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TOWN OF JUNO BEACH

ORDINANCE NO. 663

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA, AMENDING CHAPTER 16, "OFFENSES," OF THE TOWN CODE OF ORDINANCES BY ADOPTING A NEW ARTICLE II, "SIMULATED GAMBLING DEVICES," TO PROHIBIT THE USE OF SUCH DEVICES WITHIN THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, while the State of Florida has authorized slot machine gambling at specified licensed facilities in certain areas within the state, neither the Florida Constitution nor the Florida Statutes authorizes or permits slot machine gambling or any activity resembling slot machine gambling within any facility located in the Town of Juno Beach; and

WHEREAS, Section 849.01, Florida Statutes, prohibits persons from maintaining gambling houses, and Section 849.15, Florida Statutes, prohibits the possession, operation or use of slot machines or devices of a similar nature as defined by Sections 551.102 and 849.16, Florida Statutes; and

WHEREAS, pursuant to the statutory definitions cited above, the use of machines by an operator inserting internet cards, coins, tokens, or other objects into a machine which then makes the user eligible by reason of any element of chance to receive something of value constitutes gambling; and

WHEREAS, throughout the county and the state, there is an increasing demand for the licensing of establishments that utilize computer or video displays of spinning reels or other simulations of games ordinarily played on a slot machine or in a casino which show the results of raffles, sweepstakes, contests or other promotions (hereinafter referred to as "Simulated Gambling Devices") for commercial or pecuniary gain; and

WHEREAS, the Town Council recognizes that establishments that utilize Simulated Gambling Devices, designed to look and function like slot machines, can deceive members of the public, including, but not limited to, the elderly and economically disadvantaged, into believing that they are engaging in lawfully permitted and regulated gambling activity; and

WHEREAS, the use of Simulated Gambling Devices is therefore inherently deceptive; and

1 WHEREAS, due to their inherently deceptive nature, establishments that utilize
2 Simulated Gambling Devices are adverse to the quality of life and the community
3 environment within the Town of Juno Beach; and
4

5 WHEREAS, there is no material difference between the use of slot machines as
6 defined in Sections 551.102 and 849.16, Florida Statutes, and the use of Simulated
7 Gambling Devices; and
8

9 WHEREAS, there is often a correlation between establishments that utilize
10 Simulated Gambling Devices and disturbances of the peace and good order of the
11 community, and these conditions are detrimental to the public health, safety, and
12 general welfare of the citizens of the Town; and
13

14 WHEREAS, a local prohibition on Simulated Gambling Devices is consistent with
15 state law and enables local law enforcement and code enforcement personnel to
16 enforce existing code provisions and statutes, thereby safeguarding the public welfare;
17 and
18

19 WHEREAS, other local governments throughout the state have attempted to
20 utilizing existing state laws to close establishments that utilize Simulated Gambling
21 Devices, resulting in the expenditure of resources to enforce and litigate the activities of
22 these establishments; and
23

24 WHEREAS, in order to ensure the uniform enforcement of existing laws and to
25 preserve the health, safety and general welfare of the community and of the citizens of
26 the Town, the Town Council determines that it is necessary to prohibit the use of
27 Simulated Gambling Devices, unless otherwise authorized by law; and
28

29 WHEREAS, the Town Council enacts this Ordinance pursuant to the powers
30 granted by Article VIII, Section 2 of the Florida Constitution and Chapter 166, Florida
31 Statutes, and otherwise in accordance with the Town's home rule authority.
32

33 NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
34 TOWN OF JUNO BEACH, FLORIDA as follows:
35

36 **Section 1.** The foregoing "Whereas" clauses represent the legislative findings
37 of the Town Council supporting the need for this Ordinance and are hereby ratified and
38 incorporated herein.
39

40 **Section 2.** The Town Council hereby amends Chapter 16, "Offenses," of the
41 Town Code of Ordinances to adopt a new Article II, "Simulated Gambling Devices," to
42 read as follows (additional language underlined):
43
44

ARTICLE II. SIMULATED GAMBLING DEVICES

Sec. 16-21. 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:

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

(b) *Simulated gambling device* means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff. 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, or in the case of a password, inputting the password.

(2) The term "upon connection with" means inserting, swiping, passing in range, or any other technical means of physically, electronically, or electromagnetically connecting an object to a device, or inputting a password, code, account or user number or user name, into a device.

