ORDINANCE NO. 2011-13

AN ORDINANCE REGULATING THE USE AND LICENSING OF SIMULATED GAMBLING DEVICES; ESTABLISHING A NEW ARTICLE XXIII ENTITLED "REGULATION OF SIMULATED GAMBLING DEVICES" OF CHAPTER 11 OF THE LEON COUNTY CODE OF LAWS, TO REGULATE THE USE OF SIMULATED GAMBLING DEVICES; ESTABLISHING EXEMPTIONS; PROVIDING FOR LEGISLATIVE AUTHORIZATION; PROVIDING FOR DEFINITIONS, REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESSES, SAFETY AND SECURITY REQUIREMENTS; PROVIDING FOR ENFORCEMENT, PENALTIES FOR VIOLATIONS AND INJUNCTIVE RELIEF; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION 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 a prize, 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, there is presently in Leon County an increasing proliferation of establishments that utilize simulated gambling devices for commercial gain; and,

WHEREAS, local law enforcement authorities have limited resources with which to monitor this industry, and a regulatory fee will better fund enforcement efforts and ensure compliance with the law; and

WHEREAS, the County has evaluated 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 electronic equipment in the conduct of drawings by chance and game promotions will protect the public welfare; and

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

WHEREAS, the Board of County Commissioners of Leon 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 Leon County who are our most precious and valuable resource, finds that Leon 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 gaming at licensed facilities in certain areas outside of Leon 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;

BE IT ORDAINED by the Board of County Commissioners of the County of Leon, Florida, as follows, that:

Section 1. Chapter 11 of the Leon County Code of Laws is hereby amended by enacting a New Article XXIII to be entitled "Regulation of Simulated Gambling Devices," which shall read as follows:

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 Section 125.01, Florida Statutes, 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.

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

(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,

1 executive, officer or manager of an association, partnership, joint venture, corporation or other
2 organization.
3 (b) "Applicant" means the Operator for whom a permit application is submitted and
4 in the name of whom, if the permit is granted, the drawing by chance conducted in connection
5 with the sale of a consumer product or service, sweepstakes, or game promotion shall be
6 conducted.
7 (c) "Conviction" means a determination of guilt in a criminal case by a court of
8 competent jurisdiction, regardless of whether the defendant pled guilty, no contest, or *nolo*
9 *contendere*, or was found guilty by a judge or jury.
10 (d) "Simulated gambling device" means any device that, upon connection with an
11 object, is available to play or operate a computer simulation of any game, and which may deliver
12 or entitle the person or persons playing or operating the device to a payoff; or any electronic
13 device that is used or adapted for use to conduct and/or reveal the results of a drawing by chance
14 conducted in connection with the sale of a consumer product or service, sweepstakes or game
15 promotions that display results by simulating a game or games ordinarily played on a slot
16 machine. The following rules of construction apply to this definition of "simulated gambling
17 device":
18 (1) The term "device" means any mechanical or electrical contrivance,
19 computer, terminal, video or other equipment that may or may not be capable of downloading
20 games from a central server system, machine, computer or other device or equipment. The term
21 "device" also includes any associated equipment necessary to conduct the operation of the
22 device.

1 (2) The term "upon connection with" means insertion, swiping, passing in
2 range, or any other technical means of physically or electromagnetically connecting an object to
3 a device.
4 (3) The term "object" means a coin, bill, ticket, token, card or similar object,
5 obtained as a bonus or supplement to another transaction involving the payment of consideration.
6 (4) The terms "play or operate" or "play or operation" includes the use of
7 skill, the application of the element of chance, or both.
8 (5) The term "computer simulation" includes simulation by means of a
9 computer, computer system, video display, video system or any other form of electronic video
10 presentation.
11 (6) The term "game" includes slot machines, poker, bingo, craps, keno, any
12 other type of game ordinarily played in a casino, a game involving the display of the results of a
13 raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and any other game
14 associated with gambling or which could be associated with gambling, but the term "game" does
15 not necessarily imply gambling as that term may be defined elsewhere.
16 (7) The term "payoff" means cash, monetary or other credit, billets, tickets,
17 tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of
18 value whatsoever, whether made automatically from the machine or manually.
19 (8) The use of the word "gambling" in the term "simulated gambling device"
20 is for convenience of reference only. The term "simulated gambling device" as used in this
21 article is defined exclusively by this subsection and does not incorporate or imply any other legal
22 definition or requirement applicable to gambling that may be found elsewhere.

