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DATE: March 25, 2015
TO: Urbana City Council
CC: Mayor Prussing
FROM: James Simon, City Attorney

RE: “Gaming Hall” License.

At the March 23, 2015, the Committee of the Whole considered an ordinance which would amend the Urbana City Code Chapter 3 – Alcoholic Liquors as well as the City’s fee schedule by creating two new liquor license classifications. The addition of the two new liquor license classes is intended to accommodate the operation of video gambling terminals on an establishment’s premises. The two license classifications recognize that some establishments expect that the bulk of their revenue will be derived principally by food and alcoholic beverage sales (Class G-1 license) while other establishments intend to operate as gaming halls where the bulk of the revenue will be derived from the operation of video gambling terminals (Class G-2 license). In both instances, alcoholic beverage sales and service will occur for consumption on the establishment’s premises regardless of which Class G license is obtained. In addition to discussing the creation of new classes of liquor licenses, the Committee of the Whole considered amendments to the City’s zoning ordinance in order to regulate establishments operating as gaming halls (Class G-2 licensees). Thus, an integrated mechanism for regulating establishments which operate video gambling terminals was considered.

During the aforesaid meeting, the Committee of the Whole recommended that a number of amendments be made to the proposed amendments to the proposed liquor and zoning ordinances. With those amendments, the Committee of the Whole voted to move the proposed liquor ordinance and zoning ordinance amendments to the City Council with a recommendation for approval.

Attached is a draft of the proposed amendments to the City’s liquor ordinance. “Redline” and “clean” versions are appended.

OPTIONS:

- Approve the liquor ordinance amendments.
- Reject the liquor ordinance amendments.
- Amend and then approve the liquor ordinance amendments.

The Legal Division recommends adoption of the liquor ordinance amendments in the form appended hereto.

ORDINANCE NO. 2015-01-004

AN ORDINANCE AMENDING URBANA CITY CODE CHAPTERS 3 and 3.7

(Establishing Class G (video gambling) liquor licenses and fees)

WHEREAS, the City of Urbana ("City") is a home rule unit of local government pursuant to Article VII, Section 6, of the Illinois Constitution, 1970, and may exercise any power and perform any function pertaining to its government and affairs, including the power to regulate for the protection of the public health, safety, and welfare; and

WHEREAS, Section 4-1 of the Liquor Control Act of 1934, 235 ILCS 5/4-1, gives the city council in every city the power by general ordinance or resolution to establish such regulations and restrictions upon the issuance of and operations under local liquor licenses not inconsistent with law as the public good and convenience may require; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Section 3-41 to designate certain classifications of local liquor licenses and to regulate said licenses; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Section 3-43 to limit the number of liquor licenses issued in the City; and

WHEREAS, the City Council heretofore has enacted Urbana City Code Chapter 3.7 to regulate the operation of amusement devices, including video gambling terminals, in the City; and

WHEREAS, the City Council remains concerned about the proliferation of gambling and its potential detrimental impact upon the health, safety, and welfare of the City's residents and visitors; and

WHEREAS, the City Council finds that a need exists to regulate the locations and activities of gambling establishments within the City; and

WHEREAS, the City Council finds that the public health, safety, and welfare will best be protected by amending (1) Urbana City Code Section 3-41 to establish two new classes of liquor licenses including Class G-1 and Class G-2 - to allow the operation of video gambling terminals on licensed premises as herein provided; (2) Urbana City Code Section 3-43 to establish limits on the number of Class G-1 and Class G-2 liquor licenses issued in the City; (3) Urbana City Code Chapter 3 to delete the video gambling regulations contained therein, including those currently contained in Urbana City Code Chapter 3.7 in lieu of the amendments to Urbana City Code Chapter 3; and (4) to provide provisions for the operation and regulation of gaming halls; and

WHEREAS, the City Council heretofore did on the 5th day of May, 2014, pursuant to Ordinance No. 2014-03-024, adopt Urbana City Code Section 14-7, establishing a schedule of fees for the various licenses, permits, fines, and other fees required under the Code; and

WHEREAS, the City Council finds that the best interests of the City are served by making limited amendments to that schedule of fees, pursuant to Urbana City Code Section 14-7(b), concerning video gambling and liquor licensing.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Urbana, Champaign County, Illinois, as follows:

Section 1.

Urbana City Code Chapter 3, "Alcoholic Liquors," Article I, "In General," Section 3-1, "Definitions," is hereby amended with the underlined text indicating new language as follows:

Sec. 3-1. - Definitions.

