

ORDINANCE NO. 2012- 355

AN ORDINANCE REGULATING THE USE AND LICENSING OF SIMULATED GAMBLING DEVICES; ESTABLISHING A NEW ARTICLE ENTITLED "REGULATION OF SIMULATED GAMBLING DEVICES" UNDER CHAPTER 7 OF THE TOWN OF HAVANA CODE OF ORDINANCES RELATING TO BUSINESSES, TO REGULATE THE USE OF SIMULATED GAMBLING DEVICES; ESTABLISHING EXEMPTIONS; PROVIDING FOR LEGISLATIVE AUTHORIZATION; PROVIDING FOR DEFINITIONS, REGULATIONS FOR PERMITTING AND FEES, INSPECTIONS, SIGNAGE REQUIREMENTS, LIMITATIONS ON THE OPERATIONS OF THE BUSINESS, SAFETY AND SECURITY REQUIREMENTS; PROVIDING FOR ENFORCEMENT, PENALTIES FOR VIOLATIONS AND INJUNCTIVE RELIEF; PROVIDING FOR CONFLICTS OF LAW; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in the last decade, establishments allegedly operated pursuant to sections 849.0935 and 849.094, Florida Statutes, have erected problematic issues for local law enforcement authorities, complicated by limitations of resources and difficulty of enforcement of state law; and,

WHEREAS, Sections 849.0935 and 849.094, Florida Statutes, authorize drawings by chance and game promotions (also known as sweepstakes); and,

WHEREAS, confusion has existed for some years as to the interpretation and enforcement of these statutes as applied to game promotions utilizing a computer or other

electronic device to reveal a prize, and which grant an exemption from the statutory framework prohibiting illegal gambling activities; and

WHEREAS, computer or video displays of spinning reels or other simulations of a games ordinarily played on a slot machine, or in a casino or otherwise in connection with gambling and which show the results of raffles, sweepstakes, contests or other promotions (hereinafter collectively referred to in those recitals as "simulated gambling devices") were not among the types of pari-mutual pools authorized by law as of the effective date of the 1965 Florida Constitution; and,

WHEREAS, there is presently in the Town of Havana an increasing proliferation of establishments that utilize simulated gambling devices for commercial gain; and,
WHEREAS, local law enforcement authorities have limited resources with which to monitor this industry, and a regulatory fee will better fund enforcement efforts and ensure compliance with the law; and

WHEREAS, the Town has evaluated the costs of permitting and enforcement, and has determined that the permitting fees and revenues will not exceed such cost; and

WHEREAS, an ordinance regulating the use of electronic equipment in the conduct or drawings by chance and game promotions will protect the public welfare; and

WHEREAS, pursuant to Section 166.021, Florida Statutes, and the Town of Code of Ordinances (the "Town Code"), the Town Council may regulate this activity for the health, safety, and welfare of the community; and

WHEREAS, the Town Council of Havana, Florida, desiring to protect individual rights, while at the same time affording opportunity for the fullest development of the individual, and promoting the health, safety, education, and welfare of the people,

including the elderly and economically disadvantaged, and the children of Havana who are our most precious and valuable resource, finds that Havana has a compelling interest in protecting its citizens, and in particular its elderly, economically disadvantaged, and children from certain activities and influences which can result in irreparable harm, including simulated gambling devices; and,

WHEREAS, the Council recognizes that while the State of Florida has authorized slot machine gaming at licensed facilities in certain areas outside of Havana, it also recognizes that establishments that utilize simulated gambling devices, including but not limited to devices that simulate slot machines, can deceive members of the public, including the elderly, the economically disadvantaged, and children, into believing that they are engaging in a lawful permitted gaming activity; and,

WHEREAS, some operations display images of gambling or slot machines in their advertisements and signage suggesting the presence of illegal activity; and those activities should be controlled and regulated; and,

WHEREAS, it is necessary and in the public interest to ensure that business portray themselves in a manner not likely to mislead the public; and,

WHEREAS, the Council is also charged with the responsibility of protecting and assisting its citizens who suffer from compulsive gambling behavior problem; and,

WHEREAS, there is a direct relationship between these establishments that utilize simulated gambling devices and disturbances of the peace and good order of the community, and the concurrence of these activities is hazardous to the health and safety of the persons in attendance; and,

