

ORDINANCE NO. C-12-45

AN ORDINANCE AMENDING ARTICLE IV, AMUSEMENT, VIDEO, AND ADULT ENTERTAINMENT AND PRIVATE PERFORMANCE CENTERS, CHAPTER 15, BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF FORT LAUDERDALE, FLORIDA; AMENDING SECTION 47-6.10, LIST OF PERMITTED AND CONDITIONAL USES, COMMUNITY BUSINESS (CB) DISTRICT, SECTION 47-6.11, LIST OF PERMITTED AND CONDITIONAL USES, BOULEVARD (B-1) DISTRICT, SECTION 47-6.12, LIST OF PERMITTED AND CONDITIONAL USES, GENERAL BUSINESS (B-2) DISTRICT, SECTION 47-6.13, LIST OF PERMITTED AND CONDITIONAL USES, HEAVY COMMERCIAL/LIGHT INDUSTRIAL (B-3) DISTRICT, SECTION 47-18, SPECIFIC USE REQUIREMENTS, AND TABLE 1 OF SECTION 47-20, PARKING AND LOADING ZONE REQUIREMENTS, OF THE UNIFIED LAND DEVELOPMENT REGULATIONS OF THE CITY OF FORT LAUDERDALE, FLORIDA; PROVIDING FOR DEFINITIONS FOR ADULT GAMING CENTER AND ELECTRONIC GAMING DEVICES; ESTABLISHING REGULATIONS RELATING TO ADULT GAMING CENTERS; CREATING LOCATION AND OPERATIONS STANDARDS FOR ADULT GAMING CENTERS AND REQUIREMENTS FOR CONDITIONAL REVIEW AND APPROVAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEALER; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That Article IV, AMUSEMENT, VIDEO, AND ADULT ENTERTAINMENT AND PRIVATE PERFORMANCE CENTERS, of Chapter 15, Business Tax Receipts and Miscellaneous Business Regulations, of the Code of Ordinances of the City of Fort Lauderdale is hereby amended to read as follows:

CHAPTER 15
BUSINESS TAX RECEIPTS AND MISCELLANEOUS BUSINESS REGULATIONS

ARTICLE IV. AMUSEMENT, VIDEO, ~~AND~~ ADULT ENTERTAINMENT AND PRIVATE
PERFORMANCE CENTERS, AND ADULT GAMING CENTER

Sec. 15 –151. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

Adult Gaming Center shall mean a structure, building, edifice, facility or location, along with its grounds in which Electronic Gaming Devices are used, operated, or stored in conjunction with the use of such Electronic Gaming Devices.

Electronic Gaming Device shall mean any device, computer, terminal, video or other equipment (either mechanical or electrical in nature) that may or may not be capable of downloading games from a central server system, machine, computer or other equipment upon connection with or the insertion of, swiping, passing in range of, or any other technical means of physically or electromagnetically connecting a coin, bill, ticket, token, card or other similar object, including entering a password or pass code obtained directly or indirectly through payment of consideration or obtained as a bonus or supplement to another transition involving the payment of consideration, which makes the devices available to play or operate computer or video simulation of any game such as slot machines, bingo, poker, keno, craps, or any other type of game ordinarily played in a casino, including a game involving the display of the results of a raffle, sweepstakes, drawing, contest, lottery, or other promotion, and which may deliver or entitle the person or persons playing or operating the device to a payoff of cash, money, or other credit, tickets, tokens, gift cards, or electronic credits to be exchanged for cash or merchandise, or any other thing of value, whether made automatically from the machine or manually.

Existing Adult Gaming Center shall mean any business whose operations meet the definition of an Adult Gaming Center, was established prior to, and had a current business tax receipt for the business operation on the effective date of Ordinance No. C-12-45.

Owner or operator shall mean any person who owns, operates, or distributes for the purpose of operating one (1) or more amusement device or Electronic Gaming Device.

Permittee shall mean a person in whose name a permit to operate an Adult Gaming Center has been issued, as well as all individuals listed as an applicant on the application for a permit for an Adult Gaming Center.

ULDR shall mean the Unified Land Development Regulations of the City of Fort Lauderdale.

...

Sec. 15-157. Adult Gaming Center.

(a) *Permit required.* No person shall conduct or operate an Adult Gaming Center in the City of Fort Lauderdale without first having obtained a permit from the City's Department of Sustainable Development.

