

**ORDINANCE NO. 2021-\_\_\_**

**AN ORDINANCE REGULATING THE USE AND LICENSING OF SIMULATED GAMBLING DEVICES; PROVIDING LEGISLATIVE FINDINGS; PROVIDING FOR LEGISLATIVE AUTHORIZATION; PROVIDING CERTAIN DEFINITIONS; DEFINING THE AREA OF ENFORCEMENT AS THE ENTIRE UNINCORPORATED AREA OF THE COUNTY; PROHIBITING USE OF SIMULATED GAMBLING DEVICES EXCEPT AS PROVIDED IN THIS ORDINANCE; PROVIDING REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, LOCATION OF FACILITIES, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESSES, SAFETY AND SECURITY REQUIREMENTS; PROVIDING CERTAIN EXEMPTIONS; PROVIDING FOR ENFORCEMENT, PENALTIES FOR VIOLATIONS; PROVIDING FOR CONFLICT WITH STATE LAW; PROVIDING SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**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 contest results or prizes, and which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

**WHEREAS**, computer or video displays of spinning reels or other simulations of a game or games ordinarily played on a Slot Machine, or in a casino or otherwise in connection with gambling and which show the results of raffles, sweepstakes, contests or other promotions (hereinafter collectively referred to in these recitals as "Simulated Gambling Devices") were not among the types of pari-mutuel pools authorized by law as of the effective date of the 1968 Florida Constitution; and

**WHEREAS**, in 2013, the Florida Legislature enacted Chapter 2013-2, Laws of Florida, which made certain changes to Chapter 849, Florida Statutes, "to ensure that a charitable drawing by chance, game promotion in connection with the sale of a consumer product or service, and arcade amusement games are not subject to abuse or interpreted in any manner as creating an exception to Florida's general prohibitions against gambling;" and

**WHEREAS**, Chapter 2013-2, Laws of Florida, created Section 849.16(3), Florida Statutes, providing that, “[t]here is a rebuttable presumption that a device, system, or network is a prohibited slot machine or device if it is used to display images of games of chance and is part of a scheme involving any payment or donation of money or its equivalent and awarding anything of value;” and

**WHEREAS**, local law enforcement authorities have limited resources with which to monitor this industry, and a permitting process and associated regulatory fee will ensure compliance with the law; and

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

**WHEREAS**, an ordinance regulating the use of Simulated Gambling Devices in the conduct of drawings by chance and game promotions will protect the public health, safety, and welfare; and

**WHEREAS**, pursuant to Section 125.01, Florida Statutes, and the Levy County Code of Ordinances (the "Levy County Code"), the County may regulate this activity for the health, safety, and welfare of the community; and

**WHEREAS**, the Board of County Commissioners of Levy County, Florida (the "Board"), desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual, and promoting the health, safety, education, and welfare of the people, including the elderly and economically disadvantaged, and the children of Levy County who are our most precious and valuable resource, finds that Levy County has a compelling interest in protecting its citizens, and in particular its elderly, economically disadvantaged, and children from certain activities and influences which can result in irreparable harm, including Simulated Gambling Devices; and

**WHEREAS**, the Board recognizes that while the State of Florida has authorized Slot Machine gambling at licensed facilities in certain areas outside of Levy County, it also recognizes that establishments that utilize Simulated Gambling Devices, including but not limited to devices that simulate Slot Machines, can deceive members of the public, including the elderly, the economically disadvantaged, and children, into believing that they are engaging in a lawfully permitted gaming activity; and

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

**WHEREAS**, it is necessary and in the public interest to ensure that businesses portray themselves in a manner not likely to mislead the public; and

**WHEREAS**, the Board is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive or problem gambling behavior; and

**WHEREAS**, there is a direct relationship between these establishments that utilize Simulated Gambling Devices and disturbances of the peace and good order of the community, and the concurrence of these activities is hazardous to the health and safety of the Persons in attendance; 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 Simulated Gambling Devices; and

**WHEREAS**, in terms of the negative impact recited herein, there is little or no material difference between the effect of allowing Slot Machines and allowing the use of Simulated Gambling Devices.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEVY COUNTY, FLORIDA, AS FOLLOWS:**

