

Sec. 250.1301. - Legislative authorization.

This Part is enacted in the interest of the public health, peace, safety, and general welfare of the citizens, inhabitants and visitors of the City of Jacksonville. The prohibition created in the Part is applicable only within the First Urban Services District.

(Ord. 2019-209-E, § 2)

Sec. 250.1302. - Definitions.

The following definitions apply to this Part 13:

- (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, 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.

(c) "*Slot machine*" has the same meaning as specified in F.S. Ch. 551.

(d) "COU" shall mean a certificate of use issued pursuant to Subpart E of Chapter 656, Ordinance Code.

(Ord. 2019-209-E, § 2)

Sec. 250.1303. - Area of enforcement.

The Council is acting herein as the governing body for the City of Jacksonville, and this Part shall be effective within the boundaries of the General Services District, less Urban Services Districts 2, 3, 4 and 5.

(Ord. 2019-209-E, § 2; Ord. 2022-96-E, § 1)

Sec. 250.1304. - Intent.

The Council's intent in adopting this Part is to broadly prohibit the possession or use of simulated gambling devices not authorized for legal use under Florida law, including any related activity or behavior which can be reasonably construed to be the use of simulated gambling devices. Further, the Council in prohibiting simulated gambling devices in no way intends to locally approve the use of actual slot machines, other forms of casino gambling or other types of gambling devices. In addition, this prohibition is aimed directly at devices that simulate gambling activity, regardless of whether the devices or the simulations in and of themselves can be said to constitute gambling as that term may be defined elsewhere.

(Ord. 2019-209-E, § 2)

Sec. 250.1305. - Prohibition of simulated gambling devices.

It is unlawful for any person to manage, supervise, maintain, provide, produce, possess or use one or multiple simulated gambling devices for commercial, promotional or pecuniary gain or purpose. Each individual act to manage, supervise, maintain, provide, produce, possess or use a simulated gambling device constitutes a separate violation of this section.

(Ord. 2019-209-E, § 2)

Sec. 250.1306. - 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 F.S. § 546.10 or other provision of 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 F.S. Ch. 551, 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 calendar year for no more than six hours per fund raising activity, the organization provides advance written notice to the Sheriff of the date, time, place, and nature of such activity and who will be conducting it, and the activity is not otherwise unlawful.

(Ord. 2019-209-E, § 2)

Sec. 250.1307. - Conflict with state law.

Nothing in this Part is intended to conflict with the provisions of the Florida Constitution or F.S. Ch. 849, concerning gambling. In the event of a direct and express conflict between this Part and either the Florida Constitution or F.S. Ch. 849, then the provisions of the Florida Constitution or F.S. Ch. 849, as applicable, control.

(Ord. 2019-209-E, § 2)

Sec. 250.1308. - Amortization.

Any establishment or property which was lawfully in possession of either a COU or was operating unlawfully prior to the effective date of 2019-209-E shall immediately cease the use of simulated gambling devices regulated by this ordinance upon the effective date of this ordinance. Any person operating or allowing the operation of a simulated gambling establishment shall be immediately subject to enforcement pursuant to Section 250.1309, Ordinance Code. In the event that a court of competent jurisdiction should determine the amortization period set forth in this section should be declared invalid for any reason and the City Council should revise the amortization period in subsequent legislation that the amortization period in this section and any subsequent legislation be considered as a single amortization period.

(Ord. 2019-209-E, § 2; Ord. 2019-644-E, § 2)

Sec. 250.1309. - Enforcement; civil remedies.

- (a) The Building Inspection Division, the Municipal Code Compliance Division, the Fire Chief and the Sheriff shall have concurrent jurisdiction to enforce the requirements of this Part as follows:
- (1) By the Municipal Code Enforcement Board or Special Master pursuant to the authority granted by F.S. Ch. 162, Part I, and Ch. 91, Ordinance Code, however, in no instance shall a civil penalty less than \$250 per violation per day of violation be imposed;
 - (2) By citation for civil penalties pursuant to the authority granted by F.S. Ch. 162, Part II, and Ch. 609, Ordinance Code, however, in no instance shall a civil penalty less than \$250 per violation per day of violation be imposed;
 - (3) By action for civil penalties through a court of competent jurisdiction as follows:
 - (i) The civil penalty for convictions of violations committed by any person operating or allowing the operation of a simulated gambling establishment shall be as follows:
 - (1) \$2000 for a first violation;
 - (2) \$5000 for a second violation; and
 - (3) \$10,000 civil penalty for a third or subsequent violation.

Additionally, the violator shall be prohibited from applying for any certificate of use for any property until such civil penalty awarded pursuant to this section has been paid in full. Prohibitions against application for a certificate of use contemplated in this section shall not become effective until the judgment requiring such prohibition becomes final; however such certificate of use shall not be issued unless and until the alleged violation is overturned.

- (ii) Civil penalties assessed against property owners who did not operate the illegal use themselves in violation of this chapter shall be \$1000 per violation. Additionally, the violator shall be prohibited from applying for any certificate of use for any property until such civil penalty awarded pursuant to this section has been paid in full. Prohibitions against application for a certificate of use contemplated in this section shall not become effective until the judgment requiring such prohibition becomes final; however such certificate of use shall not be issued unless and until the alleged violation is overturned.

(4) By an action for injunctive relief through a court of competent jurisdiction.

- (b) Upon notice from any agency authorized to enforce this Part, occupancy or operation of any structure or property where any simulated gambling device is being used or operated in violation of this Part shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property or to his or her agent or to the person operating any establishment where any simulated gambling device is being used or operated in violation of this Part. Failure to comply with the terms and conditions of a cease and desist order issued pursuant to this Part shall constitute an additional violation of this Part. Cease and desist orders may be lifted by the issuing agency upon demonstration that all simulated gambling devices have been removed and all applicable civil penalties have been paid.
- (c) The provisions of this Part may also be enforced through a private cause of action for injunctive relief filed by any adversely affected person. If such action is successful, a judgement for reasonable attorney's fees and costs may be awarded by the court.

(Ord. 2019-209-E, § 2)