

ORDINANCES – SECOND READING, PUBLIC HEARINGS & RELATED ACTION

City of Titusville

“A City of Service”

REPORT TO COUNCIL

To: The Honorable Mayor and City Council

From: Dwight W. Severs, City Attorney

Subject: **Ordinance Nos. 16-2012 & 17-2012 - Internet Cafes and Electronic Gaming Establishments**

Department/Office: City Attorney

Recommended Action

Conduct first reading and first of two required public hearings of ordinances.

Summary Explanation & Background:

The City Council previously authorized the enactment of Ordinance 32-2011 which imposed a moratorium on the issuance of additional Business Tax Receipts for internet cafes/electronic gaming establishments for a period of 180 days. On October 12, 2011 and February 22, 2012 this issue was presented to the P&Z Commission for their input and guidance. On March 27, 2012 preliminary draft ordinances were presented to the City Council for review and input. In addition, a subsequent meeting was held with attorneys representing two of the owners.

Ordinance No. 16-2012 provides certain definitions and provides that said electronic gaming establishment activities would be treated similar to adult arcade amusement centers which are currently allowed as a conditional use within Regional Commercial Zoning District. The proposed conditional use criteria regarding arcade amusement centers have been expanded as well as establishing certain review criteria and regulations for electronic gaming establishments. Those conditional use criteria include locational criteria, parking requirements, restrictions or regulations concerning operations including hours of operation together with other restrictions including a grandfather clause. Based upon the City Council meeting on March 27th, Ordinance No. 16-2012 was amended to incorporate the suggestions presented by a representative of the Bonus Club. That suggestion is incorporated in Section 59-364(g) (12) and (h) (14).

The second Ordinance No. 17-2012 would establish certain permitting regulations for electronic gaming establishments. The ordinance provides for certain definitions, regulations, application process, review process, signage requirements, limitations on operation of business, safety requirements together with enforcement provisions. The original draft presented to the P&Z Commission and Council has been changed or modified taking into consideration some of the input received. Ordinance No. 17-2012 has been modified by increasing the number of permits allowed within the City limits from three (3) to five (5). According to Section 11-679(c) the five (5) existing and operating facilities would be permitted provided they meet the qualifications contained in the

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ordinance. In addition, Section 11-679 (9) has been modified by adding an appeal process for any permit denied by the City Manager or his designee.

Section 11-679(m) has been added providing for certain regulations on the transfer of permits. Section 11-681 has been added that would allow existing signs that have been permitted to be maintained up to five (5) years from the date of the ordinance, even though they may violate the current language of the ordinance. The current language of the ordinance, which is similar to that enacted by other jurisdictions, prohibits signs that suggest gambling taking place on the premises or prohibits displaying images commonly associated with slot machines or gambling. For your information, we have attached photos of each of the locations within the City limits of the City of Titusville and you will note that a number of locations display symbols associated with slot machines or gambling including dollar (\$) signs, etc. Also one of the establishments has a sign located on the sidewalk in front of the business which would appear to be in violation of current codes and ordinances.

In Section 11-682(d), the hours of operation were modified to conform to those commonly utilized within the community.

An argument has previously been presented to you, and more than likely will be presented again, that this business is no different than any other business and should be treated the same as McDonalds, etc. The undersigned would respectfully disagree since Florida law prohibits gambling in the State of Florida. Some individuals and jurisdictions argue that the business or activity is a marketing tool that allows sweepstakes or other activities with the majority emphasis of the business is engaging in a form of gambling.

Attached for your information are a number of articles from other jurisdictions that address this issue. Also attached for your information is an article from the Florida Council on Compulsive Gambling dated May 2011 that discusses the proliferation of internet cafes and the increase in calls that agency has been receiving which they attribute in part to the approximately 600 internet cafes in Florida. The article speaks for itself. The Florida Council on Compulsive Gambling is a membership based, non-profit, educational and advocacy organization under contract with the State of Florida.

In addition, for the record, I have previously advised that two (2) of the locations have reported robbery attempts and that is part of the reason why the security plan to protect employees of the business and the general public is required as a part of the application process. A copy of those robbery attempt reports are on file with the City Attorney's Office which were obtained from the Titusville Police Department.

The above information is provided as additional information and further grounds or reasons for requiring regulations. In addition, the website I previously provided to you contains numerous articles from other local governments in the State of Florida and around the United States that also addresses this issue.

Some jurisdictions have chosen to prohibit these types of activities and currently that is not the recommendation from the City Attorney's Office.

As you know, the legislature considered two bills this last legislative session, House Bill 3 which would prohibit these types of establishments which apparently passed the House, however a companion bill was not considered by the Senate. The Senate did consider a different bill, Senate Bill 380, which would have provided some additional regulations on said activities and facilities which was not adopted by the legislature. Numerous jurisdictions have chosen to either prohibit and/or regulate said activities. I previously attached for your information, regulations recently adopted by St. Johns County and Leon County.

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- Alternatives:**
- (1) Accept ordinances as read
 - (2) Deny ordinances as read
 - (3) Modify ordinances as deemed appropriate

Source/Use of Funds/Budget Book Page: N/A

Strategic Plan Impact: Enhance existing economic drivers and develop new opportunities

- Exhibits Attached:**
- (1) Photographs of internet cafes in Titusville City limits
 - (2) Articles discussing issue
 - (3) Article from Florida Council on Compulsive Gambling

