

1 Introduced by Council Member DeFoor:
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4 **ORDINANCE 2022-730**

5 AN ORDINANCE AMENDING TITLE VI (BUSINESS TRADES
6 AND ORGANIZATIONS), CHAPTER 250 (MISCELLANEOUS
7 BUSINESS REGULATIONS), PART 13 (PROHIBITION OF
8 SIMULATED GAMBLING DEVICES); AMENDING THE TITLE
9 OF PART 13; REVISING SECTIONS 250.1301 THROUGH
10 SECTIONS 250.1309; ADDING A DEFINITION FOR
11 "CASINO GAMBLING", EXPANDING THE AREA OF
12 ENFORCEMENT UNLESS EXCLUDED; ADDING
13 PROHIBITIONS; ADDING EXEMPTIONS; PROVIDING FOR
14 ENFORCEMENT; PROVIDING AMENDMENT RESTRICTIONS;
15 INCLUDING SEVERABILITY AND CODIFICATION
16 LANGUAGE; AND PROVIDING AN EFFECTIVE DATE.
17

18 **WHEREAS**, Florida voters approved a constitutional amendment
19 requiring citizen initiatives to legalize gaming and gambling in
20 Florida's communities; and

21 **WHEREAS**, gaming and gambling, through simulated gambling
22 establishments or casinos, are not presently lawful in the City; and

23 **WHEREAS**, in 2019-209-E and 2019-644-E, the Council declared the
24 use, operation or possession of simulated gambling devices is a public
25 nuisance and required the operation of all simulated gambling
26 establishments to cease; and

27 **WHEREAS**, the presence of lawful casinos and lawful simulated
28 gambling facilities in other jurisdictions may deceive many
29 Jacksonville residents, including the elderly, the economically
30 disadvantaged, the uneducated, and the unsuspecting into believing
31 such activities are legal and lawfully permitted; and

1 **WHEREAS**, Jacksonville and the "First Coast" receive a number of
2 tourists and visitors to the area each year and the numbers have been
3 increasing - February and March of 2022 saw more public lodging room
4 revenue than when the area hosted the 2005 Super Bowl, and March of
5 2022 was the best month in Duval tourism history; and

6 **WHEREAS**, tourists and visitors may also be deceived into
7 thinking legal gambling is an entertainment option in Duval County;
8 and

9 **WHEREAS**, the Council finds that simulated gambling devices and
10 casinos are, therefore, inherently deceptive; and

11 **WHEREAS**, due to the inherently deceptive nature of simulated
12 gambling devices and casino gaming, establishments that utilize
13 simulated gambling devices or casino gaming are averse to the quality
14 of life, tone of commerce and total community environment in the City
15 and the First Coast community; and

16 **WHEREAS**, the Jacksonville Sheriff's office has received at least
17 49 complaints about gambling activities in the city since January 1,
18 2022; and

19 **WHEREAS**, the Jacksonville Sheriff's office has received
20 information that numerous crimes are occurring at gambling
21 establishments but victims are unwilling to report the crime based
22 on the illegality of the establishment; and

23 **WHEREAS**, in one reported and investigated crime, a gambling
24 establishment was burglarized by armed persons who fired at least one
25 shot at an employee; and

26 **WHEREAS**, the Council finds that a correlation exists between
27 establishments that utilize gambling and simulated gambling devices
28 and crime or disturbances of the peace and good order of the community
29 and those activities are hazardous to the public health, safety and
30 general welfare of the citizens of Jacksonville and constitutes a
31 public nuisance; and

1 **WHEREAS**, the Council finds that there is a legitimate public
2 purpose in eliminating gambling and simulated gambling establishments
3 from operating in Jacksonville; now, therefore,

4 **BE IT ORDAINED** by the Council of the City of Jacksonville:

5 **Section 1. Findings and Statement of Intent.** The
6 foregoing "WHEREAS" clauses are hereby ratified and confirmed as
7 being true and correct and are hereby made a specific part of this
8 Ordinance upon adoption thereof. City Council's intent in revision
9 of this ordinance is to abate public nuisances through a prohibition
10 on operation of casinos and simulated gambling establishments within
11 Duval County.

