

Exhibit B
[Jacksonville Ordinance]

1 Introduced by Council Members Hyde, Redman, Holt, Davis, Shad, Graham,
2 and Corrigan and substituted on the Council Floor:

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4
5 **ORDINANCE 2010-326-E**

6 AN ORDINANCE REGARDING ADULT ARCADE AMUSEMENT
7 CENTERS AND ELECTRONIC TECHNOLOGY IN THE
8 ADMINISTRATION OF GAME PROMOTIONS AND DRAWINGS BY
9 CHANCE, INCLUDING THE USE OF VIDEO DISPLAYS OR
10 SIMILAR TECHNOLOGY TO DISPLAY THE RESULTS; MAKING
11 FINDINGS; ESTABLISHING A NEW CHAPTER 155 (ADULT
12 ARCADE AMUSEMENT CENTERS) OF TITLE VI (BUSINESS,
13 TRADES AND OCCUPATIONS), *ORDINANCE CODE*, TO
14 REGULATE THE OPERATION OF ADULT ARCADE AMUSEMENT
15 CENTERS; ESTABLISHING A NEW CHAPTER 156
16 (ELECTRONIC GAME PROMOTIONS) OF TITLE VI
17 (BUSINESS, TRADES AND OCCUPATIONS), *ORDINANCE*
18 *CODE*, TO REGULATE ELECTRONIC TECHNOLOGY IN THE
19 ADMINISTRATION OF GAME PROMOTIONS AND DRAWINGS BY
20 CHANCE; PROVIDING FOR LEGISLATIVE AUTHORIZATION,
21 THE COVERED AREA TO BE ALL OF DUVAL COUNTY, THE
22 INTENT OF THE LEGISLATION, DEFINITIONS,
23 REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS,
24 SIGNAGE REQUIREMENTS, LIMITATIONS ON THE
25 OPERATIONS OF THE BUSINESSES, SAFETY AND SECURITY
26 REQUIREMENTS, VIOLATIONS AND PENALTIES AND
27 SEVERABILITY; AMENDING CHAPTER 656 (ZONING
28 CODE), PART 3 (SCHEDULE OF DISTRICT
29 REGULATIONS), SUBPART C (COMMERCIAL USE
30 CATEGORIES AND ZONING DISTRICTS), SECTION

1 656.313 (COMMUNITY/GENERAL COMMERCIAL
2 CATEGORY), *ORDINANCE CODE* TO ADD ADULT ARCADE
3 AMUSEMENT CENTERS OPERATED BY A LICENSED
4 PERMITHOLDER AND GAME PROMOTIONS OR
5 SWEEPSTAKES UTILIZING ELECTRONIC EQUIPMENT
6 MEETING THE PERFORMANCE STANDARDS AND
7 DEVELOPMENT CRITERIA SET FORTH IN PART 4, AND
8 DRAWINGS BY CHANCE CONDUCTED IN CONNECTION
9 WITH THE SALE OF A CONSUMER PRODUCT OR SERVICE
10 UTILIZING ELECTRONIC EQUIPMENT MEETING THE
11 PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA
12 SET FORTH IN PART 4, TO THE LIST OF PERMITTED
13 USES IN CCG-1 AND CCG-2 ZONING DISTRICTS,
14 SUBJECT TO ALL OTHER RESTRICTIONS,
15 REQUIREMENTS AND LIMITATIONS SET FORTH IN THE
16 ORDINANCE CODE; AMENDING CHAPTER 656 (ZONING
17 CODE), PART 3 (SCHEDULE OF DISTRICT
18 REGULATIONS, SUBPART D (INDUSTRIAL USE
19 CATEGORIES AND ZONING DISTRICTS), SECTION
20 656.322 (LIGHT INDUSTRIAL CATEGORY), *ORDINANCE*
21 *CODE* TO ADD INDOOR FACILITIES OPERATED BY A
22 LICENSED PARI-MUTUEL PERMITHOLDER, ADULT
23 ARCADE AMUSEMENT CENTERS OPERATED BY A
24 LICENSED PERMITHOLDER AND GAME PROMOTIONS OR
25 SWEEPSTAKES UTILIZING ELECTRONIC EQUIPMENT
26 MEETING THE PERFORMANCE STANDARDS AND
27 DEVELOPMENT CRITERIA SET FORTH IN PART 4, AND
28 DRAWINGS BY CHANCE CONDUCTED IN CONNECTION
29 WITH THE SALE OF A CONSUMER PRODUCT OR SERVICE

1 UTILIZING ELECTRONIC EQUIPMENT MEETING THE
2 PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA
3 SET FORTH IN PART 4, TO THE LIST OF
4 PERMISSIBLE USES BY EXCEPTION IN THE IL ZONING
5 DISTRICT, SUBJECT TO ALL OTHER RESTRICTIONS,
6 REQUIREMENTS AND LIMITATIONS SET FORTH IN THE
7 ORDINANCE CODE; AMENDING CHAPTER 656 (ZONING
8 CODE), PART 4 (SUPPLEMENTARY REGULATIONS),
9 SUBART A (PERFORMANCE STANDARDS AND
10 DEVELOPMENT CRITERIA), TO ADD A NEW SUBSECTION
11 656.401(KK) (ANY GAME PROMOTIONS OR
12 SWEEPSTAKES UTILIZING ELECTRONIC EQUIPMENT,
13 AND DRAWINGS BY CHANCE CONDUCTED IN CONNECTION
14 WITH THE SALE OF A CONSUMER PRODUCT OR SERVICE
15 UTILIZING ELECTRONIC EQUIPMENT) TO ADD
16 SUPPLEMENTARY REGULATIONS; AMENDING CHAPTER
17 656 (ZONING CODE), PART 7 (NONCONFORMING LOTS,
18 USES AND STRUCTURES), TO ADD A NEW SECTION
19 656.726 (NONCONFORMING GAME PROMOTIONS OR
20 SWEEPSTAKES UTILIZING ELECTRONIC EQUIPMENT,
21 AND DRAWINGS BY CHANCE CONDUCTED IN CONNECTION
22 WITH THE SALE OF A CONSUMER PRODUCT OR SERVICE
23 UTILIZING ELECTRONIC EQUIPMENT), *ORDINANCE*
24 *CODE* TO ESTABLISH THAT ALL SUCH USES EXISTING
25 ON AUGUST 9, 2010 ARE CONSIDERED LEGAL NON-
26 CONFORMING USES, SUBJECT TO ALL OTHER
27 RESTRICTIONS, REQUIREMENTS AND LIMITATIONS SET
28 FORTH IN THE ORDINANCE CODE; AMENDING CHAPTER
29 772 (MUNICIPAL OCCUPATIONAL LICENSE TAX)

1 *ORDINANCE CODE*, TO CREATE A NEW SECTION 772.340
2 (ADULT ARCADE AMUSEMENT CENTERS) TO PROVIDE A \$40
3 PER DAY MUNICIPAL OCCUPATIONAL LICENSE TAX ON
4 SAID BUSINESS; PROVIDING AN EFFECTIVE DATE.

5 **WHEREAS**, in the last decade, establishments operated pursuant to
6 sections 849.161(1)(a)1, 849.0935, and 849.094, Florida Statutes, have
7 created problematic issues for local law enforcement authorities,
8 complicated by limitations of resources and difficulty of enforcement
9 of state law; and

10 **WHEREAS**, section 849.161(1)(a)1., Florida Statutes, authorizes
11 arcade amusement centers utilizing coin-operated games of skill; and

12 **WHEREAS**, confusion has existed for some years as to the
13 interpretation and enforcement of section 849.161(1)(a)1., Florida
14 Statutes, which grants an exemption from the statutory framework
15 prohibiting illegal gambling activities; and

16 **WHEREAS**, the uncontrolled proliferation of adult arcade amusement
17 machines throughout Duval County will have a detrimental impact on the
18 health, safety and welfare of its citizens and visitors, unless
19 properly regulated, and the City Council has a duty to affirmatively
20 eliminate the potential detrimental impact of a proliferation of adult
21 arcade amusement machines; and

22 **WHEREAS**, the City Council finds that the public welfare will be
23 enhanced if such adult arcade machines are confined to highly
24 regulated facilities that meet strict licensing standards; and

25 **WHEREAS**, the City Council is authorized to license and regulate
26 the operation of adult arcade amusement centers for the enjoyment,
27 entertainment and protection of the residents of and visitors to the
28 City; and

1 **WHEREAS**, sections 849.0935 and 849.094, Florida Statutes,
2 authorize drawings by chance and game promotions; and

3 **WHEREAS**, confusion has existed for some years as to the
4 interpretation and enforcement of these statutes, which grant an
5 exemption from the statutory framework prohibiting illegal gambling
6 activities; and

7 **WHEREAS**, in order to avoid such activity transitioning to and
8 becoming illegal gambling, strict compliance with the law must occur;
9 and

10 **WHEREAS**, local law enforcement authorities have limited
11 resources with which to police this industry, and a regulatory fee
12 will better fund enforcement efforts and ensure compliance with the
13 law; and

14 **WHEREAS**, the City recognizes that there is a distinction
15 between the costs associated with the permitting of minor and major
16 operators of game promotions, sweepstakes and drawings by chance
17 conducted in connection with the sale of a consumer product or
18 service utilizing electronic equipment, with those establishments
19 with over five (5) pieces of electronic equipment requiring more
20 oversight, examination and inspection than those with five (5) or
21 less pieces of electronic equipment; and

22 **WHEREAS**, the City has evaluated and estimated the costs of
23 permitting and enforcement, and has determined that the permitting
24 fees and revenues will not exceed such costs; and

25 **WHEREAS**, the increased participation in drawings by chance and
26 game promotions or sweepstakes utilizing electronic equipment has the
27 potential to mislead and confuse unwary citizens if not regulated, and
28 therefore increases the need for regulation; and

1 **WHEREAS**, an ordinance to regulate the use of electronic equipment
2 in the conduct of drawings by chance and game promotions or
3 sweepstakes will protect the public welfare; and

4 **WHEREAS**, increased participation by citizens and patrons in
5 drawings by chance and game promotions or sweepstakes utilizing
6 electronic technology increases the need for a security presence on
7 the premises offering the activity, so as to prevent and deter crimes;
8 and

9 **WHEREAS**, pursuant to the Municipal Home Rule Powers Act, Florida
10 Statute section 166.011 et seq., and the Charter of the City of
11 Jacksonville, the City Council may regulate this activity for the
12 health, safety, and welfare of the community; and

13 **WHEREAS**, a likelihood of confusion exists of businesses using
14 electronic equipment to conduct drawings by chance and game promotions
15 or sweepstakes, with businesses that may use electronic equipment to
16 conduct gambling, as both legitimate and illegal operations use chance
17 to award prizes and often display images associated with traditional
18 slot machines, and fraud and misrepresentation may occur at these
19 businesses because of this confusion unless properly regulated; and

20 **WHEREAS**, some operations display images of gambling or slot
21 machines in their advertisements and signage suggesting the presence
22 of illegal activity; and those activities should be controlled and
23 regulated; now therefore,

24 **BE IT ORDAINED** by the Council of the City of Jacksonville:

25 **Section 1. Legislative Findings.**

26 The City Council finds as follows:

27 (a) Desiring to protect individual rights, while at the same
28 time affording opportunity for the fullest development of the
29 individual, and promoting the health, safety, education, and welfare

1 of the people, the City of Jacksonville has a compelling interest in
2 protecting its citizens from certain activities and influences which
3 can result in irreparable harm if left unregulated. The Council is
4 also charged with the responsibility of protecting and assisting its
5 citizens who suffer from compulsive or problem gambling behavior.

6 (b) The Council has a legitimate interest in protecting its
7 citizens from unethical business practices, ensuring operators of
8 regulated establishments are of good moral character, providing safe
9 locations for people to congregate, and protecting the quality and
10 well-being of its neighborhoods.

11 (c) It necessary and in the public interest to ensure that
12 businesses portray themselves in a manner not likely to mislead the
13 public.

14 (d) The imposition of a regulatory scheme for activities
15 conducted pursuant to sections 849.161(1)(a)1., 849.0935, and 849.094,
16 Florida Statutes, bears a rational relationship to its interests.

17 (e) Adult arcade amusement machines should be confined to
18 highly regulated pari-mutuel facilities that meet strict State of
19 Florida licensing standards.

20 (f) The Council is authorized to license and regulate the
21 operation of adult arcade amusement centers for the enjoyment,
22 entertainment and protection of the residents and visitors to the
23 City.

24 (g) No adult arcade amusement machine should be allowed unless
25 it is located upon the premises of a licensed adult arcade amusement
26 center in accordance with the operational requirements set forth in
27 this Ordinance.

28 (h) That the State of Florida has authorized slot machines and
29 other gaming at licensed facilities, and the State of Florida

1 authorizes drawings by chance and game promotions or sweepstakes. The
2 Council further recognizes that establishments that utilize electronic
3 equipment to display the results of drawings by chance and game
4 promotions or sweepstakes by simulating a game or games ordinarily
5 played on a slot machine can deceive members of the public into
6 believing that they are engaging in a licensed gambling activity if
7 left unregulated.

8 (i) That the Council has an obligation and responsibility to
9 protect its citizens from the use of deceptive practices.

10 (j) In order to ensure the uniform enforcement of existing
11 laws, to preserve the public peace and good order, and to safeguard
12 the health, safety, morals and welfare of the community and citizens
13 thereof, it is necessary and advisable to provide greater regulation
14 of the use of electronic equipment to display the results of drawings
15 by chance and game promotions.

16 **Section 2. Title VI, Ordinance Code, is amended to create a new**
17 **Chapter 155, Adult Arcade Amusement Center.** Title VI (Businesses,
18 Trades and Occupations), *Ordinance Code*, is amended to create a new
19 Chapter 155 (Adult Arcade Amusement Center), to read as follows:

20 **Title VI. BUSINESSES, TRADES AND OCCUPATIONS**

21 * * *

22 **Chapter 155.**

23 **ADULT ARCADE AMUSEMENT CENTER**

24 **Sec. 155.101 Legislative Authorization.**

25 This Chapter is enacted in the interest of the public health,
26 peace, safety, morals and general welfare of the citizens and
27 inhabitants of Duval County, Florida, pursuant to Fla. Const. Article
28 VIII, section 1(g), section 125.01, Florida Statutes, Ch. 166, Florida
29 Statutes, and the Charter of the City of Jacksonville.

