ARTICLE XXIII. - REGULATION OF SIMULATED GAMBLING DEVICES

Sec. 11-800. - Legislative authorization.
This article is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of Leon County, Florida, pursuant to Article VIII, Section 1(g), Florida Constitution and F.S. § 125.01, and the Charter of Leon County, Florida. 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.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-801. - Definitions.
The following definitions apply to this Chapter 11, Article XXIII:

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 administrator shall mean the Leon County Administrator 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 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
article at that facility.

*Minor* means any individual under the age of 18 years.

*Operating* as used in this article means to manage and run a simulated gambling facility by doing those things necessary to run a business which may include but are not limited to obtaining a business permit, obtaining a business tax certificate, executing a lease agreement or purchasing contract, leasing or purchasing of simulated gambling devices, hiring employees, or selling a legal consumer product or service.

*Operator* means any person in whose name a drawing by chance is being conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotion that utilizes electronic equipment.

*Permit holder* means the operator in whose name the county administrator has issued a permit under this article.

*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.

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

*Security personnel* includes any person whose lawful jurisdiction includes Leon County and who either is a sheriff, deputy sheriff, marshal, deputy marshal, or a police officer or any other person authorized by law who holds a Class "G" license issued by the Florida Department of Agriculture and Consumer Services 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 55 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; or any electronic device that is used or adapted for use to conduct and/or reveal the results of a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or game promotions that display results by simulating a game or games ordinarily played on a slot machine. 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, 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 article 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 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 F.S. § 551.102, or as amended from time to time.

(Ord. No. 11-13, § 1, 6-14-11; Ord. No. 12-03, § 1, 1-24-12)

Sec. 11-802. - Area of enforcement.

The board is acting herein as the governing body for Leon County, Florida, and this part shall be effective within the boundaries of Leon County, Florida.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-803. - General prohibition.

Except as expressly regulated and permitted by this article, no person, other than a de minimis activity facility as defined herein, shall conduct a drawing by chance pursuant to F.S. § 849.0935, sweepstakes, or game promotion pursuant to F.S. § 849.094, 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.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-804. - Permitting and fees.

(a) Permit required. No person shall conduct or operate a simulated gambling facility (facility) in Leon County without having first obtained a permit from the county administrator for each facility. Each permit is valid only for the operator and the facility named in the permit. Each permit is valid for one year. No permit shall be assignable or transferable, either as to person, operator, facility, or location.

(b) Initial permits. Within 60 days of enactment of this article, all current operators who have been
operating a simulated gambling facility on or before June 15, 2011, and which are subject to this article, and which apply for, facially 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 administrator that the operator was lawfully operating a simulated gambling facility, as of June 15, 2011, which such 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 that particular 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 article.

(c) **Permits limited.** Unless greater than ten permits have been issued as provided for in subsection (b) above, the county administrator shall limit the total number of permits issued pursuant to this section to ten. 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 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 administrator 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 F.S. § 849.094, 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 F.S. § 849.0935, are exempt from this provision.

(iii) A copy of each simulated gambling facility's surety bond or statement of trust account in an amount equal to the total announced value of prizes offered or $50,000.00, whichever is less. Non-profit organizations shall not be exempt under this subsection.

A. A statement of trust account must be printed on the official letterhead of the acknowledging financial institution and contain the following information:

1. Account number and date account was opened.
2. Name, location, and phone number of the financial institution.
3. Name of the game promotion and commencement date.
4. Dollar amount held in trust account.
5. Provision that prohibits the money from being withdrawn from the trust account except for verified payments to winners of the listed game promotion.

B. The surety bond must have Leon County as the obligee on the bond.

(iv) A complete list of all products and services offered and the prices charged therefor;

(v) For every principal, officer, shareholder, and director of the operator, a fingerprint card
and a letter certifying the results of a national, Level 2 criminal background check; and

(vi) A copy of the certification report issued by an independent testing laboratory verifying that the computer software that is used by the operator to conduct a drawing by chance or game promotion has been tested and is not a slot machine as defined by Florida law. The certification report must be provided to the county administrator directly from the independent testing laboratory; and

(vii) A copy of the certification report issued by an independent testing laboratory that describes and verifies the manner in which the software that is used by the operator to conduct a drawing by chance or game promotion works. The certification report must be provided to the county administrator directly from the independent testing laboratory.

