(Ordinance No. 03, 2024)

AN ORDINANCE BY THE COUNTY COMMISSION OF FLOYD COUNTY, GEORGIA RELATING TO COIN OPERATED AMUSEMENT MACHINES, PROMOTIONS, AND LOTTERIES; RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS; TO PROVIDE FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN GAMES AND DEVICES; TO PROVIDE FOR A LIMITATION ON THE ALLOWABLE NUMBER OF SUCH MACHINES AT ONE LOCATION; TO REQUIRE OWNERS AND OPERATORS OF SUCH MACHINES TO COMPLY WITH CERTAIN REGULATIONS; TO PROVIDE FOR THE SUSPENSION AND REVOCATION OF LICENSES; TO PROVIDE FOR FINES; TO MANDATE MINIMUM DISTANCE REQUIREMENTS; TO PROVIDE REQUIREMENTS FOR PLACEMENT OF MACHINES; TO REQUIRE DISCLOSURE OF CERTAIN CONTACT INFORMATION OF THE OWNER AND/OR OPERATOR OF MACHINES; TO PROVIDE FOR LICENSE POSTING; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the Floyd County Commission is authorized by O.C.G.A. § 50-27-86 to adopt ordinances regarding bona fide coin operated amusement machines;

WHEREAS, Floyd County desires to adopt further and more effective regulatory provisions in regard to amusement game rooms in Floyd County;

WHEREAS, this ordinance is adopted to address the interests of public health, welfare, and safety of the citizens of Floyd County.

NOW, THEREFORE, the Floyd County Commission approves the following ordinance regarding bona fide coin operated amusement machines.

BE IT ORDAINED by the Floyd County Commission, and it is ordained by authority of same, that the Code of Ordinances of Floyd County, Georgia is hereby amended as follows:

SECTION ONE

The Code of Ordinances of Floyd County, Georgia, shall stand amended by reserving Sec. 2-12-89 – Sec. 2-12-90 for future purposes.

SECTION TWO

The Code of Ordinances of Floyd County, Georgia shall stand amended by adding a new Article to Chapter 2-12 thereof, which shall be titled Article V and which shall read as follows:

Article V

Sec. 2-12-91. Short Title.

This Article shall be known as the "Floyd County Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 2-12-92. Gambling Devices Prohibited.

Gambling Devices, as that term is defined in O.C.G.A. § 16-12-20(2), are prohibited in Floyd County, and the ownership, use, or transport thereof shall be a misdemeanor pursuant to state law, except as exempted pursuant to O.C.G.A. § 16-12-35(a) through (k).

Sec. 2-12-93. Gambling Places Prohibited.

Gambling Places, as that term is defined in O.C.G.A. § 16-12-20(3), are prohibited in Floyd County, and the operation thereof shall be a misdemeanor pursuant to state law.

Sec. 2-12-94. Definitions.

The following words, terms, or phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) ***Amusement Game Room*** means any location as provided in O.C.G.A. § 16-12-35(b), (c), or (d) where one or more Bona Fide Coin Operated Amusement Machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or a combination thereof.

(b) ***Bona Fide Coin Operated Amusement Machines*** means the same as this term is defined in O.C.G.A. 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of Bona Fide Coin Operated Amusement Machines include, but are expressly not limited to, the following:

1) Pinball machines;
2) Console machines;
3) Video games;
4) Crane machines;
5) Claw machines;
6) Pusher machines;
7) Bowling machines;
8) Novelty arcade games;
9) Foosball or table soccer machines;
10) Miniature racetrack, football or golf machines;
11) Target or shooting gallery machines;
12) Basketball machines;

13) Shuffleboard machines;
14) Kiddie ride games;
15) Skee-Ball® machines;
16) Air hockey machines:
17) Roll down machines;
18) Trivia machines;
19) Laser games;
20) Simulator games;
21) Virtual reality machines;
22) Maze games;
23) Racing games;
24) Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and
25) Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

1) Coin operated washing machines or dryers;
2) Vending machines which for payment of money dispense products or services;
3) Gas and electric meters;
4) Pay telephones;
5) Pay toilets;
6) Cigarette vending machines;
7) Coin operated vending machines;
8) Coin operated scales;
9) Coin operated gumball machines;
10) Coin operated parking meters;
11) Coin operated television sets which provide cable or network programming;
12) Coin operated massage beds; and
13) Machines which are not legally permitted to be operated in Georgia.

(c) ***Location*** means a business within Floyd County that has complied with the provisions of the ordinances of Floyd County relating to licenses and permits and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the lessor or lessors allow the space to be used for business purposes.

(d) ***Location Owner or Location Operator*** means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public or shall have the same definition as found in O.C.G.A. § 50-27-70, should that definition differ.