1 **Sec. 155.102. Area of Enforcement.**

2 The Council is acting herein as the governing body for Duval
3 County, Florida, and this Chapter shall be effective everywhere within
4 the boundaries of Duval County, Florida.
5

6 **Sec. 155.103 Intent.**

7 The intent of the Council acting as the governing body of
8 Duval County, Florida in adopting this Chapter is to regulate adult
9 arcade amusement centers, so as to protect the public health,
10 safety and welfare.

11 **Sec. 155.104 Definitions.**

12 (a) "Adult arcade amusement center" means a business (1) that
13 is located on the "premises" of a facility that is licensed by the
14 State of Florida pursuant to Ch. 550, Florida Statutes, and (2) that
15 operates adult arcade amusement machines and (3) that is licensed
16 under this Chapter.

17 (b) "Adult arcade amusement machine" or "machine" means an
18 electronic, mechanical, coin, currency, ticket, token, card or other
19 similarly operated, computer, video or other similar machine, device
20 or game which operates on the insertion of money, coin, or other type
21 of monetary consideration or requires the payment of monetary
22 consideration for its operation and which, whether by application of
23 skill or application of the element of chance or both or by any other
24 outcome unpredictable to him or her, may become entitled to receive
25 any money, credit, allowance, or thing of value or additional chance
26 or right to use such machine or device, or to receive any check, slug,
27 token or memorandum entitling the holder to receive any credit,
28 allowance or thing of value. The presence of a device as described
29 above that requires the payment of monetary consideration for its

1 operation shall result in the presumption that such machine is an
2 adult arcade amusement machine as defined herein. This definition
3 shall not include Electronic Equipment as defined in sec. 156.105(d).

4 (c) "Amusement game" or "game" shall mean any individual
5 measure of play as indicated by an adult arcade amusement machine.
6 Multiple games may be played by a single activation of the machine
7 with the machine rendering the results of the games played without the
8 decrementing of additional points or the payment of additional
9 consideration.

10 (d) "Application of skill" shall mean the ability of the
11 player, through the application of any of the skill factors listed in
12 this Chapter, to alter the payout percentage of an amusement game by
13 not less than 25% over a completely random outcome determined as
14 provided in this Chapter.

15 (e) "Coupon" means a printed instrument that is a
16 representation of points available for merchandise redemption. A
17 coupon may not be redeemed for anything other than merchandise, as
18 defined herein.

19 (f) "De minimis Activity Facility" means a facility operated by
20 an organization exempt from federal taxation under Section 501(c) of
21 the Internal Revenue Code with ten (10) or fewer adult arcade
22 amusement machines at that facility, all of which were in operation on
23 or before January 1, 2010.

24 (g) "Family Amusement Arcade" means a business which, in
25 addition to a food and beverage business for which it possesses
26 state and local licenses, also operates an integrated arcade
27 business that complies with section 849.161(1)(a)1., Florida
28 Statutes, catering primarily to families and minors.

1 (h) "Merchandise" means an object of value available for sale
2 to the general public on the premises of the adult arcade amusement
3 center or via catalogs or kiosks produced by an adult arcade amusement
4 center other than alcoholic beverages and cash. The general public
5 must be able to discern: (1) the points required to redeem the
6 merchandise; and (2) the purchase price of the merchandise.

7 (i) "Payout percentage" means the theoretical portion of played
8 points retained by a machine over a period of time as determined by a
9 licensed testing laboratory.

10 (j) "Points" means a unit of entitlement for play of an adult
11 arcade amusement machine created by either: (1) the conversion of
12 coins, bills, tickets, or vouchers when inserted into an adult arcade
13 amusement machine; or (2) the results of a played game.

14 (k) "Premises" means the legal description of the land and
15 location of the pari-mutuel facility as licensed according to Ch. 550,
16 Florida Statutes.

17 (l) "Promotional points" means points that are provided free of
18 charge by the adult amusement arcade center to patrons.

19 **Section 155.105 Skill-based Adult Arcade Amusement Machine Operation**
20 **Requirements.**

21 Except as provided in Section 155.106 below, in order for an
22 adult arcade amusement machine authorized by Florida law pursuant to
23 section 849.161(1)(a)1., Florida Statutes, to lawfully exist and
24 operate within the geographical boundaries of Duval County, each such
25 machine must meet the following requirements:

26 (a) Be located on the premises, as defined in this Chapter, of
27 an adult arcade amusement center licensed by the City pursuant to this
28 Chapter;

29 (b) Operate by means of the insertion of a coin;

1 (c) Incorporate into the game the application of skill required
2 by this Chapter; and

3 (d) Award only coupons or points to the player.

4 Adult arcade machines may also operate via the insertion of a
5 token, card, ticket, currency, or other electronic or mechanical
6 contrivance constituting the payment of monetary consideration
7 provided it also operates by means of the insertion of a coin. Any
8 coupons generated by a skill-based machine authorized under this
9 section may only be redeemable for merchandise.

10 **Sec. 155.106 Exemption.**

11 Nothing in this Chapter shall be interpreted to apply to
12 either a Family Amusement Arcade or a De minimis Activity Facility,
13 as defined in this Chapter.

14 **Sec. 155.107 Measure and Testing Application of Skill.**

15 The application of skill factor required under sections
16 155.104(d) and 155.105 of this Chapter shall be measured and certified
17 by an independent testing laboratory licensed by the State of Florida
18 pursuant to Chapter 551, Florida Statutes. In measuring a player's
19 ability to alter the percentage through the application of skill for
20 the purposes of this Chapter, the independent testing laboratory shall
21 apply the following procedures:

22 (a) Measure the payout percentage of the subject game based on
23 a completely random outcome and without any application by the player
24 of any skill factors that the independent testing laboratory will
25 apply in making the measurement under subsection (b) below.

26 (b) Measure the payout percentage of the subject game through
27 the exercise by the player of all skill factors available to optimize
28 the payout percentage to the player, including but not limited to all
29 applicable skill factors such as complete knowledge of the game,

1 adherence to all probability based strategies, optimum manual
2 dexterity and/or optimum decision making ability.

3 (c) Measure the percentage decrease in the payout percentage
4 determined under subsection (b) over that determined under subsection
5 (a).

6 **Sec. 155.108 Minors Prohibited from Playing Adult Arcade Amusement**
7 **Machines.**

8 No person under the age of 18 years shall be permitted to play an
9 adult arcade amusement machine or be on the premises of an adult
10 arcade amusement center. All adult arcade amusement machines on the
11 premises of the adult arcade amusement center shall each bear a
12 sticker, at least three inches in diameter, which clearly and legibly
13 says "Play by Minors Prohibited".

14 **Sec. 155.109. Permitting.**

15 The following shall apply relative to permitting of any adult
16 amusement arcade center:

17 (a) *Permit Required.* All adult arcade amusement centers
18 located within the geographic boundaries of Duval County shall
19 obtain an adult arcade amusement center permit issued by the
20 Department of Environmental and Compliance as a prerequisite to
21 the initial operation of an adult arcade amusement center.

22 (b) *Permits Limited.* The total number of permits issued
23 pursuant to this section for adult arcade amusement centers
24 within Duval County shall be limited to no more than two (2).

25 (c) *Permit Form and Conditions.* The application for an
26 adult arcade amusement center permit must be on a form
27 approved by the Department of Environmental and Compliance and
28 the Office of General Counsel, and accompanied by satisfactory

1 proof of (1) licensure of the pari-mutuel permittee's premises
2 pursuant to Ch. 550, Florida Statutes, and (2) payment by the
3 applicant of the applicable occupational license tax imposed
4 by Section 772.340, Ordinance Code.

5 (d) *Permit Issuance*. Upon the submission of a complete and
6 accurate application complying with the terms of this section,
7 the Department of Environmental and Compliance shall issue an
8 initial permit for the period from the date of the beginning
9 of operations until the following September 30. After the
10 permit for the initial year or partial year of operation,
11 renewal permits with a term of one (1) year shall be issued to
12 the permittee on or before each October 1 upon submission of
13 required documentation and payment of the applicable permit
14 fees.

15 (e) *Certain Convictions Prohibited*. No adult arcade
16 amusement center occupational permit shall be issued to an
17 applicant if any person with an ownership interest in the
18 business operating the adult arcade amusement center has been
19 convicted of a violation of a federal, state or local law,
20 statute or ordinance pertaining to gambling or any other crime
21 involving moral turpitude within seven (7) years preceding the
22 date of the filing of the license application.

23 (f) *Review and approval*. Except as provided for in
24 subsection (c) above, within sixty (60) days of receipt of an
25 Applicant's completed permit application, the Department of
26 Environmental and Compliance shall grant or deny the
27 application. If any principal, officer, shareholder or
28 director of the Operator has a pending criminal case for an

1 enumerated crime the City may delay its grant or denial of the
2 permit until sixty (60) days after the final judgment in the
3 case. If an Applicant satisfies all permit filing
4 requirements and is not ineligible, the Department of
5 Environmental and Compliance shall approve the application.

6 (g) *Denial of Permit.* An Applicant whose permit application
7 is denied may reapply at any time by completing all steps of
8 the application procedure. The decision to deny a permit
9 shall be considered non-final agency action subject to
10 appellate review by a committee (Committee) consisting of the
11 Director of Planning and Development, the Director of
12 Environmental and Compliance (or successor), and the Chair of
13 the Council's Public Health & Safety Committee. The decision
14 of the Committee shall constitute final agency action subject
15 to judicial review. Any appeal of a permitting decision shall
16 be made within fifteen (15) calendar days of denial by filing
17 a written notice of appeal with the Director of Environmental
18 and Compliance. Failure to file written notice of appeal
19 within the prescribed time period constitutes a waiver of the
20 right to appeal.

21 (h) *Revocation of Permit.* The City may revoke a permit for
22 violation of any provision of this Chapter. Prior to
23 revocation, the City shall provide to the permit holder,
24 through their individual in Duval County authorized to accept
25 notices from the City, the following:

26 (1) A written notice of intent to revoke the
27 permit,

1 (2) A fourteen (14) calendar day opportunity to
2 cure the alleged violation, and

3 (3) An opportunity to be heard prior to
4 revocation.

5 Revocation shall not take place before twenty one (21) days
6 after a notice of revocation, opportunity to cure, and opportunity
7 to be heard is delivered to the permit holder. The decision to
8 revoke a permit shall be considered non-final agency action subject
9 to appellate review by a committee (Committee) consisting of the
10 Director of Planning and Development, the Director of Environmental
11 and Compliance (or successor), and the Chair of the Council's
12 Public Health & Safety Committee. The decision of the Committee
13 shall constitute final agency action subject to judicial review.
14 Any appeal of a revocation decision shall be made within fifteen
15 (15) calendar days of revocation by filing a written notice of
16 appeal with the Director of Environmental and Compliance. Failure
17 to file written notice of appeal within the prescribed time period
18 constitutes a waiver of the right to appeal.

19 **Sec. 155.110 Machine Registration Requirements.**

20 Adult arcade amusement machines, as defined in this Chapter,
21 shall be registered as follows:

22 (a) The permittee is required to maintain on its premises a
23 complete inventory, along with serial numbers or equivalent
24 identification, as set forth in subsections (d) and (e) below, the
25 adult arcade amusement machines in operation on the premises of the
26 adult arcade amusement center at all times. The initial application
27 for permit shall include a certificate of inspection by the Department
28 of Environmental and Compliance's permitting administrator of the
29 inventory, along with serial numbers or equivalent of identification,

1 as set forth in subsection (d) and (e) below, of the machines that the
2 permittee intends to put into operation when the adult arcade
3 amusement center begins its business activities.

4 (b) Each renewal permit application shall contain a certificate
5 of inspection of updated inventory, along with serial numbers or
6 equivalent identification, as set forth in subsection (d) and (e)
7 below, of the machines that the permittee intends to put into
8 operation when the adult arcade amusement center begins its business
9 activities under the renewal license.

10 (c) Before a new adult arcade amusement machine is put into
11 operation at the adult arcade amusement center, the permittee shall
12 notify the Department of Environmental and Compliance's permit
13 administrator of the addition of the machine to the inventory and
14 update its inventory accordingly.

15 (d) Upon review of the inventory of machines under subsections
16 (a), (b) and (c) above, the Department of Environmental and
17 Compliance's permit administrator shall enter each machine into an
18 adult arcade amusement machine registry that the license administrator
19 shall create. For each machine registered, the permit administrator
20 shall cause to be issued and delivered to permittee for each machine
21 within seven (7) days of the notification required under section (c) a
22 numbered metal or plastic decal. The registration decal for each
23 machine shall be attached thereto and in plain view at all times.
24 Registration decals are not transferable. The failure of any machine
25 to display a current registration decal shall be a violation of this
26 section and subject to enforcement action by the City.

27 (e) The inventory of machines under subsections (a), (b) and
28 (c) above shall provide the following information: the
29 manufacturer(s); the serial number(s); common name, type or

1 description of the game played on the machine. The registration decal
2 shall contain the inventory number of the machine.

3 (f) Each inventory of machines submitted under subsections (a),
4 (b) and (c) above shall be accompanied by a certificate issued by an
5 independent testing laboratory licensed by the State of Florida
6 pursuant to Chapter 551, Florida Statutes, certifying that the game
7 played by the skill-based adult arcade amusement machines identified
8 in the inventory meet the application of skill requirement contained
9 in sections 155.104(d), 155.105 and 155.107 of this Chapter.

