

ORDINANCE 2012 _____

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, **ENACTING A ONE YEAR MORATORIUM UPON THE ACCEPTANCE OF ZONING APPLICATIONS AND ALL APPLICABLE REQUESTS FOR ZONING APPROVAL FOR INTERNET CAFÉS**, BY AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS FOLLOWS: **ARTICLE 1 - DEFINITIONS AND ACRONYMS**; CHAPTER I, DEFINITIONS AND ACRONYMS; **ARTICLE 3 - OVERLAYS AND ZONING DISTRICTS**; CHAPTER B, OVERLAYS; CHAPTER E, PLANNED DEVELOPMENT DISTRICTS; CHAPTER F, TRADITIONAL DEVELOPMENT DISTRICTS; **ARTICLE 4 - USE REGULATIONS**; CHAPTER A, USE CLASSIFICATION; CHAPTER B, SUPPLEMENTARY USE STANDARDS; **ARTICLE 6 - PARKING**; CHAPTER A, PARKING; PROVIDING FOR: INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; A SAVINGS CLAUSE; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND AN EFFECTIVE DATE.

WHEREAS, Section 163.3202, Florida Statutes, mandates the County compile Land Development Regulations consistent with its Comprehensive Plan into a single Land Development Code; and

WHEREAS, pursuant to this statute the Palm Beach County Board of County Commissioners (BCC) adopted the Unified Land Development Code (ULDC), Ordinance 2003-067, as amended from time to time; and

WHEREAS, the BCC desires to further amend the ULDC, based upon public participation and advice from the Palm Beach County Land Development Regulation Advisory Board; and

WHEREAS, the Land Development Regulation Commission has found these amendments to the ULDC to be consistent with the Palm Beach County Comprehensive Plan; and

WHEREAS, the BCC hereby elects to conduct its public hearings on this Ordinance at 9:30 a.m.; and

WHEREAS, the BCC has conducted public hearings to consider these amendments to the ULDC in a manner consistent with the requirements set forth in Section 125.66, Florida Statutes; and

WHEREAS, internet cafes have opened in the county in several municipalities and in the unincorporated area; and

WHEREAS, internet cafes utilize forms of gaming and gambling that may involve, or could lead to, illegal activities; and

1 **WHEREAS**, the BCC has requested that the issue of internet cafes be referred to
2 the Intergovernmental Plan Amendment Review Committee (IPARC) for study and
3 recommendations; and

4 **WHEREAS**, whereas the BCC deems it in the best interest of the public health,
5 safety and welfare of the county to direct county staff to study and evaluate this issue
6 and to place a moratorium on the acceptance of applications for and the issuance of
7 any development permits, business tax receipts or any other approval for such facilities
8 for a period of up to one year; and

9 **WHEREAS**, adoption of the moratorium will provide Palm Beach County an
10 opportunity to develop regulations that address the secondary effects of internet cafés
11 and their impacts on the community or alternatively to consider prohibiting additional
12 internet cafes from opening in unincorporated Palm Beach County.

13

14 **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**
15 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, as follows:**

16 **Section 1. Adoption**

17 The amendments set forth in Exhibit A, attached hereto and made a part hereof,
18 are hereby adopted.

19 **Section 2. Interpretation of Captions**

20 All headings of articles, sections, paragraphs, and sub-paragraphs used in this
21 Ordinance are intended for the convenience of usage only and have no effect on
22 interpretation.

23 **Section 3. Providing for Repeal of Laws in Conflict**

24 All local laws and ordinances in conflict with any provisions of this Ordinance are
25 hereby repealed to the extent of such conflict.

26 **Section 4. Severability**

27 If any section, paragraph, sentence, clause, phrase, word, map, diagram, or any
28 other item contained in this Ordinance is for any reason held by the Court to be
29 unconstitutional, inoperative, void, or otherwise invalid, such holding shall not affect the
30 remainder of this Ordinance.

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Section 5. Providing for a Savings Clause

All development orders, permits, enforcement orders, ongoing enforcement actions, and all other actions of the Board of County Commissioners, the Zoning Commission, the Development Review Officer, Enforcement Boards, all other County decision-making and advisory boards, Special Masters, Hearing Officers, and all other County officials, issued pursuant to the regulations and procedures established prior to the effective date of this Ordinance shall remain in full force and effect.

Section 6. Inclusion in the Unified Land Development Code

The provisions of this Ordinance shall be codified in the Unified Land Development Code and may be reorganized, renumbered or re-lettered to effectuate the codification of this Ordinance.

Section 7. Providing for an Effective Date

The provisions of this Ordinance shall become effective upon filing with the Department of State.

APPROVED and ADOPTED by the Board of County Commissioners of Palm Beach County, Florida, on this the _____ day of _____, 20____.

SHARON R. BOCK, CLERK & PALM BEACH COUNTY, FLORIDA,
COMPTROLLER BY ITS BOARD OF COUNTY
COMMISSIONERS

By: _____ By: _____
Deputy Clerk Shelley Vana, Chair

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the _____ day of
_____, 20____.

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

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Part 1. ULDC Art. 1.I.2, Definitions (pages 55 and 66 of 115), is hereby amended as follows:

Reason for amendments: [Zoning/Co. Atty.] To establish a moratorium on internet cafés until the ULDC is amended to establish standards for this use; to clarify that internet cafés are not considered indoor entertainment us; and to provide a definition for internet café.

CHAPTER I DEFINITIONS & ACRONYMS

Section 2 Definitions

- E. Terms defined herein or referenced in this Article shall have the following meanings:
 - 23. **Entertainment, Indoor** - An establishment offering games of skill to the general public for a fee or charge and wholly enclosed in a building. Typical uses include bowling alleys, bingo parlors, pool halls, billiard parlors and video game arcades. An internet café shall not be considered an indoor entertainment use. [Ord. 2005-002]
 -
 - I. Terms defined herein or referenced in this Article shall have the following meanings:
 -
 - 32. Internet Café** – Any facility, whether identified as an arcade, game room, internet café, sweepstakes redemption center or by any other name, that utilizes slot machines, simulated gambling devices or similar equipment. A simulated gambling device means any device that, upon connection with an object is available to play or operate a simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff, including money, credit, tickets or tokens to be exchanged for cash or to receive merchandise or any other thing of value. This definition only applies to establishments marketed to adults and shall not apply to game rooms or arcades generally targeted to minors that do not utilize slot machines, simulated gambling devices or similar equipment. The following rules of construction apply to this definition of internet café:
 - a. The term “upon connection with an object” means insertion, swiping, passing in range, or any other technical means of physically, electronically, or electromagnetically connecting an object to a device, or inputting or inserting a password, code, account or user number, or user name, into a device.
 - b. The term “object” means a coin, bill, ticket, token, card, password, account or user number, user name, code, or number, or other object obtained directly or indirectly through payment of consideration or a donation or obtained as a bonus or supplement to another transaction involving the payment of consideration or a donation.
 - c. The terms “play or operate” includes any activation of a device whether involving the use of skill, the application of the element of chance, or both, or neither, or the implementation of an outcome unpredictable to the person activating the device.
 - d. The term “simulation” includes simulation by means of a computer, computer system, video display, video system or any other form of electronic video presentation.

[Renumber accordingly.]

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

1
2 Part 2. ULDC Table 3.B.2.A, Airport Use Regulations (page 22 of 228), is hereby amended as
3 follows:
4

Reason for amendments: [Zoning/Co. Atty.] To amend all use matrices to reflect the establish of internet café as a new use.

5 Table 3.B.2.A – Airport Use Regulations

Use Type	Airport Related Uses	Non-Airport Related Uses	Corresponding Zoning District PDRs ⁽¹⁾	Note ⁽²⁾	Use Applicable to Specific Airport
....					
Recreation Uses					
....					
<u>Internet Café</u>					<u>45.1</u>
....					
[Ord. 2006-036] [Ord. 2008-003] [Ord. 2010-009] [Ord. 2010-022] [Ord. 2011-016]					

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8 Part 3. ULDC Table 3.B.14.E, WCRAO Sub-area Use Regulations (page 41 of 228), is hereby
9 amended as follows:
10

Reason for amendments: [Zoning/Co. Atty.]To amend all use matrices to reflect the establish of internet café as a new use.

11 Table 3.B.14.E - WCRAO Sub-area Use Regulations

Sub-areas	NR	NRM	NG	NC	UG	UH	UI	NOTE (2)
....								
Recreation Uses								
<u>Internet Café</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>	<u>X</u>
[Ord. 2006-004] [Ord. 2007-013] [Ord. 2009-040] [Ord. 2010-022] [Ord. 2011-016]								
Notes:								
1. Limited to lots with a CH or IND FLU Designation and corresponding zoning district. [Ord. 2006-004]								
2. A number in the NOTE column refers to Art 4.B, Supplementary Use Standards, which are applicable to the use. [Ord. 2006-004]								
3. Adult entertainment shall also be prohibited as an accessory use to other principal uses within the sub-areas. [Ord. 2007-013]								
4. Limited to lots with a CH or CL FLU Designation and corresponding zoning district. [Ord. 2007-013]								
Key:								
X Prohibited in Sub-area.								
- Subject to Use Regulations of zoning district.								
P Permitted by Right. [Ord. 2007-013] [2009-040]								
A Class A Conditional or Requested Use								

12
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14 Part 4. ULDC Table 3.B.15.F, IRO Permitted Use Schedule (page 75 of 228), is hereby amended
15 as follows:
16

Reason for amendments: [Zoning/Co. Atty.] To amend all use matrices to reflect the establish of internet café as a new use.

17 Table 3.B.15.F - IRO Permitted Use Schedule (continued)

Use Type	Land Use				NOTE	Use Type	Land Use				NOTE
	C L	C H	C L	C H			C L	C H	C L	C H	
Recreation Uses											
....											
<u>Internet Café</u>					<u>45.1</u>						
....											
[Ord. 2010-005]											
Key:											
P Permitted by right.											
D Permitted subject to DRO approval.											
L Permitted by right, subject to accessory use limitations.											
S Permitted subject to Special Permit approval.											
A Permitted subject to Board of County Commission Approval.											

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

1
2 Part 5. ULDC Table 3.B.16.E, PRA Use Matrix (page 88 of 228), is hereby amended as follows:
3

Reason for amendments: [Zoning/Co. Atty.] To amend all use matrices to reflect the establish of internet café as a new use.

4 Table 3.B.16.E - PRA Use Matrix (1)(2)(3)

Use Type	Transect Sub-Zones					Note
	UC 1	UC 2	UC 3	UI 1	UI 2	
....						
Recreational Uses						
....						
<u>Internet Café</u>						45.1
....						
[Ord. 2011-016]						
Note:						
1. Deviations from this table shall be prohibited.						
2. Any outdoor uses shall comply with Art. 3.B.16.E.4.a, Residential Setbacks						
3. Those uses that were legally established prior to the adoption of Zoning Resolutions R-10-1344 and R-10-1345 (Applications 2010-00667 and 00668, UC and UI Districts, respectively) shall be permitted to continue in accordance with Art. 1.E, Prior Approvals, or 1.F, Non-conformities. Change in use permitted subject to limitations of Art. 3.B.16.E.2.a, Right to Continue or Change Use.						
4. The change in use for a previously approved non-residential structure shall be permitted by right, if in compliance with Art. 3.B.16.E.2.a, Right to Continue or Change Use.						
Key:						
P Permitted by Right						
S Permitted subject to Special Permit approval.						
D Permitted subject to DRO approval.						
B Permitted subject to Zoning Commission Approval.						
A Permitted subject to Board of County Commission Approval.						

