

## ORDINANCE

AN ORDINANCE REPEALING IN ITS ENTIRETY ARTICLE III "AMUSEMENTS" OF CHAPTER 14 "BUSINESSES" OF THE CODE OF ORDINANCES, CITY OF BURLESON, TEXAS SETTING FORTH RULES AND REGULATIONS FOR AMUSEMENT CENTERS AND REQUIRING CERTAIN AMUSEMENT CENTERS TO OBTAIN A PERMIT FOR COIN-OPERATED MACHINES; INCORPORATING THE RECITALS INTO THE BODY OF THE ORDINANCE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR INCLUSION IN THE CODE; FINDING AND DETERMINING THAT THE MEETING AT WHICH THIS ORDINANCE IS PASSED IS OPEN TO THE PUBLIC AS REQUIRED BY LAW; AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

**WHEREAS**, the City of Burleson, Texas, is a home rule city acting under its charter adopted by the electorate pursuant to Article XI, Section 5 of the Texas Constitution and Chapter 9 of the Local Government Code; and

**WHEREAS**, the City Council of the City of Burleson adopted various ordinances codifying Article III of Chapter 14 of the City of Burleson Code of Ordinances, providing for rules and regulations for amusement centers and requiring certain amusement centers obtain a permit for coin-operated machines; and

**WHEREAS**, the City Council deems it necessary and proper and in the best interests of the public health, safety, and general welfare to repeal Article III "Amusements" of Chapter 14 "Businesses" of the City of Burleson Code of Ordinances.

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

### Section 1.

Article III "Amusements" of Chapter 14 "Businesses" of the City of Burleson Code of Ordinances, is hereby repealed in its entirety.

#### ~~ARTICLE III—AMUSEMENTS DIVISION 1—GENERALLY~~

##### ~~§ 14-61 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:~~

~~AMUSEMENT CENTER—A public place or building where coin-operated amusement devices are located and at least 30 percent of the public floor of which is devoted to coin-operated~~

~~devices and their public use. This term does not include:~~

- ~~(1) Pool halls, if 75 percent of the public floor area is not devoted to coin-operated amusement devices;~~
- ~~(2) Bowling alleys;~~
- ~~(3) Recreation areas of non-profit corporations and associations; or~~
- ~~(4) Recreation areas of churches.~~

~~COIN-OPERATED AMUSEMENT DEVICE A machine or device operated by insertion of a coin, token or similar object for the purpose of amusement or skill. This term does not include:~~

- ~~(1) Musical devices;~~
- ~~(2) Machines designed exclusively for children; or~~
- ~~(3) Devices designed to train persons in athletic skills of golf, tennis, baseball, archery, or other similar sports.~~

~~MACHINE AREA To calculate the public floor area of coin-operated amusement devices, each machine or device will be assigned a dimension of not less than 15 square feet; if a machine or device affords play to two or more persons simultaneously or in order or sequence, then the actual dimensions of the machine or device plus five square feet per player side or station, shall be assigned to the machine, said area not to be less than 15 square feet per machine; if the machines are congregated in a separate room, partitioned area or generally centralized location, then the perimeter dimensions of that area shall be used to determine floor area and if there are additional machines located outside of the centralized area, then their area, as computed above, shall be added to the perimeter dimension to arrive at the overall floor area of coin-operated amusement devices.~~

~~OPERATOR A person who manages or controls an amusement center.~~

~~POOL TABLE OR BILLIARD TABLE Any table surrounded by a lodge or cushion, with or without pockets, upon which balls are propelled by a stick or cue, and where the player thereon does not or is not required to make a coin deposit before such game may be actually commenced.~~

~~PUBLIC FLOOR AREA That area intended for use by the public while in said public place or building, but not including restrooms, storage areas or rooms, offices, living quarters, or other areas which are separate rooms and used for other unrelated purposes.~~

~~§ 14-62 through § 14-80. (Reserved)~~

## ~~DIVISION 2—AMUSEMENT CENTERS~~

### ~~Subdivision I—In General~~

~~§ 14-81 Exemptions.~~

~~The provisions of this division do not apply to an amusement center located on property owned by a political subdivision.~~

~~§ 14-82 Hours of operation; proximity to schools or churches.~~

- ~~(a) Except as provided in subsection (b) or subsection (c) of this section, no licensee or operator may operate the amusement center between the hours of 12:01 a.m. to 9:00 a.m., Monday through Friday, and between the hours of 2:00 a.m. to 9:00 a.m., Saturday and Sunday.~~
- ~~(b) If an amusement center is within 300 feet of a district zoned for residential use under the comprehensive general zoning ordinance of the city and persons under 18 years of age are admitted to the amusement center, a licensee or operator shall not operate the amusement center except between the hours of 9:00 a.m. to 11:00 p.m., Sunday through Thursday, and between the hours of 9:00 a.m. to 12:00 midnight Friday and Saturday.~~
- ~~(c) There shall be no amusement centers located within 500 feet of an existing public or private elementary or secondary school grounds or church structure (sanctuary, educational buildings, parsonage, or playground).~~
- ~~(d) For purposes of this section measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest entry door in the portion of the building used as an amusement center to the nearest point of a district restricted to residential use or nearest school grounds or church property.~~
- ~~(e) If an amusement center's hours are restricted only by subsection (a) of this section, a licensee may obtain a temporary permit to operate continuously. The city secretary shall issue a temporary permit for no longer than 30 days and only once a year.~~

~~§ 14-83 Prohibited activities in licensed establishment.~~

- ~~(a) A licensee or operator may not permit any of the following activities within the amusement center:
  - ~~(1) Violation of any possession, sale, or delivery provisions in subchapter four of the Texas Controlled Substances Act, V.T.C.A., Health and Safety Code § 481.00 et seq.;~~
  - ~~(2) Violation of any provision in V.T.C.A., Alcoholic Beverage Code §§ 106.02—106.12;~~
  - ~~(3) Prostitution;~~
  - ~~(4) Gambling; or~~
  - ~~(5) Entry of a person younger than 17 years between the hours of 9:00 a.m. to 3:00 p.m. during the fall or spring term when students are required to attend school in the school district in which the center is located.~~~~
- ~~(b) A licensee or operator may not permit on the premises of the amusement center any violation of V.T.C.A., Penal Code § 42.01.~~
- ~~(c) In subsection (b) of this section, premises means an area, other than the interior of an amusement center, to which the public or a substantial group of the public has access and which is under the control of an owner or operator of an amusement center, such as a parking facility or private sidewalk.~~

~~§ 14-84 through § 14-100. (Reserved)~~

~~Subdivision II—License~~

~~§ 14-101 Required.~~

~~No person may operate an amusement center in the city without first obtaining a license from the city secretary. All licenses, renewals, replacements or temporary permits must be approved first by the chief of police prior to final approval by the city secretary.~~

~~§ 14-102 Application.~~

- ~~(a) An applicant for a license shall file with the city secretary a written application which shall be signed by the applicant, who shall be the owner of the amusement center. Should an applicant maintain an amusement center at more than one location, a separate application must be filed for each location. The following information is required in the application:~~
- ~~(1) Name, address, and telephone number of the applicant, including the trade name by which applicant does business and the street address of the amusement center, and if incorporated, the name registered with the secretary of state;~~
  - ~~(2) Name, address and telephone number of the operator of the amusement center and proof that the operator is at least 18 years of age;~~
  - ~~(3) Whether the applicant, operator, and, if applicable, any corporate officer of the applicant has been convicted within the preceding five years of an offense involving drugs, gambling, prostitution, obscenity, or unlawfully carrying a weapon;~~
  - ~~(4) The previous occupation of the applicant, operator, and, if applicable, all corporate officers of the applicant within the preceding five years;~~
  - ~~(5) Whether a previous license of applicant, or, if applicable, corporate officer of applicant has been revoked within two years of filing of the application;~~
  - ~~(6) Number of coin-operated amusement devices in the center; and~~
  - ~~(7) A statement that all the facts contained in the application are true.~~
- ~~(b) The city secretary may require additional information of an applicant or licensee to clarify items on the application.~~
- ~~(c) No applicant may maintain an amusement center in violation of the comprehensive zoning ordinance of the city.~~

~~§ 14-103 Display; replacement; nonassignable; change of ownership.~~

- ~~(a) Each license issued pursuant to this article must be posted and kept in a conspicuous place in the amusement center and must state the number of coin-operated amusement devices for which the license was issued.~~
- ~~(b) A replacement license may be issued for one lost, destroyed, or mutilated, upon application to the city secretary. A replacement license shall have the word "Replacement" stamped across its face and shall bear the same number as the one it replaces.~~
- ~~(c) An amusement center license is not assignable or transferable.~~
- ~~(d) A licensee shall notify the city secretary within ten days of a change or partial change in the~~

~~ownership or management of the amusement center, or a change of address or trade name.~~

~~§ 14-104 Refusal to issue or renew.~~

~~The city secretary shall refuse to approve issuance or renewal of an amusement center license for one or more of the following reasons:~~

- ~~(1) A false statement as to a material matter made in an application for a license;~~
- ~~(2) Conviction within the preceding five years of the applicant, applicant's operator, or corporate officer of the applicant, of an offense involving drugs, gambling, prostitution, or obscenity, or unlawfully carrying a weapon; or~~
- ~~(3) Revocation of a license, pursuant to this division of the applicant or corporate officer of the applicant within two years preceding the filing of the application.~~

~~§ 14-105 Revocation.~~

~~(a) The city secretary shall revoke an amusement center license for one or more of the following reasons:~~

- ~~(1) A false statement as to a material matter made in an application for a license, license renewal, or a hearing concerning the license;~~
- ~~(2) Conviction of the licensee, licensee's operator, or corporate officer of the licensee of an offense involving drugs, gambling, prostitution, obscenity or unlawfully carrying a weapon;~~
- ~~(3) Conviction twice within a one-year period of the licensee or licensee's operator for a violation of the hours of operation provision of this division;~~
- ~~(4) Employment by the licensee of an operator who is under 18 years of age;~~
- ~~(5) Operation of an amusement center containing more coin-operated amusement devices than the center is licensed for and each additional coin-operated amusement device over the authorized number is a separate violation of this division;~~
- ~~(6) Violation by the licensee or licensee's operator of section 14-82.~~

~~(b) The city secretary shall send written notice of revocation to a licensee by certified mail, return receipt requested, setting forth the reasons for the revocation to the address given by the applicant as the applicant's address in the application or to the address given in the application for the place of business.~~

~~§ 14-106 Fees.~~

~~The city secretary is authorized to collect a fee, as approved by the city council, for each location that is authorized as an amusement center. The fee is payable to the city upon approval of the license by the city secretary. No refund on license fees will be made.~~

~~§ 14-107 Appeal.~~

~~If the city secretary refuses to approve the issuance of a license, or the renewal of a license to an applicant, or revokes a license issued to a licensee under this division, this action is final unless the applicant or licensee, within ten days after the receipt of written notice of the action, files with the city manager a written appeal. The city manager shall, within ten days after the appeal is filed, consider all the evidence in support of or against the action appealed, and render a decision either~~

~~sustaining or reversing the action. If the city manager sustains the action, the applicant or licensee may, within ten days of that decision file a written appeal with the city secretary to the city council setting forth specific grounds for the appeal. The city council shall, within 30 days, grant a hearing to consider the action. The city council has authority to sustain, reverse, or modify the action appealed. The decision of the city council is final.~~

~~§ 14-108 through § 14-140. (Reserved)~~

## **Section 2.**

The findings set forth above in the recitals of this Ordinance are incorporated into the body of this Ordinance as if fully set forth herein.

## **Section 3.**

That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

## **Section 4.**

Any complaint, notice, notice of violation, action, cause of action, hearing request, appeal, or claim which prior to the effective date of this Ordinance that has been initiated or arisen under or pursuant any ordinance(s) shall continue to be governed by the provision of that ordinance or ordinances, and for that purpose that ordinance or ordinances shall be deemed to remain and shall continue in full force and effect.

## **Section 5.**

That the terms and provisions of this ordinance shall be deemed to be severable and that if any section, subsection, sentence, clause, or phrase of this ordinance shall be declared to be invalid or unconstitutional, the same shall not affect the validity of any other section, subsection, sentence, clause, or phrase of this ordinance and the remainder of such ordinance shall continue in full force and effect the same as if such invalid or unconstitutional provision had never been a part hereof.

## **Section 6.**

That it is the intention of the City Council and is hereby ordained that the provisions of this ordinance shall become a part of the Code of Ordinances of the City of Burleson, and that the sections of this ordinance may be renumbered or relettered to accomplish such intention.

## **Section 7.**

That it is hereby officially found and determined that the meeting at which this ordinance is passed is open to the public and that public notice of the time, place, and purpose of said meeting was given as required by law.

**Section 8.**

This ordinance shall become effective immediately upon its passage and publication as required by law.

AND IT IS SO ORDAINED.

**PASSED AND APPROVED** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**First Reading:** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

**Final Reading:** the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Chris Fletcher, Mayor  
City of Burleson, Texas

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Amanda Campos, City Secretary

\_\_\_\_\_  
E. Allen Taylor, Jr., City Attorney