

AMENDMENT TO CITY ORDINANCE

At the regular meeting of the City Council of the City of Vidalia on May 14, 2012, upon motion by Councilman Tyson, with a second by Councilman Chessee, there was unanimous vote as follows:

"That Chapter 10 of the Code of Ordinances, City of Vidalia, Georgia, be and is hereby amended, adding an Article to be numbered Article XII, which said section shall read pursuant to the attached Exhibit A.

Approved this 14 day of May, 2012.

  
\_\_\_\_\_  
Mayor

Attest

  
\_\_\_\_\_  
City Clerk

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF VIDALIA RELATING TO COIN OPERATED AMUSEMENT DEVICES, 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 REPORTING REQUIREMENTS; TO MANDATE SIGN POSTING; TO PROVIDE FOR MINIMUM DISTANCE RESTRICTIONS; 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.

#### SECTION ONE

Chapter 10 of the Municipal Code of the City of Vidalia is amended by adding a new Article, to be numbered Article XII, which shall include the following language:

#### Article XII

Sec. 10-250 . Short Title.

This Article shall be known as the “ Vidalia Coin Operated Amusement Machine Ordinance.”

Sec. 10-251 . Findings and Intent.

This ordinance is adopted to address the interest of public safety. There is a growing problem in communities throughout the country with businesses which are often classified as ‘internet sweepstakes cafés’ or ‘phone card sweepstakes cafés’, whereby businesses circumvent state gaming laws by using advances in electronic, mechanical, and computer technology to allow customers to gamble using veiled schemes. These

businesses often locate in high traffic areas such as shopping centers and strip malls as an attempt to thwart would-be robbers, using unaware patrons of neighboring stores as protection against potential violent crimes. Additionally, these businesses often require additional parking, often operate for extended hours, causing increased traffic at time periods that normally do not experience high volumes of pedestrian and vehicular traffic, which activities may be potentially injurious to health, safety, and the welfare of the citizens of the City of Vidalia. Therefore, the Mayor and City Council find that in the interests of the public safety the immediate enactment of this Article by reasonable means, as allowed under state law, and not unduly oppressive is necessary to protect the health, safety, morals, and general welfare of the citizens of the city.

Sec. 10-252. Prohibition on Class B Devices.

Businesses are prohibited from offering more than nine Class B bona fide coin operated amusement machines, as defined by Official Code of Georgia, Section 48-17-1, at one business location within the jurisdiction of the city.

Sec. 10-253. Owner and Operator Notice.

The owner and/or operator of each bona fide coin operated amusement machine, as defined by Official Code of Georgia, Section 48-17-1, and which rewards the player as allowed under Georgia law with a machine located within the jurisdiction of the city is required to inform the owner and/or operator of each business location in which one of the machine owner's machines is located of the prohibitions and penalties set out in the Official Code of Georgia, Section 16-12-35, subsection (e), (f), and (g).

Sec. 10-254. Employee Notice.

The owner and/or operator of each business location which offers to the public the use of a bona fide coin operated amusement machine, as defined by Official Code of Georgia, Section 48-17-1 and which rewards the player as allowed under Georgia law with a machine located within the jurisdiction of the city is required to inform all employees of that business in which one of the machine is located of the prohibitions and penalties set out in the Official Code of Georgia, Section 16-12-35, subsection (e), (f), and (g).

Sec. 10-255. License Suspension and Revocation.

- (a) The city may suspend or revoke the license of any business owner or 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 the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).

- (b) The city may suspend or revoke the license of any business owner or operator of any other license granted by the municipality as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (c) The suspension or revocation of the permits or licenses under this Code section shall be in accordance with the following guidelines of due process:
  - (1) The city sets forth ascertainable standards in the local code upon which all decisions pertaining to these permits or licenses shall be based. All decisions related to permits or licenses issued by the city governing any business falling under this Article shall conform to the standards set forth in the city's alcohol code;
  - (2) All decisions suspending or revoking the permits or licenses shall be in writing with the reasons therefor stated, and shall be mailed or delivered to the applicant; and
  - (3) Upon timely application, any applicant aggrieved by the decision of the city regarding a permit or license shall be afforded a hearing with an opportunity to present evidence and cross-examine opposing witnesses.