Sec. 2-12-95. License Required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an Amusement Game Room, as the term is herein defined, without first having obtained an Amusement Game Room license. A separate Amusement Game Room license must be obtained for each location in the jurisdiction where Bona Fide Coin Operated Amusement Machines are operated.

Sec. 2-12-96. Issuance of License.

Application for a license for operating an Amusement Game Room within the corporate limits of Floyd County shall be made to Floyd County Clerk upon a form to be supplied by Floyd County Clerk for this purpose. The application must be signed and sworn to by the applicant in the case of a sole proprietorship. In case the applicant is a partnership, all partners must sign and verify the application. In case the applicant is a corporation, any authorized officer and the secretary must sign and verify the application and indicate their official position. The license application shall include the following information:

(a) Name, address, and age of the applicant and the date of the application;

(b) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;

(c) Name and address of the owner of the machine or machines and a copy of the owner's master license;

(d) Name and address of any other business owned or operated by applicant with the corporate limits of Floyd County;

(e) List of any other licenses or permits from Floyd County held by applicant; and

(f) List of the permit sticker numbers issued by Georgia Lottery Corporation to the Master License Holder identifying and placed on each coin operated amusement machine located on the premises of any Location Owner or Location Operator.

Upon issuing a license for an Amusement Game Room, Floyd County official or employee shall provide the licensee with a copy of this Ordinance. Floyd County may require an annual fee of up to five hundred ($500.00) dollars for an Amusement Game Room License or registration. The license fee shall be set forth in Floyd County's Fee Schedule list and any amendments thereto. The license fee is intended to cover the actual costs of the issuance and administration of licenses granted under this Article. A license issued in accordance with this Ordinance shall be valid until December 31st of the year in which the license was issued. A licensee who desires to continue the license for the next consecutive year must make a new application for the next consecutive

calendar year on or before November 15 of each year on forms provided by the board of commissioners, the county manager, or the clerk of the board of commissioners or their designee.

Sec. 2-12-97. Minimum Distance Requirements.

(a) Every Amusement Game Room in Floyd County shall comply with the proximity provision for businesses licensed to sell alcohol set out in O.C.G.A. § 3-3-21.

(b) In addition, every Amusement Game Room in Floyd County shall not be located within any residential zoning district; within a distance of three hundred (300) feet of the nearest property line of any churches, alcohol or drug treatment centers owned and operated by the state, any county or municipal government, daycare facilities, schools, college campuses, public libraries, branches of a public library, public parks, public housing or public hospital; one hundred (100) yards of any church building; within a distance of two hundred fifty (250) feet of the nearest property line of a private residence, if such residence is located within a residential zone; said proximity requirements being no more restrictive than the proximity requirements applicable to the sale of alcoholic beverages in the Floyd County, Georgia Code of Ordinances For purposes of this Article, "distance" shall have the same meaning as defined in Section 2-4-1 of the Floyd County, Georgia Code of Ordinances.

Sec. 2-12-98. Number of Bona Fide Coin Operated Amusement Machines at a Location.

No Amusement Game Room in Floyd County shall offer to the public more than Six (6) Class B Bona Fide Coin Operated Amusement Machines offering non-cash redemption in accordance with O.C.G.A. § 16-12-35(c) and (d)(1)(2), or both at the same Location.

Sec. 2-12-99. Gross Receipts from Bona Fide Coin Operated Amusement Machines and from Business.

(a) Every Amusement Game Room shall keep records available for inspection by Floyd County officials that set out separately annual gross receipts for the Class B amusement games and the other products and services sold at the Location.

(b) Any location owner or location operator subject to O.C.G.A. § 50-27-84(b)(1) is hereby required to provide a quarterly report, which may include, but not limited to, the reports received from the Lottery Corporation, to the Clerk of Floyd County. Such report shall indicate the quarterly gross retail receipts for each business location located within the jurisdiction of Floyd County and shall be due by the twentieth day of each January, April, July, and October of each year thereafter, for the previous calendar quarter in which the sales have taken place. In addition, each owner or operator must allow Floyd County an annual audit of the reports from the owner or operator to the Lottery Corporation.

(c) No location owner or location operator may derive more than 50 percent (50%) of such location owner's or location operator's quarterly gross retail receipts for this business location in which the Class B machines are situated from such Class B machines and any location owner or location operator found in violation of such provision may be fined and may have any Floyd

County issued license suspended or revoked as allowed under this Article. Compliance with this Section requires both the availability of records for inspection and compliance with the fifty (50%) percent of gross retail receipts requirement. Any violation of this provision shall be reported to the Georgia Lottery Corporation.

(d) Pursuant to O.C.G.A. § 50-27-84, this section on Gross retail receipts shall not apply to historical fraternal benefit associations or veterans organizations which are exempt from taxes and are described in O.C.G.A. § 48-5-41 and O.C.G.A. § 48-5-478.4.

Sec. 2-12-100. Notice Requirements.

(a) Every Amusement Game Room shall post a conspicuous sign with the following or substantially similar language:

> GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING $5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.

(b) The notice provided for in Section 2-12-100(a) shall be at least 11.5 inches by 17.5 inches in size. Words and letters shall be in bold print and shall be at least one (1) centimeter in size.

(c) Every Amusement Game Room shall post the license issued by Floyd County conspicuously and permanently.

(d) The owner or proprietor of each Amusement Game Room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this Ordinance, and of the penalties for violation of O.C.G.A. § 16-12-35 and this Ordinance.

Sec. 2-12-101. Compliance with O.C.G.A. Provision Relating to Master Licenses, Location Licenses, and Stickers for Individual Machines.

Bona Fide Coin Operated Amusement Machines may be used in an Amusement Game Room within Floyd County only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). The Floyd County official in charge of issuing Amusement Game Room licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71 or § 50-21-78.

Sec. 2-12-102. License Suspension and Revocation.

(a) Floyd County may suspend, refuse to renew, place on probation, or revoke the Floyd County issued license of any location owner or location operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the business owner or business operator of a violation of O.C.G.A. § 16-12-35, subsection (e), (f), or (g).

(b) Floyd County may suspend, refuse to renew, place on probation, or revoke the license of any location owner or location operator of any other license granted by the County as a penalty for the conviction of the business owner or business operator of a violation of O.C.G.A. § 16-12-35, subsection (e), (f), or (g).

(c) The Floyd County Commission may suspend, refuse to renew, place on probation, or revoke a license of any location owner or location operator, and to impose a monetary sanction not to exceed $1,000.00, under the conditions set forth in this section. Before taking any such action, except suspending a license for failure to pay an imposed monetary sanction when due, the Floyd County Commission shall require a hearing before the Alcohol Control Commission (ACC). At least five days' notice of such hearing shall be given to the affected licensee. The suspension, non-renewal or revocation of licenses under this section, or other penalties imposed, shall be in accordance with the following guidelines of due process:

(1) No license shall be suspended or revoked pursuant to this section except for due cause and after hearing and upon prior five-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held, unless such hearing has been waived pursuant to stipulation as provided under subpart (10) of this subsection. Such notice shall provide the reasons for the suspension or revocation sought and shall be mailed or delivered to the holder of the license.

(2) The term "due cause" for the purposes of this section shall include, but not be limited to:
   a. Violation by the location owner or location operator of any provision of this Article; and/or
   b. Conviction of the location owner or location operator of a violation of subsection (e), (f), or (g) of O.C.G.A. § 16-12-35.

(3) Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as provided by the licensee to Floyd County. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by this chapter, the service is complete at the time of deposit in the United States Postal Service.

(4) The hearing shall be conducted by the Alcohol Control Commission. The chair of the Alcohol Control Commission shall conduct the hearing, and the county attorney shall represent the county at the hearing.

(5) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. Floyd County shall bear the burden of proving by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by Floyd County, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the Floyd County Commission or Alcohol Control Commission shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath or affirmation.

(6) After all of the evidence has been submitted, the Alcohol Control Commission shall confer and consider the evidence. The Alcohol Control Commission shall make known their decision in public by majority vote, which shall be reduced to writing and presented to the Floyd County Board of Commissioners for consideration. The licensee shall be given a copy of such decision.

(7) The decision shall be placed in writing and contain the judge's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one (1) or more of the following: revocation of the license, suspension of the license for no more than twelve (12) months, imposition of a probationary period not to exceed twelve (12) months, and/or a civil monetary penalty as provided in the general penalty section of the Floyd County Code of Ordinances, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than twelve (12) months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three (3) separate and unrelated violations within twenty-four (24) months, whether or not within a probationary period, shall be grounds for permanent revocation.

(8) After considering the findings and conclusions of the Alcohol Control Commission, the Board of Commissioners shall confer and make known their decision in public by majority vote. If the decision of the Board of Commissioners is to revoke the license, the county police department shall immediately take possession of the license and the licensee shall no longer be permitted to carry on the business for which the license was issued. If the license is suspended or the licensee is placed on probation, the terms and conditions of the suspension or probation shall be specifically set forth in writing by the Board of Commissioners and the licensee shall comply with such conditions. The county police department shall make frequent inspections of the licensee to determine that the conditions of suspension or probation are being complied with.

(9) The decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the Floyd County attorney, within ten (10) business days of the close of the hearing. The decision shall constitute final action by Floyd County, subject to review by the superior court, as provided by law.

(10) Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction, as recommended by the Floyd County Clerk, in consultation with the Chief of Police. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 2-12-103. Penalties for Violations by Owners or Operators of Amusement Game Rooms.

