

33 **WHEREAS**, the Citrus County Board of County Commissioners finds that a correlation
34 exists between establishments that utilize simulated gambling devices and crime or disturbances
35 of the peace and good order of the community and those activities are hazardous to the public
36 health, safety and general welfare of the citizens of Citrus County and constitutes a public
37 nuisance; and

38 **WHEREAS**, the Citrus County Board of County Commissioners has determined that the
39 endangerment of both the public and first responders required to respond to this ongoing
40 criminal activity is too significant to allow any public or commercial use of simulated gambling
41 devices to continue; and

42 **WHEREAS**, the Citrus County Board of County Commissioners has determined that the
43 continued use of law enforcement and public safety resources to investigate, monitor, and
44 dismantle internet cafés that serve as a location for ongoing criminal activity in violation of
45 Chapter 849, Florida Statutes, will not result in an appreciable long-term impact on the number
46 of internet cafés that operate in Citrus County and will divert valuable law enforcement and
47 public safety resources away from the investigation of other criminal activity, including the
48 enforcement of the Florida Comprehensive Drug Abuse Prevention and Control Act; and

49 **WHEREAS**, the Board of County Commissioners of Citrus County finds that the operation
50 of simulated gambling establishments constitute a public nuisance; and

51 **WHEREAS**, the Board of County Commissioners of Citrus County finds that the continued
52 operation of simulated gambling establishments create an immediate and ongoing hazard to the
53 public health, safety, and welfare associated with the continued operation of simulated gambling
54 devices; and

55 **WHEREAS**, the Citrus County Board of County Commissioners finds that there is a
56 legitimate public purpose in prohibiting simulated gambling devices from being operated in Citrus
57 County;

58 **WHEREAS**, the Board adopted Chapter 10 of the Citrus County Code of Ordinances
59 (“Code”) establishing regulations for amusements and entertainments; and

60 **WHEREAS**, the Board would like to add Article V to the Code to regulate simulated
61 gambling devices and internet cafés; and

62 **WHEREAS**, the Board finds it is in the best interest of the health and welfare of the citizens
63 of Citrus County to adopt regulations regarding simulated gambling devices and internet cafés.

64 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF**
65 **CITRUS COUNTY:**

66 **Section 1.** Chapter 10, Article V entitled "Simulated Gambling Devices and Internet Cafés," is
67 hereby added as follows:

68 **Sec. 10-248. Authority; intent; purpose; scope.**

69 (a) This article is adopted in the interest of the public health, safety, and general welfare of
70 the citizens and inhabitants of the county, pursuant to F.S. Ch. 125 and Florida
71 Constitution Article VIII.

72 (b) The intent and purpose of this article is to provide for regulation of simulated gambling
73 devices and internet cafés, decrease the unwanted secondary effects associated with the
74 operation of internet cafés, authorize the use of private property for lawful purposes, and
75 deter illegal gambling. To do this, the county intends to broadly prohibit the possession
76 or use of simulated gambling devices not authorized for legal use under Florida law,
77 including any related activity or behavior which can be reasonably construed to be the
78 use of simulated gambling devices. Further, the Board in prohibiting simulated gambling
79 devices in no way intends to locally approve the use of actual slot machines, other forms
80 of casino gambling or other types of gambling devices. In addition, this prohibition is
81 aimed directly at devices that simulate gambling activity, regardless of whether the
82 devices or the simulations in and of themselves can be said to constitute gambling as that
83 term may be defined elsewhere.

84 (c) This article applies in unincorporated Citrus County. It does not apply within the cities of
85 Inverness and Crystal River.

86 (d) Family amusement games or devices are exempt from the provisions of this article.

87 (e) Pari-mutuel facilities, operated by a holder of a pari-mutuel permit issued pursuant to
88 F.S. Ch. 550, and Fla. Admin. Code 61D, and devices located therein, are exempt from the
89 provisions of this article.

90 **Sec. 10-249. Definitions.**

91 For the purpose of this article, certain terms shall have the meanings ascribed to them in
92 this section, unless the context clearly indicates otherwise.

93 *COO* shall mean a certificate of occupancy issued pursuant to chapter 5 of this Code.

94 *Internet café* means any location at which simulated gambling devices are made
95 accessible for use by a person, except those places specifically excluded from this article as
96 set forth in in section 11-203.

97 *Person* means an individual, association, partnership, joint venture, corporation, or any
98 other type of organization, whether conducted for profit or not for profit, or a director,
99 executive, officer or manager of an association, partnership, joint venture, corporation or
100 other organization.

101 *Simulated gambling device* means any device that, upon connection with an object, is
102 available to play or operate a computer simulation of any game, where the play or operation
103 of the device may deliver or entitle the person or persons playing or operating the device to

104 a payoff directly or indirectly from the owner or operator of the device or that person's
105 designee. The following rules of construction apply to this definition of "simulated gambling
106 device":

107 (1) The term *device* means any mechanical or electrical contrivance, computer, terminal,
108 video or other equipment that may or may not be capable of downloading games from
109 a central server system, machine, computer or other device or equipment. The term
110 "device" also includes any associated equipment necessary to conduct the operation
111 of the device.

