

ELECTRONIC GAMING OPERATIONS

Enactment: An ordinance establishing regulations for electronic gaming operations within the county of Greene, North Carolina and providing for the administration, enforcement, and amendment thereof, in accordance with the provisions of North Carolina GS 153-A Article 18.

Preamble: WHEREAS, in order to promote the health, safety, morals, and general welfare of the inhabitants of, and visitors to, the County of Greene, North Carolina; it is necessary to adopt an Electronic Gaming Operations Ordinance for Greene County, as hereinafter set forth, to regulate the operation of electronic gaming operations so as to provide for desirable neighborhoods and safe shopping areas and to establish uniform regulations for such electronic gaming operations.

Now, therefore, be it ordained by the County of Greene, North Carolina, as follows:

ARTICLE I. REQUIREMENTS FOR ELECTRONIC GAMING OPERATIONS

Section 1 Authority and enactment.

- A. **Authority.** The provisions of this ordinance are adopted under the authority granted by the General Assembly of North Carolina, General Statute 153A-121 and 153A-340 through 153A-349 inclusive.
- B. **Jurisdiction.** The regulations set forth in this ordinance shall be applicable within all unincorporated areas of Greene County not under the planning and regulatory jurisdiction of a municipality.
- C. **Title.** This ordinance shall be known as, referred to, and cited as the "Greene County Electronic Gaming Operations Ordinance", and hereinafter referred to as the "ordinance".
- D. **Effective date.** This ordinance was adopted by the Greene County Board of County Commissioners on the 20th day of August, 2012.
- E. **Interpretation.** In interpreting and applying the provisions of this ordinance, those provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this ordinance to interfere with or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that where this ordinance imposes a greater restriction upon electronic gaming operations than are imposed or required by other ordinances, rules, regulations, or by easements, covenants, or agreements, the provisions of this ordinance shall govern. Likewise, where other ordinances, easements, covenants, or other agreements impose additional or greater restrictions than those regulations set forth herein, the more restrictive regulations shall have precedence.

Section 2 General provisions.

- A. **Relationship to Comprehensive Plan.** It is the intention of the board of commissioners that this chapter implements the planning policies adopted by the Board of Commissioners for the county, as reflected in the Comprehensive Plan and other planning documents. While the board of commissioners reaffirms its commitment that this chapter and any amendment to it be in conformity with adopted planning policies, the board hereby expresses its intent that neither this chapter nor any amendment to it may be challenged on the basis of any alleged non-conformity with any planning document.
- B. **Conformance with this ordinance.** No electronic gaming operation shall be established as a new operation or continue as an on-going operation, except in conformity with this ordinance.
- C. **Fees.** Reasonable fees sufficient to cover the costs of administration, inspection, publication of notice and similar matters may be charged to applicants for permits, variances, and other administrative relief as may be required by this ordinance. The amount of the fees charged shall be as set forth in the county's budget or as established by resolution of the board of commissioners filed in the office of the clerk to Board of Commissioners. Fees established in accordance with this subsection shall be paid upon submission of a signed application or notice of appeal.
- D. **Severability.** It is hereby declared to be the intention of the board of commissioners that the sections, paragraphs, sentences, clauses, and phrases of this ordinance are severable, and if any such section, paragraph, sentence, clause, or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, paragraphs, sentences, clauses, or phrases of this ordinance since the same would have been enacted without the incorporation into this ordinance of such unconstitutional or invalid section, paragraph, sentence, clause, or phrase.

Section 3 Definitions.

- A. **General.** For the purpose of interpreting this ordinance, certain words and terms used are defined in this section. Except as defined in this section, all other words used in this ordinance shall have their standard dictionary definition. For general interpretation, the following shall apply in all uses and cases in this ordinance:
1. The present tense includes the future tense, and the future tense includes the present tense.
 2. The singular number includes the plural number, and the plural number includes the singular number.
 3. The word "may" is permissive, and the word "shall" is mandatory.
 4. The word "person" includes a firm, association, operation, partnership, trust, company or corporation, as well as an individual.
 5. The words "used" or "occupied" include the words "intended, designed, or arranged to be used or occupied."
 6. Words imparting the masculine gender include the feminine and neuter.

