

ORDINANCE NO. 2021-\_\_\_\_\_

AN ORDINANCE OF CITRUS COUNTY, FLORIDA; ADDING CHAPTER 10, ARTICLE V ENTITLED "SIMULATED GAMBLING DEVICES AND INTERNET CAFÉS"; PROVIDING FOR SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND INCLUSION INTO THE CODE; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the Citrus County Board of County Commissioners ("Board") is the legislative and governing body of Citrus County, Florida, a political subdivision of the State of Florida, authorized to exercise governmental powers pursuant to Article VIII of the Constitution of the State of Florida and Section 125.01, Florida Statutes; and

**WHEREAS**, business establishments that offer simulated gambling devices for use by the public are present in Citrus County and throughout the State of Florida, are frequently located in businesses that are commonly referred to as "Internet Cafés"; and

**WHEREAS**, except as authorized by Chapter 550, Florida Statutes, and section 849.086, Florida Statutes, gaming and gambling are not presently lawful in Citrus County; and

**WHEREAS**, presently throughout Citrus County and the state, there is a proliferation of establishments that utilize computer or video displays of games, contests, challenges and other electronic simulations which are or are of the type of games generally associated with legalized casino or gambling outlets or which show, or purport to show, the results of raffles, sweepstakes, contests, or business game promotions (hereinafter collectively known as "simulated gambling devices") for commercial or pecuniary gain; and

**WHEREAS**, the Citrus County Board of County Commissioners finds that establishments that utilize simulated gambling devices can deceive many Citrus County residents, including the elderly, the economically disadvantaged, the uneducated, and the unsuspecting into believing such activities are legal and lawfully permitted; and

**WHEREAS**, the Citrus County Board of County Commissioners finds that simulated gambling devices are deceptive; and

**WHEREAS**, due to the inherently deceptive nature of simulated gambling devices, establishments that utilize simulated gambling devices are adverse to the quality of life, tone of commerce, and total community environment in Citrus County; and

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

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

- (1) The term *device* means any mechanical or electrical contrivance, computer, terminal, video or other equipment that may or may not be capable of downloading games from a central server system, machine, computer or other device or equipment. The term "device" also includes any associated equipment necessary to conduct the operation of the device.
- (2) The term *upon connection with* means insertion, swiping, passing in range, or any other technical means of physically or electromagnetically connecting an object to a device, including by the manual input by any person of characters, numbers, or any combination thereof, or other code for the purpose of accessing or activating a device, or any other mechanism or method by which the object provides access to the device.
- (3) The term *object* means a coin, bill, ticket, token, card, characters, numbers, or any combination thereof, other code, or any other tangible or intangible access mechanism or method, obtained directly or indirectly through payment of consideration, or obtained as a bonus or supplement to another transaction involving the payment of consideration.
- (4) The terms *play or operate* or *play or operation* includes the use of skill, the application of the element of chance, or both.
- (5) The term *computer simulation* includes simulations by means of a computer, computer system, video display, video system or any other form of electronic video presentation.
- (6) The term *game* includes slot machines, poker, bingo, craps, keno, "fish", any other type of game ordinarily played in a casino, a game involving the display of the results of a raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and any other game associated with gambling or which could be associated with gambling, but the term "game" does not necessarily imply gambling as that term may be defined elsewhere.
- (7) The term *payoff* means cash, monetary or other credit, billets, tickets, tokens, or electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether made automatically from the machine or manually.
- (8) The use of the word *gambling* in the term "simulated gambling device" is for convenience of reference only. The term "simulated gambling device" as used in this part is defined exclusively by this subsection and does not incorporate or imply any other legal definition or requirement applicable to gambling that may be found elsewhere.
- (9) For the purpose of determining the number of simulated gambling devices, each seat, terminal, or other interface at which a separate individual may use the device, shall

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)

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

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

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

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

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

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

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

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

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

- a. The violator manages, supervises, maintains, provides, produces, possesses, or uses five (5) or more simulated gambling devices for commercial, promotional, or pecuniary gain or purpose;
- b. The violator has one (1) or more prior convictions for a violation of this article or has been found, on one (1) or more occasions, to have committed a violation of this article. For the purpose of this subsection, "conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered. A person may be

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

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

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

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

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

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

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

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

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

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

**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