



## AGENDA ITEM EXECUTIVE SUMMARY

Agenda Item number: IIA3

Title:

Recommendation to approve an Ordinance amending Ordinance 2015-M-47 of the St. Charles Municipal Code (Video Gaming).

Presenter:

Jim Keegan, Chief of Police

Meeting: City Council

Date: March 19, 2018

Proposed Cost:

Budgeted Amount: \$

Not Budgeted: ☐

### **Executive Summary** (if not budgeted please explain):

As you're aware, our current Video Gaming Ordinance was approved on October 19, 2015. As a result of some delays in the State of Illinois' budget, (tethered to the taxes collected on behalf of the local municipality-noted in Section Seven of our current ordinance) this ordinance did not become active and machines didn't go "live" until September of 2016.

In addition to the ordinance in place (attached for your review and consideration), Section Six states that "this ordinance shall be repealed on 4-30-18 unless reauthorized by ordinance." As a result of this "sunset clause", I bring the ordinance forward for further city council consideration.

Over the course of the last 18-months, I've consistently brought both revenue reports and licensing reports to either the Government Services Committee or the Government Operations Committee for "informational purposes". In addition, I serve as the police department's liaison to our Liquor Control Commission (commission responsible for licensing oversight) and routinely bring tobacco, massage, and alcohol violations to their attention. Over the course of the licensing period in question, I have not had the occasion to report any violations in regards to our video gaming ordinance. We also communicate and interact regularly with the Illinois State Police and its agents at the Illinois Gaming Board. They have not reported to us any concerns with our licensed establishments.

### Areas of Concern

In addition to what I've discussed in regards to the "sunset clause" and the licensing activity, I have also attached two reports as frames of reference concerning this program and its implementation; specifically revenue.

- One such report is the revenue report (Attachment A) that outlines the distribution of "taxes" collected by the State of Illinois. This report covers the activity since the implementation of our ordinance going "live" in September of 2016. Keep in mind, most establishments came on line in the months following the ordinance being approved so the report varies based upon the length of time each establishment was "live".
- The second such report (Attachment B) is a specific business in St. Charles from the "establishment perspective". Although I am not highlighting the business per se, I am breaking down the revenue report in greater detail per the request of an elected official. The column and report reads as follows for the trial period:
  1. NTI (net terminal income) is \$148,023.00
  2. Our Share is \$7,401.19 (.16666 of collected taxes)
  3. States Share is \$37,006.09
  4. These two numbers equal a Tax Rate of 30% (state/municipality share) or \$44,407.28
  5. The remainder is then shared between both the terminal operator and the establishment 50/50 per ILCS 40/25 (Attachment C) as follows:
  6. \$148,023.00 (minus \$44,407.28) = \$103,615.72
  7. This number divided by 2 = \$51,807.86
  8. So, from inception of our ordinance and per the most recent distribution report, this specific business was distributed \$51,807.86 during our trial period.

Please see the attached reports for further information. As always, I stand ready to answer any questions you might have concerning this information.

*This item was presented at the March 5, 2018 Government Operations Committee meeting where it received a vote of 6-3 in favor of this amendment.*

### **Attachments** (please list):

Attachments A, B & C, referenced above; Ordinance

### **Recommendation/Suggested Action** (briefly explain):

Recommendation to approve an Ordinance amending Ordinance 2015-M-47 of the St. Charles Municipal Code (Video Gaming).

**City of St. Charles, Illinois**  
**Ordinance No. 2018-M- \_\_\_\_\_**

**An Ordinance Amending Ordinance 2015-M-47, of the  
St. Charles Municipal Code**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ST. CHARLES,  
KANE AND DUPAGE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION ONE: That Ordinance 2015-M-47 of the St. Charles Municipal Code, be  
and is hereby amended by removing the following:**

**"Section Six: That this Ordinance shall be automatically repealed on April 30, 2018  
unless reauthorized by an Ordinance enacted by the City Council."**

**SECTION TWO: That Ordinance 2015-M-47 of the St. Charles Municipal Code, be  
and is hereby amended by removing following:**

**"Section Seven: That this Ordinance shall be in full force and effect at such time  
as the State of Illinois budget which contemplates municipalities receiving the 1/6<sup>th</sup>  
of revenue attributable to video gaming for the current fiscal year is approved by  
the State of Illinois approval, and publication in pamphlet form as provided by law."**

That, after the adoption and approval hereof, this Ordinance shall (i) be printed or published in book or pamphlet form, published by the authority of the City Council of the City of St. Charles, or (ii) within thirty (30) days after the adoption and approval hereof, be published in a newspaper published in and with a general circulation within the City of St. Charles.

