



BOARD OF COUNTY COMMISSIONERS

County Attorney's Office
2725 Judge Fran Jamieson
Way
Building C, Room 308
Viera, Florida 32940

Inter-Office Memo

TO: Frank B. Abbate, County Manager
THRU: Morris Richardson, County Attorney
FROM: Becky Behl-Hill, Assistant County Attorney
SUBJ: Citizen Efficiency and Effectiveness Recommendation #2024016
DATE: 04/01/2024

CEER #2024016 was received by the County from Robert Klimkowski.

Citizen Statement:

ARTICLE XVII. – REGULATION OF ILLEGAL ARCADE GAMING. Crosswinds immediate funding, Human Trafficking Safe Houses,

Citizen Recommendation:

Please see attached draft and disclaimer [citizen's proposed ordinance and resolution attached].

Staff Analysis:

Presently, the Florida Legislature has laws in place that address games/machines played at adult arcades. Specifically, Chapter 849, Florida Statutes, deals with gambling and slot machines, while section 546.10, Florida Statutes, focuses on skill-based amusement games or machines. Together, these provisions prohibit casino-style games typically played at adult arcades.

Gambling is prohibited by Chapter 849, Florida Statutes. Section 849.46, Florida Statutes, provides: "Whoever plays or engages in any game at cards, keno, roulette, faro or other game of chance, at any place, by any device whatever, for money or other thing of value, shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083." This prohibition applies to all games of chance, which are common games at adult arcades.

The Legislature has specifically called out slot machines, making it unlawful to "manufacture, own, store, keep, possess, . . . or permit the operation of, or for any person to permit to be placed, maintained, or used or kept in any room, space, or building owned, leased or occupied by the person

or under the person's management or control, any slot machine or device or any part thereof." Section 849.15(1)(a), Florida Statutes.

A slot machine is defined as:

any machine or device . . . that is adapted for use in such a way that, upon activation . . . such device or system is directly or indirectly caused to operate or may be operated and if the user, whether by application of skill or by reason of any element of chance or any other outcome unpredictable by the user, may . . . [r]eceive or become entitled to receive any piece of money, credit, allowance, or thing of value, or any check, slug, token, or memorandum, whether of value or otherwise, which may be exchanged for any money, credit, allowance, or thing of value or which may be given in trade.

Section 849.16(1)(a), Florida Statutes.

Additionally, although Florida law provides certain exemptions for amusement games or machines, the Legislature has removed "casino style games in which the outcome is determined by factors unpredictable by the player or games in which the player may not control the outcome of the game through skill" from these statutory provisions, and specifically excludes the following from the definition of allowable amusement games or machines:

1. Any game or machine that uses mechanical slot reels, video depictions of slot machine reels or symbols, or video simulations or video representation of any other casino game, including, but not limited to, any banked or banking card game, poker, bingo, pull-tab, lotto, roulette, or craps.
2. A game in which the player does not control the outcome of the game through skill or a game where the outcome is determined by factors not visible, known, or predictable to the players.
3. A video poker game or any other game or machine that may be construed as a gambling device under the laws of this [S]tate.
4. Any game or device defined as a gambling device in 15 U.S.C. [§] 1171, unless excluded under 15 U.S.C. [§] 1178.

Section 546.10, Florida Statutes.

Further, the activity this recommendation targets is regulated by the Florida Gaming Control Commission. See Sec. 16.712, Florida Statutes (providing that the Commission is to "[e]xercise all of the regulatory and executive powers of the state with respect to gambling, including, without limitation thereto, pari-mutuel wagering, cardrooms, slot machine facilities, oversight of gaming compacts executed by the state pursuant to the Federal Indian Gaming Regulatory Act, and any other forms of gambling authorized by the State Constitution or law, excluding games authorized by s. 15, Art. X of the State Constitution.").

