

ORDINANCE NO. 2019-09

**ORDINANCE AMENDING ORDINANCE NO. 2019-04 PROVIDING  
FOR LICENSED VIDEO GAMING  
TO COMPORT WITH CHANGES TO VIDEO GAMING RULES AND REGULATIONS  
ESTABLISHED IN ILLINOIS GAMBLING ACT EFFECTIVE JUNE 28, 2019**

**WHEREAS**, the Board of Trustees previously passed Ordinance No. 2019-04 providing for licensed video gaming in the Village of Winnebago, with specific rules and regulations in accordance with the Illinois Video Gaming Act which had been signed into law on July 13, 2009 (230 ILCS 40/1 et. seq. and sometimes hereinafter referred to as the "Act"), which Illinois Video Gaming Act allows certain licensed retail establishments to conduct video gaming, and establish a tax on the proceeds, a portion of which goes to the municipality where the video gaming takes place; and

**WHEREAS**, on June 28, 2019, Illinois Governor J.B. Pritzker signed into law Public Act No. 101-0031 (SB0690) wherein, inter alia, the Illinois Gambling Act was contained, which Illinois Gambling Act contained certain provisions amending some of the rules and regulations of the Illinois Video Gaming Act; and

**WHEREAS**, certain of the revisions to the Illinois Video Gaming Act affect the number of video gaming terminals allowed in the licensed establishment, expand the cost of the credit allowed, the maximum wager, maximum cash award for the maximum wager on any individual hand, and provide for allowance of in-location bonus jackpot games wherein the cash award for the maximum wager on a jackpot, progressive or otherwise, may be up to \$10,000.00; and

**WHEREAS**, it was anticipated that the Illinois Gambling Act would also allow non-home rule units of government to impose an annual fee of up to \$250.00 for the operation of each video gaming terminal, as opposed to the current \$25.00 maximum fee allowed, but no such provision was contained in the Illinois Gambling Act; and

**WHEREAS**, the matter of allowing the increase to an annual fee of \$250.00 per video gaming terminal is instead addressed in Senate Bill 1558 (SB1558), which bill passed both houses of the Illinois legislature on May 27, 2019, and was sent to the Governor for signature on June 25, 2019, but as of the date of this ordinance has not yet been signed, and which SB1558 only allows for such increase for the non-home rule municipality of the City of Rockford, while for all other non-home rule municipalities the annual maximum per terminal fee amount remains at \$25.00; and

**WHEREAS**, in the hope there may be future legislation to address the fee increase for other non-home rule municipalities besides the City of Rockford, it would behoove the Village of Winnebago to add a provision to its video gaming ordinance to provide that the Village would be allowed to charge whatever is the maximum per machine amount allowed by Illinois statute, as amended from time to time, so as not to have to make further amendment to this ordinance in the future in the event the amount is so increased or decreased; and

**WHEREAS**, in order to keep video gaming establishments who eventually receive video gaming licenses in the Village competitive with other video gaming establishments, it is deemed by the

Village Board of Trustees to be in the best interest of its citizenry to amend its video gaming ordinance to update and add to existing provisions in its current video gaming ordinance.

**NOW THEREFORE**, be it ordained by the President and Board of Trustees of the Village of Winnebago, Illinois, as follows:

**SECTION I—ADDITION/REVISION TO DEFINITIONS**

Section II of Ordinance No. 2019-04 shall be amended to add the following definitions with the assigned letter reference:

- (a.1) "Electronic card": a card purchased from a licensed establishment, licensed fraternal establishment, licensed veterans establishment, licensed truck stop establishment, or licensed large truck stop establishment for use in that establishment as a substitute for cash in the conduct of gaming on a video gaming terminal.
- (a.2) "In location bonus jackpot": one or more video gaming terminals at a single licensed establishment that allows for wagers placed on such video gaming terminals to contribute to a cumulative maximum jackpot of up to \$10,000.00.
- (f.1) "Licensed large truck stop establishment": a facility located within 3 road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs: (i) that is at least a 3-acre facility with a convenience store, (ii) with separate diesel islands for fueling commercial motor vehicles, (iii) that sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month, and (iv) with parking spaces for commercial motor vehicles. "Commercial motor vehicles" has the same meaning as defined in Section 18b-101 of the Illinois Vehicle Code. The requirement of item (iii) of this paragraph may be met by showing that estimated future sales or past sales average at least 50,000 gallons per month.