**SECTION THREE:** This Ordinance shall be in full force and effect ten (10) days from and after its passage by a vote of the majority of the corporate authorities now holding office, approval and publication in the manner provided by law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2018.

PASSED by the City Council of the City of St. Charles, Illinois this \_\_\_\_ day of \_\_\_\_\_, 2018.

APPROVED by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Raymond P. Rogina, Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

COUNCIL VOTE:

Ayes : \_\_\_\_\_

Nays : \_\_\_\_\_

Absent : \_\_\_\_\_

**ILLINOIS GAMING BOARD  
VIDEO GAMING REPORT**

*St. Charles*

**January 2016 - January 2018**

2/16/2018

11:18 am

Municipality	Establishment	License Number	VGT Count	VGT Wagering Activity			VGT Income			VGT Tax Distribution		
				Amount Played	Amount Won	Net Wagering Activity	Funds In	Funds Out	NTI	NTI Tax Rate (30%)	State Share	Municipality Share
St. Charles	A'Salute' Inc.	160702452	2	\$2,091,601.88	\$1,923,949.67	\$167,652.21	\$577,279.00	\$409,626.79	\$167,652.21	\$50,296.35	\$41,913.65	\$8,382.70
St. Charles	ALIBI BAR & GRILL LTD.	150704430	5	\$106,741.01	\$99,928.29	\$6,812.72	\$41,254.00	\$34,441.28	\$6,812.72	\$2,043.81	\$1,703.17	\$340.64
St. Charles	Alley 64, INC.	160702383	5	\$7,601,859.00	\$7,043,908.41	\$557,950.59	\$2,655,434.00	\$2,097,409.16	\$558,024.84	\$167,408.29	\$139,506.93	\$27,901.36
St. Charles	BK & MM VENTURES LLC	160702415	5	\$5,543,310.83	\$5,108,786.69	\$434,524.14	\$1,730,909.00	\$1,296,303.36	\$434,605.64	\$130,382.22	\$108,651.88	\$21,730.34
St. Charles	DAWN'S CAFE, LTD.	160702454	2	\$392,797.64	\$353,122.50	\$39,675.14	\$121,456.00	\$81,780.86	\$39,675.14	\$11,902.80	\$9,919.02	\$1,983.78
St. Charles	DAWN'S VOODOO ROOM, LTD.	170702226	3	\$33,968.66	\$29,946.69	\$4,021.97	\$13,175.00	\$9,153.03	\$4,021.97	\$1,206.60	\$1,005.50	\$201.10
St. Charles	GOLREN ENTERPRISES, INC.	160703386	5	\$1,360,903.53	\$1,251,657.99	\$109,245.54	\$500,718.00	\$391,472.46	\$109,245.54	\$32,774.08	\$27,311.77	\$5,462.31
St. Charles	KILLOUGH LLC	160702650	4	\$323,128.13	\$297,527.05	\$25,601.08	\$127,669.00	\$102,067.92	\$25,601.08	\$7,680.48	\$6,400.40	\$1,280.08
St. Charles	L. A. MANSON CORPORATION	160703156	5	\$1,278,253.49	\$1,160,350.64	\$117,902.85	\$397,761.00	\$279,858.15	\$117,902.85	\$35,371.40	\$29,476.18	\$5,895.22
St. Charles	MARK VII HOSPITALITY LIMITED	170702225	5	\$81,805.59	\$77,791.85	\$4,013.74	\$26,358.00	\$22,344.21	\$4,013.79	\$1,204.19	\$1,003.49	\$200.70
St. Charles	NLHM Inc.	160702847	4	\$141,638.63	\$128,197.60	\$13,441.03	\$49,199.00	\$35,757.97	\$13,441.03	\$4,032.56	\$3,360.46	\$672.10
St. Charles	Northwoods Pub & Grill Inc.	160702493	5	\$4,603,437.68	\$4,218,184.63	\$385,253.05	\$1,499,001.00	\$1,113,747.95	\$385,253.05	\$115,576.68	\$96,313.94	\$19,262.74
St. Charles	Panman, LLC	160703257	5	\$20,167.79	\$17,246.68	\$2,921.11	\$8,129.00	\$5,207.89	\$2,921.11	\$876.43	\$730.36	\$146.07
St. Charles	Riverside Pizza, Inc.	160702553	4	\$1,864,741.40	\$1,716,718.40	\$148,023.00	\$645,893.00	\$497,870.00	\$148,023.00	\$44,407.28	\$37,006.09	\$7,401.19
St. Charles	SAINT CHARLES SPORTS, LLC	160702605	5	\$1,933,510.94	\$1,784,184.33	\$149,326.61	\$597,399.00	\$448,072.39	\$149,326.61	\$44,798.26	\$37,331.88	\$7,466.38
St. Charles	St. Charles Lodge No. 1368, Loyal Order of Moose	160802392	5	\$2,361,313.56	\$2,146,438.64	\$214,874.92	\$802,601.00	\$587,726.08	\$214,874.92	\$64,462.94	\$53,719.13	\$10,743.81
REPORT TOTAL:		16 Establishments	69	\$29,739,179.76	\$27,357,940.06	\$2,381,239.70	\$9,794,235.00	\$7,412,839.50	\$2,381,395.50	\$714,424.37	\$595,353.85	\$119,070.52

