

**ARTICLE XIV. SWEEPSTAKES PARLORS, INTERNET CAFES,
AND SIMILAR ESTABLISHMENTS**

Sec. 18.285. Findings of the City Council.

The "Whereas" clauses set forth above are incorporated by reference into this ordinance and represent the legislative findings of the Council of the City of Thomasville.

Sec. 18-286. Definitions.

As used within this Ordinance, the following terms, when capitalized, shall have the meanings set forth below:

(1) **Business Entity.** The term "Business Entity" means one or more persons engaging in activities for a profitable or charitable purpose either individually or through the use of any of the following:

- * Company or corporation;
- * General partnership;
- * Joint venture;
- * Limited liability company;
- * Limited liability partnership;
- * Limited partnership;
- * Sole proprietorship;
- * A trust; or,
- * Any other corporate entity similar in nature or function to any of those listed in Subsections 2.1.1 through and including 2.1.8.

(2) **Effective Date.** The term "Effective Date" means August 22, 2011.

(3) **Electronic Machine or Device.** The term "Electronic Machine or Device" means a mechanically, electrically, or electronically operated machine or device, including but not limited to a computer, that is owned, leased, possessed by, or under the control of a Sweepstakes sponsor or promoter, or any of the Sweepstakes sponsor's or promoter's partners, affiliates, parent corporation, brother or sister corporations, subsidiaries, or contractors, that is intended to be used by a Sweepstakes entrant that uses energy and that is capable of displaying information on a screen or other type of display. This Section is applicable to any Electronic Machine or Device whether or not:

- (a) It is server based;

- (b) It uses a simulated game terminal as a representation of the Prize or Prizes associated with results of the sweepstakes entries;
- (c) It utilizes software such that the simulated game influences or determines the winning or value of the Prize to be won or awarded;
- (d) It selects Prizes from a predetermined, finite pool of entries;
- (e) It utilizes a mechanism that reveals the content of a predetermined Sweepstakes entry;
- (f) It pre-determines the Prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;
- (g) It utilizes software to create a game result;
- (h) It requires the deposit of any money, or token, or the use of a credit card, debit card, prepaid card, or any other method of payment to activate the machine or device;
- (i) It requires purchase of a related product or service, which has legitimate value;
- (j) It reveals a Prize incrementally, even though it may not influence if a Prize is awarded or the value of any Prize awarded;
- (k) It determines and associates the Prize with an entry or entries at the time the sweepstakes is entered; and/or
- (l) It is a slot machine or other form of electrical, mechanical, or computer game.

(4) **Enter or Entry.** The terms "Enter" or "Entry" mean the act or process by which a person becomes eligible to receive a Prize in a Sweepstakes.

(5) **Entertaining Display.** The term "Entertaining Display" means visual information, capable of being seen by a Sweepstakes entrant, that takes the form of actual game play, or simulated play, such as the following electronic games:

- (a) A video poker game or any other kind of video playing card game;
- (b) A video bingo game;

- (c) A video craps game;
- (d) A video keno game;
- (e) A video lotto game;
- (f) Eight-liner or any other electronic game that is identical in its operational display or operation to Eight-liner regardless of the name of the game or machine on which it is operated;
- (g) “Pot-of-Gold” or any other electronic game that is identical in its operational display or operation to “Pot-of-Gold” regardless of the name of the game or the machine on which it is operated;
- (h) A video or electronic game based on or involving the random or chance matching of different pictures, words, numbers, or symbols not dependent on the skill or dexterity of the player of the game; or,
- (i) A Gambling Device.

(6) **Gambling Device.** The term "Gambling Device" shall have the same definition as O.C.G.A. 16-12-20(2);

(7) **Internet Cafe.** The term "Internet Cafe" means a place:

- (a) Where one or more persons can:
 - * Connect to the Internet using a publicly accessible computer for free or for the payment of a fee or any other consideration; or,
 - * Connect to the Internet using their own computers by using a wireless connection in their local area networking provided by the owner or operator of the cafe; and,
- (b) Where any food or drinks are served either for free or for a fee for consumption on-site; and,
- (c) Where the principal activities conducted via the Internet include, but are not limited to:
 - * Reading or composing email; or,
 - * Reading or posting to newsgroups; or,
 - * Website surfing; or,
 - * Viewing social networking web sites; or,
 - * Composing or editing documents or spreadsheets; or,
 - * Scanning or printing digital services; or;

* Playing online games for which no payment or consideration is paid to the Internet Cafe owner or operator; and

(d) Which does not run or operate any illegal Sweepstakes; and

(e) Which does not, in addition to providing access to the Internet for a fee or other consideration, also provide the user with a credit or credits to enter or play a game on any of the computers within the Internet Café and which game does not constitute gambling as defined at O.C.G.A. § 16-12-21.

(8) **Prize.** The term "Prize" means any gift, award, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the gift, award, good, service, credit or other item of value is actually transferred to that person, or placed on an account or other record as evidence of the intent to transfer the gift, award, good, service, credit or other item of value.

(9) **Sweepstakes.** The term "Sweepstakes" means any game, advertising scheme or plan, other promotion which, with or without payment of any consideration, a person may Enter to win or become eligible to receive a Prize, when the determination of the receipt of such Prize is based, in whole or in part, on chance.