112 (2) The term *upon connection with* means insertion, swiping, passing in range, or any
113 other technical means of physically or electromagnetically connecting an object to a
114 device, including by the manual input by any person of characters, numbers, or any
115 combination thereof, or other code for the purpose of accessing or activating a device,
116 or any other mechanism or method by which the object provides access to the device.
117

118 (3) The term *object* means a coin, bill, ticket, token, card, characters, numbers, or any
119 combination thereof, other code, or any other tangible or intangible access
120 mechanism or method, obtained directly or indirectly through payment of
121 consideration, or obtained as a bonus or supplement to another transaction involving
122 the payment of consideration.

123 (4) The terms *play or operate* or *play or operation* includes the use of skill, the application
124 of the element of chance, or both.

125 (5) The term *computer simulation* includes simulations by means of a computer,
126 computer system, video display, video system or any other form of electronic video
127 presentation.

128 (6) The term *game* includes slot machines, poker, bingo, craps, keno, "fish", any other
129 type of game ordinarily played in a casino, a game involving the display of the results
130 of a raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and
131 any other game associated with gambling or which could be associated with gambling,
132 but the term "game" does not necessarily imply gambling as that term may be defined
133 elsewhere.

134 (7) The term *payoff* means cash, monetary or other credit, billets, tickets, tokens, or
135 electronic credits to be exchanged for cash or to receive merchandise or anything of
136 value whatsoever, whether made automatically from the machine or manually.

137 (8) The use of the word *gambling* in the term "simulated gambling device" is for
138 convenience of reference only. The term "simulated gambling device" as used in this
139 part is defined exclusively by this subsection and does not incorporate or imply any
140 other legal definition or requirement applicable to gambling that may be found
141 elsewhere.

142 (9) For the purpose of determining the number of simulated gambling devices, each seat,
143 terminal, or other interface at which a separate individual may use the device, shall
144

145 be counted as a separate and distinct device, regardless of whether the device or any
146 seat, terminal, or other interface is functional. For example, if a single table has six (6)
147 chairs at which six (6) separate persons can play a game, on a common screen/display
148 or otherwise, it shall be counted as six (6) devices; if a stand-up game has three (3)
149 terminals or interfaces at which three (3) people can use the device, it shall be
150 counted as three (3) devices.

151 *Slot machine* has the same meaning as specified in F.S. Ch. 551.

152 **Sec. 250. Prohibition of simulated gambling devices.**

153 (a) It is unlawful for any person to manage, supervise, maintain, provide, produce, possess,
154 or use a simulated gambling device for commercial, promotional or pecuniary gain or
155 purpose.

156 (b) For determining the allowable unit of prosecution, it is the intent of the county that each
157 individual act of managing, supervising, maintaining, providing, producing, possessing, or
158 using a simulated gambling device constitutes a separate violation of this section:

159 (1) For example, if a person possesses five (5) simulated gambling devices, that person
160 would be subject to a separate penalty for each of the five (5) devices;

161 (2) For example, if a person possesses two (2) simulated gambling devices that the person
162 sells to another individual, the person will have committed four (4) acts in violation of
163 this section, and would be subject to a separate penalty for possessing each of the
164 two (2) devices and a separate sanction for providing each of the two (2) devices.

165 (3) For example, if a person employed at an internet café supervises the establishment
166 and the establishment has ten (10) simulated gambling devices, that person would be
167 subject to a separate penalty for each of the ten (10) devices.

168 (c) Any establishment or property which was lawfully in possession of either a COO or was
169 operating unlawfully prior to the effective date of this article shall immediately cease the
170 use of simulated gambling devices regulated by this article upon the effective date of this
171 article.

172 **Sec. 10-251. Exemptions.**

173 (a) This part does not prohibit an individual's personal, recreational, and non-commercial
174 ownership, possession, play, operation or use of a device which could be construed to be
175 a simulated gambling device.

176 (b) This part does not prohibit the ownership, possession, play, operation or use of any device
177 expressly permitted by F.S. § 546.10, or other provision of the Florida Statutes, except
178 that devices permitted by Article X, Section 23 of the Florida Constitution and F.S. Ch. 551,
179 in Broward and Miami-Dade County only are not permitted by this part.

180 (c) This part does not prohibit a religious or charitable organization from conducting a fund
181 raising activity involving gaming, provided the religious or charitable organization does
182 not conduct the activity more than twice in one (1) calendar year for no more than six (6)

183 hours per fund raising activity, the organization provides advance written notice to
184 the sheriff of the date, time, place, and nature of such activity and who will be conducting
185 it, and the activity is not otherwise unlawful.

186 (d) This article does not apply to pari-mutuel facilities, operated by a holder of a pari-mutuel
187 permit issued pursuant to F.S. Ch. 550, and Fla. Admin. Code 61D, or to any devices or
188 games therein.