ORDINANCE NO. 16-2012

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, AMENDING SECTION 27-11 BY ESTABLISHING A DEFINITION FOR ELECTRONIC GAMING ESTABLISHMENTS; AMENDING SECTION 39-61 BY AMENDING THE PARKING REGULATIONS FOR ARCADE AMUSEMENT CENTERS AND ESTABLISHING PARKING REGULATIONS FOR ELECTRONIC GAMING ESTABLISHMENTS; AMENDING SECTION 59-344 BY PROHIBITING ELECTRONIC GAMING ESTABLISHMENTS WITHIN THE COMMUNITY COMMERCIAL DISTRICT; AMENDING SECTION 59-364 BY AMENDING THE CONDITIONAL USE PROCESS FOR ARCADE AMUSEMENT CENTERS AND BY ESTABLISHING A CONDITIONAL USE PROCESS FOR ELECTRONIC GAMING ESTABLISHMENTS; PROVIDING FOR SEVERABILITY, GRANDFATHERING AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 849.08 Florida Statutes specifically prohibits gambling in the State of Florida; and

WHEREAS, Section 849.0935 allows, without violating the lottery law, charitable or non-profit organizations to occasionally raise funds by occasional drawing or raffle for prizes; and

WHEREAS, it has been asserted that Section 849.094, Florida Statutes is intended to allow, without violation of the lottery law, for profit commercial enterprises to conduct game promotions on a limited or occasional basis as a marketing tool and incidental to substantial bona fide sales of consumer products or services provided they comply with the rules of the Department of Agriculture and Consumer Services and not as vehicles for ongoing gambling or gaming; and

WHEREAS, in the last decade, establishments allegedly operated pursuant to sections 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, Sections 849.0935 and 849.094, Florida Statutes, authorize drawings by chance and game promotions (also known as sweepstakes); and

WHEREAS, confusion has existed for some years as to the interpretation and enforcement of these statutes as applied to game promotions utilizing a computer or other electronic device to reveal a prize, and which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

WHEREAS, during the last two legislative sessions, bills have been introduced to regulate or prohibit said gaming promotions; and

WHEREAS, there is presently in the City of Titusville an increasing proliferation of establishments that utilize electronic gaming devices for commercial gain; and,

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WHEREAS, because of the unique nature of operation of these devices and the legal uncertainty of their validity there is a need to enact stringent regulations of game promotions in order to protect the public health and safety of the public; and

WHEREAS, local law enforcement authorities have limited resources with which to monitor this industry, and a regulatory fee will better fund enforcement efforts and ensure compliance with the law; and

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

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

WHEREAS, pursuant to Chapter 166, Florida Statutes, and the City of Titusville Charter and Code of Ordinances, the City may regulate this activity for the health, safety, and welfare of the community; and

WHEREAS, some operations display images of gambling or slot machines in their advertisement and signage and those activities should be regulated; and

WHEREAS, 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 regulate the use of electronic gaming devices and to protect its citizens who suffer from compulsive or problem gambling behavior and otherwise safeguard its citizens.

Be it enacted by the City of Titusville, Florida:

Section 1. That Section 27-11 of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 27-11. Definitions.

Arcade Amusement Centers. Adult Arcade Amusement Centers are any place of business having at least 50 coin-operated amusement games or machines on premises which are operated for the entertainment of the general public and tourists that are over 18 years of age as a bona fide amusement facility, and comply with Chapter 849.161, Florida Statutes, as mended from time to time. This definition shall include those Arcade Amusement Centers which seek to restrict admission to persons eighteen (18) years of age or older.

CyberCafe. See *Electronic Gaming Establishment.*

Electronic Gaming Establishment. Means a business operation, whether a principal use or accessory use, where persons utilize electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to Section

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849.094. Florida Statutes, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, cybercafes or sweepstakes cafes.

Section 2. That Section 39-61, "Number of Parking Spaces Required", of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec 39-61. Number of parking spaces required.

- (a) All developments shall provide a sufficient number of paved parking spaces to accommodate the number of vehicles that are likely to be attracted to the development in question.
- (b) Buildings/developments with mixed uses shall be calculated as the sum of their component uses.
- (c) In addition to the requirements of subsection ~~(e)~~ (d) all development shall provide a minimum of two spaces or an amount equal to five percent (5%) of the vehicular spaces for bicycle and, if desired, motorcycle use. Motorcycle spaces may comprise up to fifty percent (50%) of the required bicycle/motorcycle spaces. Said motorcycle spaces may be counted toward the required vehicular spaces.
- (d) Table of Minimum Parking Requirements:
 - (1) Single-family dwellings, two (2) spaces for each dwelling unit.
 - (2) Multifamily developments shall provide 2 spaces for each unit.
 - (3) Churches, temples, or places of worship, funeral homes, public buildings, theaters, auditoriums, areas and places of assembly, one (1) space for each one hundred fifty (150) square feet of Gross Floor Area (GFA).
 - (4) Retail business, commercial, one (1) space for each two hundred fifty (250) square feet of Gross Floor Area (GFA).
 - (5) Warehousing: One space per 1,000 square feet for the first 5,000 square feet, plus one space for each additional 10,000 square feet of Gross Floor Area (GFA).
 - (6) Handicap spaces: Parking spaces specifically designated for the handicapped shall be provided at a ratio of one (1) parking space for each fifty (50) parking spaces required herein. Those spaces designated for the handicapped shall be located such that they are adjacent to the pedestrian entranceway of the building(s).
 - (7) Hotels, motel, one (1) space for each rental unit, plus seventy-five (75) percent of the requirement for other customary accessory uses associated with the establishment.
 - (8) Hospital and sanitariums: one (1) space for each patient bed. Nursing homes, rest homes, convalescent homes, ACLF's: one (1) space for each two (2) patient beds plus one (1) space for each employee on the largest shift.
 - (9) Arcade Amusement Centers, one space per every two games or machines on premises. If the facility is located in a shopping center, or other building with shared parking, it shall not utilize more than ten percent (10%) of the overall parking, based upon the ratio above.
 - (10) Electronic Gaming Establishment, one space per two (2) game machines, regardless of whether the building is new or existing. If the facility is located in a shopping center, or

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other building with shared parking, it shall not utilize more than ten percent (10%) of the overall parking, based upon the ratio above.