(b) *Existing Adult Gaming Center.* Within sixty (60) days of the enactment of Ordinance No. C-12-45 Existing Adult Gaming Centers shall 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; and shall also comply with the provisions of subsections (c), (e), (f), (g), (h), (i)(2) and (l) of this section.

(c) *Permit Application.* An applicant shall file with the City's Department of Sustainable Development a permit application on a form provided by the Department and shall provide at a minimum the following:

(1) a copy of the applicant's proposed rules governing the drawing by chance, sweepstakes or game promotion, which includes the odds of winning and the prize table.

(2) a copy of the applicant's certification of a bond or trust account provided to the Florida Department of Agriculture and Consumer Services if the application is for a sweepstakes and game promotion operating pursuant to Florida Statutes, section 849.094.

(3) a complete list of products and services offered and the prices charged therefor.

(4) for every principal, officer, shareholder, and director of the Adult Gaming Center, a fingerprint card and letter certifying the results of a criminal background check generated by the Florida Department of Law Enforcement or the City of Fort Lauderdale police department.

(5) a certification that the computer software of the Electronic Gaming Device located in the Adult Gaming Center used to conduct drawings by chance or game promotions in connection with the sale of consumer products or services has been tested by an independent testing laboratory that has verified that it is not a slot machine as defined by Florida law.

(6) all information required for a conditional use permit as provided in section 47-24.3 of the ULDR.

(7) The applicant shall provide a sworn affidavit containing the following information:

a. the identity of the applicant and if the applicant is an individual, his name, residence address, driver's license number and State of issuance and date of birth; if the applicant is an unincorporated organization, the names, driver's license numbers and State of issuance, dates of birth and residence addresses of its principals; if the applicant is a corporation, the name, state of incorporation and the names, driver's license numbers and State of issuance, dates of birth and residence addresses of its principal officers, directors and shareholders; if the applicant is a limited liability company, the company name, state of incorporation and the names, driver's license numbers and State of issuance, dates of birth and residence addresses of all its members and managers.

b. a description of the Electronic Gaming Devices, including, but not limited to the number of Electronic Gaming Devices located in the Adult Gaming Center.

c. a statement of whether any of the individuals listed in the affidavit, within a five year period immediately preceding the date of the application, have been convicted of any felony in any state or federal offense, and if so, the particular criminal act and the place of the conviction.

d. 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 the permit has been issued, in the suspension or revocation of the permit.

(d) Fees. Each applicant shall remit a non-refundable fee of \$500.00 for the application process.

(e) Renewal. Adult Gaming Center permits shall be renewed annually on or before the 1st day of October. Any change in ownership shall be provided to the Department of Sustainable Development within ten (10) days and shall require a new application. Adult Gaming Center permits are not transferable.

(f) Revocation of Permit. The City Manager, or his designee, may revoke a permit for a violation of any provision of this Ordinance or due to the cessation of the use of Electronic Gaming Devices during its normal business hours for at least thirty (30) consecutive days. Prior to revocation of the permit, the City shall provide to the permit holder a written notice of intent to revoke the permit and provide a maximum of fifteen (15) calendar days to cure the alleged violation(s) and an opportunity to be heard prior to revocation. Revocation shall not take place before twenty (20) calendar days after receipt of the notice of revocation is hand-delivered or mailed via U.S. First Class Mail to the Permittee. Any adjudication of a violation of the Code of Ordinances or the ULDR shall result in the immediate revocation of the permit. The decision to revoke is appealable to the Code Enforcement Special Magistrate and such appeal must be made in writing to the Clerk of the Code Enforcement Special Magistrate within fifteen (15) calendar days of the revocation. Failure to file written notice of appeal within the prescribed time prior constitutes a waiver of the right to appeal. All timely appeals shall proceed in accordance with Section 11-20 of the Code.

(g) Inspection. All Adult Gaming Centers shall allow representatives of the City of Fort Lauderdale to enter and inspect their places of business during business hours or at any time the business is occupied for the purpose of an initial inspection to verify compliance with the permit requirements of this article, Code of Ordinances and ULDR of the City of Fort Lauderdale, Florida Building Code and Florida Fire Prevention Code after application is made and thereafter on an annual basis in conjunction with permit renewal. A Permittee shall notify the Department of Sustainable Development within forty-eight (48) hours of any changes made to any of the Electronic Gaming Devices in the Adult Gaming Center, including, but not limited to, new Electronic Gaming Device(s).