10 **Sec. 155.111 Record Keeping Requirements.**

11 The following records shall be maintained in the administrative
12 office of each adult arcade amusement center:

13 (a) The name, address, telephone numbers, date of birth,
14 driver's license number, and principal occupation of every person with
15 a 10% or greater ownership interest in the business of the adult
16 arcade amusement center;

17 (b) A copy of the license issued for the pari-mutuel permittee
18 by the State of Florida pursuant to Ch. 550, Florida Statutes;

19 (c) A current inventory of machines in operation on the
20 premises; and

21 (d) A current certification of compliance issued by an
22 independent testing laboratory licensed pursuant to Chapter 551,
23 Florida Statutes, for each game played by the skill based machines
24 listed in the inventory.

25 **Sec. 155.112 Enforcement.**

26 (a) The City of Jacksonville shall have the right to pursue all
27 legal and equitable remedies necessary to ensure full compliance with
28 this Chapter including but not limited to injunctive relief.

1 (b) Permittees shall have a private right of action to pursue
2 all legal and equitable remedies necessary to ensure full compliance
3 with this Chapter against any other permittee, including but not
4 limited to injunctive relief.

5 **Sec. 155.113 Occupational License Tax; Adult Arcade Amusement**
6 **Machine Registration Fees.**

7 The following taxes and fees shall be assessed in connection with
8 operation of any adult arcade amusement center:

9 (a) Notwithstanding any other provision of the Ordinance Code,
10 and in accordance with Chapter 205 Florida Statutes, the exclusive
11 annual occupational license tax for each licensed adult arcade
12 amusement center shall be \$40.00 per day of operation, payable by the
13 licensee on or before October 1 of each year for the following one (1)
14 year operational period beginning on October 1. In any partial year
15 of operation, the annual occupational license tax shall be prorated
16 from the beginning date to the following September 30.

17 (b) The annual machine registration fee shall be \$50.00 per
18 machine payable by the permittee on or before October 1 of each year
19 for the following one (1) year operational period beginning on October
20 1. If a machine is registered after October 1, then the annual
21 registration fee shall be prorated from date of registration to the
22 following September 30.

23 **Sec. 155.114 Penalty.**

24 Violation of this Chapter by a licensee or any unlicensed person,
25 company or entity shall be punishable by imposition of a civil penalty
26 not to exceed \$500.00 per machine per day. Each day the violation
27 exists shall constitute a separate violation for the purposes of this
28 Chapter and may be punishable as such.

29 **Sec. 155.115. Right of Entry.**

1 The City of Jacksonville and the Jacksonville Sheriff's Office
2 shall have the right to enter and inspect the public spaces of the
3 premises at any time to ensure compliance with the provisions of
4 this Chapter or any other ordinances within their authority,
5 including but not limited to the right to enter the premises and to
6 select and remove any adult arcade amusement machine(s) to inspect,
7 test and/or have tested to determine compliance with this Chapter.

8 **Sec. 155.116. Severability.**

9 In the event that any portion of this Chapter is declared
10 invalid, unenforceable, unconstitutional or void, or is permanently
11 enjoined, or if the existence of any provision of this Chapter
12 would result in any other portion of any Chapter of the *Ordinance*
13 *Code* being held to be invalid, unenforceable, unconstitutional or
14 void, and the court does not sever such invalid portion of this
15 section, then the invalid portion of this Chapter is repealed and
16 invalid. It is the specific intent that the invalidity of any
17 portion of this Chapter shall not affect any other section,
18 subsection, paragraph, subparagraph, sentence, phrase, clause or
19 word of this Chapter or the *Ordinance Code*.

20 **Section 3. Title VI, Ordinance Code, amended to create a new**
21 **Chapter 156, Electronic Game Promotions.** Title VI (Businesses, Trades
22 and Occupations), *Ordinance Code*, is amended to create a new Chapter
23 156 (Electronic Game Promotions), to read as follows:

24 **Title VI. BUSINESSES, TRADES AND OCCUPATIONS**

25 * * *

26 **Chapter 156.**

27 **ELECTRONIC GAME PROMOTIONS**

28 **Sec. 156.101 Legislative Authorization.**

1 This Chapter is enacted in the interest of the public health,
2 peace, safety, morals and general welfare of the citizens and
3 inhabitants of Duval County, Florida, pursuant to Fla. Const. Article
4 VIII, section 1(g), section 125.01, Florida Statutes, and the Charter
5 of the City of Jacksonville. It is established to regulate the use of
6 electronic means to effect giveaways through drawings by chance
7 conducted in connection with the sale of a consumer product or
8 service, sweepstakes, and game promotions that do not otherwise
9 violate Florida law.

10 **Sec. 156.102. Area of Enforcement.**

11 The Council is acting herein as the governing body for Duval
12 County, Florida, and this Chapter shall be effective within the
13 boundaries of Duval County, Florida.

14 **Sec. 156.103 Intent.**

15 The intent of the Council acting as the governing body of Duval
16 County, Florida in adopting this Chapter is to regulate the use of
17 electronic means to effect giveaways through drawings by chance
18 conducted in connection with the sale of a consumer product or
19 service, sweepstakes, and game promotions that do not otherwise
20 violate Florida law. This regulation includes but is not limited to
21 electronic equipment used to display the results of a drawing by
22 chance conducted in connection with the sale of a consumer product or
23 service or game promotion by simulating a game or games ordinarily
24 played on a slot machine. It also is intended to regulate the use of
25 electronic equipment to conduct drawings by chance conducted in
26 connection with the sale of a consumer product or service and game
27 promotions, and to regulate all Operators (as defined herein) who
28 utilize electronic equipment for that purpose in accordance with the
29 provisions of sections 849.0935 and 849.094, Florida Statutes,

1 regardless of whether said Operators are required to register with the
2 State of Florida pursuant to section 849.094, Florida Statutes.

3 **Sec. 156.104 General Prohibition.**

4 Except as expressly regulated and permitted by this Chapter no
5 Person, other than a De minimis Activity Facility as defined herein,
6 shall conduct a drawing by chance pursuant to s. 849.0935, Florida
7 Statutes, sweepstakes or game promotion pursuant to s. 849.094,
8 Florida Statutes, or any other game of chance on any electronic or
9 mechanical device provided by an operator of the game of chance which
10 displays the result by simulating a game or games ordinarily played on
11 a slot machine.

12 **Sec. 156.105 Definitions.**

13 (a) "Person" means an individual, association, partnership,
14 joint venture, corporation, limited liability company, not-for-profit
15 entity, or entity of any kind authorized to engage in business in
16 Florida.

17 (b) "Applicant" means the Operator for whom a permit application
18 is submitted and in the name of whom, if the permit is granted, the
19 drawing by chance conducted in connection with the sale of a consumer
20 product or service, sweepstakes, or game promotion shall be conducted.

21 (c) "Conviction" means a determination of guilt in a criminal
22 case by a court of competent jurisdiction, regardless of whether the
23 defendant pled guilty, no contest, or *nolo contendere*, was found
24 guilty by a judge or jury, or had adjudication withheld.

25 (d) "Electronic Equipment" means any electronic or mechanical
26 device provided by or on behalf of the Operator that is used or
27 adapted for use to conduct and/or reveal the results of a drawing by
28 chance conducted in connection with the sale of a consumer product or

1 service, sweepstakes or game promotions that display results by
2 simulating a game or games ordinarily played on a slot machine.

3 (e) "De minimis Activity Facility" means a facility operated by
4 an organization exempt from federal taxation under Section 501(c) of
5 the Internal Revenue Code and with ten (10) or fewer electronic or
6 mechanical devices that are used to conduct a drawing by chance,
7 sweepstakes or game promotion utilizing those electronic or mechanical
8 devices, all of which devices were in operation on or before January
9 1, 2010 at that facility.

10 (f) "Minor" means an individual under the age of eighteen (18)
11 years.

12 (g) "Operator" means any Person in whose name a drawing by
13 chance conducted in connection with the sale of a consumer product or
14 service, sweepstakes, or game promotion that utilizes Electronic
15 Equipment is conducted.

16 (h) "Permit Holder" means the Operator in whose name the City
17 has issued a permit under this Chapter.

18 (i) "Premises" means the house, building, edifice, or location,
19 along with its grounds, in or upon which the Operator conducts
20 drawings by chance conducted in connection with the sale of a consumer
21 product or service, sweepstakes or game promotions using Electronic
22 Equipment.

23 (j) "Rules" means the restrictions and covenants governing the
24 operation of the drawing by chance, sweepstakes, or game promotion.

25 (k) "Slot machine" means any mechanical or electrical
26 contrivance, terminal that may or may not be capable of downloading
27 slot games from a central server system, machine, or other device
28 that, upon insertion of a coin, bill, ticket, token, or similar object
29 or upon payment of any monetary consideration whatsoever, including

1 the use of any electronic payment system, is available to play or
2 operate, the play or operation of which, including any element of
3 chance, may deliver or entitle the person or persons playing or
4 operating the contrivance, terminal, machine, or other device to
5 receive cash, billets, tickets, tokens, or electronic credits to be
6 exchanged for cash or to receive merchandise or anything of value
7 whatsoever, whether the payoff is made automatically from the machine
8 or manually. Slot machines may use spinning reels, video displays,
9 cathode ray tubes, microprocessors or other similar technology, and
10 have as their object, the presentation or lining up, arrangement, or
11 juxtaposition of symbols, alpha-numeric signs, colors, or figures to
12 determine a result or outcome.

13 To the extent not defined in this section, the definitions
14 utilized in sections 849.0935 and 849.094, Florida Statutes shall be
15 applicable to all terms used in this Chapter.

16 **Sec. 156.106 Permitting and Fees.**

17 (a) *Permit Required.* Every Operator using Electronic Equipment to
18 conduct a drawing by chance conducted in connection with the sale of a
19 consumer product or service, sweepstakes or game promotion shall
20 obtain a permit from the Department of Environmental and Compliance's
21 Office (hereinafter Department of Environmental and Compliance or
22 City) for each Premises. Each permit is valid only for the Operator
23 and the Premises named in the permit. Each permit is valid for one
24 year.

25 (b) *Initial Permits.* Within sixty (60) days of enactment of this
26 Chapter, all current Operators that have been operating a drawing by
27 chance conducted in connection with the sale of a consumer product or
28 service, or sweepstakes or other game promotion using Electronic
29 Equipment at a Premises on August 9, 2010, and which are subject to

1 this Chapter, and which apply for, facially qualify for, and pay
2 required fees for a permit, shall be granted a permit for the Premises
3 as provided for in this section. Each such Operator shall, in
4 addition to the requirements set forth herein as part of the
5 application, provide proof satisfactory to the Department of
6 Environmental and Compliance that the Operator was lawfully
7 operating on the Premises a game promotions or sweepstakes
8 utilizing electronic equipment or a drawings by chance conducted in
9 connection with the sale of a consumer product or service utilizing
10 electronic equipment, as of August 9, 2010, which such evidence may
11 include a current and valid lease, rental agreement, purchase and
12 sale contract, bill of sale or receipt indicating the purchase,
13 lease or use of Electronic Equipment on the Premises, or other
14 certificates, permits, licenses, receipts or filings issued by the
15 Federal, State or local government indicating proof of the uses
16 contemplated by this Chapter on the Premises.

17 (c) *Permits Limited*. Unless greater than twenty (20) permits have
18 been issued as provided for in subsection (b) above, the City shall
19 limit the total number of permits issued pursuant to this section to
20 twenty (20). After the permits authorized by subsection (b) are
21 issued, no permits for new businesses shall be issued unless the
22 issuance of the permit will not cause the total number of permits
23 issued to exceed 20 permits. All qualifying Operators who receive an
24 initial permit as provided for in subsection (b) shall be entitled to
25 renew their permit if they otherwise qualify and pay required fees. In
26 the event that a permit becomes available, all applications for the
27 permitting of a new business shall, in addition to all permitting
28 requirements set forth herein, be subject to the following
29 procedures:

1 (1) The Department of Environmental and Compliance shall
2 publish a notice in a newspaper of general circulation in a form
3 prescribed by the Department of Environmental and Compliance,
4 regarding the availability of such permit and the prescribed time
5 period of fourteen (14) calendar days from the date of such
6 publication within which the City will accept applications, and the
7 location and date of the public meeting at which the random
8 selection of the application for permit shall take place.

9 (2) All applications shall be submitted within such
10 provided timeframe. Any applications not submitted within such
11 timeframe shall be automatically disqualified. Each Applicant shall
12 be allowed to submit only one (1) application for each available
13 permit. An Applicant shall be deemed to be the same as another
14 Applicant and each of their applications shall be disqualified, if
15 such Applicant is the same Person or consists of any variation of
16 the same Person as another Applicant.

17 (3) Once the time period for submission of applications
18 has expired, the City shall randomly select an application for
19 consideration of the available permit at a meeting open to the
20 public by the Department of Environmental and Compliance in the
21 presence of one or more witnesses at the time and place set forth
22 in the notice.

23 (4) Once such application is selected, the Applicant
24 shall proceed with complying with all other requirements set forth
25 herein. The City's random selection of an application as provided
26 herein shall not constitute the City's acceptance or approval of
27 the application, including for example, for purposes of determining
28 the application's completeness. For purposes of all timelines and
29 time periods set forth in this Chapter, including but not limited

1 to the duration of review within which the City or any of its
2 Departments or Divisions are to conduct application reviews, such
3 timelines and time periods shall be extended by the amount of time
4 required to appropriately conduct the random selection of the
5 application.

6 (5) The decision to deny a permit shall be considered
7 non-final agency action subject to appellate review by the
8 Committee referenced below. The decision of the Committee shall
9 constitute final agency action subject to judicial review. Any
10 appeal of a permitting decision shall be made within fifteen (15)
11 calendar days of denial by filing a written notice of appeal with
12 the Director of Environmental and Compliance. Failure to file
13 written notice of appeal within the prescribed time period
14 constitutes a waiver of the right to appeal.

15 (d) *Application Materials Required for Permit.*

16 (1) Applicant shall file with the City the following
17 materials:

18 (i) a copy of a current Duval County Business Tax
19 Receipt in the name of the Applicant including the business address;

20 (ii) a copy of Applicant's proposed Rules governing
21 the drawing by chance, sweepstakes or game promotion which includes
22 the odds of winning and the prize table;

23 (iii) if the application is for a sweepstakes or game
24 promotion over \$5000, a copy of Applicant's certification of a bond or
25 trust account provided to the Florida Department of Agriculture and
26 Consumer Services, if required; and

27 (iv) a complete list of all products and services
28 offered and the prices charged therefor.