**SECTION 1. LEGISLATIVE FINDINGS.** The Board finds as follows:

- (A) The above recitals are true and correct and hereby incorporated herein by reference.
- (B) Desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual, and promoting the health, safety, education, and welfare of the people, the Board has a compelling interest in protecting its citizens from certain activities and influences which can result in irreparable harm if left unregulated.
- (C) The Board has a legitimate interest in protecting its citizens from unethical and/or illegal business practices, ensuring Operators of regulated establishments are of good moral character, providing safe locations for people to congregate, and protecting the quality and well-being of its neighborhoods.
- (D) It is necessary and in the public interest to ensure that businesses portray themselves in a manner not likely to mislead the public.
- (E) The imposition of a regulatory scheme for activities conducted pursuant to sections 849.0935 and 849.094, Florida Statutes, bears a rational relationship to its interests.
- (F) While the State of Florida authorizes drawings by chance and game promotions under certain circumstances, the Board further recognizes that establishments that utilize Simulated Gambling Devices to display the results of drawings by chance and game promotions by simulating a game or games ordinarily played on a Slot Machine can deceive members of the public into believing that they are engaging in a licensed gambling activity if left unregulated.

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

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

**SECTION 2. LEGISLATIVE AUTHORIZATION.** This Ordinance is enacted in the interest of the public health, peace, safety, morals, and general welfare of the citizens and inhabitants of Levy County, Florida, pursuant to Article VIII, section 1(f), Florida Constitution, and section 125.01, Florida Statutes. It is established to regulate the use of Simulated Gambling Devices to effect giveaways through drawings by chance, sweepstakes, or game promotions that do not otherwise violate Florida law.

**SECTION 3. DEFINITIONS.** As used in this Ordinance, the following terms shall have the following meanings unless the context clearly otherwise requires:

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

**"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.

**"County Coordinator"** shall mean the Levy County Coordinator or his or her designee.

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

**"Minor"** means any Person under the age of eighteen (18) years.

**"Operator"** means any Person in whose name a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotion that utilizes Simulated Gambling Devices is conducted.

**"Permit Holder"** means the Operator in whose name the County Coordinator has issued a permit under this Ordinance.

**"Person"** means an individual, association, partnership, joint venture, corporation, limited liability company, not-for-profit entity, or entity of any kind authorized to engage in business in Florida or any other type of organization, whether conducted for profit or not, or a director,

executive officer or manager of an association, partnership, joint venture, corporation or other organization.

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

**"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 and who is hired to provide security for the Simulated Gambling Facility.

**"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.

**"Simulated Gambling Device"** means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the Person or Persons playing or operating the device to a payoff. The following Rules of construction apply to this definition of "Simulated Gambling Device";

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

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

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

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

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

(6) The term "game" includes Slot 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, sweepstake, drawing, contest or other promotion, lotto, sweepstake, and any other game associated with gambling or which could be associated with gambling, but the term "game" does not necessarily imply gambling as that term may be defined elsewhere.

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

(8) The use of the word "Gambling" in the term "Simulated Gambling Device" is for convenience of reference only. The term "Simulated Gambling Device" as used in this Ordinance 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.

**"Simulated Gambling Facility" or "Facility"** means the house, building, edifice, or location, along with its grounds in which Simulated Gambling Devices are used, operated, or stored.

**"Slot Machine"** has the same meaning as specified in Section 551.102, Florida Statutes, or as amended from time to time.

**SECTION 4. AREA OF ENFORCEMENT.** The Board is acting herein as the governing body for Levy County, Florida, and this Article shall be effective within the unincorporated areas of Levy County, Florida.

**SECTION 5. GENERAL PROHIBITION.** Except as expressly regulated and permitted by this Ordinance, no Person, other than a De Minimis Activity Facility as defined herein, shall conduct a drawing by chance pursuant to s. 849.0935, Florida Statutes, sweepstakes, or game promotion pursuant to s. 849.094, Florida Statutes, or any other game of chance on any Simulated Gambling Device provided by an Operator of the game of chance which displays the result by simulating a game or games ordinarily played on a Slot Machine.

**SECTION 6. PERMITTING AND FEES.**

(A) *Permit Required.* No Person shall conduct or operate any Simulated Gambling Device without having first obtained a permit from the County Coordinator for each Simulated Gambling Facility. Each permit is valid only for the Operator and the Simulated Gambling Facility named in the permit. Each permit is valid for one year.

