

1<sup>st</sup> Amendment Fall 2012 Exam No. \_\_\_\_\_ Raw Score \_\_\_\_\_ Final Grade \_\_\_\_\_

Question I (City Council Public Debate Hour) (50 points)

Overbreadth - sub'l overbreadth? compare permissible to impermissible applications----(5)\_\_\_\_  
Vagueness-subjective standards- terms like insolvent, impertinent and disrespectful----(5)\_\_\_\_  
Content Based-Strict Scrutiny—compelling int (civility, cap aud), narrow, alt means?----(5)\_\_\_\_  
§ 2-60- Time, place, manner reg? (content neutral, imp int., narrowly tailored, ample alts(5)\_\_\_\_  
Public Forum-Designated Limited (agenda, etc)-PDH purpose/practice, Kennedy forum-(5)\_\_\_\_  
Limited Public Forum(PF) or nonpublic forum-are limits reasonable, not viewpt based--(5)\_\_\_\_  
BB's speech falls w/in the limited PF vs. slanderous and profane so nonPF as to BB----(3)\_\_\_\_  
BB excluded because of views he expressed so impermissible basis for exclusion------(2)\_\_\_\_  
BB excluded because of how he expressed his objection not because he objected------(2)\_\_\_\_  
Slander? Whorehouse madam - not false statement of fact – opinion, a metaphor, political hyperbole; no ct established lack of truthfulness; not defamatory just because insulting--(5)\_\_\_\_  
Profanity exclusion-profanity protected-Cohen- Political Speech; objecting to shops selling sex toys- calling them fuck shops is only slight exaggeration-political hyperbole------(5)\_\_\_\_  
Miscellaneous\_\_\_\_\_ (3)\_\_\_\_\_

Question II (Springdale Sons of Liberty) (50 points)

EE - Brandenburg incitement - advocacy of imminent lawless action? (break them now)-(5)\_\_\_\_  
Likely to produce action?-at night, cooldown period, greatest violence-fire not windows-(6)\_\_\_\_  
Political Hyperbole – conditional, future conduct------(3)\_\_\_\_  
Feiner incitement-DA-inflammatory speech, unruly crowd, hecklers, police outnumbered(5)\_\_\_\_  
EE-police didn't stop speech, told crowd to disburse after sp, they did, no imminent riot-(5)\_\_\_\_  
EE-True Threat? - gen'l to Dems, didn't communicate to those it threatened; unlikely to put a reasonable person in fear of serious bodily harm, no bodily harm threatened windows----(5)\_\_\_\_  
FF-a threat or intimidation?-break your window-meaning ambiguous, conditional, fear?-(6)\_\_\_\_  
FF- is it Brandenburg incitement? No advocating to urge others to action, conditional----(4)\_\_\_\_  
GG–Fighting Words-Fascist asshole-face to face?; likely to cause resort to violence?----(5)\_\_\_\_  
Traditional Public Forum-Political Expression------(3)\_\_\_\_  
Miscellaneous\_\_\_\_\_ (3)\_\_\_\_\_

Question 3 (Gaming Machine Art Project) (50 points)

Prior restraint?-no standards, content based, no procedural protectns, but no rt of access-(5)\_\_\_\_  
Protected Speech – political sp, artistic expression, symbolic speech (Spence, O'Brien)--(3)\_\_\_\_  
Gov't speech- SAC (city designed project; provided machine replicas), like Sumnum---(4)\_\_\_\_  
Not gov't speech-SAG - privately designed art-temporary display-not like monuments--(4)\_\_\_\_  
Immunity from PF doctrine-like Forbes? must SAC select based on content & viewpt?--(4)\_\_\_\_  
Nonforum (SAC)-not open generally-only 1 in 5; purpose build up support for casino---(4)\_\_\_\_  
If nonforum or limited PF - SAC-reasonable in light of purpose; SAG – viewpt discrim-(5)\_\_\_\_  
Public Forum-Designated, Limited, Kennedy, Traditional (SAG)-for expression re gambling, w/in PF subj, Kennedy forum – open to public, like sts/pks, compatible, st/parks-trad PF(5)\_\_\_\_  
Not PF(SAC)-purpose/practice/selective inclusion, not in limits, not st/park or Kennedy(5)\_\_\_\_  
Viewpt discrim? Pick progambl'g art, reject antigambl'g; no proof all pro in/all anti out-(4)\_\_\_\_  
Strict Scrutiny-compelling interest?, narrowly tailored?, less restrictive alternatives?----(4)\_\_\_\_  
Miscellaneous\_\_\_\_\_ (3)\_\_\_\_\_