1 In addition, for and every principal, officer, shareholder
2 and director of the Operator, a fingerprint card and letter certifying
3 the results of a criminal background check generated by the
4 Jacksonville Sheriff's Office or Florida Department of Law
5 Enforcement.

6 (2) Applicant shall provide a sworn affidavit containing
7 the following:

8 (i) the identity of the Applicant and if the Applicant
9 is:

10 A. an individual, his name, residence address,
11 and date of birth;

12 B. an unincorporated organization, the names,
13 dates of birth, and residence addresses of
14 its principals; or

15 C. a corporation, the corporate name, state
16 of incorporation and the names, dates of
17 birth, and residence addresses of its
18 principal officers, directors, and
19 shareholders;

20 D. a limited liability company, the company
21 name, state of incorporation and the
22 names, dates of birth and residence
23 addresses of its members and managers;

24 (ii) a description, including the number of pieces of
25 the Electronic Equipment;

26 (iii) a statement of whether any of the individuals
27 listed has, within the five-year period immediately preceding the date
28 of the application, been convicted of any felony under the laws of
29 Florida, the United States, or any other state, or has had

1 adjudication withheld, and, if so, the particular criminal act
2 involved and the place of conviction;

3 (iv) the street address of the Premises where the
4 drawing by chance conducted in connection with the sale of a consumer
5 product or service, sweepstakes or game promotions are to be
6 conducted;

7 (v) if the Applicant is a branch, chapter, lodge, or
8 other local unit of a charitable organization or corporation, the name
9 of the primary organization and the street address of its principal
10 office; and

11 (vi) the name and address of an individual in Duval
12 County who is authorized to receive notices from the City.

13 (vii) a statement certifying that all information on
14 the application and any attachments thereto is true and that the
15 Applicant understands that any misstatement of material fact in the
16 application will result in the denial of the permit or, if it has been
17 issued, in the suspension or revocation of the permit.

18 (viii) A certification that the computer software that
19 is used by the Operator to conduct a drawing by chance in connection
20 with the sale of a consumer product or service, sweepstakes or game
21 promotion has been tested by an independent testing laboratory that
22 has verified the manner that the software works. That verification of
23 the manner that the software works shall comply with all applicable
24 state and local laws, including this Chapter.

25 (3) Applicant shall file with the Department of
26 Environmental and Compliance the following:

27 (i) A copy of the sworn affidavit described in
28 subsection (2) above;

1 (ii) A complete list of all products and services
2 offered and the prices charged therefore;

3 (iii) A verification that the prices charged for
4 the products and/or services constitute a reasonable market value;

5 (iv) A copy of the certification report issued by
6 an independent testing laboratory that describes and verifies the
7 manner in which the software works.

8 (e) *Application Fee.* Each Applicant shall remit a non-refundable
9 application fee of \$500. This fee shall pay for the time and expense
10 of the Jacksonville Sheriff's Office and the City in enforcing the
11 provisions herein, reviewing and ruling on the application, issuing
12 the permit, and, if applicable, hearing any appeals.

13 (f) *Review of Application.*

14 (1) Duration of Review.

15 (i) By City for Permit. Within sixty (60) days of
16 receipt of an Applicant's completed permit application, the City of
17 Jacksonville shall grant or deny the application. If any principal,
18 officer, shareholder or director of the Operator has a pending
19 criminal case for an enumerated crime the City may delay its grant or
20 denial of the permit until sixty (60) days after the final judgment in
21 the case.

22 (ii) By Jacksonville Sheriff's Office for Criminal
23 History. Within thirty (30) days of receipt from a principal, officer,
24 shareholder or director of the Operator of a legible copy of
25 fingerprints, social security number, full name, current address, sex,
26 race, recent photograph, and date of birth, the Jacksonville Sheriff's
27 Office shall conduct a criminal history check, certify the results in
28 writing, and provide a copy of the results to the Applicant. If

1 necessary, the Jacksonville Sheriff's Office may solicit assistance
2 from other agencies to complete the criminal history check.

3 (2) Eligibility of Applicant. An Applicant is ineligible
4 for a permit if:

5 (i) within five years of the date of the application,
6 Applicant has been convicted of any felony under the laws of Florida,
7 the United States, or any other state unless said violation would not
8 constitute a crime in Florida, or has had adjudication for same
9 withheld,

10 (ii) within three years of the date of the
11 application, has had a permit under this Chapter revoked or been
12 convicted for a violation of this Chapter,

13 (iii) the prices to be charged for the product(s) or
14 service(s) offered, as listed on the permit application, do not
15 constitute a reasonable market value, or

16 (iv) the application materials are incomplete or
17 untruthful.

18 The City shall deny the permit for any of the above reasons. If an
19 Applicant satisfies all permit filing requirements and is not
20 ineligible, the City shall approve the application.

21 (g) *Denial of Permit.* An Applicant whose permit application is
22 denied may reapply at any time by completing all steps of the
23 application procedure, including payment of a new application fee.
24 The decision to deny a permit shall be considered non-final agency
25 action subject to appellate review by a committee (Committee)
26 consisting of the Director of Planning and Development, the Director
27 of Environmental & Compliance (or successor), and the Chair of the
28 Council's Public Health & Safety Committee. The decision of the
29 Committee shall constitute final agency action subject to judicial

1 review. Any appeal of a permitting decision shall be made within
2 fifteen (15) calendar days of denial by filing a written notice of
3 appeal with the Director of Environmental and Compliance. Failure to
4 file written notice of appeal within the prescribed time period
5 constitutes a waiver of the right to appeal.

6 (h) *Permit fees.* The eligible Applicant, before receiving the
7 permit, shall pay:

8 (1) An Electronic Drawing and Game Promotion Fee of \$2,000
9 for Premises with more than five (5) pieces of Electronic
10 Equipment, or \$200 for Premises with five (5) or fewer pieces of
11 Electronic Equipment. The fee is for one year during which the permit
12 is valid and shall be paid each time the permit is renewed. If an
13 eligible Applicant fails to pay this fee on or before the thirtieth
14 (30th) day after approval, availability, and notice of the permit
15 authorization, the application shall be deemed denied.

16 (2) An annual fee of \$50 per piece of Electronic
17 Equipment. If the eligible Applicant fails to pay the fee on or before
18 the thirtieth (30th) day after approval, availability, and notice of
19 the permit authorization, the application shall be deemed denied.

20 The fees collected pursuant to this subsection shall be
21 contributed towards the costs associated with the inspection and
22 examination by the City or the Jacksonville Sheriff's Office of the
23 Premises, Electronic Equipment, and records of the Permit Holder to
24 ensure compliance with this Chapter.

25 (i) *Duration of Permit.* A permit shall be valid for one (1) year
26 from the date of issuance.

27 (j) *Renewal of Existing Permit.* Existing permits shall be renewed
28 upon compliance with this Chapter, notwithstanding the total number of
29 permits issued. The Permit Holder shall apply for the renewal permit

1 no later than sixty (60) days and no sooner than one-hundred twenty
2 (120) days before the expiration of the current permit. The renewal
3 permit application shall include all the materials and the application
4 fee required for the issuance of an original permit, and shall include
5 evidence of current lawfully existing operations consistent with
6 the requirements of this Chapter. Renewal permit applications shall
7 be processed using the same procedure and standards as required for
8 review of an original permit application but shall be processed within
9 30 days. Upon approval, Renewal permit applicants shall pay the same
10 fees as set forth in subsection (h) above and said renewals shall be
11 deemed denied if an eligible Applicant fails to pay these fees on or
12 before the thirtieth (30th) day after approval, availability, and
13 notice of the permit authorization.

14 (k) *Restrictions on Transfers of Permits.*

15 (1) Transfer to Another Entity. Permits may be transferred
16 no more than one time, to another entity, upon written notification
17 and evidence of the conveyance to the Department of Environmental
18 and Compliance. Any change in a majority or controlling interest in
19 any Permit Holder shall be deemed an impermissible transfer of the
20 permit, except in the event of the one-time transfer, upon written
21 notification and evidence of such transfer to the Department of
22 Environmental and Compliance, as provided herein.

23 (2) Transfer to Another Premises. Permits may be
24 transferred to another premise upon application. The transferred
25 location shall be approved within fifteen (15) days of submittal of a
26 complete application (including all required supplemental information,
27 including but not limited to any required certified maps depicting
28 applicable locations and distances), if such use is a permitted use in
29 an approved zoning district, as set forth in Chapter 656, Zoning Code

1 and in all other applicable provisions of the Ordinance Code.
2 Otherwise, the application shall be denied.

3 (1) *Revocation of Permit.* The City may revoke a permit for
4 violation of any provision of this Chapter or due to a Permit
5 Holder's cessation of the use of Electronic Equipment during its
6 normal business hours for at least fourteen (14) consecutive days.
7 Prior to revocation, the City shall provide to the Permit Holder,
8 through their individual in Duval County authorized to accept notices
9 from the City, the following:

10 (1) A written notice of intent to revoke the permit,

11 (2) A fourteen (14) calendar day opportunity to cure the
12 alleged violation, and

13 (3) An opportunity to be heard prior to revocation.

14 Revocation shall not take place before twenty one (21) days after
15 a notice of revocation, opportunity to cure, and opportunity to be
16 heard is delivered to the Permit Holder. The decision to revoke a
17 permit shall be considered non-final agency action subject to
18 appellate review by a committee (Committee) consisting of the Director
19 of Planning and Development, the Director of Environmental &
20 Compliance (or successor), and the Chair of the Council's Public
21 Health & Safety Committee. The decision of the Committee shall
22 constitute final agency action subject to judicial review. Any appeal
23 of a revocation decision shall be made within fifteen (15) calendar
24 days of revocation by filing a written notice of appeal with the
25 Director of Environmental and Compliance. Failure to file written
26 notice of appeal within the prescribed time period constitutes a
27 waiver of the right to appeal.

28 **Sec. 156.107 Inspection of Premises.**

1 During business hours, the City, the Jacksonville Sheriff's
2 Office, or their agents may enter the Premises for purposes of
3 inspecting all areas of the Premises otherwise accessible to the
4 general public, to ensure compliance with the provisions of this
5 Chapter or any other ordinances within their authority, including
6 but not limited to the right to enter the Premises and to select
7 and remove any piece(s) of Electronic Equipment to inspect, test
8 and/or have tested to determine compliance with this Chapter. The
9 City of Jacksonville or the Jacksonville Sheriff's Office may issue to
10 the Permit Holder a show cause order requiring the production on
11 Premises of documents or data relating to the game promotion.
12 Production of the records or inventory shall only be for inspection
13 and review to determine compliance with this Chapter. Within three (3)
14 days of receipt of the show cause order the Permit Holder shall
15 produce all requested records and inventory.

16 **Sec. 156.108 Signage Requirements.**

17 (a) *Exterior of Premises.* Exterior signage shall be limited to
18 the advertisement of the consumer product and/or service sold on the
19 Premises, and that a sweepstakes held in connection with the sale of
20 said consumer product and/or service is offered. No signs shall be
21 posted on the exterior of the Premises that suggest gambling takes
22 place on the Premises or displays any image commonly associated with
23 slot machines. All signage shall be further subject to Part 13,
24 Chapter 656, Zoning Code (Sign Regulations).

25 (b) *Interior of Premises.* The Permit Holder shall conspicuously
26 post the name of the Permit Holder, a description of all products and
27 services sold, and the complete rules for all drawings by chance
28 conducted in connection with the sale of a consumer product or
29 service, sweepstakes or game promotions at the Premises' front or main

1 counter. Rules for all game promotions shall include the following
2 language in at least 26 point font: "State and local law prohibits
3 this establishment from requiring an entry fee, payment, or proof of
4 purchase as a condition of participating. No donation or contribution
5 is required. You may obtain free entries upon request from any
6 employee on the premises." The Permit Holder shall also post a sign
7 which shall include the following language in at least 26 point type:
8 "The video displays are for amusement and entertainment only. The
9 video displays do not determine the result of your sweepstakes
10 entries." The Permit Holder shall affix signage that shall include
11 the following language in at least 10 point type on each piece of
12 Electronic Equipment: "The video displays are for amusement and
13 entertainment only. The video displays do not determine the result of
14 your sweepstakes entries." A complete copy of the Rules, prizes, and
15 odds of winning shall be made available on request without cost. Any
16 consumer product or service offered for sale shall be identified by
17 description and price by conspicuous posting. A copy of the permit
18 shall be posted conspicuously at the main counter or at the entrance.

19 **Sec. 156.109 Limitations on Operation of Business.**

20 (a) *Alcoholic Beverages.* Permit Holders shall not sell or permit
21 any individual to consume or possess any alcoholic beverages on any
22 Premises with ten (10) or more pieces of Electronic Equipment.

23 (b) *Minors.* Permit Holders shall not permit Minors to enter the
24 Premises except Minors employed at Premises where there are five (5)
25 or fewer pieces of Electronic Equipment.

26 (c) *Conditions of Alternative Means of Entry.* Entries that are
27 available without purchase or financial donations shall be made
28 available on request. The Permit Holder shall not impose any condition
29 on the provision of such entries other than proof of identity by

1 government issued identification from any state. The Permit Holder
2 shall not limit the number of such entries offered per day per
3 individual to less than the equivalent amount of entries that Permit
4 Holder provides to individuals who make a donation, or purchase of a
5 product or service valued at least \$1.00.

6 (d) *Limitation on Electronic Equipment.* Permit Holders shall
7 not operate more than fifty (50) pieces of Electronic Equipment except
8 that Permit Holders operating a drawing by chance offered in
9 connection with the sale of a consumer product or service, sweepstakes
10 or other game promotion using Electronic Equipment on or before
11 January 1, 2010 in the City of Jacksonville may not operate more
12 pieces of Electronic Equipment than were in operation on August 9,
13 2010, and any reduction following the enactment of this Chapter in
14 Electronic Equipment pieces by such Permit Holders shall be permanent.
15 Replacing an existing piece of Electronic Equipment due to a defect or
16 upgrade shall not be deemed a reduction pursuant to this subsection,
17 provided that such replacement occurs within thirty (30) days.