(e) "Simulated gambling facility" means the house, building, edifice, or location, along with its grounds in which simulated gambling devices are used, operated, or stored.

(f) "Slot machine" has the same meaning as specified in Section 551.102, Florida Statutes or as amended from time to time.

(g) "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.

(h) The term "minor" means any individual under the age of 18 years.

(i) The term "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.

(j) The term "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 who holds a Class "G" license issued by the Florida Department of Agriculture & Consumer Services and who is hired to provide security for the simulated gambling facility.

(k) "County Administrator" shall mean the Leon County Administrator or his or her designee.

(l) "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 Electronic Equipment is conducted.

(m) "Permit Holder" means the Operator in whose name the County Administrator has issued a permit under this Ordinance.

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

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.

Sec. 11-803. 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.

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 sixty (60) days of enactment of this Ordinance, all current Operators who have been operating a simulated gambling facility on June 15, 2011, and which are subject to this Ordinance, 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 Ordinance.

(c) *Permits Limited.* Unless greater than ten (10) 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 (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 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 s. 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

1 amount; non-profit organizations operating pursuant to s. 849.0935, Florida Statutes are exempt
2 from this provision.
3 (iii) a complete list of all products and services offered and the prices
4 charged therefor;
5 (iv) for every principal, officer, shareholder, and director of the
6 Operator, a fingerprint card and letter certifying the results of a criminal background check
7 generated by the Leon County Sheriff's Office or Florida Department of Law Enforcement; and
8 (v) A certification that the computer software that is used by the
9 Operator to conduct a drawing by chance or game promotion in connection with the sale of a
10 consumer product or service has been tested by an independent testing laboratory that has
11 verified that it is not a slot machine as defined by Florida law.
12 (2) Applicant shall provide a sworn affidavit containing the following:
13 (i) the identity of the Applicant and if the Applicant is:
14 A. an individual, his name, residence address, and date of
15 birth;
16 B. an unincorporated organization, the names, dates of birth,
17 and residence addresses of its principals; or
18 C. a corporation, the corporate name, state of incorporation
19 and the names, dates of birth, and residence addresses of its
20 principal officers, directors, and shareholders; or
21 D. a limited liability company, the company name, state of
22 incorporation and the names, dates of birth, and residence
23 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 seven-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 will result in the denial of the permit or, if it has been issued, in the suspension or revocation of the permit; and

(3) Applicant shall file with County Administration the following:

(i) a copy of the sworn affidavit described in subsection (2) above;

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

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

(iv) a copy of the certification report issued by an independent testing laboratory that describes and verifies the manner in which the software works.

(e) *Application Fee*. Each Applicant shall remit a non-refundable application fee of $500.00.

(f) *Review of Application.*

(1) Duration of Review. Within sixty (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 sixty (60) days after the final judgment.

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

(i) within seven 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 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 Administrator shall deny the permit for any of the above reasons. If an Applicant satisfies all permit filing requirements and is not ineligible, the County Administrator 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 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.* $50.00 per simulated gambling device will be assessed annually.

(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 subsection (h) 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, availability, and notice of the permit authorization.

(k) *Lost or destroyed permit*. The fee for a replacement permit shall be fifty dollars ($50.00)

(l) *Revocation of Permit*. The County Administrator or a designee 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 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 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 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 fifteen (15) 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 $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.

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 Section 402.302 Florida Statute 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-

1 secondary educational institution, or within 500 feet of real property comprising a church, a
2 county park, a community center, a senior citizen center, or publicly owned recreational facility,
3 nor may such a simulated gambling facility be closer than 5,000 feet from another such
4 simulated gambling facility. The distance measurements shall be from the point of edge of
5 property to the next closest edge of property.

