

**SUMTER COUNTY ORDINANCE NO. 2021-**

**AN ORDINANCE OF THE SUMTER COUNTY BOARD OF COUNTY COMMISSIONERS ESTABLISHING OPERATING PERMIT REQUIREMENTS FOR INTERNET CAFES; AMENDING CHAPTER 13 LAND DEVELOPMENT CODE; AMENDING ARTICLE II DEFINITIONS, SECTION 13-200 DEFINITIONS; AMENDING ARTICLE IV ZONING, DIVISION 4 LAND USES, TABLE 13-431A SCHEDULE OF USES; ADDING ARTICLE VI ACCESSORY, TEMPORARY, AND SPECIAL USE STANDARDS, DIVISION 4 SPECIFIC USE STANDARDS, SECTION 13-656 INTERNET CAFES; PROVIDING FOR CONFLICTS AND SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Article VIII, Section (1)(f) of the Florida Constitution and Section 125.01, Florida Statutes, grant Sumter County Board of County Commissioners broad home rule authority to adopt ordinances to provide for health, safety and welfare of the general public; and

**WHEREAS**, the Board of County Commissioners of Sumter County has adopted the Sumter County Code of Ordinances, which serve as the laws and regulations of Sumter County; and,

**WHEREAS**, the Board of County Commissioners established land development regulations governing use and operations of specific uses as set forth in the Land Development Code, Chapter 13 of the Sumter County Code; and,

**WHEREAS**, electronic gaming establishments, sometimes known as “adult arcades,” “electronic game rooms,” “internet cafes,” “sweepstakes cafes,” and “fish games” (collectively, “Internet Cafes”), that use electronic game equipment or simulated gambling devices have sprung up in Florida in recent years, and at least sixteen (16) such businesses currently operate throughout Sumter County; and,

**WHEREAS**, Internet Cafes and their patrons are targets for thieves and criminal activity; and,

**WHEREAS**, from January 1, 2020 to August 25, 2021, a period of about eighteen months, there were 564 calls to law enforcement for service at Internet Cafe businesses in Sumter County including 128 reports, eighteen person crimes, sixty-nine incidents of narcotic crimes, and twelve overdoses; and,

**WHEREAS**, during that same period, the Sumter County Sheriff’s Office made ninety-six arrests and effected thirty-six warrants; and,

**WHEREAS**, during that same period, law enforcement has responded to three robberies of Internet Cafe business; and,

**WHEREAS**, the majority of calls to law enforcement for service to Internet Cafe business locations occurs between the hours of 12 a.m. and 6 a.m.; and,

**WHEREAS**, the frequency of law enforcement service calls and the type of criminal activity warranting a law enforcement response poses significant risk to neighboring properties and passersby; and,

**WHEREAS**, the uncontrolled proliferation of Internet Cafes throughout Sumter County has and will continue to have a detrimental impact on the health, safety and welfare of its citizens and visitors, unless properly regulated; and,

**WHEREAS**, separation of Internet Café businesses from one another and from certain specific land uses will help mitigate the adverse secondary effects of such businesses on the community at large and on certain sensitive uses; and help ensure that the location of such businesses will have the least possible adverse impact to the community; and,

**WHEREAS**, in order to ensure uniform enforcement of existing laws, to preserve the public peace and good order, and to safeguard the health, safety and welfare of the citizens of Sumter County, the Sumter County Board of County Commissioners has a compelling interest in and finds it necessary to provide greater regulation of the use of electronic game equipment, simulated gambling devices, and Internet Cafes within Sumter County that do not otherwise violate Florida law; and

**WHEREAS**, the restriction of locations at which Internet Cafes may be located, and the establishment of minimum operating standards for Internet Cafe establishments are reasonably related to the mitigation of the unwanted secondary effects and threats to public safety specifically associated with the operation of Internet Cafes; and,

**WHEREAS**, the Board, after the appropriate publication of notice of its intention to consider this Ordinance, has determined that in consideration of the health, safety and welfare of its citizens, it is in the best interests of Sumter County, Florida to approve this ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY** the Board of County Commissioners of Sumter County, Florida, as follows:

