ORDINANCE NO. 16-_____

AN ORDINANCE TO AMEND CHAPTER 11, ARTICLE 4 OF THE CODE OF ORDINANCES OF THE CITY OF CLARKSTON, GEORGIA REGARDING COIN-OPERATED AMUSEMENT MACHINES; TO REPEAL CONFLICTING ORDINANCES; AND FOR ALL OTHER LAWFUL PURPOSES RELATED TO COIN-OPERATED AMUSEMENT MACHINES.

WHEREAS, state law allows the operation of coin-operated amusement machines; and

WHEREAS, offering to the public coin-operated amusement machines constitutes a privilege and not a right; and

WHEREAS, state law limits gross revenues from coin-operated amusement to 50% of the businesses' overall gross revenues; and

WHEREAS, coin-operated amusement machines may potentially be used for illegal gambling; and such illegal gambling presents numerous deleterious impacts on the City and its citizens; and

WHEREAS, the City of Clarkston desires to properly regulate coin-operated amusement machines to minimize such deleterious impacts; and

WHEREAS, state law allows for fines, revocation of licenses and non-renewal of licenses for coin-operated amusement machines when licensees violate applicable regulations.

NOW THEREFORE, BE IT ORDAINED BY the City Council of the City of Clarkston, Georgia, as follows:

SECTION 1. City Code Chapter 11, Article 4, Sections 11-95 is hereby amended to add new subsection (g):

"(g) Proportion of revenue limited. No business location licensed to offer coin-operated amusement machines pursuant to this article shall derive more than fifty percent (50%) of its monthly gross retail receipts from coin-operated amusement machines, provided that revenues due to a master licensee or the Georgia Lottery Corporation shall not be deemed revenue derived from coin-operated machines."

SECTION 2. City Code Chapter 11, Article 4, Section 11-95.5 is hereby deleted. In its place the City hereby adopts new Code Section 11-95.5, to read as follows:

"Section 11-95.5. Penalty for violation; appeal.

(a) Conviction in the Municipal Court for any violation of this article will be punished by a fine up to $1,000 and/or imprisonment for up to six months.

(b) In addition to any other penalty imposed, conviction in the Municipal Court for violation of § 11-95(e) or (g) of this article or conviction in a court of competent jurisdiction for violation of O.C.G.A. § 50-27-84 will result in immediate revocation of all city licenses for coin-operated amusement machines held by the location owner or location operator so convicted.

(c) In addition to any other penalty imposed upon conviction, the city may revoke any license granting authority to manufacture, distribute, or sell alcoholic beverages, or any other license granted by the city as a penalty for conviction of the location owner or location operator of a violation of subsection (e), (f), or (g) of Code Section 16-12-35 by any court of competent jurisdiction. Revocation of such permits under this section will not become effective until after due process is provided pursuant to subsection (b) of O.C.G.A. § 3-3-2.

(d) Whenever a coin-operated amusement machine license is denied, not renewed, suspended, or revoked pursuant to this article, the City Clerk shall promptly provide written notice of such action, including the reason(s) therefor to the licensee or applicant by hand delivery or certified mail.

(e) Upon delivery of the notice contemplated by subsection (d), the applicant or licensee aggrieved by such action shall have fifteen (15) days to file a written notice of appeal with the City Clerk. Such appeal shall be heard by the City Council at its next regular meeting held not less than ten (10) days after the date of appeal. At such hearing, the aggrieved applicant or licensee shall have the right to be represented by counsel, present evidence, and cross-examine opposing witnesses. On appeal to the City Council, the aggrieved licensee or applicant for coin-operated amusement machine license shall bear the burden of establishing by a preponderance of the evidence that the denial, non-renewal, suspension or revocation of the license was not justified. Unless the licensee is appealing a license revocation resulting from conviction for violating this article in the Municipal Court, action to revoke or suspend an existing license shall not become effective pending the City Council hearing. The decision of the City Council shall be final, subject to petition for writ of certiorari to the Superior Court of DeKalb County."

SECTION 3. It is hereby declared to be the intention of the City Council that the sections, paragraphs, sentences, clauses and phrases of this Ordinance are severable and if any phrase, clause, sentence, paragraph, or section of this Ordinance shall be declared unconstitutional or invalid by a court of competent jurisdiction such invalid provision shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance.

SECTION 4. This Ordinance shall become effective immediately upon its adoption by the City Council.

ADOPTED this _____ day of _____, 2016.

ATTEST:

MAYOR AND CITY COUNCIL,
CLARKSTON, GEORGIA

By_____
Tracy Ashby, City Clerk
(SEAL)

_____
TED TERRY, Mayor

Approved as to Form

S G Quinn 2-16-16
Stephen G. Quinn, City Attorney