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

7 During business hours, the County Administrator, the Leon County Sheriff's Office, or
8 their agents may enter the facility without any warrant for purposes of inspecting all areas of the
9 facility, to ensure compliance with the provisions of this Ordinance or any other ordinances
10 within their authority, including but not limited to the right to enter the facility and to select and
11 remove any simulated gambling device to inspect, test and/or have tested to determine
12 compliance with this Ordinance.

13 **Sec. 11-807. Signage Requirements.**

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

19 (b) *Interior of Facility.* The Permit Holder shall conspicuously post the name of the
20 Permit Holder, a description of all products and services sold, and the complete rules for all
21 sweepstakes or game promotions at the main counter. Rules for all promotions shall include the
22 following language in at least 26-point font: "State and local law prohibits this establishment
23 from requiring an entry fee, payment, or proof of purchase as a condition of participating. No

1 donation or contribution is required. You may obtain free entries upon request from any
2 employee on the premises." The Permit Holder shall also post a sign which shall include the
3 following language in at least 26-point type: "The video displays are for amusement and
4 entertainment only. The video displays do not determine the result of your sweepstakes entries."
5 The Permit Holder shall affix signage that shall include the following language in at least 10
6 point type on each simulated gambling device: "The video displays are for amusement and
7 entertainment only. The video displays do not determine the result of your sweepstakes entries."
8 A complete copy of the Rules, prize tables, and odds of winning shall be made available on
9 request without cost. Any consumer product or service offered for sale shall be identified by
10 description and price by conspicuous posting. A copy of the permit shall be posted
11 conspicuously at the main counter or at the entrance.

12 **Sec. 11-808. Limitations on Operation of Business.**

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

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

20 (c) *Limitation on Simulated Gambling Devices.* Permit Holders shall not operate
21 more than one hundred (100) simulated gambling devices except that Permit Holders operating
22 on or before June 15, 2011 in Leon County may not operate more simulated gambling devices
23 than were in operation on June 15, 2011, and any reduction following the enactment of this

1 Ordinance in devices by such Permit Holders shall be permanent. Replacing an existing
2 simulated gambling device due to a defect or upgrade shall not be deemed a reduction pursuant
3 to this subsection, provided that such replacement occurs within thirty (30) days.
4 (e) *Hours of Operation.* No simulated gambling facility shall be open for business
5 between the hours of 2:00 a.m. and 7:00 a.m.
6 (f) *Additional Restrictions.* No simulated gambling facility shall:
7 (1) design, engage in, promote, or conduct a game wherein the winner may be
8 predetermined or the game may be manipulated or rigged;
9 (2) arbitrarily remove, disqualify, disallow or reject any entry;
10 (3) fail to award any prize offered;
11 (4) print, publish, or circulate literature or advertising material which is false,
12 deceptive or misleading;
13 (5) require an entry fee, payment or proof of purchase as a condition of
14 entering; or
15 (6) cover facility windows with opaque or reflective window tinting.
16 (g) *Additional Requirements.* An Operator of a simulated gambling facility shall:
17 (1) maintain a list of the names and addresses of all persons who have won
18 prizes which have a value of more than $25.00, the value of such prizes, and the dates when the
19 prizes were won and keep the list at the facility for one (1) year;
20 (2) maintain a trust account or bond in an amount equal to the total announced
21 value of the prizes offered or $50,000.00, whichever is less.
22 (3) display at the point of sale contact information related to gambling
23 addiction treatment.

1 (h) *Felony Convictions.* No person who has at any time in the previous 7 years been
2 convicted of, or is currently under indictment or information for, any felony, shall be eligible to
3 operate or manage a simulated gambling facility.