18 (e) *Zoning.* Game promotions utilizing Electronic Equipment
19 shall be permitted or permissible by exception, as applicable, as set
20 forth in Chapter 656, Zoning Code, subject to all applicable
21 requirements, restrictions and limitations set forth in the Ordinance
22 Code.

23 (f) *Additional Restrictions.* No drawing by chance in connection
24 with the sale of a consumer product or service, sweepstakes or game
25 promotion shall:

26 (1) design, engage in, promote, or conduct a game wherein
27 the winner may be predetermined or the game may be manipulated or
28 rigged;

1 (2) arbitrarily remove, disqualify, disallow, or reject any
2 entry;

3 (3) fail to award any prize offered;

4 (4) print, publish, or circulate literature or advertising
5 material which is false, deceptive, or misleading; or

6 (5) require an entry fee, payment, or proof of purchase as
7 a condition of entering.

8 (g) *Additional Requirements.* An Operator conducting a drawing by
9 chance in connection with the sale of a consumer product or service,
10 sweepstakes or game promotion shall be required to:

11 (1) maintain a list of the names and addresses of all
12 persons who have won prizes which have a value of more than \$25 for
13 one (1) year.

14 (2) maintain a trust account or bond in an amount equal to
15 the total announced value of the prizes offered or \$50,000, whichever
16 is less.

17 **Sec. 156.110 Safety and Security Requirements.**

18 On Premises, the Permit Holder shall maintain the following
19 security devices and standards:

20 (a) a security camera system operating during business hours
21 and capable of recording and retrieving an identifiable image;

22 (b) a drop safe or cash management device for restricted access
23 to cash receipts where there are more than five (5) pieces of
24 Electronic Equipment on the Premises;

25 (c) a conspicuous notice at all public entrances to Premises
26 stating cash register contains limited amount of cash;

27 (d) at exits to Premises, height markers displaying height
28 measures;

29 (e) a cash management policy limiting cash on hand;

1 (f) a silent alarm system capable of notifying law enforcement;
2 and

3 (g) during nighttime hours when the Premises is open for
4 business and where there are more than five (5) pieces of
5 Electronic Equipment on the Premises, at least one licensed, armed
6 security guard. The fact that a licensed armed security guard may
7 not be required, is not intended to immunize or forgive a Permit
8 Holder from any statutory or common law obligation to maintain
9 reasonably safe premises at any time.

10 **Sec. 156.111 Violations.**

11 It shall be unlawful for any Person, Operator, Manager, or Permit
12 Holder to violate any of the provisions of this Chapter.

13 Violations of different provisions of this Chapter shall
14 constitute separate offenses. Each day a violation occurs shall
15 constitute a separate offense.

16 A first violation of any of the provisions of this Chapter
17 constitutes a civil infraction punishable by up to a \$300 fine. Any
18 subsequent violation of any provision of this Chapter shall be
19 punishable by up to a \$500 fine.

20 **Sec. 156.112 Severability.**

21 If any portion of this Chapter is determined to be invalid for
22 any reason by a final nonappealable order of any court of competent
23 jurisdiction, then it shall be severed from this act. All other
24 provisions of this act shall remain in full force and effect.

25 **Section 4. Section 656.313 (Community/General Commercial**
26 **Category), Ordinance Code.** Section 656.313 (Community/General
27 Commercial Category), *Ordinance Code*, is hereby amended to read as
28 follows:

29 **TITLE XVII**

1 * * *

2 CHAPTER 656. ZONING CODE.

3 * * *

4 PART 3. SCHEDULE OF DISTRICT REGULATIONS

5 * * *

6 SUBPART C. COMMERCIAL USE CATEGORIES AND ZONING DISTRICTS

7 * * *

8 Sec. 656.313. Community/General Commercial Category.

9 This category allows a wide range of retail sales and services
10 including general merchandise, apparel, food and related items.
11 General commercial uses include offices, highway commercial,
12 entertainment and similar other types of commercial developments.
13

14 The following primary and secondary zoning districts may be
15 considered in the Community/General Commercial Category depicted on
16 the Future Land Use Maps of the Comprehensive Plan.

17 A. Primary Zoning Districts.

18 * * *

19 IV. Commercial Community/General-1 (CCG-1) District.

20 (a) Permitted uses and structures.

21 * * *

22 (5) Commercial indoor recreational or
23 entertainment facilities such as bowling alleys, swimming pools,
24 indoor skating rinks, movie theaters, indoor facilities operated by
25 a licensed pari-mutuel permit holder, adult arcade amusement centers
26 operated by a licensed permit holder, game promotions or sweepstakes
27 utilizing electronic equipment, meeting the performance standards
28 and development criteria set forth in Part 4, drawings by chance
29 conducted in connection with the sale of a consumer product or

1 service utilizing electronic equipment, meeting the performance
2 standards and development criteria set forth in Part 4, and similar
3 uses.

4 * * *

5 V. Commercial Community/General-2 (CCG-2) District.

6 (a) Permitted uses and structures.

7 * * *

8 (4) Commercial, recreational and entertainment
9 facilities such as carnivals or circuses, theaters (including open-
10 air theaters), skating rinks, athletic complexes, arenas,
11 auditoriums, convention centers, go-cart tracks, driving ranges,
12 indoor and outdoor facilities operated by a licensed pari-mutuel
13 permitholder, adult arcade amusement centers operated by a licensed
14 permitholder, game promotions or sweepstakes utilizing electronic
15 equipment, meeting the performance standards and development
16 criteria set forth in Part 4, drawings by chance conducted in
17 connection with the sale of a consumer product or service utilizing
18 electronic equipment, meeting the performance standards and
19 development criteria set forth in Part 4, and similar uses.

20 * * *

21 **Section 5. Section 656.322 (Light Industrial Category),**
22 **Ordinance Code.** Section 656.322 (Light Industrial Category),
23 *Ordinance Code*, is hereby amended to add a new subsection (8) to
24 read as follows:

25 **TITLE XVII**

26 * * *

27 **CHAPTER 656. ZONING CODE.**

28 * * *

29 **PART 3. SCHEDULE OF DISTRICT REGULATIONS**

* * *

SUBPART D. INDUSTRIAL USE CATEGORIES AND ZONING DISTRICTS

* * *

Sec. 656.322. Light Industrial Category.

This category includes industrial uses which have fewer objectionable impacts such as noise, odor, toxic chemical and wastes. Types of primary uses include light assembly and manufacturing, packaging, processing including scrap processing, manufacturing of paints, enamels and allied products but not the manufacturing of the resins and other components from which such products are made, concrete batching plants, storage/warehousing including bulk storage of liquids, research and development activities, transportation terminals including freight terminals, radio/T.V. studios, transmission and relay towers, yard waste composting, recycling facilities, business/professional offices, medical clinics, veterinarians, vocational/trade schools and building trade contractors. Secondary uses include railroad yards, truck terminals, bus and rail stations, solid waste management facilities including composting and recycling operations, institutional uses, and public facilities such as trade and technical schools, health clinics, fire stations, utility plants, churches and day care centers; commercial, retail and service establishments, broadcasting studios including transmitters, telephone and cellular phone towers, business as well as professional offices including veterinarians, filling stations, restaurants and similar other supporting commercial uses. The location, type, scale and density/intensity of the supporting and secondary uses shall be compatible with the overall character of the existing, as well as the proposed future development of the

1 area. Residential uses allowed within this category may include
2 single and multi-family residences which were originally designed
3 and legally built as single and multi-family residences prior to
4 adoption of the Comprehensive Plan, but shall not permit new
5 residential units except as otherwise provided for in the Land
6 Development Regulations as accessory uses.

7 Light industrial uses shall be located in areas designated for
8 such use on the FLUMs. The standards in the Land Development
9 Regulations and the criteria herein only designate locations that
10 may be considered for light industrial uses. Consideration does not
11 guarantee the approval of a particular light industrial use in any
12 given location. Site access to roads classified as collectors or
13 higher on the adopted highway functional classification system map,
14 which is part of the 2010 Comprehensive Plan, is preferred except
15 for sites located within the Jacksonville DDA's jurisdictional
16 boundaries.

17 Light industrial uses serving as complementary or supporting
18 uses serving other primary land use categories may be permitted in
19 mixed use planned unit developments (PUDs) outside the areas
20 depicted for such use on the FLUMs.

21 The following primary and secondary zoning districts may be
22 considered in the Light Industry Category depicted on the Future
23 Land Use Maps of the Comprehensive Plan.

24 * * *

25 A. Primary Zoning Districts.

26 * * *

27 II. Industrial Light District.

28 * * *

29 (c) Permissible uses by exception.

* * *

(8) Indoor facilities operated by a licensed pari-mutuel permitholder, adult arcade amusement centers operated by a licensed permitholder, or game promotions or sweepstakes utilizing electronic equipment, meeting the performance standards and development criteria set forth in Part 4, drawings by chance conducted in connection with the sale of a consumer product or service utilizing electronic equipment, meeting the performance standards and development criteria set forth in Part 4, and similar uses.

* * *

Section 6. Chapter 656, PART 4 is amended to create a new subsection 656.401(kk) (Any game promotions or sweepstakes utilizing electronic equipment and drawings by chance conducted in connection with the sale of a consumer product or service utilizing electronic equipment), *Ordinance Code*. A new subsection 656.401(kk) (Game promotions utilizing electronic equipment operated by a licensed permitholder), *Ordinance Code*, is hereby established and reads as follows:

TITLE XVII

* * *

CHAPTER 656. ZONING CODE.

* * *

PART 4. SUPPLEMENTARY REGULATIONS

* * *

SUBPART A. PERFORMANCE STANDARDS AND DEVELOPMENT CRITERIA

* * *

Sec. 656.401. Performance standards and development criteria.

It is the intent of the City of Jacksonville that these

1 supplementary regulation standards and criteria be read in addition
2 to, rather than in lieu of, any other requirement in this Chapter.
3 The following uses, whether permitted or permissible by exception,
4 must meet the criteria listed under each use as a prerequisite for
5 further consideration under this Zoning Code.

6 * * *

7 (kk) Any game promotions or sweepstakes utilizing electronic
8 equipment and drawings by chance conducted in connection with the
9 sale of a consumer product or service utilizing electronic
10 equipment.

11 (1) Distance limitations. Such establishments shall not
12 operate within seven hundred fifty (750) feet of a church, school or
13 military installation. With respect to the distance between such an
14 establishment and an established church, school, or military
15 installation the distance shall be measured by following a straight
16 line from the nearest point of the building or portion of the building
17 used as part of the proposed location to the nearest point of the
18 grounds used as part of the church, school facilities, or military
19 installation. The applicant for such an establishment which involves a
20 change in location or a new location shall provide the Chief with a
21 map of the proposed location and vicinity. The map shall show existing
22 zoning and all locations of schools, churches and military
23 installations within a radius of 750 feet of the proposed location and
24 the actual distances thereto from the proposed location measured as
25 required herein. The map shall include a certificate that all distance
26 requirements as required herein as it relates to the proposed location
27 have been met and both the map and certificate shall be prepared and
28 executed by a land surveyor registered by the state.

29 **Section 7. Chapter 656, Part 7 is amended to create a new**

1 **Section 656.726 (Nonconforming game promotions or sweepstakes**
2 **utilizing electronic equipment and nonconforming drawings by chance**
3 **conducted in connection with the sale of a consumer product or**
4 **service utilizing electronic equipment), Ordinance Code.** A new
5 Section 656.726 (Nonconforming game promotions or sweepstakes
6 utilizing electronic equipment and nonconforming drawings by chance
7 conducted in connection with the sale of a consumer product or
8 service utilizing electronic equipment), *Ordinance Code*, is hereby
9 established and reads as follows:

10 **TITLE XVII**

11 * * *

12 **CHAPTER 656. ZONING CODE.**

13 * * *

14 **PART 7. NONCONFORMING LOTS, USES AND STRUCTURES**

15 * * *

16 **Sec. 656.726. Nonconforming game promotions or sweepstakes**
17 **utilizing electronic equipment and nonconforming drawings by chance**
18 **conducted in connection with the sale of a consumer product or**
19 **service utilizing electronic equipment.**

20 Where an establishment for game promotions or sweepstakes
21 utilizing electronic equipment and nonconforming drawings by chance
22 conducted in connection with the sale of a consumer product or
23 service utilizing electronic equipment exists lawfully in any
24 zoning district on August 9, 2010, such use may be continued on
25 such property as a nonconforming use subject to all restrictions,
26 limitations and requirements set forth in Chapter 656, Zoning Code,
27 Chapter 156, Electronic Game Promotions, and all other applicable
28 provisions of the Ordinance Code.

1 **Section 8. Chapter 772 (Municipal Occupational License Tax)**
2 **Ordinance Code, amended.** Chapter 772 (Municipal Occupational License
3 Tax) *Ordinance Code*, is amended to create a new section 772.340 (Adult
4 Arcade Amusement Centers) to read as follows:

5 * * *

6 **Sec. 772.340. Adult Arcade Amusement Center.**

7 A person engaged in the business of operating an Adult Arcade
8 Amusement Center as contemplated by Chapter 155, *Ordinance Code*, shall
9 pay a license tax of \$40 a day which shall entitle him to maintain one
10 place of business.

11 **Section 9. Severability.** It is the specific intent of
12 the Council that in the event that any portion of this ordinance,
13 is declared invalid, unenforceable, unconstitutional or void, or is
14 permanently enjoined, or if the existence of any provision of this
15 ordinance would result in any other portion of any chapter of the
16 *Ordinance Code* being held to be invalid, unenforceable,
17 unconstitutional or void, and the court does not sever such invalid
18 portion of this section, then the invalid portion of this ordinance
19 is repealed and invalid. It is the specific intent that the
20 invalidity of any portion of this ordinance shall not affect any
21 other section, subsection, paragraph, subparagraph, sentence,
22 phrase, clause or word of the *Ordinance Code*.