In addition to penalties set out by Georgia Law for failure to comply with the provisions of O.C.G.A. § 16-12-35 (a) through (j), the owner of operator of an amusement game room, upon violation of any requirement of this article or any law, which violation is directly attributable to the operation of an amusement game room or bona fide coin-operated amusement machine, may be subject to the general penalty section of the Floyd County Code of Ordinances for each such violation and further may be subject to the following penalties:

(a) Penalties for violation of the provisions of this Ordinance by the owner or operator of an Amusement Game Room, after conviction in the Magistrate Court of Floyd County, or other court of competent jurisdiction are as follows:

(1) First Offense: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.

(2) Second Offense: Fine not to exceed Seven Hundred and Fifty ($750.00) Dollars for each violation, suspension of the owner or operator's license for offering any amusement game at the Location for not more than three (3) months, or both.

(3) Third Offense: Fine not to exceed One Thousand ($1,000.00) Dollars for each violation, suspension or permanent revocation of the owner or operator's license for offering any amusement game at the Location, or suspension of other permits and licenses granted by Floyd County for not more than six (6) months, or any combination of these penalties.

(b) The fines listed in the penalties for violation of this Ordinance may be imposed by the Judge of the Magistrate Court of Floyd County, or the judge of any other court of competent jurisdiction. Suspension or revocation of the owner or operator's license for offering any amusement game at the Location where the violation occurred, and suspension of other permits and licenses granted by Floyd County may be imposed by the Floyd County Commission after a public hearing as described in Section 2-12-102 of this Article.

(c) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the Location is punishable, after conviction in the Magistrate Court of Floyd County, or any other court of competent jurisdiction, by a fine not to exceed One Thousand ($1,000.00) Dollars, and if failure to pay the fine, then civil contempt may be imposed, not to exceed thirty (30) days.

Sec. 2-12-104. Penalties for Violations by Those Who Play Bona Fide Coin Operated Machines in Violation of Law or Ordinance.

The Magistrate Court of Floyd County, or any other court of competent jurisdiction is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any Bona Fide Coin Operated Amusement Machine from any person owning, possessing, controlling or overseeing such Bona Fide Coin Operated Amusement Machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a Bona Fide Coin Operated Amusement Machine:

(1) First Offense: Fine not to exceed Two Hundred Fifty ($250.00) Dollars for each violation.

(2) Second and Subsequent Offenses: Fine not to exceed Five Hundred ($500.00) Dollars for each violation.

Sec. 2-12-105. Operating Regulations.

All businesses operating as an Amusement Game Room hereunder shall be subject to the following regulations:

(a) Machines to Be Kept in Plain View; Gambling Devices Prohibited. All bona fide coin operated amusement machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(b) Inspection. The chief of police may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up for operating, and may inspect, investigate and test such machines as needed.

(c) Attendant Required. It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.

(d) Loitering. As used in this section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate an Amusement Game Room to permit loitering on or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:

(1) Create or cause to be created a danger of a breach of the peace;

(2) Create or cause to be created any disturbance of the peace, as defined by law;

(3) Obstruct the free passage of pedestrians or vehicles; and

(4) Obstruct, molest or interfere with any person lawfully in a public place.

(e) Shirt and Shoes Required. All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.

(f) Sunset Provisions. This Ordinance shall apply to all current and past Locations, Location Owners and Location Operators, and Master License Holders, and each shall certify to the County Clerk that they are in compliance with the location, minimum distance, plain view and limitation to six (6) machines within one year from the adoption of this Ordinance. All other provisions are immediately enforceable for all Locations, Location Owners and Location Operators, and Master License Holders.

Sec. 11-916. Licenses and Permits Nontransferable.

(a) Licenses required in this Article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current Amusement Game Room license.

(b) The issued license shall not be transferred to another owner at the same site within Floyd County. A new owner or proprietor must first obtain a new license if they are going to operate in the same or different location in Floyd County.

Sec. 11-917. Enforcing Officer.

The Chief of Police or his/her designee is hereby designated as the enforcement officer and shall execute all requirements of this Article.

SECTION THREE

BE IT FURTHER ORDAINED that all ordinance or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION FOUR

BE IT FURTHER ORDAINED that if any section, clause, sentence or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way effect the validity of the remaining portions of this ordinance.

SECTION FIVE

BE IT FURTHER ORDAINED that this ordinance shall become effective immediately upon its adoption by the Floyd County Commission.

ADOPTED, this 28 day of May, 2024.

BOARD OF COMMISSIONERS OF FLOYD COUNTY GA. OFFICIAL SEAL [SEAL]

FLOYD COUNTY, GEORGIA

By: _____
Allison Watters, Chair

ATTEST:

_____
Lauren Chumbler
Assistant County Clerk, Floyd County Commission