WHEREAS, in order to ensure the uniform enforcement of existing laws, to

preserve the public peace and good order, and to safeguard the health, safety, morals and welfare of the community and citizens thereof, it is necessary and advisable to regulate the use of simulated gambling devices; and,

WHEREAS, in terms of the negative impact recited herein, there is little or no material difference between the effect of allowing slot machines and allowing the use of simulated gambling devices;

BE IT ORDAINED by the Town Council of Havana, Florida as follows, that:

Section 1. Chapter⁷~~xxx~~ of the Town of Havana Code of ordinances is hereby amended
xxxx by enacting a New Article^{III} ~~xxxx~~ to be entitled "Regulation of Simulated Gambling Devices" which shall read as follows:

REGULATION OF SIMULATED GAMBLING DEVICES

Sec. ~~xxxxxx~~⁷⁻⁴⁵ Legislative Authorization. This part is enacted in the interest of the public health, peace, safety, morals and general welfare of the citizens and inhabitants of Havana, Florida, pursuant to Article VIII, Section 1(g), Florida Constitution and Section 166.021, Florida Statutes, and the Charter of Havana, Florida. It is established to regulate the use of simulated gambling devices to effect give-a-ways through drawings by chance, sweepstakes or game promotions that do not otherwise violate Florida Law.

Sec. ~~xxx-xxx~~⁷⁻⁴⁶ Definitions. The following definitions apply to this Chapter ~~xx~~⁷.
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Article ~~xxx~~.

(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) "Applicant" means the Operator for whom a permit application is submitted and in the name of whom, if the permit is granted, the drawing by chance conducted in connection with the sale of a consumer product or service, sweepstakes or game promotion shall be conducted.

(c) "Conviction" means a determination of guilt in a criminal case by a court of competent jurisdiction, regardless of whether the defendant plead guilty, no contest, or *nolo contendere*, or was found guilty by a judge or jury.

(d) "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.

(2) The term "upon connection with" means insertion, swiping, passing in range, or any other technical means of physically or electronically connecting an object to a device.

(3) The term "object" means a coin, bill, ticket, token, card or similar object, obtained as a bonus or supplement to another transaction involving the payment of

consideration.

(4) The term "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 simulation 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, and other type of game ordinarily played in a casino, a game involving the display or 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 in 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.

(e) "Simulated gambling facility" means the house, building, office, or location along with its grounds in which simulated gambling devices are used, operated,

or stored.

(f) "Slot machine" has the same meaning as specified in Section 551.102, Florida Statutes or as amended from time to time.

(g) "Electronic equipment" means any electronic device provided by or on behalf of the Operator that is used or adapted for use to conduct and/or 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.

(h) "De Miuimis Activity Facility" means a facility operated by an organization exempt from federal taxation under Section 501(c) of the Internal Revenue Code and with five (5) or fewer electronic or mechanical devices that are used to conduct a drawing by chance, sweepstakes or game promotion utilizing those electronic or mechanical devices, all of which devices were in operation before the passage of this Ordinance at that facility.

(i) The term "minor" means any person under the age of 18 years.

(j) The term "Senior citizen center" means any public or private center, that is organized and operated exclusively to provide recreational or social services for persons who are fifty-five years of age or older.

(k) The term "Security Personnel" includes any person who either is a sheriff, deputy sheriff, marshal, deputy marshal, or a police officer or other person authorized by law and who holds a Class "G" license issued by the Florida Department of Agriculture & Consumer Services and who is hired to provide security for the simulated gambling facility.

(l) "Town Manager" shall mean the Havana Town Manager or his or her designee.

(m) "Operator" means any Person in whose name a drawing by chance conducted to connection with the sale of a consumer product or service, sweepstake, or game promotion that utilizes Electronic Equipment is conducted.

(n) "Permit Holder" means the Operator in whose name the Town Manager or his designee has issued a permit order this Ordinance.

(o) "Rules" means the restrictions and covenants governing the operation of the drawing by chance, sweepstakes, or game promotion.

(p) "Premises" means the house, building, edifice, or location along with its grounds, in or upon which the Operator conducts an Electronic Game Promotion.

Sec. 7-47. . Area of Enforcement. The Council is acting herein as the governing body for the Town of Havana, Florida and this Part shall be effective within the boundaries of the Town of Havana.

Sec. 7-48. General Prohibition.