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

(i) The identity of the applicant and if the applicant is:
   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; or
   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; and

(vi) The name and address of an individual in Leon County who is authorized to receive notices from the county;

(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 may 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.

(f) **Review of application.**
(1) Duration of review. Within 60 days of receipt of an applicant's completed permit application, the county administrator or a designee 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 administrator may delay its grant or denial of the permit until 60 days after the final judgment.

(2) An application may be denied if, during the course of its review, the county administrator determines that:

   (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, has had a permit under this article revoked or been convicted for a violation of this article;

   (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 contain a misstatement of material fact.

(g) Denial of permit. An applicant whose permit application is denied may reapply within 30 days by completing all steps of the application procedure, including payment of a new application fee.

(h) Permit fees. The permit fee for simulated gambling facility shall be in accordance with the following schedule:

   (1) 1 to 20 devices—$2,500.00

   (2) 21 to 40 devices—$5,000.00

   (3) 41 to 60 devices—$7,500.00

   (4) 61 to 80 devices—$10,000.00

   (5) 81 to 100 devices—$12,500.00

(i) Inspection fee. Fifty dollars per simulated gambling device will be assessed annually.

(j) Renewal of existing permit. Existing permits shall be renewed upon compliance with this article, notwithstanding the total number of permits issued. The permit holder shall apply for the renewal permit no later than 60 days and no sooner than 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 article. 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 subsection (h) above and said renewals shall be deemed denied if an eligible applicant fails to pay these fees on or before the thirtieth day after approval, availability, and notice of the permit authorization.

(k) Lost or destroyed permit. The fee for a replacement permit shall be $50.00.
(l) **Revocation of permit.** The county administrator or a designee may revoke a permit for violation of any provision of this article, or if it is determined that the application contained a misstatement of material fact, or due to a permit holder's cessation of the use of simulated gambling devices during its normal business hours for at least 14 consecutive days. Prior to revocation, the county administrator shall provide to the permit holder, through their individual in Leon County authorized to accept notices from the county, the following:

1. A written notice of intent to revoke the permit;
2. A 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 30 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 considered non-final agency action subject to appellate review by the board of adjustment and appeals ("BOAA"). The decision of the BOAA shall constitute final agency action subject to judicial review. Any appeal of a revocation decision shall be made within 30 calendar days of receipt of a notice of revocation by filing a written notice of appeal with the board of adjustment and appeals, along with an appeal fee of $960.00. Failure to file written notice of appeal and appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

(Ord. No. 11-13, § 1, 6-14-11; Ord. No. 12-03, § 2, 1-24-12)

**Sec. 11-805. - Location.**

All simulated gambling facilities shall be located in appropriate commercial zoning districts, but in no event may such a simulated gambling facility be located within 500 feet of any real property comprising a child care facility as defined in F.S. § 402.302 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 post-secondary educational institution, or within 500 feet of real property comprising a church, a county park, a community center, a senior citizen center, or publicly owned recreational facility, nor may such a simulated gambling facility be closer than 5,000 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.

(Ord. No. 11-13, § 1, 6-14-11)

**Sec. 11-806. - Inspections.**

During business hours, the county administrator, the Leon County Sheriff's Office, or their agents may enter the facility without any warrant for purposes of inspecting all areas of the facility, to ensure compliance with the provisions of this article 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 device to inspect, test and/or have tested to determine compliance with this article.

(Ord. No. 11-13, § 1, 6-14-11)

**Sec. 11-807. - Signage requirements.**

(a) **Exterior of facility.** Exterior signage shall be limited to the advertisement of the consumer product and/or service sold at the facility. No signs shall be posted on the exterior of any simulated gambling facility that suggest gambling takes place or display any image commonly associated with slot
machines. All signage shall be further subject to all applicable Leon County Code regulations regarding signs.

