ORDINANCE 2018-014        PASSED: MARCH 26, 2018

AUTHORIZING AN AMENDMENT TO CHAPTER 38
"INTOXICATING LIQUORS", SECTION 38.27(c)8
"GAMBLING DEVICES", OF THE MUNICIPAL CODE
OF THE CITY OF DEKALB, ILLINOIS, BY
INCREASING THE FIXED NUMBER OF LIQUOR
LICENSES FOR ESTABLISHMENTS THAT QUALIFY AS
VIDEO GAMING ESTABLISHMENTS BY ONE FOR THE
PROPERTY LOCATED AT 850-852 S. FOURTH STREET,
SUBJECT TO CONDITIONS.

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

WHEREAS, on March 27, 2017, the City approved Ordinance 2017-012
amending Chapter 38 to limit the number of gaming devices in a Video Gaming
Establishment (VGE) to five (5), and limited the number of liquor licenses with
supplemental licenses for Video Gaming Terminals (VGT) to seven (7); and

WHEREAS, Brian Scholle, Owner of the property located at 850-852 S. Fourth
Street, and legally described in Exhibit A (Subject Property) desires to operate a
VGE as defined by the City Code, which requires increasing the fixed number
of liquor licenses available for establishments that qualify as VGE by one (1); and

WHEREAS, Owner requests Council approval to amend Chapter 38 to increase
the fixed number of liquor licenses available for establishments that qualify as a
VGE by one (1) for the Subject Property, subject to approval of a special use,
including any conditions attached thereto, and after satisfying all other
requirements of this Ordinance and the City Code; and

WHEREAS, the City Council has determined that it is necessary and advantageous to
alter the regulations applicable to video gaming devices as defined within Chapter 38
of the City Code.

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

Section 1. Chapter 38, Section 38.27(c)8, is hereby amended as follows by
increasing the number then in effect in the underlined locations indicated below by
one (1), only after Owner has been granted special use approval by the City Council
for a VGE on the Subject Property, and after Owner has satisfied all requirements of
the City Code, and all conditions outlined in Section 2 below:
8. The City has defined Video Gaming Establishments (VGE) within the City's Unified Development Ordinance. As of the date of passage of this Ordinance, the City has issued seven (7) liquor licenses with supplemental licensure for Video Gaming Terminals to facilities that qualify as VGE. The City shall hereafter have a fixed number of liquor licenses available for establishments that qualify as VGE under the Unified Development Ordinance, and that fixed number shall be seven (7), equal to the number presently outstanding. This restriction shall not affect the issuance of Video Gaming Terminal supplemental licenses for facilities that do not qualify as VGEs, nor shall it limit the renewal of existing VGE licenses, nor shall it limit the issuance of VGE licenses at any time, up to the maximum limit of seven (7).

Section 2. Conditions prior to amendment:

1. Licensee shall comply with all applicable requirements and apply for a City of DeKalb Liquor License (inclusive of all sublicenses sought) along with a Video Gaming Establishment license including all Video Gaming terminals sought. Said license application shall be subject to review by City staff and shall be subject to approval by the Mayor, as Liquor Commissioner, based upon the recommendations of staff, including but not limited to a recommendation from the Chief of Police based upon the completion of all required background investigations. The license application shall be required to be submitted within thirty (30) days of the date of this ordinance; failure to timely submit an application shall render this ordinance null and void and of no further effect.

2. Upon receipt of the license application, the City shall have such time as is required to review and forward a recommendation to the Liquor Commissioner. In the event that the liquor commissioner or the City Council rejects the license application, this ordinance shall be null and void and of no further effect. In the event that the application is timely submitted and is approved by the Liquor Commissioner, then the applicant shall have a period of no longer than six (6) months of conditional licensure (after approval by the Liquor Commissioner) to satisfy all prerequisites contained herein and obtain final, unconditional licensure. The Liquor Commissioner may extend this timeline by up to an additional six (6) months. In the event that Licensee fails to obtain final, unconditional licensure within that time period, the conditional license shall be revoked and this ordinance shall be null and void and of no further force or effect.

After issuance, the license shall be subject to all provisions of the City Code of the City of DeKalb, including those provisions pertaining to the term of an initial issuance of liquor license, renewal of liquor license, and similar provisions, unless specifically waived herein.

3. This licensee shall be required to obtain the Liquor commissioner's approval of a Business Plan and Premises Plan (Plans) which provide for the orderly conduct of the
Licensee. Said Plans shall be subject to approval by the Liquor Commissioner with the advice and recommendation of the Chief of Police, and must be approved prior to commencement of operations of the Subject Property. The City Council expressly authorizes the Liquor Commissioner to approve of further and specific regulations of the uses of the Subject Property within the Plans, either as initially approved or as later amended by the Liquor Commissioner.

4. The License shall be conditioned upon the following conditions precedent to final issuance:
   
a. Adherence to the occupancy limit, once established.
   
b. Fire Life Safety license must be obtained and maintained.
   
c. Registration for payment of all applicable City, State and Federal taxes.
   
d. Final approval by the City Police Department and Fire Department of public safety/access restrictions and policies, signage and similar measures.
   
e. The Licensee shall successfully complete all pre-license investigations required by City Code.
   
f. The Subject Property shall be maintained in accordance with the requirements of City Code and the Premises Plan to be approved, and shall maintain a certificate of occupancy permitting its use.

5. The License shall be deemed to permanently include the following restrictions
   
a. The property shall otherwise comply with all applicable City Codes and Ordinances.
   
b. The property shall comply with applicable UDO requirements and parking restrictions

6. City staff are authorized and directed to issue a license upon satisfaction of the conditions precedent to issuance, and to thereafter enforce the terms of licensure included herein. Pending completion of those items, a conditional license shall be issued. Said conditional license may be utilized to obtain any required federal or state licensure and may be relied upon by any superior governmental body.

Section 3. All ordinances or portions thereof in conflict with this ordinance, including the prior versions of the ordinances included above, are hereby repealed.
Section 4. 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 5. This Ordinance shall be in full force and effect after passage and publication pursuant to law. Publication date: March 27, 2018. Effective date: April 5, 2018.


ATTEST:

SUSANNA HERRMANN, City Clerk

JERRY SMITH, Mayor
Exhibit A
Legal Description of Subject Property

THE WEST 120 FEET OF LOT 27 IN BLOCK 1 IN LAWLER'S SUBDIVISION TO THE CITY OF DEKALB, BEING A SUBDIVISION OF PLAT OF LOTS 26 AND 27 IN BLOCK 1, ACCORDING TO THE PLAT THEREOF RECORDED IN BOOK "G" OF PLATS, PAGE 134, AS DOCUMENT NO. 211827 ON MARCH 30, 1948 IN DEKALB COUNTY, IL.

COMMONLY KNOWN AS: 850 South Fourth Street, DeKalb, IL 60115

PIN: 08-26-102-003