(B) *Initial Permits.* Within sixty (60) days of the effective date of this Ordinance, all current Operators that were operating a Simulated Gambling Facility as of the effective date of this Ordinance, and which are subject to this Ordinance, and which apply for, qualify 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 County Coordinator that the Operator was lawfully operating a Simulated Gambling Facility as of the effective date of this Ordinance, which evidence may include a current and valid lease, rental agreement, purchase and sale contract, bill of sale or receipt indicating the purchase, lease or use of Simulated Gambling Devices for the 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. Nothing contained in this paragraph shall obligate the County to issue a permit to any Operator that was operating a Facility as of the

effective date of this Ordinance, in the event such Operator does not meet all applicable requirements for the issuance of a permit as described herein.

(C) *Permits Limited.* Unless greater than ten (10) permits have been issued as provided for in subsection (B) above, the County Coordinator shall limit the total number of permits issued pursuant to this section to ten (10). 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 ten (10) 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 County Coordinator the following materials:

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

(ii) 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;

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

(iv) verification that the prices charged for the products and services constitute a reasonable market value;

(v) for every principal, officer, shareholder, and director of the Operator, a fingerprint card and letter certifying the results of a criminal background check generated by the Levy County Sheriff's Office or Florida Department of Law Enforcement; and

(vi) An opinion from an attorney licensed to practice law in the State of Florida stating that the computer software that is used by the Operator to conduct the drawing by chance or game promotion in connection with the sale of a consumer product or service is not a Slot Machine as defined by Florida law. Such opinion shall be specific to and based upon the specific computer software that is used or to be used by the Operator to conduct the drawing by chance or game promotion.

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

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

or

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. a corporation: the corporate name, state of incorporation and the names, dates of birth, and residence addresses of its principal officers, directors, and shareholders;

d. a limited liability company: the company name, state of incorporation and the names, dates of birth, and residence addresses of its members and managers;

(ii) a description, including the number, of Simulated Gambling 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 felony 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;

(iv) the street address of the Simulated Gambling Facility;

(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;

(vi) the name and address of an individual in Levy County who is authorized to receive notices from the County; 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 \$500.00 with the application. This fee shall pay for the time and expense of the County Coordinator in enforcing the provisions herein, reviewing and ruling on the application, and issuing the Permit.

(F) *Review of Application.*

(1) *Duration of Review.* Within sixty (60) days of receipt of an Applicant's completed permit application, the County Coordinator 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 County Coordinator may delay its grant or denial of the permit until sixty (60) days after the final determination on that matter.



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

(i) within five years of the date of the application, Applicant has been Convicted of any felony 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, Applicant has had a permit under this Ordinance revoked or been convicted for a violation of this Ordinance;

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

(iv) the application materials are incomplete or untruthful.

The County Coordinator shall deny the permit for any of the above reasons. If an Applicant satisfies all permit filing requirements and is not ineligible, the County Coordinator 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.

(H) *Permit fees.* The permit fee for a Simulated Gambling Facility shall be in accordance with the following schedule:

(1) 1 to 20 Simulated Gambling Devices - \$2,500.00;

(2) 21 to 40 Simulated Gambling Devices- \$5,000.00;

(3) 41 to 60 Simulated Gambling Devices- \$7,500.00;

(4) 61 to 80 Simulated Gambling Devices- \$10,000.00;

(5) 81 to 100 Simulated Gambling Devices- \$12,500.00.

This fee is due upon receipt of the permit or any permit renewal. If an eligible Applicant fails to pay this fee on or before the thirtieth (30th) day after approval and notice of the permit authorization, the permit or permit renewal application shall be deemed denied.

(I) *Inspection fee.* \$50.00 per Simulated Gambling Device will be accessed annually and is due upon receipt of the permit or any permit renewal. If an eligible Applicant fails to pay this fee on or before the thirtieth (30th) day after approval and notice of the permit authorization, the permit or permit renewal application shall be deemed denied.

(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 subsections (H) and (I) 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 and notice of the permit authorization.

(K) *Transfers of Permits.*

(1) *Transfer to Another Entity.* Permits may be transferred no more than one time, to another entity, upon submittal of a transfer application by the proposed transferee to the County Coordinator. There shall be a transfer fee of \$500.00. Any change in a majority or controlling interest in any Permit Holder shall be deemed a transfer of the permit. The transferee Applicant must meet all the requirements and qualifications of this Ordinance and provide all documents and materials required for an application for a permit.

