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ORDINANCE NO. 2023-07

AN ORDINANCE OF THE CITY COUNCIL FOR THE CITY OF WESTLAKE, FLORIDA, AMENDING CHAPTER 3 ZONING DISTRICTS AND USES AS SET FORTH IN THE CITY'S CODE OF ORDINANCES; PROVIDING FOR THE CREATION OF SECTION _____ TO BE ENTITLED "ARCADE AMUSEMENT CENTERS AND ELECTRONIC GAMING ESTABLISHMENTS" PROVIDING FOR PURPOSE AND FINDINGS; PROVIDING FOR CODIFICATION, PROVIDING CONFLICTS; PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Westlake has determined that Arcade Amusement Centers and Electronic Gaming Establishments constitute a public nuisance that foster criminal activity such as money laundering, illegal gambling, and armed robbery; and

WHEREAS, the City Council deems approval of this Ordinance to be in the best interests of the health, safety, and welfare of the residents and citizens of the City of Westlake.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY FOR THE CITY OF WESTLAKE, FLORIDA, AS FOLLOWS:

SECTION 1. Recitals. The foregoing recitals are confirmed, adopted and incorporated herein and made a part hereof by this reference.

SECTION 2. The City Council hereby amends Ordinance No. _____ by amending Article _____ by specifically creating Section _____ entitled "Arcade Amusement Centers" and "Electronic Gaming Establishments" to read as follows:

Definitions.

Arcade Amusement Center means a place of business having at least 50 amusement games or machines on premises which is operated for the entertainment of the General public and tourists as bona fine amusement facility, and comply with Chapter 546.10, Florida Statutes, as amended from time to time. This definition shall include those Arcade Amusement Centers which seek to restrict admission to persons eighteen (18) years of age or older.

Electronic Gaming Establishment. Means a business operation, whether a principal use or accessory use, where persons utilize electronic machines or devices, including but not limited to, computers and gaming terminals, to conduct games of chance and/or a game promotion pursuant to Section 849.094, Florida Statutes, including sweepstakes, and where cash, prizes, merchandise or other items of value are redeemed or otherwise distributed, whether or not the value of such redeemed

or distributed items are determined by the electronic games played or by predetermined odds. This term includes, but is not limited to internet cafes, internet sweepstakes cafes, cybercafes or sweepstakes cafes.

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Arcade Amusement Centers. Arcades shall meet the following criteria:

- (1) Must comply with Florida Statutes 546.10, as amended from time to time.
- (2) Any prizes or awards must be provided with on-site merchandise only, and shall not include cash, gift cards, or alcoholic beverages.
- (3) There shall be no sale or consumption of alcoholic beverages on the premises.
- (4) Parking requirements must be demonstrated in the Conditional Use application, including any locations within an existing building or shopping plaza. The requirements must be demonstrated with a survey of the parking lot indicating individual parking spaces and the applicant must provide the total square footage of the building the arcade will be occupying and the total number of machines or games to be located on the premises. If the arcade is applying to locate in an existing shopping plaza, the applicant must provide the total number of parking spaces in the plaza, the total square footage of each store space within the plaza, the total number of machines or games to be located on the premises and the types of uses that occupy each store space.
- (5) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the City of Westlake Comprehensive Plan and Future Land Use Map.
- (6) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line of any school. Any school that is located in the future within the above distance shall execute a waiver of the distance restriction if an existing arcade amusement center already is in existence.
- (7) No two facilities, operating pursuant to this section or section Electronic Gaming Establishment, shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both Arcade amusement center and Electronic Gaming Establishment in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing comingling of usage, and do not otherwise violate the provisions of Chapter 849, Florida Statutes, or any regulation of the state.
- (8) The business location shall operate under the following management plan:
 - (i) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the City Manager or designee the number of machines being operated within the facility; and
 - (ii) The business shall not operate in violation of county, state or federal law.
- (9) The business shall not operate between the hours of 10:00 p.m. and 9:00 a.m. daily.
- (10) In the event an Arcade Amusement Center is operating in a dual-capacity under Electronic Gaming Establishment section, patrons utilizing sweepstakes computers shall be made aware of the rules of the sweepstakes, as required by State Law or the regulation of any appropriate state agency, and shall otherwise comply with the laws

and regulations of the state in regard to such sweepstakes gaming.

46 (11) The consumption, possession, dispensation, or sale of alcohol and shall be prohibited.

47 (12) Any other business activity shall be prohibited.

48 **Electronic Gaming Establishment.** A conditional use may be granted under the following conditions:

49 (1) The facility shall be located no less than one hundred (100) feet, measured from the outer wall of the facility to the closest property line, of any residentially zoned land, as well as any land designated as recreation and open space use by the City of Westlake Comprehensive Plan Future Land Use Map.

50 (2) The facility shall be located no less than one thousand (1,000) feet, measured from the outer wall of the facility to the closest property line, of any school. Any school that is located in the future within the above restricted distance shall execute a waiver of the distance restriction.

51 (3) No two facilities, operating pursuant to this section or Arcade Amusement Center shall be located closer than five hundred (500) feet from one another, measured from the closest outer wall of each facility. Nothing in this section shall be construed as to prevent a business from operating under both section Arcade Amusement Center and section Electronic Gaming Establishment in the same facility without the need for additional approval, provided the machines and business operations are kept separate and apart from one another, preventing comingling of usage, and do not otherwise violate the provisions of Chapter 849, Florida Statutes, or any regulation of the state.

52 (4) If the facility is placed within a freestanding building the site must contain a parking ratio of one parking space per two (2) game machines, regardless of whether the building is new or existing.

53 (5) If the facility is located in a shopping center, or other building with shared parking, it shall not utilize more than ten percent (10%) of the overall parking, based upon the ratio above.

54 (6) The number of devices within the facility shall be governed by the Land Development Regulations of the City of Westlake as well as Florida Statutes and laws.

55 (7) The consumption, possession, dispensation, or sale of alcohol, shall be prohibited.

56 (8) The business location shall operate under the following management plan:

57 (i) Upon initially opening and on June 1 of each calendar year thereafter, the business shall report to the City Manager or designee the number of machines being operated within the facility; and

58 (ii) The business shall not operate in violation of county, state or federal law.

59 (9) The business shall not operate between the hours of 10:00 p.m. and 9:00 a.m. daily.

60 (10) All patrons of the business shall be made aware that they are participating in a computer-based sweepstakes, including the rules of the sweepstakes, as required by State Law or the regulation of any appropriate state agency.

61 (11) Each applicant for Conditional Use shall show proof of permit or license to operate a game promotion or sweepstakes from the Department of Agriculture and Consumer Services and other applicable State or Federal permits and that the

electronic game promotion software;

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1. Operates only games with a preconfigured finite pool of entries;

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2. Provides an entrant with the ability to participate in the absence of a purchase;

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3. Does not distinguish an entrant who has made a purchase from one who has not, with respect to all advertised prizes; and uses video displays that do not determine the result.

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(12) Each applicant shall provide proof that it has established a trust account in accordance with Chapter 849.094 Florida Statutes.

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(13) A conditional use shall not be construed to authorize any game or machine that may be construed as a gambling device under Florida law.

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TABLE 3-20: PERMITTED USES

(Excludes PDs)

USE	R-1	R-2	CV	MU	TC	OSR	MD
Multi-family dwellings		p		p	p		
Assisted living facilities		C		p	p		p
Foster care facilities and group homes		C					
Religious Uses:							
Religious Uses	C	C	p	p			p
Educational Uses:							
Public or Private Primary and Secondary Schools			p	p			
Vocational and Technical Schools			p	p			p
Colleges and Universities			p	p			
Child or Adult Care Center	C	C	p	p			p
Recreational Uses:							
Neighborhood Parks	C	p	p	p		p	
Community Parks			p	p		p	
Amenity Center	p	p		p			
Commercial recreation uses				p		p	
Outdoor amphitheaters				p	p		
Stadiums, Arenas, and Sports Complexes			p	p		p	

USE	R-1	R-2	CV	MU	TC	OSR	MD
Golf Courses	C	C				P	
Conservation Uses:							
Conservation uses	P	P	P	P		P	
Civic Uses:							
Civic uses (see definition in Chapter 1)			P	P		P	
Commercial Uses:							
Retail Sales or Service				P	P		
Athletic Training Facility				P			
Neighborhood Center	P	P					
Hotels, motels, other accommodation services				P	P		
Motor vehicle repair and/or service establishments, gasoline stations, and car washes.				P			
Bars and Night Clubs include those with live entertainment open to the general public				P	P		
Bowling Alleys, Billiards, Miniature Golf, and similar indoor or outdoor recreational facilities				P	P		
Museums, Art Gallery, Auditorium, theatres				P	P		

USE	R-1	R-2	CV	MU	TC	OSR	MD
including open air theaters and cinemas, and similar cultural uses.							
Funeral Homes, Crematorium, Mausoleum, Death care services				p			
Office				p	p		p
Veterinary (including indoor overnight stays only for patients that require overnight care as a result of a medical procedure)				p	p		
Overnight Kennel, including kennels ancillary to veterinary services				c			
Food Service, Restaurants, and cafes, including those with live entertainment (but excluding those with drive through service)				p	p		p
Restaurants and cafes with drive through service				p	p		
Mobile food services				p	p		p