B. **Word and term definitions.**

Accessory use: A subordinate use, clearly incidental and related to the principal structure or use of land, and located on the same parcel of property or manufactured home or recreational vehicle park space as that of the principal structure or use, except for accessory parking facilities located elsewhere. If a parcel is used for any residential, principal, or permitted use, it is not an accessory use.

Advertising display area: The advertising display surface area encompassed within any polygon that would enclose all parts of the sign by one continuous line, connecting the extreme points or edges of a sign, and using the largest sign area or silhouette visible at any one time from any one point. The structural supports for a sign, whether they be columns, pylons, or a building, or a part thereof, shall not be included in the advertising area but all other ornamental attachments, inner connecting links, etc., that are not a part of the main supports of the sign are to be included in determining sign area.

Appeal: A request for a review of an interpretation of any provision of this Ordinance or a request for a review of a decision by the Planning Director (or designee), Planning Board or Board of County Commissioners.

Board of County Commissioners: The Board of County Commissioners of Greene County, North Carolina.

Business enterprise: An operation, facility, and/or area where items are sold and/or services are rendered, whether for profit or not.

Business unit: An operation, facility, and/or area where business activities take place under one ownership. A structure might contain multiple business units, if each is under separate ownership.

Certificate of Occupancy: A certificate issued by the Building Inspector or designee that declares that a building, structure, or lot may lawfully be employed for specific uses. Such structure(s) and use(s) shall conform fully to the provisions of all Ordinances, including all Building Codes.

Church: A structure in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

Day-care: Includes any child-care arrangement except seasonal recreational programs operated for less than four consecutive months in a year, wherein three or more children less than 13 years of age receive care away from their own home by persons other than their parents, grandparents, aunts, uncles, brothers, sisters, first cousins, guardians or full-time custodians, or in the child's own home where other unrelated children are in care.

Day-care center, adult: An agency, organization, or individual providing daytime care to adults not related by blood or marriage, or not the legal wards of the attendant adult at any place other than an occupied dwelling.

Day care center, adult-family: A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than 6 (six) adults at one time who are not related by blood or marriage.

Day-care facility: Any day-care center or child-care arrangement that provides day-care for more than five children, not including the operator's own school-aged children, under the age of 13, on a regular basis of at least once per week for more than four hours but less than 24 hours per day, regardless of the time of day and regardless of whether the same or different children attend. The following are not included: public schools; non-public schools whether or not accredited by the State Department of Public Instruction, that regularly and exclusively provide a course of grade school instruction to children who are of public school age;

summer camps having children in full time residence; bible schools conducted during vacation periods; facilities under Article 2 of Chapter 122C of the General Statutes; and cooperative arrangements among parents to provide care for their own children as a convenience, rather than for employment.

Development Permit: A permit issued by the Planning Director or designee that certifies that plans for a proposed structure, building, use, or lot conform to the provisions of all non-Building Code ordinances.

Electronic gaming operation: A business enterprise, whether principal or accessory, where persons utilize electronic machines or devices, including but not limited to computers and gaming terminals, to conduct games of odds or chance, including sweepstakes, and where cash, merchandise, or other items of value are redeemed or otherwise distributed, whether or not the value of such distribution is determined by electronic games played or by predetermined odds. Specifically excluded from this definition is any lottery approved by the State of North Carolina.

It is the activity that defines an electronic gaming operation, not the name; so an internet café, cybercafé, cyber sweepstakes, video arcade, game room, etc. might or might not be an electronic gaming operation. That is, there could be 2 businesses with the same kind of name (say, 2 video arcades or 2 internet cafés), and one might qualify as an electronic gaming operation and the other might not, based upon the actual activity within the business itself.

Electronic machine or device: A mechanically-, electrically-, or electronically-operated machine or device, that is owned, leased, or otherwise possessed by a sweepstakes sponsor or promoter, or any of the sweepstakes sponsor's or promoter's partners, affiliates, 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 mechanism. This section is applicable to an electronic machine or device whether or not:

1. It is server-based.
2. It uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries.
3. It utilizes software such that the simulated game influences or determines the winning or value of the prize.
4. It selects prizes from a predetermined finite pool of entries.
5. It utilizes a mechanism that reveals the content of a predetermined sweepstakes entry.
6. It predetermines the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed.
7. It utilizes software to create a game result.
8. It requires deposit of any money, coin, or token, or the use of any credit card, debit card, prepaid card, or any other method of payment to activate the electronic machine or device.
9. It requires direct payment into the electronic machine or device, or remote activation of the electronic machine or device.
10. It requires purchase of a related product.
11. The related product, if any, has legitimate value.
12. It reveals the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded.
13. It determines and associates the prize with an entry or entries at the time the sweepstakes is entered.
14. It is a slot machine or other form of electrical, mechanical, or computer game.

Enforcement officer. The Greene County Manger or designee.

Enter or entry: The act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.

Entertaining display: Visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play, or simulated game play, such as, by way of illustration and not exclusion:

1. A video poker game or any other kind of video playing card game.
2. A video bingo game.
3. A video craps game.
4. A video keno game.
5. A video lotto game.
6. Eight liner.
7. Pot-of-gold.
8. A video 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.

9. Any other video game not dependent on skill or dexterity that is played while revealing a prize as the result of an entry into a sweepstakes.

Library: A library can be in a room, set of rooms, or a building. A library contains books, periodicals, and other material for reading, viewing, listening, study, reference, and/or borrowing but not including a book store, newsstand, and the like where the primary activity is the selling, rather than the lending, of the items.

Lot: Land area of defined boundaries in single ownership, set aside for separate use or occupancy, and recorded as such in the office of the Greene County Register of Deeds. The word "lot" includes "parcel", "plot", or "tract".

Lot line: Any boundary of a parcel of land.

Non-conforming Structure: A building or structure that lawfully existed prior to the initial adoption of this Ordinance or any subsequent amendments that is not in compliance with this Ordinance.

Non-conforming use: The use of a building, structure, or lot for a purpose that does not conform to the regulations of this ordinance, either at the effective date of this ordinance or as a result of subsequent amendments which may be incorporated in this ordinance.

Off-street parking space: A marked or otherwise identified parking space that is located outside the public right-of-way or private road easement and is suitable to accommodate one automobile, plus the necessary access space.

Park: Any public or private land or combination of land and water resources available for recreational, educational, cultural, or aesthetic use. A park is predominantly comprised of open space areas that are used for passive recreation activities and/or educational, cultural, or aesthetic uses. A park may contain a mix of passive and active areas but must be primarily passive to be a park. Ball fields are often a part of a park but a ball field by itself is not a park.

Permitted use: A principal use, other than a special use, that is approved administratively when it complies with the standards and requirements set forth in this ordinance. Also known as a use permitted by right.

Place of worship: A structure or other indoor or outdoor facility used for public worship. The term "place of worship" includes the words "church", "chapel", "synagogue", "mosque", and "temple" and their uses and activities that are customarily related.

Planning Board: The Greene County planning board.

Planning Department: County of Greene department consisting of the planning staff.

Prize: Any gift, award, gratuity, good, service, credit, or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.

Public or private school: A facility that provides instruction and training, often in a wide variety of subjects. Some are establishments that are highly specialized, offering instruction in a very limited subject matter, such as ski lessons, real estate license course, or one specific computer software package. This instruction and training is most often provided by specialized establishments, such as schools, colleges, universities, and training centers. These might be establishments that are privately-owned and -operated for profit or not for profit, or they may be publicly-owned and -operated.

Public park: A park owned and/or operated by a governmental agency.

Sign: Any device, letter, numeral, figure, character, mark, plane, point, marquee sign, design, poster, pictorial, picture, stroke, stripe, line, trademark, reading matter or illuminated surface, that is so constructed, placed, attached, painted, erected, fastened, or manufactured in any manner, whatsoever, so that the same is used for the attraction of the public to any place, subject, person, firm, corporation, public performance, article, machine, or merchandise, whatsoever, that are displayed in any manner whatsoever, including out-of-doors, and are visible from any public way. Also included are any card, cloth, glass, metal, painted, paper, plastic, wooden, or other configuration of any character placed in or on the ground or any tree, wall, bush, rock, fence, pavement, building, structure, or thing, for the purpose of advertising, announcing, declaring, demonstrating or displaying information about a specific business, occupant use, activity, or building, including clocks, barber poles and similar devices. This shall exclude official notices issued by a court or public officer.

Street or road: The all-weather travelway within a public or private right-of-way or easement that is set aside for public or private travel and provides access to abutting properties, and has been accepted for maintenance by the State of North Carolina, has been established as a public or private street prior to the date of adoption of this ordinance, has been dedicated to the State of North Carolina for public travel by the recording of a plat of an approved subdivision, or has been approved as a private street by Greene County.

Sweepstakes: Any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.

Use: The purpose for which land or a structure is designed, arranged, and/or intended to be occupied or utilized or for which the land or structure is occupied, maintained, rented, or leased.

Use, accessory: A subordinate use, clearly incidental and related to the principal structure or use of land, and located on the same parcel of property or manufactured home or recreational vehicle park space as that of the principal structure or use, except for accessory parking facilities located elsewhere. If a parcel is used for any residential, principal, or permitted use, it is not an accessory use.

Use-by-right: A use which is listed as an unconditionally permitted activity in this ordinance.

Use, non-conforming: The use of a building, structure, or lot for a purpose that does not conform to the regulations of this ordinance, either at the effective date of this ordinance or as a result of subsequent amendments which may be incorporated in this ordinance.

Variance: A grant of relief from the requirements of this Ordinance.

Wall: A structure, other than a building, that is a barrier and is used as a boundary, screening, or means of protection or confinement. A wall functions like a fence but is usually thicker than 6 inches

Section 4 Development requirements for an electronic gaming operation as an accessory use.

If only 2 (two) machines/terminals/computers are to be installed per business unit, the proposed electronic gaming operations shall be permitted as an accessory use to a commercial operation that is permitted by right in the Community Shopping, Village, Airport, Light Industry, Heavy Industry Zoning Districts or Height districts, as well as in all commercial operations in unzoned areas, when the following standards are applied:

- A. The operation is located within the same structure or unit as the principal use.
- B. For situations in which there is a business center, multi-unit building, or multi-tenant commercial building and more than one unit wishes to include electronic gaming operations, the cumulative total number of machines may not exceed 10 (ten) for such a business center, multi-unit building, or multi-tenant commercial building.
- C. Off-Street Parking shall include 1 (one) additional space per machine over and above the normal parking standards for the uses. In addition, whether in a zoned or unzoned area, all parking must comply with the off-street parking provisions of the Zoning Ordinance. If pervious pavement is used, this requirement may be reduced by 25% (twenty-five percent).
- D. All legally-operating gaming operations made non-conforming by adoption of this section shall be removed or brought into compliance with these provisions within 12 (twelve) months of the date of adoption of this section.

Section 5 Development requirements for an electronic gaming operation as a permitted use.

An electronic gaming operation is allowed as a permitted use in Community Shopping, Light Industry Districts, or Height districts as well as in all commercial operations in unzoned areas. This use will not be allowed as a permitted use in Village District. If this requirement is met, the proposed electronic gaming operation shall be subject to the following standards, in addition to any requirements of any other County ordinance that might apply:

- A. **Hours of operation.** Limited to 8 a.m. through 11:00 pm, seven days per week.
- B. **Alcohol sales or consumption.** Prohibited.
- C. **Food or beverage service or distribution.** Shall meet the requirements of the Greene County Health Department, including any and all permits and licenses.
- D. **Occupancy limit.** Shall be set by the Fire Marshal for the establishment prior to submission of the electronic gaming operations permit application.
- E. **Maximum daily cash payout.** Shall not exceed \$600 (six hundred dollars). Winnings that exceed this amount shall be paid out in the form of a check or credit. All establishments engaged in internet and sweepstakes operations must comply with all reporting requirements regulated by the Internal Revenue Service.
- F. **Off-Street Parking.** 1 (one) space for every terminal/computer plus one per employee shall be provided. In addition, whether in a zoned or unzoned area, all parking must comply with the off-street parking provisions of the Zoning Ordinance. If pervious pavement is used, this requirement may be reduced by 25% (twenty-five percent). A driveway permit will be needed from NC Department of Transportation for any stand alone buildings.

