

ORDINANCE NO. 2023-14

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AMENDING CHAPTER 16, ZONING REGULATIONS, ARTICLE I, IN GENERAL, SECTION 16-1, DEFINITIONS, BY AMENDING CERTAIN DEFINITIONS AND ADDING DEFINITIONS RELATED TO ADULT ARCADES; PROHIBITING SIMULATED GAMBLING DEVICES AND ADULT ARCADES AND PROVIDING FOR NONCONFORMING USES; CREATING CHAPTER 9, MISCELLANEOUS OFFENSES, DIVISION 1, SECTION 9-11; PROVIDING THAT EACH AND EVERY OTHER SECTION AND SUBSECTION OF CHAPTER 16, ZONING REGULATIONS, SHALL REMAIN IN FULL FORCE AND EFFECT AS PREVIOUSLY ADOPTED; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN CODE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council has determined that adult arcades have been 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 machines; and

WHEREAS, the City Council deems the prohibition of adult arcades to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Greenacres and the public at large; and

WHEREAS, the Development Review Committee provided its recommendation regarding the proposed amendment to the Code of Ordinances; and

WHEREAS, the Planning and Zoning Board of Appeals, after notice and public hearing, has considered the proposed amendment to the Code of Ordinances, more specifically described herein, and submitted its recommendation to the City Council; and

WHEREAS, the City Council, after notice and public hearing, has considered the proposed amendment to the Code of Ordinances, the recommendations of the Planning Commission, and all public comments; and

WHEREAS, the City Council finds that the proposed amendment to the Code of

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Ordinances is consistent with the City of Greenacres Comprehensive Plan; and

WHEREAS, the City Council desires to amend the Code of Ordinances in order to incorporate the above-described amendment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, AS FOLLOWS:

SECTION 1. Chapter 16, Zoning Regulations, Article I, In General, Section 16-1, Definitions, is hereby amended as follows:

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.

SECTION 2. Chapter 9, Article I, Division 1, Section 9-11 is hereby created 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.

SECTION 3. Repeal of Conflicting Ordinances

All Ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this Ordinance are hereby repealed.

SECTION 4. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance

after the exclusion of such part or parts shall be deemed to be held valid as if such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

SECTION 5. Inclusion in the Code

It is the intention of the City Council, entered as hereby ordained, that the provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of the City of Greenacres, Florida; that the Section(s) of this Ordinance may be renumbered or re-lettered to accomplish such intention, and that the word "Ordinance" may be changed to "Section", "Article" or another word.

SECTION 6. Effective Date

The provisions of this Ordinance shall become effective upon adoption in accordance with the City's Charter.

Passed on the first reading this 16th day of October, 2023.

PASSED AND ADOPTED on the second reading this 6th day of November, 2023.

Voted:

Joel Flores, Mayor

John Tharp, Council Member, *District I*

Attest:

Voted:

Quintella Moorer, City Clerk

Peter Noble, Deputy Mayor

Voted:

Judith Dugo, Council Member, *District III*

Voted:

Susy Diaz, Council Member, *District IV*

Voted:

Paula Bousquet, Council Member, *District V*

Approved as to Form and Legal Sufficiency:

Glen J. Torcivia, City Attorney