(2) *Transfer to Another Simulated Gambling Facility.* Permits may be transferred to another location upon application and the payment of a \$150.00 transfer fee. The transferred location shall be approved within thirty (30) days of submittal of a transfer application (including all required supplemental information, including but not limited to any required certified maps depicting applicable locations and distances), if such use is a permitted use in an approved zoning district, or if the transferee obtains County approval of a special use permit if the zoning district allows the same, and in all other applicable provisions of the Levy County Code. Otherwise, the application shall be denied.

(L) *Revocation of Permit.* The County Coordinator may revoke a permit for violation of any provision of this Ordinance or due to a Permit Holder's cessation of the use of Simulated Gambling Devices during its normal business hours for at least fourteen (14) consecutive days. Prior to revocation, the County Coordinator shall provide to the Permit Holder, through their individual in Levy County authorized to accept notices from the County, 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.

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 subject to review by the Board of County Commissioners. The decision of the Board shall be final. Any appeal of a revocation decision made by the County

Coordinator shall be made within fifteen (15) calendar days of receipt of a notice of revocation by filing a written notice of appeal with the County, along with an appeal fee of \$150.00. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

**SECTION 7. LOCATION.** All Simulated Gambling Facilities shall be located in commercial zoning districts, but in no event may such a Simulated Gambling Facility be located within 1,000 feet of any real property comprising a child care Facility as defined in Section 402.302, Florida Statutes, or as may be amended from time to time, or a public or private elementary, middle, secondary school, or any private or public college, university, or other postsecondary educational institution, or within 1,000 feet of real property comprising a church, a county park, a community center, a Senior Citizen's Center, or publicly owned recreational Facility, nor may such a Simulated Gambling Facility be closer than 2,500 feet from another such Simulated Gambling Facility. The distance measurements shall be from the point of edge of property to the next closest edge of property.

**SECTION 8. INSPECTION OF SIMULATED GAMBLING FACILITY.** During business hours, the County Coordinator and/or his or her designee(s), the Levy County Sheriff's Office, or their agents may enter the Facility 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 Simulated Gambling Devices to inspect, test and/or have tested to determine compliance with this Ordinance.

**SECTION 9. SIGNAGE REQUIREMENTS.**

(A) *Exterior of Simulated Gambling Facility.* No signs shall be posted on the exterior of the Simulated Gambling Facility that suggest gambling takes place on the premises or display any image commonly associated with Slot Machines. All signage shall be further subject to all applicable Levy County Code regulations regarding signs.

(B) *Interior of Simulated Gambling 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 game promotions at the Simulated Gambling Facility's front or main counter. The Rules 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 donation or contribution is required. You may obtain free entries upon request from any employee on the premises." The Permit Holder shall 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 Simulated Gambling 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 description and price by conspicuous posting. A copy of the permit shall be posted conspicuously at the main counter or at the entrance.

**SECTION 10.           LIMITATIONS ON OPERATION OF BUSINESS.**

(A)    *Alcoholic Beverages.* Permit Holders shall not sell or permit any individual to consume or possess any alcoholic beverages on the premises of the Simulated Gambling Facility.

(B)    *Minors.* Permit Holders shall not permit Minors to enter any Simulated Gambling Facility or to participate in the game promotion or drawing by chance. It is the responsibility of the Owner and Operator of the Simulated Gambling Facility to ensure that no Minors are present within the Facility. A Person's ignorance of the Minor's age, a Minor's misrepresentation of his or her age, or a bona fide belief of a Minor's age may not be raised as a defense for violation of this Section.

(C)    *Conditions of Alternative Means of Entry.* Entries that are available without purchase or financial donations shall be made available on request. The Permit Holder shall not impose any condition on the provision of such entries other than proof of identity by government issued identification from any state. The Permit Holder shall not limit the number of such entries offered per day per individual to less than the equivalent amount of entries that Permit Holder provides to individuals who make a donation, or purchase of a product or service valued at least \$1.00.

(D)    *Limitation on Simulated Gambling Devices.* Permit Holders shall not operate more than one-hundred (100) Simulated Gambling Devices at any Simulated Gambling Facility except that Permit Holders operating Simulated Gambling Devices on or before the effective date of the this Ordinance in Levy County may not operate more Simulated Gambling Devices than were in operation on the effective date of this Ordinance, and any reduction following the enactment of this Ordinance in Simulated Gambling Devices by such Permit Holders shall be permanent. Replacing an existing Simulated Gambling Device due to a defect or upgrade shall not be deemed a reduction pursuant to this subsection, provided that such replacement occurs within thirty (30) days.

