



**Town of Indian Trail**  
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**PLANNING DEPARTMENT**

**Reconsideration of ZT 2009-010 Re: Electronic Gaming Operations**  
**from the 12/15/09 Planning Board Meeting**

**Zoning Staff Report**

<b>Case: ZT 2009-010</b>		
<b>Reference Name(s)</b>	Various Additions to UDO Section 520.020(G); Addition of UDO Chapter 7200; Addition of UDO Section 1610.080(EE)	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	April 20, 2010	
<b>Location</b>	Town-Wide	
<b>Tax Map Number</b>	N/A	
<b>Recommendations &amp; Comments</b>	<b>Planning Staff</b>	Recommend approval of the proposed UDO amendments to the Town Council

**Executive Summary:**

At the December 15<sup>th</sup>, 2009 Planning Board meeting, the Board had recommended the following with respect to electronic gaming operations:

- These uses should be handled as Special Use Permits (SUP's).
- Such uses shall also be limited to the Regional Business District (RBD) only.
- Staff was also directed to revise the proposed UDO Chapter 7200 dealing with electronic gaming operations from its introduction back in December, based on research conducted for electronic gaming operations in states other than North Carolina.

To that end, the Board gave staff direction to investigate the following with respect to electronic gaming operations as follows:

- Hours of Operation.
- Number of Allowable Machines in a Particular Use.
- Distance Requirements (i.e., from schools, churches, similar types of uses, etc.).
- Out-of-State Legal/Policy Positions.

- Usage of Alcohol.
- Transparency of Use (being able to see in and out of the use).
- Minimum Age Requirements.

Staff has now returned with an extensive amount of information related to the issue of electronic gaming operations, along with an update as to the treatment of such uses in North Carolina, specific to Union County.

## **Analysis**

### **Research Results**

Staff, as mentioned above, has extensively researched the issues set forth by the Planning Board from last December. In doing so, staff conducted a cross-section sample by researching twelve (12) different states on electronic gaming operations as follows:

- Alabama.
- California.
- Florida.
- Maryland.
- Massachusetts.
- New York.
- Oklahoma.
- Pennsylvania.
- Texas.
- Utah.
- Virginia.
- Wyoming.

Here is a brief summary with respect to each issue raised by the Board, particularly for out-of-state regulations on electronic gaming (state-by-state breakdown contained in Attachment Two of this report), along with the potential ramifications on each item researched:

### ***Hours of Operation***

For 11 of the 12 total states researched (except Alabama, which does not permit electronic gaming operations at all), electronic gaming operations have an 8AM-10PM operational limit. Only two (2) of the total 12 states (about 17%), Florida and Virginia, go so far as to not allow these uses to be open on Sundays. The remaining nine (9) states (excluding Alabama) allow electronic gaming all days of the week, Mondays-Sundays.

In discussion with the Town Attorney on this issue, the Town's Municipal Code currently has a limit from 12:00 PM (noon) to 12:00 AM (midnight), all days of the week, for electronic gaming uses. Based on the discussion with the Town Attorney, the concern is that any Sunday prohibition of use or further time restriction runs the risk of singling out a particular use, while other similar uses are left as is in terms of equal treatment. The result of such restrictions, per the Town Attorney, may result in a potential legal challenge by any applicant.

If the Board does decide to change the hours of operation from what is in the Town's Municipal Code, the Municipal Code will have to be modified, following adoption by the Town Council.

In addition, the limitation on Sunday usage raises similar concerns as the time limitation, including whether or not this particular use is being singled out for special treatment, per the Town Attorney. For such a limitation to be put into place by the Town, the following will have to be done as a matter of procedure under NCGS § 160A-191:

- The Town Council shall hold a public hearing on the issue.
- Notice for the public hearing must be published in the newspaper at least four (4) consecutive weeks before it takes place.
- The notice need to have the time, date, and place of the public hearing, as well as a statement of the Council's intent to consider a Sunday-closing ordinance, the purpose for the ordinance, and one or more reasons for its proposed enactment.

The Board is free to recommend any action on this item, provided that it bears in mind the potential legal ramifications of adopting any hours of operation measure (Sunday limits, as well as hours of operation limits).

### ***Number of Allowable Machines***

11 of the 12 states researched (excluding Alabama) currently have a total maximum number of 20 machines allowed for a particular electronic gaming operation in their local jurisdictions. There was no deviation in terms of this maximum number of machines in all of the states researched.

