

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 5125

AN ORDINANCE ENACTING A MORATORIUM TO PROHIBIT THE ESTABLISHMENT OF ANY NEW OR RELOCATION OF EXISTING GAMING ARCADES OR GAMING USES WITHIN THE CITY OF GRAND JUNCTION; PROVIDING THAT THE MORATORIUM SHALL BE IN EFFECT FOR A PERIOD WHICH SHALL TERMINATE AT THE EARLIEST OF THE CITY'S ADOPTION OF AMENDMENT(S) TO 21.04.030 USE- SPECIFIC STANDARDS; AND/OR TITLE 9, PUBLIC PEACE, MORALS AND WELFARE OF THE GRAND JUNCTION MUNICIPAL CODE OR THE EXPIRATION OF 365 DAYS FROM THE EFFECTIVE DATE OF THIS ORDINANCE; PROVIDING FOR FINDINGS, INTENT AND PURPOSE; PROVIDING FOR DEFINITIONS; AND PROVIDING REPEALING CLAUSES

RECITALS:

A new type of "gray casino" business has been operating in the City of Grand Junction (City) and throughout Colorado. The businesses look, feel, and operate much like Las Vegas style casinos. The businesses use technology to operate in a gray area of the law which purports to distinguish games of skill from games of chance.

Due to the technology, the investigation and prosecution of the businesses as illegal gambling, i.e., games of chance, is almost impossible and accordingly the businesses continue to operate in the City.

With the passage of HB22-1412 the State's Gaming Commission was empowered to investigate and prosecute crimes and enforce regulations pertaining to unlicensed gaming establishments throughout Colorado; however, the Colorado Division of Gaming Enforcement and Investigations Section has advised the City that the Division will not operate/provide enforcement outside of the cities authorized for limited gaming in Article XVIII, Section 9 of the Colorado Constitution (Blackhawk, Central City, and Cripple Creek).

The games of skill typically offered by these businesses are video machines, similar to video slot machines, which the player may win money, cryptocurrency, or other value. Because these businesses operate in a gray area of the law, sometimes known as simulated gambling, they are unregulated and uncontrolled under Colorado law. The businesses often bring problems of increased crime, no public health oversight, and no regulation of the flow of money. Because the businesses typically do not sell products, a City sales tax license is not required.

A temporary moratorium disallowing new skilled gaming businesses will allow time for the City Attorney's Office and the Grand Junction Police Department, and/or other legal authority(ies) to conduct a review of existing skilled gaming establishment(s) and will help preclude other businesses from opening in the City. A temporary moratorium will

allow the City an opportunity to evaluate potential regulation, licensure, and other avenues, including coordination with the State, to better limit the impact the businesses are having on the community.

This temporary moratorium is narrowly tailored and will further the health, safety, and welfare of the people of the City of Grand Junction.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE GRAND JUNCTION THAT:

Chapter 21.04 Section 030 shall be revised in relevant part as follows (additions are underlined and deletions marked with strike through notations):

(b) Adult Entertainment.

(1) The City Council finds that the concentration of certain adult entertainment establishments in cities tends to result in the blighting and deterioration of the areas of such concentration. Accordingly, it is necessary that these establishments be regulated in a manner as to prevent the erosion of the character of affected neighborhoods.

(5) Definitions.

(i) (E) Gaming arcade (aka skilled gaming business) means any business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person or by that person's partners, affiliates, subsidiaries, agents, or contractors which features (i) slot machine(s), (ii) gambling device(s), (iii) simulated gambling device(s), or (iv) any mechanical, electrical, video, electronic, or other device, contrivance or machine which after insertion or conveyance of a coin, debit card, credit card, cash, token or similar object or upon payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive monetary compensation and/or redeemable game credits, or any other thing of value. This definition expressly includes 'fish game' 'fish game table' 'fish game gambling table' however denominated that consists of a tabletop electronic display with one or more stations featuring buttons, joysticks, or other control(s) that delivers to the player cash, cash premiums, redeemable game credits or any other thing of value for successful play, whether the redeemable payout is made from the machine, another machine, or from an employee of the business. This definition expressly excludes any business location which features bona fide amusement devices that pay nothing of value, cannot be adjusted to pay anything of value, provide only unredeemable free games, or provide only tickets redeemable for nonmonetary prizes consisting of toys or novelties of nominal value; crane games; BINGO operations, coin-operated music machines; or any bona fide amusement device authorized within restaurants by C.R.S 44-3-103(47).

