

	LAND DEVELOPMENT STAFF REPORT AND RECOMMENDATION
---	---

Subject/Agenda Item:

Ordinance 2023-14 – Prohibiting Adult Arcades: A City-initiated text amendment to the Zoning Code to define and prohibit adult arcades in all areas of the City.

Recommendation to APPROVE

Recommendation to DENY

Quasi-Judicial

Legislative

Public Hearing

<p>Originating Department:</p> <p>Planning & Engineering</p> <p>Project Manager</p> <p>_____</p> <p>Denise Malone, AICP Development and Neighborhood Services Director</p>	<p>Reviewed By:</p> <p>Director of Planning & Engineering</p> <p>_____</p> <p>Denise Malone, AICP Development and Neighborhood Services Director</p> <p>_____</p> <p>Tanya Earley, Esq. Torcivia, Donlon, Goddeau & Rubin, P.A.</p>
<p>Approved By:</p> <p>City Manager</p> <p>_____</p> <p>Andrea McCue</p>	<p>Public Notice:</p> <p><input checked="" type="checkbox"/> Required</p> <p><input type="checkbox"/> Not Required</p> <p>Dates: 9/28/2023, 10/05/2023</p> <p>Papers: Lake Worth Herald/Palm Beach Post</p> <p>Mailing</p> <p><input type="checkbox"/> Required</p> <p><input checked="" type="checkbox"/> Not Required</p> <p>Notice Distance: _____</p>

<p>Attachments:</p> <ul style="list-style-type: none"> • Ordinance 2023-14 	<p>City Council Action:</p> <p><input checked="" type="checkbox"/> Approval</p> <p><input type="checkbox"/> Approve with conditions</p> <p><input type="checkbox"/> Denial</p> <p><input type="checkbox"/> Continued to: _____</p>
--	---

I. Executive Summary:

This is a city-initiated request to amend the City’s Zoning Code to define and prohibit adult arcades. In addition, it is recommended that Chapter 9 (Miscellaneous Offenses) be amended to prohibit the unlawful operation of such establishments.

II. Background:

Section 849.231, Florida Statutes, prohibits the possession, purchase, manufacture, and sale of gambling devices, including slot machines. Adult arcades ostensibly provide a space for the public to use devices that simulate gambling without violating section 849.231. In practice, many establishments offer machines that are prohibited under state law, or which require specialized knowledge to verify their legality. In May of 2023, the Florida Gaming Control Commission arrested arcade operators doing business in Palm Beach, St. Lucie, and Pinellas Counties, seizing more than 300 illegal gambling machines.

Law enforcement personnel from areas with a high concentration of arcades (e.g., Pinellas County), have reported that arcades are associated with criminal offenses, including robbery, trespass, criminal mischief, and the sale of illegal drugs onsite.

To avoid the proliferation of adult arcades in Greenacres, staff have been directed to draft amendments to the City Code.

III. Proposed Zoning Code Amendments:

The following Zoning Code regulations are impacted by the proposed Zoning Text Amendments. Text shown in ~~strikethrough~~ is to be deleted. Text shown in underline is to be added.

Proposed Change #1

The proposed zoning text amendments are as follows:

Chapter 16, Zoning Regulations, Article I, In General, Section 16-1, Definitions:

Sec. 16-1. Definitions.

Amusement device/coin- or token-operated shall mean any amusement machine or device operated by means of insertion of a coin, token, or similar object for the purpose of amusement or skill, or for the playing of which, a fee is charged. This definition does not include the following: vending machines which do not incorporate gaming, amusement or skilled features; ~~nor does this definition include~~ any coin or token operated mechanical musical devices; and simulated gambling devices.

Arcade, adult shall mean any establishment, room, place, or business location at which there are available to the public one (1) or more simulated gambling devices. Adult arcades are prohibited within the City of Greenacres, with the exception that adult arcades that are lawfully operating as of November 6, 2023, shall be considered nonconforming uses.