4 **Sec. 11-809. Safety and Security Requirements.**

5 The Permit Holder shall maintain the following security devices and standards:

6 (a) *video surveillance.* All such simulated gambling facilities shall install a video
7 surveillance system for both the entrance and parking area to the facility and for the cashier area
8 of the simulated gambling facility as well as the interior of the simulated gambling facility. The
9 video surveillance system shall be maintained and kept in working order at all times. The video
10 surveillance system recordings, whether by film or digital, shall be kept for a period no less than
11 fourteen (14) days and shall be open and accessible to representatives of Leon County, including
12 the Leon County Sheriff's Office, at all times upon reasonable notice. a security camera system
13 capable of recording and retrieving an identifiable image;

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

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

17 (d) a cash management policy limiting cash on hand;

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

19 (f) Monday thru Friday during the hours of 5 p.m. to close and during the entire
20 business day on Saturday and Sunday, maintain at least one licensed, armed security guard
21 holding a Class "G" license issued by the Florida Department of Agriculture & Consumer
22 Services; and

1 (g) Permit Holder must maintain reasonable safety standards, including but not
2 limited to, lighted parking areas.
3 (h) may not cover facility windows with opaque or reflective window tinting, posters,
4 flyers, or anything else that obstructs the exterior view into the interior of the facility.
5 **Sec. 11-810. Addiction Information.** All simulated gambling facilities shall be
6 required to have displayed in a conspicuous location near cashier, flyers, pamphlets or leaflets
7 that contain a current list of the names, addresses, and phone numbers of local Gambling
8 Anonymous facilities and treatment centers.
9 **Sec. 11-811. Exemptions.**
10 (a) This Part does not prohibit an individual's personal, recreational, and non-
11 commercial ownership, possession, play, operation or use of a device which could be construed
12 to be a simulated gambling device.
13 (b) This Part does not prohibit the ownership, possession, play, operation or use of
14 any device expressly permitted by the Florida Statutes and not otherwise prohibited by the
15 Florida Constitution, except that devices permitted by Article X, Section 23 of the Florida
16 Constitution and Chapter 551, Florida Statutes, in Broward and Miami-Dade County only are not
17 permitted by this Part.
18 (c) This Part does not prohibit a religious or charitable organization from conducting
19 a fund raising activity involving gaming, provided the religious or charitable organization does
20 not conduct the activity more than twice in one (1) calendar year, the organization provides
21 advance written notice to the Leon County Sheriff of the date, time, place, and nature of such
22 activity and who will be conducting it, and the activity is not otherwise unlawful.

1 **Sec. 11-812. Conflict with State Law.** Nothing in this Part is intended to conflict with
2 the provisions of the Florida Constitution or Chapter 849, Florida Statutes, concerning gambling.
3 In the event of a direct and express conflict between this Part and either the Florida Constitution
4 or Chapter 849, Florida Statutes, then the provisions of the Florida Constitution or Chapter 849,
5 Florida Statutes, as applicable, control.
6 **Sec. 11-813. Applicability to Municipalities.** The provisions of this Part are to be
7 applied and enforced within all unincorporated areas of Leon County as well as within all
8 incorporated areas of Leon County to the extent that there are no conflicting municipal
9 regulations. In the event a municipal regulation conflicts with this Part then the municipal
10 regulation will prevail within the jurisdiction of that municipality.
11 **Sec. 11-814. Enforcement; Penalties.**
12 (a) Any person who violates this article shall be punished as provided in section 1-9.
13 Each day the violation exists shall constitute a separate violation for the purposes of this
14 Ordinance and shall be punishable as such.
15 (b) The Leon County Attorney's Office is authorized to pursue temporary or
16 permanent injunctive relief or any other legal or equitable remedy authorized by law in courts of
17 competent jurisdiction to cure, remove or end any activity which violates this article.
18 (c) Permittees shall have a private right of action to pursue all legal and equitable
19 remedies necessary to ensure full compliance with this Ordinance against any other permittee,
20 including but not limited to injunctive relief.
21 **Secs. 11-815 – 11-825. Reserved.**

Section 2. **Conflicts.**

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County Comprehensive Plan as amended, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. **Severability.**

If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. **Effective Date.**

This ordinance shall have effective date of June 15, 2011; however, enforcement of the ordinance shall not commence until September 1, 2011, except that no facility not already owning, operating, or housing a simulated gambling device shall be permitted on or after June 15, 2011.

DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County, Florida this 14th day of June, 2011.

LEON COUNTY, FLORIDA

By: John Dailey

John Dailey, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

By:_____
Bob Inzer, Clerk of Court
Leon County, Florida

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By:_____
Herbert W. A. Thiele, Esq.
County Attorney