

VILLAGE OF PLAINFIELD

ORDINANCE NO. 3641

AN ORDINANCE ENACTING CHAPTER 4, ARTICLE IX OF THE
CODE OF ORDINANCES OF THE VILLAGE OF PLAINFIELD

An Ordinance Regulating Video Gaming

ADOPTED BY THE
PRESIDENT AND BOARD
OF TRUSTEES OF THE
VILLAGE OF PLAINFIELD
THIS 5TH DAY OF FEBRUARY, 2024.

Published in pamphlet form by
the authority of the President
and Board of Trustees of the
Village of Plainfield, Will and
Kendall Counties, Illinois,
this 6th day of February, 2024.

ORDINANCE NO. 3641

AN ORDINANCE ENACTING CHAPTER 4, ARTICLE IX OF THE CODE OF ORDINANCES OF THE VILLAGE OF PLAINFIELD

An Ordinance Regulating Video Gaming

WHEREAS, pursuant to the laws of the State of Illinois, the Village of Plainfield ("Village") has the authority to adopt ordinances and promulgate rules and regulations that pertain to its government and affairs and protect the public health, safety and welfare of its citizens; and

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

WHEREAS, the Video Gaming Act authorizes the Village to prohibit video gaming within its corporate limits, and implied within such authorization is the authority to limit, license and regulate video gaming within the Village, provided such reasonable regulation does not conflict with the Video Gaming Act and/or other applicable laws; and

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

WHEREAS, the Village is authorized by the Illinois Municipal Code, (65 ILCS 5/11-5-1 *et seq.*), to restrict gaming and gambling houses; and

WHEREAS, the Village has determined it necessary and in the best interest of the Village to permit video gaming and to regulate, consistent with the Video Gaming Act and all related rules, regulations and restrictions promulgated by the Gaming Board, the location and operation of video gaming terminals within the Village, in the interest of protecting the health, safety and welfare of the residents and the regulatory operations of the Village; and

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF PLAINFIELD, WILL AND KENDALL COUNTIES, ILLINOIS, as follows:

SECTION ONE. That the facts and statements contained in the Preamble to this Ordinance are found to be true and correct and are hereby adopted by this reference as if fully set forth herein.

SECTION TWO. That Chapter 4, Article IX of the Village's Code of Ordinances (the "Village Code"), entitled "Video Gaming", be and hereby is enacted as set forth in Section Three below.

SECTION THREE.

Section 4-488. Definitions.

Unless the context otherwise requires, the following terms used in this Article shall be construed according to the definitions given below:

Applicant. A person submitting a completed application to obtain a video gaming license and terminal permit certificate(s) from the Village.

Gaming Board. The Illinois Gaming Board.

Licensee. Any person issued a video gaming license and terminal permit certificate(s) pursuant to this Article.

Licensed establishment. Any licensed retail establishment where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the licensed premises and the primary purpose of the establishment is the sale of food and alcohol for

consumption on the premises, to include any liquor licensee licensed by the State and the Village to have or operate a video gaming terminal(s) in the Village pursuant to Village Code, State law(s) and all applicable regulations promulgated under the Video Gaming Act by the Gaming Board. A licensed establishment shall include any licensed fraternal establishment or licensed veteran's establishment, as those terms are defined in the Video Gaming Act. A licensed establishment shall not include a licensed truck stop establishment, licensed large truck stop establishment, as those terms are defined in the Video Gaming Act, or any person or establishment licensed pursuant to Village Code to sell alcoholic liquor at retail for consumption solely off the licensed premises, or on the licensed premises at a package store, gas station and/or convenience/grocery store.

Liquor Control Act. The Liquor Control Act of 1934, as amended, (235 ILCS 5/6-1 *et seq.*).

Person. Any owner, lessee, manager, officer, agent or representative in any capacity who operates or permits to be operated a licensed establishment.

Place of worship. A building where people gather to worship, such as a church, synagogue or mosque.

School. Educational institutions, including preschools and daycare centers, but not including undergraduate or post graduate colleges or universities that have a formal and recognized academic curriculum.

State. The State of Illinois.

Terminal operator means an individual, partnership, corporation, or limited liability company that is licensed under this Act and that owns, services, and maintains video gaming terminals for placement in licensed establishments.