189 **Sec. 10-252. Conflict with state law.**

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

194 **Sec. 10-253. Enforcement; penalties; civil remedies.**

195 (a) The sheriff and the county code enforcement, as outlined in a written enforcement policy
196 between those agencies, shall have jurisdiction to investigate and enforce the
197 requirements of this article, as follows:

198 (1) By the issuance of a cease-and-desist order. Upon notice from the sheriff, occupancy
199 or operation of any structure or property where any simulated gambling device is
200 being used or operated in violation of this section shall immediately cease. Such notice
201 shall be in writing and shall be given to the owner of the property or to his or her agent
202 or to the person operating any establishment where any simulated gambling device is
203 being used or operated in violation of the section. Failure to comply with the terms
204 and conditions of a cease and desist order issued pursuant to this section shall
205 constitute an additional violation of this section. Cease and desist orders may be lifted
206 by the sheriff upon demonstration that all simulated gambling devices have been
207 removed and all applicable civil penalties have been paid.

208 (2) By citation for civil penalties, as provided in section 2-211 of this Code, as it may be
209 amended. Civil penalties assessed pursuant to this subsection shall be two hundred
210 fifty dollars (\$250.00) per violation per day for each violation.

211 (3) A violation of this article that is a civil violation may be reclassified to a misdemeanor
212 of the second degree, punishable by up to sixty (60) days imprisonment in the county
213 jail and a fine of up to five hundred dollars (\$500.00), if, at the time of the violation:

214 a. The violator manages, supervises, maintains, provides, produces, possesses, or
215 uses five (5) or more simulated gambling devices for commercial, promotional, or
216 pecuniary gain or purpose;

217 b. The violator has one (1) or more prior convictions for a violation of this article or
218 has been found, on one (1) or more occasions, to have committed a violation of
219 this article. For the purpose of this subsection, "conviction" means a
220 determination of guilt that is the result of a plea or a trial, regardless of whether
221 adjudication is withheld or a plea of nolo contendere is entered. A person may be

222 found to have committed a violation of this article by any court or board
223 empowered to impose a sanction for violation of this article.

224 c. The violator has one (1) or more prior convictions for a violation of any provision
225 of F.S. Ch. 849. For the purpose of this subsection, "conviction" means a
226 determination of guilt that is the result of a plea or a trial, regardless of whether
227 adjudication is withheld or a plea of nolo contendere is entered;

228 d. The violator has previously entered in any pretrial intervention program or
229 diversion program for any violation of this article, a substantially similar ordinance
230 of another jurisdiction, or any provision of F.S. Ch. 849; or

231 e. The violator is in violation of a cease-and-desist order issued pursuant to this
232 article at the time the violations occur.

233 (4) By an action for injunctive relief through a court of competent jurisdiction. An action
234 for injunctive relief may be brought by the board of county commissioners, the state
235 attorney, or any substantially affected person. If such action is successful, a judgment
236 for reasonable attorney's fees and costs may be awarded by the court.

237 (5) Any person against whom a civil penalty is assessed pursuant to this article shall be
238 prohibited from applying for any certificate of occupancy for any property until such
239 civil penalty has been paid in full. Prohibitions against application for a certificate of
240 occupancy contemplated in this section shall not become effective until the judgment
241 requiring payment of the civil penalty becomes final; however, such certificate of
242 occupancy shall not be issued unless and until the alleged violation is overturned.

243 **Section 2. Scrivener's Errors.** Typographical errors which do not affect the intent of this
244 Ordinance may be authorized by the County without need of a public hearing by its filing a
245 corrected or re-codified copy of the same with the Clerk.

246 **Section 3. Severability.** If any section, sentence, clause, phrase or provision of this Ordinance is
247 held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or
248 unconstitutionality shall not be construed so as to render invalid or unconstitutional the
249 remaining provisions of this Ordinance.

250 **Section 4. Codification.** The publisher of the County's Code of Ordinances, the Municipal Code
251 Corporation, is directed to incorporate this article into the Code of Ordinances where indicated.

252 **Section 5. Modification.** The provisions of this Ordinance may be modified as a result of
253 considerations that may arise during public hearings. Such modifications shall be incorporated
254 into the final version of the ordinance adopted by the Board and filed with the Clerk.

255 **Section 6. Effective Date.** This Ordinance shall take effect as provided by law.

256 **PASSED AND DULY ADOPTED**, in open session, with a quorum present and voting, this ____day
257 of _____, 2021.

258 BOARD OF COUNTY COMMISSIONERS
259 OF CITRUS COUNTY, FLORIDA

260 ATTEST:

261 _____
262 ANGELA VICK, CLERK

RONALD E. KITCHEN, JR., CHAIRMAN

263 APPROVED AS TO FORM FOR THE
264 RELIANCE OF CITRUS COUNTY ONLY:

265 _____
266 DENISE A. DYMOND LYN, COUNTY ATTORNEY