse to renew a license issued hereunder for cause. The mayor shall give written notice to the licensee of the cause of the suspension or revocation or refusal to renew and provide the licensee at least ten (10) days before such suspension or revocation or refusal to renew is to be effective to request a hearing by filing such request in writing with the mayor. If such a request is filed, the mayor shall schedule a hearing as soon as practicable, but in no case later than thirty (30) days after a request for hearing has been filed. Pending hearing, a licensee may continue to operate.

(b) The City shall have the burden of proof that cause exists at any hearing to suspend, revoke, or refuse to renew a license. The accounts and finance officer shall render any decision in writing and give the licensee a copy thereof.

(c) Service of notices and decision required in this section shall be obtained by mailing same by certified mail.

SEC. 5-1107. PENALTY.

Any person violating the provisions of this article shall be guilty of a petty offense and be punished as provided in Section 1-1107 of the Moline Code of Ordinances.

(Ord. No. 3019-2012; Art. I. repealed in its entirety; new Art. I. enacted; 07/17/12)
(Ord. No. 3036-2017; Art. I. "AMUSEMENT DEVICES," repealed in its entirety; new Art. I. "VIDEO GAMING," enacted; 10/17/17 – removes amusement devices from Art. I. as the City will no longer regulate or license such devices; Art. I. now pertains to regulation and licensing of video gaming only)
(Ord. No. 3043-2017; new Sec. 5-1101(c) enacted; 11/07/17 – sets limitation on number of video gaming establishment licenses to 30)
(Ord. No. 3053-2018; Art. I. "VIDEO GAMING," repealed in its entirety; new Art. I. "VIDEO GAMING," enacted; 12/18/18 – adds definition and licensing requirement for a terminal operator)

Chapter 3, Advertising and Signs

SEC. 3-2105. SIGNS ALLOWED ON PRIVATE PROPERTY WITH AND WITHOUT PERMITS.

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TABLE 3-2105.1 SIGNS ALLOWED BY TYPE, CHARACTERISTICS AND ZONING DISTRICT

Sign Type ^a	All RS	R-6	R-7	INS	B-1 NC	B-2 B-3	B-4	O-1	I-1 ORT	I-2
Freestanding										
Banner ⁹	NO	SP	SP	SP	SP	SP	SP	SP	SP	SP
Residential ^b	NP	NP	NP	NO	NO	NO	NO	NO	NO	NO
Other	NO	SP	SP	SP	SP	SP	SP	SP	SP	SP
Incidental	NO	NP	NP	NP	NP	NP	NP	NP	NP	NP
Temporary ^f	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Building										
Banner ⁹	NO	SP	SP	SP	SP	SP	SP	SP	SP	SP
Building Marker	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Canopy	NO	NO	NO	NO	SP	SP	SP	SP	SP	SP
Identification	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Incidental	NO	NP	NP	NP	NP	NP	NP	NP	NP	NP
Marquee ^c	NO	NO	NO	NO	NO	SP	SP	NO	NO	NO
Projecting ^c	NO	NO	NO	NO	SP	SP	SP	SP	SP	SP
Residential	NP	NP	NP	NO	NO	NO	NO	NO	NO	NO
Roof	NO	NO	NO	NO	NO	NO	NO	NO	NO	NO
Roof, Integral	NO	NO	NO	NO	NO	SP	SP	NO	SP	NO
Suspended ^c	NO	NO	NO	NP	NO	NO	NO	NO	NO	NO
Temporary ^d	NP	NP	NP	NP	SP	SP	SP	SP	SP	SP
Wall	NO	NO	NO	NP	SP	SP	SP	SP	SP	SP
Window, Temporary	NP	NP	NP	NP	SP	SP	SP	SP	SP	NO
Miscellaneous										
Flag	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP
Characteristics										
Changeable Copy	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP
Dynamic Display	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP
Illumination, Internal ^e	NO	NO	NO	SP	SP	SP	SP	SP	SP	SP
Illumination, External ^e	NO	SP	SP	SP	SP	SP	SP	SP	SP	SP
Illumination, Exposed Bulbs or Neon	NO	NO	NO	NO	NO	SP	SP	SP	SP	NO

NP=Allowed without sign permit SP = Allowed only with sign permit NO = Not allowed

- See Section 3-2102 for complete definition of each sign type.
- Includes Temporary Signs.
- If such a sign is suspended or projects above a public right-of-way, the issuance and continuation of a sign permit shall be conditioned upon the sign owner obtaining and maintaining a valid license agreement from the City Council.
- Temporary signs on private property shall be limited to those that are directly associated with a temporary use as authorized in Zoning Ordinance of the City of Moline. Such signage shall be allowed only in accordance with signage standards for the authorized temporary use as identified in the zoning ordinance and this ordinance.
- No direct light or significant glare from the sign shall be cast onto any adjacent lot of record that is zoned and used for residential purposes.
- Each non-residentially zoned lot of record, with exception,** is permitted one (1) temporary sign per street frontage. Said sign shall not exceed twelve (12) sq. ft., shall have a minimum setback of two (2) feet, and shall not be displayed for more than one hundred eighty (180) days. Temporary signs shall not require a sign permit and shall not count towards a non-residentially zoned lot of record's total signage allotment.
**Exception – video gaming: temporary signs for video gaming shall not be permitted pursuant to the restrictions on video gaming advertising set forth in Sec. 5-1105 of the Code.
- Banners shall not be displayed for more than sixty (60) days. Exception – video gaming: banners for video gaming shall not be permitted pursuant to the restrictions on video gaming advertising set forth in Sec. 5-1105 of the Code.