



## DEPARTMENT OF COMMUNITY DEVELOPMENT SERVICES

*Planning Division*

### **m e m o r a n d u m**

**TO:** Mayor Laurel Lunt Prussing

**FROM:** Elizabeth H. Tyler PhD., FAICP, Director

**DATE:** April 2, 2015

**SUBJECT:** Plan Case 2250-T-15: An amendment to Article II, Article V, and Article VII of the Urbana Zoning Ordinance to establish definitions, use provisions, and special use permissions for “Gaming Halls”, Urbana Zoning Administrator, applicant.

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### **Introduction and Discussion**

On March 23, 2015 the Committee of the Whole of the Urbana City Council discussed Plan Case 2250-T-15, regarding the definition of and permissions for Gaming Halls in the Urbana Zoning Ordinance. The Council voted unanimously to send the case back to the full Council with adjustments along with an accompanying liquor license ordinance amendment. Since the Committee meeting, staff have taken a closer look at the proposed distance buffer to the text amendment, and has identified conflicts with four or more businesses that have applied for gaming licenses and building permits to establish gaming halls in Urbana. Under the proposed distance requirements, the businesses would not be able to locate in Urbana. A map showing where gaming halls would be allowed or prohibited under the proposed amendment is attached.

#### *Pending Applications and Establishment Concentration*

While there is only one existing business that would qualify under the proposed definition of Gaming Hall, there are several applications that have been filed with the City with the intent of seeking liquor and gaming licenses for proposed establishments prior to and during the proposed zoning amendment review process. One applicant named Emma’s Eatery, to be located at the address of 114 S. Vine Street, began the application process prior to the opening of the zoning case and received the necessary liquor license and building permit for their establishment in May of 2014. However, their state issued gaming license is pending because of the current cap of 12 municipal gaming licenses in Urbana. Another applicant named Dottie’s, at the address of 2740 S. Philo Road, was approved for a liquor license in December of 2014. These two applicants would be allowed to operate under the ordinance as proposed by Committee of the Whole on March 23, 2015. Applications for Ruby’s at 510 N. Cunningham and Lacey’s Place at 110 E. University were submitted in February and March, respectively. Both potential applicants contacted City departments inquiring about the necessary permits and ordinance amendment status within recent days.

Under the proposed amendment, as forwarded by the Committee of the Whole, there would be conflicts between some of the proposed establishments and the existing Video Gaming Terminal licenses in this area.

A further complication is that the proposed 500 foot buffer could prove problematic if the Council desires to accommodate the establishments already in the application process. Any establishments wanting to establish in or near the B-4, Central Business or B-4E, Central Business-Expansion districts would encounter problems with the proposed buffers because of the greater concentration of existing gaming licenses. To a lesser extent, existing licenses in the B-3, Central Business District would also prove restrictive to proposed or future establishments. The proposed ordinance language does not specify the method for measuring the buffer between gaming halls. Without specifying this method, the Zoning Ordinance defaults to measuring between the edges of parcel lines, which can sometimes expand beyond the intended reach of the buffers in cases where there are large lots, such as in shopping centers. Some of the applicants for gaming licenses, inside and outside of Urbana, often lease from larger multi-building developments which are located on a single parcel, such as Gateway Shoppes. Under the current language of the proposed ordinance amendment, the requirement would not be met by the pending applicants. The separation requirement distance of 500 feet between proposed G2 (gaming hall) license and G1 (restaurant with gaming machine) license would make accommodation of these licenses prohibitive because of their location in strip malls, which generally have very large parcels. Also, the proposed gaming hall at 110 East University is on the same parcel as Po' Boys, a restaurant that has a license for gaming terminals. Under the currently proposed language, the gaming hall at 110 East University would not be allowed.

#### *Ordinance Amendment Considerations*

In light of the potential conflicts with existing applicants and the existing proposed language, Council may consider revising the specifics of the ordinance amendment. In order to accommodate all of the recent license applications of liquor and video gaming, the following changes would be necessary:

- Add language to specify that the required buffer between gaming halls and other gaming uses should be measured from business frontage to business frontage, instead of from parcel boundary to parcel boundary.
- Reduce or eliminate the buffer between gaming halls (G2 liquor license) and restaurants or taverns with video gaming terminals (G1 liquor license). With a change in measurement method from parcel lines to business frontages, a 250 foot buffer between G1 and G2 applicants would allow the existing applicants to establish new businesses.
- Add the term “pre-existing” to the provision that requires a buffer between G1 and G2 uses. This clarification would allow for restaurants with gaming terminals to locate near a pre-existing gaming hall.

#### *Plan Commission Recommendation Review*

The Urbana Plan Commission expressed reservations about the allowance of any gaming halls in the City and was concerned about the effects of principal use video gaming establishments in the area. For this reasons, the Commission recommended a 500 foot separation requirement from schools, churches, daycare centers, and existing video gaming licensed establishments. In the State statute, a 100 foot separation from existing schools and places of worship is required for any video

gaming licensed establishment. The Plan Commission also discussed whether gaming halls should be allowed as a conditional use or by right, and whether the buffer distance between gaming halls should be the same for all cases, or if the buffer should be established on a case-by-case basis through the special use permit approval process.

## **Options**

The Urbana City Council has the following options regarding Plan Case 2250-T-15 and the proposed City Code amendment:

- a. Approve the proposed Zoning Ordinance text amendment and City Code amendment as recommended by Committee of the Whole;
- b. Approve the proposed Zoning Ordinance text amendment and City Code amendment as presented herein; or
- c. Approve the proposed Zoning Ordinance text amendment and City Code amendment as modified by specific suggested changes; or
- d. Deny approval of the proposed Zoning Ordinance text amendment and City Code amendment.

## **Recommendation**

At their March 23, 2015 meeting, the Committee of the Whole of the Urbana City Council voted five ayes to zero nays to recommend **APPROVAL** of the proposed text amendment to the Urbana Zoning Ordinance as amended and presented herein. Staff recommends adopting the proposed changes to allow for existing license applicants to establish gaming halls. Making these changes would accommodate the proposed businesses while still providing for adequate separation of uses and controls through the Zoning review process. Modifying the ordinance as suggested would be beneficial to the local economy by allowing for reinvestment in a number of vacant business locations and provide for local jobs and tax revenues. The modifications would also protect the investments of the businesses that are already in the middle of the approval process.

Attachments:

- Exhibit A: Updated Map – Eligible Locations for G2 Gaming Licenses
- Exhibit B: Table of Potential Conflicts
- Exhibit C: Text – Proposed Text Amendment

**ORDINANCE NO. 2015-03-029**

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF URBANA, ILLINOIS (Revising Article II, Article V, and Article VII to establish definitions, use provisions, and special use permissions for "Gaming Hall"/ Plan Commission Case No. 2250-T-15)

WHEREAS, the City Council of the City of Urbana, Illinois adopted Ordinance #9293-124 on June 21, 1993 which adopted the 1993 Comprehensive Amendment to replace the 1979 Comprehensive Amendment to the 1950 Zoning Ordinance of the City of Urbana which is also known as the Urbana Zoning Ordinance; and,

WHEREAS, the State of Illinois enacted the Illinois Video Gaming Act (230 ILCS 40/) on January 1, 2010, which allowed video gaming terminals in establishments with liquor licenses in the State of Illinois; and

WHEREAS, the City of Urbana in Ordinance No. 2012-07-073 enacted Urbana City Code Chapter 3.7 to regulate amusement devices and gamerooms in the City and Section 14-7 to establish a schedule of fees for the various licenses, permits, fines, and other fees required under the Urbana City Code on July 30, 2012; and

WHEREAS, video gaming uses are not listed in the Urbana Zoning Ordinance and are not distinguished as principal or accessory uses; and

WHEREAS, the Zoning Administrator is proposing to amend the Urbana Zoning Ordinance in order to establish definitions, special use provisions, and location restrictions for establishments with video gaming as a principal use; and

WHEREAS, said text amendment is consistent with the goals and objectives of the Urbana Comprehensive Plan; and

WHEREAS, after due publication in accordance with Section XI-7 of the Urbana Zoning Ordinance and with Chapter 24, Section 11-13-14 of the Illinois

Revised Statutes, the Urbana Plan Commission held a public hearing on this application at their February 5, 2015, February 19, 2015, and March 5, 2015 meetings; and

WHEREAS, the Urbana Plan Commission on March 5, 2015 voted 5 ayes to 0 nays to recommend approval of the proposed Zoning Ordinance amendment as presented and amended;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF URBANA, ILLINOIS, that the Urbana Zoning Ordinance shall be amended as follows:

Section 1. That Section II-3, Definitions, of Urbana Zoning Ordinance is hereby amended to add the following new definitions:

*Gaming Hall:* An establishment whose primary purpose is to operate video gambling terminals where the drawing, pouring, mixing, or otherwise serving of alcoholic liquor on the licensed premises is subsidiary to the operation of the video gambling terminal or terminals. In the event that any establishment derives 60% or more of its estimated gross revenue from the display, play and/or operation of video gambling terminals, such establishment shall be deemed a Gaming Hall and shall be required to obtain a Class G-2 license. Notwithstanding the immediate foregoing, the following may also be considered in determining whether an establishment constitutes a gaming hall:

- A. a seating area for video gaming terminals being greater than the seating area where food and beverage, including alcoholic beverages, are served;
- B. the absence of a full service kitchen; and
- C. an overall size of 1500 square feet or less.
- D. such other conditions which readily suggest or indicate that the establishment is intended to be operated or is being operated as an establishment whose primary purpose is the display of gambling terminals for play or operation by the public.

For purposes of this subsection, fraternal establishments and veterans establishments (as defined in the Video Gaming Act, 230 ILCS 40/5) shall be exempt.

*Fraternal Establishment:* The location where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

*Veterans Establishment:* The location where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

*Video Gambling Terminal.* Video gambling terminal shall have the same meaning as "video gaming terminal," as set forth in the Video Gaming Act, 230 ILCS 40/1 et seq. as amended.

Section 2. That Table V-1, Table of Uses, of the Urbana Zoning Ordinance is hereby amended to include the following new use as follows:

**Table V-1. Table of Uses**

Principal Uses	R-1	R-2	R-3	R-4	R-5	R-6	R-6B	R-7	AG	B-1	B-2	B-3	B-3U	B-4	B-4E	CCD	CRE	MOR	IN-1	IN-2
<i>Recreation</i>																				
Gaming Hall																				
†††												S		S	S					

††† See Section VII-5.F Standards of Gaming Halls

Section 3. That Section VII-5, Special Terms and Conditions, of the Urbana Zoning Ordinance is hereby amended to include the following new Paragraph F as follows:

**Section VII-5. Special Terms and Conditions**

F. The following conditions shall apply to any Gaming Hall:

1. An establishment requesting a license for a principal use gaming hall shall be a minimum of five hundred feet from a pre-existing Day Care Facility, School, or place of worship, as defined under the Religious Corporation Act (805 ILCS 110/0.01 et seq.). An establishment shall be a minimum of five hundred feet from any existing licensed Gaming Hall. An establishment shall also be a

minimum of two hundred and fifty feet away from any previously existing establishment containing a licensed video gaming terminal. Said distances shall be measured as the intervening distance between one business frontage and the other business frontage. The minimum distance between Gaming Halls and other Gaming Halls or preexisting Day Care Facilities, Schools, or Places of Worship may be increased where necessary to maintain the public welfare.

Section 4. The City Clerk is directed to publish this Ordinance in pamphlet form by authority of the corporate authorities. This Ordinance shall be in full force and effect from and after its passage and publication in accordance with the terms of Chapter 65, Section 1-2-4 of the Illinois Compiled Statutes (65 ILCS 5/1-2-4).

This Ordinance is hereby passed by the affirmative vote, the "ayes" and "nays" being called of a majority of the members of the City Council of the City of Urbana, Illinois, at a regular meeting of said Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

PASSED by the City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

AYES:

NAYS:

ABSTAINED:

\_\_\_\_\_  
Phyllis D. Clark, City Clerk

APPROVED by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Laurel Lunt Prussing, Mayor

**CERTIFICATE OF PUBLICATION IN PAMPHLET FORM**

I, Phyllis D. Clark, certify that I am the duly elected and acting Municipal Clerk of the City of Urbana, Champaign County, Illinois. I certify that on the \_\_\_\_ day of \_\_\_\_\_, 2015, the corporate authorities of the City of Urbana passed and approved Ordinance No. \_\_\_\_\_, entitled "AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE CITY OF URBANA, ILLINOIS (Revising Article II, Article V, and Article VII to establish definitions, use provisions, and special use permissions for "Gaming Hall"/ Plan Commission Case No. 2250-T-15)" which provided by its terms that it should be published in pamphlet form. The pamphlet form of Ordinance No. \_\_\_\_\_, including all of its attachments, was prepared, and a copy of such Ordinance was posted in the Urbana City Building commencing on the \_\_\_\_ day of \_\_\_\_\_, 2015, and continuing for at least ten (10) days thereafter. Copies of such Ordinance were also available for public inspection upon request at the Office of the City Clerk.

DATED at Urbana, Illinois, this \_\_\_\_ day of \_\_\_\_\_, 2015.