- ~~(40)~~ (11) Private clubs, lodges, fraternities, and sororities, one (1) space for each seventy-five (75) square feet of gross floor area (GFA).
- ~~(41)~~ (12) Professional offices (excluding medical/dental offices), personal service establishments, kennels, animal hospitals, libraries, and museums, one (1) space for each three hundred (300) square feet. Medical/dental offices and clinics, one (1) space for each two hundred (200) square feet of Gross Floor Area (GFA).
- ~~(42)~~ (13) Restaurants or other eating places, one (1) space for each 150 square feet of gross floor area (GFA).
- ~~(43)~~ (14) Rooming houses, boarding houses, and dormitories, one (1) space for each two (2) beds.
- ~~(44)~~ (15) Manufacturing, industrial concerns not catering to the retail trade, one (1) space for each 500 square feet for the first 10,000 square feet of gross floor area (GA) plus one (1) space for each additional 10,000 square feet of additional GFA thereafter.
- ~~(45)~~ (16) Golf Courses and Country Clubs. Three parking spaces per hole.
- ~~(46)~~ (17) Tennis Clubs. Two parking spaces per court.
- ~~(47)~~ (18) Parks and similar uses. One space per 10,000 square feet.
- ~~(48)~~ (19) Games preserves and other passive use areas. One space per acre.
- ~~(49)~~ (20) One (1) off-street parking space per three (3) dry-docking and storage spaces, and one (1) off-street parking space per two (2) wet slip spaces.
- ~~(20)~~ (21) Private child care centers and preschools, one (1) space per three hundred (300) square feet of Gross Floor Area (GFA). Private elementary and junior high schools, two (2) spaces per class room and one (1) space per three hundred (300) square feet of office area. Private high schools, five (5) spaces per classroom and one (1) space per hundred (300) square feet of office area.
- ~~(24)~~ (22) For any building/development not listed above, the number of parking spaces shall be determined by the Administrator.
- ~~(22)~~ (23) All areas used for sales display of any types of motor vehicles, boats, trailers or heavy construction equipment shall be paved. The paved display area requirement may be waived for uses located in the Area of Critical Concern.

Section 3. That Section 59-344, Community Commercial Conditional Uses, of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 59-344. Conditional uses.

- (a) Child care facility.
 - (1) No certificate of occupancy shall be issued until a license has first been obtained from the state department of health and rehabilitative services and any other permitting agency as required by law including the provisions of these regulations.
 - (2) A landscape buffer in accordance with section 35-38 shall be required on non-street property lines.
 - (3) Such facility shall provide a passenger dropoff zone adjacent to the facility providing clear ingress and egress from parking and other areas.
 - (4) All structures, playgrounds, and outdoor recreation area be set back a minimum of fifty (50) feet from any abutting residential zoning district or residential use.

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- (b) Churches.
- (c) Convenience stores (with or without gas pumps).
 - (1) All gasoline pumps, tanks, vents, pump islands and pump island canopies shall conform to setback requirements for the district except that no such pumps, tanks, vents, pump islands or pump island canopies shall be located closer than twenty-five (25) feet to any side property lines.
 - (2) The proposed store shall be free of all obstructions of view from the adjacent street to the main store windows giving a clear and unobstructed view of the cashier's station including obstructions of landscaping and gasoline service islands.
 - (3) The proposed convenience store shall be subject to all special requirements for retail gasoline sales establishments if the proposed store is to include such use.
 - (4) The proposed convenience store shall have appropriate security systems to include, but not be limited to, the following: convenience store shall be equipped with cameras with video retrieval capabilities. This requirement shall be exempted if the convenience store employs two (2) or more employees at the same time between the hours of 11:00 p.m. and 7:00 a.m. or if the convenience store closes on a permanent basis by 11:00 p.m.
 - (5) The proposed convenience store shall not have as a part of its operation coin operational amusement devices.
- (d) Semi-public body.
- (e) Outdoor recreation and commercial amusements (miniature golf, tennis facilities, driving ranges, batting cages and similar amusements).
- (f) Indoor recreational and commercial amusements (bowling, pool, billiards, video game arcades and similar amusements), with the exception of arcade amusement centers and electronic gaming establishments.
- (g) Off street parking lots in association with other permitted uses and conditional uses in the district.
 - (1) No source of illumination for such lots shall be clearly visible from any window in any residence of the adjoining residential zoning district.
 - (2) There shall be no movement of vehicles on such lots between the hours of 10:00 p.m. and 7:00 a.m. and greater limitation may be imposed by City Council where so required.
 - (3) There shall be no sales, sales display or service activity of any kind on the parking lot in question.
 - (4) There shall be no parking of automobiles for periods of longer than twenty-four (24) hours.
- (h) Public and private schools. (See Chapter 59, Article X, Division 3—Conditional Uses Performance/Development Criteria "Schools Performance Criteria", for specific regulations and performance criteria that schools shall be required to meet).
- (i) Commercial tourist attraction.
- (j) Funeral home with crematory service.
- (k) Private club.
 - (1) Such use shall be operated for the benefit of members only and not as a business entity.
 - (2) Sleeping facilities shall be prohibited.

Section 4. That Section 59-364, Regional Commercial Conditional Uses, of the Land Development Regulations of the City of Titusville is hereby amended to read as follows:

Sec. 59-364. Conditional uses.