23 **Section 10. Effective Date.** This Ordinance shall become
24 effective upon signature by the Mayor or upon becoming effective
25 without the Mayor's signature.

26 Form Approved:

27
28 /s/ Jason R. Gabriel

29 Office of General Counsel

30 Legislation Prepared By: Steven E. Rohan

31 G:\SHARED\LEGIS.CC\2010\sub\2010-326 Floor Substitute.doc

Exhibit D
[St. Johns County Draft Ordinance]

ORDINANCE NO. 2011-__

AN ORDINANCE OF THE ST. JOHNS COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, REGARDING ADULT ARCADE AMUSEMENT CENTERS AND ELECTRONIC TECHNOLOGY IN THE ADMINISTRATION OF GAME PROMOTIONS AND DRAWINGS BY CHANCE, INCLUDING THE USE OF VIDEO DISPLAYS OR SIMILAR TECHNOLOGY TO DISPLAY THE RESULTS; MAKING FINDINGS; REGULATING THE OPERATION OF ADULT ARCADE AMUSEMENT CENTERS; PROVIDING FOR STATUTORY AUTHORIZATION, THE COVERED AREA TO BE THE UNINCORPORATED AREAS OF ST. JOHNS COUNTY, THE INTENT OF THE ORDINANCE, DEFINITIONS, REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESSES; PROVIDING FOR ENFORCEMENT AND PENALTIES FOR VIOLATIONS; CREATING A NEW LOCAL BUSINESS LICENSE TAX; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

RECITALS

WHEREAS, in the last decade, establishments operated pursuant to sections 849.161(1)(a)1, 849.0935, and 849.094, Florida Statutes, have created problematic issues for local law enforcement authorities, complicated by limitations of resources and difficulty of enforcement of state law; and

WHEREAS, the uncontrolled proliferation of adult arcade amusement machines throughout St. Johns County will have a detrimental impact on the health, safety and welfare of its citizens and visitors, unless properly regulated, and the Board of County Commissioners has a duty to affirmatively eliminate the potential detrimental impact of a proliferation of adult arcade amusement machines; and

WHEREAS, the Board of County Commissioners finds that the public welfare will be enhanced if such adult arcade machines are confined to highly regulated facilities that meet strict licensing standards; and

WHEREAS, the Board of County Commissioners is authorized to permit and regulate the operation of adult arcade amusement centers for the enjoyment, entertainment and protection of the residents of and visitors to the County; and

WHEREAS, sections 849.0935 and 849.094, Florida Statutes, authorize drawings by chance and game promotions; and

WHEREAS, confusion has existed for some years as to the interpretation and enforcement of these statutes, which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

WHEREAS, in order to avoid such activity transitioning to and becoming illegal gambling, strict compliance with the law must occur; and

WHEREAS, the County recognizes that there is a distinction between the costs associated with the permitting of minor and major operators of game promotions, sweepstakes and drawings by chance conducted in connection with the sale of a consumer product or service utilizing electronic equipment, with those establishments with over five (5) pieces of electronic equipment requiring more oversight than those with five (5) or less pieces of electronic equipment; and

WHEREAS, the County has evaluated and estimated the costs of permitting and enforcement, and has determined that the permitting fees and revenues will not exceed such costs; and

WHEREAS, the increased participation in drawings by chance and game promotions or sweepstakes utilizing electronic equipment has the potential to mislead and confuse unwary citizens if not regulated, and therefore increases the need for regulation; and

WHEREAS, an ordinance to regulate the use of electronic equipment in the conduct of drawings by chance and game promotions or sweepstakes will protect the public welfare; and

WHEREAS, increased participation by citizens and patrons in drawings by chance and game promotions or sweepstakes utilizing electronic technology increases the need for a security presence on the premises offering the activity, so as to prevent and deter crimes; and

WHEREAS, pursuant to Section 125.01, Florida Statutes, and the St. Johns County Code of Ordinances (the “Code of Ordinances”), the County may regulate this activity for the health, safety and welfare of the community; and

WHEREAS, a likelihood of confusion exists of businesses using electronic equipment to conduct drawings by chance and game promotions or sweepstakes, with businesses that may use electronic equipment to conduct gambling, as both legitimate and illegal operations use chance to award prizes and often display images associated with traditional slot machines, and fraud and misrepresentation may occur at these businesses because of this confusion unless properly regulated; and

WHEREAS, some operations display images of gambling or slot machines in their advertisements and signage suggesting the presence of illegal activity; and those activities should be controlled and regulated.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

Section 1. Recitals. The above Recitals are adopted as Findings of Fact in support of this Ordinance.

Section 2. Authority. This Ordinance is enacted in compliance with and pursuant to Section 125.01, Florida Statutes (2010).

Section 3. Legislative Findings. The Board of County Commissioners of St. Johns County, Florida (the "Board") finds as follows:

(a) Desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual, and promoting the health, safety, education, and welfare of the people, St. Johns County has a compelling interest in protecting its citizens from certain activities and influences which can result in irreparable harm if left unregulated. The Board is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gambling behavior.

(b) The Board has a legitimate interest in protecting its citizens from unethical business practices, ensuring operators of regulated establishments are of good moral character, providing safe locations for people to congregate, and protecting the quality and well-being of its neighborhoods.

(d) The imposition of a regulatory scheme for activities conducted pursuant to sections 849.161(1)(a)1., 849.0935, and 849.094, Florida Statutes, bears a rational relationship to its interests.

(e) Adult arcade amusement machines should be confined to highly regulated pari-mutuel facilities that meet strict State of Florida licensing standards.

(f) The Board is authorized to permit and regulate the operation of adult arcade amusement centers for the enjoyment, entertainment and protection of the residents and visitors to the County.

(g) No adult arcade amusement machine should be allowed unless it is located upon the premises of a permitted adult arcade amusement center in accordance with the operational requirements set forth in this Ordinance.

(h) That the State of Florida has authorized slot machines and other gaming at licensed facilities, and the State of Florida authorizes drawings by chance and game promotions or sweepstakes. The Board further recognizes that establishments that utilize electronic equipment to display the results of drawings by chance and game promotions or sweepstakes by simulating a game or games ordinarily played on a slot machine can deceive members of the public into believing that they are engaging in a licensed gambling activity if left unregulated.

(i) That the Board has an obligation and responsibility to protect its citizens from the use of deceptive practices.

(j) In order to ensure the uniform enforcement of existing laws, to preserve the public peace and good order, and to safeguard the health, safety, morals and welfare of the community and citizens thereof, it is necessary and advisable to provide greater regulation of the use of electronic equipment to display the results of drawings by chance and game promotions.

Section 4. Legislative Authorization. This Ordinance is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of St. Johns County, Florida, pursuant to Fla. Const. Article VIII, section 1(g) and section 125.01, Florida Statutes.

Section 5. Area of Enforcement. The Board is acting herein as the governing body for St. Johns County, Florida, and this Ordinance shall be effective within the unincorporated areas of St. Johns County, Florida.

Section 6. Adult Arcade Amusement Center. The following regulations are hereby enacted related to the establishment and operation and regulation of Adult Arcade Amusement Centers:

A. Intent.

The intent of the Board acting as the governing body of St. Johns County, Florida in adopting this Ordinance is to regulate adult arcade amusement centers, so as to protect the public health, safety and welfare.

B. Definitions.

(1) “Adult arcade amusement center” means a business (a) that is located on the “premises” of a facility that is licensed by the State of Florida pursuant to Ch. 550, Florida Statutes, and (b) that operates adult arcade amusement machines and (c) that is permitted under this Ordinance.

(2) “Adult arcade amusement machine” or “machine” means an electronic, mechanical, coin, currency, ticket, token, card or other similarly operated, computer, video or other similar machine, device or game which operates on the insertion of money, coin, or other type of monetary consideration or requires the payment of monetary consideration for its operation and which, whether by application of skill or application of the element of chance or both or by any other outcome unpredictable to him or her, may become entitled to receive any money, credit, allowance, or thing of value or additional chance or right to use such machine or device, or to receive any check, slug, token or memorandum entitling the holder to receive any credit, allowance or thing of value. The presence of a device as described above that requires the payment of monetary consideration for its operation shall result in the presumption that such

machine is an adult arcade amusement machine as defined herein. This definition shall not include Electronic Equipment as defined in section 7.C.(5) below.

(3) “Amusement game” or “game” shall mean any individual measure of play as indicated by an adult arcade amusement machine. Multiple games may be played by a single activation of the machine with the machine rendering the results of the games played without the decrementing of additional points or the payment of additional consideration.

(5) “County Administrator” shall mean the St. Johns County Administrator or his designee.

(6) “Coupon” means a printed instrument that is a representation of points available for merchandise redemption. A coupon may not be redeemed for anything other than merchandise, as defined herein.

(7) “Family Amusement Arcade” means a business which, in addition to a food and beverage business for which it possesses state and local licenses and permits, also operates an integrated arcade business that complies with section 849.161(1)(a)1., Florida Statutes, catering primarily to families and minors.

(8) “Merchandise” means an object of value available for sale to the general public on the premises of the adult arcade amusement center or via catalogs or kiosks produced by an adult arcade amusement center other than alcoholic beverages and cash or its functional equivalent. The general public must be able to discern: (a) the points required to redeem the merchandise; and (b) the purchase price of the merchandise.

(10) “Points” means a unit of entitlement for play of an adult arcade amusement machine created by either: (a) the conversion of coins, bills, tickets, or vouchers when inserted into an adult arcade amusement machine; or (b) the results of a played game.

(11) “Premises” means the legal description of the land and location of the pari-mutuel facility as licensed according to Ch. 550, Florida Statutes.

C. Skill-based Adult Arcade Amusement Machine Operation Requirements.

Except as provided in Subsection 6.D below, in order for an adult arcade amusement machine authorized by Florida law pursuant to section 849.161(1)(a)1., Florida Statutes, to lawfully exist and operate within the geographical boundaries of St. Johns County, each such machine must meet the following requirements:

(1) Be located on the premises, as defined in this Ordinance, of an adult arcade amusement center permitted by the County Administrator pursuant to this Ordinance and the Land Development Code.

D. Exemption.

Nothing in this Ordinance shall be interpreted to apply to a Family Amusement Arcade, as defined in this Ordinance.

E. Minors Prohibited from Playing Adult Arcade Amusement Machines.

No person under the age of 18 years shall be permitted to play an adult arcade amusement machine or be on the premises of an adult arcade amusement center. All adult arcade amusement machines on the premises of the adult arcade amusement center shall each bear a sticker, at least three inches in diameter and with a minimum font size of 20-point type, which clearly and legibly says "Play by Minors Prohibited".

F. Adult Arcade Amusement Machine License Fees.

The annual machine license fee shall be \$65.00 per machine payable by the permittee on or before October 1 of each year for the following one (1) year operational period beginning on October 1. If a machine is registered after October 1, then the annual license fee shall be prorated from date of registration to the following September 30. The County Fee Schedule, adopted as Ordinance 87-30, as previously amended, is hereby amended to add the annual machine license fee for Adult Arcade Amusement Centers.

G. Right of Entry.

The County Administrator and the St. Johns County Sheriff's Office shall have the right to enter and inspect the public spaces of the premises at any time to ensure compliance with the provisions of this Ordinance or any other ordinances within their authority.

Section 7. Electronic Game Promotions. The following regulations are hereby enacted related to the establishment, operation and regulation of Electronic Game Promotions:

A. Intent.

The intent of the Board acting as the governing body of St. Johns County, Florida in adopting this Ordinance is to regulate the use of electronic means to effect giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions that do not otherwise violate Florida law. This regulation includes but is not limited to electronic equipment used to display the results of a drawing by chance conducted in connection with the sale of a consumer product or service or game promotion by simulating a game or games ordinarily played on a slot machine. It also is intended to regulate the use of electronic equipment to conduct drawings by chance conducted in connection with the sale of a consumer product or service and game promotions, and to regulate all Operators (as defined herein) who utilize electronic equipment for that purpose in accordance with the provisions of sections 849.0935 and 849.094, Florida Statutes, regardless of whether

said Operators are required to register with the State of Florida pursuant to section 849.094, Florida Statutes.

B. General Prohibition.

Except as expressly regulated and permitted by this Ordinance, no Person, other than a De Minimus Activity Facility as defined herein, shall conduct a drawing by chance pursuant to s. 849.0935, Florida Statutes, sweepstakes or game promotion pursuant to s. 849.094, Florida Statutes, or any other game of chance on any electronic or mechanical device provided by an operator of the game of chance which displays the result by simulating a game or games ordinarily played on a slot machine.

C. Definitions.

(1) “Person” means an individual, association, partnership, joint venture, corporation, limited liability company, not-for-profit entity, or entity of any kind authorized to engage in business in Florida.

(2) “Applicant” means the Operator for whom a permit application is submitted and in the name of whom, if the permit is granted, the drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotion shall be conducted.

(4) “County Administrator” shall mean the St. Johns County Administrator or his designee.

(5) “Electronic Equipment” means any electronic or mechanical device provided by or on behalf of the Operator that is used or adapted for use to conduct and/or reveal the results of a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or game promotions that display results by simulating a game or games ordinarily played on a slot machine.

(6) “Electronic Game Promotion” means a sweepstakes or other game promotion which utilizes Electronic Equipment and a drawing by chance conducted in connection with the sale of a consumer product or service which utilizes Electronic Equipment.

(7) “De Minimus Activity Facility” means a facility operated by an organization exempt from federal taxation under Section 501(c) of the Internal Revenue Code and with five (5) or fewer electronic or mechanical devices that are used to conduct a drawing by chance, sweepstakes or game promotion utilizing those electronic or mechanical devices, all of which devices were in operation before the passage of this Ordinance.

(8) “Minor” means an individual under the age of eighteen (18) years.

(9) "Operator" means any Person in whose name a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotion that utilizes Electronic Equipment is conducted.