All words and phrases used in this chapter and not otherwise defined herein, which are defined in the Liquor Control Act of 1934 (235 ILCS 5/1-1 *et seq.*), as amended, shall have the meaning accorded to such words and phrases in said Act. Unless the context otherwise requires, the following terms as used in this Chapter shall be construed according to the definitions set forth below.

Liquor Control Act. The State Liquor Control Act of 1934 (235 ILCS 5/1-1 *et seq.*).

Local commissioner. The Mayor of the City of Urbana is the Local Liquor Control Commissioner for the City of Urbana.

State commission. The Illinois Liquor Control Commission.

Video gambling terminal. Video gambling terminal shall have the same meaning as "video gaming terminal," as set forth in the Video Gaming Act, 230 ILCS 40/1 *et seq.* as amended.

Section 2.

Urbana City Code Chapter 3, "Alcoholic Liquors," Article III, "Retail License," Section 3-41, "Classification," is hereby amended by adding new subsections (p) and (q) thereto, with the underlined text indicating new language as follows:

(p) Class G-1 licenses (video gambling, excluding gaming halls) shall permit the licensee to operate video gambling terminals upon the premises, subject to the following conditions:

(1) A Class G-1 licensee must also possess valid liquor licenses issued by the city and the State of Illinois which are limited to the drawing, pouring, mixing, or otherwise serving of alcoholic liquor on the premises where video gambling terminals are to be operated. Notwithstanding the foregoing, in the event the applicant does not already possess another form of liquor license other than a Class G-2 license at the time the applicant applies for a Class G-1 license, the applicant may apply simultaneously for a Class G-1 license and such other class of liquor license as is appropriate.

(2) Prior to displaying any video gambling terminal to be played or operated by the public, each Class G-1 licensee shall obtain from the_

(4) Any liquor license issued by the city to any liquor licensee pursuant to this Chapter 3, including but not limited to any licensed fraternal establishment or licensed veterans establishment (as defined in the Video Gaming Act, 230 ILCS 40/5), that displays a video gambling terminal for play or operation within its premises in violation of this subsection (p) shall be immediately revoked.

(5) No more than five (5) video gambling terminals may be located on any Class G-1 licensee's premises.

(6) Every Class G-1 licensee shall comply with the provisions of the Video Gaming Act, 230 ILCS 40/1 et seq., as amended, and all rules, regulations, and restrictions imposed by the Illinois Gaming Board, as amended.

(7) The operation of video gambling terminals shall not be permitted during the hours alcoholic liquor sales are prohibited, as provided in section 3-3 of this Chapter 3. city a video gambling permit for each terminal which the licensee intends to display for play or operation. Applications for permits shall be made in the same manner as provided for licenses under section 3-40. Class G-1 licensees shall pay such permit fee per video gambling terminal as set forth in section 14-7. Each permit shall be in the form of a gummed sticker, which shall be serially numbered and securely affixed in plain view to the terminal for which it is issued. No person shall display any video gambling terminal or allow any member of the public to play or operate any such video gambling terminal in violation of this section. Video gambling terminal permit stickers are not transferable to any other video gambling terminal or person.

(3) Any person who displays a video gambling terminal for play or operation by the public shall have, as a prerequisite to receiving any video gambling permit from the city, a valid license issued by the Illinois Gaming Board for each such video gambling terminal. The cancellation, suspension, or revocation of any such license by the Illinois Gaming Board shall result in the automatic cancellation, suspension, or revocation of the city's video gambling permit without refund of any portion of the permit fee. An applicant for a video gambling permit shall submit to the finance director a copy of the license issued by the Illinois Gaming Board for each video gambling terminal to be played or operated on the licensed premises.

(8) Video gambling shall be located in a clearly demarcated area that is restricted to persons over 21 years of age.

(9) The finance director shall provide each Class G-1 licensee with signs in English and in Spanish describing the symptoms of a problem gambler and containing contact information for Gamblers Anonymous. Each licensee shall post such signs in conspicuous locations clearly visible to the public at the location of the video gambling terminal(s) and inside each public restroom on the licensed premises. Each such sign shall provide, in substance, the following:

ARE YOU A PROBLEM GAMBLER? The American Psychiatric Association describes the symptoms of a problem gambler as someone who:

1. is preoccupied with gambling (e.g. preoccupied with reliving past gambling experiences, handicapping or planning the next venture, or thinking of ways to get money with which to gamble)
 2. needs to gamble with increasing amounts of money in order to achieve the desired excitement
 3. has repeated unsuccessful efforts to control, cut back, or stop gambling
 4. is restless or irritable when attempting to cut down or stop gambling
 5. gambles as a way of escaping from problems or of relieving a dysphoric mood (e.g. feelings of helplessness, guilt, anxiety, depression)
 6. after losing money gambling, often returns another day to get even ("chasing" one's losses)
 7. lies to family members, therapist, or others to conceal the extent of involvement with gambling
 8. has committed illegal acts such as forgery, fraud, theft, or embezzlement to finance gambling
 9. has jeopardized or lost a significant relationship, job, or educational or career opportunity because of gambling
 10. relies on others to provide money to relieve a desperate financial situation caused by gambling
- If this describes YOU, please call the Gamblers Anonymous Hotline at 1-800-GAMBLER.