(a) Except as expressly regulated and permitted by this Ordinance, no Person other than a De Minimis Activity Facility as defined herein, shall conduct a drawing by chance pursuant to s. 849.0935, Florida Statutes, sweepstakes, or game promotion pursuant to s. 849.094, Florida Statutes, or any other game of chance on any simulated gambling device provided by an operator of the game of chance which displays the result by simulating a game or games ordinarily played on a slot machine.,

(b)) The simulated gambling facility must be a separate business and shall have

its

own occupational license and be a self contained business. It shall not be co-located with another business.

(c) The simulated gambling facilities shall not sell food..

Sec. 7-49. Permitting and Fees.

(a) *Permit Required.* No person shall conduct or operate a simulated gambling facility (facility) in the Town of Havana without having first obtained a permit from the Town Manager for each facility. Each permit is valid only for the Operator and the facility named in the permit. Each permit is valid for one year. No permit shall be assignable or transferable, either as to person, operator, facility, or location.

(b) *Initial Permits.* Within sixty (60) days of enactment of this Ordinance, all current Operators who have been operating a simulated gambling facility on January 1, 2013 and which are subject to this Ordinance, and which 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. Each such Operator shall, in addition to the requirements set forth herein as part of the application, provide

proof satisfactory to the City Manager that the Operator was lawfully operating a simulated

gambling facility, as of January 1, 2013 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 Electronic Equipment for that particular facility, or other certificates, permits,

licenses, receipts or filings issued by the Federal, State or local government indicating proof of

the uses contemplated by this Ordinance.

(c) *Permits Limited.* Unless greater than ten (10) permits have been issued provided for in subsection (b) above, the City Manager shall limit the total number of permits

issued pursuant to this section to ten (10). After the permits authorized by subsection (b) are

issued, no permits for new businesses shall be issued unless the issuance of the permit will not

cause the total number of permits Issued to exceed ten (10) permits. All qualifying Operators

who receive an initial permit as provided for in subsection (b) shall be entitled to renew their

permit if they otherwise qualify and pay required fees.

(d) *Application Materials Required for Permit.*

(1) Applicant shall file with the Town Manager the following materials:

(i) a copy of Applicant's proposed Rules governing the drawing by chance, sweepstakes or game promotion which includes the odds of winning and the prize table;

(ii) for a sweepstakes or game promotion operating pursuant to s. 849.094, Florida Statutes, a copy of Applicant's certification of a bond or trust account provided to the Florida Department of Agriculture and Consumer Services, regardless of aggregate prize amount; non-profit organizations operating Pursuant to s. 849.0935, Florida Statutes are exempt from this provision.

(iii) a complete list of all products and services offered and the prices charged therefor;

(iv) for every principal, officer, shareholder, and director of the Operator, a fingerprint card and letter certifying the results of a criminal background check generated by the Florida Department of Law Enforcement; and

(v) A certification that the computer software that is used by the Operator to conduct a drawing by chance or game promotion in connection with the sale of a consumer product or service has been tested by an independent testing laboratory that has verified that it is not a slot machine as defined by Florida law.

(2) Applicant shall provide a sworn affidavit containing the following:

- (i) the identity of the Applicant and if the Applicant is:
- A. an individual, his name, residence address, and date of birth;
 - B. an unincorporated organization, the names, dates of birth, and residence addresses of its principals; or
 - C. a corporation, the corporate name, state of incorporation and the names, dates of birth, and residence addresses of its principal officers, directors, and shareholders; or
 - D. a limited liability company, the company name, state of incorporation and the names, dates of birth, and residence addresses of its members and managers;
- (ii) a description, including the number of pieces, of the

Electronic Equipment;

(iii) a statement of whether any of the individuals listed has, within the seven-year period immediately preceding the date of the application, been convicted of any felony under the laws of Florida, the United States, or any other state, and, if so, the particular criminal act involved and the place of conviction;

(iv) the street address of the simulated gambling facility;

(v) if the Applicant is a branch, chapter, lodge, or other local unit of a charitable organization or corporation, the name of the primary organization and the street address of its principal office; and

(vi) the name and address of an individual in Havana who is authorized to receive notices from the Town;

(vii) 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 it has been issued, in the suspension or revocation of the permit; and

(3) Applicant shall file with Town Manager the following:

(i) a copy of the sworn affidavit described in subsection (2) above;

(ii) a complete list of all products and services offered and the prices charged therefor;

(iii) a verification that the prices charged for the products and/or services constitute a reasonable market value; and

(iv) a copy of the certification report issued by an independent

testing laboratory that describes and verifies the manner in which the software works.

