

ORDINANCE

AN ORDINANCE PROHIBITING THE USE OF SIMULATED GAMBLING DEVICES; ESTABLISHING A NEW PART II (PROHIBITION OF SIMULATED GAMBLING DEVICES) OF CHAPTER 222 (GAMING) OF THE SEMINOLE COUNTY CODE, TO PROHIBIT THE USE OF SIMULATED GAMBLING DEVICES; ESTABLISHING EXEMPTIONS; PROVIDING FOR CIVIL PENALTIES AND INJUNCTIVE RELIEF; AMENDING PART II (CODE ENFORCEMENT CITATIONS) OF CHAPTER 53 (CODE ENFORCEMENT) TO PROVIDE FOR SPECIFIC CIVIL PENALTY AMOUNTS; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 5.1 of the Seminole County Home Rule Charter prohibits any form of casino gambling, as defined in Section 5.1.B of the Seminole County Home Rule Charter, within Seminole County or any municipality thereof, unless such casino gambling is first authorized by the Florida Constitution and other laws of Florida and then further authorized by a vote of the electorate of Seminole County; and

WHEREAS, no vote of the electorate of Seminole County authorizing casino gambling in Seminole County has taken place; and

WHEREAS, Chapter 222, Part I of the Seminole County Code, adopted on April 1, 2004, already prohibits any person to play, operate, use or enter into any agreement for use of any slot machine as defined in Section 222.1 of the Seminole County Code; and

WHEREAS, there is presently in Seminole County an increasing proliferation of establishments that utilize computer or video displays of spinning reels or other simulations of 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") for commercial gain;
and

WHEREAS, the Board recognizes that while the State of Florida has authorized slot machine gaming at licensed facilities in certain areas outside of Seminole County, it also recognizes that establishments that utilize simulated gambling devices can deceive members of the public, including the elderly and the economically disadvantaged, into believing that they are engaging in a lawfully permitted gaming activity; and

WHEREAS, the use of simulated gambling devices is therefore inherently deceptive; and

WHEREAS, due to their inherently deceptive nature, establishments that utilize simulated gambling devices are adverse to the quality of life, tone of commerce, and total community environment in Seminole County, and have an unreasonable adverse effect upon the elderly, the economically disadvantaged, and other citizens of Seminole County; and

WHEREAS, in terms of the negative impact recited herein, there is little or no material difference between the use of slot machines as defined in Section 222.1 of the Seminole County Code and the use of simulated gambling devices; and

WHEREAS, there is often a correlation between establishments that utilize simulated gambling devices and disturbances of the peace and good order of the community, and the concurrency of these activities is hazardous to the public health, safety, morals, and welfare of the citizens of Seminole County; and

WHEREAS, while other jurisdictions in Florida have attempted to utilize existing state laws to close these establishments that utilize simulated gambling devices with mixed success, it is believed that a local prohibition on such simulated gambling devices would close any alleged loopholes left by the state laws and enable local law enforcement to consistently enforce existing code provisions and statutes and safeguard the public's welfare; 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 prohibit the use of simulated gambling devices, unless otherwise exempted by law or ordinance; and

WHEREAS, this Ordinance is enacted under the authority of Section 1(f), Article VIII of the Constitution of the State of Florida, under the authority of Section 125.66, Florida Statutes, and under authority of the general Home Rule Power of the County of Seminole for the purpose of preserving peace and good order and safeguarding the health, safety, morals, and welfare of the citizens of Seminole County, said ordinance to be applied within the unincorporated areas as well as the incorporated areas of Seminole County; and

WHEREAS, the Seminole County Home Rule Charter requires that an Economic Impact Statement be prepared to address the potential fiscal impacts and economic costs of this Ordinance upon the public and taxpayers of Seminole County and such Economic Impact Statement has

been prepared and has been made available for public review and copying prior to the enactment of this Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Seminole County, Florida:

Section 1. Legislative Findings. The above recitals represent the legislative findings of the Board supporting the need for this ordinance.

Section 2. Chapter 222, Gaming, of the Seminole County Code amended to create a new Part II, Prohibition of Simulated Gambling Devices. Chapter 222, Gaming, of the Seminole County Code is amended to create a new Part II (Simulated Gambling Devices), to read as follows:

Chapter 222, Part II.