Based on this research, the Board will have to recommend whether or not such a limitation on electronic gaming machines is appropriate and is in the public interest to be recommended favorably.

### ***Distance Requirements***

9 of the 12 states (75%) researched impose a minimum 1,000 feet distance between similarly situated electronic gaming operations, and the same minimum distance (1,000 feet) is also applied for an electronic gaming use's distance to a church, school, public park, theater, and so forth. Only 2 states – the states of Maryland and Virginia – go so far as 1,500 feet for both types of distances (from similar electronic gaming operations, and from churches, schools, parks, theaters, etc.).

Per the Town Attorney, there is a potential for a legal challenge on this issue, mainly because, unlike the Adult Use Ordinance (UDO Chapter 720), there is no national or other study to justify such distance requirements for electronic gaming operations. Therefore, the Board will have to recommend, as a matter of public health, safety and morals, whether or not such a distance limitation on electronic gaming machines is appropriate and is in the public interest to be recommended favorably.

### ***Legal/Policy Stances (Outside NC)***

11 of the 12 states researched, not including Alabama, do one of the following:

- 1) Leaves regulation of electronic gaming operations is often to local jurisdictions (counties and municipalities; 9 of the 12 states do this, which is the majority position of the states researched); or
- 2) Have state-control boards that regulate these uses as a matter of permitting and procedure (only two (2) states – New York and Pennsylvania – do this as a matter of regulation).

The State of Alabama is the sole state researched that has decided to ban electronic gaming operations altogether (did so in December of 2006 at the state Supreme Court level), with no other state researched for this report having done so to date.

At the present time, with Alabama's exception, these two legal/policy stances accurately represent the stances of the states researched. There has been no change in these stances to date in any of the states researched.

### ***Alcohol Usage***

Only two (2) states researched (about 17%) – Florida and Virginia – have any bans on alcohol usage, consumption, and sale with respect to electronic gaming operations. No other states researched have any bans on alcohol use for electronic gaming operations.

Per the Town Attorney, alcohol use is regulated by the North Carolina ABC Commission, with local ABC boards deciding whether or not to place a potential alcohol use in a particular jurisdiction. Similar to the concerns regarding Sunday and hours of operation, there is the potential risk of singling out a particular use, while other similar uses are left as is in terms of equal treatment. The result of such a restriction, per the Town Attorney, may result in a potential legal challenge by any applicant.

The Board is free to recommend as they wish on this issue, but the Board needs to bear in mind the potential legal consequences for such a recommendation on this issue, per the Town Attorney.

### ***Transparency Requirements***

Only one (1) state researched – California – had explicit requirements for local jurisdictions regarding transparency for electronic gaming operations. This is the requirement where people from the outside must be able to clearly see into the use, and where people inside must be able to see clearly out from the use. Such regulations also forbade any fogging of windows, blacking out of windows, and so forth, so as to prevent transparency.

The Board is again free to recommend such a measure on this issue, so as long as it does so for the public health, safety and morals of the Town.

### ***Minimum Age Requirements***

10 of the 12 states researched (about 83%) allow local jurisdictions to impose a minimum age restriction of 18 years of age for electronic gaming operations. Only one (1) state – Maryland – allows local jurisdictions to restrict the minimum age for such uses to that of 21 years of age, not just the age of 18, for electronic gaming operations.

The Board is again free to recommend such a measure on this issue, so as long as it does so for the public health, safety and morals of the Town. Any recommended changes to this requirement will also have to be changed for the Town's Municipal Code regarding minimum age, if adopted by the Town Council (currently is 18).

### **Proposed UDO Chapter 7200 – Electronic Gaming Operations**

Based on this extensive research sampling, staff recommends the following UDO Chapter for consideration by the Planning Board: *(new additions to Chapter are in red)*