Sec. 10.256. Monthly Reports.

Any business owner or business operator subject to Official Code of Georgia, Section 48-17-15(b)(1) is hereby required to provide a verified monthly report to the city clerk of the city. Such report shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of the city and shall be due by the fifth business day of each month, subsequent to the month in which the sales have taken place.

Sec. 10-257. Posting of Signs.

Any business owner or business operator with a business location within the jurisdiction of the city which offers to the public one or more bona fide coin operated amusement machines is hereby required to post prominently a notice including the following or substantially similar language:

GEORGIA LAW PROHIBITS PAYMENT OR RECEIPT OF  
MONEY FOR WINNING A GAME OR GAMES ON THIS  
AMUSEMENT MACHINE; PAYMENT OR RECEIPT  
OF MONEY FOR FREE PLAYS WON ON THIS  
AMUSEMENT MACHINE; PAYMENT OR  
RECEIPT OF MONEY FOR ANY MERCHANDISE,  
PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY  
WON ON THIS AMUSEMENT MACHINE; OR  
AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT

CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING  
\$5.00 FOR A SINGLE PLAY ON THIS MACHINE.

Sec. 10-258 . Minimum Distance Requirements.

*(State law provides for minimum distance requirements for the sale of alcoholic beverages. The state law on these cafés ties into those state laws. However, court precedent allows for local governments to establish, pursuant to its police power authority, a distance restriction greater than the minimums in state law. Powell v. Board of Comm'rs of Rds. & Revenues, 234 Ga. 183 (1975). The following model section is based upon the state minimum requirements. However, if your city has minimum distance requirements for alcohol which are greater than those in state law you will be allowed to require minimum distances up to that same level for cafés.)*

Any business location which offers to the public one or more bona fide coin operated amusement machine may not be located within 100 yards of any church building, within 200 yards of any school building, educational building, school grounds or college campus, within 100 yards of any alcoholic treatment center, or within 100 yards of any housing authority property.

Sec. 10-259 . Disclosure of Machine Owner.

Any business owner or business operator seeking to locate a business within the jurisdiction of the city and offer to the public one or more bona fide coin operated amusement machine must first submit in writing the name and address of the owner of the bona fide coin operated amusement machine to the city clerk of the city before any occupational tax certificate or other license granted by the municipality is issued or renewed.

Sec. 10-260 . Location of Machines.

Any business owner or business operator who offers to the public one or more bona fide coin operated amusement machine is required as a condition of doing business in the jurisdiction of the city to locate each and every bona fide coin operated amusement machine in plain view and accessible to any person who is at the business location.

Sec. 10-261 . Posting of Occupational Tax Certificate.

Any business owner or business operator who offers to the public one or more bona fide coin operated amusement machine is required as a condition of doing business in the jurisdiction of the city to post its occupational tax certificate (also known as its business license) in plain view to any person who is at the business location.

Sec. 10-262 . Violations.

Any business owner, business operator, machine owner, machine operator, or employee of such who violates any provisions of this Article shall be subject to the maximum fine allowed under the charter of the city for each individual violation.

SECTION TWO

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION THREE

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 FOUR

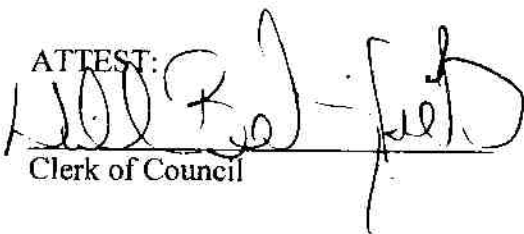
This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this 14<sup>th</sup> day of May, 2012

  
Mayor

City of Vidalia

ATTEST:

  
Clerk of Council