

ORDINANCE NO. 20170814

AN ORDINANCE OF THE CITY OF COFFEE CITY, TEXAS, WITH THE PURPOSE OF LICENSING, PERMITTING AND REGULATING THE OPERATIONS OF GAME ROOMS AND AMUSEMENT REDEMPTION DEVICES, TO PROVIDE OPERATIONAL REGULATIONS FOR SUCH GAME ROOMS; PROVIDING FOR EXCEPTIONS; PROVIDING FOR A PENALTY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Coffee City Council desires to permit or license and regulate game rooms and amusement redemption machines in order to prevent illegal operations of same in the interest of protecting the health, safety, and welfare of both citizens and visitors to Coffee City; and

WHEREAS, the City Council finds it in the public interest to adopt regulations and permits for game rooms and amusement redemption machines as described herein.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COFFEE CITY, TEXAS:

Section 1: Definitions:

a) **Gaming place or game room** means any real estate, building, room, tent, vehicle, boat, or other property whatsoever, open to the public and that contains one or more amusement redemption machines. A business whose income from gaming machines is less than 50% of total business income will not be considered a gaming place.

b) **Gaming devices** means any electronic, electromechanical, computerized, 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 accompanied by some skill, whether or not the prize is automatically paid by the contrivance. This includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, computerized, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits; and does not include any electronic, electromechanical, computerized, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5.00, whichever is less (section 47.1 of Texas penal code), or other legal prizes per the State of Texas.

- c) **Private place** means a place to which the public does not have access, and excludes, among other places, streets, highways, restaurants, taverns, nightclubs, schools, hospitals, and the common areas of apartment houses, hotels, motels, office buildings, transportation facilities, and shops.
- d) **Thing of value** means any benefit, but does not include an unrecorded and immediate right of replay not exchangeable for value.
- e) **Amusement redemption machine** means any electronic, electromechanical, computerized, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5.00, whichever is less. "Amusement redemption machine" does not include:
- (1) A gaming device;
 - (2) A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor
 - (3) A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical objects into the machine or a part thereof, including basketball, golf, bowling pusher, or similar machines.
- f) **Coin-operated machine** means a machine or device operated by the payment or insertion of paper currency or any other consideration.
- g) **Representation of value** means cash paid under authority of sweepstakes contests as provided by Texas Business and Commerce Code, Section 45, or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.
- h) **Placed in the establishment** means all machines physically located in the establishment whether operating or not.
- i) **Game room owner** means a person who has an ownership interest in a game room.
- j) **Code Enforcement Officer** means any employee, officer, or reserve officer of the Coffee City Police or Fire Departments.

k) **Sweepstakes** means a contest that awards one or more prizes based on chance or the random selection of entries.

Section 2: Permit required.

a) Every game room owner shall obtain a valid game room permit for each location operated as a game room. The permit shall be posted in a conspicuous place near the machines.

b) Permits shall automatically expire December 31 of each year. Such permit shall also automatically expire if the permit holder sells, transfers equity, or otherwise disposes of such devices. It is the establishment's responsibility to notify the city secretary of additional machines added to the premises within the permit year. The current permit will be replaced with a renewed permit to include the additional machines and devices at the cost per additional machine. Permits for each machine are non-transferable to other machines.

c) Upon the expiration of a permit, and within 30 days thereafter, the permit holder shall renew the permit.

Section 3: Permit fees.

a) **Application fee for permit** Game room permits are subject to application and annual fees, as follows:

- (1) \$500.00 application fee (one time fee, unless permit expires;
- (2) \$500.00 Operating fee for each machine per year;
- (3) Permits expire on December 31st of each year;

b) **Payment.** Payments of operating fees for permits being renewed shall be made by January 15 for the current year. If payment is not made by January 15 for existing businesses, the application will expire and a new application will be due.

c) **Refunds.** The city shall not refund any portion of a game room permit after the permit is issued, nor shall it prorate or reduce in amount any fee due to the city.

Section 4: Application Process

a) The application shall be made on a form as approved by the city secretary

- b) Each application received will be forwarded to the Chief of Police for investigations as to whether the applicant has been convicted of any violations of Penal Code Chapter 47
- c) Each application received will be forwarded to the Fire Department Chief for acknowledgment of his safety inspection. must be accompanied by a certificate of Occupancy issued by the Coffee City Fire Department. Leave this green stuff out
- d) **Inventory.** Each application shall include a complete inventory of all machines located on the premises. The inventory shall include the make, model, serial number and date placed in service of each amusement redemption machine, as well as a drawing showing the location and serial number of each machine.
- e) Denial of permits may be appealed to the city council

Section 5: Operating Requirements

- a) **Unrestricted access by law enforcement officers and fire department.** It shall be the duty of any owner, manager, or employee of a game room, or other person exercising control over a game room or a portion of the game room, to provide a law enforcement officer or fire department member with immediate unrestricted access during business hours to all areas of the game room and to all amusement redemption machines.
- b) **Inspection by law enforcement officer and fire department.** Any law enforcement officer may inspect a game room or an amusement redemption machine located in the city to determine whether the game room or amusement redemption machine complies with this ordinance and state law. The fire department may inspect a game room or an amusement redemption machine located in the city to determine if it is in compliance with fire code requirements. An owner, manager, or employee of a game room or other person who does not allow a law enforcement officer or the fire department to inspect a game room or amusement redemption machine commits an offense.
- c) **Game Room Sign required.** A game room owner shall mark each entrance to a game room with a sign that:
 - 1) States "GAME ROOM": in four inch or larger block letters and
 - 2) Is legible and visible at all times from a distance of 25 feet.
- d) **Egress Doors.** It shall be the duty of an owner, manager or employee of a game room or person exercising control over game room or a portion of a game room to provide during business hours egress doors that are easily operable from the egress side without the use of a key or special knowledge or effort.

- e) **Transparent, Uncovered Windows Required.** A game room owner shall provide transparent glass in each game room window. A person may not cover a game room window or otherwise block or obscure the view through a game room window.
- f) **Open view; Attendant.** All amusement redemption machines must be in open view to the public. In addition, an attendant twenty one year of age or older must be present at all times the game room is open for business.
- g) **Security.** A Licensed Professional Security Agent must be provided during all Hours of Operation.
- h) **Persons under 21.** The presence of persons under 21 years of age on the premises of a game room is prohibited. The game room permit holder commits an offense by permitting the presence of persons under 21 years of age on the premises of the game room. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of a game room permit. It is an affirmative defense to prosecution under this subsection that the person under 21 years of age was a bona fide employee of the establishment operating the game room.
- i) **Alcoholic beverages.** The presence of alcoholic beverages on premises of a game room that operates more than ten amusement redemption machines is prohibited. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of a game room permit.

Section 6: Enforcement

- a) **Punishment.** A person who fails to comply with any of the requirements of this section commits a Class C misdemeanor punishable by a fine not to exceed \$500.00 for each offense. Each day that a violation occurs is a separate offense.
- b) **Sealing.** The city shall have the authority to seal any amusement redemption machine located at an establishment for which a game room permit has not been secured. A \$10.00 fee will be charged for the release of any machine sealed for failure to obtain a permit.
- c) **Revocation of permit.** The City of Coffee City may revoke any permit to maintain and operate premises on which an amusement redemption machine is made available to others when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this section or any applicable state statute. After such conviction, the license may be reissued if, in the judgment of the city council, the circumstances leading to the conviction have been remedied and the premises are being maintained and operated in full compliance with the law and this section. Provided, however, that a game room owner\ who is found to be in violation of this section based on a finding that the number of amusement redemption machines exceeds the number for which the premises is permitted shall be permitted to continue

to operate the game room upon payment of an amount equal to twice the difference of the original permit fee and the permit fee required for the number of machines actually on the premises.

Section 7:

The annual permit fee for any permit granted during 2017 will be prorated according to the portion of the year the permit will be valid.

Section 8:

If for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of the ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, words or provisions hereof be given full force and effect for its purpose.

Section 9:

This Ordinance shall not be recorded in length in the minutes of the City of Coffee City, but shall be filed for permanent record in the office of the City Secretary.

Section 10:

This Ordinance shall become effective on and after the adoption and publication as required by law.

NUMBER OF VOTES FOR 5 NUMBER OF VOTES AGAINST 0

Passed and Approved on this 14th day of August, 2017.



Pam Drost, Mayor



Janie Krakowski, City Secretary