#### *UDO Chapter 7200 – Electronic Gaming Operations*

- A. All applications for electronic gaming operations as a use shall require a Special Use Permit (SUP), subject to the requirements of UDO Chapter 360. In addition, any proposed electronic gaming operations use in the Town of Indian Trail shall be limited to the Regional Business District (RBD) zoning classification, per UDO Section 520.020(G) of the Table of Permissible Uses.*
- B. The machines/terminals must not be prohibited by County, State, and/or Federal law and must have all applicable permits and licenses before commencing with their use.*
- C. If any food or beverage is served, then the establishment must meet the requirements of the Indian Trail Unified Development Ordinance (UDO), the Union County Department of Health, any additional County ordinances and regulations, and all State and/or Federal law requirements.*
- D. This use shall be subject to Chapter 115 of the Town of Indian Trail Code of Ordinances, which also deals with electronic gaming operations, specifically in terms of regulating hours of operation, minimum age requirements, and access requirements for these types of uses.*
- E. The hours of operation for electronic gaming operations uses shall be from 12:00PM to 12:00AM, for all days of the week.*
- F. The number of allowable machines shall be limited to a maximum of 20 machines for an electronic gaming operations use in the Town of Indian Trail.*
- G. The minimum distance for an electronic gaming operations use in the Town shall be 1,000 feet from another electronic gaming use, and shall also be a minimum of 1,000 feet from a church, school, public/private park, theater, day care center, government building, and/or any public gathering place within the Town. Such distances will need to be reflected on an applicant's SUP Concept Plan for their proposed use, and shall be measured from property line to property line.*
- H. The minimum age allowed for a person to enter an electronic gaming operations use in the Town shall be 18 years of age.*
- I. All electronic gaming operations uses must have clear and obstructed windows to allow people from the inside and outside of the use to clearly view the use. Such obstructions, including, but not limited to, fogging of windows, blacking out of windows, and other related obstructions, are expressly prohibited.*

It should also be noted that, in addition to this new UDO Chapter, any current sections of the Indian Trail Municipal Code concerning electronic gaming operations will also need to be modified and brought to the Town Council for adoption, should the Board decide to modify one of the following:

- Minimum Age Requirements;
- Access Requirements; and/or
- Hours of Operation

This will need to be done as soon as possible for both the Town’s Municipal Code and the UDO to be legally consistent regarding electronic gaming operations, following Council adoption of this text amendment.

### **Disposition of Other Proposed Changes in the UDO on Electronic Gaming Operations**

The remainder of the proposed changes related to electronic gaming operations are contained in the original staff report on this issue (October 20, 2009 – See Attachment One). The only thing that will change here will be to have the use reference the new UDO Chapter 7200 dealing with electronic gaming operations. The definition of electronic gaming operations and the use table dealing with these uses shall remain the same as was originally proposed.

### **Legal Update on Electronic Gaming Operations in North Carolina**

Recently, there was an article in the Charlotte Observer dealing with the Union County District Attorney’s office and their stance regarding electronic gaming operations (Attachment Three). The Union County DA has recently decided to strike down these types of uses across the County, and allow local law enforcement to begin closing such uses down.

However, in discussing the issue with our Town Attorney, it is believed that at least having a section in the UDO dealing with these types of uses is still prudent, especially since the issue at the state level is still uncertain. Therefore, staff has brought the Board this text amendment back for consideration at this meeting.

### **Required Consistency Findings**

The Planning Board is required to make two consistency findings, one for consistency with Town adopted plans and another regarding the benefit of the public. Staff is of the opinion the following findings can be made:

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities through a streamlined process of review.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process, along with promoting the public health, safety and morals in the regulation of uses throughout the Town of Indian Trail.

### **Staff Recommendation/Options**

Staff recommends that the Planning Board make the required consistency findings for this text amendment, and then recommend one of the following:

- 1.) Recommend approval, as modified in this staff report, of ZT200-010 to the Town Council for their consideration. **Staff recommends this option, based on the direction**

**that the Planning Board has given previously on the electronic gaming operations issue, along with the extensive research conducted into this issue.**

- 2.) Recommend approval of ZT2009-010 as stated, with any modifications that the Board sees fit to add along with the staff report, to the Town Council.
- 3.) Recommend tabling ZT2009-010 for further study and analysis.
- 4.) Recommend denial of ZT2009-010, as modified in this staff report, to the Town Council.