(10) Any video gambling terminal permit issued by the city pursuant to chapter 3.7 shall remain in full force and effect until the licensee's other class of liquor license is scheduled to expire. Prior to or upon the expiration of the licensee's other class of liquor license, the licensee for and receive a Class G-1 license which, henceforth shall be governed by this subsection (p) and which shall run concurrently with the licensee's other class of liquor license. Nothing herein shall be deemed or construed as releasing the licensee from the obligation to maintain the licensee's one or more video gambling terminal permits.

(q) Class G-2 licenses (video gambling - gaming hall) shall permit the licensee of a gaming hall, as hereinafter defined, to draw, pour, mix, or otherwise serve alcoholic liquor for consumption on the gaming hall premises where video gambling terminals are or will be displayed for play or operation subject to the following conditions:

- (1) Gaming hall shall mean an establishment whose primary purpose is to operate video gambling terminals where the drawing, pouring, mixing, or otherwise serving of alcoholic liquor on the licensed premises is

subsidiary to the operation of the video gambling terminal or terminals. In the event that any establishment derives 60% or more of its estimated gross revenue from the display, play and/or operation of video gambling terminals, such establishment shall be deemed a gaming hall and shall be required to obtain a Class G-2 license pursuant to this subsection. Notwithstanding the immediate foregoing, the following may also be considered in determining whether an establishment constitutes a gaming hall:

- A. a seating area for video gaming terminals being greater than the seating area where food and/or beverage, including alcoholic beverages, are served;
- B. the absence of a full-service kitchen;
- C. an overall size of 1,500 square feet or less; and/or
- D. such other conditions which readily suggest or indicate that the establishment is intended to be operated or is being operated as an establishment whose primary purpose is the display of gambling terminals for play or operation by the public.

For purposes of this subsection q, fraternal establishments and veterans establishments (as defined in the Video Gaming Act, 230 ILCS 40/5) shall be exempt.

(2) A Class G-2 licensee need not have or apply for any other form of liquor license in order to apply for a Class G-2 license.

(3) Conditions (2) through and including (9) of subsection (p) of this section 3-41 pertaining to Class G-1 licenses shall be conditions for obtaining and maintaining a Class G-2 license except that any reference to Class G-1 license in the aforesaid subsection shall include the Class G-2 license for purpose of this subsection (q).

Section 3.

Urbana City Code Chapter 3, "Alcoholic Liquors," Article III, "Retail License," Section 3-43, "Limitations on number issued," subsection 3-43(a), is hereby amended with the underlined text indicating new language as follows:

Sec. 3-43. - Limitations on number issued.

(a) The maximum number of liquor licenses authorized for the license classifications set forth below is as follows:

Classification	Number authorized
A	14
AA	2
AA-01	1
B	0
BB	3
BBB	6

BW	10
C	22
CA-1	1
CA-2	2
CG	1
D	0
G-1	12
G-2	0
HB	0
HL	0
N	1
R-1	9
R-2	12
URO	1

Section 4.

The finance director is hereby directed to issue a Class G liquor license for license year 2014 - 2015 to each liquor establishment that has a valid video gambling terminal license issued under Urbana City Code Chapter 3.7. The finance director shall also issue a video gambling permit for license year 2014 - 2015 for each video gambling terminal so licensed.

Section 5.

Urbana City Code Chapter 3.7, "Amusements," Article II, "Amusement Devices; Video Gambling Terminals; Gamerooms," is hereby amended with the underlined text indicating new language and the strikethrough text indicating deletions as follows:

ARTICLE II. - AMUSEMENT DEVICES; GAMEROOMS

Sec. 3.7-11. - Definitions.

As used in this article, the following words and phrases shall have the following meanings ascribed to them:

Amusement device shall mean and include any device for which a fee is charged for the purpose of entertainment or amusement which returns to the player or operator thereof no money or property or right to receive money or property, or any other such device which, upon insertion of a coin, slug or token in any slot or receptacle in or attached to such device, operates or is operated for use as entertainment or amusement, including, but not limited to, jukeboxes, motion or still picture viewers, pinball games, video games, air hockey games, electronic games, and any other such similar devices.