- (a) Off-street parking lots in association with other permitted uses and conditional uses in the district.
 - (1) No source of illumination for such lots shall be clearly visible from any window of any residence of the adjoining residential zoning district.
 - (2) There shall be no movement of vehicles on such lots between the hours of 10:00 p.m. and 7:00 a.m. and greater limitation may be imposed by City Council where so required.
 - (3) There shall be no sales, sales display or service activity of any kind on the parking lot in question.
 - (4) There shall be no parking of automobiles for periods of longer than twenty-four (24) hours.
- (b) Child care facility.
 - (1) No certificate of occupancy shall be issued until a license has first been obtained from the state department of health and rehabilitative services and any other permitting agency as required by law including the provisions of these regulations.
 - (2) A landscape buffer in accordance with section 35-38 shall be required on non-street property lines.
 - (3) Such facility shall provide a passenger dropoff zone adjacent to the facility providing clear ingress and egress from parking and access areas.
 - (4) All structures, playgrounds and outdoor recreational areas be set back a minimum of fifty (50) feet from any abutting residential zoning district or residential use.
- (c) Churches.
- (d) Semi-public body.
- (e) Outdoor recreational and commercial amusements (miniature golf, tennis facilities, driving ranges, batting cages and similar amusements).
- (f) Indoor recreational and commercial amusements (bowling, pool, billiards, video game arcades and similar amusements).
- (g) Arcade Amusement Centers. Arcades shall meet the following criteria:
 - (1) Must comply with Florida Statutes 849.161, as amended from time to time.
 - (2) Any prizes or awards must be provided with on-site merchandise only, and shall not include cash, gift cards, or alcoholic beverages.
 - (3) There shall be no sale or consumption of alcoholic beverages on the premises.
 - (4) Parking requirements must be demonstrated in the Conditional Use Permit application, including any locations within an existing building or shopping plaza. The requirements must be demonstrated with a survey of the parking lot indicating individual parking spaces and the applicant must provide the total square footage of the building the arcade will be occupying and the total number of machines or games to be located on the premises. If the arcade is applying to locate in an existing shopping plaza, the applicant must provide the total number of parking spaces in the plaza, the total square footage of each store space within the plaza, the total number of machines or games to be located on the premises and the types of uses that occupy each store space.
 - (5) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Titusville Comprehensive Plan and Future Land Use Map.

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- (6) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line of any school. Any school that is located in the future within the above distance shall execute a waiver of the distance restriction if an existing arcade amusement center already is in existence.
- (7) No two facilities, operating pursuant to this section or section (h), shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both section (g) and section (h) in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing comingling of usage, and do not otherwise violate the provisions of Chapter 849, Florida Statutes, or any regulation of the state.
- (8) The business location shall operate under the following management plan:
- (i) The facility shall not have any reflective or other opaque material on the exterior windows which limits or restricts the visibility of the interior of the facility from the exterior of the facility under normal circumstances; however a portion of the exterior window may be covered with frosting or other materials when necessary to cut the sun glare in order to view operating machines and computer screens.
 - (ii) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the Growth Management Director the number of machines being operated within the facility; and
 - (iii) The business shall not operate in violation of county, state or federal law.
- (9) The business shall not operate between the hours of 1:00 a.m. and 9:00 a.m. on week days, Sunday night through Thursday night and 2:00 a.m. and 9:00 a.m. on the weekend, Friday night and Saturday night.
- (10) In the event an Arcade Amusement Center is operating in a dual-capacity under section (h), patrons utilizing sweepstakes computers shall be made aware of the rules of the sweepstakes, as required by State Law or the regulation of any appropriate state agency, and shall otherwise comply with the laws and regulations of the state in regard to such sweepstakes gaming.
- (11) The consumption, possession, dispensation, or sale of alcohol shall be prohibited.
- (12) In addition to the required materials for an application for a CUP under Section 47-131 of the Land Development Regulations, each applicant shall submit for the business:
- (a) Articles of Incorporation/Sole Proprietorship documents;
 - (b) Tax ID number;
 - (c) license or permits from the Department of Agriculture and Consumer Services;
 - (d) software compliance documents showing compliance with state regulations;
 - (e) rules and regulations governing the drawing by chance, sweepstakes or game promotion which includes the odds of winning and the prize table and rules showing that no purchase is required to enter sweepstakes;
 - (f) probability chart;
 - (g) lease or ownership of location information;
 - (h) product/service list;
 - (i) proposed security plan designed to protect employees, patrons and the general public;

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- (h) Electronic Gaming Establishment. A conditional use may be granted under the following conditions:
- (1) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the Titusville Comprehensive Plan Future Land Use Map.
 - (2) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school. Any school that is located in the future within the above restricted distance shall execute a waiver of the distance restriction.
 - (3) No two facilities, operating pursuant to this section or section (g), shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both section (g) and section (h) in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing comingling of usage, and do not otherwise violate the provisions of Chapter 849, Florida Statutes, or any regulation of the state.
 - (4) If the facility is placed within a freestanding building the site must contain a parking ratio of one parking space per two (2) game machines, regardless of whether the building is new or existing.
 - (5) If the facility is located in a shopping center, or other building with shared parking, it shall not utilize more than ten percent (10%) of the overall parking, based upon the ratio above.
 - (6) The number of devices within the facility shall be governed by the Land Development Regulations of the City of Titusville as well as Florida Statutes and laws.
 - (7) The consumption, possession, dispensation, or sale of alcohol, shall be prohibited.
 - (8) The business location shall operate under the following management plan:
 - (i) The facility shall not have any reflective or other opaque material on the exterior windows which limits or restricts the visibility of the interior of the facility from the exterior of the facility under normal circumstances, however a portion of the exterior window may be covered with frosting or other materials when necessary to cut the sun glare in order to view operating machines and computer screens.
 - (ii) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the Growth Management Director the number of machines being operated within the facility; and
 - (iii) The business shall not operate in violation of county, state or federal law.
 - (9) The business shall not operate between the hours of 1:00 a.m. and 9:00 a.m. on week days, Sunday night through Thursday night and 2:00 a.m. and 9:00 am. on the weekend, Friday night and Saturday night.
 - (10) All patrons of the business shall be made aware that they are participating in a computer-based sweepstakes, including the rules of the sweepstakes, as required by State Law or the regulation of any appropriate state agency.
 - (11) Each applicant for Conditional Use shall show proof of permit or license to operate a game promotion or sweepstakes from the Department of Agriculture and Consumer

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Services and other applicable State or Federal permits and that the electronic game promotion software;

1. Operates only games with a preconfigured finite pool of entries;
2. Provides an entrant with the ability to participate in the absence of a purchase;
3. Does not distinguish an entrant who has made a purchase from one who has not, with respect to all advertised prizes; and uses video displays that do not determine the result.

