

AN ORDINANCE DEFINING AND REGULATING VIDEO LOTTERY AND GAMING ESTABLISHMENTS IN TAYLOR COUNTY, WEST VIRGINIA

WHEREAS, the County Commission of Taylor County, West Virginia believes that the unrestricted proliferation of video lottery or gaming establishments throughout the County is detrimental to the health, safety, and welfare of the community due to the potential for increased crime, poverty, negative influence upon children, poor appearance of the community to visitors, and deleterious effect upon property values in the vicinity of the establishments, and therefore must be subject to restrictions so that such establishments do not unreasonably proliferate across the County, and

WHEREAS, the State of West Virginia does not limit the number of such establishments that may be constructed and operated within a county, and

WHEREAS, it is the intent and purpose of this Ordinance to reasonably regulate the time, place, and manner in which video lottery or gaming establishments are to be permitted in the County of Taylor.

NOW, THEREFORE, the County Commission of Taylor County, West Virginia hereby ORDAINS:

Definitions:

VIDEO LOTTERY OR GAMING ESTABLISHMENTS – an establishment at which any form of gambling or game of chance is permitted or played, including “video lottery” machines licensed by the West Virginia Lottery Commission pursuant to §29-22B-101 *et. seq.* of the West Virginia Code.

RESIDENTIAL DWELLING – a house or other structure in which a person or persons live; a residence, abode, or habitation.

Be it enacted by the County Commission of Taylor County, West Virginia:

Section 1. Restriction as to placement; distance requirements; measurement; waiver.

- 1.1 No video lottery or gaming establishment shall locate closer than two thousand (2000) feet from another such establishment, nor from a residential dwelling, church, school which is part of a public or private system of education, public park or recreation center, within Taylor County, West Virginia.
- 1.2 The distance shall be measured as the shortest distance between the any portion(s) of a building or buildings constituting, without regard to intervening structures or objects, a video lottery or gaming establishment and any residential dwelling within Taylor County, West Virginia.

Section 2. Enforcement; injunctive relief available; violation a misdemeanor; penalties.

- 2.1 The Circuit Court shall have jurisdiction to issue an injunction to enforce the purposes of this ordinance upon petition by the Prosecuting Attorney or his designee, or any citizen of the county who can show a good faith and valid reason for making such application. No bond shall be required unless for good cause shown.
- 2.2 Any person who knowingly constructs, establishes, or operates a video lottery or gaming establishment in the county of Taylor, in violation of this Ordinance, is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than one thousand dollars (\$1,000.00) nor more than two thousand five-hundred dollars (\$2,500.00). A person convicted of a second or subsequent offense under this ordinance is guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than five thousand dollars (\$5,000.00) or imprisoned in the regional jail not more than ninety (90) days, or both fined and imprisoned.
- 2.3 No person may be prosecuted for an offense under this ordinance except by indictment or information.
- 2.4 No employee shall be guilty of a violation of this Ordinance while acting within the scope of their regular employment, unless such employee has a proprietary interest in the video lottery or gaming establishment, or is a shareholder or officer of a corporation, partner in a partnership, general or limited partner in a limited partnership, or member or manager of a limited liability company which has a proprietary interest in such establishment.

Section 3. Grandfathering.

- 3.1 The provisions of this Ordinance shall not be deemed applicable to any video lottery or gaming establishment in operation as of the first reading of this Ordinance, June 15, 2006.
 - 3.1.1 A video lottery or gaming establishment shall be deemed to be "in operation" if the limited video lottery license, issued by the West Virginia Lottery Commission and required for the operation of the video lottery terminals has been applied for by the date of first reading of this Ordinance, regardless of the application for or receipt of the liquor license issued by the West Virginia Alcohol Beverage Control Administration, which license is a necessary prerequisite for lawful operation of video lottery terminals.

3.2 Any establishment, of which construction is not substantially underway on the date of first reading of this Ordinance, June 15, 2006, must comply with the provisions of this Ordinance as to distance and waiver requirements.

Section 4. Severability.

4.1 The provisions of this ordinance are severable, and if any provision or part thereof shall be declared invalid or unconstitutional or inapplicable to any person or circumstances, such invalidity, unconstitutionality, or inapplicability shall not affect or impair the remaining provisions of this ordinance.

Section 5. Applicability.

5.1 The establishment or operation of any video lottery or gaming establishment shall be permitted only as regulated by this Ordinance.

Section 6. Effective Date.

6.1 This Ordinance shall be deemed effective immediately upon its adoption.

BE IT ADOPTED and ENACTED by the COUNTY COMMISSION OF TAYLOR COUNTY, WEST VIRGINIA THIS 7th DAY OF AUGUST, 2006



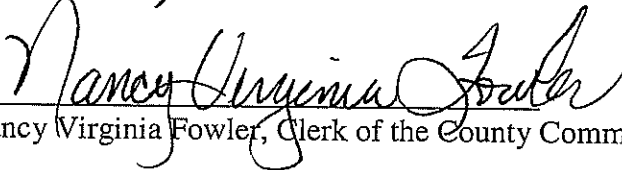
David Gobel, President of the County Commission



Robert Weaver, Commissioner



Anthony Veltri, Commissioner



Nancy Virginia Fowler, Clerk of the County Commission