

Chapter 4 - Amusements

ARTICLE I. - IN GENERAL

Secs. 4-1 4-25. -Reserved.

ARTICLE II. - BILLIARDS

Sec. 4-26. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Competitive games means any games of competing skills by one (1) or more players played upon any mechanical contrivance such as a pinball machine or similar type mechanism, or played upon a bumper pool table.

Pool or billiard table means any table surrounded by a ledge or cushion, with or without pockets, upon which balls are propelled by a stick or cue.

Sec. 4-27. - License—Required; display.

It shall be unlawful for any person except religious, charitable or educational organizations, authorized under the laws of the state, and any group qualifying as a private club under the terms of the Alcoholic Beverage Code, to own and operate, for profit, any pool or billiard table or tables, within this city without having first obtained an appropriate license from the city, which license shall at all times be displayed in some conspicuous place within the licensed place of business.

Sec. 4-28. - Same—Fee; term.

- (a) The city is authorized to collect an annual license fee for each location on which a pool or billiard table is owned and operated for profit. The fee is One Hundred dollars (\$100.00) per establishment or hall for each license issued and a like sum for each renewal thereof.
- (b) Any license issued pursuant to this section shall be for one (1) year and shall be nontransferable.

Sec. 4-29. - Same—Revocation.

The city council is authorized and empowered to revoke or cancel the license of any person licensed to own and operate a pool or billiard table or tables after giving such licensee ten (10) days' notice of a hearing and after conducting such hearing for the purpose of determining

whether such license should be revoked; provided, however, that such power of cancellation or revocation shall be exercised only under the following conditions:

- (1) The violation of any of the provisions of this article;
- (2) Violation of the prescribed hours of operation provided in this article;
- (3) Knowingly permitting the presence on the premises of a person under the influence of intoxicating liquor;
- (4) Knowingly permitting disorderly conduct or immoral practices on the premises;
- (5) Knowingly permitting the violation of the law of the state or of the Code of this city.

Sec. 4-30. - Hours of operation.

No person may engage in the operation for profit of any pool or billiard table or tables or competitive games and devices within this city on weekdays between the hours of 12:00 midnight and 7:00 a.m. following; provided, however, that such table may be operated on Sundays only between the hours of 1:30 p.m. and 12:00 midnight. At the hour here specified for closing the premises licensed for pool or billiard tables as well as any premises upon which competitive games and devices are operated shall be vacated by the public, unfinished games shall be terminated at the closing hour and not later.

Sec. 4-31. - Obstructions not allowed.

It shall be unlawful to erect or construct on the licensed premises, of any public restaurant or private club, a partition to obstruct the view of pool or billiard tables if owned or operated for profit. Such tables shall be in a separate room, from the dining or serving room, with the opening to the room, open at all times.

Sec. 4-32. - Location restricted.

Places of business governed by this article shall be located on the ground floor or street level only of any building and shall not be licensed for any other floor than the ground or street level floor.

Sec. 4-33. - Penalty.

Any person licensed by this article violating any provision of this article shall be guilty of a misdemeanor and upon conviction shall be fined as prescribed in section 1-5 of this Code.

Secs. 4-34—4-50. - Reserved.

Article III. – Amusement Redemption Machines

AMUSEMENT REDEMPTION MACHINE BUSINESSES

Sec. 4-51. Definitions.

Sec. 4-52. Regulatory enforcement license and occupation tax permit.

Sec. 4-53. Transparent, uncovered windows required.

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- Sec. 4-58. Effective Date.
- Sec. 4-59. Severability Clause.

Sec. 4-51. Definitions. In this ordinance:

Amusement redemption machine means: Any electronic, electromechanical, or mechanical contrivance that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though possibly accompanied by skill, whether or not the prize is automatically paid by the contrivance, including but not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, tic-tac-toe, eight-liner or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so. This term expressly excludes coin-operated music machines, pay toilets, pay telephones, coin-operated rides for children, and other coin-operated machines which dispense or vend merchandise, commodities, or food directly from the machine.

City official means: A code enforcement officer or building official of the city or any peace officer of the city or the state.

Game room means: A building, facility or other place that is open to the public or operated as a private club where patrons or their guest has to know, speak, or acknowledge a pass word, code word, or signal of any kind or possess any type of printed or written entry permit or symbol, and that a city official knows or has a good faith belief that the building, facility or other place contains one or more amusement redemption machines.

Game room owner means: A person who has any ownership interest in a game room or an owner, director, or officer of a business entity that has any ownership interest in a game room.