# ILLINOIS GAMING BOARD VIDEO GAMING REPORT

*Video Gaming Business A*  
September 2016 - January 2018

2/14/2018

1:47 pm

			VGT Wagering Activity			VGT Income			VGT Tax Distribution				Remaining Profits \$103,615.72	
Establishment	Municipality	# Terminals	Amount Played	Amount Won	Net Wagering Activity	Funds In	Funds Out	NTI	NTI Tax Rate (30%)	State Share	Municipality Share	Municipality Share + State Share = 30%	Terminal Operator 50%	Establishment (VG Business A) 50%
Video Gaming Business A	St. Charles	4	\$1,864,741.40	\$1,716,718.40	\$148,023.00	\$645,893.00	\$497,870.00	\$148,023.00	\$44,407.28	\$37,006.09	\$7,401.19	\$44,407.28	\$51,807.86	\$51,807.86





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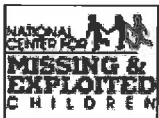
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(230 ILCS 40/25)

Sec. 25. Restriction of licensees.

(a) Manufacturer. A person may not be licensed as a manufacturer of a video gaming terminal in Illinois unless the person has a valid manufacturer's license issued under this Act. A manufacturer may only sell video gaming terminals for use in Illinois to persons having a valid distributor's license.

(b) Distributor. A person may not sell, distribute, or lease or market a video gaming terminal in Illinois unless the person has a valid distributor's license issued under this Act. A distributor may only sell video gaming terminals for use in Illinois to persons having a valid distributor's or terminal operator's license.

(c) Terminal operator. A person may not own, maintain, or place a video gaming terminal unless he has a valid terminal operator's license issued under this Act. A terminal operator may only place video gaming terminals for use in Illinois in licensed establishments, licensed truck stop establishments, licensed fraternal establishments, and licensed veterans establishments. No terminal operator may give anything of value, including but not limited to a loan or financing arrangement, to a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment as any incentive or inducement to locate video terminals in that establishment. Of the after-tax profits from a video gaming terminal, 50% shall be paid to the terminal operator and 50% shall be paid to the licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment, notwithstanding any agreement to the contrary. A video terminal operator that violates one or more requirements of this subsection is guilty of a Class 4 felony and is subject to termination of his or her license by the Board.

(d) Licensed technician. A person may not service, maintain, or repair a video gaming terminal in this State

unless he or she (1) has a valid technician's license issued under this Act, (2) is a terminal operator, or (3) is employed by a terminal operator, distributor, or manufacturer.

(d-5) Licensed terminal handler. No person, including, but not limited to, an employee or independent contractor working for a manufacturer, distributor, supplier, technician, or terminal operator licensed pursuant to this Act, shall have possession or control of a video gaming terminal, or access to the inner workings of a video gaming terminal, unless that person possesses a valid terminal handler's license issued under this Act.

(e) Licensed establishment. No video gaming terminal may be placed in any licensed establishment, licensed veterans establishment, licensed truck stop establishment, or licensed fraternal establishment unless the owner or agent of the owner of the licensed establishment, licensed veterans establishment, licensed truck stop establishment, or licensed fraternal establishment has entered into a written use agreement with the terminal operator for placement of the terminals. A copy of the use agreement shall be on file in the terminal operator's place of business and available for inspection by individuals authorized by the Board. A licensed establishment, licensed truck stop establishment, licensed veterans establishment, or licensed fraternal establishment may operate up to 5 video gaming terminals on its premises at any time.

(f) (Blank).

(g) Financial interest restrictions. As used in this Act, "substantial interest" in a partnership, a corporation, an organization, an association, a business, or a limited liability company means:

(A) When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association, or business, or any part thereof; or

(B) When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

(C) When, with respect to a corporation, an individual or his or her spouse is an officer or director, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of any class of stock of the corporation; or

(D) When, with respect to an organization not covered in (A), (B) or (C) above, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of or otherwise controls 10% or more of the assets of the organization; or

(E) When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods, or services, for the operation of any business, association, or organization during any calendar year; or

(F) When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company.



For purposes of this subsection (g), "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this subsection (g) and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

(h) Location restriction. A licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment that is (i) located within 1,000 feet of a facility operated by an organization licensee licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Riverboat Gambling Act or (ii) located within 100 feet of a school or a place of worship under the Religious Corporation Act, is ineligible to operate a video gaming terminal. The location restrictions in this subsection (h) do not apply if (A) a facility operated by an organization licensee, a school, or a place of worship moves to or is established within the restricted area after a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment becomes licensed under this Act or (B) a school or place of worship moves to or is established within the restricted area after a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment obtains its original liquor license. For the purpose of this subsection, "school" means an elementary or secondary public school, or an elementary or secondary private school registered with or recognized by the State Board of Education.

Notwithstanding the provisions of this subsection (h), the Board may waive the requirement that a licensed establishment, licensed truck stop establishment, licensed fraternal establishment, or licensed veterans establishment not be located within 1,000 feet from a facility operated by an organization licensee licensed under the Illinois Horse Racing Act of 1975 or the home dock of a riverboat licensed under the Riverboat Gambling Act. The Board shall not grant such waiver if there is any common ownership or control, shared business activity, or contractual arrangement of any type between the establishment and the organization licensee or owners licensee of a riverboat. The Board shall adopt rules to implement the provisions of this paragraph.

(i) Undue economic concentration. In addition to considering all other requirements under this Act, in deciding whether to approve the operation of video gaming terminals by a terminal operator in a location, the Board shall consider the impact of any economic concentration of such operation of video gaming terminals. The Board shall not allow a terminal operator to operate video gaming terminals if the Board determines such operation will result in undue economic concentration. For purposes of this Section, "undue economic concentration" means that a terminal operator would have such actual or potential influence over video gaming terminals in Illinois as to:

- (1) substantially impede or suppress competition among terminal operators;
- (2) adversely impact the economic stability of the video gaming industry in Illinois; or
- (3) negatively impact the purposes of the Video Gaming Act.

The Board shall adopt rules concerning undue economic concentration with respect to the operation of video gaming terminals in Illinois. The rules shall include, but not be limited to, (i) limitations on the number of video gaming terminals operated by any terminal operator within a defined geographic radius and (ii) guidelines on the discontinuation of operation of any such video gaming terminals the Board determines will cause undue economic concentration.

(j) The provisions of the Illinois Antitrust Act are fully and equally applicable to the activities of any licensee under this Act.

(Source: P.A. 97-333, eff. 8-12-11; 98-31, eff. 6-24-13; 98-77, eff. 7-15-13; 98-112, eff. 7-26-13; 98-756, eff. 7-16-14.)

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