**Staff Contact**

Jonathon Edwards, Junior Planner

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Attachment One – Original Planning Board Staff Report for ZT2009-010 (October 20, 2009)

Attachment Two – Compiled Research from Various States Regarding Electronic Gaming Operations

Attachment Three – Charlotte Observer News Article Regarding Electronic Gaming Operations in Union County (February 2010)

# **ATTACHMENT ONE**



**Town of Indian Trail**  
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**PLANNING DEPARTMENT**

## Zoning Staff Report

<b>Case: ZT 2009-010</b>		
<b>Reference Name(s)</b>	Addition to UDO Section 520.020(G); Additions to UDO Section 520.020(G); Addition of UDO Section 1610.080(E)	
<b>Applicant</b>	Town of Indian Trail	
<b>Submittal Date</b>	October 20, 2009	
<b>Location</b>	Town-Wide	
<b>Tax Map Number</b>	N/A	
<b>Recommendations &amp; Comments</b>	<b>Planning Staff</b>	Recommend approval of the proposed UDO amendments to the Town Council

### Executive Summary:

This is a request to amend/add to the UDO 1) Section 520.020(G), which adds back in the previous usage category dealing with dry cleaning types of uses that was in the prior zoning ordinance, 2) Section 520.020(G), which will add in a use designation for electronic gaming operations, designating them as special use permits (SUP's) for the Regional Business District (RBD) only, and 3) Section 1610.080(E), which add in the definition for electronic gaming operations themselves in line with respect to what other jurisdictions have done previously on this issue.

### Analysis:

The first part of this text amendment deals with the re-addition of a previous usage from the prior zoning ordinance mainly that of dry cleaning types of uses. This is an addition to UDO Section 520.020(G), which currently does not include dry cleaning types of uses as an explicit usage in the UDO use table. After conducting research into neighboring municipalities, here is how other jurisdictions address the issue of dry cleaning uses:

Jurisdiction	Where Allowed By Right w/ No Conditions	Where Allowed By Special Use Permit/CUD/Conditional Zoning	Special Conditions
Charlotte	Allowed by-right in UMUD (Uptown), I-1, and I-2	N/A	<p><b><u>By-right up to 4,500 square feet:</u></b> MUDD, CC, B-1, B-2 and BP districts.</p> <p><b><u>By-right up to 10,000 square feet:</u></b> B-2 district.</p> <p><b><u>By-right w/ no drive-thru service:</u></b> TOD-R, TOD-E, and TOD-M districts.</p>
Concord	<p><b><u>Dry cleaning/laundry plants:</u></b> Allowed by-right in C-2, I-1, and I-2 districts.</p> <p><b><u>Laundromats:</u></b> Allowed by-right in the C-2 district.</p> <p><b><u>Dry cleaning drop-off:</u></b> Allowed by-right in B-1, CC, C-1, C-2, and I-1 districts.</p>	<b><u>Laundromats:</u></b> Allowed as special use permits in CC and C-1 districts.	N/A
Matthews	Laundry and dry cleaning plants are allowed by-right in L-I districts.	N/A	Office, B-3 and BD districts allow dry cleaning/laundry uses by-right subject to conditions, if part of a multi-family/office/hotel uses. B-1, B-2, B-3, HUC, and L-I districts allow by-right these uses up to 4,500 square feet. I-2 allows these uses

			<b>by-right up to 10,000 square feet.</b>
<b>Monroe</b>	<b>Office/Transitional, Central Business District, and General Business districts allow these uses by-right.</b>	<b>In any conditional district approved, if these are allowed, such uses are subject to City approval.</b>	<b>N/A</b>

Based on this research, staff recommends that the following be added to UDO Section 520.020(G), particularly in the Personal Services Use Category for such dry cleaning/laundromat types of uses:

Use Category	CBD	NBD	GBD	RBD	O-VCD	O-DD	Use Standard
<u><b>Dry Cleaning/Laundromat Uses</b></u>	<u><b>P/S*</b></u>	<u><b>P</b></u>	<u><b>P</b></u>	<u><b>P</b></u>	<u><b>P</b></u>	<u><b>P/S*</b></u>	<b>(*) – If use is over 4,500 sq. ft., then an SUP is required</b>

The second part of this text amendment deals with the inclusion of electronic gaming operations as a use to be included in terms of the use table under UDO Section 520.020(G). In conducting research into this issue, other jurisdictions, such as the City of Monroe, have either proposed or are proposing similar text amendments to address the issue of these so-called electronic gaming operations. First, this report will provide some of the legal and policy context behind this issue.

At present, gambling in the state of North Carolina is expressly prohibited. However, per NCGS § 14-292, it explicitly states that “any person or organization that operates any game of chance or any person who plays at or bets on any game of chance at which any money, property or other thing of value is bet, whether the same be in stake or not, shall be guilty of a Class 2 misdemeanor.” The key provision in the statute is “any game of chance at which any money, property or other thing of value is bet.” Some proposed uses around the state have purported to offer “no value” and classify themselves more of as sweepstakes, thereby attempting to escape the provision against gambling in NC law.

