

Option 3

AN ORDINANCE AMENDING CHAPTERS 3 AND 18 OF THE CODE OF THE CITY OF PEORIA RELATING TO VIDEO GAMING TERMINALS REQUIRING MINIMUM OF 80% SALES FROM FOOD OR BEVERAGES AS A PRECONDITION FOR NEW APPLICANT AND LIMITS NO MORE THAN 5 ESTABLISHMENTS WITHIN A CITY COUNCIL DISTRICT TO OPERATE VIDEO GAMING TERMINALS

WHEREAS, the City of Peoria is a home rule unit of government pursuant to Article VII, Section 6 of the Constitution of the State of Illinois 1970, and may exercise any power and perform any function pertaining to its government and affairs;

WHEREAS, the State of Illinois passed the Video Gaming Act, 230 ILCS 40/1 *et. seq.*, permitting limited use of video gaming terminals at particular premises within the State; and

WHEREAS, the Video Gaming Act contains no specific statutory prohibition on a home-rule unit of government from licensing or regulating video gaming terminals allowed under the Act;

WHEREAS, the City Council of the City of Peoria finds that the City should license and regulate such establishments that operate video gaming terminals within the City of Peoria; and

WHEREAS, the City Council of the City of Peoria finds that providing minimum food and beverage sales as a precondition for the issuance of local license for the operation of video gaming terminals pertains to the City's power and function to protect and regulate local control of establishments that operate video gaming machines within the City of Peoria.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS, as follows:

Section 1: Chapter 3 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words.

Sec. 3-35. Compliance with Video Gaming Terminal Licensure and Requirements.

No liquor licensee shall operate video gaming terminals as defined under the Video Gaming Act, 230 ILCS 40/1 *et seq.*, within an establishment without obtaining a license and complying with all requirements prescribed under Article IV of Chapter 18 of the City Code.

The failure to comply with the licensing and regulations prescribed under Article IV of Chapter of the City Code shall subject the liquor licensee to suspension, revocation, or non-renewal of its liquor license in addition to the imposition of fines.

Section 1: Chapter 18 of the Code of the City of Peoria is hereby amended by deleting the following stricken words and by adding the following underlined words.

Sec. 18-99. Issuance.

The city comptroller shall issue the license requested under this Article unless he or she shall find:

- (1) That the applicant is under the age of 21.
- (2) That the applicant or any principal officer therein has held a license under this Article or had an interest therein that was revoked for cause.
- (3) That the applicant or any principal officer therein has furnished false or misleading information on the application.
- (4) For a new applicant, each of the two years prior to applying for a license to operate video gaming terminals, the applicant's establishment in which the applicant is seeking approval to operate video gaming terminals, has not generated at least 80% of its revenue from the sale of food or beverages.
- (5) For an applicant who has been previously issued a license under this Article, the applicant's establishment has not maintained at a minimum, 50% of total revenue annually from the sale of food or beverages.
- (6) That the applicant has not provided the city comptroller with a report or reports showing its gross annual sales totals and categories, including food and beverage sales.
- (7) The applicant's establishment is located in a city council district in which there are 5 existing and operating establishments that have been lawfully permitted by both the City and the state to operate video gaming terminals.

The requirements related to minimum level of sales of food and beverages and distance restriction shall not apply to any fraternal or veterans establishment that possesses a valid liquor license.

Sec. 18-101. Revocation, suspension and fines.

(a) Any license issued pursuant to this division may be revoked, suspended for a period not to exceed 30 days and/or imposed a fine not more than \$1,000.00 by the city manager or his or her designee if the city manager or his or her designee shall find after a hearing:

- (1) That the licensee has violated any of the provisions of this article, the laws of the state, or ordinances of the city 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 division or any investigation into any such application.

(3) That the licensee has sales of food and beverages less than the levels required by Section 18-99 of the City Code.

(4) That the licensee has failed to annually provide the city comptroller with a report or reports showing its gross annual sales totals and categories, including food and beverages.

(5) That the licensee has failed to comply with the city comptroller's audit of the licensee's sales of food and beverages or failed to timely provide records requested by the city comptroller during an audit.

(b) The acts of the licensee's agents, servants and employees shall be construed as the acts of the licensee in the operation of any licensed establishment. Prior to holding a hearing concerning the question of whether a license issued pursuant to this Article shall be revoked or suspended, the city manager or his or her designee shall give at least ten 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.

Section 2: This ordinance shall be in full force and effect upon its passage after its publication in pamphlet form.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2015.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel