

CITY OF PEKIN

ORDINANCE NO. 3031-21/22

**AN ORDINANCE AMENDING CHAPTER 5, ARTICLE I, DIVISION 4
OF THE PEKIN CITY CODE
IMPOSING A TAX ON VIDEO GAMING TRANSACTIONS**

PASSED BY THE CITY COUNCIL
OF THE CITY OF PEKIN
THE 31ST DAY OF OCTOBER 2021

PUBLISHED IN PAMPHLET FORM BY AUTHORITY OF THE CITY
COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS,
THIS 31ST DAY OF OCTOBER 2021

EFFECTIVE NOVEMBER 10, 2021

ORDINANCE NO. 3031-21/22

AN ORDINANCE AMENDING CHAPTER 5, ARTICLE I, DIVISION 4 OF THE CITY CODE IMPOSING A TAX ON VIDEO GAMING TRANSACTIONS

WHEREAS, the City of Pekin is a home rule municipality as described in Section 6(a), Article VII of the 1970 Constitution of the State of Illinois; and

WHEREAS, the City of Pekin, as a home rule municipality, may exercise power and perform any function pertaining to its government and affairs, including, but not limited to, the power to legislate for the protection of the public health, safety, and welfare; and

WHEREAS, pursuant to Article VII, Section 6(a) and Section 6(i) of the Ill. Const. of 1970 in conjunction with 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the City of Pekin is authorized to impose a tax upon amusements; and

WHEREAS, the City of Pekin now desires to impose a tax upon the amusement of playing a video gaming terminal within the City (“Push Tax”); and

WHEREAS, a Push Tax will provide much needed revenue to promote the general health, safety, and welfare of the City and its residents; and

WHEREAS, the City Council of the City of Pekin believes it is in the best interest of the City and its residents to impose said Push Tax.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PEKIN, TAZEWELL COUNTY, ILLINOIS, THAT:

Section 1. The findings and recitations set forth above are adopted and found to be true and correct.

Section 2. Chapter 5, Article I, Division 4, Section 6-1 of the Pekin City Code is hereby amended as follows (additions indicated by underline, deletions by ~~striketrough~~):

Sec. 5-1-4-6-1. - Definitions.

The following terms shall have the indicated meaning unless the use or context clearly indicates that a different meaning is intended:

Act means the Video Gaming Act found at 230 ILCS 40/1 et seq., as from time to time amended.

Play means each individual push of the video gaming terminal which initiates the simulation provided by the video gaming terminal. Play shall not include the push of individual wager amounts, selection of types of games on the video gaming terminal or entry of any information or printing of winning receipts.

Licensed establishment means a licensed establishment, licensed fraternal establishment, licensed veterans' establishment, or licensed truck stop establishment, as those terms are defined by the Act.

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

Video gaming terminal means any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, 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 Illinois Gaming 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. Chapter 7 of the Pekin City Code is hereby amended by the addition of a new Section 1-9 as follows:

Sec. 7-1-9. – Video Gaming “Push” Tax

- (a) *Definitions.* Terms used in this Section shall have the meanings set forth in Section 5-1-4-6-1 of this Code, unless the use or context clearly indicates that a different meaning is intended.
- (b) *Tax Imposed.* Effective May 1, 2022, and except as otherwise provided by this Section, a push tax is imposed upon any person who plays any video gaming terminal within the corporate boundaries of the City. The rate of that tax shall be equal to one cent per play on a video gaming terminal.
- (c) *Tax Additional.* The tax imposed by this Section is in addition to all the other taxes imposed by the City of Pekin, the State of Illinois, or any municipal corporations or subdivisions thereof.
- (d) *Registration Required.* Every terminal operator of any video gaming terminal located in the City shall apply for registration as a tax collector with the City no later than thirty (30) days after commencing use of the terminal, or thirty (30) days after the effective date of this Ordinance imposing the push tax, whichever comes later. The application shall be submitted to the City on forms provided by the City and shall contain such information as reasonably required by the City to impose, collect, and audit all amounts related to this tax.
- (e) *Collection.* It shall be the duty of every terminal operator to secure, from each person participating in the play of a video gaming terminal, the push tax imposed by this Section. For the purposes of this Section, it shall be presumed that the amount of the push tax imposed on each person, unless the taxpayer or tax collector provides otherwise with books,

records, or other documentary evidence, has been collected from the person by the terminal operator.

(f) *Transmittal of tax revenue.*

- 1) Each terminal operator operating a video gaming terminal within the City shall file tax returns showing tax receipts received with respect to each play of a video gaming terminal during each monthly period commencing on May 1, 2022, and continuing on the first day of every month thereafter on forms prescribed by the Finance Director. The return shall be due on or before the 30th day of the calendar month succeeding the end of the monthly filing period. Such owner shall file an application with the City Finance Department for a City Taxpayer Identification Number prior to filing the first tax return.
- 2) The first taxing period for the purpose of this Section shall commence on May 1, 2022; and the tax return and payment for such period shall be due on or before June 30, 2022. Thereafter, reporting periods and tax payments shall be in accordance with the provisions of this Section. At the time of filing such tax returns, the owner shall pay to the Finance Department all taxes due for the period to which the tax return applies.
- 3) As compensation for the collection and payment of this tax, terminal operators filing a tax return in the manner provided in this Subsection (f) may retain an amount equal to one percent of the total tax due.
- 4) The person filing such return shall attach thereto a copy of its Illinois Retailer's Sales and Use Tax or Video Gaming Tax returns for the month for which a return is made under this Section.

(g) *Failure to file return or remit tax.*

- 1) Any person who fails to file a return when and as required under this Section shall pay to the City, in addition to the amount of tax required to be transmitted, a penalty of ten percent of the tax that such person is required to transmit to the City for each 30-day period that the return remains unfiled; provided, however, a 20 percent penalty shall be imposed for any fraudulent failure to file a return. Failure to file a return within three months after receiving notice of the delinquency of such return shall be deemed fraudulent failure to file a return. Failure to provide required supporting documentation along with the return shall be deemed a failure to file a return and may be subject to penalties pursuant to this Subsection.
- 2) Any person who files a return as required by this Section but fails to transmit the tax proceeds, or any portion thereof, to the City when due, shall, in addition to the required tax, pay to the City a penalty of ten percent of the amount of tax not transmitted to the City for each 30-day period that the tax remains unpaid; provided, however, the fraudulent failure to pay such tax shall result in a 20 percent penalty. Failure to pay taxes due within three months after receiving notice of the delinquency of such taxes shall be deemed fraudulent failure to pay

such tax. The failure of the terminal operator to collect the tax shall not excuse or release the person from the obligation to pay the tax imposed by this Section.

- 3) In addition to any penalty for which provision is made in this Section, any amount of tax not transmitted when due shall bear interest at the rate of two percent per month, or fraction thereof, until fully transmitted.
 - 4) In addition to any of the previous penalties above set forth, any person who is required under this Section to file a return and to transmit the tax proceeds, but fails to do so in a timely manner, shall be ineligible for any reimbursement of funds from the City if they were in arrears at the time the event for which reimbursement is sought occurs; or if they have been in arrears for any amount of time, on two or more occasions in the previous preceding 12 months from when application for reimbursement was made.
 - 5) Any officer or employee of any corporation which is a terminal operator subject to the provisions of this Section who has control, supervision or responsibility of collecting tax proceeds, filing returns and transmitting collected tax proceeds of the tax herein imposed by this Section and who willfully fails to file such return or to transmit any tax proceeds so collected to the City shall be personally liable for such amounts collected, including interest and penalties thereon, if after proper proceedings for the collection of such amount, such corporation is unable to pay such amounts to the City; and the personal liability of such officer or employee, as provided in this Section, shall survive dissolution of the corporation. For purposes of this subsection, a person willfully fails to act if he takes any conscious and voluntary action intending not to perform any of his obligations hereunder, including, but not limited to, the utilizing of tax proceeds collected for the City to pay any other corporation obligations.
- (h) *Collection.* Whenever any person shall fail to pay any tax as provided in this Section, the Corporation Counsel shall, upon the request of the City Manager, bring or cause an action to enforce the payment of such tax on behalf of the City in any manner authorized by law or this Code.
- (i) *Proceeds of taxes and fines.* All proceeds resulting from the imposition of the tax under this Section, including penalties, shall be paid into the City Treasury and shall be credited to and deposited in the capital fund of the City. Said fund shall be specifically designated for the express purpose of capital expenditures and improvements, including, but not limited to, street and sewer construction, maintenance and rehabilitation; curb and gutter work; storm sewer projects; sidewalks; other street/sewer-related improvements; public facility improvements; vehicle or equipment purchases or repair; and debt service related to any capital expenditure or improvement.
- (j) *Rules and regulations.* The Finance Director may promulgate rules and regulations not inconsistent with the provisions of this Section concerning enforcement and application of this Section. The term "rules and regulations" includes, but is not limited to, case-by-case determination of whether or not the tax imposed by this Section applies.
- (k) *Records.*

- 1) Every terminal operator operating a video gaming terminal in the City of Pekin shall keep books and records which, at a minimum, include a daily sheet showing:
 - i. The number of plays for each video gaming terminal within the 24-hour period; and
 - ii. The actual tax receipts collected for the date in question.
 - 2) The City Manager or his designee shall at all reasonable times have full access to said books and records.
 - 3) The financial records of any terminal operator submitted pursuant to this Section or any rule and regulation promulgated thereunder shall not be available for public inspection in order to protect the owners' right to privacy except when necessary in any action to enforce collection of tax under this Section.
- (l) *Suspension of licenses.* If the Mayor, after hearing held by or for him, shall find that any person has willfully avoided payment of the tax imposed by this Section, or any fines and/or penalties assessed for the non-payment or late payment of such tax, he may suspend or revoke all city licenses held by such tax evader. The affected person shall have an opportunity to be heard at such hearing to be held not less than five days after notice of the time and place of the hearing to be held, addressed to him at his last-known place of business
- (m) *Penalties.* Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with, or resisting or opposing the enforcement of any of the provisions of this Section, except when otherwise specifically provided herein, upon conviction thereof, shall be punished by a fine of not less than \$250.00 nor more than \$1,000.00 for the first offense, not less than \$500.00 nor more than \$2,000.00 for the second offense, not less than \$1,000.00 nor more than \$4,000.00 for the third offense, not less than \$2,000.00 nor more than \$5,000.00 for the fourth and each subsequent offense, or five times the amount of the tax imposed, whichever is higher, for a second or subsequent offense. Each day a violation continues or is allowed to continue after written notice thereof is provided by the City shall be considered a separate offense.

Section 4. This Ordinance is hereby ordered to be published in pamphlet form by the City Clerk and said Clerk is ordered to keep at least three (3) copies hereof available for public inspection in the future and in accordance with the Illinois Municipal Code.

Section 5. This Ordinance is in addition to all other ordinances on the subject and shall be construed therewith excepting as to that part in direct conflict with any other ordinance, and in the event of such conflict, the provisions hereof shall govern.

Section 6. This Ordinance shall be in full force and effect from and after its passage, approval and ten (10) day period of publication in the manner provided by law.

PASSED AND APPROVED at the regular meeting of the City Council of the City of Pekin, this 31st day of October, 2021; and upon roll call the vote was as follows:

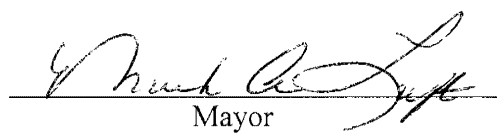
AYES: Orrick, Cloud, Hohmer, and Abel

NAYS: Nutter, Loft, and Hilt

ABSENT: None

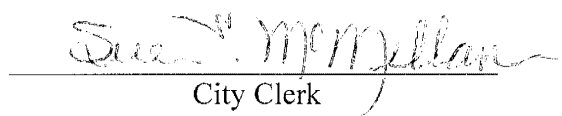
ABSTAINING: None

APPROVED this 31st day of October, 2021



Mayor

ATTEST:



City Clerk

CERTIFICATE

THE UNDERSIGNED CERTIFIES THAT SHE IS THE CITY CLERK FOR THE CITY OF PEKIN, ILLINOIS, AND THAT THE CITY COUNCIL AT A REGULARLY CONSTITUTED MEETING OF SAID CITY COUNCIL OF THE CITY OF PEKIN ON THE 31st DAY OF October, 20 21 ADOPTED ORDINANCE NO. 3031-21/22 A TRUE AND CORRECT COPY OF WHICH IS CONTAINED IN THIS PAMPHLET

GIVEN UNDER MY HAND AND SEAL THIS 2nd DAY OF November, 2021.

(SEAL)

Sue M. McJellan
CITY CLERK