Gameroom shall mean and include any specific place or location owned or leased by any person who displays twenty (20) or more amusement devices as herein defined upon such premises.

Sec. 3.7-12. - Imposition of tax and license.

There is hereby imposed, on the privilege of operating every amusement

device or gameroom in the city, an annual privilege tax and license for each such amusement device or gameroom.

Sec. 3.7-13. - License required.

Any person who displays any amusement device to be played or operated by the public at any place owned or leased by any such person shall, before such person displays such device or terminal, file with the finance director of the city an application for a license for each such device or terminal or for a gameroom.

Sec. 3.7-15. - License application; issuance.-

Any person desiring to display in the city any amusement device shall make application for the appropriate license to the finance director. Each such application shall be accompanied by the required license tax and shall set forth such applicant's name and address, with a brief description of each amusement device to be displayed on the premises where such device will be located, together with such other relevant data or information as the finance director may require. Upon receipt of the proper application and upon the payment of the tax and license as herein provided, the finance director shall issue the appropriate license for each such device, terminal, or gameroom, which such license shall be issued for a period of one year from July first to June thirtieth in the ensuing year.

Sec. 3.7-16. - Display of license; transfer.

(a) *Amusement devices.*—The license for each amusement device shall be in the form of a gummed sticker, which shall be serially numbered and shall be securely affixed in plain view to the device for which it is issued. An amusement device license may be transferred from one amusement device to another amusement device located on the same premises and owned by the same applicant, provided that any and all such amusement devices so displayed at any one time on such premises shall be licensed as provided herein.

(b) *Gamerooms.* A gameroom license shall be in such form as shall be determined from time-to-time by the finance director, and every such gameroom license shall be framed and hung in plain view in a conspicuous place on the licensed premises.

Sec. 3.7-18. - Illegal amusement devices prohibited; inspections.

No license shall be issued for any amusement device or gameroom which violates the laws of the state or the ordinances of the city. All amusement devices and gamerooms shall be available for inspection by the proper city authorities for the purpose of ascertaining and declaring whether such laws and ordinances are complied with.

Section 6.

Urbana City Code Chapter 14, "Licenses and Permits," Section 14-7, "Schedule of fees," subsection (A), "Liquor Licenses," Part 1, "Alcoholic Liquor Licenses," is hereby amended by adding a new Subpart (w) thereto, with the underlined text

indicating new language as follows:

(w) Class G-1 (video gambling)

- 1. License..... \$ 500.00
- 2. Permit for each video gambling terminal..... \$ 200.00

(X) Class G-2 (video gambling - gaming hall)

- 1. License.....\$5724.00
- 2. Permit for each video gambling terminal.....\$ 200.00

Section 7.

Urbana City Code Chapter 14, "Licenses and Permits," Section 14-7, "Schedule of fees," subsection (B), "General," Part 4, "Miscellaneous," Subpart (c), "Amusement devices," is hereby amended with the strikethrough text indicating deletions as follows:

(c) Amusement devices:

- 1. For each amusement device..... \$ 100.00
- 2. For game rooms\$1,400.00
(twenty (20) or more devices in the same location)

Section 8.

Those sections, paragraphs, and provisions of the Urbana City Code that are not expressly amended or repealed by this Ordinance are hereby re-enacted, and it is expressly declared to be the intention of this Ordinance not to repeal or amend any portions of the Urbana City Code other than those expressly set forth as amended or repealed in this Ordinance. The invalidity of any section or provision of this Ordinance hereby passed and approved shall not invalidate other sections or provisions thereof.

Section 9.

This Ordinance shall not be construed to affect any suit or proceeding pending in any court, or any rights acquired, or a liability incurred, or any cause or causes of action acquired or existing prior to the effective date of this Ordinance; nor shall any right or remedy of any character be lost, impaired, or affected by this Ordinance.

Section 10.

The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities, and this Ordinance shall be in full force and effect from and after its passage and publication in accordance with Section 1-2-4 of the Illinois Municipal Code.

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called, of a majority of the members of the Council of the City of Urbana, Illinois, at a meeting of said Council.

PASSED BY THE CITY COUNCIL this ____ day of _____, _____.

AYES:

NAYS:

ABSENT:

ABSTAINED:

Phyllis D. Clark, City Clerk

APPROVED BY THE MAYOR this ____ day of _____, _____.

Laurel Lunt Prussing, Mayor