(E)    No Simulated Gambling Facility shall open before 7:00 a.m. or remain open after 2:00 a.m.

(F)    *Additional Restrictions.* No Operator of a Simulated Gambling Facility shall:

- (1)    design, engage in, promote, or conduct a game wherein the winner may be predetermined or the game may be manipulated or rigged; or
- (2)    arbitrarily remove, disqualify, disallow or reject any entry; or
- (3)    fail to award any prize offered; or

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

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

(6) cover Facility windows with opaque or reflective window tinting.

(G) *Additional Requirements.* An Operator of a Simulated Gambling Facility shall:

(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 Simulated Gambling Facility for one (1) year; and

(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; and

(3) display in a conspicuous place for the public at the point of sale information related to gambling addiction treatment. Such information shall include a visible sign and fliers, pamphlets or leaflets that contain a current list of names, addresses and phone numbers for gambling addiction services.

(H) *No Felony Convictions.* No Person who has at any time in the previous five (5) years been convicted of, or is currently under indictment or information for, any felony, shall be eligible to operate or manage a Simulated Gambling Facility.

**SECTION 11. SAFETY AND SECURITY REQUIREMENTS.** At the Simulated Gambling Facility, the Permit Holder shall maintain the following security devices and standards:

(A) a video surveillance system for both the entrance and parking area to the Facility and for the cashier area of the Simulated Gambling Facility as well as the interior of the Simulated Gambling Facility. 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 fourteen (14) days and shall be open and accessible to representatives of Levy County, including the Levy County Sheriffs Office, at all times upon reasonable notice, a security camera system capable of recording and retrieving an identifiable image; and

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

(C) at all public entrances to the Simulated Gambling Facility, a conspicuous notice stating each cash register contains a limited amount of cash; and

(D) a cash management policy limiting cash on hand; and

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

(F) Monday through 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 by the Florida Department of Agriculture & Consumer Services; and

(G) maintain reasonable safety standards, including but not limited to, lighted parking areas; and

(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.

## **SECTION 12. EXEMPTIONS.**

(A) This Ordinance does not prohibit an individual's personal, recreational, and noncommercial ownership, possession, play, operation or use of a device which could be construed to be a Simulated Gambling Device.

(B) This Ordinance 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, in Broward and Miami-Dade County only are not permitted by this Part.

(C) This Ordinance does not prohibit a religious or charitable organization from conducting a fundraising activity involving gaming, providing the religious or charitable organization does not conduct the activity more than four (4) times in one (1) calendar year, the organization provides advance written notice to the Levy County Sheriff of the date, time, place, and nature of such activity and who will be conducting it, and the activity is not otherwise unlawful.

## **SECTION 13. ENFORCEMENT; PENALTIES.**

(A) Violation of this Ordinance by a Simulated Gambling Facility or an Owner, Operator, or employee thereof, or any unpermitted Person, company or entity shall be punishable by imposition of a civil penalty not to exceed \$500.00. Each day the violation exists shall constitute a separate violation for the purposes of this Ordinance and shall be punishable as such.

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

(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.

**SECTION 14. CONFLICT WITH STATE LAW.** Nothing in this Ordinance 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 Ordinance 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.

**SECTION 15. SEVERABILITY.** If any provision of this Ordinance or the application thereof is finally determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, such provision shall be deemed to be severable and the remaining provisions shall continue in full force and effect provided that the illegal, invalid, or unenforceable provision is not material to the logical and intended interpretation of this Ordinance.

**SECTION 16. EFFECTIVE DATE.** A certified copy of this Ordinance shall be filed in the Department of State within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

**ADOPTED** by the Board of County Commissioners of Levy County, Florida, this \_\_\_\_ day of \_\_\_\_\_, 2021.

**BOARD OF COUNTY COMMISSIONERS  
OF LEVY COUNTY, FLORIDA**

(SEAL)

By: \_\_\_\_\_  
John Meeks, Chairman

ATTEST:

By: \_\_\_\_\_  
Danny J. Shipp, County Clerk

APPROVED AS TO FORM AND CONTENT:

By: \_\_\_\_\_  
Heather J. Encinosa, Interim County Attorney