- G. **Location.** Electronic gaming operations shall be located a minimum distance of 1000 (one thousand) feet, measured in a straight line in any direction from closest point of the building and parking lot of the proposed business to the property line of any of the following:
1. A residence or a residential district.
 2. A place of worship or other religious institution.
 3. A day care center or facility, public school, and/or private school.
 4. A Public park, playground, and/or library.
 5. Another electronic gaming operation.
 6. An adult entertainment establishment as regulated by the County of Greene.

Electronic gaming operations may be within 1000 feet of a residence if only one residence is within a 1000 foot radius of the electronic gaming operation site and the owner of the residence signs an approval agreement. The approval agreement shall be recorded with the Greene County Register of Deeds.

Each applicant shall submit a current, straight-line drawing depicting the straight-line measurements to each use listed above (1-6) that is within 1200 (one thousand two hundred) feet. Such uses shall be considered existing or established if they are in place or actively under construction at the time an application is submitted.

For zoned areas, residential districts shall be based upon the most current official zoning map. For an unzoned area, whether or not it is a residential district shall be as determined by the Planning Director or designee.

- H. **Sewage disposal.** The health department shall test the lot for adequate sewage disposal characteristics. If the lot meets minimum requirements, the health department shall submit an improvements permit and construction authorization to the planning and development department.

Section 6 Certificate of occupancy and Development permit required for new electronic gaming operations

- A. It shall be unlawful for any person to maintain or operate an electronic gaming operation after the adoption of this ordinance, unless such person shall first obtain a certificate of occupancy.
- B. It shall be unlawful for any person to establish, alter, or make any additions to any electronic gaming operation until a building permit and a certificate of codes compliance have been issued.
- C. The Greene County Planning Department may, after due notice, subject to the right of appeal, suspend or revoke the development permit for failure to maintain an electronic gaming operation in compliance with the provisions of this ordinance.
- D. All electronic gaming operations existing on the effective date of this ordinance cannot expand unless such expansions comply with all applicable procedures and requirements of this ordinance and all required permits of this and any other county ordinance have been obtained.

Section 7 Procedure for obtaining certificate of occupancy

- A. The applicant shall apply for an electronic gaming operations permit at the planning department.
- B. The application shall describe how the proposed electronic gaming operation will be in compliance with this ordinance, if a certificate of occupancy is issued. The application shall include at least the following information plus any additional information deemed appropriate by the County Manager or designee:
 1. A location map showing the location of the electronic gaming operation in relation to the surrounding area within a 1 (one) mile radius, including the date, scale, and approximate North arrow.
 2. The name of the electronic gaming operation plus the name(s) and address(es) of the owner(s).
 3. The proposed number and type of machines/terminals/computers.
 4. Location and size of proposed signs.
- C. Once all requirements have been met, a certificate of occupancy shall be issued which shall permit the electronic gaming establishment to operate in compliance with its electronic gaming operations permit and this ordinance.

Section 8 Annual inspection of electronic gaming operations

- A. The Building Inspector and the County Health Department may conduct as many inspections of an electronic gaming operation as are deemed necessary to insure the maintenance of the applicable standards.
- B. The operator of an electronic gaming operation shall pay an annual inspection fee, which fee shall be payable initially upon application for the certificate of occupancy. As long as the electronic gaming operation remains in operation, the fee shall be paid yearly.
- C. The certificate of occupancy for an electronic gaming operation may be revoked if the annual inspection fee is not paid or if the operator prevents the annual inspection from being carried out.

Section 9 Variances by the Greene County Board of Commissioners

The Greene County Board of Commissioners may grant variances to the dimensional requirements of this ordinance, as will not be contrary to the public interests, where owing to special conditions, a literal enforcement of the provisions of these sections will, in an individual case, result in practical difficulty or unnecessary hardship so that the spirit of this ordinance shall be observed, public safety, and welfare secured and substantial justice done.

