

ORDINANCE NO. 15-11-07

AN ORDINANCE AMENDING THE MAHOMET VILLAGE CODE, AS AMENDED, TO ALLOW VIDEO GAMING WITHIN INCORPORATED AREAS OF THE VILLAGE OF MAHOMET, BY AMENDING CHAPTER 133 ENTITLED "OFFENSES AGAINST PUBLIC MORALS" AS HEREINAFTER CITED

Adopted by the  
President and Board of Trustees  
Of  
The Village of Mahomet  
Champaign County, Illinois

This 24th day of November, 2015

(Published in pamphlet form by authority of the President and Board of Trustees  
this 30 day of November, 2015.)

**WHEREAS**, the Video Gaming Act (230 ILCS 40/1 *et seq.*; PA 96-0034) effective July 13, 2009, permits certain licensed retail establishments to conduct video gambling through the use of authorized video gaming terminals operated and licensed by the Illinois Gaming Board; and

**WHEREAS**, Section 60 of the Video Gaming Act imposes a 30% tax on net terminal income derived from video gaming terminals; and

**WHEREAS**, five-sixths (5/6) of the tax collected is deposited in the Capital Projects Fund to fund the State of Illinois' construction plan ("Capital Plan") and one-sixth (1/6) of the tax collected is deposited into the Local Governmental Video Gaming Distributive Fund to be distributed to municipalities for general corporate purposes; and

**WHEREAS**, only those Illinois municipalities which allow video gaming, in accordance with the Video Gaming Act, are eligible to receive a portion of the tax imposed on such video gaming terminal income; and

**WHEREAS**, all terminal operators, as defined by the Video Gaming Act, shall be licensed and undergo background checks and investigations and operate the terminals under the regulation of the Illinois Gaming Board; and

**WHEREAS**, the Village of Mahomet Board of Trustees and Village President find that the revenue gained by the authorized operation of video gaming within the Village of Mahomet is desirable to its business owners and residents of Mahomet; and

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF MAHOMET, COUNTY OF CHAMPAIGN, STATE OF ILLINOIS, as follows:**

**Section 1 – Recitals**

The foregoing recitals are by this reference incorporated into and made a part of this Ordinance as if fully set forth below.

**Section 2 – Creation of Chapter 113: Video Gaming**

That Title XI: Business Regulations, Chapter 113: Video Gaming, be created to read:

- 113.01 Definitions**
- 113.02 License required**
- 113.03 License application**
- 113.04 Issuance.**
- 113.05 License Display.**
- 113.06 Inspection of Premises.**
- 113.07 Revocation, Suspension and Fines.**
- 113.08 Transfer Prohibited.**
- 113.09 Restrictions on Operation.**
- 113.10 Licenses per Establishment.**

**113.01 Definitions.**

All definitions and provisions of the Video Gaming Act (ILCS Ch. 230, Act 40, §§ 1 *et seq.*) applicable to any individual, partnership, corporation, or limited liability company that is licensed under the Video Gaming Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, or licensed veterans establishments within the corporate limits of the village are hereby referred to, adopted and made a part hereof as if fully set forth in this chapter, with additions, deletions and changes, if any, as may otherwise be specifically provided for in this chapter.

**113.02 License Required.**

The owner of a video gaming terminal shall obtain a license for such device issued by the village. No license shall be issued unless the applicant holds a valid class A, C, GC, H, M, R-1 or R-2 liquor license, as defined by Chapter 110 of the Mahomet Village Code; or is a licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment.

**113.03 License Application.**

(A.) Applications for the annual license required by this chapter shall be filed with the Village Liquor Commissioner and shall include an annual fee of \$25.00

per terminal, paid in advance and no fee or portion thereof shall be refunded, and shall be in the form and shall contain information as may be required by the President. The application for a license shall be signed by the applicant, or an authorized agent of the applicant, and verified under oath.

(B.) An application for a license required by this chapter shall be made in writing to the Village Liquor Commissioner and shall set forth the following:

1. The name of the individual, partnership, corporation, association or other entity applying for the license;
2. The residence, phone number and driver's license number of the applicant or of each partner; or, if a corporation, association or other entity, the residence, phone number and driver's license number of each principal officer;
3. The specific description of the place where the video gaming terminal is to be displayed or operated and the business conducted at that place;
4. A description of the video gaming terminal(s) to be covered by the license;
5. A true and accurate photocopy of the state of Illinois license granted to the applicant by the Illinois Gaming Board under the Video Gaming Act for the applicable premises; and
6. Whether the applicant, his or her partners or the principal officers of the corporation, association or other entity have been convicted of a criminal offense or ordinance violation (other than traffic or parking offenses) in any jurisdiction and, if so, a list of such convictions with date and prosecuting jurisdiction.