(12) Each applicant shall provide proof that it has established a trust account in accordance with Chapter 849.094 Florida Statutes.

(13) A conditional use shall not be construed to authorize any game or machine that may be construed as a gambling device under Florida law.

(14) In addition to the required materials for an application for a CUP under Section 47-131 of the Land Development Regulations, each applicant shall submit for the business:

- (a) Articles of Incorporation/Sole Proprietorship documents;
- (b) Tax ID number;
- (c) license or permits from the Department of Agriculture and Consumer Services;
- (d) software compliance documents showing compliance with state regulations;
- (e) rules and regulations governing the drawing by chance, sweepstakes or game promotion which includes the odds of winning and the prize table and rules showing that no purchase is required to enter sweepstakes;
- (f) probability chart;
- (g) lease or ownership of location information;
- (h) product/service list;
- (i) proposed security plan designed to protect employees, patrons and the general public;

~~(h)~~ (i) Commercial tourist attractions.

~~(i)~~ (j) Funeral home with crematory service.

~~(j)~~ (k) Private club.

(1) Such use shall be operated for the benefit of members only and not as a business entity.

(2) Sleeping facilities shall be prohibited.

~~(k)~~ (l) Schools—Public and private elementary, junior high and senior high schools. (See Chapter 59, Article X, Division 3 for specific regulations and performance criteria that schools shall be required to meet).

(14)

Section 5. Severability – If any portion of this ordinance is determined by any Court to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of the remainder of this ordinance. If any Court determines that this ordinance or any portion hereof, cannot be legally applied to any individual(s), group(s), entity(ies), property(ies) or circumstance(s), such determination shall not affect the applicability hereof to any other individual group, entity, property or circumstance.

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Section 6. Grandfather existing establishment. Any electronic gaming establishment as defined herein that holds a current and valid issued Business Tax Receipt for said business may continue operating said establishment provided the establishment secures any and all necessary permits and complies with Section 47-243 of the Land Development Regulations regarding non-conforming uses.

Section 7. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2012.

James H. Tulley, Jr. Mayor

ATTEST:

Wanda Wells, City Clerk

ORDINANCE NO. 17-2012

AN ORDINANCE OF THE CITY OF TITUSVILLE, FLORIDA, REGULATING THE USE AND LICENSING OF ELECTRONIC GAMING ESTABLISHMENTS; ESTABLISHING A NEW ARTICLE XV ENTITLED "REGULATION OF ELECTRONIC GAMING ESTABLISHMENTS" OF CHAPTER 11 OF THE CODE OF ORDINANCES OF THE CITY OF TITUSVILLE, BY ADDING SECTION 11-675 THRU 11-687; TO REGULATE THE USE OF ELECTRONIC GAMING DEVICES; ESTABLISHING EXEMPTIONS; PROVIDING FOR LEGISLATIVE AUTHORIZATION; PROVIDING FOR DEFINITIONS, REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESSES, SAFETY AND SECURITY REQUIREMENTS; PROVIDING FOR ENFORCEMENT, PENALTIES FOR VIOLATIONS AND INJUNCTIVE RELIEF; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 849.08 Florida Statutes specifically prohibits gambling in the State of Florida; and

WHEREAS, Section 849.0935 allows, without violating the lottery law, charitable or non-profit organizations to occasionally raise funds by occasional drawing or raffle for prizes; and

WHEREAS, it has been asserted that Section 849.094, Florida Statutes is intended to allow, without violation of the lottery law, for profit commercial enterprises to conduct game promotions on a limited or occasional basis as a marketing tool and incidental to substantial bona fide sales of consumer products or services provided they comply with the rules of the Department of Agriculture and Consumer Services and not as vehicles for ongoing gambling or gaming; and

WHEREAS, in the last decade, establishments allegedly operated pursuant to sections 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, sections 849.0935 and 849.094, Florida Statutes, authorize drawings by chance and game promotions (also known as sweepstakes); and

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WHEREAS, confusion has existed for some years as to the interpretation and enforcement of these statutes as applied to game promotions utilizing a computer or other electronic device to reveal a prize, and which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

WHEREAS, during the last two legislative sessions, bills have been introduced to regulate or prohibit said gaming promotions; and

WHEREAS, there is presently in the City of Titusville an increasing proliferation of establishments that utilize electronic gaming devices for commercial gain; and,

WHEREAS, because of the unique nature of operation of these devices and the legal uncertainty of their validity there is a need to enact stringent regulations of gaming promotions; and

WHEREAS, local law enforcement authorities have limited resources with which to monitor this industry, and a regulatory fee will better fund enforcement efforts and ensure compliance with the law; and

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

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

WHEREAS, pursuant to Chapter 166, Florida Statutes, and the City of Titusville Charter and Code of Ordinances, the City may regulate this activity for the health, safety, and welfare of the community; and

WHEREAS, some operations display images of gambling or slot machines in their advertisement and signage and those activities should be regulated; and

WHEREAS, 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 regulate the use of electronic gaming devices and to protect its citizens who suffer from compulsive or problem gambling behavior and otherwise safeguard its citizens.

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BE IT ENACTED by the City of Titusville, Florida, as follows, that:

Section 1. That Chapter 11 of the Code of Ordinances of the City of Titusville is hereby amended by enacting a New Article XV to be entitled “Regulation of Electronic Gaming Establishments,” which shall read as follows:

REGULATION OF ELECTRONIC GAMING ESTABLISHMENTS

Sec. 11-675. Legislative Authorization. This article is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of the City of Titusville, Florida, pursuant to Article VIII, Section 2, Florida Constitution and Section 166, Florida Statutes, and the Charter of the City of Titusville, Florida. It is established to regulate the use of electronic gaming devices used to promote retail sales and effect giveaways through drawings by chance, sweepstakes or game promotions that do not otherwise violate Florida law.