(e) *Application Fee.* Each Applicant shall remit a non-refundable application fee of \$500.00. This fee shall pay for the time and expense of the Town Manager in regulating and enforcing the provisions herein, reviewing and ruling on the application, and issuing the permit.

(f) *Review of Application.*

(1) *Duration of Review.* Within sixty (60) days of receipt of an Applicant's completed permit application, the Town Manager shall grant or deny the application. If any principal, officer, shareholder or director of the Operator has a pending criminal case for an enumerated crime the Town manager may delay its grant or denial of the permit until sixty (60) days after the final judgment.

(2) *Eligibility of Applicant.* An Applicant is ineligible for a permit if:

(i) within five years of the date of the application, Applicant has been convicted of any felony under the laws of Florida, the United States, or any other state unless said violation would not constitute a crime in Florida:

(ii) within three years of the date of the application, has had a permit under this Ordinance revoked or been convicted for a violation of this Ordinance;

(iii) the prices to be charged for the product(s) or service(s) offered, as listed on the permit application, do not constitute a reasonable market value;

or

(iv) the application materials are incomplete or untruthful;

The Town Manager shall deny the permit for any of the above reasons. If an Applicant satisfies all permit filing requirements and is not ineligible, the Town manager shall

approve the application.

(g) *Denial of Permit.* An Applicant whose permit application is denied may reapply at any time by completing all steps of the application procedure, including payment of a new application fee.

(h) *Permit fees.* The permit fee for simulated gambling facility shall be in accordance with the following schedule:

(1)	1 to 20 devices	-	\$2,500.00
(2)	21 to 40 devices	-	\$5,000.00
(3)	41 to 60 devices	-	\$7,500.00
(4)	61 to 80 devices	-	\$10,000.00
(5)	81 to 100 devices	-	\$12,500.00

(i) *Inspection fee.* \$50.00 per simulated gambling device will be assessed annually.

(j) *Renewal of Existing Permit.* Existing permits shall be renewed upon compliance with this Ordinance, notwithstanding the total number of permit issued. The Permit Holder shall apply for the renewal permit no later than sixty (60) days and no sooner than one-hundred twenty (120) days before the expiration of the current permit. The renewal permit application shall include all the materials and the application fee required for the issuance of an original permit, and shall include evidence of current lawfully existing operations consistent with the requirements of this Ordinance. Renewal permit applications shall be processed using the same procedure and standards as required for review of an original permit application but shall be processed within 30 days. Upon approval, Renewal permit applicants shall pay the same fees as set forth in subsection (8)

above and said renewals shall be deemed denied if an eligible Applicant fails to pay these fees on or before the thirtieth (30th) day after approval, availability, and notice of the permit authorization.

(k) *Lost or destroyed permit.* The fee for a replacement permit shall be fifty dollars (\$50.00)

(l) *Revocation of Permit.* The Town Manager may revoke a permit for violation of any provisions of this Ordinance or due to a Permit holder's cessation of the use of simulated gambling devices during its normal business hours for a least fourteen (14) consecutive days. Prior to revocation, the Town Manager shall provide to the permit Holder, through their individual in Havana authorized to accept notices from the Town , the following:

- (1) A written notice of intent to revoke the permit,
- (2) A fourteen (14) calendar day opportunity to cure the alleged violation, and
- (3) An opportunity to be heard prior to revocation.

Revocation shall not take place before twenty one (21) days after receipt of a notice of revocation is delivered to the Permit holder and opportunities to cure and to be heard are provided. The decision to revoke a permit shall be considered non-final agency action subject to appellate review by the Code Enforcement Board ("CEB"). The decision of the CEB shall constitute final agency action subject to judicial review. Any appeal of a revocation decision shall be made within fifteen (15) calendar days of receipt of a notice of revocation by filing a written notice of appeal with the Board of Adjustment and Appeals, along with a appeal fee of \$150.00. Failure to file written notice of appeal and

appeal fee within the prescribed time period constitutes a waiver of the right to appeal.

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Sec. ~~xxxx~~ Location. Location of Simulated Gaming Facilities.