Peace officer means: Any person recognized by the current Texas Code of Criminal Procedure Article 2.12 (Who Are Peace Officers) and Article 2.122 (Special Investigators).

Sec. 4-52. Regulatory enforcement license and occupation tax permit.

- (a) Regulatory enforcement license fee. An owner, operator, or lessee of an amusement redemption machine game room shall be required to secure a regulatory enforcement license annually. An amusement redemption machine game room shall be required to secure a regulatory enforcement license by paying to the city an annual inspection and regulatory enforcement license fee of \$800.00 for each amusement redemption machine. The regulatory license fee

is implemented to cover the costs to issue the licenses, regulate the amusement redemption machine game rooms, and to determine whether the provisions of this article are complied with.

- (b) Occupation tax permit fee. An owner, operator, or lessee of an amusement redemption machine game room shall be required to secure an occupation tax permit annually. An amusement redemption machine game room shall be required to secure an occupation tax permit by paying to the city an annual fee of \$15.00 for each amusement redemption machine.
- (c) Application. An applicant for a license or permit shall file with the city secretary a written application on a form provided for that purpose by the city, which shall be signed by the applicant, who shall be the owner, operator, or lessee of the amusement redemption machine game room. Should an applicant maintain an amusement redemption machine game room at more than one location, a separate application must be filed for each location. The following information is required in the application:
 - (1) Location, by address, of the proposed operation;
 - (2) A copy of the certificate of formation if the business is registered with the secretary of state, or the applicant's d/b/a, if applicable;
 - (3) Name, address, telephone number and driver's license number of the following persons, if applicable:
 - a. Applicant if a natural person;
 - b. All persons who own 25 percent or more interest in the amusement redemption machine game room;
 - c. All corporate officers, if any, of the business;
 - d. If a partnership, each of the general and limited partners;
 - e. The property owner; and
 - f. All managers of the property and/or business.
 - (4) The nature of the business (general description) operating the game room
 - (5) A list of serial numbers for each amusement redemption machine one for each machine;
 - (6) Number of amusement redemption machines in the amusement redemption machine game room;
 - (7) An authorization to conduct a background check for the licensing/permitting of owners, operators or lessees of amusement redemption machine game rooms for all parties listed in subsection (c)(3). The background check will be for a Texas and Federal Bureau of Investigation criminal history record information background check. For the Federal Bureau of Investigation criminal history record information background check, the parties listed in subsection (c)(3) will provide fingerprints. This background check is conducted under the authority of V.T.C.A. Government Code §§ 411.087 and 411.122. The license/permit will be denied if any individual has a felony conviction, a class "A" misdemeanor conviction in the last ten years, a class "B" misdemeanor conviction in the last five years, or a current arrest warrant even though the issuing state will not extradite from Texas.

- (8) A sworn statement that:
 - a. All the facts contained in the application are true and correct;
 - b. The location and operation of the amusement redemption machine game room will not violate any applicable deed restrictions; and
 - c. The amusement redemption machine game room will be operated in accordance with all laws and city ordinances, including V.T.C.A. Penal Code, chapter 47.
- (9) Name, address, and telephone number of an emergency contact person who can be reached after hours.
- (10) Diagram attached of the building showing the specific location of all of the amusement redemption machines along with all exit doors and signs.
 - d. Expiration and renewal.
 1. Expiration. A regulatory enforcement license and tax permit issued by the city shall automatically expire on the December 31st following its issuance, except as otherwise stated herein. Such license and permit shall automatically expire if the licensee or permittee sells the property or the business, transfers equity in to accomplish same, or license and/or permit is revoked. A regulatory enforcement license or permit is not assignable or transferable. The city shall not refund any portion of a regulatory enforcement license or permit after the license or permit is issued, nor shall it prorate or reduce in amount any fee due to the city.
 2. Late penalty. Upon the expiration of a regulatory enforcement license or permit, the licensee or permittee shall obtain a renewal if the person wishes to continue operating an amusement redemption machine game room. Failure to obtain the renewal within 30 days after expiration will be a violation of this article. Nothing herein authorizes the licensee or permittee to operate after the expiration of a license and before a renewal is effective.
 - e. Posting. The license and permit shall be conspicuously posted and securely affixed to any permanent surface of the amusement redemption machine in such a manner that the permit and license are clearly visible. A permit or license issued for a certain coin amusement redemption machine shall not be transferred to another machine.
 - f. Restrictions, regulations, controls, and limitations. The following restrictions, regulations, controls, and limitations shall apply to all amusement redemption machine game rooms:
 1. All building and fire code standards must be met. A certificate of occupancy shall be requested before license is issued.
 2. The amusement redemption machine shall be in conformance with the provisions within this article.
 3. A game room operator must be a person who is at least 18 years of age.

