

Option 3

AN ORDINANCE AMENDING CHAPTER 3 OF CODE OF THE CITY OF PEORIA REQUIRING MINIMUM MONTHLY SALE OF \$510000 FROM SALE OF ALCOHOLIC OR OTHER ITEMS FOR A PERIOD OF YEAR PRIOR TO OPERATING VIDEO GAMING TERMINALS; PROHIBITING VIDEO GAMING MACHINES FOR NEW ESTABLISHMENT THAT IS LOCATED WITHIN 1500 FT. FROM AN EXISTING ESTABLISHMENT WITH VIDEO GAMING TERMINALS; AND LIMITING THE NUMBER OF NEWLY SITE APPROVED ESTABLISHMENT WITH VIDEO GAMING TERMINALS TO 5 PER CITY COUNCIL DISTRICT

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 including regulating and licensing the sale of alcoholic liquor;

WHEREAS, the State of Illinois passed the Video Gaming Act, 230 ILCS 40/1 *et. seq.*, permitting limited use of video gaming machines at particular premises that are licensed to serve alcoholic beverages within the State; and

WHEREAS, the Video Gaming Act contains no specific statutory prohibition to a home-rule unit of government from regulating and licensing the retail sale and service of alcoholic beverages;

WHEREAS, the City Council of the City of Peoria finds that it has an interest in protecting its citizens from the proliferation of establishments that desire liquor site approvals and licenses for the primary purpose to operate as a video gambling café; and,

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. 3-92. Suitability of site.

(a) The mayor shall not issue any license authorized under this chapter, other than temporary event licenses, unless the site for which the license is to be used has been designated by the city council as being suitable for the retail sale of alcoholic liquors under a specified class of license, as set forth in section 3-52 of this chapter, and such license to be issued conforms to the license classification approved for such site. For purposes of this section, Class B and Class B-1 shall be treated as same class of license, Class E and E-1 shall be treated as same class of license.

(b) The city council and the liquor commission, in determining whether to approve or recommend approval, respectively, of the suitability of a site for the retail sale of alcoholic liquors, shall consider all relevant facts relative to the specified class of license and proposed site, including, but not limited to, the following:

- (1) That the establishment, maintenance, location or operation of the proposed site will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare of the city.

- (2) That the proposed site and use conforms to all applicable regulations of the city's Zoning Code, Appendix B. For the purposes of this section, a site may be rejected even if it is a legal, non-conforming use under the Zoning Code, if the proposed site could not be developed under current zoning regulations.
- (3) That the proposed site and use, when considered separately or in conjunction with other licensed liquor establishments, will not be injurious to the use and enjoyment of other property in the vicinity, including residences, schools, hospitals, places of worship and other businesses.
- (4) That the proposed site will not generate more automobile traffic and/or parking demand than the existing streets and off-street parking can reasonably accommodate.
- (5) That the structure on or to be placed on the proposed site complies with applicable building and fire codes of the city.
- (6) That motor fuel will not be pumped directly into motor vehicles as a part of the business to be operated on the proposed site; provided, however, that this prohibition shall not apply in the case of Class C-2, C-3, C-4 and C-5 licenses.
- (7) That the proposed site will not be injurious to the uses and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values with the neighborhood in which it is to be located.
- (8) The proximity of the proposed site to other licensed liquor establishments that operate Video Gaming Terminals and other detrimental factors indicating the proposed site will increase the proliferation of establishments whose primary purpose is to operate Video Gaming Terminals. ~~The city council may impose the condition that the location shall not be allowed to operate Video Gaming Terminals unless the licensed establishment has been regularly operating for a period of at least one year.~~

(c) Prior to granting site approval, the city council may impose any additional conditions or limitations upon establishment, location, construction, maintenance or operation of the proposed liquor establishment as devised by a plan of operation that will provide reasonable measures to control objectionable conditions as defined in section 3-32 of this Code from the operation of the proposed establishment. The city council may require such evidence and guarantees as it deems necessary, as proof that the conditions imposed are being and will be fulfilled. Where additional limitations and conditions are imposed by the city council including conditions and limitations in an approved plan of operation, the same must be implemented prior to the sale of alcoholic liquor or prior to the issuance of any subsequent liquor license for that site unless the city council adopts another date. Failure to fulfill the conditions and/or limitations shall be grounds for revocation of the site approval and liquor license granted for such site after a hearing held pursuant to section 3-29. The requirement of plan of operation shall remain with the particular site and any subsequent applicant for liquor license at such site shall be required to enter into a plan of operation that must be approved by the mayor or the deputy liquor control commissioner.

(d) Effective November 1, 2014, any establishment that has been granted site approval by the city council for the retail sale of alcohol for Class "A", "B", "B-1, "G-A", or "G-B" liquor license shall be prohibited from operating or permitting the operation of video gaming terminals as defined by the Illinois Video Gaming Act, 230 ILCS 40/1, et seq., on the licensed premises unless the establishment has maintained an average monthly minimum sale of \$10,000.00 from the sale of food, alcoholic or non-alcoholic beverages, and/or general merchandise for a period of one year after being granted site approval. Effective November 1, 2014, any establishment that has been granted site approval by the city council for the retail sale of alcohol allowing for on-site consumption which is located within 1500 feet from an already existing and operating liquor licensed establishment with video gaming terminals as defined by the Illinois Video Gaming Act, 230 ILCS 40/1, et seq., shall be prohibited from operating or permitting the operation of video gaming terminals until and unless the already operating liquor licensed establishment ceases all operation of its video gaming terminals or loses its site approval for the retail sale of alcohol either through a lapse or revocation as described in section 3-97. No more than 5 liquor establishments per city council district that have been granted site approval after November 1, 2014, by the city council for the retail sale of alcohol allowing for on-site consumption shall operate or permit the operation of video gaming terminals as defined by the Illinois Video Gaming Act, 230 ILCS 40/1, et seq.

Section 2. This Ordinance shall be in full force and effect on November 1, 2014, after its passage and publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF PEORIA, ILLINOIS this _____ day of _____, 2014.

APPROVED:

Mayor

ATTEST:

City Clerk

EXAMINED AND APPROVED:

Corporation Counsel