(h) Signage requirements.

(1) Exterior signage shall be limited to the advertisement of the consumer product and/or service sold at the facility. No signs shall be posted on the exterior of any Adult Gaming Center that suggest that gambling takes place or display any image or graphic commonly associated with gambling, included, but not limited to slot machines and video gambling machines. All signage is further subjected to all applicable ULDR requirements.

(2) The permit holder shall conspicuously post the name of the permit holder, description of all products and services sold, and the complete rules for all sweepstakes or game promotions at any customer counter. Rules for all promotions shall include the following language in at least 26-point font: "State and local law prohibits this establishment from requiring an entry fee, payment, or proof of purchase as a condition of participating. No donation or contribution is required. You may obtain free entries upon request from any employee on the premises." The permit holder shall also post a sign which shall include the following language in at least 26-point type: "The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries." A complete copy of the rules, prize tables, and odds of winning shall be made available on request without cost. Any consumer product or service offered for sale shall be identified by description and price by conspicuous posting. A copy of the permit shall also be posted conspicuously at the entrance of the Adult Gaming Center.

(i) Review process. The application for a permit shall be submitted to the Department of Sustainable Development to determine if the application is complete and in compliance with the Code. The Department of Sustainable Development shall process the application in accordance with the conditional use provisions and procedures of the ULDR. If the Adult Gaming Center is approved as a conditional use and the Department of Sustainable Development finds that the application complies with the provisions of this section, a permit shall be issued to the applicant. Existing Adult Gaming Centers are not required to be approved as a conditional use.

(j) Separation requirements. Adult Gaming Centers shall be subject to the following separation requirements:

(1) There shall be one thousand (1,000) feet separation between each Adult Gaming

Center as defined by this Article regardless of the municipal boundaries of the City of Fort Lauderdale.

(2) There shall be seven hundred fifty (750) feet separation between an Adult Gaming Center and an existing establishment that permits the consumption of alcohol on premises or where adult uses as defined in Section 47-18.2, Adult uses, are permitted.

(3) No Adult Gaming Center shall be located within five hundred (500) feet of any schools, residences, churches, houses of worship, parks, libraries or daycare facilities.

(k) Operational Standards. Adult Gaming Centers shall be subject to the following operational standards:

(1) An attendant must be present on the premises during all business hours.

(2) Hours of operation shall be limited to 9:00 a.m. to 11:00 p.m., seven (7) days a week.

(3) Consumption or possession of alcohol on the premises shall be prohibited.

(4) No one under the age of eighteen (18) years of age shall be permitted on the premises.

(5) Adult Gaming Centers shall not operate more than one hundred (100) Electronic Gaming Devices under one permit unless the Adult Gaming Center was legally in operation prior to the adoption of this ordinance.

(6) The Adult Gaming Center shall not redeem any award with a gift certificate, gift card, credit card or other cash substitute.

(7) No Adult Gaming Center shall design, engage in, promote, or conduct a game wherein the winner may be predetermined or the game may be manipulated or rigged; arbitrarily remove, disqualify, disallow or reject any entry; fail to award any prize offered; print, publish or circulate literature or advertising material which is false, deceptive or misleading; require an entry fee, payment or proof of purchase as a condition of entering; or cover facility windows with opaque or reflective window tinting.

(8) Adult Gaming Centers shall maintain a trust account or bond in an amount equal

to the total announced value of the prizes offered or \$50,000, whichever is less.

(l) *Penalties and enforcement.* Any person who operates or causes to be operated an Adult Gaming Center in violation of any provision of this section shall be subject to the penalties provided in Chapter 1, section 1-6 or Chapter 11 of the Code of Ordinances of the City of Fort Lauderdale. Each day a violation exists shall constitute a separate violation for the purposes of this Ordinance and shall be punishable as such.

(m) *Conflict with State law.* Nothing in this Section is intended to conflict with the provisions of Florida law, specifically, chapter 849, Florida Statutes, concerning gambling. In the event of a direct and express conflict between this Section and Florida law, then Florida law controls.

SECTION 2. That Section 47-6.10, List of permitted and conditional uses, Community Business (CB) District, of the Unified Land Development Regulations (“ULDR”) of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 47-6.10. List of permitted and conditional uses, Community Business (CB) District.

