ORDINANCE 2016-021       PASSED: JULY 25, 2016

AMENDING CHAPTER 38 “INToxicATING LIQUORS”,
SECTION 38.27 “GAMBLING DEVICES” OF THE
MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS.

WHEREAS, the City of DeKalb is a home-rule municipality with the powers and
authority conferred upon it by virtue of the Illinois Constitution of 1970 and the Illinois
Municipal Code; and,

WHEREAS, the City of DeKalb currently maintains Chapter 38 of the City Code
pertaining to Intoxicating Liquors, and wishes to adopt certain updates to said Code;
and,

WHEREAS, the City Council of the City of DeKalb has determined that adoption of such
updates is in the best fiscal interest for the City;

THEREFORE BE IT ORDAINED by the Mayor and City Council of the City of DeKalb,
DeKalb County, Illinois, as follows:

Section 1. The City of DeKalb hereby adopts the revisions to Chapter 38 as outlined in
the redlined version of the same attached hereto following this ordinance, as if fully set
forth herein.

Section 2. All ordinances or portions thereof in conflict with this ordinance, including the
prior versions of the ordinances included above, are hereby repealed.

Section 3. Should any provision of this Ordinance be declared invalid by a court of
competent jurisdiction, the remaining provisions will remain in full force and affect the
same as if the invalid provision had not been a part of this Ordinance.

Section 4. This Ordinance shall be in full force and effect after passage and publication
pursuant to law. Publication date: July 26, 2016. Effective date: August 5, 2016.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois at a regular meeting
thereof held on the 25th day of July, 2016 and approved by me as Mayor on the same
day. First reading July 11, 2016. Passed by a roll call vote of 6-1-1. Aye: Finucane,

ATTEST:

[Signature]
JENNIFER JEEP JOHNSON, City Clerk

[Signature]
JOHN A. REY, Mayor
38.01 DEFINITIONS.

The City adopts by reference the definitions contained in Article 1 of the Illinois Liquor Control Act, 235 ILCS 5/1 ("the Act"), except as expressly superseded herein.
persons other than the Licensee, owner of the premises, or employees or agents of either to remain within the premises.

38.27 GAMBLING DEVICES.

a) No holder of a liquor license issued by the City of DeKalb shall permit, allow or maintain the presence or operation of any gambling device as hereinafter defined on the licensed premises, except as authorized by subsection (c), below.

b) A “gambling device” is any clock, tape machine, slot machine, video slot machine, video poker machine, video Black Jack machine or other machines or device for the reception or upon the action of which money or other things 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 any device authorized under subsection (c) below, nor does it include:

1. A coin-in-the-slot operated mechanical device for amusement which rewards the player with the right to replay such mechanical device, which device is so constructed or devised as to make such 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.

2. 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.

3. A crane game. For the purposes of this Section, a “crane game” is an amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to toys, novelties and prizes other than currency, each having a wholesale value which is not more than seven (7) times the cost charged to play the amusement device once or Ten Dollars ($10.00), whichever is less.

4. A redemption machine. For the purposes of this Section, a “redemption machine” is a single-player or multi-player amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, or propelling a ball or other object into, upon, or against a hole or other target, provided that all of the following conditions are met:

(a) The outcome of the game is predominately determined by the skill of the player.

(b) The award of the prize is based solely upon the player’s achieving the object of the game or otherwise upon the player’s score.

(c) Only merchandise prizes are awarded.

(d) The average wholesale value of prizes awarded in lieu of tickets or tokens for single play of the device does not exceed the lesser of Ten Dollars ($10.00) or seven (7) times the cost charged for a single play of the device.

(e) The redemption value of tickets, tokens, and other representations of value, which may be accumulated by players to redeem prizes of greater value, does not exceed the amount charged for a single play of the device.

The holder of a City of DeKalb issued, current and valid liquor license permitting
consumption of alcoholic beverages on the premises which license is actually used for operations including consumption on the premises, which is eligible for the use of a Video Gaming Terminal as described in the Video Gaming Act, 240 ILCS 40/1, et. seq. (hereafter, “the Video Gaming Act”) may utilize Video Gaming Terminals (as defined in the Video Gaming Act) within the licensed premises after obtaining a City of DeKalb Video Gaming License and acquiring any required County or State licensure, provided that all such Video Gaming Terminals are used in compliance with all terms of this Ordinance.

(a) Any person seeking to utilize one or more Video Gaming Terminals within a licensed premise shall only be permitted to do so in strict accordance with all provisions of the Illinois Video Gaming Act.

(b) Prior to installation or use of any Video Gaming Terminal, any licensed liquor establishment seeking to utilize such devices shall first obtain a license from the State of Illinois Gaming Board. After obtaining such license, the applicant shall submit to the City: 1) a copy of the state-issued license; 2) an application for a City of DeKalb Video Gaming License, on a form approved by the City of DeKalb Liquor Commissioner; 3) the City of DeKalb Video Gaming License Application Fee, as outlined below; 4) a drawing or depiction of the location within the licensed premises where the Video Gaming Terminals are proposed to be installed; and 5) such other information as the Liquor Commissioner shall require. Any application for renewal of a City of DeKalb Video Gaming Terminal shall also include all of the foregoing items, except that the City of DeKalb Video Gaming License Renewal Fee shall be substituted for the Application Fee.

(c) If approved, the term of a City of DeKalb Video Gaming License shall be coterminous with the City of DeKalb liquor license for the licensed premises. All renewal applications for City of DeKalb Video Gaming Licenses shall be required to be submitted at the same time as renewal applications for a City of DeKalb liquor license for the licensed premises.

(d) The initial Application Fee for a City of DeKalb Video Gaming License shall be Five Hundred Twenty-Five Dollars ($500.25) per proposed Video Gaming Terminal. The Renewal Fee for a City of DeKalb Video Gaming License shall be Two-Hundred and Fifty-Two-Five Dollars ($250.00) per Video Gaming Terminal, per year, for machines other than those operated by a Qualified Not For Profit (as defined herein). For any licensee that is tax-exempt as recognized by the Internal Revenue Service, organized as a not-for-profit corporation, and registered with the State of Illinois as a charitable organization, such organization shall be deemed a Qualified Not For Profit. For Qualified Not For Profit agencies, the annual renewal fee shall be $25 per machine, per year.

(e) City of DeKalb Video Gaming License shall be treated as a supplemental license to the licensed premises’ liquor license. Any violation of the Video Gaming Act or any violation of any provision of this Chapter 38 shall constitute a violation of the terms and conditions of both the Video Gaming License and the establishment’s liquor license. Any suspension, revocation, termination or other disciplinary proceeding applicable to a licensed premises liquor license shall be applicable to its Video Gaming License, and any proceeding applicable to the Video Gaming License shall be applicable to the liquor license. A suspension, revocation or termination of either license shall automatically result in the suspension, revocation or termination of the other license. Any disciplinary proceeding relating to a Video Gaming License shall utilize the same procedures as a disciplinary proceeding relating to a liquor license, as outlined in this Chapter 38.

(f) Any Video Gaming Terminal utilized in a licensed premises shall be installed in a fixed location described in the license application, acceptable to the Liquor Commissioner, from which the Video Gaming Terminal is visible to staff of the licensed premises at all times.

(g) All installations of Video Gaming Terminals are subject to any applicable City building code or regulatory requirements, codes and ordinances.
(h) It shall be unlawful for any person under the age of twenty-one (21) years to operate, play or utilize a Video Gaming Terminal. It shall be unlawful for any person, place or licensed establishment to permit or allow any person under the age of twenty-one (21) years of age to operate, play or
2. Any violation of this Section 38.27(c) shall be an ordinance violation, punishable by a fine of up to Seven Hundred and Fifty Dollars ($750.00) per occurrence. In addition, any violation may be pursued as a violation of a licensed premises' liquor license or City of DeKalb Video Gaming License, with fines and costs assessed pursuant to the established process therefor.

3. Any Video Gaming Terminal properly licensed by the City of DeKalb and State of Illinois shall be permitted to operate within a licensed premise in accordance with applicable state regulations and this Ordinance, and such licensed Video Gaming Terminal shall not constitute a violation of any other City code or ordinance prohibiting gambling or gaming.

4. Video Gaming Terminals shall only be permitted to be installed in facilities that possess a liquor license permitting them to sell alcohol for consumption on the premises without a corresponding sale of food. Video Gaming Terminals shall not be permitted at any establishment that is not permitted to sell alcohol for consumption on premises, nor shall they be permitted at any restaurant that is required to serve food with purchases of alcohol (other than a restaurant included within a Golf Course). Under the current classifications of the City of DeKalb Liquor Code, Video Gaming Terminals shall only be permitted at: 1) facilities that have a Bar or Golf Course license; 2) facilities that have a PENP or Hospitality liquor license and which maintain a bar area restricted to persons twenty-one (21) years of age or older, separated from areas unrestricted in age by full walls and doors, which age-restricted bar area is kept closed and locked when not in operation (provided that all video gaming machines or terminals shall be installed in such restricted-age bar area). Video Gaming shall not be permitted at any facility which has a combination license authorizing use of any portion of the premises as a Restaurant (i.e., shall not be permitted at any facility with a Restaurant and Bar Liquor License), or in any facility other than an establishment licensed as a Bar, PENP, Hospitality, or Golf Course establishment (or combination of those licenses). (2014-30, 2014-47)

5. Any City-issued license for Video Gaming Terminals shall be considered to be provisional in nature and shall be conditioned upon the applicant's receipt of a required state license for the terminals. The City reserves the right to issue licenses that do not make a determination about applicant eligibility for a Video Gaming Terminal license, and to rely upon the determination of the Illinois Gaming Board as to said eligibility. No video gaming shall be conducted at a City-licensed premise until such time as the City has received and approved a State-issued license.

6. Licenses issued pursuant to this Ordinance shall be valid for the time period specified in such license, unless suspended or revoked (with suspension or revocation proceeding under the same hearing process utilized for City-issued liquor licenses). Notwithstanding anything to the contrary, any license issued hereunder shall automatically terminate, and no new license shall issue or shall be valid, on or after January 1, 2019.

38.28 OBSCENITY IN LICENSED ESTABLISHMENTS.

a) No Licensee, his agent or employee shall allow or permit any person to perform acts of or acts which simulate:

1. Sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation or any sexual acts which are prohibited by law;

2. The actual or simulated touching, caressing or fondling of the breast, buttocks, anus or genitals;