Arcade, game/video shall mean any establishment, room, place, or business location in which there are available to the public more than three (3) coin- or token-operated amusement devices which are coin- or token-operated or where a fee is charged for the operation of such devices. This definition does not include adult arcades.

Simulated gambling device shall mean any game, machine, device, computer simulation of any game, or simulated slot machine, which may deliver or entitle the user thereof to a payoff directly or indirectly from the owner or operator of the device or the owner or operator's designee. For purposes of this definition, "payoff" includes, but is not limited to, any money, credit, allowance, or additional chance to use the device.

Slot machine shall have the same meaning as defined in section 551.102, Florida Statutes, as that section may be amended from time to time.

In addition to the foregoing proposed zoning text amendments, it is proposed that Chapter 9, Miscellaneous Offenses, be amended as follows:

Section 9-11. Simulated Gambling Devices.

(a) Definition. Adult arcade shall have the definition set forth in Section 16-1 of this Code.

(b) Findings and Intent. Adult arcades are associated with and tend to encourage an increase in criminal activity, including but not limited to, violent crimes, property crimes, illegal gambling, and the possession of illegal gambling equipment. It is the intent of this section to promote the general health, safety, and welfare by avoiding the future establishment and proliferation of adult arcades, while permitting legal nonconforming uses as set forth herein.

(b) Operation of adult arcades prohibited. It is unlawful to operate an adult arcade within the City of Greenacres. This subsection does not prohibit the personal, recreational, and non-commercial ownership, possession, play, operation, or use of a device which could be construed to be a simulated gambling device.

(c) Nonconforming uses. Any adult arcade lawfully operating on or before November 6, 2023, shall not be prohibited under this section, but shall be classified as a nonconforming use and governed by section 16-1357 of this Code.

(d) Conflict with state law. Nothing set forth in this section or this article is intended to conflict with the provisions of the Florida Constitution or Chapter 849, Florida Statutes, as may be amended

from time to time. If any provision of this section directly conflicts with state law, the applicable state law shall control.

IV. Staff Analysis:

The City Code currently lacks a definition for adult arcade. The proposed text amendment would define an arcade as an establishment that offers one or more simulated gambling devices to the public. In addition, it defines simulated gambling devices and slot machines. While the added definition clarifies that adult arcades are prohibited within the City of Greenacres, the amendment to Chapter 9, Miscellaneous Offenses, prohibits the operation of such establishments. To the extent an adult arcade is legal operating on the effective date of the ordinance, it would be considered a non-conforming use.

Development Review Committee Comments:

The petition was reviewed by the Development Review Committee staff recommended approval with no comments.

V. Zoning Text Amendment Criteria:

A. *The need and justification for these changes:*

The principal intent of these proposed text amendments to the Zoning Code is to reinstate the prohibition on the MMTC-DF use within the boundaries of the City.

B. *The relationship of the proposed amendments to the purpose and objectives of the City's Comprehensive Plan, and whether the proposed change will further the purposes of the City's Zoning Code regulations and other City codes, regulations and actions designed to implement the Comprehensive Plan.*

The proposed amendments are consistent with the City's Comprehensive Plan and will further the purposes of the City's Zoning Code regulations and other City codes.

VI. Staff Recommendation:

Approval of ZTA-23-02 through the adoption of Ordinance 2023-14.

**PLANNING AND ZONING BOARD OF APPEALS
RECOMMENDATION – October 12, 2023**

The Planning Commission on a motion made by Commissioner Edmundson and seconded by Commissioner Litowsky, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-23-02** (*Prohibiting Adult Arcade*) as presented by staff.

CITY COUNCIL ACTION First Reading – October 16, 2023

The City Council on a motion made by Deputy Mayor Tharp and seconded by Council Member Dugo, by a vote of five (5) to zero (0) recommended approval of Zoning Text Amendment **ZTA-23-02** (*Prohibiting Adult Arcade*) as presented by staff.

CITY COUNCIL ACTION Adoption Hearing – November 6, 2023