A. <i>PERMITTED USE</i>	B. <i>CONDITIONAL USES</i> See Sec. 47-24.3.
...	
9. <i>Services/Office Facilities</i>	
...	a. <u>Adult Gaming Center, see Sec. 47-18.42.</u> a- b. Nursing Home, see Sec. 47-18.23.

SECTION 3. That Section 47-6.11, List of permitted and conditional uses, Boulevard (B-1) District, of the Unified Land Development Regulations (“ULDR”) of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 47-6.11. List of permitted and conditional uses, Boulevard Business (B-1) District.

A. <i>PERMITTED USES</i>	B. <i>CONDITIONAL USES</i> See Sec. 47-24.3
...	
9. <i>Services/Office Facilities</i>	
...	
...	<p>a. <u>Adult Gaming Center, see Sec. 47-18.42.</u></p> <p>a. <u>b.</u> Child Day Care Facilities, see Sec. 47-18.8.</p> <p>b. <u>c.</u> Helistop, see Sec. 47-18.14.</p>

SECTION 4. That Section 47-6.12, List of permitted and conditional uses, General Business (B-2) District, of the Unified Land Development Regulations (“ULDR”) of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 47-6.12. List of permitted and conditional uses, General Business (B-2) District.

A. ...	
B. <i>PERMITTED USES</i>	C. <i>CONDITIONAL USES</i> See Sec. 47-24.3.
9. <i>Services/Office Facilities</i>	
...	

...	<p><u>a.</u> <u>Adult Gaming Center, see Sec. 47-18.42.</u></p> <p>a. <u>b.</u> Child Day Care Facility, see Sec. 47-18.8.</p> <p>b. <u>c.</u> Helistop, see Sec. 47-18.14.</p>
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SECTION 5. That Section 47-6.13, List of permitted and conditional uses, Heavy Commercial/Light Industrial (B-3) District, of the ULDR of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 47-6.13. List of permitted and conditional uses, Heavy Commercial/Light Industrial (B-3) District.

A. ...	
B. <i>PERMITTED USES</i>	C. <i>CONDITIONAL USES</i> See Sec. 47-24.3.
9. <i>Services/Office Facilities, including Wholesale Service</i>	
...	
...	<p><u>a.</u> <u>Adult Gaming Center, see sec. 47-18.42.</u></p> <p>a. <u>b.</u> Child Day Care Facilities, Large, see Sec. 47-18.8.</p>

SECTION 6. That Section 47-18., Specific Use Requirements, of the ULDR of the City of Fort Lauderdale is hereby amended to add a new use as follows:

Sec. 47-18.42. Adult Gaming Centers.

Definition and requirements. For the purposes of this section Adult Gaming Centers shall be defined and shall meet the requirements provided in Article IV, Amusement, Video, and Adult Entertainment and Private Performance Centers and Adult Gaming Centers, of Chapter 15, Business Tax Receipts and Miscellaneous Business Regulations of the Code. In addition each Adult Gaming Center shall be subject to the following:

1. Window tinting. Window tinting of any kind on the windows of an Adult Gaming Center is prohibited. The interior of the Adult Gaming Center shall be clearly visible at all times during business hours.

SECTION 7. That Section 47-20, Parking and Loading Requirements, of the ULDR of the City of Fort Lauderdale is hereby amended to read as follows:

Sec. 47-20.2. Parking and loading zone requirements.

TABLE 1. PARKING AND LOADING ZONE REQUIREMENTS

	Standard Requirements	
Use	<i>Parking Space Requirement</i>	<i>Loading Zone Requirement</i>
...		
<u>Adult Gaming Center, stand alone</u>	<u>1/2 gaming machines</u>	<u>See Table 2</u>
<u>Adult Gaming Center, as part of a shopping center or shared parking</u>	<u>1/2 gaming machines (no more than 10% of total parking spaces)</u>	<u>See Table 2</u>
...		

SECTION 8. That if any clause, section or other part of this Ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby, but shall remain in full force and effect.

SECTION 9. That all ordinances or parts of ordinances in conflict herewith, be and the same are hereby repealed.

SECTION 10. That this Ordinance shall be in full force and effect immediately upon adoption.

PASSED FIRST READING this the 20th day of November, 2012.

PASSED SECOND READING this the _____ day of _____, 2012.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH