

**DELTA CITY
ORDINANCE 22-294**

**AN ORDINANCE AMENDING TITLE 4 OF THE DELTA CITY CODE
PERTAINING TO BUSINESS AND LICENSE REGULATIONS**

WHEREAS, the City is authorized pursuant to Utah Code Annotated, Title 10, Chapter 8 to fix the amount, terms and manner of issuing licenses;

WHEREAS, the City is authorized pursuant to Utah Code Annotated, Title 10, Chapter 1 to license for the purpose of regulating any business within the limits of the City by ordinance and imposing fees on businesses to recover the City's costs of regulation;

WHEREAS, there are presently various businesses operating in the corporate limits of the City;

WHEREAS, in order to provide for the health, safety and general welfare of the City and its residents by appropriately regulating businesses operating within the corporate limits of the City, the City, acting by and through the City Council, desires to amend Title 4 of the Delta City Code.

NOW THEREFORE, be it ordained by the Council of the Delta City, in the State of Utah, as follows:

SECTION 1: REPEAL "4.20 COIN OPERATED AMUSEMENT DEVICES" of the Delta Municipal Code is hereby *repealed* as follows:

REPEAL

4.20.010 LICENSE REQUIRED

No person, firm or corporation shall engage in the business of being an operator or proprietor of coin operated amusement devices, as those terms are defined in DCC 4.04.010, without first obtaining a license as required by this chapter. (Ord. 82-34, 1-4-1982)

4.20.020 APPLICATION FOR LICENSE

In addition to other licensing requirements of this chapter, applications to license coin operated amusement devices shall be filed in writing with the City Recorder, on a form to be provided by the City, and shall specify:

- A. The name and address of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof and their addresses.
- B. The address of the premises where the licensed device or devices are to be operated,

together with the character of the business as carried on at such place.

- C. The trade name and general description of the device or devices to be licensed, the name of the manufacturer and the serial number and, if the applicant is a proprietor, the number of devices to be licensed.
- D. The name and address of the operator of the device or devices, if other than the proprietor, and a telephone number at which the operator can be contacted during regular business hours.
- E. The total number of devices which the operator desires to locate within the City. (Ord. 82-34, 1-4-1982)

4.20.030 FEES FOR LICENSE

- A. **Operator's License Fee:** The license fee, in such amount as established by the City Council, for each operator shall be per year for the first device set up for operation, leased or distributed to a proprietor. If more than one device is set up for operation, leased or distributed by the same operator, then such operator shall pay an additional fee, in such amount as established by the City Council, for each additional coin operated amusement device set up for operation, lease or distribution. All operator's licenses shall be payable annually in advance, except such additional fee as may be required for additional devices installed during the calendar year after payment of the annual license fee. In no case shall any portion of said license fee be refunded to any licensee.
- B. **Proprietor's Registration Fee:** The registration fee, in such amount as established by the City Council, for each proprietor, as the term is defined in DCC 4.04.010, shall be per year for each business premises on which any coin operated amusement device is used or played, or exhibited for use or play at any time during a calendar year. All proprietor's registration fees shall be payable in advance by the proprietor or on behalf of the proprietor; provided, however, that where application is made after July 1 of any license year, a license may be issued for the remainder of the year upon payment of one-half (1/2) of the annual registration fee. In no case shall any portion of any said registration fee be repaid to the proprietor, except as may otherwise be required under this chapter. (Ord. 82-34, 1-4-1982; amd. 2019 Code)

4.20.040 LICENSE CERTIFICATE; TRANSFERABILITY

The license issued for a proprietor of premises on which devices are located shall be posted in a conspicuous place in the establishment of the licensee. A separate license certificate shall be issued for each device and shall be posted in a conspicuous place on or in the immediate vicinity of the licensed device. Such license shall be nonassignable and nontransferable and in the case of a proprietor, shall apply only to the premises for which such license is issued. (Ord. 82-34, 1-4-1982)

4.20.050 EVIDENCE OF OWNERSHIP

Any person who owns a device or devices on the effective date hereof shall file with the City Recorder evidence of such ownership prior to the issuance of a license for each such coin operated amusement device, and any person purchasing a device or devices at or placing or keeping an amusement device for use or play, or exhibiting the same for the purpose of use or play, shall file with the City Recorder evidence of ownership thereof before exhibiting or placing said device or devices for use or play. (Ord. 82-34, 1-4-1982)

~~4.20 COIN-OPERATED AMUSEMENT DEVICES~~ (Repealed)

~~4.20.010 LICENSE REQUIRED~~ (Repealed)

~~4.20.020 APPLICATION FOR LICENSE~~ (Repealed)

~~4.20.030 FEES FOR LICENSE~~ (Repealed)

~~4.20.040 LICENSE CERTIFICATE; TRANSFERABILITY~~ (Repealed)

~~4.20.050 EVIDENCE OF OWNERSHIP~~ (Repealed)

SECTION 2: AMENDMENT “4.04.010 DEFINITIONS - BUSINESS LICENSE PROVISIONS” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.04.010 DEFINITIONS - BUSINESS LICENSE PROVISIONS

As used in this title, the following terms shall have the meanings specified, unless a different meaning is clearly evident from the context: BUSINESS: All activities engaged in within the City carried on for the purpose of gain or economic profit, except that the acts of employees rendering service to employers shall not be included in the term "business" unless otherwise specifically provided. CANVASSER OR SOLICITOR: Any individual whether or not a resident of the City, traveling either by foot, wagon, motor vehicle or other type of conveyance from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares and merchandise, personal property or any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such individual has, carries or exposes for sale a sample of the subject of such sale, or whether he is collecting advance payments on such sales; provided, that such definition shall include any person who, for himself, or for another person, firm or corporation, hires, leases, uses or occupies any building, structure, tent, railroad boxcar, hotel or motel room, lodging house, apartment, shop or any other place within Delta City for the sole purpose of exhibiting samples and taking orders for future delivery. ~~COIN-OPERATED AMUSEMENT DEVICE: Any amusement machine or device operated by means of the insertion of a coin, token or similar object for the purpose of amusement or skill and for the playing of which a fee is charged. The term does not include vending machines in which are not incorporated gaming~~

~~or amusement features, nor does the term include any coin-operated mechanical musical device.~~ EACH SEPARATE PLACE OF BUSINESS: Each separate establishment or place of operation, whether or not operating under the same name within the City, including a home or other place of lodging if the same is held out by advertisements, listings or otherwise as the establishment or place of operation of a person engaging in the business of selling tangible, personal property at either retail or wholesale, or both, in the City. EMPLOYEE: The operator, owner or manager of a place of business and any persons employed by such person in the operation of said place of business in any capacity, and also any sales person, agent or independent contractor engaged in the operation of the place of business in any capacity. ENGAGING IN BUSINESS: Includes, but is not limited to, the sale of tangible personal property at retail or wholesale, the manufacturing of goods or property and the rendering of personal services for others for a consideration by persons engaged in any profession, trade, craft, business, occupation or other calling, except the rendering of personal services by an employee to his employer under any contract of person employment. LICENSED PREMISES: Any room, house, building, structure or other place occupied by any person licensed to sell beer or liquor, or to allow the consumption of beer or liquor on the premises under this title. ~~OPERATOR: Any person, firm, corporation, partnership or association which sets up for operation by another or leases or distributes for the purpose of operation by another, any coin-operated amusement device, as defined in this section, whether such setting up for operation, leasing or distributing before a fixed charge or rental, or on the basis of a division of the income derived from such device, or otherwise.~~ PEDDLER: Shall include any person, whether or not a resident of the City, traveling by foot, wagon, motor vehicle, or any other type of conveyance, from place to place, from house to house, or from street to street, carrying, conveying or transporting goods, wares, merchandise, meats, fish, vegetables, fruits, garden truck, farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without traveling from place to place, shall sell or offer the same for sale from a wagon, motor vehicle, railroad car, or other vehicle or conveyance; and further provided, that one who solicits orders and as a separate transaction makes deliveries to purchasers as part of a scheme or design to evade the provisions of this title shall be deemed a peddler subject to the provisions of this title. The word "peddler" shall include the words "hawker" and "huckster". PLACE OF BUSINESS: As used in connection with the issuance of a license under this title, shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and other places where the general public is invited or admitted, and shall be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business, as defined herein. As used in connection with the issuance of license for sale of intoxicants or of licensing premises for consumption of intoxicants and alcoholic beverages, shall be deemed to include cafes, restaurants, public dining rooms, cafeterias, taverns, cabarets and other places wherein the general public is invited or admitted and shall be deemed to include private clubs, corporations and associations operating under charter or otherwise wherein only the members and their guests are invited. Occupied hotel and motel rooms that are not open to the public shall not be deemed to be places of business with reference to licensing and sale or consumption of intoxicants. ~~PROPRIETOR: Any person, firm, corporation, partnership, association or club who, as owner, lessee or proprietor has under~~

~~his or its control any establishment, place or premises in which or at which a coin-operated amusement device is placed or kept for use or play, or is on exhibition for the purposes of use or play.~~ WHOLESALER: A sale of tangible personal property by wholesalers to retail merchants, jobbers, dealers or other wholesalers for resale, and does not include a sale by wholesalers or retailers to users or consumers not for resale, except as otherwise specified. WHOLESALER: A person doing a regularly organized wholesale or jobbing business and selling to retail merchants, jobbers, dealers or other wholesalers, for the purpose of resale. (Ord. 82-34, 1-4-1982; amd. Ord. 95-168, 8-28-1995)

SECTION 3: **AMENDMENT** “4.20.050 EVIDENCE OF OWNERSHIP” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.20.050 EVIDENCE OF OWNERSHIP

~~Any person who owns a device or devices on the effective date hereof shall file with the City Recorder evidence of such ownership prior to the issuance of a license for each such coin-operated amusement device, and any person purchasing a device or devices at or placing or keeping an amusement device for use or play, or exhibiting the same for the purpose of use or play, shall file with the City Recorder evidence of ownership thereof before exhibiting or placing said device or devices for use or play. (Ord. 82-34, 1-4-1982)~~

SECTION 4: **AMENDMENT** “4.20.040 LICENSE CERTIFICATE; TRANSFERABILITY” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.20.040 LICENSE CERTIFICATE; TRANSFERABILITY

~~The license issued for a proprietor of premises on which devices are located shall be posted in a conspicuous place in the establishment of the licensee. A separate license certificate shall be issued for each device and shall be posted in a conspicuous place on or in the immediate vicinity of the licensed device. Such license shall be nonassignable and nontransferable and in the case of a proprietor, shall apply only to the premises for which such license is issued. (Ord. 82-34, 1-4-1982)~~

SECTION 5: **AMENDMENT** “4.20.010 LICENSE REQUIRED” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.20.010 LICENSE REQUIRED

~~No person, firm or corporation shall engage in the business of being an operator or proprietor of coin-operated amusement devices, as those terms are defined in DCC 4.04.010, without first obtaining a license as required by this chapter. (Ord. 82-34, 1-4-1982)~~

SECTION 6: **AMENDMENT** “4.20.020 APPLICATION FOR LICENSE”
of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.20.020 APPLICATION FOR LICENSE

~~In addition to other licensing requirements of this chapter, applications to license coin-operated amusement devices shall be filed in writing with the City Recorder, on a form to be provided by the City, and shall specify:~~

- ~~A. The name and address of the applicant, and if a firm, corporation, partnership or association, the principal officers thereof and their addresses.~~
- ~~B. The address of the premises where the licensed device or devices are to be operated, together with the character of the business as carried on at such place.~~
- ~~C. The trade name and general description of the device or devices to be licensed, the name of the manufacturer and the serial number and, if the applicant is a proprietor, the number of devices to be licensed.~~
- ~~D. The name and address of the operator of the device or devices, if other than the proprietor, and a telephone number at which the operator can be contacted during regular business hours.~~
- ~~E. The total number of devices which the operator desires to locate within the City. (Ord. 82-34, 1-4-1982)~~

SECTION 7: **AMENDMENT** “4.20.030 FEES FOR LICENSE” of the
Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.20.030 FEES FOR LICENSE