5
6 Part 6. ULDC Table 3.E.1.B, PDD Use Matrix (page 142 of 228), is hereby amended as follows:
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8

Reason for amendments: [Zoning/Co. Att.] To amend all use matrices to reflect the establish of internet café as a new use.

9 Table 3.E.1.B - PDD Use Matrix Continued

Use Type	PUD					MUPD					MXPD		PIPD			LCC		NOTE				
	Pods					FLU					FLU		Use Zone			FLU						
	R	C	R	C	A	C	C	C	C	C	I	I	C	C	I	C	I		M	R	C	C
....																						
Recreation Uses																						
....																						
<u>Internet Café</u>																						45.1
....																						
[Ord. 2005-002] [Ord. 2006-004] [Ord. 2006-013] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2010-005] [Ord. 2010-022]																						
Notes:																						
P Permitted by right																						
D Permitted subject to approval by the DRO																						
S Permitted in the district only if approved by Special Permit																						
R Permitted in the district only if approved by the Board of County Commissioners (BCC) as a requested use.																						

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

1
2 Part 7. ULDC, Table 3.F.1.F, Traditional Development Permitted Use Schedule (page 192 of
3 228), is hereby amended as follows:
4

Reason for amendments: [Zoning/Co. Att.] To amend all use matrices to reflect the establish of internet café as a new use.

5 Table 3.F.1.F - Traditional Development Permitted Use Schedule

District	TND						TMD				NOTES
	Urban/Suburban (U/S)			Exurban/Rural			U/S	Ex/Rural	AGR		
	Res	Neighborhood Center (NC)	Open Space/Rec	Res	NC	Open Space/Rec			Dev.	Preserve	
....											
Recreation Uses											
....											
Internet Café											45.1
....											
[Ord. 2005-002] [Ord. 2005-041] [Ord. 2006-004] [Ord. 2006-013] [Ord. 2008-037] [Ord. 2009-040] [Ord. 2010-005]											
Notes:											
P Permitted by right.											
D Permitted subject to approval by the DRO.											
S Permitted in the district only if approved by Special Permit.											
R Requested Use.											

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8 Part 8. ULDC, Table 4.A.3.A - Use Matrix (page 14 of 161), is hereby amended as follows:
9

Reason for amendments: [Zoning/Co. Att.] To amend all use matrices to reflect the establish of internet café as a new use.

10 Table 4.A.3.A - Use Matrix Continued

Use Type	Zoning District/Overlay															NOTE				
	Agriculture/Conservation			Residential					Commercial					Industry/Public						
	P	A	A	AR		R	R	R	R	C	C	C	C	C	C		I	I	P	I
	C	G	R	R	U	E	T	S	M	N	L	C	H	G	R		L	G	O	P
....																				
Recreation Uses																				
....																				
Internet Café																			45.1	
....																				
[Ord. 2005-002] [Ord. 2006-013] [Ord. 2008-037] [Ord. 2009-040]																				
Key:																				
P Permitted by right																				
D Permitted subject to DRO approval																				
S Permitted subject to Special Permit approval																				
B Permitted subject to Zoning Commission approval																				
A Permitted subject to Board of County Commission approval																				

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

Part 9. ULDC Art. 4.B.1.A, Definitions and Supplementary Standards for Specific Uses (Page 50 of 170), is hereby amended as follows:

Reason for amendments: [Zoning/Co. Atty.] BCC directed staff at the December 1, 2011 BCC Zoning Hearing to review and evaluate the practices of internet cafés and to impose a moratorium on new applications for internet café approvals.

CHAPTER B SUPPLEMENTARY USE STANDARDS

Section 1 Uses

A. Definitions and Supplementary Standards for Specific Uses

45. Entertainment, Indoor

An establishment offering games of skill to the general public for a fee or charge and wholly enclosed in a building. Typical uses include bowling alleys, bingo parlors, pool halls, billiard parlors and video game arcades. An internet café shall not be considered an indoor entertainment use. [Ord. 2005 – 002]

a. CRE District

An indoor entertainment shall not be located in a CRE district with RR FLU designation.

b. IL District

An indoor entertainment facility exceeding three acres in the IL district, the use shall rezone to the CRE district.

c. CC, CG, and MUPD Districts

- 1) An indoor entertainment use less than 3000 square feet is a permitted use.
- 2) Banquet and reception facilities as a principal use are subject to Class A conditional use or requested use.

....

45.1. Internet Café

Any facility, whether identified as an arcade, game room, internet café, sweepstakes redemption center or by any other name, that utilizes slot machines, simulated gambling devices or similar equipment. A simulated gambling device means any device that, upon connection with an object is available to play or operate a simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff, including money, credit, tickets or tokens to be exchanged for cash or to receive merchandise or any other thing of value. This definition only applies to establishments marketed to adults and shall not apply to game rooms or arcades generally targeted to minors that do not utilize slot machines, simulated gambling devices or similar equipment.

a. Definition Rules of Construction

The following rules of construction apply to this definition of internet café:

- 1) The term “upon connection with an object” means insertion, swiping, passing in range, or any other technical means of physically, electronically, or electromagnetically connecting an object to a device, or inputting or inserting a password, code, account or user number, or user name, into a device.
- 2) The term “object” means a coin, bill, ticket, token, card, password, account or user number, user name, code, or number, or other object obtained directly or indirectly through payment of consideration or a donation or obtained as a bonus or supplement to another transaction involving the payment of consideration or a donation.
- 3) The terms “play or operate” includes any activation of a device whether involving the use of skill, the application of the element of chance, or both, or neither, or the implementation of an outcome unpredictable to the person activating the device.
- 4) The term “simulation” includes simulation by means of a computer, computer system, video display, video system or any other form of electronic video presentation.

b. Moratorium

- 1. The Board of County Commissioners of Palm Beach County does hereby impose a moratorium beginning on the effective date of this ordinance, upon the acceptance of zoning applications and all applicable requests for zoning approval for internet cafés; and,
- 2. This Ordinance shall expire upon the earlier of the following: one year from the effective date of this ordinance or upon the effective date of Unified Land Development Code amendments dealing with internet cafés to be considered by the Board of County Commissioners during the moratorium.

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EXHIBIT A

INTERNET CAFÉ
SUMMARY OF AMENDMENTS
(Updated 1/12/12)

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2 Part 10. ULDC, Table.6.A.1.B, Minimum Off-Street Parking and Loading Requirement [Related
3 to Medical or Dental Office and Pain Management Clinics] (page of 161), is hereby
4 amended as follows:
5

6 Reason for amendments: [Zoning/Co. Atty.]

Table 6.A.1.B - Minimum Off-Street Parking and Loading Requirements – Cont'd

Use Type: Commercial	Parking (1)	Loading (2)
...		
Internet Café	1 space per 200 sq. ft. or 1 per 3 seats, whichever is greater.	C
...		
[Ord. 2005-002] [Ord. 2005-041] [Ord. 2006-004] [Ord. 2008-037]		
Loading Key:		
Standard "A" - One space for the first 5,000 square feet of GFA, plus one for each additional 30,000 square feet of GFA.		
Standard "B" - One space for the first 10,000 square feet of GFA, plus one for each additional 15,000 square feet of GFA.		
Standard "C" - One space for the first 10,000 square feet of GFA, plus one for each additional 100,000 square feet of GFA.		
Standard "D" - One space for each 50 beds for all facilities containing 20 or more beds.		
Standard "E" - One space for the first 10,000 square feet of GFA, plus one for each additional 20,000 square feet of GFA.		
The space shall be a minimum of 12 feet in width and 18.5 feet in length for uses that require limited loading.		

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