Terminal permit certificate. An annual permit certificate issued by the Village covering each individual video gaming terminal located at a licensed establishment. Multiple individual video gaming terminals at a licensed establishment may be referenced in a single annual permit certificate.

Video gaming. The ownership, placement, maintenance, operation or use of a video gaming terminal(s).

Video Gaming Act. The Illinois Video Gaming Act, as amended, (230 ILCS 40/1, *et seq.*).

Video gaming license. An annual license issued by the Village permitting an establishment to install, maintain and operate a video gaming terminal(s), subject to the provisions of this Article.

Video gaming terminal. Any electronic video game machine, authorized by the Gaming Board, 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, utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term “video gaming terminal” does not include a machine that directly dispenses coins, cash or tokens or is for amusement purposes only.

Village Code. The Village of Plainfield’s Code of Ordinances.
(Ord. No. _____, § __, _____)

Section 4-489. Video gaming permitted.

Subject to the provisions of this Article, video gaming is permitted at a licensed establishment within the Village. A valid liquor license issued by the State, a valid local liquor license issued by the Village, and an appropriate video gaming license duly issued by the Gaming Board, all in effect at the time of application and at all times thereafter are required as pre-conditions to the grant of an annual video gaming license by the Village. Video gaming conducted in compliance with and pursuant to the provisions of this Article shall be exempt from any otherwise applicable provisions of the Village Code prohibiting “gambling” or the like.
(Ord. No. _____, § __, _____)

Section 4-490. Video gaming license required.

A. It shall be unlawful for any person to install, keep, maintain, use, operate or permit the installation, keeping, maintenance, use or operation, upon any premises in the Village, any video gaming terminal(s), without first having obtained a valid video gaming license, duly issued by the Village pursuant to the provisions of this Article. The video gaming license provided for in this Article shall permit a licensed establishment to install, keep, maintain, use and operate a video gaming terminal(s), subject to the provisions of this Article, the Video Gaming Act and the rules and regulations promulgated under the Video Gaming Act by the Gaming Board.

B. No applicant shall be eligible for a video gaming license from the Village, nor shall an existing licensed establishment be entitled to retain a video gaming license, unless the following requirements are met and maintained:

1. The applicant holds the appropriate State certificate or license permitting video gaming and is in good standing with same;
2. The applicant holds the appropriate valid liquor license issued by the State and a valid local liquor license issued by the Village, and is in good standing with same;

3. The applicant is not in arrears in any tax, fee or bill due to the Village or the State;

4. The applicant has completed and complies with all application requirements set forth in this Article, and is not disqualified due to a felony, gambling offense or crime of moral turpitude; and

5. The establishment is located outside a residential zoning district, as defined by the Village's Zoning Code.

(Ord. No. _____, § __, _____)

Section 4-491. Video gaming prohibited.

Notwithstanding anything in the Video Gaming Act, video gaming licenses are specifically prohibited at a licensed truck stop establishment and licensed large truck stop establishment, as those terms are defined in the Video Gaming Act. It is the specific intent of this Article that video gaming licenses not be issued for establishments commonly known as gas stations, truck fueling centers, truck stops, package stores or convenience/grocery stores, or to any person operating a business within a gas station, truck fueling center or truck stop, regardless of the nature of that business.

Section 4-492. Application requirements.

A. *Applications.* Applications for an annual video gaming license from the Village may be obtained by submitting a written application, on forms provided by the Village, to the Village President or his designee. Only completed and fully executed applications will be accepted. All applications for a new or renewal video gaming license shall be filed with the Village Clerk and shall include, but not be limited to the following information:

1. The legal name, business name, address (including business address if different from the address of the establishment) of where the video gaming terminal(s) is to be located, and phone number and e-mail address for the establishment;

2. The name(s), address(es) and date(s) of birth of the person(s) owning or operating the establishment where the video gaming terminal(s) shall be located, and information related to each owner's ownership interest in the establishment;

3. The name(s), address(es) and date(s) of birth of the owner(s) and/or terminal operator(s) of the video gaming terminal(s) and information related to their respective ownership interest in the video gaming terminal(s);

4. Prior convictions of the terminal operators and of the owner or operator of the establishment, if any;
5. The nature of the business conducted at the establishment, and the location within the establishment where the video gaming terminal(s) is to be displayed or operated, including a floor plan detailing the proposed location for the video gaming terminal(s);
6. The number of video gaming terminals to be displayed or operated and a description of the video gaming terminal(s) to be covered by the video gaming license;
7. Evidence that all required liquor licenses have been issued and are in good standing;
8. Evidence that all required licenses have been issued by the Gaming Board to the terminal operator or owner of the video gaming terminal(s) and the person(s) owning or operating the licensed establishment, and are in good standing;
9. Proof of compliance with the Video Gaming Act; and
10. Any and all additional information deemed necessary by the Village to process the video gaming license application.

B. *Notice.* Upon submitting to the Village a completed application for a new or renewal video gaming license, the Village President or his designee shall review the applicant's credentials and requirements to determine if the video gaming license shall be granted or renewed, as applicable. Within thirty (30) days of receipt of a fully completed application, notice shall be provided to the applicant of the grant or denial of the video gaming license.

C. *License fee.* The completed application must be accompanied by a non-refundable annual license fee of Five Hundred Dollars (\$500.00) each year application is made for an annual video gaming license. A separate license fee is required for each video gaming license sought. License fees shall not be prorated. Each year the applicant/licensee is required to demonstrate its suitability for licensure and shall be required to file a renewal application.
(Ord. No. _____, § __, _____)

Section 4-493. Video gaming license requirements.

A. *Eligibility.* Video gaming licenses shall only be issued to eligible liquor establishments. No license or permit shall be issued until all information and documentation required is provided, and all fees due are paid in full. The corporate authorities shall determine, by ordinance, the number of video gaming licenses

available in each eligible liquor license classification. Neither the Village President nor any other person or entity may issue a video gaming license in a number that is in excess of the number authorized by the corporate authorities. A current schedule of the authorized number of video gaming licenses available, categorized by liquor license classification, shall be maintained by the Village Clerk.

B. *Term of license.* All video gaming licenses issued pursuant to this Article shall be valid from the date of issuance through and including the following June 30th, or in the case of renewals, from July 1st through the following June 30th, unless previously surrendered or revoked. A new or renewed video gaming license will be required for the establishment to engage in operations on and after July 1st each year. Notwithstanding the foregoing, licenses issued at any time in the 2024 calendar year shall expire on June 30, 2025.

C. *License renewal.* Any licensee may apply for a renewal of a video gaming license at the expiration thereof, provided the licensee continues to meet the same qualifications of an original applicant, and provided the licensed establishment for which the renewal is sought is in compliance with Village Code, the Video Gaming Act and all related rules, regulations and restrictions promulgated by the Gaming Board. Renewal applications shall be due on or before June 1st of each calendar year, unless that day falls on a holiday, in which case the renewal application may be received by the Village Clerk on the following business day.

D. *Display.* A valid Village video gaming license issued pursuant to this Article must be displayed at all times in a conspicuous place, at or near the principal entrance to the licensed establishment. A terminal permit certificate referencing all video gaming terminals in the licensed establishment shall be displayed along with the license.

E. *Compliance.* Each licensed establishment, licensed pursuant to this Article, shall follow all regulations applying to licensed establishments operating a video gaming terminal(s) on its premises including but not limited to:

1. The licensed establishment must fully comply with all other applicable provisions of Village Code, and any applicable federal and State laws and regulations, including but not limited to, the Video Gaming Act and all related rules, regulations and restrictions imposed by the Gaming Board, including licensure; and
2. The licensed establishment must fully comply with any request by the Village for an inspection of the licensed establishment. Such inspections may be conducted at any time to ensure compliance with Village Code and include any licensed establishment applying for a video gaming license and/or a video gaming terminal permit certificate(s).

3. The licensed establishment shall maintain customer seating outside the terminal location area for the purpose of consumption of food and/or alcoholic liquor at a ratio of a minimum of ten (10) customer seats for each one (1) terminal located on the licensed establishment.

4. A licensed establishment shall not be located within one hundred (100) feet of a school or place of worship. This distance shall be determined by measuring the distance from a proposed or existing licensed establishment to a pre-existing school or place of worship by drawing a straight line between the closest part of any building used for the proposed or existing licensed establishment and the closest part of any building used for a school or place of worship.

F. *No property right/non-transferable.* The right hereunder to submit an application for a video gaming license, including renewal, shall not be construed to create a vested interest or right in such license, and shall not constitute property. A video gaming license issued hereunder shall not be subject to attachment, garnishment, or execution, shall not be alienable or transferable (voluntarily or involuntarily), or subject to being encumbered.
(Ord. No. _____, § __, _____)

Section 4-494. Terminal permit certificate; Terminals.

A. *Terminal permit certificate.* Each video gaming licensee shall also obtain an annual video gaming terminal permit certificate(s) from the Village, for each video gaming terminal located at its licensed establishment, by submitting a written application on forms provided by the Village, to the Village President or his designee. The Village may issue individual terminal permit certificates for each terminal, or it may issue a single terminal permit certificate referencing all terminals at a given licensed establishment. The applicant shall pay the Village an annual non-refundable fee of Three Hundred Dollars (\$300.00) per video gaming terminal, for each annual video gaming terminal permit certificate. Each video gaming terminal permit certificate issued by the Village shall expire on June 30th, next, after the date of issuance, unless previously surrendered or revoked, provided, however, that video gaming terminal certificates issued in 2024 shall expire on June 30, 2025.

B. *Number of terminals.* No more than six (6) video gaming terminals shall be located on the licensed establishment at any time.

C. *Display of terminal permit certificates.* A terminal permit certificate for or referencing each video gaming terminal shall be displayed as required by this Article.

D. *Prohibited devices.* Other than having up to six (6) video gaming terminals with each having a valid video gaming terminal permit certificate, a licensed establishment is prohibited from having, anywhere on the licensed establishment, any other video gaming machine(s)/device(s), even if solely for amusement purposes.

E. *Terminal location.* All video gaming terminals must be located in an area restricted to persons over 21 years of age. For all licensed video gaming locations that restrict admittance to patrons 21 years of age or older, a separate restricted area is not required. Any licensed video gaming location that allows minors to enter where video gaming terminals are located shall separate any video gaming terminals from the area accessible by minors. In those licensed video gaming locations where separation from minors under 21 is required, a physical barrier to the gaming area is required, which may consist of a short partition, half wall, or other solid, half-height means of separation. No barrier shall visually obscure the entrance to the gaming area from an employee of the licensed video gaming location who is over the age of 21.

F. *Restricted play.* No licensed establishment may cause or permit any person under the age of twenty-one (21) years to use, play or operate a video gaming terminal.

G. *Hours of operation.* No video gaming terminal may be played except during the legal hours of operation for the licensed establishment.

H. *No property right/non-transferable.* The right hereunder to obtain a video gaming terminal permit certificate(s) shall not be construed to create a vested interest or right in the terminal permit certificate(s) and shall not constitute property. Terminal permit certificate(s) are non-transferable (voluntarily or involuntarily).

I. *Seizure of terminal.* Each video gaming terminal without a valid video gaming terminal permit certificate, or otherwise unlawful, shall be considered a gambling device subject to seizure and shall be turned over to the Gaming Board in accordance with its regulations and applicable law, unless otherwise ordered by a Court of competent jurisdiction.

(Ord. No. _____, § __, _____)

Section 4-495. Terminal operator registration and license required.

Within ten (10) business days of approval of an application for issuance, including renewal, of a video gaming license, the licensed establishment shall cause its terminal operator to register with the Village and cause the terminal operator to pay to the Village a non-refundable annual terminal operator license fee in the amount of Three Hundred Dollars (\$300.00) per video gaming terminal supplied or furnished to the licensed establishment. Each terminal operator registration and license issued by the Village shall expire on June 30th, next, after the date of issuance, unless previously surrendered or revoked, provided, however, that terminal operator registrations and licenses issued at any time in 2024 shall expire on June 30, 2025. No video gaming license or terminal permit certificate(s) shall be issued until full compliance with such terminal operator registration and licensure requirements.

Section 4-496. Accountability; Suspension or revocation.

A. Each licensee shall be responsible for the acts of its agents, independent contractors, servants and/or employees in the operation of any licensed establishment. Each licensee may also be subject to revocation or suspension of its video gaming license and video gaming terminal permit certificate(s). The Village President or his designee, may revoke, or suspend, for a period not to exceed sixty (60) days, any video gaming license and video gaming terminal permit certificate(s) issued by the Village, or impose a fine on the licensee in an amount not more than One Thousand Dollars (\$1,000.00) per offense, if after a hearing it is determined:

1. The licensee violated, disobeyed, omitted, neglected or refused to comply with any provision of this Article, other applicable provision(s) of Village Code, or any applicable provision(s) of the Video Gaming Act and/or the related rules, regulations and restrictions promulgated by the Gaming Board;
2. The licensee knowingly furnished false or misleading information or withheld relevant information on any application for a video gaming license required by this Article, or any investigation into such application;
3. The licensee performed or continues to allow conduct, which itself constitutes an element of the offense, while acting within the scope of the business conducted at the licensed establishment;
4. An agent, independent contractor, or employee of the licensee performed, or allowed conduct to continue at the licensed premises, which itself constitutes an element of the offense while acting within the scope of their employment or on behalf of the licensee; and/or
5. The commission of any offense was authorized, requested, commanded or not prevented by the licensee.

B. Except as otherwise set forth in this Article, no video gaming license shall be revoked or suspended, or fine imposed, except after a public hearing before the Village President or his designee, with ten (10) business days written notice to the licensed establishment affording the establishment an opportunity to appear and defend. The written notice shall identify the nature of the alleged violation(s), the time, place and location of the hearing, and inform the licensee of its ability to present evidence and argument at the public hearing.

C. A licensee may, by written notice to the Village President or his designee, waive its right to a public hearing. If a licensee desires a hearing on the possible revocation, suspension or fine for an alleged violation, each hearing under this Article shall be held in accordance with the following rules:

1. A hearing shall be set at the initial appearance date or any continuance thereof and shall be held at a reasonable time, date, and place. A continuance may only be granted by the Village President or his designee if extenuating and unusual circumstances are presented in support of the licensee's request for a continuance.

2. No cause shall be heard earlier than three (3) business days after receipt by a licensee of the notice required under this Article.

3. Evidence and argument may be presented, which may be limited, but not prohibited, by the Village President or his designee, conducting the hearing.

4. An audio recording device shall be present at each hearing and shall record the testimony and evidence presented. In lieu of an audio recording a certified court reporter shall be present at each hearing and shall record the testimony and evidence presented, the cost of which shall be the responsibility of the licensee.

D. After a hearing, the Village President may revoke or suspend any video gaming license issued if it is determined the licensee violated any of the provisions of this Article, other applicable provision(s) of Village Code, a provision(s) of the Video Gaming Act and/or the related rules, regulations and restrictions promulgated by the Gaming Board.

E. Notwithstanding the foregoing, any licensed establishment that has its State or local liquor license suspended or revoked or has a video gaming license suspended or revoked, shall automatically, without a hearing, have its video gaming license and all video gaming terminal permit certificates issued pursuant to this Article, revoked or suspended.

(Ord. No. _____, § __, _____)

Sec. 4-497 Penalty.

In addition to all other remedies, including prosecution under the gambling provisions of the Illinois Criminal Code, 720 ILCS 5/28-1 *et seq.*, and suspension or revocation of any video gaming license, or suspension or revocation of the establishment's local liquor license, any person who violates, disobeys, omits, neglects or refuses to comply with any provision of this Article shall be subject to a fine of Seven Hundred and Fifty Dollars (\$750.00) per day for each offense. A separate offense shall be deemed to have been committed on each day during which or on which a violation occurs or continues. Any fines set forth in this Article shall be assessed regardless of the disposition by a court.

(Ord. No. _____, § __, _____)

SECTION FOUR. That any Village Ordinance or Resolution, or part thereof, in conflict with the provisions of this Ordinance is, to the extent of such conflict, expressly repealed.

SECTION FIVE. If any section, paragraph, sentence, clause, phrase or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such provision shall be stricken and shall not affect any other provision of this Ordinance, which shall remain in full force and effect.

SECTION SIX. This Ordinance shall be in full force and effect on and after May 1, 2024, and after its passage, approval, and publication in pamphlet form as provided by law.

SECTION SEVEN. This Ordinance shall be numbered as Ordinance No. 3641.

PASSED the 5th day of February, 2024.

AYES: Kiefer, Ruane, Bonuchi, Argoudelis

NAYS: Larson, Kalkanis

ABSENT: Wojowski

APPROVED this 5th day of February, 2024.

JOHN F. ARGOUDELIS
John F. Argoudelis
Village President

ATTESTED AND FILED IN MY OFFICE:

MICHELLE GIBAS
Michelle Gibas
Village Clerk