Furthermore, under recently passed NC Session Law 2008-122, this further states that “it is unlawful for any person to possess any game terminal with a display that simulates a game ordinarily played on a slot machine regulated under G.S. 14-306 or a video gaming machine regulated under G.S. 14-306.1A for the purpose of promoting, operating, or conducting a server-based electronic game promotion.” There is still a small loophole based on the notion that since some uses purport to place themselves or hold themselves out as “no value” types of internet cafes with sweepstakes being offered via phone cards, the law does not apply to them. Court decisions on this have been indecisive at best on this issue, and to date, there has no

codifying legislation from the NC General Assembly to definitely resolve the issue of internet café/sweepstakes/phone card uses once and for all. Legislation was introduced in the 2009 session to potentially close this “loophole” by banning these uses outright, but was never taken up by the General Assembly.

In conducting research into this issue, it has been found that many jurisdictions, including the City of Monroe, are proposing, have proposed or have addressed this issue by making such “electronic gaming operations” subject to either a conditional zoning process or a special use permit (SUP) process. At present, there is no such category offered in terms of the use table, so this addition to UDO Section 520.020(G) makes this category explicit in terms of the UDO. The following amendment is proposed, based on the above information:

**UDO Section 520.020(G) – Sports and Recreation, Participants**

<b>Sports and Recreation, Participants</b>	CBD	NBD	GBD	RBD	O-VCD	O-DD	Use Standard
Amusement Arcades, <b><u>except for any electronic gaming operations</u></b>	-	-	-	P	-	-	
Driving Ranges - Outdoor	-	-	P	P	-	-	
<b><u>Electronic Gaming Operations</u></b>	=	=	=	<b><u>S*(for both principal and accessory uses)</u></b>	=	=	<b><u>*See UDO Chapter 360 for SUP requirements; must meet definition under UDO Section 1610.080(EE) to qualify as this type of use, whether the use is principal or accessory. Also subject to UDO Chapter 7200 Use Requirements.</u></b>
Miniature Golf Courses	-	-	P	P	-	-	
Billiard Parlors	-	-	P	P	-	-	
Bowling Alleys	-	-	P	P	-	-	
Health Clubs/Fitness Centers	P	P	P	P	P*	P*	See Size Limits Sec. 520.040

The final part of this text amendment expressly defines what “electronic gaming operations” are for purposes of this UDO. This definition has been largely followed and, in some cases, expressly adopted as a definition for this particular type of use. This is an addition of the UDO, which shall be known as UDO Section 1610.080(EE), under Chapter 1610 dealing with Use Groups and Categories. The following amendment is offered.

**UDO Section 1610.080(EE) – Electronic Gaming Operations.**

**“Electronic Gaming Operations – Any business enterprise, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of 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. This does not include any lottery approved by the State of North Carolina.”**

It should be noted that the second and third proposed changes for the UDO regarding electronic gaming operations have been reviewed by the Town Attorney and are found to be in line with the current law on this subject at this time.

**Required Consistency Findings**

The Planning Board is required to make two consistency findings, one for consistency with Town adopted plans and another regarding the benefit of the public. Staff is of the opinion the following findings can be made:

1. The proposed UDO amendment is consistent with the following goals:
  - 1.3.2 of the Comprehensive Plan – Land Use; the proposed UDO ordinance amendments will help to promote a quality mix of different land uses while avoiding land use conflicts with neighboring properties and surrounding municipalities through a streamlined process of review.
2. This UDO ordinance amendment is in the best interest of the public because it promotes a more efficient development system and review process.

**Staff Recommendation**

Staff recommends that the Planning Board make the required consistency findings and recommend adoption of the UDO ordinance amendments and additions as stated in this report to the Town Council.

**Staff Contact**

Jonathon Edwards

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# **ATTACHMENT TWO**

## **RESEARCH FINDINGS FROM OUT-OF-STATE SOURCES RE: ELECTRONIC GAMING OPERATIONS (12 STATES TOTAL SAMPLED)**

**ALABAMA** – State Supreme Court on December 1, 2006 (*Barber v. Jefferson County Racing Association, Inc.*) unanimously struck down internet café/sweepstakes types of uses across the state. In addition, the state is also looking into ways to shut down electronic bingo games. This is the only state supreme court, in terms of this research, which has gone this far in terms of this type of use, mainly by banning electronic gaming operations outright.