Sec. 11-676. Definitions. The following definitions apply to this Chapter 11, Article XV:

(a) “Applicant” means the Operator for whom a permit application is submitted to the City of Titusville 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.

(b) “City Manager” shall mean the City of Titusville Manager or his or her designee.

(c) “Conviction” means a determination of guilt in a criminal case by a court of competent jurisdiction, regardless of whether the defendant pled guilty, no contest, or *nolo contendere*, or was found guilty by a judge or jury.

(d) "Electronic gaming establishment" means a business operation whether a principal use or accessory use, where persons utilize electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to Section 849.094, Florida Statutes, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or

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otherwise distributed, whether or not the value of such redeemed or distributed items are determined by the electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, and cybercafes or sweepstakes cafes.

(1) "Computer simulation" includes simulation by means of a computer, computer system, video display, video system or any other form of electronic video presentation.

(2) "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.

(3) "Game" includes slot machines, 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.

(4) "Gaming" in the term "electronic gaming device" is for convenience of reference only. The term "electronic gaming device" as used in this article 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.

(5) "Object" means a coin, bill, ticket, token, card or similar object, obtained as a bonus or supplement to another transaction involving the payment of consideration.

(6) "Payoff" means cash, monetary or other credit, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether made automatically from the machine or manually.

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(7) "Play or operate" or "play or operation" includes the use of skill, the application of the element of chance, or both.

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

(e) "Minor" means any individual under the age of 18 years.

(f) "Operator" means any person or entity in whose name a drawing by chance is conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotion that utilizes electronic equipment and has filed with the Department of Agriculture and Consumer Services.

(g) "Permit Holder" means the operator in whose name the City Manager or designee has issued a permit under this Ordinance.

(h) "Person" means an individual, association, partnership, joint venture, corporation, or any other type of organization, whether conducted for profit or not for profit, or a director, executive, officer or manager of an association, partnership, joint venture, corporation or other organization.

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

(j) "Security personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, or a police officer or other person authorized by law who holds a Class "G" license issued by the Florida Department of Agriculture & Consumer Services and who is hired to provide security for the electronic gaming establishment pursuant to a security plan of the applicant or such other person designated by the operator to provide security for the establishment.

(k) "Senior citizen's center" means any public or private center, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older.

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(l) "Slot machine" has the same meaning as specified in Section 551.102, Florida Statutes or as amended from time to time.

Sec. 11-677. Area of Enforcement. The Council is acting herein as the governing body for the City of Titusville, Florida, and this part shall be effective within the boundaries of the City of Titusville, Florida.

Sec. 11-678. General Prohibition. Except as expressly regulated and permitted by this Ordinance, no person or entity shall conduct a drawing by chance pursuant to Section 849.0935, Florida Statutes, sweepstakes, or game promotion pursuant to Section 849.094, Florida Statutes, or any other game of chance utilizing any electronic gaming device provided by an operator of the game of chance which displays the results by simulating a game or games ordinarily played on a slot machine.

Sec. 11-679. Permitting and Fees.

(a) *Permit Required.* No person shall conduct or operate any retail facility that utilizes an electronic gaming device in the City of Titusville without having first obtained a permit from the City Manager or his designee for each establishment. Each permit is valid only for the operator and the establishment named in the permit. Each permit is valid for one year. No permit shall be assignable or transferable, either as to person, operator, facility, or location.

(b) *Initial Permits.* Within sixty (60) days of enactment of this Ordinance, all current operators who have been operating a facility that utilizes an electronic gaming device and has a Business Tax Receipt on or before November 8, 2011, and which are subject to this Ordinance, and which apply for, and pay required fees for a permit, shall be granted a permit for the facility as provided for in this section. Each such operator shall, in addition to the requirements set forth herein as part of the application, provide proof satisfactory to the City Manager or designee that the operator was lawfully operating an electronic gaming establishment, that was utilizing electronic gaming device as of November 8, 2011, which such evidence may include a current and valid lease, rental agreement, purchase and sale contract, bill of sale or receipt indicating the purchase, lease or

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use of electronic gaming devices for that particular facility, or other certificates, permits, licenses, receipts or filings issued by the Federal, State or local government indicating proof of the uses contemplated by this Ordinance.

(c) *Permits Limited.* Unless greater than five (5) permits have been issued as provided for in subsection (b) above, the City Manager shall limit the total number of permits issued pursuant to this section to five (5). After the permits authorized by subsection (b) 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 five (5) permits. All qualifying operators who receive an initial permit as provided for in subsection (b) shall be entitled to renew their permit if they otherwise qualify and pay required fees.

(d) *Application Materials Required for Permit.*

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

- (i) Articles of Incorporation/Sole Proprietorship documents; Tax ID number;
- (ii) license or permits from the Department of Agriculture and Consumer Services;
- (iii) a copy of the certification report issued by an independent testing laboratory verifying that the computer software that is used by the Operator to conduct a drawing by chance or game promotion confirmed to be finite and not RNG (random number generated) or not a slot machine as defined by Florida law. The certification report must be provided to the City Manager or designee from the testing lab;
- (iv) 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 and rules showing that no purchase is required to enter sweepstakes;
- (v) probability chart;
- (vi) lease;

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(vii) a complete list of all products and services offered and the prices charged therefor;

(viii) proposed security plan designed to protect employees, patrons and the general public;

(ix) for a sweepstakes or game promotion operating pursuant to Section 849.094, Florida Statutes, a copy of Applicant's certification of a bond or trust account provided to the Florida Department of Agriculture and Consumer Services, regardless of aggregate prize amount; non-profit organizations operating pursuant to Section 849.0935, Florida Statutes, are exempt from this provision.

