

VILLAGE OF BUCKNER

ORDINANCE NO. 22-01

**ADOPTED BY THE VILLAGE BOARD
OF THE
VILLAGE OF BUCKNER**

THIS 17TH DAY OF FEBRUARY 2022

Published in pamphlet form by the authority of
the Village Board of Buckner, Illinois
Franklin County, Illinois
this 17th day of February, 2022

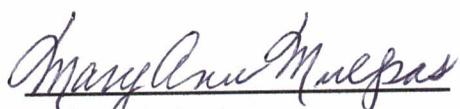
CERTIFICATE

I, Mary Ann Mulpas, certify that I am the appointed and acting municipal clerk of the Village of Buckner, Franklin County, Illinois .

I further certify that on February 17, 2022, the Corporate Authorities of such Municipality passed and approved Ordinance No. 22-01, entitled An Ordinance Pertaining to the Regulation of Video Gaming, which provided by its terms that it should be published in pamphlet form.

The pamphlet form of Ordinance No. 22-01, including the Ordinance and a cover sheet thereof, was prepared, and a copy of such Ordinance is available at the Buckner Community Building (Village Hall, Main Street, Buckner, Illinois) commencing on February 18, 2022 and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request in the office of the Village Clerk.

DATED at Buckner, Illinois this 17th day of February, 2022.


Mary Ann Mulpas
Village Clerk

ORDINANCE NO. 22-01

AN ORDINANCE PERTAINING TO THE REGULATION OF VIDEO GAMING

FOR THE VILLAGE OF BUCKNER, Franklin County, Illinois

WHEREAS, the Village of Buckner, Franklin County, Illinois, is a non-home rule unit of government; and

WHEREAS, the Illinois Video Gaming Act ("VGA"), 230 ILCS 40/1, *et seq.*, regulates the operation, licensing, and administration of video gaming; and

WHEREAS, Section 27 of the VGA authorizes the Village of Buckner to prohibit video gaming within the corporate limits of the Village of Buckner and implied within such authorization is the authority to limit, license and regulate video gaming within the corporate limits of the Village of Buckner;

WHEREAS, the Village of Buckner is authorized by Section 4-1 of the Illinois Liquor Control Act of 1934 (235 ILCS 5/4-1) to establish regulations and restrictions upon the issuance of and operations under local licenses for sale at retail of alcoholic liquor not inconsistent with the Illinois Liquor Control Act as the public good and convenience may require;

WHEREAS, the Village of Buckner is authorized by Section 11-5-1 of the Illinois Municipal Code (65 ILCS 5/11-5-1) to suppress gaming and gambling houses; and

WHEREAS, the corporate authorities of the Village of Buckner have determined that it is advisable, necessary and in the best interest of the Village of Buckner to regulate, consistent with the VGA, the location and operation of video gaming terminals within the Village of Buckner;

NOW, THEREFORE, BE IT ORDAINED AS FOLLOWS:

ARTICLE 1

The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

ARTICLE 2

VIDEO GAMING

SECTION 1: APPLICABILITY OF PROVISIONS

The provisions of this chapter, except as otherwise provided, shall apply to all video gaming as hereinafter defined, whether specifically licensed or regulated under other provisions of this code or other ordinances, or not.

SECTION 2: DEFINITIONS

- A. Board: the Illinois Gaming Board.
- B. Commercial Motor Vehicles: as defined in Section 18b-101 of the Illinois Vehicle Code, 625 ILCS 5/18b-101.
- C. Licensed Establishment: any business licensed by the State of Illinois to have or operate a video gaming device in the Village of Buckner, including any licensed fraternal establishment, licensed veterans establishment, as those terms are defined in the VGA, 230 ILCS 40/5.
- D. Licensed Fraternal Establishment: the location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.
- E. Licensed Veterans Establishment: the location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.
- F. Video Gaming Terminal: any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to, video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash or tokens or is for amusement purposes only.