**CALIFORNIA** – Hours of operation are from 8AM-10PM; maximum number of machines is 20; distance requirements are a minimum of 1,000 feet from similar electronic gaming uses, along with being a minimum of 1,000 feet from churches, schools, parks, etc.; local jurisdictions are left to decide how to regulate electronic gaming; no prohibitions on alcohol use were found; there is a transparency requirement for electronic gaming operations (people must be able to see clearly in and out of a use; no fogging of windows, blacking out of windows, etc. allowed); and minimum age requirement is 18 years of age.

**FLORIDA** – The Florida Attorney General’s office has left this for electronic gaming operations to be regulated at the local level. For distances, there is a minimum of 1,000 feet distance from similar electronic gaming uses, and the same minimum distance (1,000 feet) away from schools, parks, and other public places is about the same. The minimum age requirement is 18 years of age; maximum number of gaming machines is 20; there is a transparency requirement (similar to California; no fogging of windows, blacking out of windows, etc.); there are prohibitions on alcohol for these uses; and hours of operation are from 8AM-10PM (except that they do not allow any Sunday operations at all).

**MARYLAND** – Just like Florida for hours of operation (8AM-10PM), maximum number of gaming machines (20), and local jurisdictions are left to regulate such uses. However, Maryland does have stricter distance requirements (1,500 feet minimum from similar electronic gaming operations and age requirements, and the same distance from churches, schools, parks, etc.), along with stricter minimum age requirements (21, not 18) There is no transparency requirement in Maryland, along with there being no prohibitions on alcohol use.

**MASSACHUSETTS** – The minimum hours of operation (8AM-10PM), minimum age requirements (18), minimum distance requirements (1,000 feet from similar uses, and the same from churches, schools, parks, etc.), local regulations apply in terms of treatment, and maximum number of machines (20) all apply. In addition, there are no prohibitions on alcohol use or regulations regarding transparency requirements.

**NEW YORK** – The minimum hours of operation (8AM-10PM), minimum age requirements (18), minimum distance requirements (1,000 feet from similar uses, and the same from churches, schools, parks, etc.), and maximum number of machines (20) all apply. In addition, there are no prohibitions on alcohol use or regulations regarding transparency requirements. Finally, there is a state-level control board, unlike 75% of the states researched, that governs the use in terms of permits and requirements.

**OKLAHOMA** – Just like Florida for hours of operation (8AM-10PM), maximum number of gaming machines (20), and local jurisdictions are left to regulate such uses, along with that minimum age for such uses is 18 and distance requirements are a minimum of 1,000 feet from

similar electronic gaming operations (also a minimum of 1,000 feet from churches, schools, parks, etc.). There are no prohibitions on alcohol use, along with no transparency requirements for such uses.

**PENNSYLVANIA** – The minimum hours of operation (8AM-10PM), minimum age requirements (18), minimum distance requirements (1,000 feet from similar uses, and the same from churches, schools, parks, etc.), and maximum number of machines (20) all apply. In addition, there are no prohibitions on alcohol use or regulations regarding transparency requirements. Finally, there is a state-level control board, unlike 75% of the states researched, that governs the use in terms of permits and requirements.

**TEXAS** – Just like Florida for hours of operation (8AM-10PM), maximum number of gaming machines (20), and local jurisdictions are left to regulate such uses, along with that minimum age for such uses is 18 and distance requirements are a minimum of 1,000 feet from similar electronic gaming operations (also a minimum of 1,000 feet from churches, schools, parks, etc.). There are no prohibitions on alcohol use, along with no transparency requirements for such uses.

**UTAH** – Just like Florida for hours of operation (8AM-10PM), maximum number of gaming machines (20), and local jurisdictions are left to regulate such uses, along with that minimum age for such uses being 18 and distance requirements are a minimum of 1,000 feet from similar electronic gaming operations (also a minimum of 1,000 feet from churches, schools, parks, etc.). There are no prohibitions on alcohol use, along with no transparency requirements for such uses.

**VIRGINIA** – Like that of Maryland, distance requirements are stricter for 1,500 feet from similar electronic gaming uses, and the same distance (1,500 feet) from such a use to a church, school, etc.. The uses are also limited, like Florida, by their hours of operation (8AM-10PM on all days, except for Sundays), along with the maximum number of machines (20). There are prohibitions on alcohol as well for these uses, like Florida. There are no transparency requirements in Virginia. The minimum age for such uses is 18, and regulation is handled at the local levels.

**WYOMING** – Just like Florida for hours of operation (8AM-10PM), maximum number of gaming machines (20), and local jurisdictions are left to regulate such uses, along with that minimum age for such uses is 18 and distance requirements are a minimum of 1,000 feet from similar electronic gaming operations (also a minimum of 1,000 feet from churches, schools, parks, etc.). There are no prohibitions on alcohol use, along with no transparency requirements for such uses.

# **ATTACHMENT THREE**

# Union DA gives 2-week deadline to get rid of video poker machines

By ADAM BELL

abell@charlotteobserver.com

**MONROE** — To tackle a rise of illegal video poker machines in Union County, District Attorney John Snyder said Tuesday he is giving business owners two weeks to remove the machines or face fines and seizure of the equipment.

Law enforcement officials said they have seen an increase in video gambling machines in the county over the past six months. Snyder estimated there were more than 100 illegal machines in the county.

He and other officials spoke of receiving calls from store owners wondering if the machines were legal, as well as from people who have lost extensively on the games. One person who called Snyder said he lost \$4,000.

"It's not good for the com-

munity," Snyder said. "It's not good for the county."

He said vendors have been trying to confuse shop owners by claiming the machines are legal because of lawsuits and restraining orders involving machines elsewhere in North Carolina. But such orders do not apply in counties other than where the orders were issued.

Store owners may be tempted to offer the games to make money in a tough economy, but Snyder expects most owners will cooperate. He called two weeks a reasonable amount of time for the machines to be removed.

Authorities will go to the stores after that period to see if the machines are still there. Most machines are in gas station convenience stores, according to Snyder.

Here's how illegal video gambling often works in the county, according to Snyder:

Customers give a cashier money to play the machine. Any winnings from the machine are printed out on a receipt and then paid by the cashier.

Customers also get a printed receipt with a number on it for prepaid phone minutes. But Snyder said the phone card has nothing to do with the game and does not help the game get around state gambling laws as a type of sweepstakes promotion.

"The law is clear: These machines are not legal," Snyder said. Video poker was fully phased out by the state in 2007, and last December, the N.C. Court of Appeals upheld a statewide ban on video poker. When asked where the ma-

chines were in Union County, Snyder replied: "All over."

That includes two machines in the On the Road gas station and convenience store near Snyder's office in Monroe.

Owner Ennad Fahmy said he has had the machines for about half a year, and the vendor told him they were legal.

He didn't see much difference between the machines and the lottery tickets he sells, other than the machines aren't taxed.

"I'll get rid of them if I can't have them here legally. But they're a good source of income in a recession," Fahmy said.

"For me, they're not my only source of income. But I think it's really a stupid decision. Some business owners will have to close down if that's all they have."

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## Mecklenburg



**Judith C. Aragon**

2/26/1946 - 2/26/2010  
Judith C. Aragon, 63, of Charlotte, N.C., passed away peacefully on February 26, 2010. She was born on February 26, 1946 in Los Angeles, California. She is survived by her husband, Vincent Jr., John, an attorney-at-law, 11 children, Kyle, Brittany, and Matthew.

Judith married Vincent Jr. in 1965 and lived in Charlotte, N.C. for 33 years from the South Conn District. After retirement, she and her family moved down to Charlotte and grand children enjoyed picnics and projects with her grandchildren. A visitation will be held on February 17, 2010 at 2:00 p.m. at Phireville Chapel, 1100 Royal, Charlotte, N.C. Funeral service will be held on Thursday, February 25, 2010 at McEwen Phireville Chapel, 1100 Royal, Charlotte, N.C. Condolences may be expressed at [www.McM.com](http://www.McM.com).

**Essie Hunt Christen** of Charlotte, died on February 26, 2010. Graveside services will be held on Thursday, February 25, 2010 at [www.McM.com](http://www.McM.com).

## FUTURE CITY

Future students' interest in engineering, science and math. The students are being encouraged to design a city. The program projects how their ideas will affect people.



3 Bentley

Their zoning plan, and presented it to a panel of engineers in Washington, D.C., over the weekend.

Hager said one of the toughest questions had to do with what would happen to their water disposal system in case of a flood or a cholera epidemic.