

ARTICLE VII. AMUSEMENT REDEMPTION MACHINE GAME ROOM¹

Sec. 9-221. Definitions.

Wherever used in this article, the following terms shall have the following definitions and meanings, unless the context of the sentence in which they are used clearly indicates otherwise. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the single number include the plural number. The word 'shall' is always mandatory and not merely directory.

Amusement redemption machine game room shall mean any business where amusement redemption machines, with the exception of excluded machines, are the primary source of income for the business, or in which more than 25 percent of the total square feet of the building, or part thereof, which houses the business, excluding rest rooms, storage and other areas from which the public is excluded, is used as a game room for the operation of amusement redemption machines.

Amusement redemption machines means:

- (1) A skill or pleasure coin-operated machine that is designed, made or adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive exclusively noncash merchandise prizes, toys, novelties, or a representation of value redeemable for those items; or
- (2) Any electronic, electro mechanical, or mechanical contrivance designed, made and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise, prizes, 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 ten times the amount charged to play the game or device once or \$5.00 whichever is less.

Coin-operated machine means a machine or device operated by the payment or insertion of paper currency or any other consideration.

Excluded machines: An amusement redemption machine game room does not include:

- (1) A machine that awards the user noncash merchandise prizes, toys or novelties solely and directly from the machine, including claw, crane, or similar machines; nor
- (2) A machine from which the opportunity to receive noncash 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 object into the machine or part thereof, including basketball, skeet ball, golf, bowling, pusher, or similar machines; nor
- (3) A machine or any device defined in section 47.01, Penal Code, as a gambling device, or any activity prohibited or described in Chapter 47, Penal Code.

¹Editor's note(s)—Ord. No. 314A, §§ 1—4, adopted July 23, 2007, amended art. VII in its entirety to read as herein set out. Formerly, said article pertained to similar subject matter as enacted by Ord. No. 314, §§ 1—4, adopted Oct. 10, 2004. See the Code Comparative Table for a detailed analysis of inclusion.

Representation of value means cash paid under authority of sweepstakes contests as provided in the Texas Business and Commerce Code, Chapter 43(B), or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.

(Ord. No. 314A, § 1, 7-23-07)

Sec. 9-222. License required.

- (a) *Payment of fee and issuance of license.* An owner, operator, or lessee of an amusement redemption machine game room shall be required to secure a license by paying to the city an annual amusement redemption game room license fee of \$2,000.00 for the first 2,000 square feet of the building, or part thereof, that houses the game room, including rest rooms, storage and other areas from which the public is excluded but which are used, in whole or in part in the operation of such business, \$1.00 for each square foot thereof over 2,000 square feet.

Each amusement machine shall have affixed to it a City of Richwood permit. This permit shall be issued with the original application. Machines shall be inspected at a minimum of three times a year and the inspection shall be conducted by the chief of police and/or the code enforcement officer. An annual inspection fee of \$50.00 per machine will help offset this cost.

Upon the payment of the required fees for the license and inspections, a license shall be issued to such owner, operator, or lessee, as the case may be, by the building official.

Owners, operators, or lessees of businesses not falling under the definition of an amusement redemption machine game room but who operate amusement redemption machines, with the exception of excluded machines, shall pay the city an annual inspection and license fee of \$250.00 per machine.

- (b) *Expiration and renewal.* Annual amusement redemption machine game room licenses issued by the city shall automatically expire on the 31st day of December in the calendar year of its issuance, except as otherwise stated herein. Such permit shall automatically expire if the holder thereof sells, transfers equity in, or otherwise disposes of such devices. The city shall not refund any portion of a license or inspection fees after the license is issued, nor shall it prorate or reduce in any amount any fee due to the city, regardless of what portion of a calendar/license year may have expired on the date on which the license is issued.
- (c) *Late penalty.* No later than 30 days following the expiration of any license under this article, the licensee shall obtain a renewal in the same manner as an original license if he wishes to continue operating an amusement redemption machine game room. Failure to pay this fee within the time period will require such person to pay an additional late fee in an amount equal to 20 percent of the fees actually due or 20 percent of the previous year's fees, whichever is greater, in order to obtain reinstatement of his license.
- (d) *Sealing.* The city shall have the authority to seal any coin-operated machine located at any amusement redemption machine game room for which a license has not been secured or which does not have the City of Richwood permit attached. A \$100.00 fee will be charged for the release of any machine sealed for nonpayment of said license or inspection fee.