SECTION 3: LICENSE

- A. No person, either as owner, lessee, manager, officer or agent, or in any other capacity, shall operate or permit to be operated any video gaming terminal, as defined herein, at any premises within the Village of Buckner without first having obtained a video gaming license from the Village of Buckner. The license provided for in this Article shall permit a licensee to operate video gaming terminals at the specified establishment.
- B. No applicant, including any person, either as owner, lessee, manager, officer or agent, shall be eligible for a video gaming license from the Village of Buckner, nor shall an existing license holder be entitled to maintain a video gaming license, unless each of the following requirements are met and continue to be met:

- 1) The applicant holds the appropriate certificate or license from the State of Illinois permitting video gaming and is in good standing with same;
- 2) The establishment has been in operation at the location for at least 12 months at the time the application is filed;

- 3) The establishment must maintain customer seating outside of the gaming area but within the premises at a ratio of at least five seats for each permitted video gaming terminal;
- 4) The applicant is not in arrears in any tax, fee or bill due to the Village of Buckner or State of Illinois;
- 5) The applicant has completed and complies with all the application requirements set forth in Section 4 of this Article and is not disqualified due to a felony, gambling offense, or crime of moral turpitude; and
- 6) The establishment is located outside of a residential zoning district.

C. To be eligible to have video gaming at an establishment, the net terminal income generated at the establishment from video gaming cannot exceed 40% of the total gross revenues generated.

D. A new establishment must meet the requirements of Section 3B(2) unless the applicant is also a current majority owner of an existing business at another location, that has been in operation for at least 18 months, and the business model for the new establishment is proposed to replicate the existing business location and the applicant can provide satisfactory evidence detailing that in the last 12-month period video gaming net terminal income at the other business location did not exceed 40% of the gross revenues.

E. The Mayor shall be the approving authority for all licenses. In the event a licensee or prospective licensee disagrees with any action taken by the Mayor, an appeal may be made directly to the **Board of Trustees of the Village of Buckner** at its next regularly scheduled meeting after written notice of the action from which an appeal is made.

SECTION 4: LICENSE APPLICATION REQUIREMENTS

The license applicant shall provide the following information to the Village of Buckner on a form provided by the Village of Buckner:

- A. The legal name of the establishment;
- B. The business name of the establishment;
- C. The address of the establishment where the video gaming terminals are to be located;
- D. The type of establishment, including whether it is classified as a veteran, fraternal, or liquor establishment and supporting documentation demonstrating the classification;

E. A floor plan, drawn to scale using a computer, detailing the overall layout of the establishment, including the location and count of dining seating, the location and count of video gaming terminals and seating for said terminals, and other significant features of the establishment, including exit locations, restrooms and other equipment. A paper printed copy (no smaller than 11 inches by 17 inches) shall be submitted at the time of application; hand-drawn floor plans and floor plans not including a scale will not be accepted;

F. The amount of time the establishment has been in business under the ownership of the applicant at the location where video gaming is proposed to take place;

G. The business office address of the establishment if different from the address of the establishment;

H. In the case of a corporation, limited liability company or trust, the name and address of an agent authorized and designated to accept service on behalf of the licensee;

I. A phone number for the establishment;

J. An e-mail address for the establishment;

K. The name and address of every person owning more than a 5% share of the establishment;

L. The name, address, phone number and e-mail address of any terminal operator or distributor proposed to own, service or maintain video gaming terminals at the establishment;

M. A copy of the establishment's State of Illinois video gaming license;

N. In the case of a corporation, limited liability company or partnership, a copy of the establishment's state certificate of good standing;

O. A statement as to the number of video gaming terminals which the establishment proposes to have on its premises (not to exceed six for all establishments);

P. A statement that the establishment is not in arrears in any tax, fee or bill due to the Village of Buckner or State of Illinois;

Q. A statement that the establishment agrees to abide by all state and federal laws and any local ordinance;

R. A statement that no manager or owner with more than 5% interest in the establishment has ever been convicted of a felony, a gambling offense or a crime of moral turpitude. In the event that an establishment cannot provide such statement, the

establishment may apply for a certificate of rehabilitation from the Village Mayor indicating that the individual who would disqualify the establishment from obtaining the video gaming license has been rehabilitated and is no longer a threat to violate the law. The Village Mayor may consider the nature of the offense, the length of time since the offense, the length of time since release from custody and other factors to determine if the individual has been rehabilitated such that he or she is no longer likely to commit another offense;

S. If the application is for a new establishment based on the business model of another existing location, information regarding the existing business location must be provided, including the type of business, the gross receipts as compared to any video gaming revenue for the prior 12-month period, proof of the length of time the existing business has been operational and proof of ownership verifying the applicant's ownership rights;

T. For renewal applications, a report or reports showing its gross annual revenue for the previous calendar year by category of revenue generated and showing the percentage of gaming revenue payable to the establishment as compared to the total gross revenues of the establishment.