No variance may be issued until after a public hearing has been held on the request.

The total amount of time allowed for the supporters or the opponents of a petition to present arguments at the hearing shall be determined at the time of public hearing. At the hearing, the presiding officer of the hearing will decide whether to grant all or part of the request for additional time.

In cases involving a controversial matter and a large number of persons wish to speak at the public hearing in favor of or against a request, the planning department reserves the right to require those persons to sign up in advance of the public hearing in order to facilitate and organize the speakers. Persons who do not register to speak in advance shall be allowed that right at the public hearing. If such a requirement for pre-registration is necessary, the advertised public hearing notice shall clearly indicate this requirement.

Such variance may be granted in such individual case of unnecessary hardship upon a finding by the Board of Commissioners that the following conditions exist:

- A. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other lands or structures having a similar use.
- B. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other property owners or residents with a similar use.
- C. A literal interpretation of the provisions of this ordinance would deprive the applicant of the rights commonly enjoyed by other property owners or residents of the area in which the property is located.
- D. The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
- E. The special circumstances are not the results of the actions of the applicant.
- F. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.

Section 10 Appeals to the Greene County Board of Commissioners

The Greene County Board of Commissioners shall hear and decide appeals from and review any order, requirement, decision, or determination made by the enforcement officer or designee. The Greene County Board of Commissioners may overturn such order, requirement, decision, or determination where it will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this ordinance will, in an individual case, result in practical difficulty or unnecessary hardship so that the spirit of the ordinance shall be observed, the public safety and welfare secured and substantial justice done.

No order, requirement, decision, or determination may be reversed or affirmed until after a public hearing has been held on the request. The total amount of time allowed for the supporters or the opponents of a petition to present arguments at the hearing shall be determined at the time of public hearing. At the hearing, the presiding officer of the hearing will decide whether to grant all or part of the request for additional time.

In cases involving a controversial matter and a large number of persons wish to speak at the public hearing in favor of or against a request, the planning department reserves the right to require those persons to sign up in advance of the public hearing in order to facilitate and organize the speakers. Persons who do not register to speak in advance shall be allowed that right at the public hearing. If such a requirement for pre-registration is necessary, the advertised public hearing notice shall clearly indicate this requirement. Anyone who speaks or presents evidence shall be under oath.

Any person or persons aggrieved by a decision of the board may appeal the decision of the Board of Commissioners to the Superior Court of North Carolina within 30 (thirty) days after a written and signed copy of the decision is filed in the planning department. Any aggrieved party may submit a written request for the decision at the time of the hearing. The venue for the appeal shall be in Greene County North Carolina.

Section 11 Existing non-conforming electronic gaming operations

- A. **Continuation of nonconforming use.** All legally-operating gaming operations made non-conforming by adoption of this section shall be removed or brought into compliance with these provisions within 12 (twelve) months of the date of adoption of this section.

Any increase in area, height, and/or volume shall be considered an expansion or enlargement that must meet the current ordinance. If the value of the proposed expansion or enlargement would exceed 50% (fifty percent) of the value of the original electronic gaming operation, the operation shall lose its non-conforming status and must comply with all aspects of this ordinance. Value shall be determined by the current ad valorem tax value.

- B. **Abandonment.** If a non-conforming electronic gaming operation is abandoned for a period of 180 (one hundred eighty) days, the land and/or structure so formerly utilized must thereafter be used in conformity with all existing ordinances within Greene County.

A non-conforming electronic gaming operation that is superseded by any other use (permitted or not) shall not thereafter be reinstated unless and until it is brought into conformity with this ordinance. When a non-conforming use is ceased, such use shall not be resumed.

- C. **Projects under construction prior to non-conforming use status.** No provision of this ordinance shall be construed to require a change in plans, construction, or designated use of an electronic gaming operation in which actual construction or placement activities as a result of acquisition of a county permit were lawfully begun prior to the effective date of this ordinance.
- D. **Necessary repairs permitted.** Nothing in this ordinance shall prevent the strengthening or restoration of a safe and lawful condition of electronic gaming operation declared unsafe or unlawful by a duly authorized county official.

Section 12 Amendments

This ordinance may from time to time be amended, supplemented, changed, modified, or repealed by the Greene County Board of Commissioners according to the following procedure:

The board of county commissioners on its own motion or by petition may amend, supplement, change, or repeal the regulations established by this ordinance. Any such amendment will be adopted only after public notice and public hearing as required by general law.

- A. **Petition for amendment.** Petitions for an amendment to this ordinance must be filed in the office of the County Manager. An official application form shall be obtained and returned to the planning department no later than four weeks prior to the date of the planning board meeting for which the petition is slated. The filing fee shall be in accordance with the planning department fee schedule and must accompany the application form.
- B. **Withdrawal/suspension of petitions.** Petition for amendment to the ordinance may be withdrawn or suspended by the petitioner at any time up to and including 10 days prior to the hearing date. After that time, requests to withdraw or suspend a petition must be filed with the clerk to the board of county commissioners and, on the day of the hearing, the commissioners will decide if the withdrawal/suspension will be allowed.
 - 1. If the request for a suspension is granted, the petitioner shall incur all costs associated with the readvertisement of the public hearing. If a petition is withdrawn, any reapplication shall be treated as a new petition and all required fees shall be paid.
 - 2. The petitioner will not be allowed to amend or change the petition after the board of county commissioners authorizes a public hearing to hear the request.
- C. **Public hearing.** No amendment of the ordinance may be adopted until after a public hearing has been held on the petition.
 - 1. The total amount of time allowed for the supporters or the opponents of a petition to provide verbal comments shall be determined at public hearing. At the hearing, the presiding officer of the hearing will decide whether to grant all or part of any request for additional time.
 - 2. In cases involving a controversial matter and a large number of persons wishing to speak at the public hearing in favor of or against a request, the planning department reserves the right to require those persons to sign up in advance of the public hearing in order to facilitate and organize the speakers. Persons who do not register to speak in advance shall be allowed that right at the public hearing. If such a requirement for pre-registration is necessary, the advertised public hearing notice shall clearly indicate this requirement.
- D. **Recommendation of the planning board** No proposal to amend this ordinance will be approved unless it is first submitted to the planning board for its recommendations. The planning board must take action on the amendment within 45 days after the petition has been referred to the planning board. If the planning board does not render a decision within that period, the petition will be considered the same as a favorable recommendation. If the planning board tables the amendment for any length of time, that shall be considered to be taking favorable action on the amendment.

- E. **Effect of denial by county commissioners.** A petition for amendment to the ordinance that has been denied in whole or in part may not be resubmitted within 6 (six) months of the date of action on the original request. However, the board of county commissioners may choose to allow a reapplication if, after a report from the planning board, it determines that there have been substantial changes in conditions or circumstances which may relate to the request.

Section 13 Notice requirements

For any request that is to go before the Planning Board or Board of County Commissioners that pertains to a particular property or properties, staff shall complete the following requirements

- A. A notice of the request will be placed in a local Greene County newspaper once a week for two successive calendar weeks. The notice will appear for the first time no more than 25 days and no less than 15 days prior to the meeting or hearing date.
- B. In addition, notice shall be given by first class mail to the owners of abutting properties. Such notification must be mailed at least 10 (ten) days in advance of the meeting/hearing date.
- C. The notice shall be posted on the subject property or properties at least 10 (ten) days prior to the meeting or hearing date.

Section 14 Penalties for violation

Any person violating any provision of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished for each offense by a fine not exceeding \$50.00 (fifty dollars) or by imprisonment not to exceed 30 (thirty) days. Each day such violation continues shall be deemed a separate offense.

Section 15 Remedies

In the event of a violation of this ordinance, the enforcement officer herein or any other appropriate authority of the county or any person who would be damaged by such violation, in addition to other remedies, may institute an action for injunction or mandamus, abatement or other appropriate action or proceeding to prevent such violation. In this regard, Greene County shall have those remedies and authorities authorized and set forth by the North Carolina General Statutes.

Duly adopted this 20th day of August, 2012.