(10) "Permit Holder" means the Operator in whose name the County Administrator has issued a permit under this Ordinance.

(11) "Premises" means the house, building, edifice, or location, along with its grounds, in or upon which the Operator conducts an Electronic Game Promotion.

(12) "Rules" means the restrictions and covenants governing the operation of the drawing by chance, sweepstakes, or game promotion.

(13) "Slot machine" means any mechanical or electrical contrivance, terminal that may or may not be capable of downloading slot games from a central server system, machine, or other device that, upon insertion of a coin, bill, ticket, token or similar object or upon payment of any monetary consideration whatsoever, including the use of any electronic payment system, is available to play or operate, the play or operation of which, including any element of chance, may deliver or entitle the person or persons playing or operating the contrivance, terminal, machine, or other device to receive cash, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether the payoff is made automatically from the machine or manually. Slot machines may use spinning reels, video displays, cathode ray tubes, microprocessors or other similar technology, and have as their object, the presentation or lining up, arrangement, or juxtaposition of symbols, alpha-numeric signs, colors or figures to determine a result or outcome.

To the extent not defined in this section, the definitions utilized in sections 849.0935 and 849.094, Florida Statutes, shall be applicable to all terms used in this Ordinance.

D. Permitting and Fees.

(1) *Permit Required.* Every Operator conducting an Electronic Game Promotion shall obtain a permit from the County Administrator for each Premises. Each permit is valid only for the Operator and the Premises named in the permit. Each permit is valid for one year.

(2) *Initial Permits.* Within sixty (60) days of enactment of this Ordinance, all current Operators that have a current Local Business License Tax receipt for each piece of Electronic Equipment located on their respective Premises as of December 31, 2010 or have applied for a Certificate for Business Office/Home Office to the Growth Management Department by December 31, 2010 and which apply for, facially qualify for, and pay required fees for a permit, shall be granted a permit for the Premises as provided for in this section. However, any such permit issued shall be non-transferable to another Operator or Person, and shall be valid only for the location the business operated as of the date of the permit issuance, until such time as the business closes or is sold.

(3) *Permits Limited.* Except for Di Minimus Activity Facilities, unless greater than ten (10) permits have been issued as provided for in subsection (2) above, the County Administrator shall limit the total number of permits issued pursuant to this section to ten (10). After the permits authorized by subsection (2) are issued, no permits for new businesses shall be issued unless the issuance of the permit will not cause the total number of permits issued to exceed 10 permits. All qualifying Operators who receive an initial permit as provided for in subsection (2) shall be entitled to renew their permit if they otherwise qualify and pay required fees. In the event that a permit becomes available, all applications for the permitting of a new business shall, in addition to all permitting requirements set forth herein, be subject to the following procedures:

(a) The County Administrator shall publish a notice in a newspaper of general circulation in a form prescribed by the County Administrator regarding the availability of such permit and the prescribed time period of fifteen (15) calendar days from the date of such publication within which the County Administrator will accept applications, and the location and date of the public meeting at which the random selection of the application for permit shall take place.

(b) All applications shall be submitted within such provided timeframe. Any applications not submitted within such timeframe shall be automatically disqualified. Each Applicant shall be allowed to submit only one (1) application for each available permit. An Applicant shall be deemed to be the same as another Applicant and each of their applications shall be disqualified, if such Applicant is the same Person or consists of any variation of the same Person as another Applicant.

(c) Once the time period for submission of applications has expired, the County Administrator shall randomly select an application for consideration of the available permit at a meeting open to the public by the County Administrator in the presence of one or more witnesses at the time and place set forth in the notice.

(d) Once such application is selected, the Applicant shall proceed with complying with all other requirements set forth herein. The County Administrator's random selection of an application as provided herein shall not constitute the County Administrator's acceptance or approval of the application, including for example, for purposes of determining the application's completeness. For purposes of all timelines and time periods set forth in this Ordinance, including but not limited to the duration of review within which the County or any of its Departments or Divisions are to conduct application reviews, such timelines and time periods shall be extended by the amount of time required to appropriately conduct the random selection of the application.

(e) The decision to deny a permit shall be considered non-final agency action subject to appellate review by the County Special Magistrate referenced below. The decision of the Special Magistrate shall constitute final agency action subject to judicial review. Any appeal of a permitting decision shall be made within fifteen (15) calendar days of receipt of a notice of denial by filing a written notice of appeal with the County Special Magistrate, along with an

appeal fee of \$1500.00. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

(4) *Application Materials Required for Permit.*

(a) Applicant shall file with the County Administrator the following materials:

(i) a copy of Applicant's proposed Rules governing the drawing by chance, sweepstakes or game promotion which includes the odds of winning and the prize table;

(ii) a description, including the number of pieces of the Electronic Equipment;

(iii) the street address of the Premises where the drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or game promotions are to be conducted;

(iv) if the Applicant is a branch, chapter, lodge, or other local unit of a charitable organization or corporation, the name of the primary organization and the street address of its principal office; and

(v) the name and address of an individual in St. Johns County who is authorized to receive notices from the County;

(vi) a statement certifying that all information on the application and any attachments thereto is true and that the Applicant understands that any misstatement of material fact in the application will result in the denial of the permit or, if it has been issued, in the suspension or revocation of the permit; and

(vii) A certification that the computer software that is used by the Operator to conduct a drawing by chance in connection with the sale of a consumer product or service, sweepstakes or game promotion has been tested by an independent testing laboratory that has verified the manner that the software works. That verification of the manner that the software works shall comply with all applicable state and local laws, including this Ordinance.

(viii.) A copy of a valid Special Use Permit as required pursuant to Section 2.03 of the Land Development Code.

(5) *Application Fee.* Each Applicant shall remit a non-refundable application fee of \$2,000.00, for Premises with more than five (5) pieces of Electronic Equipment; and \$1,500.00 for Premises with five (5) or fewer pieces of Electronic Equipment. This fee shall help offset for the time and expense of the St. Johns County Sheriff's Office and the County Administrator in enforcing the provisions herein, reviewing and ruling on the application, and issuing the permit.

(6) *Review of Application.*

(a) Duration of Review.

(i) By County for Permit. Within sixty (60) days of receipt of an Applicant's completed permit application, the County Administrator shall grant or deny the application.

(b) Eligibility of Applicant. An Applicant is ineligible for a permit if:

(i) The application materials are incomplete or untruthful.

(ii) The site has not received a valid Special Use Permit pursuant to Section 2.03 of the Land Development Code, if required.

If an Applicant satisfies all permit filing requirements and is not ineligible, the County Administrator shall approve the application.

(7) *Denial of Permit.* An Applicant whose permit application is denied may reapply at any time by completing all steps of the application procedure, including payment of a new application fee. The decision to deny a permit shall be considered non-final agency action subject to appellate review by the County Special Magistrate. The decision of the Special Magistrate shall constitute final agency action subject to judicial review. Any appeal of a permitting decision shall be made within fifteen (15) calendar days of receipt of a notice of denial by filing a written notice of appeal with the Special Magistrate, along with an appeal fee of \$1500.00. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

(8) *Permit fees.* The eligible Applicant, before receiving the permit, shall pay:

(a) An annual fee of \$50.00 per piece of Electronic Equipment. If the eligible Applicant fails to pay the fee on or before the thirtieth (30th) day after approval, availability, and notice of the permit authorization, the application shall be deemed denied.

(b) The County Fee Schedule, adopted as Ordinance 87-30, as previously amended, is hereby amended to add the above permit fees for Electronic Game Promotions.

The fees collected pursuant to this subsection shall be contributed towards the costs associated with the inspection and examination by the County Administrator or the St. Johns County Sheriff's Office of the Premises, Electronic Equipment, and records of the Permit Holder to ensure compliance with this Ordinance.

(9) *Duration of Permit.* A permit shall be valid for one (1) year from the date of issuance.

(10) *Renewal of Existing Permit.* Existing permits shall be renewed upon compliance with this Ordinance, notwithstanding the total number of permits issued. The Permit Holder shall apply for the renewal permit no later than sixty (60) days and no sooner than one-hundred twenty (120) days before the expiration of the current permit. The renewal permit application

shall include all the materials and the application fee required for the issuance of an original permit, and shall include evidence of current lawfully existing operations consistent with the requirements of this Ordinance. Renewal permit applications shall be processed using the same procedure and standards as required for review of an original permit application but shall be processed within 30 days. Upon approval, Renewal permit applicants shall pay the same fees as set forth in subsection (8) above and said renewals shall be deemed denied if an eligible Applicant fails to pay these fees on or before the thirtieth (30th) day after approval, availability, and notice of the permit authorization.

(11) *Restrictions on Transfers of Permits.*

(a) **Transfer to Another Entity.** Permits may not be transferred to another entity. Any change in a majority or controlling interest in any Permit Holder shall be deemed a transfer of the permit.

(b) **Transfer to Another Premises.** Permits may not be transferred to another premise.

(12) *Revocation of Permit.* The County Administrator may revoke a permit for violation of any provision of this Ordinance or due to a Permit Holder's cessation of the use of Electronic Equipment during its normal business hours for at least fourteen (14) consecutive days. Prior to revocation, the County Administrator shall provide to the Permit Holder, through their individual in St. Johns County authorized to accept notices from the County, the following:

(a) A written notice of intent to revoke the permit,

(b) A fourteen (14) calendar day opportunity to cure the alleged violation, and

(c) An opportunity to be heard prior to revocation.

Revocation shall not take place before twenty one (21) days after receipt of a notice of revocation, opportunity to cure, and opportunity to be heard is delivered to the Permit Holder. The decision to revoke a permit shall be considered non-final agency action subject to appellate review by the Special Magistrate. The decision of the Special Magistrate shall constitute final agency action subject to judicial review. Any appeal of a revocation decision shall be made within fifteen (15) calendar days of receipt of a notice of revocation by filing a written notice of appeal with the Special Magistrate, along with an appeal fee of \$1500.00. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

E. Inspection of Premises.

During business hours, the County Administrator, the St. Johns County Sheriff's Office, or their agents may enter the Premises for purposes of inspecting all areas of the Premises otherwise accessible to the general public, to ensure compliance with the provisions of this Ordinance or any other ordinances within their authority, including but not limited to the right to

enter the Premises and to select and remove any piece of Electronic Equipment to inspect, test and/or have tested to determine compliance with this Ordinance. The County Administrator or the St. Johns County Sheriff's Office may issue to the Permit Holder a show cause order requiring the production on Premises of documents or data relating to the game promotion. Production of the records or inventory shall only be for inspection and review to determine compliance with this Ordinance. Within three (3) days of receipt of the show cause order the Permit Holder shall produce all requested records and inventory.

F. Signage Requirements.

(1) *Exterior of Premises.* Exterior signage shall be subject to Article VII, Land Development Code (Signs).

G. Limitations on Operation of Business.

(1) *Alcoholic Beverages.* Permit Holders shall not sell or permit any individual to consume or possess any alcoholic beverages on any Premises with six (6) or more pieces of Electronic Equipment.

(2) *Minors.* Permit Holders shall not permit Minors to enter the Premises except Minors employed at Premises where there are five (5) or fewer pieces of Electronic Equipment.

(3) *Limitations on Operation of Business.* Any Operator who conducted an Electronic Game Promotion prior to December 31, 2010 shall not operate more pieces of Electronic Equipment than in actual operation on December 31, 2010. Any Operator who has submitted an Application/Affidavit for Certificate of Business Office/Home Office to the Growth Management Department by December 31, 2010 and whose application is subsequently approved shall not operate more pieces of Electronic Equipment than indicated as part of the application. Any other Operator shall be limited to operating no more than fifty (50) pieces of Electronic Equipment.

(4) *Zoning.* Electronic Game Promotions shall be permitted or permissible by special use, as applicable, as set forth in Article II, Land Development Code, subject to all applicable requirements, restrictions and limitations set forth in the Code of Ordinances.

Section 8. Enforcement; Penalties.

(1) Violation of section 6 of this Ordinance by an Adult Arcade Amusement Center permittee or any unpermitted person, company or entity shall be punishable by imposition of a civil penalty not to exceed \$500.00 per machine per day. Each day the violation exists shall constitute a separate violation for the purposes of this Ordinance and may be punishable as such.

(2) Violation of Section 7 of this Ordinance by an Electronic Game Promotion permittee or any unpermitted person, company or entity shall be punishable by imposition of a civil penalty not to exceed \$500.00 per machine per day. Each day the violation exists shall constitute a separate violation for the purposes of this Ordinance and shall be punishable as such.

(3) St. Johns County shall have the right to pursue all legal and equitable remedies necessary to ensure full compliance with this Ordinance, including but not limited to injunctive relief.

(4) Permittees shall have a private right of action to pursue all legal and equitable remedies necessary to ensure full compliance with this Ordinance against any other permittee, including but not limited to injunctive relief.

Section 9. Taxes. There is hereby created a new Local Business License Tax as follows:

(1) A permittee engaged in the business of operating an Adult Arcade Amusement Center as contemplated by Section 6 of this Ordinance shall pay a Local Business License Tax of \$1,000.00 per year, which shall entitle him to maintain one place of business.

(2) A permittee engaged in the business of conducting an Electronic Game Promotion as contemplated by Section 7 of this Ordinance shall pay a Local Business License Tax of \$62.00, which shall entitle him to maintain one place of business.

(3) The County Fee Schedule, adopted as Ordinance 87-30, as previously amended, is hereby amended to add the new Local Business License Taxes set forth in this Section.

Section 10. Severability. If any provision of this Ordinance or the application thereof is finally determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall be deemed to be severable and the remaining provisions shall continue in full force and effect provided that the illegal, invalid or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

Section 11. Effective Date. This Ordinance shall take effect upon its adoption.