(10) **Sweepstakes Parlor.** The term "Sweepstakes Parlor" means an establishment that operates or places into operation one or more Electronic Machines or Devices that, upon payment of consideration to the operator of the establishment, and in contravention of Article 2, Gambling and Related Offenses, of Chapter 12, Offenses Against Public Health And Morals, of the Official Code of Georgia Annotated:

(a) Conducts a Sweepstakes through the use of an Entertaining Display, including the Entry process or the reveal of a Prize;

(b) Promotes a Sweepstakes that is conducted through the use of an Entertaining Display, including the Entry process or reveal of a Prize;

(c) Utilizes any devices as defined in paragraphs 2.5 and 2.6, above; or

(d) Is otherwise in contravention of Georgia law.

Sec.18-287. Ban On Certain Activities Associated With Sweepstakes Parlors.

Any business establishment, regardless of the name, characterization, title or other identifying element, which conducts or permits gambling as defined at O.C.G.A. § 16-12-

21 or is otherwise in contravention of Georgia law, is hereby banned and prohibited. Provided further, however, that the ban on the activities set forth in this Article shall not preclude the issuance of a certificate of occupancy and a occupation tax certificate to an Internet Cafe as defined herein. Any person or Business Entity who or which wishes to open a business as an Internet Cafe must provide a signed, notarized statement and submit it to the office of the City Planner of the City of Thomasville which certifies that the business activities of the establishment will not constitute gambling as defined at O.C.G.A. § 16-21-21 and will not otherwise contravene Georgia Law. No occupational tax certificate or certificate of occupancy shall be issued or renewed unless and until this signed, notarized statement is submitted to the office of the City Planner of the City of Thomasville. Should the signed, notarized statement prove to be false, the occupational tax certificate and certificate of occupancy shall be revoked.

Sec. 18-288. Permitted locations.

Internet Cafes shall be permitted only in the following zones: C-2 (CU).

Sec. 18-289. Unlawful operation; declared nuisance.

In addition to the provisions of paragraph 3, above, the City Council for the City of Thomasville declares that any establishment operated, conducted, or maintained contrary to the provisions of this Ordinance is unlawful and constitutes a public nuisance. In addition to or in lieu of prosecuting a criminal action hereunder, the city may seek the commencement of an action or proceeding for the abatement, removal of enjoinderment thereof, all in a manner contemplated by and provided for Title 41 of the Code of the State of Georgia.

Sec. 18-290. Penalties.

(a) It shall be unlawful for any person to violate the terms of this article and any such violation shall be punishable in the Municipal Court of the City as provided in section 4.13 of the Charter of the City.

(b) It shall be unlawful for an operator of an Internet Café to permit any conduct prohibited in this article which the licensee knows or has reasonable cause to know is taking place on the premises. Any such conduct by an operator of an Internet Cafe shall be a violation of this code and shall be punishable in the Municipal Court of the City as provided.

(c) For purposes of interpretation and enforcement of the provisions of this section, this ordinance specifically adopts by reference and incorporates herein the provisions of O.C.G.A. § 16-12-20 through § 16-12-36 and the definitions contained therein, as well as the provisions of the Fair Business Practice Act of 1975, O.C.G.A. § 10-1-390 et seq. In the event of any conflict between a provision or definition contained in the sections of the official code of Georgia adopted herein, the Official Code of Georgia shall control.

Sec. 18.291. On-premise operator required.

An Internet Café shall have a designated person to serve as an on-premises operator. The operator shall be principally in charge of the establishment and shall be located on the premises during all operating hours.

Sec. 18.292. Issuance of occupation tax certificate and certificate of occupancy to persons with prior convictions prohibited.

No occupation tax certificate and certificate of occupancy under this article shall be issued, renewed or transferred to any individual having any interest in the establishment in question, either as owned, partner, operator, principal stock holder, directly or indirectly, beneficial or absolute, who, within the ten (10) year period immediately prior to the filing of the application, has been convicted or who has entered a plea of guilty or nolo contendere to any felony offense. No occupation tax certificate and certificate of occupancy under this article shall be issued, renewed or transferred to any individual who, within the two (2) year period immediately prior to the filing of the application, has been convicted of or who has entered a plea of guilty or nolo contendere to a total of three (3) misdemeanors in any state or municipal court (or in combination), traffic violations excepted, other than D.U.I.

Sec. 18-293. Open to inspection.

Any establishment operating under this article shall at any time that the premises is open to the public for business be open also to inspection by any officer of the police department, any building inspector of the city or fire department inspector of the City.

Sec. 18-294. Consumption; open containers prohibited.

It shall be unlawful for any person owning or operating a place of business operating under this article to permit any person to drink at any time any whiskey, wine, beer or any other alcoholic beverage of any kind or description upon the premises. It shall be unlawful for any person owning or operating a place of business licensed under this article to permit at any time any glass containing any alcoholic beverage, or any opened or unemptied bottle or other open container of any alcoholic beverage to remain in or on the premises of the place of business.

Sec. 18-295. Severability.

Should any phrase, clause, or section of this ordinance be deemed unconstitutional by a court of competent jurisdiction, such determination shall not affect the remaining provisions of this ordinance, which provisions shall remain in full force and effect.