

ORDINANCE NO. 130633

An ordinance of the City of Gainesville, Florida, enacting a temporary moratorium to prohibit the filing, acceptance or processing of any permit, development order, or any other official action of the City having the effect of permitting or allowing the construction or operation of any internet gaming/gambling business within the city limits, providing a severability clause; providing repealing clauses; and providing an effective date.

WHEREAS, the State of Florida enacted Chapter 2013-2, Laws of Florida clarifying the existing laws concerning slot machines, charitable drawings, game promotions and amusement machines; and

WHEREAS, the operation of unlawful simulated gambling establishments, commonly referred to as “internet café’s” and/or “simulated gambling establishments”, is contrary to the policy and laws enacted by the State of Florida and that there is a compelling state interest in prohibiting unlawful gambling and internet gaming, as set forth in Section 1 of Chapter 2013-2, Laws of Florida; and

WHEREAS, the City of Gainesville recognizes that, because the State of Florida has authorized slot machine gaming and gambling at licensed or authorized facilities in certain areas outside of the City of Gainesville, establishments that utilize simulated gambling devices can deceive members of the public, including the elderly, the economically disadvantaged, the uneducated, and the unsuspecting, into believing that they are engaging in a lawfully permitted gaming or gambling activity. Simulated gambling devices are, therefore, inherently deceptive. 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 the City of Gainesville, and have an unreasonably adverse effect upon the elderly, the economically disadvantaged, the uneducated, the unsuspecting, and other

1 citizens of the City of Gainesville; and

2 **WHEREAS**, while some jurisdictions in Florida have attempted with mixed success to
3 utilize existing state laws to close or regulate establishments that utilize simulated gambling
4 devices, a local prohibition of such simulated gambling devices is necessary to close any
5 perceived loopholes or gaps left by the state laws, clarify for the public that such devices are not
6 legal in the City of Gainesville, and enable local law enforcement to consistently enforce existing
7 code provisions and statutes and safeguard the public's health, safety, and welfare; and

8 **WHEREAS**, the City Commission determines that it is in the best interest of its
9 residents, businesses and visitors to enact sufficient regulations to protect the public health,
10 safety and welfare; and

11 **WHEREAS**, simulated gambling establishments are a use that is not directly addressed
12 by current City of Gainesville zoning regulations; and

13 **WHEREAS**, there are active criminal investigations and/or prosecutions of simulated
14 gambling establishments that were/are operating within the City of Gainesville; and

15 **WHEREAS**, a temporary moratorium on the acceptance of applications for, the
16 processing of, and the issuance of development permits, site plan approvals or any other official
17 action of the City of Gainesville permitting or having the effect of permitting new simulated
18 gambling establishments will allow time to review, study, hold public hearings, and prepare and
19 adopt an amendment or amendments to the City of Gainesville Comprehensive Plan and/or Code
20 of Ordinances to address this use; and

21 **WHEREAS**, at its meeting on January 16, 2014, the City Commission of the City of
22 Gainesville found it necessary to impose a temporary moratorium commencing on January 16,
23 2014 to allow sufficient time for the City to prepare and adopt new regulations to prohibit
24 simulated gambling establishments; and

1 **WHEREAS**, at least 10 days' notice has been given of the public hearing once by
2 publication in a newspaper of general circulation notifying the public of this proposed ordinance
3 and of a public hearing in the City Commission meeting room, first floor, City Hall in the City of
4 Gainesville; and

5 **WHEREAS**, the public hearings were held pursuant to the published notice described at
6 which hearings the parties in interest and all others had an opportunity to be and were, in fact,
7 heard.

8 **NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF**
9 **THE CITY OF GAINESVILLE, FLORIDA:**

10 **Section 1. Findings.** The City Commission adopts the foregoing findings.

11 **Section 2. Purpose.**

12 (a) The purpose of this ordinance is to enable the City of Gainesville sufficient time
13 to review, hold public hearings and adopt an amendment or amendments to the City of
14 Gainesville Code of Ordinances, relating to prohibiting the operation of simulated gambling
15 establishments within the City. The City will not take any action on any application or issue any
16 permits authorizing the operation of simulated gambling establishments, except as provided in
17 this ordinance.

18 (b) It is further the purpose of this Ordinance to fulfill the City's constitutional charge
19 and statutory obligations to protect and preserve the public health, safety and welfare of the
20 citizens of the City of Gainesville, and to prohibit the operation of simulated gambling
21 establishments which have been made unlawful pursuant to Florida law, including but not
22 limited to, Chapter 2013-2, Laws of Florida; and thus defer official government action until the

1 City of Gainesville has properly held public hearings and adopted amendments to the City of
2 Gainesville Code of Ordinances, as necessary.

3 **Section 3. Definitions.**

4 “*Simulated gambling device*” means a device that is available to play or operate a
5 computer simulation of any game of chance or gambling, and which may reveal, deliver or
6 entitle the person or persons playing or operating the device to a payoff or something of value; or
7 any electronic device that is used or adapted for use to conduct and/or reveal the results of a
8 game of chance conducted in connection with the sale of a consumer product or service,
9 sweepstakes or game promotion that displays results by simulating a game or games ordinarily
10 played on a slot machine, when the outcome of the game or drawing is not revealed to the
11 purchaser prior to purchase of the merchandise, tickets or game entries.

12 “*Simulated gambling establishment*” means a building, edifice, structure or location,
13 along with its grounds, in which simulated gambling devices are used, operated or stored,
14 including but not limited to, game rooms, arcades, internet cafés, internet centers or sweepstakes
15 redemption centers.

16 **Section 4. Imposition of Moratorium.**

17 For a period commencing after 5:01 p.m. on January 16, 2014, and ending at 11:59 p.m.
18 on September 18, 2014:

19 (a) No application for permit, authorization or any other official action of the City
20 having the effect of permitting or allowing the operation of a simulated gambling establishment,
21 may be filed, accepted or processed or approved by the City of Gainesville.

22 (b) No Zoning Compliance Permit may be issued by the City of Gainesville which
23 would authorize the operation of any simulated gambling establishment.

1 (c) The imposition of the moratorium is not intended to affect nor does it effect: (i)
2 either the processing of any application for permit or the issuance of a permit or other official
3 action of the City authorizing the operation of a simulated gambling establishment, which was
4 properly filed with the City of Gainesville on or before 5:00 p.m. on January 16, 2014.

5 **Section 5.** If any word, phrase, clause, paragraph, section or provision of this ordinance
6 or the application hereof to any person or circumstance is held invalid or unconstitutional, such
7 finding shall not affect the other provisions or applications of the ordinance which can be given
8 effect without the invalid or unconstitutional provisions or application, and to this end the
9 provisions of this ordinance are declared severable.

10 **Section 6.** All ordinances or parts of ordinances, in conflict herewith are to the extent of
11 such conflict hereby repealed.

12 **Section 7.** This ordinance shall stand repealed as of 12:00 a.m. on September 18, 2014,
13 unless sooner repealed; provided however, that nothing herein shall prevent re-adoption of an
14 ordinance in the same or similar form for the purpose of extending the moratorium.


15 **Section 8.** This ordinance shall become effective immediately upon final adoption.

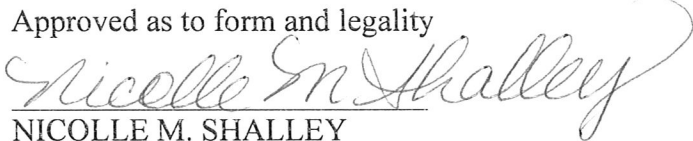
16 **PASSED AND ADOPTED** this 5th day of June, 2014.

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EDWARD B. BRADDY
MAYOR

ATTEST:


KURT M. LANNON
CLERK OF THE COMMISSION

Approved as to form and legality

NICOLLE M. SHALLEY
CITY ATTORNEY

28 This Ordinance passed on first reading this 15th day of May, 2014.

29 This Ordinance passed on second reading this 5th day of June, 2014.