PROHIBITION OF SIMULATED GAMBLING DEVICES

Sec. 222.7. Legislative Authorization. This Part is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of Seminole County, Florida, pursuant to Article VIII, Section 1(g), Florida Constitution and Section 125.01, Florida Statutes (2009).

Sec. 222.8. Definitions. The following definitions apply to this Chapter 222, Part II:

(a) **"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.**

(b) "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 directly or indirectly through payment of consideration, or 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 simulations 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, 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.

(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 Part 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.

(c) "Slot machine" has the same meaning as specified in Section 222.1 of the Seminole County Code.

Sec. 222.9. Area of Enforcement. The Board is acting herein as the governing body for Seminole County, Florida, and this Part shall be effective within the boundaries of Seminole County, Florida.

Sec. 222.10. Intent. The intent of the Board acting as the governing body of Seminole County, Florida in adopting this Part is to prohibit broadly the possession or use of simulated gambling devices, including any related activity or behavior which can be reasonably

construed to be the use of simulated gambling devices. Further, the Board in prohibiting simulated gambling devices in no way intends to approve the use of actual slot machines, other forms of casino gambling or other types of gambling devices. In addition, this prohibition is aimed directly at devices that simulate gambling activity, regardless of whether the devices or the simulations in and of themselves can be said to constitute gambling as that term may be defined elsewhere.

Sec. 222.11. Prohibition of Simulated Gambling Devices. It is unlawful in Seminole County for any person to design, develop, manage, supervise, maintain, provide, produce, possess or use one or multiple simulated gambling devices. Each individual act to design, develop, manage, supervise, maintain, provide, produce, possess or use a simulated gambling device constitutes a separate violation of this Section.

Sec. 222.12. 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 a simulated gambling 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, in Broward and Miami-Dade County only are not permitted by this Part.

(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 Seminole 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.

Sec. 222.13. 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. 222.14. Applicability to Municipalities. The provisions of this Part are to be applied and enforced within all unincorporated areas of Seminole County as well as within all incorporated areas of Seminole County to the extent that there are no conflicting municipal regulations. In the event a municipal regulation conflicts with this Part then the municipal regulation will prevail within the jurisdiction of that municipality.

Sec. 222.15. Civil Penalties and Injunctive Relief.

(a) Civil Penalties. Any person who violates this Part is subject to the fine provisions of Chapter 53 of this Code. Violation of this Part constitutes a Class IV Code violation. Each simulated gambling device, possession or use thereof, constitutes an individual

offense for the purpose of Chapter 53.

(b) Injunctive relief. The Seminole County Attorney's Office or special counsel as otherwise authorized, 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 Part.

Section 3. Chapter 53, Code Enforcement, of the Seminole County Code amended to amend Part II, Code Enforcement Citations. Chapter 53, Code Enforcement, of the Seminole County Code is amended to amend Part II (Code Enforcement Citations), Section 53.32, Schedule of violations and penalties, to add the following to the list of Class IV civil infractions:

CLASS IV

* * *

(5) S.C.C.222.2 Prohibition of slot machines.

(6) S.C.C.222.11 Prohibition of simulated gambling devices.

Section 4. Codification. It is the intention of the Board that the provisions of this Ordinance shall become and be made a part of the Seminole County Code. It is the further intention of the Board that the word "Ordinance" may be changed to "Section," "Article," or other appropriate word or phrase and that the sections of this Ordinance may be renumbered or relettered to accomplish such intention; provided, however, that Sections 4, 5 and 6 shall not be codified.

Section 5. Severability. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board that the invalidity shall not affect other

provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 6. Effective Date. This Ordinance shall take effect upon filing a copy of this Ordinance with the Department of State by the Clerk of the Board of County Commissioners of Seminole County, Florida.

BE IT ORDAINED by the Board of County Commissioners of Seminole County, this _____ day of _____, 20__.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

MARYANNE MORSE
Clerk to the Board of
County Commissioners of
Seminole County, Florida

BRENDA CAREY, Chairman

DGS/dre/sjs/DDW/sjs
11/3/10; 11/10/10, 11/16/10, 11/17/10, 11/30/10, 12/1/10, 12/22/10, 1/03/11
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Not for Execution