

**ORDINANCE 2017-009**

**PASSED: MARCH 13, 2017**

**AMENDING CHAPTER 23 “UNIFIED DEVELOPMENT ORDINANCE”, ARTICLE 3 “DEFINITIONS”, ARTICLE 5 “ZONING DISTRICT REGULATIONS”, ARTICLE 7 “SUPPLEMENTAL DISTRICT REGULATIONS”, AND ARTICLE 12 “OFF-STREET PARKING, LOADING, AND STORAGE REQUIREMENTS”, OF THE MUNICIPAL CODE OF THE CITY OF DEKALB, ILLINOIS, REGARDING VIDEO GAMING.**

**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**, Section 6(a) of Article VII of the Illinois Constitution of 1970 gives to Home Rule Municipalities the authority to exercise any powers pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and general welfare; and

**WHEREAS**, the City of DeKalb adopted an Ordinance on September 12, 2016, approving a moratorium effective through March 13, 2017, on the issuance of supplemental licensure for video gaming terminals or operations in order to permit the City to study and explore this issue and fully understand the benefits and detriments and in order to protect the public health, welfare, safety and morals; and,

**WHEREAS**, the City seeks community vitality and a vibrant downtown and providing basic health, life and safety services to its citizen's as articulated in the City's 2025 Strategic Plan, Vision 2 and 5; and

**WHEREAS**, the City of DeKalb has adopted a Unified Development Ordinance (UDO), which sets forth the zoning and subdivision standards and procedures for the City of DeKalb; and

**WHEREAS**, the City wishes to amend Chapter 23 “Unified Development Ordinance” of the Municipal Code; Article 3 “Definitions”, Article 5 “Zoning District Regulations”, Article 7 “Supplemental District Regulations”, and Article 12 “Off-Street Parking, Loading, and Storage Requirements” to create regulations for video gaming establishments; and

**WHEREAS**, the Planning and Zoning Commission held a public hearing on proposed amendments regarding video gaming establishments at its meeting on February 15, 2017 and continued discussions at their meeting on February 22, 2017, and recommended unanimous approval of the amendments herein.

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

**Section 1.** Chapter 23 “Unified Development Ordinance”, Article 3 “Definitions”, Article 5 “Zoning District Regulations”, Article 7 “Supplemental District Regulations”, and Article 12 “Off-Street Parking, Loading, and Storage Requirements” shall be amended as follows:

Amend Article 3.01 of the UDO to amend the following definition:

*Principal Use:* The primary use to which the premises are devoted. The primary purpose or function of a building, structure, or parcel of land, or portion thereof, as determined by the Community Development Director or designee, based upon the configuration and improvement of the space and the available information regarding its use. A principal use may be a permitted or special use.

Amend Article 3.01 of the UDO to add the following definition:

*Video Gaming Establishment:* An establishment whose primary purpose is to operate video gaming terminals, as defined in the Video Gaming Act (240 ILCS 40/1 et. seq.), where the drawing, pouring, mixing, or otherwise serving of alcoholic liquor on the licensed premises is secondary and accessory to the operation of the video gaming terminals. In determining whether an establishment constitutes a video gaming establishment, any one or a combination of the following criteria may be considered in the City’s decision, as determined by the Community Development Director or designee.

1. The establishment contains video gaming terminals, as defined in the Video Gaming Act (240 ILCS 40/1 et. seq.).
2. The number of seats designated for the serving of food or beverages is 30 or less. Seats designated for a video gaming terminal, as defined by the Video Gaming Act (240 ILCS 40/1 et. seq.), are not included.
3. Establishments that have a Category 2 or 3 Food Establishment Permit from the DeKalb County Health Department (or equivalent licensure or authorization that provides predominantly for service of food items for consumption on-site, when prepared offsite) or which do not provide for the service of any food items.
4. The gross floor area of the establishment is 2,500 square feet or less.
5. The floorplan for such facility is designed in such a fashion as to indicate that the predominant purpose of the facility is video gaming, based upon the distribution of a disproportionate area for video gaming terminals and related seating, in comparison to other seating areas in the facility. (E.g. if the facility features a video gaming terminal area that includes open floor space around it that is disproportionate in quantity or orientation to the open floor

space allotted around non-video gaming terminal seating, it shall be presumed that the facility is a Video Gaming Establishment).

6. The documentation submitted to the City in relation to such establishment, whether as a component of a liquor license application, video gaming terminal application, or any other submittal to the City, indicates that the primary or a primary purpose of the establishment is video gaming, such as through the name of the facility, the signage proposed for the facility, or the narrative or documents accompanying any such application.
7. The facility shares a name or ownership with another existing Video Gaming Establishment within the State of Illinois (applying the same criteria described herein).

For purposes of this subsection, establishments that have a Public Entity/Non-Profit Liquor License (as defined in Chapter 38 "Intoxicating Liquors" of the Municipal Code) shall be exempt from these regulations as long the operation of the video gaming terminals are accessory and subordinate to the principal use.

Amend Article 5.07.03 of the UDO to add the following use to the list of special uses in the "LC" Light Commercial District:

20. Video gaming establishments.

Amend Article 5.08.03 of the UDO to add the following use to the list of special uses in the "GC" General Commercial District and renumber #23 to #24:

23. Video gaming establishments;

~~23-24.~~ Wholesale establishments.

Amend Article 7 "Supplemental District Regulations" of the UDO to add Article 7.20 Video Gaming Establishments and the following language:

7.20.01 Distance Separation Requirements

1. A video gaming establishment, as defined in Article 3 of this Ordinance, shall not be located within 500 feet of another video gaming establishment. This distance separation requirement shall be measured in a straight line from the nearest corner of a space containing a video gaming establishment to the nearest space containing a video gaming establishment.
2. Existing video gaming establishments, as defined in Article 3 of this Ordinance, which do not meet the distance separation requirements listed in Article 7.20.01 (1) on the effective date of this Ordinance may continue to operate and have their annual Video Gaming License renewed, provided they meet the requirements of the Chapter 38 "Intoxicating liquors" of the

Municipal Code and Article 19 "Non-Conforming Situations" of this Ordinance. A change in ownership or tenancy of a non-conforming video gaming establishment, as determined by Article 19 of this Ordinance, does not require the discontinuance of the use.

7.20.02 Planned Development Districts

Video Gaming Establishments proposed to be located in Planned Development Districts established prior to the adoption of this Ordinance shall be categorized as a "bar" or "tavern" for purposes of determining if they are a permitted use, special use or prohibited use. The distance separation requirement described in Article 7.20.01 of the Ordinance still applies.

Amend Article 12.08.01 of the UDO to add the following use and minimum parking requirement:

<u>Video Gaming Establishment</u>	<u>1 space for every 250 square feet of floor area</u>
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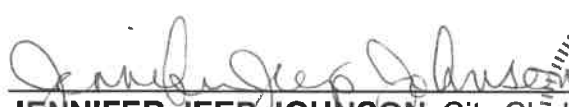
**Section 4.** All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.


**Section 5.** 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 6.** This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: March 14, 2017. Effective date: March 23, 2017.

**PASSED BY THE CITY COUNCIL** of the City of DeKalb, Illinois at a Regular meeting thereof held on the 13<sup>th</sup> day of March, 2017, and approved by me as Mayor on the same day. First Reading February 27, 2017. Approved by an 8-0 roll call vote. Aye: Jacobson, Finucane, Marquardt, Snow, Noreiko, Baker, Faivre, Rey.

**ATTEST:**

  
JENNIFER JEEP JOHNSON, City Clerk

  
JOHN A. REY, Mayor