PASSED AND ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, THIS ____ day of _____, 2011.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

BY: _____
Joseph Ken Bryan, Chairperson

Rendition Date

ATTEST: CHERYL STRICKLAND, CLERK

BY: _____
Deputy Clerk

EFFECTIVE DATE: _____

Exhibit C
[Green Cove Springs Ordinance]

ORDINANCE NO. 0-03-2011

AN ORDINANCE OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, IMPOSING A TEMPORARY MORATORIUM FOR 180 DAYS ON THE ISSUANCE OF ANY BUSINESS TAX LICENSE, PERMIT, CONDITIONAL USE APPROVAL, SITE PLAN APPROVAL AND ANY OTHER OFFICIAL ACTION OF THE CITY OF GREEN COVE SPRINGS HAVING THE EFFECT OF PERMITTING OR ALLOWING THE CONSTRUCTION AND/OR OPERATION OF CERTAIN BUSINESSES WITHIN THE CITY OF GREEN COVE SPRINGS, RELATED TO GAME ROOMS, ARCADES, INTERNET CAFES, SWEEPSTAKES REDEMPTION CENTERS, ESTABLISHMENTS USING SLOT MACHINES OR SLOT MACHINE LIKE EQUIPMENT AND SIMILAR INDOOR ENTERTAINMENT AND AMUSEMENT ACTIVITIES AS MORE SPECIFICALLY DESCRIBED IN THIS ORDINANCE, EXCLUDING APPROVALS AND PERMITS FOR THE CONTINUANCE OF AN EXISTING BUSINESS; THE TEMPORARY MORATORIUM SHALL APPLY TO ALL REAL PROPERTY LOCATED WITHIN THE CORPORATE LIMITS OF THE CITY OF GREEN COVE SPRINGS; PROVIDING A PROCEDURE FOR EXTRAORDINARY HARDSHIP; PROVIDING FOR SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

WHEREAS, the City of Green Cove Springs, Florida provides municipal services to its citizens, including regulation and licensing of businesses; and

WHEREAS, the appropriate regulation, licensing and permitting of businesses are vital to the public's health, safety, morals and welfare as deficient or inadequate regulations can lead to public harm; and

WHEREAS, the City Council has learned of certain activities related to the following businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments within the City of Green Cove Springs being proposed or considered, which activities would harm the City's economic and redevelopment activities and otherwise significantly and adversely affect the public health, safety, morals and welfare, since said activities may include forms of gaming or gambling which could lead to illegal activities; and

WHEREAS, the City Council of the City of Green Cove Springs, Florida, deems it necessary to the public's health, safety, morals and welfare to cause a study to be accomplished relative to the criteria for issuance of permits or other official City action for the following businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments, and to place a temporary moratorium on the issuance of permits, any other

official City action, including the receipt of the business tax for such activities for a period of one hundred and eighty (180) days; and

WHEREAS, the City Council, after holding a public hearing, finds that it is appropriate to impose a temporary moratorium on the licensing and permitting of certain activities related to the following businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments; and

WHEREAS, public hearings were held pursuant to the required published notices at which hearings the parties in interest and all others had an opportunity to be and were, in fact, heard; and

WHEREAS, the City Council has reviewed this moratorium for consistency with the City's Comprehensive Plan.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF GREEN COVE SPRINGS, FLORIDA, AS FOLLOWS:

SECTION 1. PURPOSE AND LEGISLATIVE FINDINGS.

The above recitals are hereby adopted as the legislative purpose of this Ordinance and as the City Council's legislative findings.

SECTION 2. DEFINITIONS. The following definitions shall apply to this Ordinance:

(a) "Simulated gambling device" means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff. The following rules of construction apply to this definition of "simulated gambling device":

(1) The term "device" means any mechanical or electrical contrivance, computer, terminal, video or other equipment that may or may not be capable of downloading games from a central server system, machine, computer or other device or equipment. The term "device" also includes any associated equipment necessary to conduct the operation of the device.

(2) The term "upon connection with" means insertion, swiping, passing in range, or any other technical means of physically or electromagnetically connecting an object to a device.

(3) The term "object" means a coin, bill, ticket, token, card or similar object, obtained directly or indirectly through payment of consideration, or obtained as a bonus or supplement to another transaction involving the payment of consideration.

(4) The terms "play or operate" or "play or operation" includes the use of skill, the application of the element of chance, or both.

(5) The term "computer simulation" includes simulations by means of a computer, computer system, video display, video system or any other form of electronic video presentation.

(6) The term "game" includes slot machine, poker, bingo, craps, keno, any other type of game ordinarily played in a casino, a game involving the display of the results of a raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and any other game associated with gambling or which could be associated with gambling, but the term "game" does not necessarily imply gambling as that term may be defined elsewhere.

(7) The term "payoff" means cash, monetary or other credit, billets, tickets, tokens or other electric credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether made automatically from the machine or manually.

(8) The use of the word "gambling" in the term "simulated gambling device" is for the convenience of reference only. The term "simulated gambling device" as used in this Section is defined exclusively by this Subsection and does not incorporate or imply any other legal definition or requirement applicable to gambling that may be found elsewhere.

(b) "Slot machine" has the same meaning as specified in Fla. Stat. § 551.102(8).

SECTION 3. TEMPORARY MORATORIUM UPON THE ISSUANCE OF PERMITS TO THE FOLLOWING BUSINESSES USING SLOT MACHINES OR SLOT MACHINE-LIKE EQUIPMENT OR SIMULATED GAMBLING DEVICES: GAME ROOMS, ARCADES, INTERNET CAFÉS, SWEEPSTAKES REDEMPTION CENTERS OR ESTABLISHMENTS.

All activities relating to the acceptance, review and action upon permit applications for the following businesses using slot machines or slot machine-like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments are temporarily suspended in order for the City of Green Cove Springs, through its officials and staff, to have adequate time and opportunity to conduct a study or studies and comprehensively analyze the adequacy of application criteria, standards, and other approved processes and procedures related to the issuance of said permits within the City of Green Cove Springs. Accordingly, based upon the foregoing, there is hereby imposed a temporary moratorium on the receipt and/or acting upon applications for licenses, permits or any other official City action, related to the following businesses using slot machines or slot machine-like equipment or simulated gambling

devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments.

During the time the temporary moratorium is in effect, the City will accept no applications or act on any pending applications for permits or business tax receipts for such activities and no such new activities shall be permissible within the City. It is unlawful for any person or entity to engage in the activities that are the subjects of the Ordinance without first obtaining a business tax receipt or permit for such activities. During the period of time that the temporary moratorium is in effect, the City shall not accept payments of the business tax for such activities and shall return any funds accepted for pending applications.

SECTION 4. GEOGRAPHIC AREA COVERED.

The temporary moratorium established in this Ordinance shall be effective in the corporate and municipal boundaries of the City of Green Cove Springs.

SECTION 5. IMPOSITION OF MORATORIUM.

(a) The temporary moratorium set forth in this Ordinance shall take effect on the 20th day of July, 2011, and shall terminate one hundred and eighty (180) days thereafter. The City will not accept or act on applications which are subject to the moratorium until the moratorium has expired.

(b) The City Council may extend the temporary moratorium established in this Ordinance one (1) time for a period not to exceed ninety (90) days upon a finding by the City Council set forth in the Ordinance that the problems giving rise to the need for the temporary moratorium established herein continue to exist and that reasonable progress is being made in carrying out a specific and prompt plan of corrective legislative action, but that additional time is reasonably needed to adequately address the issues facing the City.

SECTION 6. ALLEVIATION OF EXTRAORDINARY HARDSHIP.

(a) The City Council may authorize exceptions to the moratorium imposed by this Ordinance when it finds, based upon substantial competent evidence presented to it, that deferral of action on an application for permit, business tax receipt, development order, or other official action of the City for the duration of the moratorium would impose an extraordinary hardship on a landowner or petitioner.

(b) A request for an exception based upon extraordinary hardship shall be filed with the City Manager or designee, including a non-refundable fee of \$350.00 by the owner/petitioner, or the petitioner with the consent of the owner/petitioner, to cover processing and advertising costs, and shall include a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the City Manager shall prescribe as necessary for the City Council to be fully informed with respect to the application.

(c) A public hearing on any request for an exception for extraordinary hardship shall be held by the City Council at the first regular meeting of the City Council that occurs after the expiration of the period for publication of notice of the request for an exception.

(d) Notice of the filing of a request for an exception, and the date, time, and place of the hearing thereon shall be published once at least seven (7) days prior to the hearing in a newspaper of general circulation within the City limits of the City of Green Cove Springs, Florida.

(e) In reviewing an application for an exception based upon a claim of extraordinary hardship, the City Council shall consider, at a minimum, the following criteria:

(1) The extent to which the applicant has, prior to the Effective Date of this temporary moratorium, received City of Green Cove Springs permits or approvals for the following businesses using slot machines or slot machine-like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments.

(2) The extent to which the applicant has, prior to the Effective Date of this temporary moratorium, made a substantial expenditure of money or resources in reliance upon permits or other approvals of the City of Green Cove Springs directly associated with the operation of the following businesses using slot machines or slot machine-like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments.

(3) Whether the applicant, prior to the Effective Date of this temporary moratorium, has contractual commitments in reliance upon permits or other approvals of the City of Green Cove Springs to operate the following businesses using slot machines or slot machine-like equipment or simulated gambling devices: game rooms, arcade, internet cafés, sweepstakes redemption centers or establishments.

(4) Whether the applicant, prior to the Effective Date of this temporary moratorium, has in reliance upon permits or other approvals of the City of Green Cove Springs incurred financial obligations to a lending institution which, despite a thorough review of alternative solutions, the applicant cannot meet unless the following businesses using slot machines or slot machine-like equipment or simulated gambling devices: game rooms, arcades, internet cafés, sweepstakes redemption centers or establishments are permitted or allowed.

(5) Whether the temporary moratorium will expose the applicant to substantial monetary liability to third persons; or would leave the applicant completely unable, after a thorough review of alternative solutions, to earn a

reasonable investment-backed expectation on the real property that is affected by this Ordinance.

(f) At a minimum, the City Council shall consider the following non-exclusive factors under the criteria set forth in Subsection (e) above:

- (1) The history of the property;
- (2) The history of the commercial business or any use on the property.

(g) At the conclusion of the Public Hearing and after reviewing the evidence and testimony placed before it, the City Council shall act upon the request either to approve, deny, or approve in part and deny in part, the request made by the applicant.

SECTION 7. PENDING APPLICATIONS AND EXISTING BUSINESSES.

(a) This temporary moratorium will not affect any businesses as set forth in Section 3, herein, which had a permit application pending as of the commencement date of the moratorium set forth in Section 5 above, as long as the business and property are in compliance with all applicable local, county, State, and Federal laws.

(b) This temporary moratorium will not affect any businesses as set forth in Section 3, herein, currently operating within the City, pursuant to a validly issued business tax receipt or other license or permit, as long as the business and property are in compliance with all applicable local, county, State, and Federal laws.

SECTION 8. NEW BUSINESS RECEIPTS OR OTHER OFFICIAL CITY ACTION.

Except as provided in Section 7, applications for business tax receipts, City licenses or permits, or any other official City action, for the operation of internet cafes, or other establishments as set forth in Section 3, received after the commencement date of the moratorium set forth in Section 5 above, shall be held in abeyance until the conclusion of the moratorium.

SECTION 9. RENEWAL OF BUSINESS TAX RECEIPTS.

The City Manager or designee is authorized to renew the business tax receipt of any existing internet café or other businesses as described in Section 2 herein, affected by this moratorium, with a valid business tax receipt, in the event such receipt expires before the expiration of this moratorium, upon a finding that said business has not otherwise violated any local, county, State, or Federal law.

SECTION 10. PENALTIES.

(a) Any person, firm, corporation or agent who shall violate any provision of this Ordinance or who fails to comply therewith, or with any of the requirements thereof, shall be fined in an amount not exceeding five hundred dollars (\$500.00) or be imprisoned for a period not exceeding sixty (60) days. Either or both penalties may be imposed. Each day during which any violation occurs constitutes a separate offense.

(b) Nothing herein contained shall prevent the City from taking such other lawful action including, but not limited to, equitable legal action, as it deems necessary to prevent or remedy any violation of this Ordinance.


SECTION 11. SEVERABILITY. If any portion or portions of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions of this Ordinance shall remain in full force and effect.

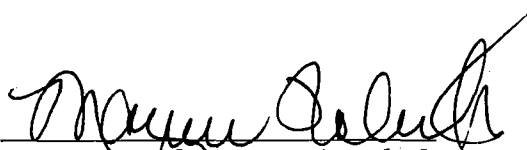
SECTION 12. CONFLICTS. This Ordinance shall stand repealed as of one hundred eighty (180) days after the commencement date set forth in paragraph 5 above, unless extended or sooner repealed; provided, however, nothing herein shall prevent the re-adoption or ratification of this Ordinance in the same or similar form.

SECTION 13. EFFECTIVE DATE. This Ordinance shall become effective upon passage.

INTRODUCED AND PASSED AS TO FORM ONLY ON THE FIRST READING BY THE CITY COUNCIL OF GREEN COVE SPRINGS, FLORIDA, THIS 5TH DAY OF JULY, 2011.

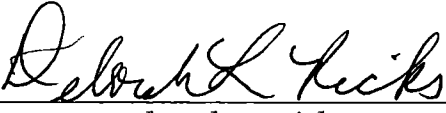
CITY OF GREEN COVE SPRINGS, FLORIDA

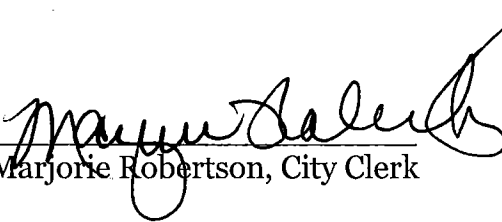
By: 
Deborah L. Ricks, Mayor

ATTEST: 
Marjorie Robertson, City Clerk

**PASSED ON SECOND AND FINAL READING BY THE CITY COUNCIL OF
GREEN COVE SPRINGS, FLORIDA, THIS 19th DAY OF July, 2011.**

CITY OF GREEN COVE SPRINGS, FLORIDA

By: 
Deborah L. Ricks, Mayor

ATTEST: 
Marjorie Robertson, City Clerk