

ORDINANCE NO. L-217

AN ORDINANCE BY THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; AMENDING CHAPTER 22, ARTICLE I, SECTION 22-3, DEFINITIONS-GENERALLY, TO AMEND THE DEFINITION OF INDOOR AMUSEMENT, ENTERTAINMENT, AND RECREATION FACILITIES; AMENDING CHAPTER 22, ARTICLE I, SECTION 22-3, DEFINITIONS-GENERALLY, TO CREATE THE DEFINITIONS OF AN **AMUSEMENT ARCADE, ARCADE AMUSEMENT CENTER AND AMUSEMENT DEVICES**; AMENDING CHAPTER 22, ARTICLE III, BASIC ZONING DISTRICTS, CREATING SECTION 22-31(c)(21), AMUSEMENT ARCADE AND ARCADE AMUSEMENT CENTER AS A CONDITIONAL USE; AMENDING CHAPTER 22, ARTICLE IV, SUPPLEMENTARY REGULATIONS; CREATING SECTION 22-71, AMUSEMENT ARCADES AND ARCADE AMUSEMENT CENTERS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Florida Statute Chapter 849 allows amusement games or machines which are considered "games of skill"; and

WHEREAS, it is in the best interest of health, safety, and general welfare of the community, residents, and businesses of the City of Fort Pierce ("City") to regulate the operation of amusement games or machines within the City in order to ensure the proper safeguards with respect to the prohibition of gambling; and

WHEREAS, the purpose and intent of this ordinance, as amended, is to narrow the definition of amusement games or machines by making it conform with State law and specifically, to eliminate any misconstruction of the definition of the types of machines permitted as one which expands rights beyond the limitations imposed under the exception to gambling by State law; and

WHEREAS, the purpose and intent of this ordinance, as amended, is to make changes to the regulations for adequate supervision of the operation of amusement games or machines within the City; and

WHEREAS, a regulatory scheme is to be implemented to ensure that the operators of amusement games or machines comply with all state and local statutes and ordinances; and

WHEREAS, a regulatory fee should be imposed to cover the costs the City will incur as a result of enforcing the regulations herein adopted; and

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Fort Pierce, Florida, as follows:

SECTION 1. Section 22-3 of Chapter 22, Article I of the Code of Ordinances, is and the same shall be amended so that such Section shall read thereafter as follows:

Indoor amusement, entertainment and/or recreation facilities: Enclosed facilities, which for each wall face have no entrance/exit points wider than five (5) feet or twenty (20) per cent of the main wall face, whichever is greater, pertaining to amusement entertainment and/or recreational activities, such as: Theaters, bowling alleys, pool halls, dance halls and indoor tennis court, handball and swimming pool facilities. This shall not include adult establishments or amusement arcades.

SECTION 2. Section 22-3 of Chapter 22, Article I of the Code of Ordinances, is and the same shall be created so that such Section shall read thereafter as follows:

Amusement Device: An amusement device shall mean any table, platform, mechanical or electronic device or apparatus operated or intended to be operated indoors for amusement, pleasure, test of a skill, competition or sport, where the use or operation of which is conditioned upon payment of a consideration either by insertion of a coin, electronic card, or token in a slot or otherwise so long as the person playing does not receive anything of value or any prize in violation of state or federal law. The definition of an "amusement device" shall include but not be limited to, devices commonly known or simulated baseball, simulated football, simulated basketball, simulated hockey, simulated boxing, pinball, shuffleboard, ray guns, bowling games, bumper games, skiball, electronic video games, and shall also include billiard tables and pool tables (whether coin or not). Such definition does not include a bowling alley, juke box, or other coin-operated music machine, or a mechanical children's amusement riding device.

Amusement Arcade: That portion of an interior premise consisting of three (3) or more amusement devices, but no more than 49 amusement devices.

Arcade Amusement Center: That portion of an interior premise consisting of fifty (50) or more amusement devices. Arcade Amusement Centers shall operate in accordance with the provisions outlined in Florida Statute 849.161(1)(a)(1) as amended from time to time.

SECTION 3. Section 22-31(c) (21) of Chapter 22, Article III of the Code of Ordinances, is and the same shall be created that such Section shall read thereafter as follows:

(c) Conditional uses permitted. The following uses and their accessory uses are permitted in a C-3 Zone if the City Commission, after a public hearing, determines that the location and development plans comply with the applicable standards referred to in subsections (d) and (e) of this section, additional zoning ordinance provisions and other city laws:

- (1) Repair service establishments not allowed as a semi-restricted use in this zone.
- (2) Wholesale trade, warehouse and distribution establishments (including trucking terminals).
- (3) Contract construction service establishments.
- (4) Kennels.
- (5) Bus depots.
- (6) Hospitals, sanitariums, rest homes, convalescent homes, and adult congregate living facilities. The maximum residential density for an adult congregate living facility shall not exceed thirty (30) units per acre.
- (7) Public utility structures and public works maintenance facilities.
- (8) Cemeteries.
- (9) Amusement parks.
- (10) Marinas, including marinas with charter fishing facilities.
- (11) Expansion of a structure with a nonconforming commercial or industrial use if the structure is not enlarged by more

- than twenty (20) per cent and the structure being enlarged does not violate provisions in Section 22-102.
- (12) Multifamily housing developments which satisfy the standards for multifamily housing developments in an R-5 Zone.
 - (13) Reserved.
 - (14) Flea markets.
 - (15) Nonprofit bingo halls.
 - (16) Industrial, semi-restricted uses permitted in Section 22-34(b) [Light industrial zone (I-1)] except the uses specified in Sections 22-34(b)(6) and (7).
 - (17) Ship and boat building and repair facilities.
 - (18) Recreational vehicle parks.
 - (19) Day care centers and schools other educational service establishments.
 - (20) Railroad passenger station.
 - (21) Amusement Arcades and Arcade Amusement Centers.

SECTION 4. Section 22-71 of Chapter 22, Article IV, of the Code of Ordinances, is and the same shall be created so that such Section shall read hereinafter as follows:

Amusement Arcades and Arcade Amusement Centers shall comply with the following regulations:

(a) General Operating Standards.

- (1) No amusement arcade or arcade amusement centers shall operate after the hour of 12:00 a.m. and before the hour of 8:00 a.m. on weekdays, and between 2:00 a.m. and 8:00 a.m. on weekends.
- (2) No game shall be played by persons who are under 18 years of age.
- (3) No arcade amusement center shall be located within 1,250 feet of another arcade amusement center. Such distance shall be measured from closest property line to closest property line.
- (4) No amusement arcade or arcade amusement centers shall be permitted within the Downtown Business and Entertainment Overlay District.
- (5) No amusement arcade or arcade amusement centers shall be located within 250 feet of the Downtown Business and Entertainment Overlay District boundaries.
- (6) Alcohol sales or consumption shall be prohibited in amusement arcades and arcade amusement centers.
- (7) Amusement arcades or arcade amusement centers shall not exceed 9,000 square feet.
- (8) Amusement arcades or arcade amusement centers shall operate in full compliance with all state and federal law.

(b) Design Standards.

- (1) No sign, display, or merchandise, shall be placed on or adjacent to any window if such placement would interfere with the clear and unobstructed view of the entire interior of the establishment from ground level through exterior windows.
 - (2) Placement of game machines along front windows are prohibited.
 - (3) Window tinting, mirrored windows, or other obscuring elements are prohibited.
 - (4) All entrances shall be adequately lighted.
 - (5) All amusement arcades or arcade amusement centers must post at least two conspicuous signs within the premises, and one conspicuous sign at the entrance, stating the following:
 - a. Minimum age requirements as described above.
 - b. School hours use restrictions as described above.
 - c. No smoking.
 - d. No drugs.
 - e. No alcohol.
 - (6) Amusement arcades or arcade amusement centers shall provide bicycle racks within enough stalls to accommodate one bicycle for each 5 game machines located within the premises. Bicycle racks shall be located as close as practical to the entrance of the facility and shall not be located in a manner that obstructs any entrances, exits, sidewalks, driveways, or parking areas.
 - (7) All amusement arcades or arcade amusement centers must provide public restrooms in accordance with applicable country health department requirements.
 - (8) Lighting for parking lots must satisfy lighting requirements of Section 22-60(g)(1) if the City Code prior to the issuance of a business tax receipt.
 - (9) Landscaping must comply with requirements of the City's Landscaping Ordinance prior to the issuance of a business tax receipt.
 - (10) Sidewalks shall be installed along all public right-of-ways for properties that have arcade uses and shall be installed prior to the issuance of a business tax receipt. No location shall be exempt from sidewalk provisions contained in Section 22-62.
 - (11) Any proposed exterior change to a building used for arcade uses will be subject to city design review guidelines pursuant to Section 22-59. This shall not apply to buildings located in historic districts or buildings that are individually designated.
 - (12) Parking shall be provided at a rate of 0.75 parking spaces per machine (or three (3) spaces for every four (4) machines).
- (c) Permitting Requirements.

- (1) All amusement arcades or arcade amusement centers shall pay a fee per machine annually in conjunction with the business tax receipt. The fee shall established by resolution by the City Commission. The fee shall apply to all operating and non-operating machines located on premises.
- (2) All amusement arcades or arcade amusement centers shall pay a fee per machine annually in connection with the business tax receipt. The fee shall be established by Resolution by the City Commission. The fee shall apply to all operating and non-operating machines located on premises.
- (3) An applicant for a permit to operate an amusement arcade or arcade amusement center shall submit the following information to the Police Department:
 - a. All applications shall include a list of all current owners and employees of the arcade.
 - b. If the city determines that any applicant lacks good moral character, it shall deny the license application. For purposes of this section, an applicant will be deemed to have good moral character if the applicant, its owners, and its employees meet the level two standards of screening set forth in F.S. §435.04.
 - c. The applicant shall pay a fee established by resolution by the City Commission to cover the cost of Police Department background checks.
 - d. Whenever an amusement arcade or arcade amusement center hires a new employee or changes its ownership composition, the police department shall inspect the new employee's or owner's background to ensure that the employee or owner has not been convicted of any of the crimes described in subsection (b)(2) of this section. Any failure by an amusement arcade to provide the police department with the information necessary for the officer to conduct such an inspection shall constitute a willful violation of this chapter.
 - e. The city may deny an application for a permit to operate an amusement arcade or arcade amusement center or may revoke a permit issued pursuant to this chapter if the applicant fails to meet any of the requirements of Section 22-71. If the city denies an application, the city shall provide reasons for the denial in writing within five days of receipt of the completed application. If the city revokes a permit issued pursuant tot this chapter, the city shall provide reasons for the revocation in writing.
- (4) Provide an operating plan consisting of an interior layout plan drawn to scale showing the location of all machines, devices, equipment and access ways, and such other information as may be reasonably requested.

- (5) Amusement arcades or arcade amusement centers that serve food or provide catering services on premises must be licensed by the Department of Health, Department of Business Professional Regulation, or Department of Agriculture and Consumer Services.

(d) Machine Registration Requirements:

- (1) The permittee is required to maintain its premises a complete inventory, along with serial numbers or equivalent identification, as set forth in subsections (d) and (e) below, of the amusement devices in operation on the premises of the amusement arcade at all times. The initial application for permit shall include a certificate of inspection by the Planning Department of the inventory, along with serial numbers or equivalent of identification, as set forth in subsection (d) and (e) below, of the machines that the permittee intends to put into operation when the amusement arcade begins its business activities.
- (2) Each renewal permit application shall contain a certificate of inspection of updated inventory, along with serial numbers or equivalent identification, as set forth in subsection (d) and (e) below, of the amusement device that the permittee intends to put into operation when the amusement arcade begins its business activities under the renewal license.
- (3) Before a new amusement device is put into operation at the amusement arcade or arcade amusement center, the permittee shall notify the Planning Department of the addition of the device to the inventory and update its inventory accordingly.
- (4) Upon review of the inventory of devices under subsections (1), (2) and (3) above, the Planning Department shall enter each amusement device into a registry that the license administrator shall create. For each amusement device registered, the permit administrator shall cause to be issued and delivered to permittee for each amusement device within seven days of the notification required under section (c) a numbered metal or plastic decal. The registration decal of r each amusement device shall be affixed to the upper left front of the game in a prominent position where easily viewed by zoning inspectors, code enforcement inspectors and police. Registration decals are not transferable. The failure of any amusement device to display a current registration decal shall be a violation of this section and subject to enforcement action by the City.
- (5) The inventory of devices under subsections (1), (2) and (3) above shall provide the following information: the manufacturer(s) serial number(s); common name, type or description of the game played on the machine. The registration decal shall contain the inventory number of the amusement device.
- (6) Each inventory of amusement devices submitted under subsections (a), (b), and (c) above shall be accompanied by a certificate issued by an independent testing laboratory licensed by the State of Florida

pursuant to F.S. Ch. 551, certifying that the game played by the skill-based amusement devices identified in the inventory meet the application of skill requirement contained in Sections 551.104(d), 551.105 and 551.107 of this Chapter.

(e) Waiver of Distance.

(1) The city commission shall determine if the health, safety, or general welfare has been provided for with any waiver request and may impose any condition which it finds to be necessary to protect the best interest of the surrounding property of the city.

(2) The city commission may not waive distance restrictions imposed by Section 22-71(a)(4) and Section 22-71(a)(5).

(3) The city commission shall consider the following for any waiver request:

a. The actual location and distance of the proposed establishment with respect to other places of business licensed to sell intoxicating beverages, whether on or off the premises;

b. The type and size of the establishment, including the number of machines, seating capacity, and whether, in view of such type or size, the proposed establishment is likely to create a public nuisance or traffic impediment by drawing crowds or persons milling about outside the building;

c. Whether adequate parking and landscaping for the facility is provided so as to meet the requirements set forth in Sections 22-187 and 22-61;

d. Whether the facility is physically separated or well-buffered from all adjacent residentially zoned areas;

e. Whether traffic generated by patrons or pickup/delivery vehicles will pass through low or moderate density residentially zoned neighborhood;

f. The number of police calls to the proposed location and/or adjacent properties within the past year.

(f) Pre-existing Amusement Arcades or Arcade Amusement Centers:

(1) Pre-existing amusement arcades or arcade amusement centers will be required to immediately comply with all procedural requirements such as permitting, licensing, general operating standards, fees, and non-hardscape design standards. Hardscape design standards such as parking lots, exterior lighting, landscaping, sidewalks, etc. will be subject to a 24 month time for compliance.

(g) Florida Law Compliance:

It is not the intent of this ordinance to allow amusement arcades or arcade amusement centers that:

- (1) Mimic the look and feel of gambling venues which are prohibited by law.
- (2) Include any game, machine or device that violates any provision of state and federal law, including, but not limited to Chapter 849 Florida Statutes.
- (3) All amusement arcades or arcade amusement centers shall operate in full compliance with all Florida State Statute requirements and other applicable laws.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are and the same shall be repealed and shall be of no further force or effect whatsoever.


SECTION 6. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause, or phrase of this Ordinance shall, for any reason, be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

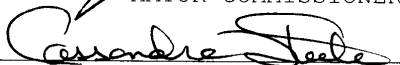
SECTION 7. This Ordinance is and the same shall become effective immediately upon final passage hereof.

STATE OF FLORIDA)
ST. LUCIE COUNTY)^{SS}

WE, THE UNDERSIGNED, Mayor Commissioner and the City Clerk of the City of Fort Pierce, Florida, do hereby certify that the foregoing and above Ordinance No. L-217 was duly advertised in accordance with F.S. 166.041(3)(c)(2) in the St. Lucie Tribune on October 26, 2011 and on November 14, 2011; copy of said ordinance was made available at the office of the City Clerk to the public upon request; said ordinance was duly introduced, read by title only, and passed on first reading by the City Commission of the City of Fort Pierce, Florida, on November 21, 2011; and was duly introduced, read by title only, and passed on second and final reading on December 5, 2011, by the City Commission of the City of Fort Pierce, Florida.

IN WITNESS HEREWITH, we hereunto set our hands and affix the Official Seal of the City of Fort Pierce, Florida, this the 5th day of December, 2011.



MAYOR COMMISSIONER


CITY CLERK

(CITY SEAL)