12 **Section 2. Amending Title VI (Business Trades and**
13 **Occupations), Part 13 (Prohibition of Simulated Gambling Devices),**
14 **Ordinance Code.** Title VI (Business Trades and Occupations, Part 13
15 (Prohibition of Simulated Gambling Devices), *Ordinance Code*, is
16 hereby amended as follows:

17 **PART 13 - PROHIBITION OF SIMULATED GAMBLING DEVICES AND CASINO**
18 **GAMBLING.**

19 **Sec. 250.1301 - Legislative Authorization.** This Part is enacted
20 in the interest of the public health, peace, safety, and general
21 welfare of the citizens, inhabitants and visitors of the City of
22 Jacksonville and Duval County. ~~The prohibition created in the Part~~
23 ~~is applicable only within the First Urban Services District.~~

24 **Sec. 250.1302.- Definitions.**

25 The following definitions apply to this Part 13:

26 * * *

27 (e) "Casino Gambling" shall mean any of the types of games
28 typically found in casinos and that are within the definition of
29 Class III gaming in the Federal Indian Gaming Regulatory Act, 25
30 U.S.C. ss. 2701 et seq. ("IGRA"), and in 25 C.F.R. s. 502.4, and any
31 that are added to such definition of Class III gaming in the future.

1 This includes, but is not limited to, any house banking game,
2 including but not limited to card games such as baccarat, chemin de
3 fer, blackjack (21), and pai gow (if played as house banking games);
4 any player-banked game that simulates a house banking game, such as
5 California black jack; casino games such as roulette, craps, and
6 keno; any slot machines as defined in 15 U.S.C. s. 1171(a)(1); and
7 any other game not authorized by Article X, section 15, Florida
8 Constitution, whether or not defined as a slot machine, in which
9 outcomes are determined by random number generator or are similarly
10 assigned randomly, such as instant or historical racing. As used
11 herein, "casino gambling" includes any electronic gambling devices,
12 simulated gambling devices, video lottery devices, internet
13 sweepstakes devices, and any other form of electronic or
14 electromechanical facsimiles of any game of chance, slot machine, or
15 casino-style game, regardless of how such devices are defined under
16 IGRA. As used herein, "casino gambling" does not include pari-mutuel
17 wagering regulated by the state including but not limited to horse
18 racing, card rooms, or jai alai exhibitions. For purposes of this
19 section, "gambling" and "gaming" are synonymous.

20 **Sec. 250.1303 - Area of enforcement.**

21 The Council is acting herein as the governing body for the City
22 of Jacksonville and Duval County, and this Part shall be effective
23 within the boundaries of the entire General Services District, ~~less~~
24 unless specifically and expressly excluded by ordinances approved in
25 Urban Services Districts 2, 3, 4 ~~and~~ or 5.

26 **Sec. 250.1304. - Intent.**

27 The Council's intent in adopting this Part is to broadly prohibit
28 (a)the possession or use of simulated gambling devices not authorized
29 for legal use under Florida law, including any related activity or
30 behavior which can be reasonably construed to be the use of simulated
31 gambling devices and (b)casino gambling. Further, the Council in

1 prohibiting simulated gambling devices and casino gambling in no way
2 intends to locally approve the use of actual slot machines, other
3 forms of casino gambling, or other types of gambling devices,
4 simulated or otherwise. In addition, this prohibition is aimed
5 directly at (i) devices that simulate gambling activity, regardless
6 of whether the devices or the simulations in and of themselves can
7 be said to constitute gambling as that term may be defined elsewhere,
8 and (ii) casino gambling.

9 **Sec. 250.1305. - Prohibition of simulated gambling devices and**
10 **casino gambling.**

11 It is unlawful for any person or entity

12 (a) to manage, supervise, maintain, provide, produce, possess or
13 use one or multiple simulated gambling devices for
14 commercial, promotional or pecuniary gain or purpose. Each
15 individual act to manage, supervise, maintain, provide,
16 produce, possess or use a simulated gambling device
17 constitutes a separate violation of this section-;

18 (b) to manage, supervise, maintain, provide, produce, play or
19 engage in casino gambling, to wit: any game of

20 (1) cards not regulated by peri-mutuel wagering
21 regulations,

22 (2) keno,

23 (3) roulette,

24 (4) faro, or

25 (5) other game of skill or chance,

26 at any place, by any device, whatsoever, for money or other
27 thing of value. An establishment in which gambling occurs is
28 a casino.

