

ARTICLE III. MECHANICAL AMUSEMENT DEVICES, VIDEO GAMES AND POOL TABLES*

DIVISION 1. GENERALLY

Sec. 10-51. 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:

Mechanical amusement device means any machine or device, mechanical or electronic, which may, upon insertion of a coin, slug or card, operate or be operated or used as a game or contest. The term "mechanical amusement device" shall also mean any machine or device, mechanical or electronic, described in the preceding sentence, which is operated without the necessity of inserting a coin, slug or card to make it operate, but for which an admission is charged to use the machine or device or to enter the room where the machine or device is located in order to use the machine or device.

Operator means a person who is responsible for supervision of the day-to-day operation of the premises upon which mechanical amusement devices, video games or pool tables are located.

Owner means an individual, corporation, partnership, an incorporated association or any other similar entity which holds the equitable title or leasehold interest in the premises upon which mechanical amusement devices, video games or pool tables are located.

Pool table means a pocketed billiard table upon which various games of pool or billiards are played, and shall include any pocketed billiard table which is operated by inserting a coin, slug or card to make it operate and shall also include any pocketed billiard table which is operated without the necessity of inserting a coin, slug or card to make it operate, but for which an admission is charged to use the pocketed billiard table or to

***Editor's note**—Ord. No. 636, adopted November 2, 1998, amended Art. III in its entirety to read as herein set out. Prior to inclusion of said ordinance, Art. III pertained to similar subject matter. See the Code Comparative Table.

enter the room where the pocketed billiard table is located in order to use the pocketed billiard table.

Video game means a game using computer technology, including, but not limited to, a game having a video display.
(Ord. No. 636, 11-2-98)

Sec. 10-52. Penalty for violation.

Any person violating any of the provisions of this article shall, upon conviction thereof, be subject to a fine of not more than \$500.00 and the costs of prosecution or by imprisonment in the county jail for a period not to exceed 90 days, or by both such fine and imprisonment in the discretion of the court. The imposition of any sentence shall not exempt the offender from compliance with the requirements of this article.
(Ord. No. 636, 11-2-98)

Secs. 10-53—10-65. Reserved.

DIVISION 2. LICENSE

Sec. 10-66. Operator required to obtain.

An operator of premises wherein pool tables, video games or mechanical amusement devices are located shall be required to maintain and hold a license therefor. If an operator is not a natural person, the license shall be issued in the name of the organization, which shall designate a natural person meeting the requirements of this article to act on its behalf.
(Ord. No. 636, 11-2-98)

Sec. 10-67. Application.

Prior to the location of pool tables, video games or mechanical amusement devices on the premises, the operator thereof shall apply for a license from the city. Application shall be made upon a form provided for that purpose by the city clerk. As a minimum, the application shall contain the following information:

- (1) Name, address and age of operator, plus length of residence within the state.
- (2) Name and address of owner of premises, plus length of residence within the state,

if not a natural person; the name and address of the organization, including the principals of the organization, and if a corporation, the state in which the corporation has filed its articles of incorporation.

- (3) Name and address of the owner of mechanical amusement devices, video games and/or pool tables.
- (4) Address of premises.
- (5) Statement as to whether the operator and owner have ever been convicted of a crime.
- (6) Operating statement—Application:
 - A. Statement of nature of proposed operation.
 1. Hours and days of week of operation.
 2. Name, address and telephone number of each person who will supervise the operation.
 3. Redemption method, if any.
 4. Description of the proposed code of conduct to be posted and where on the premises it will be posted.
 5. Activities to be used by operator to prevent truancy, loitering and disorderly behavior.

(Ord. No. 636, 11-2-98)

Sec. 10-68. Proof of insurance.

With the application, the applicant shall file with the city clerk certificates of proof of insurance providing to the public general comprehensive liability insurance in the amount of at least \$100,000.00 per person and \$300,000.00 per occurrence. The certificates or renewals thereof shall provide that the city shall be notified upon discontinuance or alteration of any such insurance coverage for any reason.

(Ord. No. 636, 11-2-98)

Sec. 10-69. Restrictions and prohibitions.

Restrictions and prohibitions are as follows:

- (1) *Age.* No license shall be granted to any person under 18 years of age.
- (2) *Criminal connection.* No license shall be granted if the city council determines that the owner and/or operator have been convicted of a crime that could impact the owner's and/or operator's ability to properly conduct the proposed operation.

(Ord. No. 636, 11-2-98)

Sec. 10-70. Fee.

A fee shall be paid for a license to operate mechanical amusement devices, video games and/or pool tables within the city. The fee shall be based upon the number of mechanical amusement devices, video games and/or pool tables located on the premises under the control or supervision of the applicant. The amount of such fee shall be established on an annual basis by resolution of the city council.

(Ord. No. 636, 11-2-98)

Sec. 10-71. Term.

A license approved by the city council shall continue for a term not to exceed one year, or until March 31, whichever is sooner.

(Ord. No. 636, 11-2-98)

Sec. 10-72. Granting.

(a) *Hearing within 60 days.* Upon receipt of the application and information required by this division, the city clerk shall submit the same to the city council to be heard at a regularly scheduled meeting within 20 days from the date of receipt of said application and all required information.

(b) *Requirements for approval.* The city council shall approve a license if it finds:

- (1) The applicant has met all the requirements for a license set forth in this article.
- (2) The proposed operation will be in compliance with the city zoning ordinance and all other ordinances.

- (3) The premises which the applicant intends to operate is not likely to become a place for loitering and the congregation of persons under the age of 17 years in violation of this article. There exist no particular facts and circumstances pertaining to the premises which, considering the hours of operation and physical location of the mechanical amusement devices, video games or pool tables, would create a public nuisance or violation of the provisions of this article.

(c) *Reasonable conditions.* In approving the application for license, the city council may establish reasonable conditions not specifically delineated in this article.

(d) *Form.* A license approved by the city council shall contain the name, address, place of business of the operator and owner and the number of pool tables, mechanical devices or video games to be maintained upon the premises pursuant to such license, as well as any reasonable conditions which have been imposed by the city council. The license shall be authenticated by the signature of the city clerk and shall bear the expiration date of the license.

(Ord. No. 636, 11-2-98)

Sec. 10-73. Display.

A valid license shall be prominently displayed at all times within the premises.

(Ord. No. 636, 11-2-98)

Sec. 10-74. Renewal.

A license issued in accordance with this article may be renewed upon the same terms and subject to the same requirements provided by the city council in this division for the original license. No license issued pursuant to this article shall be assignable or transferable, nor shall any operator, excepting the operator to which the license was issued, be permitted to operate under this article, either directly or indirectly.

(Ord. No. 636, 11-2-98)

Sec. 10-75. Revocation or suspension.

Revocation or suspension of license shall be according to the following procedures:

- (1) *Basis for action.* Any license may be revoked for a violation of any of the provisions of this article and/or violation of any other city ordinance and/or state statute.

- (2) *Written notice.* If violations are observed by the enforcement officers of the city, the city clerk shall forward, by first-class mail to the licensee at the address specified in the application, the nature of the violations, along with a notice of the date, time and location of the hearing to be held on such violations.

- (3) *Hearing.* The hearing shall be held within 14 days from mailing of such notice. The city council may act as the hearing officer or may appoint some other hearing officer to act in its stead. Following the hearing, the city council or hearing officer shall determine whether or not a violation of this article or other city ordinance or state statutes has occurred and, if so, what penalty should be evoked.

- (4) *Penalty.* The city council or hearing officer may revoke or suspend any license issued under this provision for any violation of this article, city ordinance and/or state statute. If a violation is proven, the city council or hearing officer may assess costs for administrative expenses, fees of the hearing officer if one is appointed, and other expenses incurred in the hearing.

(Ord. No. 636, 11-2-98)

Sec. 10-76. Inspections.

The premises of any licensee shall be subject to periodic inspections by the city police department for the purpose of determining whether its operation is in compliance with this and other city ordinances.

(Ord. No. 636, 11-2-98)

Secs. 10-77—10-90. Reserved.

DIVISION 3. REGULATIONS

Sec. 10-91. Gambling or intoxicating beverages.

Gambling or intoxicating beverages shall not be permitted on the premises in which pool tables, mechanical amusement devices or video games are operated; provided, however, that intoxicating beverages may be allowed in establishments having pool tables, mechanical amusement devices and video games if the establishment holds a liquor license issued by the state.

(Ord. No. 636, 11-2-98)

Sec. 10-92. Redemption games.

(a) This article does not apply to a redemption games if all of the following conditions are met:

- (1) The outcome of the game is determined through the application of an element of skill by the player.
- (2) The award of the prize is based upon the players achieving the object of the game or otherwise upon the player's score.
- (3) The game only provides non-cash prizes, such as toys, novelties or coupons or other representations of value redeemable for non-cash prizes, toys or novelties.
- (4) The wholesale value of a prize, toy or novelty awarded for the successful single play of a game is not more than \$3.75.
- (5) The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed one times the amount charged for a single play of the game, or \$3.75, whichever is less. However, players may accumulate coupons or other representations of value for redemption for non-cash prizes, toys or novelties of a greater value up to, but not exceeding, \$250.00 wholesale value.

(b) As used in this section, "redemption game" means a single player or multi-player mechanical, electronic or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling or stopping

a ball or other object onto, upon or against a hole or other target. Redemption games do not include either of the following:

- (1) Games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.
- (2) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.

(Ord. No. 636, 11-2-98)

Sec. 10-93. Frequenting of premises by minors.

The operator of the premises shall not permit any person under 17 years of age to remain in or loiter in or about the area on the premises where pool tables are maintained, unless such person is accompanied by a parent or guardian. Persons under the age of 17 years may be allowed in the area of the premises where mechanical amusement devices and/or video games are located when such area does not contain any pool tables and has a full-time adult attendant on duty, or a uniformed security guard in attendance during its hours of operation.

(Ord. No. 636, 11-2-98)

Sec. 10-94. Proof of age.

No person under 17 years of age, unaccompanied by a parent or guardian, may remain in or loiter in or about the area of the premises where pool tables are maintained or falsely represent his age in order to gain admittance into such area of the premises. Any person allowed to remain in the area of a premises where a pool table is operated who is not with a parent or guardian shall have in his possession proof of his age. No licensee shall permit a person to remain on such area of the premises who does not have proof of age as required in this section.

(Ord. No. 636, 11-2-98)

Sec. 10-95. Public nuisance.

It shall be unlawful to operate pool tables, video games or mechanical amusement devices, or the combination of them, so as to constitute a public nuisance.
(Ord. No. 636, 11-2-98)

such by the Internal Revenue Service, where such pool tables, video games and/or mechanical amusement devices are incidental to the principal activity of the home, institution, church or clubhouse or fraternal organization.
(Ord. No. 636, 11-2-98)

Sec. 10-96. Disorderly conduct.

It shall be unlawful for the licensee to permit any disorderly conduct to occur on the premises.
(Ord. No. 636, 11-2-98)

Sec. 10-97. Overcrowding.

No licensee may permit the premises to become occupied by more individuals than that permitted for such premises under the fire code for the city.
(Ord. No. 636, 11-2-98)

Sec. 10-98. Location.

It shall be unlawful to operate any premises in which there are located any pool tables, video games and/or mechanical amusement devices within 1,000 feet of an elementary school, middle school, junior high school or high school.
(Ord. No. 636, 11-2-98)

Sec. 10-99. Variances.

An operator may petition to the city zoning board of appeals for a variance from the location requirements provided in section 10-98. The zoning board of appeals shall consider such petition under the following criteria:

- (1) The proximity of the premises to nearby residential dwellings.
- (2) The proximity of the premises to nearby establishments where beer, wine or other alcoholic beverages are served or where beer, wine or alcoholic beverages are sold for carryout purposes.

(Ord. No. 636, 11-2-98)

Sec. 10-100. Exceptions.

No license is required for the operation of any pool table, video game and/or mechanical amusement device in a private home, public institution, church or fraternal organization recognized as