(a) It shall be unlawful for any person licensed under the state law to conduct, operate or carry on any place of business for the operation of simulated gambling facilities within the following places:

(b) All parts of the town except those portions thereof lying along the commercial transportation corridor of U. S. Highway 27, Development Zoning Districts, but in no event may such a simulated gambling facility be located within 500 feet of any real property comprising a child care facility as defined in Section 402.302 Florida Statute or as may be amended from time to time, or a public or private elementary, middle, secondary school, or any private or public college, university, or other post secondary educational institution, or within 500 feet of real property comprising a church, a community park, a community center, a senior citizen center, or publicly owned recreational facility, nor may such a simulated gambling facility be closer than 5,000 feet from another such simulated gambling facility. The distance measurements set forth in this section shall be measured by following a straight line from that portion of any building which is part of the establishment entrance.

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Sec. ~~xxxx~~ Inspections.

During business hours, the Town Manager, the Havana police Department, or their agents may enter the facility without any warrant for purposes of inspecting all areas of the facility, to ensure compliance with the provisions of this Ordinance or any other ordinances within their authority, including but not limited to the right to enter the facility and to select and remove any piece of Electronic Equipment to inspect, test and/or have

tested to determine compliance with this Ordinance.

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Sec. XXX Signage Requirements.

(a) *Exterior of Premises.* 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 the Premises that suggest gambling takes place on the Premises or display any image commonly associated with slot machines. All signage shall be further subject to all applicable Havana Code regulations regarding signs.

(b) *Interior of Premises.* The Permit Holder shall conspicuously post the name of the Permit Holder, a description of all products and services sold, and the complete rules for all Electronic Game Promotions at the Premises' front or main counter. Rules for all Electronic Game 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 font: "The video displays are for amusement and entertainment only. The video displays do not determine the result of your sweepstakes entries." The Permit Holder shall affix signage that shall include the following language in at least 10 point font on each piece of Electronic Equipment: "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 be posted conspicuously at the main counter or at the entrance.

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Sec. xxx. Limitations on Operation of Business.

(a) *Alcoholic Beverages.* Permit Holders shall not sell or permit any individual to consume or possess any alcoholic beverages on any Premises.

(b) *Minors.* Minors are prohibited from entering the premises of any simulated gambling facility. It is the responsibility of the owner and employees of the facility to ensure no minors are present within the facility. A person's ignorance of minor's age, a minor's misrepresentation of his or her age, a bona fide belief of minor's age may not be raised as a defense for violation of this section.

(c) *Limitation on Electronic Equipment.* Permit Holders shall not operate more than one hundred (100) pieces of Electronic Equipment except that Permit Holders conducting an Electronic Game Promotion on or before October 30, 2012, in Havana may not operate more pieces of Electronic Equipment than were in operation on October 30, 2012, and any reduction following the enactment of this Ordinance in Electronic Equipment pieces by such Permit Holders shall be permanent. Replacing an existing piece of Electronic Equipment pieces by such Permit Holders shall be permanent. Replacing an existing piece of Electronic Equipment due to a defect or upgrade shall not be deemed a reduction pursuant to this subsection, provided that such replacement occurs within thirty (30) days.

(d) *Hours of Operation.* No business operating an Electronic Game Promotion shall open before 7:00 a.m. and shall not remain open after 2:00 a.m.

(e) *Additional Restrictions.* No simulated gambling facility shall:

(1) design, engage in, promote, or conduct a game wherein the winner may be predetermined or the game may be manipulated or rigged;

(2) arbitrarily remove, disqualify, disallow or reject any entry;

(3) fail to award any prize offered;

(4) print, publish, or circulate literature or advertising material which is false, deceptive or misleading;

(5) require an entry fee, payment or proof of purchase as a condition of entering; or

(6) cover facility windows with opaque or reflective window tinting.

(f) *Additional Requirements.* An Operator conducting an Electronic Game Promotion shall:

(1) maintain a list of the names and addresses of all persons who have won prizes which have a value of more than \$25.00, the value of such prizes, and the dates when the prizes were won and keep the list at the Premises of one (1) year;

(2) maintain a trust account or bond in an amount equal to the total announced value of the prizes offered or \$50,000.00, whichever is less.

(3) display at the point of sale contact information related to gambling addiction treatment.

(g) *No Felony Convictions.* No person who has at any time in the previous 7 years been convicted of, or is currently under indictment or information for, any felony, shall be eligible to operate or manage a simulated gambling facility where Electronic Game Promotions are conducted.

On Premises, the Permit Holder shall maintain the following security devices and standards:

(a) *Video surveillance.* All such simulated gambling facilities shall install a video surveillance system for both the entrance and parking area to the facility and for the cashier area of the simulated gambling facility as well as the interior of the simulated gambling facility. The Video surveillance system shall be maintained and kept in working order at all times. The video surveillance system recordings, whether by film or digital, shall be kept for a period no less than fourteen (14) days and shall be open and accessible to representatives of Havana, including the Havana police Department, at all times upon reasonable notice. A security camera system capable of recording and retrieving an identifiable image;

(b) a drop safe or cash management device for restricted access to cash receipts;

(c) at all public entrances to the Premises, a conspicuous notice stating cash register contains a limited amount of cash;

(d) a cash management policy limiting cash on hand;

(e) a silent alarm system capable of notifying law enforcement;

(f) Monday thru Friday during the hours of 5 p.m. to close and during the entire business day on Saturday and Sunday, maintain at least one, armed security guard as defined in Sec. ~~XXX~~ ⁷⁻⁴⁶ (k); and

(g) permit Holder must maintain reasonable safety standards, including but not limited to, lighted parking areas.

(h) may not cover facility windows with opaque or reflective window tinting,

posters, flyers, or anything else that obstructs the exterior view into the interior of the facility.

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Sec. ~~xxxx~~ Addition Information. All simulated gambling facilities shall be required to have displayed in a conspicuous location near cashier, flyers, pamphlets or leaflets that contain a current list of the names, addresses, and phone numbers of local gambling Anonymous facilities and treatment centers.

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Sec. ~~xxxx~~ Exemptions.

(a) This Part does not prohibit 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) This Part does not prohibit the ownership, possession, play, operation or use of any device expressly permitted by the Florida Statutes and not otherwise prohibited by the Florida Constitution, except that devices permitted by Article X, Section 23 of the Florida Constitution and Chapter 551, Florida Statutes, in Broward and Miami-Dade County only are not permitted by this Part.

(c) This Part does not prohibit a religious or charitable organization from conducting a fund raising activity involving gaming, provided the religious or charitable organization does not conduct the activity more than twice in one (1) calendar year, the organization provides advance written notice to the Havana Police Department of the date, time, place, and nature of such activity and who will be conducting it, and the activity is not otherwise unlawful.

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Sec. ~~xxx~~ 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, as applicable, control

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Sec. ~~xxxx~~. Enforcement; Penalties.

(a) Any person who violates this article shall be punished as provided in section 1-9. Each day the violation exists shall constitute a separate violation for the purposes of this Ordinance and shall be punishable as such.

(b) The Town Attorney is authorized to pursue temporary or permanent injunctive relief or any other legal or equitable remedy authorized by law in courts of competent jurisdiction to cure, remove or end any activity which violates this article.

(c) Permittees shall have a private right to action to pursue all legal and equitable remedies necessary to ensure full compliance with this Ordinance against any other permittee. Including but not limited to injunctive relief.

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Sec. ~~xxx~~ - xxx Reserved.

Section 2. Conflicts.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Town of Havana Code of Ordinances, which provisions shall prevail over any parts of this ordinance which are inconsistent, either in whole or in part, with the said Code of Ordinances.

Section 3. Severability.

If any provisions or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining

provisions and portions of this Ordinance shall remain in full force and effect.

Section 4. Effective Date.

This Ordinance shall have effective date of January 1, 2013.

INTRODUCED AND PASSED on first reading by the Town Council of Havana, Florida on the 27th Day of November, 2012.

DONE, ADOPTED AND PASSED by the Town Council of Havana, Florida this 18th day of December, 2012.

TOWN OF HAVANA, FLORIDA

BY: T. J. Davis
T. J. DAVIS
Mayor of Havana, Florida

ATTESTED:

BY: Sheila A. Evans
SHEILA A. EVANS
Town Clerk

APPROVED AS TO FORM
TOWN ATTORNEY'S OFFICE
HAVANA, FLORIDA

BY: Alexander L. Hinson
ALEXANDER L. HINSON
Town Attorney