#### **113.04 Issuance.**

The Village Liquor Commissioner shall issue the license requested under this chapter unless he or she shall find:

- (A.) That the applicant is under the age of twenty one (21).
- (B.) That the applicant or any principal officer therein has held a license under this chapter or had an interest therein that was revoked for cause.
- (C.) That the applicant or any principal officer therein has furnished false or misleading information on the application.
- (D.) That the applicant or any principal officer has ever been convicted of a felony.

#### **113.05 License Display.**

The license required by this division shall be prominently displayed next to the video gaming terminal.

#### **113.06 Inspection of Premises.**

Every place where a video gaming terminal is kept shall be subject to inspection by the chief of police or his authorized agents at any time the chief of police or his

agents may deem it necessary to inspect the premises. It shall be unlawful for any person to hinder, resist, oppose or attempt to hinder, resist or oppose the chief of police or his respective agents in the course of any such inspection.

**113.07 Revocation, Suspension and Fines.**

(A.) Any license issued pursuant to this chapter may be revoked or suspended for a period not to exceed thirty (30) days and/or the licensee be subjected to a fine of not more than one thousand dollars (\$1,000.00) per offense by the village president or his or her designee if the village president or his or her designee determines:

1. That the licensee has violated any of the provisions of this chapter, the laws of the state, or ordinances of the village at the licensed location.
2. That the licensee has knowingly furnished false or misleading information or withheld relevant information on any application for a license required by this chapter or any investigation into any such application.

(B.) The licensee shall be responsible for the acts of his agents, servants and employees in the operation of any licensed establishment.

(C.) If the licensee desires a hearing on the possible revocation, suspension or fine for alleged violations, a request must be made within five (5) days of receipt of notice of revocation, suspension or fine.

(D.) Prior to holding a hearing concerning the question of whether a license issued pursuant to this chapter shall be revoked or suspended, the village president or his or her designee shall give at least ten (10) days' written notice to the licensee setting forth the alleged violations specifically. The licensee shall be given a reasonable chance to present evidence at such hearing and cross examine witnesses.

**113.08 Transfer Prohibited.**

A license issued pursuant to this chapter may not be transferred, sold or assigned to any other person, corporation, association or entity; nor shall such license be transferred to any location other than that listed on the application. Upon the alienation, sale, transfer, assignment or donation of the business that underlines the license to any third party or person other than the licensee, the video gaming license shall automatically become void.

**113.09 Restrictions on Operation.**

(A.) Every licensee shall strictly comply with all of the conditions, rules and regulations imposed by the state, and by the village, and specifically shall comply with the following:

1. Each and every video gaming terminal shall be licensed by the state before placement or operation, and the license for each and every terminal shall be maintained within the licensed premises where the video gaming

terminal is operated.

2. 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.

3. No licensee shall cause or permit any person under the age of twenty one (21) years to use or play a video gaming terminal.

4. Video gaming terminals located within any licensed establishment must be within an area of the establishment that is restricted to persons twenty one (21) years of age and over, separated from other areas by a barrier of at least thirty six inches (36") in height, the entrance to which restricted area is within the view at all times of at least one employee of said establishment, which employee must likewise be twenty one (21) years of age or over. The physical barrier may consist of a partition, gate, rope, railing or other means of separation.

### **113.10 Licenses per Establishment.**

A licensed establishment, licensed truck stop establishment, licensed veteran establishment, or licensed fraternal establishment may operate up to five (5) video gaming terminals on its premises at any time.

### **Section 3 – Amendment of Section 133.15 “Gambling Generally”**

Section 133.15(B), entitled “Exceptions” of Section 133.15, entitled “Gambling Generally” of Chapter 133 entitled “Offenses Against Public Morals,” of Title XIII entitled “General Offenses” of the Village of Mahomet Code is hereby amended in its entirety, so that 133.16(B) Exceptions shall hereafter be and read, in part, as follows:

(B) *Exceptions.* Participants in any of the following activities shall not be convicted of gambling:

...