(x) for every principal, officer, and director of the operator, a fingerprint card and a letter certifying the results of a national level 2 criminal background check.

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

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

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

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

C. for a corporation, the corporate name, state of incorporation and the names, dates of birth, and residence addresses of its principal officers, directors, and shareholders and copy of incorporation documents and a certificate from the Department of State that the corporation is in good standing; or

D. a limited liability company, the company name, state of incorporation and the names, dates of birth, and residence addresses of its members and

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managers and copy of incorporation documents and a certificate from the Department of State that the corporation is in good standing;

(ii) a description, including the number of electronic gaming devices;

(iii) a statement of whether any of the individuals listed has, within the five-year period immediately preceding the date of the application, been convicted of any capital crime, first degree felonies under the laws of Florida, the United States, or any other state, and, if so, the particular criminal act involved and the place of conviction or felonies involving illegal gambling or gaming operations, felonies involving rape, molestation and crime involving moral turpitude;

(iv) the street address of the electronic gaming devices;

(v) 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

(vi) the name and address of an individual in the City of Titusville or outside the City who is authorized to receive notices from the City or owner; and

(vii) 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.

(e) *Application Fee.* Each applicant shall remit a non-refundable application fee of \$1,000.00 for permits of 20 devices or more and \$500 for less than 20 devices as a non-refundable application fee.

(f) *Review of Application.*

(1) *Duration of Review.* Within sixty (60) days of receipt of an applicant's completed permit application, the City Manager or a designee shall grant or deny the application. If any principal, officer, shareholder or director of the Operator has a pending criminal case for an enumerated crime the City

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Manager may delay its grant or denial of the permit until sixty (60) days after the final judgment or determination.

(2) Eligibility of Applicant. An applicant may be denied for a permit if:

(i) within five years of the date of the application, applicant has been convicted of any crime enumerated in Section 11-679(d)(2)(iii) under the laws of Florida, the United States, or any other state unless said violation would not constitute a crime in Florida;

(ii) within three years of the date of the application, has had a permit under this Ordinance revoked or been convicted for a violation of this Ordinance;

(iii) the application does not comply with Chapter 849.094 Fla. Statute and rules of the Department of Agriculture and Consumer Services

(iv) the application materials are incomplete or contain a misstatement of a material fact. The City Manager shall deny the permit for any of the above reasons. If an applicant satisfies all permit filing requirements and is not ineligible, the City Manager shall approve the application.

(g) *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. An applicant whose permit was denied may, within twenty-one (21) days after receipt of denial, appeal said denial to the City Council. The decision to deny a permit shall be considered non-final agency action subject to appellate review by the City Council (“Council”). The decision of the Council shall constitute final agency action subject to judicial review. Any appeal of the City Manager’s denial decision shall be made within twenty-one (21) days of receipt of a notice of denial by filing a written notice of appeal with Council along with the requisite appeal fee of \$500. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

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(h) *Permit fees.* The permit fee for electronic gaming devices shall be in accordance with the following schedule: An annual fee of \$50 per electronic gaming device.

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

(j) *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 (h) 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.

(k) *Lost or destroyed permit.* The fee for a replacement permit shall be fifty dollars (\$50.00).

(l) *Revocation of Permit.* The City Manager or a designee 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 gaming devices during its normal business hours for at least fourteen (14) consecutive days. Prior to revocation, the City Manager shall provide to the permit holder, through their individual in the City of Titusville authorized to accept notices from the City, the following:

- (1) A written notice of intent to revoke the permit,
- (2) A fourteen (14) calendar day opportunity to cure the alleged violation, and
- (3) An opportunity to be heard prior to revocation.

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Revocation shall not take place before twenty one (21) days after receipt of a notice of revocation is delivered to the permit holder and opportunities to cure and to be heard are provided. The decision to revoke a permit shall be considered non-final agency action subject to appellate review by the City Council (“Council”). The decision of the Council shall constitute final agency action subject to judicial review. Any appeal of the City Manager’s 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 Council, along with the requisite appeal fee of \$500. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

(m) *Restrictions on Transfer of Permits.* Upon submission of a transfer application by the proposed transferee to the City Manager or his designee, there shall be a transfer fee of \$500.00. The transfer application shall include the information required in the original application for permit. The transfer shall demonstrate compliance with this ordinance and applicable state and federal law. Within thirty (30) days the permit will be either approved or denied. If denied applicant may appeal the decision under the same procedure and fee as set forth above in its revocation of permit procedure. Any change in majority or controlling interest in any permit holder shall be deemed a transfer of a permit.

Sec. 11-680. Inspections.

By the application for granting of this permit, during business hours, the City Manager, the City of Titusville Police Department, or their agents may enter the facility without any warrant for purposes of inspecting all areas of the facility, 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 facility and to select and remove any electronic gaming device to inspect, test and/or have tested to determine compliance with this

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Ordinance and returned if found in compliance within 5 days. The right to remove any electronic gaming device will be limited to those necessary to ensure compliance with this ordinance.

Sec. 11-681. Signage Requirements.

(a) *Exterior of Facility.* Exterior signage shall be limited to the advertisement of the consumer product and/or service sold at the facility. No signs shall be posted on the exterior of any electronic gaming establishment that suggest gambling takes place or display any image commonly associated with slot machines or gambling. All signage shall be further subject to all applicable City of Titusville Code regulations regarding signs. Any sign for which a City permit has been previously granted which contain images commonly associated with slot machines or gambling maybe maintained for up to five (5) years from the date of this ordinance.