Section II of Ordinance No. 2019-04 shall be amended to delete the definitions contained therein of "Licensed establishment", "Licensed fraternal establishment", "Licensed veterans' establishment", "Terminal operator" and "Video gaming terminal" in paragraphs (b), (c) (g), (k), and (l) respectively, and replace the same with the following definitions:

- (b) "Licensed establishment": any establishment that is both licensed to sell liquor at retail in the Village under the appropriate designated licensure, and licensed by the Illinois Gaming Board and the Village of Winnebago to operate a video gaming terminal on its premises.
- (c) "Licensed fraternal establishment": A licensed fraternal establishment is a location where a fraternal organization that derives its charter from its national parent organization regularly meets, and is licensed by the Illinois Gaming Board and Village of Winnebago to operate a video gaming terminal on its premises.

- (g) "Licensed veterans' establishment": A licensed veterans establishment is a location where a qualified veterans' organization that holds a charter from its national parent organization regularly meets, and is licensed by the Illinois Gaming Board and the Village of Winnebago to operate a video gaming terminal on its premises.
- (k) "Terminal operator" means an individual, partnership, corporation, or limited liability company that is licensed under this Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.
- (l) "Video gaming terminal": 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 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 that directly dispenses coins, cash, or tokens, or is for amusement purposes only.

**SECTION II—VIDEO GAMING ESTABLISHMENT LICENSE/NUMBER OF TERMINALS AND LICENSING FEE MAXIMUM**

Section IV of Ordinance No. 2019-04 titled "Video Gaming Establishment License" shall be deleted in its entirety and replaced with the following language so that the language in the Village's video gaming ordinance comports with the language in the Illinois Gambling Act, which made certain changes to the Illinois Video Gaming Act to increase the maximum number of video gaming terminals now allowed, and so the Village's gaming ordinance makes provision that should the content of the Illinois Gambling Act or the Illinois Video Gaming Act change in the future in reference to the maximum number of terminals allowed, or the maximum annual fee the Village may charge per video gaming terminal, the Village's video gaming ordinance shall automatically change accordingly, without the need for further amending the Village's gaming ordinance at that time:

**SECTION IV--VIDEO GAMING ESTABLISHMENT LICENSE**

In order for a licensed establishment to operate a video gaming terminal, the licensed establishment is required to obtain an annual video gaming establishment license from the Village by submitting a written application, on a form provided by the Village, to the President of the Board of Trustees or the party designated by him/her. The burden is upon each applying licensed establishment to demonstrate its suitability for licensure. All video gaming establishment licenses issued by the Village shall expire on April 30, next, after date of issue, with an annual license/permit fee, as referenced in Section V hereinbelow, of Twenty-five and 00/100 dollars (\$25.00) per video gaming terminal, with no prorations, up to a maximum of six (6) terminals for all establishments other than licensed large truck stop establishments, as defined herein, as such licensed large truck stop establishments shall be allowed a maximum of ten (10) video gaming terminals. All

licensing/permit fees shall be payable in full at the time the application is filed with the Village. Should the maximum annual license/permit fee for each video gaming terminal allowed ever increase or decrease by Illinois law, then the annual license/permit fee for each video gaming terminal charged by the Village shall automatically increase or decrease, accordingly, to the new maximum set by the State of Illinois, via the terms of this ordinance, upon the effective date of the given legislation, without the necessity of further amending the instant ordinance. Likewise, should the maximum number of video gaming terminals allowed at a given licensed establishment ever increase or decrease by Illinois law, then the number of video gaming terminals allowed at such licensed establishment in the Village shall automatically increase or decrease, accordingly, to the new maximum set by the State of Illinois, via the terms of this ordinance, upon the effective date of the given legislation, without the necessity of further amending the instant ordinance. A license shall be purely a personal privilege, good for a time period not to exceed one (1) year after issuance, unless sooner revoked as provided by law, and shall not constitute property, nor shall it be subject to attachment, garnishment, or execution, nor shall it be alienable or transferable, voluntarily or involuntarily, or subject to being encumbered.