(a) Slot machine: any mechanical, electrical, video, electronic, or other device, contrivance, or machine which, after insertion of a coin, token, or similar object, or upon

payment of any required consideration whatsoever by a player, is available to be played or operated, and which, whether by reason of the skill of the player or application of the element of chance, or both, may deliver or entitle the player operating the machine to receive cash premiums, merchandise, tokens, redeemable game credits, or any other thing of value other than unredeemable free games, whether the payoff is made automatically from the machines or in any other manner; except that the term does not include a crane game or vintage slot machine models introduced on the market in 1984, does not contain component parts manufactured in 1984 or thereafter and is not used for gambling purposes or limited gaming purposes.

(b) Gambling Device means any device, machine, paraphernalia, or equipment that is used or usable in the playing phases of any professional gambling activity, whether that activity consists of gambling between persons or gambling by a person involving the playing of a machine; except that the term does not include a crane game.

(c) Simulated Gambling Device: a mechanically or electronically operated machine, network, system, program, or device that is used by an entrant and that displays simulated gambling displays on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by a person conducting the game or by that person's partners, affiliates, subsidiaries, agents, or contractors; except that the term does not include bona fide amusement devices, as authorized in C.R.S. 44-3-103 (47), that pay nothing of value and cannot be adjusted to pay anything of value. "Simulated gambling device" includes:

(I) A video poker game or any other kind of video card game; (II) A video bingo game; (III) A video craps game; (IV) A video keno game; (V) A video lotto game; (VI) A video roulette game; (VII) A pot-of-gold; (VIII) An eight-liner; (IX) A video game based on or involving the random or chance matching of different pictures, words, numbers, or symbols; (X) An electronic gaming machine, including a personal computer of any size or configuration that performs any of the functions of an electronic gaming machine; (XI) A slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution; and (XII) A device that functions as, or simulates the play of, a slot machine, where results are determined by reason of the skill of the player or the application of the element of chance, or both, as provided by Article XVIII, § 9(4)(c) of the Colorado constitution. (b) "Simulated gambling device" does not include any parimutuel totalizator equipment that is used for pari-mutuel wagering on live or simulcast racing events and that has been approved by the director of the division of racing events for entities authorized and licensed under article 32 of title 44 of the Colorado Revised Statutes.

(d) Crane Game means an amusement machine that, upon insertion of a coin, bill, token, or similar object, allows the player to use one or more buttons, joysticks, or other controls to maneuver a crane or claw over a nonmonetary prize, toy, or novelty, none of

which shall have a cost to the arcade of more than twenty-five dollars per item, and then, using the crane or claw, to attempt to retrieve the prize, toy, or novelty for the player.

(8) Gaming Arcades: The City Council finds that it is necessary to preserve the public health, safety, morals, and general welfare of the residents and businesses of the City by affording time for City staff to evaluate the impact of Gaming Arcades, whether such uses are legal and, if so, can be appropriately sited within the City with appropriate regulation, or whether such uses are or should be prohibited.

(i) Imposition of Moratorium. A moratorium period is hereby declared on all new establishments not in existence or the relocation of existing establishments as of [DATE (THE EFFECTIVE DATE OF THIS ORDINANCE)], constituting Gaming Arcades (aka skilled gaming businesses), Slot Machine(s), Gambling Device(s) and Simulated Gambling Device(s) from the effective date of this Ordinance, [DATE], for the period of three hundred sixty five (365) days to [DATE] (inclusive), or until further action of the City Council ending, modifying or extending this moratorium, whichever occurs first. Such further action shall be taken accordingly by ordinance of the City Council. No applications pertaining to sales and use tax, amendments to the official zoning map, site development, liquor license, sign permit, building permit, any development permit, or renewal or transfer of any of the aforementioned shall be accepted for review by the City for the moratorium period as defined herein.

(ii) Repeal. Section 21.04.030(8) and subsections contained therein is repealed effective [DATE].

ALL OTHER PROVISIONS OF CHAPTER 21.04 SECTION 030 SHALL REMAIN IN FULL FORCE AND EFFECT.

Introduced on first reading this 18th day of January 2023 and ordered published in pamphlet form.

Adopted on second reading this 1st day of February 2023 and ordered published in pamphlet form.

ATTEST:



Amy Phillips
City Clerk



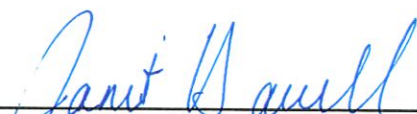
Anna M. Stout
President of City Council



I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 5125 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 18th day of January 2023 and the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 1st day of February 2023, at which Ordinance No. 5125 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 3rd day of February 2023.



Deputy City Clerk

Published: January 20, 2023
Published: February 03, 2023
Effective: March 05, 2023