(3) The term "object" means a coin, bill, ticket, token, card, password, account or user number, name or code obtained directly or indirectly through payment of consideration or a donation, or obtained as a bonus or supplement to another transaction involving the payment of consideration or a donation.

(4) The terms "play or operate" or "play or operation" include any activation of a device whether involving the use of skill, the application of an element of chance, or both, or neither, or the implementation of an outcome unpredictable to the person activating the device.

- 1
- 2 (5) The term "simulation" includes simulation by means of a
- 3 computer, computer system, video display, video system or
- 4 any other form of electronic video presentation.
- 5
- 6 (6) The term "game" includes slot machines, poker, cards,
- 7 bingo, craps, keno, any other type of game ordinarily played
- 8 in a casino; a game involving the display of the results of a
- 9 raffle, drawing, contest, game promotion, lotto or
- 10 sweepstakes; or any other game associated with gambling
- 11 or which could be associated with gambling. The term
- 12 "game" does not necessarily imply or require actual
- 13 gambling, as that term may be defined elsewhere.
- 14
- 15 (7) The term "payoff" means cash, monetary or other credit,
- 16 tickets, tokens, or electronic credits to be exchanged for
- 17 cash or to receive merchandise or anything of value
- 18 whatsoever, whether made automatically from the machine
- 19 or manually, from the owner or operator of the device, or any
- 20 affiliate, associate, person, or entity acting in concert or
- 21 connection with the owner or operator of the device, or from
- 22 any person, entity, or device at the premises or building
- 23 where such device is located.
- 24
- 25 (8) The use of the "gambling" in the term "simulated gambling
- 26 device" is for convenience of reference only. The term
- 27 "simulated gambling device" as used in this article is defined
- 28 exclusively by this section and does not incorporate or imply
- 29 any other legal definition or requirement applicable to
- 30 gambling that may be found elsewhere.
- 31

32 **Sec. 16-22. Intent.**

33

34 The intent of the council acting as the governing body of Town in

35 adopting this article is to prohibit broadly the use of simulated gambling

36 devices, including any related activity or behavior which can be

37 reasonably construed to be the use of simulated gambling devices.

38 Further, the council, in prohibiting simulated gambling devices, in no way

39 intends to approve the use of actual slot machines or other forms of

40 casino gambling or other types of gambling devices. In addition, this

41 prohibition is aimed directly at devices that simulate gambling activity,

42 regardless of whether the devices or the simulations in and of themselves

43 can be said to constitute gambling as that term may be defined elsewhere.

44

45

Sec. 16-23. Prohibition of simulated gambling devices.

It is unlawful for any person to design, develop, manage, supervise, maintain, provide, produce, possess or use one or more simulated gambling devices in a commercial or nonprofit establishment or to knowingly lease, operate or maintain any premises for the use of simulated gambling devices. Each individual act to design, develop, manage, supervise, maintain, provide, produce, possess or use a simulated gambling device constitutes a separate violation.

Sec. 16-24. Exemptions.

This article does not prohibit:

(a) An individual's personal, recreational, and non-commercial ownership, possession, play, operation or use of a device which could be construed to be a simulated gambling device;

(b) The operation of a game room or recreational facility which provides opportunities for casual entertainment by patrons of all ages and does not utilize devices that fall within the definition of a simulated gambling device;

(c) The ownership, possession, play, operation or use of any device expressly permitted by a Florida Statute and not otherwise prohibited by another Florida Statute or the Florida Constitution, except that this exemption shall not apply to devices permitted in Broward and Miami-Dade Counties only pursuant to Article X, Section 23 of the Florida Constitution and Chapter 551, Florida Statutes;

(d) A religious, charitable or non-profit organization conducting a fundraising activity involving gaming, provided that such activity is not conducted more than twice in any one year period and is not otherwise prohibited by law.

Sec. 16-25. Conflict with state law.

Nothing in this article is intended to conflict with the provisions of the Florida Constitution or Chapter 849, Florida Statutes, concerning gambling. In the event of a direct and express conflict between this article and either the Florida Constitution or Chapter 849, Florida Statutes, then the provisions of the Florida Constitution or Chapter 849, Florida Statutes, as applicable, shall control.