On the third such time an unlicensed machine is found in operation, the amusement machine game room shall have its license to operate suspended for 30 days. On the fourth offense, the suspension will be for 40 days. In the event of a fifth such offense, the machine game room shall have its license to operate suspended for 90 days and shall pay a \$1,000.00 reinstatement fee. Any further violations will result in an immediate revocation of the amusement machine game room and the owner, operator or lessees of such business will no longer be allowed to operate a business covered by this article.

It shall be unlawful for anyone to tamper with, remove, alter, or otherwise circumvent any seal placed by the city on a coin-operated machine under the provisions of this paragraph.

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- (e) *Posting of license.* This license shall be conspicuously posted inside the building.
- (f) *Restrictions, regulations, controls, and limitations.* The following restrictions, regulations, controls and limitations shall apply to all amusement redemption machine game rooms:
- (1) *Specific use permit required.* An owner, operator or lessee of an amusement redemption machine game room shall be required to secure a specific use permit from the City of Richwood. Once the above fees for the license and machines have been paid, the owner, operator or lessee may present their application to the City Council of the City of Richwood. The specific use permit automatically expires on the 31st day of December in the calendar year of its issuance except as otherwise stated herein. Such permit shall automatically expire if the holder thereof sells, transfers equity in, or otherwise disposes of such devices. The city shall not refund any portion of a license after the license is issued, nor shall it prorate or reduce in any amount any fee due to the city, regardless of what portion of a calendar/license year may have expired on the date on which the license is issued.
 - (2) *Condition of premises.* All building and fire code standards must be met. Inspection by building official and certificate of occupancy and specific use shall be obtained before license is issued.
 - (3) *Methods of conducting business.* No alcoholic beverages shall be served or allowed on premises. No activities may be conducted on the premises of the game room outside the building in which the game room is housed. No one under the age of 18 is allowed in that portion of the business in which the amusement redemption games are in operation.
 - (4) *Hours of operations.* Twenty-four hours per day, seven days a week.
 - (5) *Parking requirements.* One space per two machines, plus one space per employee per shift. Each parking space must be dedicated to use by the amusement machine game room patrons and employees for the duration of the regular hours of operations of the amusement machine game room.
 - (6) *Location requirements.* Premises shall not operate within 300 feet of a church, school, or hospital unless it was operating such location prior to October 11, 2004; and the operator of any amusement redemption machine game room at such location prior to October 11, 2004, shall have an affirmative defense in any prosecution under this chapter for operating such room at such location thereafter if a specific use permit for the use of such purposes has been issued and has not been revoked. As used herein, "church" means any facility that is owned by a religious organization and is used primarily for religious services, "school" means a private or public elementary or secondary school or day-care center, as defined in Section 42.002, Human Resources Code; and "hospital" means a place for the reception of persons sick or infirm in body or mind, and includes a clinic with separate offices for two or more health care professionals.
 - (7) *Zoning.* Amusement redemption machine game rooms can only be located in the C-1 Commercial use district as designated by color code yellow on the City of Richwood's Zoning map unless it was in operation prior to July 23, 2007; and the operator of any amusement redemption machine game room at such location prior to July 23, 2007, shall have an affirmative defense in any prosecution under this chapter for operating such room at such location thereafter if a specific use permit for the use of such purposes has not been revoked or has not expired.

(Ord. No. 314A, § 2, 7-23-07)

Sec. 9-223. Termination of license.

The city council may terminate any license to maintain and operate an amusement redemption machine game room when the licensee is in violation of any provision of this article, any applicable state or federal law on regulation of coin operated machines, any state or federal law on gaming or gambling devices or if the licensee has

had a similar license revoked in any other city. Such termination by the city council shall be upon affirmative vote of a majority of the members of the city council present and voting at any regular or special meeting thereof held after at least ten days prior to written notice sent by certified mail, return receipt requested and addressed to the licensee at the premises, specifying the particular violation or violations. Any decision of the city council thereon shall be entered upon the minutes of such meeting. Any decision of the city council thereon shall be final and nonappealable.

By issuing the required license, the city is not certifying the installation or use of the amusement redemption machines applying for a license, the applicant shall acknowledge that the city is not certifying or sanctioning the installation of such machines. By the acceptance of a license under this article, the licensee acknowledges that the installation and use of the machines which are subject to this article may be found to violate state law. By acceptance of a license issued under this article, the license fee paid belongs to the city and will not be refunded.

(Ord. No. 314A, §§ 3, 4, 7-23-07)

Secs. 9-224—9-240. Reserved.