Finally, the fines included in the recommendation would exceed the fines permitted under Florida Statutes Chapter 162 for enforcement of code violations. Chapter 162 states, "fine[s] imposed pursuant to this section shall not exceed \$250 per day for a first violation and shall not exceed \$500 per day for a repeat violation . . . [if] the violation [is found] to be irreparable or irreversible in nature, it may impose a fine not to exceed \$5,000 per violation." Section 162.09(2)(a), Florida Statutes.

Staff Recommended Action:

It is recommended that the Board of County Commissioners reject CEER #2024016 as the area of illegal arcade gaming is regulated by state law.

Recommendation Details

Contact Information

Full Name:	Robert Klimkowski	Email Address:	Rklimjr92@gmail.com
Mailing Address:	329 rheine rd Palm Bay fl 32907	Alt Email Address:	Rklimjr92@gmail.com
		Phone Number	321-468-7128

Group/Organization Launchpad Solutions LLC

Recommendation Information

Recommendation Title: ARTICLE XVII. - REGULATION OF ILLEGAL ARCADE GAMING
Areas Affected: Youth Services, Human Tracking

Department: BOARD OF COUNTY COMMISSIONERS

Crosswinds immediate funding , Human Trafficking Safe Houses,

Problem Description:

Please see attached draft and disclaimer

Recommendation Description

Attachments

No.	Type	Name
1		ARTICLE XVII. - REGULATION OF ILLEGAL ARCADE GAMING (1).pdf

Administrative Action

Evaluation

Recommendation Timeline

User	Status	Date	Remarks
CEER WebUser	Citizen Submitted	Dec 16, 2023	
Karen Conde	Department Assigned	Dec 20, 2023	PLANNING AND DEVELOPMENT DEPARTMENT Assigned

Awaiting action from department director

ARTICLE XVII. - REGULATION OF ILLEGAL ARCADE GAMING

Sec. 62-4902. - Short title.

This article may be known and cited as the Regulation of Illegal Arcade Gaming Ordinance.

Sec. 62-4903. - Prohibition of Illegal Arcade Gaming.

Prohibition Statement: The operation, ownership, or use of illegal arcade gaming machines within Brevard County is strictly prohibited.
Definitions:

a. Illegal Arcade Gaming: Any gaming machines offering simulated gambling or chance-based gaming activities.

Sec. 62-4904. - Penalties and Fines for Violations.

Fine Structure:

a. First Violation: A fine of \$10,000.

b. Subsequent Violations: Graduated fines, escalating by \$5,000 for each subsequent offense, with a maximum fine of \$1,000,000 for 10 or more violations.

Revenue Allocation:

Fines collected from violations shall be directed towards:

a. Human Trafficking Awareness and Prevention Programs.

b. Immediate Recovery Support for Vulnerable Youth.

c. Support Services for Victims of Exploitation, managed by Life Recaptured.

d. Operational and Enforcement Resources for Combating Illegal Gaming, allocated to Brevard County Sheriff's Office (BCSO).

Sec. 62-4905. - Business Impact Estimate.

Economic Impact:

- a. Assessment of annual revenue generated from illegal arcade gaming.
- b. Estimation of economic downturn following revenue redirection due to regulatory fines.

Social and Legal Impact:

- a. Forecasting the impact on human trafficking awareness and vulnerable youth assistance.
- b. Assessment of legal implications and regulatory compliance.

Community Engagement:

- a. Stakeholder engagement analysis and public perception regarding the proposed regulations and fund allocation.

Sec. 62-4906. - Effective Date and Compliance.

Effective Date: This ordinance shall take effect within 60 days of its passing.

Compliance Period: Provide a grace period of 90 days for businesses to comply with the prohibition.

Sec. 62-4907. - Reporting and Recommendations.

Summary of Findings: Compilation of key findings from the impact assessment.

Recommendations: Actionable suggestions to maximize positive impacts and alleviate potential negative consequences of the regulatory changes.