USE	R-1	R-2	CV	MU	TC	OSR	MD
Microbreweries or Craft Brewery (Beer & Cider)				p	p		
Craft Distillery (Spirits)				p	p		
Self-Storage Facility				p			
Sexually oriented business				C			
Pawn Shop				p	p		
Tattoo Shop				p	p		
Liquor Store				p	p		
Massage Establishment				C			
<u>Arcade Amusement Center</u>				<u>C</u>			
<u>Electronic Gaming Establishment</u>				<u>C</u>			
Auto Sales				p	p		
Outdoor Shooting Range							
Medical Uses:¹							
Hospital							p
Pharmacy and Dispensary				p	p		p
Medical or Dental Office				p	p		p
Behavioral Health Center							p
Inpatient Rehabilitation Center							p
Free Standing Emergency Department							p
Medical marijuana dispensary							p
Emergency Department (Linked to Hospital)							p
Child Birth Center							p

USE	R-1	R-2	CV	MU	TC	OSR	MD
Surgical Facilities (excluding in-office dental and eye surgical facilities)							p
Cardiac Catheterization Laboratory							p
Chemotherapy and Radiation/Cancer Center Treatment							p
Medical Infusion Center							p
Hyperbaric Oxygen and Wound Care Treatment Facility							p
Imaging, Diagnostic, Therapeutic, and Laboratory Services							p
Proton Center							p
Urgent Care Center							p
Hospitality House for Patients (and/or Patients' Families)				p	p		p
Light Industrial Uses							
Light industrial uses				p			
Other Uses:							
Institutional uses not otherwise listed in this table				p			p
Jail or Detention Center Not Owned by City of Westlake							

USE	R-1	R-2	CV	MU	TC	OSR	MD
Agricultural uses (FLU Policy 1.2.2)			C			C	
Essential facilities and services	p	p	p	p	p	p	p
Utilities	p	p	p	p	p	p	p
Wireless communication facility			C	C	C	C	
Helipad and Helistop				p			p
Parking Structures		p	p	p	p	p	p
Accessory Uses	p	p	p	p	p	p	p
Key: P = Permitted Use C = Conditional Use 1. Uses that are incidental and ancillary to a permitted medical use, such as in house imaging or laboratory services, are permitted as part of and in the same location as the permitted medical use, even where such incidental or ancillary services would not be permitted as a standalone use.							

7 **SECTION 3. Codification.** It is the intention of the City Council of the City of
8 Westlake that the provisions of this Ordinance shall become and be made a part of the Code
9 of Ordinances of the City of Westlake, Florida, and that the Sections of this Ordinance may
10 be renumbered, re-lettered and the word "Ordinance" may be changed to "Section,"
11 "Article" or such other word or phrase in order to accomplish such intention.

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13 **SECTION 4. Conflicts.** All ordinances or parts of ordinances, resolutions or
14 parts of resolutions which are in conflict herewith, are hereby repealed to the extent of
15 such conflict.

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17 **SECTION 5. Severability.** Should the provisions of this ordinance be declared to be
18 severable and if any section, sentence, clause or phrase of this ordinance shall for any
19 reason be held to be invalid or unconstitutional, such decision shall not affect the validity
20 of the remaining sections, sentences, clauses, and phrases of this ordinance but they shall
21 remain in effect, it being the legislative intent that this ordinance shall remain
22 notwithstanding the invalidity of any part.

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24 **SECTION 6. Effective Date.** This ordinance shall be effective upon adoption on
25 second reading.

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27 **PASSED** this 5th day of December, 2023, on first reading.

28 **PUBLISHED** on this 15th day of December, 2023 in the Palm Beach Post.

29 **PASSED AND ADOPTED** this 8th day of January, 2024, on second reading.

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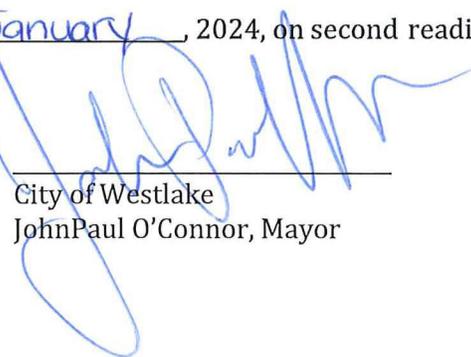
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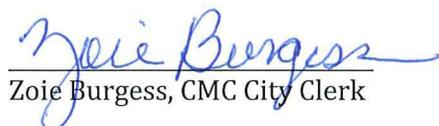
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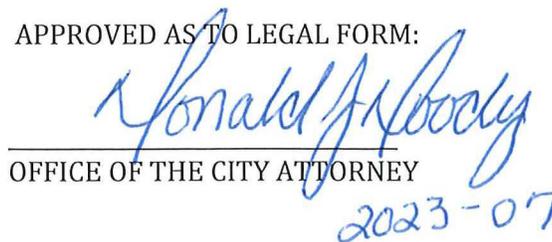
City of Westlake
John Paul O'Connor, Mayor

ATTEST:



Zoie Burgess, CMC City Clerk

APPROVED AS TO LEGAL FORM:



OFFICE OF THE CITY ATTORNEY
2023-07