(7) Possession of an antique slot machine, which is one manufactured 25 years ago or earlier, that is neither used nor intended to be used in the operation or promotion of any unlawful gambling activity or enterprise;

(8) Raffles when conducted in accordance with the Raffles Act, enacted by the 81st General Assembly (ILCS Ch. 230, Act 15, §§ 1 *et seq.*); and/or

(9) Keeping, possession, ownership, use or playing of a licensed video gaming terminal in a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment, which is licensed by the Illinois Gaming Board to conduct or allow such specific activities under the Video Gaming Act, 230 ILCS 40/1, *et seq.*

#### **Section 4 – Amendments of Section 133.16 “Definitions”**

Part I. Section 133.16(A), entitled “GAMBLING DEVICE” of Section 133.16, entitled “DEFINITIONS” of Chapter 133 entitled “Offenses Against Public Morals,” of Title XIII entitled “General Offenses” of the Village of Mahomet Code is hereby amended in its entirety, so that 133.16(A) GAMBLING DEVICE shall hereafter be and read as follows:

**GAMBLING DEVICE.** Any clock, tape machine, slot machine or other machines or device for the reception of money or thing of value on chance or skill or upon the action of which money or other thing of value is staked, hazarded, bet, won or lost; or any mechanism, furniture, fixture, equipment or other device designed primarily for use in a gambling place.

A **GAMBLING DEVICE** does not include:

(a) A coin-in-the-slot operated mechanical device played for amusement which rewards the player with the right to replay the mechanical device, which device is so constructed or devised as to make the result of the operation thereof depend in part upon the skill of the player and which returns to the player thereof no money, property or right to receive money or property;

(b) Vending machines by which full and adequate return is made for the money invested and in which there is no element of chance or hazard;

(c) Crane game machines;

(d) Redemption machines; or

(e) Any video gaming terminal, as defined in the Video Gaming Act, ILCS Ch. 230, Act 40, § 5.

Part II. Section 133.16(A), entitled “KEEPING A GAMBLING PLACE” of Section 133.16, entitled “DEFINITIONS” of Chapter 133 entitled “Offenses Against Public Morals,” of Title XIII entitled “General Offenses” of the Village of Mahomet Code is hereby amended in its entirety, so that 133.16(A) KEEPING A GAMBLING PLACE shall hereafter be and read as follows:

**KEEPING A GAMBLING PLACE.** A **GAMBLING PLACE** is any real estate, vehicle, boat or any other property whatsoever used for the purposes of gambling other than gambling conducted in the manner authorized by the Riverboat Gambling Act, being ILCS Ch. 230, Act 10, §§ 1 *et seq.*, or the Video Gaming Act, being ILCS Ch. 230, Act 40, §§ 1 *et seq.* Any person who knowingly permits any premises or property owned or occupied by him or her or under his or her control to be used as a gambling

place commits a violation. When any premises is determined by the court to be a **GAMBLING PLACE**:

(a) The premises is a public nuisance and may be proceeded against as such;

(b) All licenses, permits or certificates issued by the village or any subdivision or public agency thereof authorizing the serving of food or liquor on the premises shall be void; and no license, permit or certificate so cancelled shall be reissued for the premises for a period of 60 days thereafter; nor shall any person convicted of keeping a gambling place be reissued the license for one year from his or her conviction and, after a second conviction of keeping a gambling place, the person shall not be reissued the license; and

(c) The premises of any person who knowingly permits thereon a violation of any section of this subchapter shall be held liable for, and may be sold to pay any unsatisfied judgment that may be recovered.

**Section 5** – If any provision, clause, sentence, or paragraph of this ordinance or application thereof to any person or circumstance shall be held invalid, that invalidity shall not affect the other portions or applications of this ordinance, which can be given effect without the invalid provision or application, and to this end the ordinances in conflict with this ordinance are declared to be severable.

**Section 6** – The provisions of this Ordinance shall become effective following its passage, approval and publication as required by law. The Village Clerk is hereby authorized and directed to cause this Ordinance to be published in pamphlet form.

Upon motion by Trustee Oliger, seconded by Trustee Colravy, passed by the President and Board of Trustees of the

Village of Mahomet, Illinois this 24 day of November, 2015, by roll call vote, as follows:

Voting "aye" (names): Colravy, Harpst, Oliger, Metzger

Voting "nay" (names): Cook, Lynn

Abstained (names): \_\_\_\_\_

PASSED and APPROVED this 24 day of November, 2015.

Sam M. Win  
Village President



Attest:

*Cheryl Spore by Kelly Ruffini*  
Village Clerk