- ~~**A. Operator's License Fee:** The license fee, in such amount as established by the City Council, for each operator shall be per year for the first device set up for operation; leased or distributed to a proprietor. If more than one device is set up for operation;~~

~~leased or distributed by the same operator, then such operator shall pay an additional fee, in such amount as established by the City Council, for each additional coin operated amusement device set up for operation, lease or distribution. All operator's licenses shall be payable annually in advance, except such additional fee as may be required for additional devices installed during the calendar year after payment of the annual license fee. In no case shall any portion of said license fee be refunded to any licensee.~~

- ~~B. **Proprietor's Registration Fee:** The registration fee, in such amount as established by the City Council, for each proprietor, as the term is defined in DCC 4.04.010, shall be per year for each business premises on which any coin operated amusement device is used or played, or exhibited for use or play at any time during a calendar year. All proprietor's registration fees shall be payable in advance by the proprietor or on behalf of the proprietor; provided, however, that where application is made after July 1 of any license year, a license may be issued for the remainder of the year upon payment of one-half (1/2) of the annual registration fee. In no case shall any portion of any said registration fee be repaid to the proprietor, except as may otherwise be required under this chapter. (Ord. 82-34, 1-4-1982; amd. 2019 Code)~~

SECTION 8: AMENDMENT “4.04.070 CERTIFICATE OF LICENSE” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.04.070 CERTIFICATE OF LICENSE

- A. **Signatures Required; Information:** All certificates of license shall be signed by the Mayor, attested by the City Recorder, and shall contain the following information:
1. The name of the person to whom such certificate has been issued.
 2. The amount paid.
 3. The type of license and the class of such license if licenses are divided into classes.
 4. The term of the license with the commencing date and the date of its expiration.
 5. The place where such business, calling, trade or profession is to be conducted.
- B. **Display Of License:**
1. **Required:** Every certificate of license issued under this title shall be posted by the licensee in a conspicuous place upon the wall of the building, room or office of the place of business so that the certificate may be easily seen. When such certificate of license has expired, it shall be removed by the licensee from such place in which it has been posted, and no certificate of license which is not in force and effect shall be permitted to remain posted upon the wall or any part of any room within the place of business. If the licensee's business is such that a license cannot be displayed due to the transient or mobile nature of

the business, then the licensee shall carry the license on his person ready to be shown on request by an authorized officer during all such time or times while the licensee is engaged in or pursuing the business for which a license is granted.

2. ~~Coin-Operated Devices: In the event the license is for a coin-operated machine or device, the certificate shall be attached or displayed in the immediate vicinity of the machine for which it has been issued. (Ord. 82-34, 1-4-1982)~~

SECTION 9: **AMENDMENT** “4.04.030 BUSINESS LICENSE REQUIRED; PENALTY” of the Delta Municipal Code is hereby *amended* as follows:

AMENDMENT

4.04.030 BUSINESS LICENSE REQUIRED; PENALTY

It shall be Class B misdemeanor, subject to penalty as provided in DCC 1.16.010, for any person to transact, engage in or carry on any business, trade, profession or calling, ~~or to operate a vending, pinball or coin-operated machine~~, without first receiving the class or type of license required by the City. ~~(Ord. 82-34, 1-4-1982; amd. 2019 Code)~~

SECTION 10: **REPEALER CLAUSE** All ordinances or resolutions or parts thereof, which are in conflict herewith, are hereby repealed.

SECTION 11: **SEVERABILITY CLAUSE** Should any part or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinances a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

SECTION 12: **EFFECTIVE DATE** This Ordinance shall be in full force and effect immediately and after the required approval and publication according to law.

PASSED AND ADOPTED BY THE DELTA CITY COUNCIL

_____.

	AYE	NAY	ABSENT	ABSTAIN
Robert W. Banks	_____	_____	_____	_____
Brett C. Bunker	_____	_____	_____	_____
Kiley J. Chase	_____	_____	_____	_____
Nicholas W. Killpack	_____	_____	_____	_____
Betty Jo Western	_____	_____	_____	_____

Presiding Officer

Attest

John W. Niles, Mayor, Delta City

Sherri Westbrook, City Recorder
Delta City