(b) **Interior of 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 sweepstakes or game promotions at the main counter. Rules for all promotions 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 ten-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.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-808. - Limitations on operation of business.

(a) **Alcoholic beverages.** Permit holders shall not sell or permit any individual to consume or possess any alcoholic beverages within any simulated gambling facility.

(b) **Minors.** Minors are prohibited from entering any simulated gambling facility. It is the responsibility of the owner and employees of the facility to ensure no minors are present within the facility. A person's ignorance of minor's age, a minor's misrepresentation of his or her age, a bona fide belief of minor's age may not be raised as a defense for violation of this section.

(c) **Limitation on simulated gambling devices.** Permit holders shall not operate more than 100 simulated gambling devices except that permit holders operating on or before June 15, 2011, in Leon County may not operate more simulated gambling devices than were in operation on June 15, 2011, and any reduction following the enactment of this article in 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 30 days.

(d) **Hours of operation.** No simulated gambling facility shall be open for business between the hours of 2:00 a.m. and 7:00 a.m.

(e) **Additional restrictions.** No 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;
2. Arbitrarily remove, disqualify, disallow or reject any entry;
3. Fail to award any prize offered;
4. Print, publish, or circulate literature or advertising material which is false, deceptive or misleading;
(5) Require an entry fee, payment or proof of purchase as a condition of entering any
sweepstakes or game promotion.

(f) **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 facility for one year;

(2) Display at the point of sale contact information related to gambling addiction treatment.

(g) **Felony convictions.** No person who has at any time in the previous five 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.

(Ord. No. 11-13, § 1, 6-14-11; Ord. No. 12-03, § 3, 1-24-12)

**Sec. 11-809. - Safety and security requirements.**

The permit holder shall maintain the following security devices and standards:

(a) Video surveillance. All such simulated gambling facilities shall install 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
14 days and shall be open and accessible to representatives of Leon County, including the Leon
County Sheriff's Office, at all times upon reasonable notice. a security camera system capable of
recording and retrieving an identifiable image;

(b) A drop safe or cash management device for restricted access to cash receipts;

(c) At all public entrances to the facility, a conspicuous notice stating cash register contains a
limited amount of cash;

(d) A cash management policy limiting cash on hand;

(e) A silent alarm system capable of notifying law enforcement;

(f) Monday thru Friday during the hours of 5:00 p.m. to close and during the entire business day
on Saturday and Sunday, maintain at least one armed security person, as defined in section
11-801 of this article; and

(g) Permit holder must maintain reasonable safety standards, including but not limited to, lighted
parking areas.

(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.

(i) Ultraviolet (UV) windows, factory tinted windows and privacy windows are acceptable,
provided that the interior of the facility is visible at all times from the exterior of the facility to
include the curtilage.
Sec. 11-810. - Addiction information.

All simulated gambling facilities shall be required to have displayed in a conspicuous location near cashier, flyers, pamphlets or leaflets that contain a current list of the names, addresses, and phone numbers of local gambling anonymous facilities and treatment centers.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-811. - 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 F.S. ch. 551, 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 calendar year, the organization provides advance written notice to the Leon 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.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-812. - Conflict with state law.

Nothing in this part is intended to conflict with the provisions of the Florida Constitution or F.S. ch. 849, concerning gambling. In the event of a direct and express conflict between this part and either the Florida Constitution or F.S. ch. 849, then the provisions of the Florida Constitution or F.S. ch. 849, as applicable, control.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-813. - Applicability to municipalities.

The provisions of this part are to be applied and enforced within all unincorporated areas of Leon County as well as within all incorporated areas of Leon 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.

(Ord. No. 11-13, § 1, 6-14-11)

Sec. 11-814. - Enforcement; penalties.

(a) Any person who violates this article shall be punished as provided in section 1-9 of the Leon County Code of Laws. Each day the violation exists shall constitute a separate violation for the purposes of this article and shall be punishable as such.
(b) The Leon County Attorney’s Office 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 article.

(Ord. No. 11-13, § 1, 6-14-11; Ord. No. 12-03, § 5, 1-24-12)

Secs. 11-815—11-825. - Reserved.