(b) *Interior of Facility.* The permit holder shall conspicuously post the name of the Permit Holder, a description of all products and services sold, and the complete rules for all sweepstakes or game promotions. Rules for all promotions shall include the following language in at least 26-point font: “State and local law prohibits this establishment from requiring an entry fee, payment, or proof of purchase as a condition of participating. No purchase donation or contribution is required. You may obtain free entries upon request from any employee on the premises.” The permit holder shall conspicuously also post a sign which shall include the following language in at least 26-point type: “The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries.” The permit holder shall affix signage that shall include the following language in at least 10 point type on each electronic gaming device: “The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries.” A complete copy of the rules, prize tables, and odds of winning shall be made available on_request without cost. Any consumer product or service offered for sale shall be identified by

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description and price by conspicuous posting. A copy of the permit shall be posted conspicuously at the main counter or at the entrance.

Sec. 11-682. Limitations on Operation of Business.

(a) *Alcoholic Beverages.* Permit holders shall not sell or permit any individual to consume or possess any alcoholic beverages within any electronic gaming establishment.

(b) *Minors.* Minors are prohibited from entering any electronic gaming establishment. It is the responsibility of the owner and employees of the facility to ensure no minors are present within the facility. A person's ignorance of minor's age, a minor's misrepresentation of his or her age, a bona fide belief of minor's age may not be raised as a defense for violation of this section.

(c) *Limitation on Electronic Gaming Devices.* Permit holders shall not operate more than fifty (50) electronic gaming devices.

(d) *Hours of Operation.* No electronic gaming establishment shall be open for business between the hours of 1:00 a.m. and 9:00 a.m. each weekday which is Sunday night until Thursday night and 2:00 a.m. and 9:00 a.m. each weekend which is Friday until Sunday night.

(e) *Additional Restrictions.* No electronic gaming establishment shall:

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

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

(3) fail to award any prize offered;

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

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

(f) *Additional Requirements.* An operator of an electronic gaming establishment shall:

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(1) maintain a list of the names and addresses of all persons who have won prizes which have a value of more than \$25.00, the value of such prizes, and the dates when the prizes were won and keep the list at the facility for one (1) year;

(2) maintain a trust account or bond in an amount equal to the total announced value of the prizes offered or \$50,000.00, whichever is less or a copy of the trust account or bond furnished to the State of Florida.

(3) display at the point of sale contact information related to gambling addiction treatment.

Sec. 11-683. Safety and Security Requirements.

The permit holder shall maintain the following security devices and standards:

(a) *Video Surveillance.* All such electronic gaming establishments shall install a video surveillance system capable of recording and retrieving an identifiable image for both the entrance for the cashier area of the electronic gaming establishment as well as the interior of the electronic gaming establishment. The video surveillance system shall be maintained and kept in working order at all times. The video surveillance system recordings, whether by film or digital, shall be kept for a period no less than seven (7) days and shall be open and accessible to representatives of City of Titusville, including the City of Titusville Police Department, at all times upon reasonable notice.

(b) a drop safe or cash management device for restricted access to cash receipts;

(c) at all public entrances to the facility, a conspicuous notice stating cash register contains a limited amount of cash;

(d) a cash management policy limiting cash on hand;

(e) a silent alarm system capable of notifying law enforcement;

(f) Monday thru Friday during the hours of 5 p.m. to close and during the entire business day on Saturday and Sunday, maintain at least one licensed, armed security guard holding a Class "G" license issued

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by the Florida Department of Agriculture & Consumer Services or such other security system as selected by the operator pursuant to the security plan; and

(g) Permit holder must maintain reasonable safety standards, including but not limited to, lighted parking areas or provision through lease agreements for security lighting.

(h) May not cover facility windows with opaque or reflective window tinting, posters, flyers, or anything else that obstructs the exterior view into the interior of the facility except when necessary to block sun glare for the viewing of computer screen.

Sec. 11-684. Addiction Information. All electronic gaming establishments shall be required to have displayed in a conspicuous location near cashier, flyers, pamphlets or leaflets that contain a current list of the names, addresses, and phone numbers of local Gambling Anonymous facilities and treatment centers.

Sec. 11-685. Exemptions.

(a) This Part does not prohibit an individual's personal, recreational, and non-commercial ownership, possession, play, operation or use of a device which could be construed to be an electronic gaming device.

(b) This part does not prohibit the ownership, possession, play, operation or use of any device expressly permitted by the Florida Statutes and not otherwise prohibited by the Florida Constitution, except that devices permitted by Article X, Section 23 of the Florida Constitution and Chapter 551, Florida Statutes.

(c) This part does not prohibit a religious or charitable organization from conducting a fund raising activity involving gaming, provided the religious or charitable organization does not conduct the activity more than twice in one (1) calendar year, the organization provides advance written notice to the City of Titusville Police Department of the date, time, place, and nature of such activity and who will be conducting it, and the activity is not otherwise unlawful.

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Sec. 11-686. Conflict with State Law. Nothing in this part is intended to conflict with the provisions of the Florida Constitution or Chapter 849, Florida Statutes, concerning gambling. In the event of a direct and express conflict between this Part and either the Florida Constitution or Chapter 849, Florida Statutes, then the provisions of the Florida Constitution or Chapter 849, Florida Statutes, as applicable, control.

Sec. 11-687. Enforcement; Penalties.

(a) Any person who violates this article shall be punished as provided in section 1-15. Each day the violation exists shall constitute a separate violation for the purposes of this Ordinance and shall be punishable as such and/or said violation may be processed as a code violation pursuant to Chapter 162 and the Municipal Code Enforcement Board.

(b) The City of Titusville City Attorney's Office is authorized to pursue temporary or permanent injunctive relief or any other legal or equitable remedy authorized by law in courts of competent jurisdiction to cure, remove or end any activity which violates this article.

(c) 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.

Secs. 11-688 to 690. Reserved.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the City of Titusville Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. Severability.

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

Section 4. Effective Date.

This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 2012.

James H. Tulley, Jr., Mayor

ATTEST:

Wanda Wells, City Clerk