29 **Sec. 250.1306. - Exemptions.**

30 This part does not prohibit:

- 1 (a) ~~This Part does not prohibit~~ an individual's personal,
2 recreational, and non-commercial ownership, possession,
3 play, operation or use of a device which could be construed
4 to be a simulated gambling device;
- 5 (b) ~~This Part does not prohibit~~ the ownership, possession,
6 play, operation or use of any device expressly permitted
7 by F.S. § 546.10, the "Families Amusement Games Act," or
8 other provision of the Florida Statutes and not otherwise
9 prohibited by the Florida Constitution, except that devices
10 permitted by Article X, Section 23 of the Florida
11 Constitution and F.S. Ch. 551, in Broward and Miami-Dade
12 County only are not permitted by this Part;
- 13 (c) ~~This Part does not prohibit~~ a religious or charitable
14 organization from conducting a fund raising activity
15 involving gaming under F.S. § 849.0935, provided the
16 religious or charitable organization does not conduct the
17 activity more than twice in one calendar year for no more
18 than six hours per fund raising activity, the organization
19 provides advance written notice to the Sheriff of the date,
20 time, place, and nature of such activity and who will be
21 conducting it, and the activity is not otherwise unlawful;
- 22 (d) the lottery as regulated under F.S. Ch. 24;
- 23 (e) Penny-ante games under F.S. § 849.085;
- 24 (f) Game promotions in connection with the sale of consumer
25 products or services pursuant to F.S. § 849.094; or
- 26 (g) the ownership, possession, play, operation or use of games
27 defined as Pari-mutuel wagering as regulated under F.S.
28 Ch. 550 or Ch. 849.

29 * * *

30 **Sec. 250.1309. - Enforcement; civil remedies.**

1 (a) The enforcement of the requirements of this Part are
2 authorized concurrently to the applicable jurisdiction's
3 Building or Zoning Inspection Division official(s), the
4 designated Municipal Code Compliance Division official(s)
5 of the applicable jurisdiction, the Fire Chief or Fire
6 Marshal for the jurisdiction, and the county Sheriff's
7 office, the jurisdictional Police Department, or other
8 applicable law enforcement official, ~~shall have concurrent~~
9 ~~jurisdiction to enforce the requirements of this Part~~ as
10 follows:

11 (1) By the Municipal Code Enforcement Board or Special
12 Master pursuant to the authority granted by F.S. Ch.
13 162, Part I; ~~and~~ Ch. 91, Ordinance Code, or other
14 jurisdictional board enforcement authority, however,
15 in no instance shall a civil penalty less than \$250
16 per violation per day of violation be imposed;

17 (2) By citation for civil penalties pursuant to the
18 authority granted by F.S. Ch. 162, Part II; ~~and~~ Ch.
19 609, Ordinance Code, or other jurisdictional law,
20 however, in no instance shall a civil penalty less
21 than \$250 per violation per day of violation be
22 imposed;

23 * * *

24 (b) Upon notice from any agency authorized to enforce this
25 Part, occupancy or operation of any structure or property
26 where any simulated gambling device is being used or
27 operated in violation of this Part, or where operating or
28 permitting casino gambling, shall immediately cease. Such
29 notice shall be in writing and shall be given to the owner
30 of the property or to his or her agent or to the person
31 operating any establishment where casino gambling or any

1 simulated gambling device is being used or operated in
2 violation of this Part. Failure to comply with the terms
3 and conditions of a cease and desist order issued pursuant
4 to this Part shall constitute an additional violation of
5 this Part. Cease and desist orders may be lifted by the
6 issuing agency upon demonstration that all casino gambling
7 and simulated gambling devices have been removed and all
8 applicable civil penalties have been paid.

9 **Sec. 250.1310 - Amendments**

10 Amendments to this section 250, Part 13 shall require a four-
11 fifths (4/5ths) vote of the full City Council, or fifteen (15)
12 members, whichever is greater.

13 **Section 3. Severability.** It is the specific intent of the
14 Council that in the event that any portion of this ordinance, is
15 declared invalid, unenforceable, unconstitutional or void, or is
16 permanently enjoined, or if the existence of any provision of this
17 ordinance would result in any other portion of any chapter of the
18 *Ordinance Code* being held to be invalid, unenforceable,
19 unconstitutional or void, and the court does not sever such invalid
20 portion of this section, then the invalid portion of this ordinance
21 is repealed and invalid. It is the specific intent that the
22 invalidity of any portion of this ordinance shall not affect any
23 other section, subsection, paragraph, subparagraph, sentence, phrase,
24 clause or word of the Ordinance Code.

25 **Section 4. Codification Instructions.** The Codifier and the
26 Office of General Counsel are authorized to make all chapter and
27 division "table of contents" consistent with the changes set forth
28 herein. Such editorial changes and any other necessary to make the
29 Ordinance Code consistent with the intent of this legislation are
30 approved and directed herein, and the changes to the Ordinance Code
31 shall be made forthwith and when inconsistencies are discovered.

1 **Section 5. Effective Date.** This Ordinance shall become
2 effective upon signature by the Mayor or upon becoming effective
3 without the Mayor's signature.
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6 Form Approved

7
8 /s/ Trisha D. Bowles

9 Trisha D. Bowles

10 Office of General Counsel

11 Legislation Prepared by: Trisha D. Bowles

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