### **SECTION III—VIDEO GAMING TERMINAL PERMIT STICKER/NUMBER OF TERMINALS AND LICENSING FEE MAXIMUM**

Section V of Ordinance No. 2019-04 titled "Video Gaming Terminal Permit Sticker" shall be deleted in its entirety and replaced with the following language so that the language in the Village's video gaming ordinance comports with the language in the Illinois Gambling Act, which made certain changes to the Illinois Video Gaming Act to increase the maximum number of video gaming terminals now allowed, and for the Village to make provision that should the content of the Illinois Gambling Act or the Illinois Video Gaming Act change in the future in reference to the maximum number of terminals allowed, or the maximum annual fee the Village may charge per video gaming terminal, the Village's video gaming ordinance shall automatically change accordingly, without the need for further amending the Village's gaming ordinance at that time:

### **SECTION V--VIDEO GAMING TERMINAL PERMIT STICKER**

In order for a video gaming terminal to be operated at a licensed establishment, the licensed establishment is required to obtain an annual video gaming terminal permit sticker from the Village for each video gaming terminal located on its premises (maximum six (6), except for licensed large truck stop establishments, as defined herein, wherein the maximum is ten (10), by submitting a written application, on a form provided by the Village, to the President of the Board of Trustees or the party designated by him/her. Each video gaming terminal permit sticker issued by the Village shall expire April 30, next, after date of issue, with an annual fee of Twenty-five and 00/100 dollars (\$25.00) per video gaming terminal, payable in full at the time the application is filed with the Village, with no prorations. Any continuing operation of a video gaming terminal shall require the payment of a new annual fee on or before May 1 of each year for the ensuing fiscal year. Should the maximum annual license/permit fee for each video gaming terminal allowed ever increase or decrease by Illinois law, then the annual license/permit fee for each video gaming terminal charged by the Village shall automatically increase or decrease, accordingly, to the new

maximum set by the State of Illinois, via the terms of this ordinance, upon the effective date of the given legislation, without the necessity of further amending the instant ordinance. Likewise, should the maximum number of video gaming terminals allowed at a given licensed establishment ever increase or decrease by Illinois law, then the number of video gaming terminals allowed at such licensed establishment in the Village shall automatically increase or decrease, accordingly, to the new maximum set by the State of Illinois, via the terms of this ordinance, upon the effective date of the given legislation, without the necessity of further amending the instant ordinance.

**SECTION IV—CHANGE IN REGULATIONS GOVERNING LICENSED ESTABLISHMENT OPERATING VIDEO GAMING TERMINALS AS TO MAXIMUM NUMBER OF TERMINALS ALLOWED**

Paragraph (c) of Section VII of Ordinance No. 2019-04 shall be deleted in its entirety and replaced with the following language:

- (c) No more than six (6) video gaming terminals may be located on the licensed establishment premises, except for a licensed large truck stop establishment, in which case the maximum number of terminals allowed shall be ten (10). Should the maximum number of video gaming terminals allowed at a given licensed establishment ever increase or decrease by Illinois law, then the number of video gaming terminals allowed at such licensed establishment in the Village shall automatically increase or decrease, accordingly, to the new maximum set by the State of Illinois, via the terms of this ordinance, upon the effective date of the given legislation, without the necessity of further amending the instant ordinance.

**SECTION V--EFFECTIVE DATE**

This amending ordinance shall be in full force and effect upon its passage, approval, and publication as may be required by law.

**PASSED AND ADOPTED** at a regular meeting of the President and Board of Trustees of the Village of Winnebago this 8th day of JULY, 2019, and upon roll call the vote was as follows:

AYES: 6

NAYS: 0


ABSENT: 0

ABSTAINING: 0

**PUBLISHED**  
(in pamphlet form): \_\_\_\_\_

Approved this 8th day of JULY, 2019.

**APPROVED:**

  
\_\_\_\_\_  
Franklin J. Eubank, Jr., President of the Board of  
Trustees of the Village of Winnebago, Illinois

**ATTEST:**

  
\_\_\_\_\_  
Sally Jo Huggins, Village Clerk

**PREPARED BY:**

Attorney Mary J. Gaziano  
One Court Place, Suite 200  
Rockford, Illinois 61101  
(815) 962-6800  
E-mail: MJGaziano@aol.com  
Village Attorney