4. Total number of machines in one establishment shall be limited to 50.
5. All machines must be permitted and licensed as stated within this article.
 - g. Replacement. The city shall provide a duplicate permit or license for a valid permit or license that has been lost, stolen, or destroyed at a charge of \$10.00. The original permit or license for which a duplicate permit or license was issued shall be void.
 - h. Initial license and permit. On the effective date of this article, all amusement redemption machines must obtain a valid permit and license as described herein within 30 days.

Sec. 4-53. Transparent, uncovered windows required.

- (a) Every game room shall have transparent unobstructed windows or open space on at least one side so that the area is open to view by the general public passing by on a public street. The owner, manager or employee of a game room shall not permit any obstruction of such public view by the use of drawn shades, blinds, partitions, tinting or other structures or obstructions.
- (b) The requirements of subsection (a) above may be waived or modified by a code enforcement officer if the game room owner can demonstrate:
 - (1) The game room is located in a structure deemed a historic landmark, or the structure is within a historic district, and deemed to have architectural or historic significance; and compliance with the unobstructed view requirement shall require alterations to the structure that will have a substantially detrimental effect on its historic or architectural features.

Sec. 4-54. Nuisance declared.

Because of the increased traffic and congestion around, late hours, and potential for being an attractive nuisance to minors, the city hereby finds that a further proliferation and concentration of such amusement redemption machine businesses constitutes a nuisance to the health, safety, and welfare of the citizens. Accordingly, subsequent to the passage of this article, no such establishments will be issued a permit or license unless such establishment is at least 200 feet in a direct line from any of its public entrances to the nearest property line of a church, school, or hospital. Any businesses existing as of the time of the passage of this article shall be permitted to continue, however, if they should cease operations, violate this article, violate state law, or violate federal law, their permit and license shall be subject to revocation and such may not be renewed unless they meet all provisions of any applicable law including the above spacing requirements.

Sec. 4-55. Inspections.

- (a) The city shall be required to perform periodic inspections to determine if the amusement redemption machine owner is complying with the provisions of this article and not endangering the public safety. The city shall effectuate these inspections through its police department, city secretary, code enforcement department, or any of their designees.
- (b) An owner, manager or employee of a game room or other person exercising control over a game room, a portion of a game room or an amusement redemption machine, shall provide a city official with immediate unrestricted

access during business hours to all areas of the game room and to all amusement redemption machines located in the game room.

Sec. 4-56. Existing laws.

- (a) Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, coin operated, or slot machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any Article of the Penal Code of this State of Texas and of any federal laws of the United States of America.
- (b) "Gambling devices" as defined by V.T.C.A. Penal Code, chapter 47, and as interpreted by judicial decision (Hardy v. State, 102 S.WJd 123 (Tex. 2003); State v. One Super Cherry Master Video 8-Liner Machine, 102 S.WJd 132 (Tex. 2003)) are prohibited from use as an amusement redemption machine.

Sec. 4-57. Penalty, revocation, and sealing.

- (a) Any person who violates a section of this article shall, upon conviction of such violation, be deemed guilty of a misdemeanor and shall be fined a sum not to exceed \$500.00 per machine, per violation for each day that violation occurs. The unlawful operation of any amusement redemption machine shall constitute a distinct and separate offense for each day that the same is operated or exhibited.
- (b) The city council is authorized and empowered to revoke the regulatory enforcement license or permit of any person licensed or permitted under this article, after giving such person ten-days' notice of a hearing and after conducting such hearing for the purpose of determining whether such license should be revoked because of the violation of this article.
- (c) The city may seal any amusement redemption machine on which the permit and/or license has not been paid. The city shall charge a fee of \$25.00 for the release of any machine sealed as provided herein for nonpayment. It shall be unlawful for any person to break the seal affixed in the name of the city or exhibit, display or remove from location any machine on which the seal has been broken. Upon proof that all fees have been paid in full and an inspection of the location of business has been completed any and/or all sealed machines may be unsealed by a city official.

Sec. 4-58. Effective Date.

This Code shall be effective from the adoption of Ordinance _____ and supersedes the ordinance dated June 1, 2014.

Sec. 4-59. Severability Clause.

If any section, subsection, sentence, clause or phrase of this ordinance, or the application of the same to a particular set of persons or circumstances, should for any

reason be held to be invalid, such invalidity shall in no way affect the remaining portion of this ordinance and to such end the various portions and provisions of this ordinance are declared to be severable.