Sec. 62-4908. - Incorporation of Impact Estimate.

The impact estimate, comprising economic, social, and legal impacts, shall be considered an integral part of this ordinance.

Sec. 62-4909. - Severability.

Invalidation of any part of this ordinance does not affect the validity of the remainder.

Sec. 62-4910. - Compliance Monitoring and Review.

Establish a framework for ongoing monitoring and periodic reviews to assess the effectiveness of the ordinance and propose amendments if necessary.

Resolution R-202X-XX: Regulation of Illegal Arcade Gaming

Whereas, the County Commissioners of Brevard County recognize the proliferation of illegal arcade gaming machines offering simulated gambling or chance-based gaming activities within the county; and

Whereas, the operation, ownership, or use of such illegal arcade gaming poses significant threats to the health, safety, morals, and general welfare of the community; and

Whereas, it is imperative to implement stringent measures to prohibit and penalize the presence and utilization of illegal arcade gaming machines to safeguard the interests of the residents and uphold lawful gaming practices; and

Whereas, redirecting fines collected from violations towards crucial programs and resources dedicated to combatting human trafficking, supporting vulnerable youth, aiding victims of exploitation, and enhancing law enforcement efforts will contribute to the greater welfare of the community;

Be it Resolved by the County Commissioners of Brevard County:

ORDINANCE NO. XX-XXXX

*AN ORDINANCE ESTABLISHING PENALTIES FOR THE OPERATION OF
ILLEGAL ARCADE GAMING MACHINES WITHIN BREVARD COUNTY*

WHEREAS, it is crucial to regulate the operation and use of illegal arcade gaming machines within Brevard County;

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA:

ORDINANCE NO. XX-XXXX

AN ORDINANCE REGULATING ILLEGAL ARCADE GAMING WITHIN
BREVARD COUNTY, FLORIDA

WHEREAS, The Board of County Commissioners of Brevard
County, Florida recognizes the need to regulate illegal
arcade gaming for the welfare of the public;

BE IT ENACTED BY THE BOARD OF COUNTY COMMISSIONERS OF
BREVARD COUNTY, FLORIDA:

Section 1: Prohibition of Illegal Arcade Gaming

1.1. Prohibition Statement: The operation, ownership, or
use of illegal arcade gaming machines within Brevard
County, Florida, is strictly prohibited.

1.2. Definitions:

a. Illegal Arcade Gaming: Any gaming machines offering
simulated gambling or chance-based gaming activities.

Section 2: Penalties and Fines for Violations

2.1. Fine Structure:

a. First Violation: A fine of \$10,000.

b. Subsequent Violations: Graduated fines, increasing by \$5,000 for each subsequent offense, reaching a maximum fine of \$1,000,000 for 10 or more violations.

2.2. Revenue Allocation:

a. Fines collected from violations shall be directed towards:

- i. **Human Trafficking Awareness and Prevention Programs.**
- ii. **Immediate Recovery Support for Vulnerable Youth.**
- iii. **Support Services for Victims of Exploitation, managed by Life Recaptured.**
- iv. **Operational and Enforcement Resources for Combating Illegal Gaming, allocated to Brevard County Sheriff's Office (BCSO).**

Section 3: Effective Date and Compliance

3.1. Effective Date: This ordinance shall take effect within 60 days of its passing.

3.2. Compliance Period: Businesses are granted a grace period of 90 days to comply with the prohibition.

Section 4: Reporting and Recommendations

4.1. Summary of Findings: Compilation of key findings from the impact assessment.

4.2. Recommendations: Actionable suggestions to maximize positive impacts and alleviate potential negative consequences of the regulatory changes.

Section 5: Severability

5.1. Severability Clause: Invalidation of any part of this ordinance does not affect the validity of the remainder.

Done and adopted in regular session this [Date] day of [Month], [Year].

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA

/s/ [Signature]

[Name], Clerk

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