SECTION 5: APPLICATION FILING; RENEWALS

A. Applications shall be processed by the Village of Buckner Clerk on a first come, first served basis. Every application shall be date and time stamped upon filing. An application received in the mail shall be considered filed on the date and time it is opened by the Village Clerk.

B. Every video gaming license holder shall be required to file a renewal application, which may contain the same or similar information as set forth in Section 4. Renewal applications shall be due on or before **April 1** unless that day falls on a holiday, in which case the application may be received by the Clerk on the following business day.

SECTION 6: LICENSE FEES

The fee for operation of a video gaming terminal shall be \$100.00 per terminal annually.

Said fees are not subject to proration or refund and are due prior to issuance of the license.

All licenses required by this division shall be prominently displayed next to the video gaming terminal.

SECTION 7: LICENSE REVOCATION OR SUSPENSION

The Mayor, at any time, may notify any licensee under this division within five (5) business days of any charge of a violation of any of the provisions of this Article in connection with the operation of any video gaming terminal. After a hearing presided over by the Mayor, the Mayor

may order the revocation of the license upon a finding that the violation has occurred, and the license shall thereupon be terminated. The licensee may appeal the revocation as prescribed in Section 3(F).

In the event of the revocation or denial of any license or registration under this Section, such person shall not be issued any license provided for in this Article for one calendar year following the revocation or any appeal thereof.

SECTION 8: LIMITATION ON NUMBER OF VIDEO GAMING LICENSES

There shall be no more than 3 establishments licensed to operate video gaming terminals in the Village of Buckner at any given time.

SECTION 9: LIMITATION ON NUMBER OF VIDEO GAMING TERMINALS ON PREMISES

There shall be no more than 6 video gaming terminals allowed and permits issued therefore under this Article for each licensee at any one location.

SECTION 10: PROHIBITION

Except as otherwise excepted in this Article, it shall be unlawful for any person to gamble within the corporate limits of the Village of Buckner, or for any person or entity which owns, occupies or controls an establishment within the Village of Buckner to knowingly permit others to gamble on the premises.

SECTION 11: EXCEPTIONS

Nothing in this Article shall be deemed to prohibit or make unlawful the following activities or forms of gambling: the keeping, possession, ownership, use or playing of a video gaming terminal in a licensed establishment, licensed fraternal establishment or licensed veterans establishment, which is licensed by the Board to conduct or allow such specific activities under the VGA, 230 ILCS 40/1, *et seq.*

SECTION 12: LICENSED ESTABLISHMENTS

Any business, liquor or food licensee within the corporate limits of the Village of Buckner that allows gambling to occur on premises in violation of this Section shall be subject to having his/her/its license immediately revoked for a period of sixty (60) days. Any business, liquor or food licensee within the corporate limits of the Village of Buckner that allows gambling to occur on premises in violation of this Article a second time shall have his/her/its license permanently revoked and, thereafter, barred from obtaining any business, liquor or food license within the Village of Buckner.

SECTION 13: SEIZURE OF UNAUTHORIZED GAMBLING DEVICES AND GAMBLING FUNDS

Any gambling device which is not authorized by this Article shall be subject to immediate seizure and confiscation by the Village of Buckner. Any money or other thing of value intrinsically related to acts of gambling not authorized by this Article shall be seized and forfeited as contraband. Disposition of such gambling devices and funds seized or confiscated shall be made in accordance with the law.

ARTICLE 4

REPEAL OF CONFLICTING PROVISIONS. All ordinances, resolutions, and policies or parts thereof, in conflict with the provisions of this Ordinance are, to the extent of the conflict, expressly repealed on the effective date of this Ordinance.

ARTICLE 5

SEVERABILITY. If any provision of this Ordinance or application thereof to any person or circumstances is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

ARTICLE 6

EFFECTIVE DATE. The clerk is directed by the corporate authorities to publish this Ordinance in pamphlet form. This Ordinance shall be in full force and effect after its passage and publication in accordance with 65 ILCS 5/1-2-4.

PASSED THIS 17th day of February, 2022.

AYES: 5
NAYS: 0
ABSTENTIONS: 0
ABSENT: 0

APPROVED THIS 17th day of February, 2022.

John L. Calenher
Mayor

ATTEST:

Mary Ann A. Mulgas
Clerk