1 **Sec. 16-26. Enforcement.**

2
3 (a) Code enforcement personnel are authorized to enforce this
4 article in accordance with all remedies set forth in division 2 of article II of
5 chapter 2 of this code.

6
7 (b) Law enforcement personnel are authorized to enforce this
8 article in accordance with all remedies set forth in division 2 of article II of
9 chapter 2 of this code, section 1-14 of this code, and any other provision
10 of state or local law.

11
12 (c) In addition to the remedies set forth above, whether civil or
13 criminal, the Town may also pursue temporary or permanent injunctive
14 relief or any other legal or equitable remedy authorized by law in a court of
15 competent jurisdiction to enforce the provisions of this article.

16
17 **Section 3.** The provisions of this Ordinance shall become and be made a part
18 of the Code of Ordinances of the Town of Juno Beach, Florida.

19
20 **Section 4.** If any section, paragraph, sentence, clause, phrase, or word of this
21 Ordinance is for any reason held by a court of competent jurisdiction to be
22 unconstitutional, inoperative or void, such holding shall not affect the remainder of the
23 Ordinance.

24 **Section 5.** All ordinances or parts of ordinances of the Town of Juno Beach,
25 Florida, which are conflict with this Ordinance, are hereby repealed to extent of such
26 conflict.

27
28 **Section 6.** This Ordinance shall be effective immediately upon adoption,
29 provided, however, that any commercial establishment utilizing simulated gambling
30 devices in existence upon the effective date of this ordinance shall be treated as a non-
31 conforming use pursuant to Section 34-1355 of the Town Code of Ordinances.

32
33 FIRST READING this 12th day of December, 2012.

34
35 SECOND, FINAL READING AND ADOPTION this 23rd day of January, 2013.

36
37 *[Remainder of page intentionally blank – signatures on next page]*
38
39

1 ✓
2 AYE NAY
3
4 ✓
5 AYE NAY
6 ✓
7 AYE NAY
8
9 ✓
10 AYE NAY
11 ✓
12 AYE NAY
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14 AYE NAY
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17 ATTEST:

18 Vanessa M. Dunham
19
20
21 VANESSA M. DUNHAM
22 TOWN CLERK
23

Morton Levine
MORTON LEVINE, MAYOR
Bill Greene
BILL GREENE, VICE MAYOR
Ellen Andel
ELLEN ANDEL, VICE MAYOR PRO TEM
Jim Lyons
JIM LYONS, COUNCILMEMBER
John Callaghan
JOHN CALLAGHAN, COUNCILMEMBER

APPROVED AS TO FORM AND LEGAL
SUFFICIENCY:

Leonard G. Rubin
LEONARD G. RUBIN
TOWN ATTORNEY

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TOWN OF JUNO BEACH, FLORIDA NOTICE OF PUBLIC HEARING

The Town Council of the Town of Juno Beach shall conduct a public hearing to consider the adoption of the following ordinance on second and final reading:

ORDINANCE NO. 663

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF JUNO BEACH, FLORIDA, AMENDING CHAPTER 18, "OFFENSES," OF THE TOWN CODE OF ORDINANCES BY ADOPTING A NEW ARTICLE II, "SIMULATED GAMBLING DEVICES," TO PROHIBIT THE USE OF SUCH DEVICES WITHIN THE TOWN; PROVIDING FOR EXEMPTIONS; PROVIDING FOR ENFORCEMENT; PROVIDING FOR COORDINATION; SEVERABILITY; CONFLICTS; AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

The public hearing will be held on January 23, 2013 at 5:30 p.m. at Juno Beach Town Center, 340 Ocean Drive, Juno Beach, Florida. All members of the public are invited to appear at the public hearing, which may be continued from time to time, and be heard with respect to this matter. Copies of the ordinance and related documents are on file at the Town Clerk's Office for inspection by members of the public during normal business hours. If a person desires to appeal any decision made with respect to any matter considered at the subject meeting, he or she will need to ensure that a verbatim record of the proceedings is made, which record shall include the testimony and evidence upon which the appeal is to be based (F.S. 220.0105). In accordance with the Americans with Disabilities Act, any person who may require special accommodation to participate in the meeting should contact the Town Clerk's Office at 626-1122 at least 72 hours prior to the meeting date.

By Order of the Town Council,
Vanessa M. Dunham, Town Clerk

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#33241

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