



Office of the Village Administrator
Ordinance

To: Mayor and Board of Trustees

From: Peter Vadopalas

For: Village Board Meeting of: January 14, 2019

Subject: Electronic Sweepstakes Machines

Financial Impact:

Motion

Motion to Pass an Ordinance Prohibiting Electronic Sweepstakes Machines in the Village of Mundelein.

Comments

Attached for consideration is an ordinance prohibiting the operation of electronic “sweepstakes machines” in the Village.

Sweepstakes machines are comparable to video gaming machines -- with important distinctions as described below -- that are appearing in the City of Chicago and several suburban communities. Recently, a sweepstakes machine operator inquired about Mundelein’s regulations regarding these devices. Staff is not aware of the existence of sweepstakes machines in Mundelein today - this ordinance is presented as a preemptive prohibition.

Operators of these devices have claimed that they are not regulated gambling devices because sweepstakes machines can offer a limited number of free games and can offer non-cash prizes. For example, “winners” could receive a coupon code to enter onto a website to claim some type of item as a prize.

The Illinois Gaming Board has in the past issued comments that these types of machines are illegal. Operators have claimed that sweepstakes are not gambling and therefore not regulated under the Gaming Act.

Municipalities are increasingly adopting prohibitions of these devices. The public policy concerns regarding sweepstakes machines include:

- Operators of sweepstakes machines are not licensed by any public agency. Therefore, such operators are not subject to criminal background checks or investigation into their business integrity.

- The fairness and integrity of the sweepstakes games are not regulated by any public agency.
- The results of sweepstakes gaming are not publicly reported. (Regulated video gaming machines are required to include accounting software to record total transactions and payout percentages.)
- The Act limits gaming establishments to five machines; the maximum number of sweepstakes machines per establishment has no enforceable limits.
- Sweepstakes machines compete with regulated video gaming establishments, though operate outside the regulatory framework of the Illinois Gaming Act, and therefore pay no gaming taxes.
- Sweepstakes machine operators do not need to prohibit access to underage individuals, nor are they required to offer customers information about compulsive gambling counseling options.

The Village Attorney has prepared the attached ordinance and recommends approval.

ORDINANCE NO. (ID # 3455)**AN ORDINANCE PROHIBITING ELECTRONIC SWEEPSTAKES MACHINES
IN THE VILLAGE OF MUNDELEIN**

WHEREAS, the Village of Mundelein ("Village"), as a home-rule unit of local government as provided by Article VII, Section 6 of the Illinois Constitution of 1970, has the authority to exercise any power and perform any function pertaining to its government and affairs except as limited by Article VII, Section 6 of the Illinois Constitution of 1970; and

WHEREAS, as a home-rule unit, the Village of Mundelein's powers shall be construed liberally as held by the Illinois Supreme Court in the case of *Scadron v. City of Des Plaines*, 153 Ill. 2d 164 (1992); and

WHEREAS, Section 11-5-1 of the Illinois Municipal Code (65 ILCS 5/11-5-1), provides Illinois municipalities with the authority to regulate "gaming, gambling houses, lotteries, and all fraudulent devices or practices for the purpose of obtaining money or property;" and

WHEREAS, Section 11-42-1 of the Illinois Municipal Code (65 ILCS 5/11-42-1), further provides Illinois municipalities with the authority to regulate "amusements;" and

WHEREAS, pursuant to the Village's home-rule authority and the statutory authority set forth above, the Village Board of Trustees has determined that the prohibition of electronic sweepstakes machines is necessary for the public health, safety and welfare.

NOW THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Mundelein, Lake County, Illinois, in the exercise of their home-rule powers, as follows:

SECTION I: Recitals Incorporated. The above recitals are incorporated herein by reference as though fully set forth.

SECTION II: Title 9, Article III ("Gambling"), of the Mundelein Municipal Code is hereby amended to add a new Section 9.60.325 ("Electronic Sweepstakes Machines Prohibited") as follows:

9.60.325: ELECTRONIC SWEEPSTAKES MACHINES PROHIBITED:

A. For purposes of this section, the following terms shall be defined as follows:

ELECTRONIC MACHINE OR DEVICE: A mechanically, electrically, or electronically operated machine or device, that is owned, leased, or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsors or promoters partners, affiliates, subsidiaries or contractors, that is intended to be used by a sweepstakes entrant, that uses energy, and that is capable of displaying information on a screen or other mechanism.

ENTER OR ENTRY: The act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

ENTERTAINING DISPLAY: Visual information capable of being seen by a sweepstakes entrant that takes the form of actual game play or simulated game play including, but not limited to a poker game or any other kind of playing card game; a bingo game; a craps game; a keno game; a lotto game; an eight-liner game; a pot-of-gold game; a game based on or involving the random or chance matching of different pictures, words, numbers or symbols not dependent on the skill or dexterity of the player; a casino or gambling game; and any other video game the outcome of which is not in whole or in part dependent on the skill or dexterity of the player that is played in the course of revealing a prize as a result of an entry into a sweepstakes.

PRIZE: Any gift, award, gratuity, goods, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred or placed on an account or other record as evidence of the intent to transfer the prize.

SWEEPSTAKES: Any game, advertising scheme or plan, or other promotion which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon an element of chance.

B. It shall be unlawful for any person to own, lease, operate, or place into operation an electronic machine or device in any location open to the public within the Village of Mundelein for the following purposes:

1. To conduct a sweepstakes through the use of an entertaining display including the entry process or the reveal of a prize; or

2. To promote a sweepstakes that is conducted through the use of an entertainment display including the entry process or the reveal of a prize.

SECTION III: Video Gaming Terminals - Not Prohibited. Nothing contained in this Section 9.60.325 shall be construed as prohibiting duly licensed video gaming terminals as authorized by Title 5, Chapter 5.98 of this Code.

SECTION IV: Violation-Penalty. Any person violating any provision of this Section 9.60.325 shall be fined not less than \$250.00 nor more than \$750.00 for each offense. Each machine or device found to be in violation, and each day such violation occurs or continues, shall constitute a separate and distinct offense.

SECTION V: Severability and Repeal of Inconsistent Ordinances. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity thereof shall not affect any of the other provisions of this Ordinance. All ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION VI: Effective Date. This Ordinance shall be in full force and effect from and after its approval, passage and publication as provided by law.

ADOPTED this 14th day of January, 2019 by a roll call vote as follows:

President

ADOPTED: January 14, 2019

APPROVED: January 14, 2019

PUBLISHED in pamphlet form: _____

ATTEST: _____
Village Clerk