**SECTION 1. PURPOSE AND INTENT.**

The intent in adopting this Ordinance is to regulate Internet Cafes, including the use of electronic means to effect giveaways through drawings by chance conducted in connection with the sale of a consumer product or service, sweepstakes, and game promotions that do not otherwise violate Florida law. This regulation is intended to include all locations that utilize electronic games that simulate games ordinarily played on a slot machine, or other images associated with gambling, including those used to display the

results of drawing by chance conducted in connection with the sale of a consumer product or service, game promotion or sweepstakes. It is also intended to regulate all operators who operate Internet Cafes. This Ordinance also seeks to amend Chapter 13 Land Development Code, Article II Definitions, Section 13-200 Definitions, and Article IV Zoning, Division 4 Land Uses, Table 13-431A Schedule of Uses; and to add Article VI Accessory, Temporary and Specific Use Standards, Division 4 Specific Use Standards, Section 13-656 Internet Cafes. The legislative findings in support of the purpose and intent of this Ordinance are contained in the above Whereas clauses, which are incorporated herein, *in haec verba*.

## **SECTION 2. AUTHORITY.**

Pursuant to Article VIII, Section I of the Florida Constitution and Sections 125.01 and 125.66 of the Florida Statutes, the Sumter County Board of County Commissioners has all powers of local self-government to perform county functions and render county services and facilities except when prohibited by law, including the authority to amend its Code of Ordinances.

## **SECTION 3. AMENDING ARTICLE II DEFINITION, SECTION 13-200 DEFINITIONS.**

The following definitions are added:

Electronic Game Equipment means any electronic or mechanical device provided by or on behalf of the operator that is used or adapted for use to conduct game play or to reveal the results of a drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes, or game promotions that display results by simulating a game or games ordinarily played on a slot machine or associated with gambling. For any server based or internet based electronic game, each player station shall be deemed a separate electronic game equipment device.

Internet Cafe means a location, site, principal structure or establishment at which simulated gambling devices or electronic game equipment, e.g. "fish games," "internet cafes," or "sweepstakes café," are made accessible for use by a person for entertainment, amusement or prize giveaways, except those places specifically exempted from Section 13-656.

Simulated gambling device means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, where the play or operation 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 be counted as a separate and distinct device, regardless of whether the device or any seat, terminal, or other interface is functional.

**SECTION 4. AMENDING ARTICLE IV ZONING, DIVISION 4 LAND USES, TABLE 13-431A SCHEDULE OF USES.**

Table 13-431A Schedule of Uses is amended as follows:

Internet Cafe shall be added as a principal use within the Retail, Service, and Business Uses section, and identified as a Conditional Use within the Regional Commercial (CR) Zoning District or as a Permitted Use in the Industrial (ID) Zoning District.

**SECTION 5. ADDING ARTICLE VI ACCESSORY, TEMPORARY, AND SPECIAL USE STANDARDS, DIVISION 4 SPECIAL USE STANDARDS, SECTION 13-656 INTERNET CAFES.**

Section 13-656 Internet Cafes is added and shall read as follows:

- (a) *Purpose and intent.* Internet Cafes are permissible as either a Permitted Use or Conditional Use where indicated by Table 13-431A. In addition to the other provisions of this Chapter, it is the intent of this section to provide for such use in a manner that will have the least possible adverse impact to the community.
- (b) *Use Permittee.* Conditional use internet cafe permits are issued jointly to the property owner and internet cafe operator designated therein. A change in property owner or internet cafe operator shall be reported to the county, in writing, by certified mail, within 30 days of such change by the new property owner or internet cafe operator. A change in property owner or internet cafe operator with a conditional use permit shall require a new operating permit.
- (c) *Parcel Location Standards / Separation Requirements.* Internet Cafe businesses shall be allowed only in the zoning districts in which Internet Cafe is listed as either a Permitted Use or Conditional use under table 13-431A. Regardless of whether the Internet Café is a Permitted Use or Conditional Use, the separation standards established in this Section shall require the separation of Internet Café businesses from any uses listed in this Section and located in the County, regardless of whether such other uses are located in the unincorporated part of the county or in one (1) of the cities within the county. Any Internet Cafe business, established or expanded after January 11, 2022, in such a district shall be separated by at least the number of feet set forth as to the following uses:
  - 1. *Residential property.* The distance from this use shall be one thousand (1,000) feet. For purposes of this section only, "residential property" shall mean land that is:
    - a. Located in a residential planned unit development or residential zoning district beginning with an R; and
    - b. Designated as a residential future land use category on the adopted future land use map of the county or city within Sumter County or an exclusively residential planned development.
  - 2. *Other uses.* The distance from these uses shall be two thousand five hundred (2,500) feet:

- a. Public or Private Schools, child care or day care centers licensed as such by the State of Florida;
  - b. Houses of worship; and
  - c. Government-owned parks, playgrounds and libraries.
  - d. A parcel shall be deemed to be used for any of the above purposes if a valid land use permit has been issued for such use and such use is either actively conducted on the property or there has been measurable, good faith progress in implementation of such use at that location in accordance with the permit.
3. *Exemptions.* No Internet Cafe business shall become nonconforming through subsequent establishment of the uses specified in subsection (e), nor shall a permit for an Internet Cafe business be denied based on the issuance of a land use permit for one (1) of the uses listed in subsection (e) if the application for such permit was filed after the filing of the application for the permit for the Internet Cafe business. No Internet Café lawfully operating as of January 11, 2022 shall be denied an operating permit solely on the basis that is a nonconforming use under the amended Schedule of Uses Table or that its current site is nonconforming with the Parcel Location Standards / Separation Requirements of this subsection (c). No Internet Café business shall become nonconforming in the event the business closes due to the death of the owner, provided however, the Internet Café business must resume normal operations within ninety (90) days of its initial date of closure.
- (d) *Operating Permit Required.* Notwithstanding any provision of Chapter 13 of the Sumter County Code that may be provide otherwise, an operating permit shall be required for any existing or new operator of an Internet Cafe to operate an Internet Café within the County; and any existing or new operator of an Internet Café must comply with the Site Standards of subsection (e) and Operating Standards of subsection (f) set forth in this Section. The following are exempt from the requirements of this subsection:
- 1. An individual's personal, recreational, and non-commercial ownership, possession, play, operation or use of a device that could be construed to be a simulated gambling device.
  - 2. A religious or charitable organization conducting a fund raising activity involving gaming provided the religious or charitable organization conducts such activity in compliance with all applicable laws.
  - 3. 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.
- (e) *Site Standards.* The site and principal structure on which an Internet Café business is operated shall comply with the following standards:

1. Exterior Premises Lighting. The exterior and parking area of the site or principal structure in which an internet café is operated shall contain the number and type of lighting fixtures necessary to produce a sufficient intensity of light so as to have no exterior or parking area of the site or principal structure that is dark, dim, shadowy or otherwise unlit.
  2. Signage. Exterior signage shall be limited to the advertisement of the consumer product or service sold on the premises, and the name of the Internet Café. No signs shall be posted on the exterior of the premises that suggest gambling takes place on the premises or displays any image commonly associated with gambling. All signage shall be subject to any other applicable requirements of the Sumter County Code.
- (f) *Operating Standards.* An Internet Café business shall be operated to conform to the following standards:
1. Days/hours of operation. Internet Cafés shall not operate between the hours of 12:01 a.m. to 8:00 a.m.
  2. Safety and Security Requirements. The following safety and security standards devices and standards shall be maintained:
    - a. A cash management policy and practice limiting cash on hand including the use of a drop safe or cash management device for restricted access to cash receipts;
    - b. Height markers displaying height measures at all exits of principal structure;
    - c. A silent alarm system capable of notifying law enforcement;
    - d. During designated business operation hours as set forth in the permit, staff at least one licensed, armed security guard after 5:00 p.m. until closing; and,
    - e. A security camera system during business hours capable of recording and retrieving an identifiable image for both the interior and exterior of the premises, including the parking area.
  3. Criminal Background Screening. Internet Café operators shall require and ensure that a criminal background check is conducted, within thirty (30) days of hire, for all employees working on site or in the principal structure, and shall ensure that documentation of the criminal background check is maintained at the business location.
  4. Signs, Postings, and Disclosure Notices.
    - a. Internet café operator shall post a notice at all public entrances to principal structure stating cash register contains limited amount of cash and that the personnel on site do not have access to the safe;

- b. Internet café operator shall post notice that the principal structure is under surveillance;
- c. Internet café operator shall establish and maintain a written set of rules for the operation of the simulated gambling devices and electronic game equipment, and the participation in any contest, sweepstakes, or drawing and award of any prize. A complete copy of the rules, prizes, and odds of winning shall be made available upon request without cost;
- d. Internet café operator shall affix signage to each simulated gambling device or electronic game equipment, and shall conspicuously post signage in the principal structure, that includes the following language: "The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries;"
- e. Internet café operator shall include in its rules and shall conspicuously post a sign containing the following language: "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;"
- f. Internet Café Operator shall conspicuously post the operating permit at the entrance or main counter; and
- g. Internet café operator shall also post the name of the internet café operator and permit holder, a description of all products and services sold with their corresponding price, and the complete rules for all drawings, sweepstakes or game promotions at the premises' front or main counter.

5. Additional Requirements and Limitations.

- a. Entries that are available without purchase or financial donations shall be made available to customers on request. Internet Café Operators shall not impose any condition on the provision of such entries other than proof of identity by a government issued identification from any state. The Internet Café Operator shall not limit the number of such entries offered per day per individual to less than the equivalent amount of entries that Internet Café Operator provides individuals who make a donation, or purchase of a product or service valued at least \$1.00.
- b. An Internet Café operator conducting a drawing by chance in connection with the sale of a consumer product or service, sweepstakes or game promotion shall be required to:
  - i. Maintain a list of names and addresses of all persons who have won prizes which have a value of more than \$25 for one (1) year; and
  - ii. 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.



- c. Internet Café operators shall not sell or permit any individual to consume or possess any alcoholic beverages on the premises.
  - d. Internet Café operators shall not sell tobacco or vaping products on the premises.
  - e. Internet Café operators shall not permit minor persons to enter the premises.
- (g) *Inspection of Premises.* During operating hours, the County, or other authorized authority including the Sumter County Sheriff, or their respective agents may enter the premises for purposes of inspecting all areas of the premises otherwise accessible to the general public to assess compliance with the provisions of this Section, the use and operating permits for the premises, or any other ordinances within their authority, including but not limited to the right to enter the premises and to select any electronic game equipment or simulated gambling device to inspect, test and have tested to determine compliance with this Section. An operator may be issued a show cause order requiring the production on premises of documents or data relating to its operations, electronic game equipment or simulated gambling device. Within three (3) days of receipt of a show cause order the operator shall produce all requested records and inventory. Production of records or inventory shall only be for inspection and review to determine compliance with this Section.
- (h) *Initial Operating Permits for Existing Operations.* Within sixty (60) days of January 11, 2022, those Operators that have been operating an Internet Café as of January 11, 2022, at a site or principal structure, and which apply for, facially qualify for in accordance with the operating standards set forth herein, and pay required fees for an operating permit, shall be granted an operating permit for the Site and Principal Structure as provided for in this Section. Each such Operator shall, in addition to the requirements set forth herein as part of the application, to achieve the facially qualified status, provide proof satisfactory to the County that the Operator was lawfully operating an Internet Café as of January 11, 2022 which such evidence may include a current and valid lease, rental agreement, purchase and sale contract, bill of sale or receipt indicating the purchase, lease or use of the site or principal structure for an Internet Café, or other certificate, permit, license or receipt issued by the U.S. Federal government, State of Florida, or local government within the corporate limits of Sumter County.

## **SECTION 6. CONFLICT WITH STATE LAW**

Nothing in this part 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 part and either the Florida Constitution or Chapter 849, Florida Statutes, then the provisions of the Florida Constitution or Chapter 849 Florida Statutes control, as applicable.

## **SECTION 7. CONFLICTS AND REPEALER.**

This Ordinance shall be cumulative of all provisions of the Ordinances of Sumter County, Florida, except where the provisions of this Ordinance are in direct conflict with the provisions of such Ordinances, in which event all Ordinances or parts thereof in conflict with this Ordinance are hereby repealed to the extent of such conflict.

**SECTION 8. SEVERABILITY.**

If any section, subsection, sentence, clause, phrase or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion or application shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions thereof.

**SECTION 9. CODIFICATION**

It is the intention of the Sumter County Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance shall be reflected and made a part of the Code of Ordinances of Sumter County, Florida, with the exception of Sections 1, 2, 6, 7, 8, 9, and 10. The word "Ordinance," or similar words may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or re-lettered to accomplish such intention. The Code codifier is granted liberal authority to rescind those sections of the Code declared null and void as set forth herein.

**SECTION 10. EFFECTIVE DATE.**

Once adopted by the Sumter County Board of County Commissioners, this Ordinance shall become effective immediately upon adoption.

**PASSED AND ADOPTED** at a duly called session of the Sumter County Board of County Commissioners, this 11<sup>th</sup> day of January, 2022.

**GLORIA HAYWARD  
SUMTER COUNTY CLERK**

**BOARD OF COUNTY COMMISSIONERS,  
SUMTER COUNTY, FLORIDA**

**ATTEST:**

\_\_\_\_\_  
DEPUTY CLERK

BY: \_\_\_\_\_  
Craig A. Estep  
Chairman

Approved as to form for the reliance  
of the Sumter County Board of  
County Commissioners, only:

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Jennifer C. Rey, Esq.  
The Hogan Law Firm, County Attorney