

ORDINANCE NO. 13-14

ORDINANCE PROVIDING FOR LICENSED VIDEO GAMING

WHEREAS, the Morton Municipal Code was adopted on March 2, 1970, and duly published in book form; and

WHEREAS, the Board of Trustees previously passed ordinance 09-36 which declared that video gaming was prohibited; and

WHEREAS, since the passage of that ordinance, various regulations have been adopted regarding licensing and regulations; and

WHEREAS, based on the extensive licensing and regulations, the Board of Trustees determines that it is not detrimental to the Village of Morton to allow limited video gaming on the terms set forth in this ordinance; and

WHEREAS, in making this determination, the Board finds as follows:

1. The Video Gaming Act required establishments who previously had video gaming to discontinue the use of those devices and as a result those establishments lost revenue.
2. That neighboring communities allow video gaming and as a result, local establishments have incurred loss in revenue and will likely continue to do so.
3. The presence of video gaming before the Video Gaming Act did not impose any burden on the Police Department.
4. The allowing of limited video gaming will not impose any burden on the police department since the Illinois Gaming Board has extensive power to regulate and enforce the provisions pertaining to video gaming.
5. The limitations on the exterior appearance of an establishment will diminish or eliminate concerns as to any visual impact.
6. The passage of the ordinance is not an endorsement of video gaming, but recognition that this is a matter of personal choice for responsible adults to exercise.

7. The passage of the ordinance is necessary to allow local establishments a level playing field in a highly competitive industry.
8. That it is not consistent to prohibit video gaming with a \$2.00 maximum wager, when the State of Illinois sponsors a lottery that is heavily promoted, is present in numerous locations, and allows amounts to be wagered far in excess of what would be authorized by this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MORTON, that the Morton Municipal Code is amended by adding Title 3, Chapter 29 to read as follows:

3-29-1: VIDEO GAMING REGULATIONS

- (1) Licensed Video Gaming Exemption.

Notwithstanding any other provisions in the Village Code that may reference or govern gambling or gaming shall not apply to any video gaming terminal that has a valid video gaming terminal permit sticker and is being operated by a licensed establishment that has a valid Village video gaming establishment license and is in full compliance with this chapter.

- (2) Definitions.

- (a) "Licensed establishment": any establishment that is both licensed to sell liquor at retail in the Village under a Class B-2 or B-3 license and is licensed by the Illinois Gaming Board to operate a video gaming terminal on its premises.

- (b) "Video gaming terminal": any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, 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.

- (3) 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 April 30, next, after date of issue, with an annual license fee of twenty five dollars (\$25.00) per terminal up to a maximum of five (5) terminals payable in full at the time the application is filed with the Village. 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.

(4) 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 5) 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 dollars (\$25.00) per video gaming terminal payable in full at the time the application is filed with the Village.

(5) Regulations Governing Licensed Establishments Operating Video Gaming Terminals.

The following regulations apply to all licensed establishments operating a video gaming terminal on its premises with a valid gaming establishment license and valid video gaming terminal permit stickers for each of its video gaming terminals:

- (a) A valid Village video gaming establishment license must be clearly displayed at all times.
- (b) A valid Village video gaming terminal permit sticker shall be clearly displayed at all times on each video gaming terminal.
- (c) No more than five (5) video gaming terminals may be located on the licensed establishment's premises.

- (d) All video gaming terminals must be located in an area restricted to persons twenty-one (21) years of age or older. The entrance to such area must, at all times, be within the view of at least one employee who is at least twenty-one (21) years of age.
- (e) No licensed establishment may cause or permit any person under the age of twenty-one (21) years to use, play or operate a video gaming terminal.
- (f) No video gaming terminal may be played except during the legal hours of operation allowed for the consumption of alcoholic beverages at the licensed establishment.
- (g) The licensed establishment must fully comply with the Illinois Video Gaming Act (230 ILCS 40/1, et seq.) and all rules, regulations and restrictions imposed by the Illinois Gaming Board.
- (h) The licensed establishment must fully comply with all other provisions of the Village Code as well as all federal and Illinois laws.

(6) Inspection of Premises.

Every licensed establishment where a video gaming terminal is kept shall be subject to inspection by the Chief of Police or his/her authorized agents, at any time, to ensure compliance with the Village Code. This includes licensed establishments applying for a video gaming establishment license and/or video gaming terminal permit sticker. It shall be unlawful for any person to hinder, resist, oppose or attempt to hinder, resist or oppose the Chief of Police or his/her respective agents in the course of an inspection.

(7) Revocation/Suspension of License and Permit Sticker.

The Village Liquor Control Commission may revoke or suspend any video gaming establishment license and any video gaming terminal permit sticker issued by the Village if it determines that the licensed establishment has violated any of the provisions of this. No license shall be so revoked or suspended, except after a public hearing before the Liquor Control Commission, with a three (3) day written notice to the licensed establishment affording the licensed establishment an opportunity to appear and defend. Notwithstanding the foregoing, any licensed establishment that has its liquor license revoked or suspended by the Village under the Village Code or by the Illinois State Liquor Commission, or has its video gaming license revoked or suspended by the Illinois Gaming Board, shall automatically,

without a hearing before the (Liquor Control Commission), have its Village video gaming establishment license and all Village video gaming terminal permit stickers revoked or suspended for the same time frame as its liquor and/or Illinois Gaming Board gaming license is suspended, whichever the case may.

(8) Seizure of Unlawful Video Gaming Terminals.

Every video gaming terminal that does not have a valid video gaming terminal permit sticker or is otherwise unlawful shall be considered a gambling device subject to seizure, and shall be turned over to the Illinois Gaming Board, in accordance with Board regulations and applicable law, unless otherwise ordered by a court of competent jurisdiction.

(9) Monetary Penalty.

Whoever violates any provision of this Chapter shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) for a first offense in any twelve (12) month period, and a fine of Seven Hundred Fifty Dollars (\$750.00) for a second offense and each subsequent offense in a twelve (12) month period. This penalty may be enforced by issuance of a "Notice of Violation" for the fine amount, or by issuance of a "Notice to Appear." Each day any violation continues shall constitute a separate offense. This monetary penalty shall be in addition to any and all other remedies which may be available to the Village under this Chapter or any other provision of the Village Code, or federal or Illinois law.

(10) Appearance of Premises.

The exterior of premises that has been granted a license for video gaming shall not exhibit any electronic signs or flashing signs or devices that indicate video gaming is available on the premises. A sign not to exceed two (2) feet by four (4) feet is permissible provided it complies with sign regulations in Title 10, Chapter 9 of the Code. Offsite signs located in the Village corporate limits indicating video gaming is available at a premise are prohibited.

BE IT FURTHER ORDAINED AS FOLLOWS:

Ordinance Number 09-36 is repealed to the extent it prohibits video gaming, and video gaming is allowed only to the extent set forth in this ordinance.

BE IT FURTHER ORDAINED that this ordinance shall be in full force and effect upon its passage, approval, and publication as may be required by law.

PASSED AND APPROVED at a regular meeting of the President and Board of Trustees of the Village of Morton this _____ day of _____, 2013; and upon roll call the vote was as follows:

AYES:

NAYS:

ABSENT:

ABSTAINING:

APPROVED this _____ day of _____, 2013.

President

ATTEST:

Village Clerk