

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MILES, TEXAS, CREATING AN ORDINANCE FOR THE REGULATION OF GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES; REQUIRING CITY LICENSING OF GAME ROOMS; REQUIRING CITY TAGS OF AMUSEMENT REDEMPTION MACHINES; SETTING FORTH A PENALTY; PROVIDING FOR SEVERABILITY; PROVIDING A REPEALING CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Miles, Texas, ("City") recognizes that unregulated operation of game rooms and amusement redemption machines contribute to inappropriate and illegal activities which may include gambling, fraud, truancy, disorderly conduct and use of controlled substances; and

WHEREAS, the City is a general law Type A municipality that is duly authorized under the Texas Constitution, the laws of the state of Texas as well as pursuant to Sections 215.074, 215.075 and 217.042 Texas Local Government Code to address the negative effects of game rooms and amusement redemption machines in the manner set forth below; and

WHEREAS, City recognizes and desires through adoption of this ordinance to further the City's interest in protecting the health, safety and welfare of its citizens; and

WHEREAS, the City Council has determined and does hereby now declare that the adoption of this ordinance is necessary to the health, safety and general welfare of the inhabitants of the City and to persons frequenting game rooms and using amusement redemption machines within the City, now therefore

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

SECTION 1. That the facts and recitations set forth in the preamble of this ordinance are hereby declared true and correct.

SECTION 2. That this Ordinance is fully adopted herein and shall be known as the "Gaming Ordinance" and shall read as follows:

"Regulation of Game Rooms and Amusement redemption Machines.

Sec. 1.1. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement redemption machine means:

- (1) A recreational machine that provides the user with an opportunity to receive something of value other than a right of replay and which complies with all applicable federal, state and local laws and regulations applicable to such machines.
- (2) A skill or pleasure coin-operated machine that is designed, made and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user an opportunity to receive exclusively non-cash merchandise prizes, toys, novelties, or a representation of value redeemable for those items.
- (3) Any electronic, electromechanical 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, 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 amount is less.

Amusement redemption machine game room or game room means any establishment, building, facility or other place where two or more amusement redemption machines, with the exception of excluded machines, are displayed or exhibited for public use.

City official means a police officer, Mayor, code enforcement officer or building official of the City.

Excluded machine means:

- (1) 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;
- (2) 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 object into the machine or a part thereof, including basketball, skeet ball, golf, bowling, pusher, or similar machines; or
- (3) A machine or any device defined in V.T.C.A., Penal Code§ 47.01 as a gambling device, or any activity prohibited or described in Y.T.C.A., Penal Code Ch. 47.

Game room owner or owner means a person who has an ownership interest of at least 25 percent in a game room.

Licensee means any person, individual, firm, company, association, or corporation operating an amusement redemption machine game room in the City.

Operational machine means an amusement redemption machine that is ready to be played and which is accessible to the public.

Permittee means any person, individual, firm, company, association, or corporation maintaining, displaying for public patronage, or otherwise keeping for operation the public any gaming machine in the City.

Sec. 1.2. License required.

No person shall operate an amusement redemption machine game room in the City without first obtaining a license from the City, as required by this ordinance. No license shall be issued until (1) the occupation tax has been paid for each amusement redemption machine within the premises, (2) the annual tag fee of the City of Miles has been paid for each amusement redemption machine within the premises, and (3) the applicable game room license fee has been paid.

Sec.1.3. Payment of annual inspection and license fee; issuance of license.

An owner, operator, or lessee of an amusement redemption machine game room shall be required to secure a license annually. An amusement redemption machine game room shall be required to secure a license by paying to the City an annual inspection and amusement redemption machine game room license fee in the amount of \$5000.00. Upon payment of the license fee, payment of the annual tag fee of the City of Miles for each amusement redemption machine within the premises, and compliance with all licensing requirements, the license shall be issued by the City.

Sec. 1.4. City Tags Required; Payment of annual City tag fees.

- (a) A tax permit issued by the State of Texas and all seals required by the State shall be securely affixed to each Amusement Redemption Machine.
- (b) A current tag issued by the City of Miles shall be securely affixed to each Amusement Redemption Machine.
- (c) The annual tag fee of the City of Miles for each Amusement Redemption Machine is fifteen hundred Dollars (\$1500.00) per amusement redemption machine, whether or not operational, which fee shall be paid before a tag may be issued.
- (d) All tag fees shall be issued on the basis of a calendar year. Tag fees shall be due on January 1st of each year. Tags issued at any time during a calendar year shall automatically expire on December 31st of the year in which they are issued. The tag fees shall be due no later than January 1st of each calendar year. If the fee is not paid on time, the license issued shall be automatically revoked with no further action by the City needed. This Ordinance serves as notice to all applicants.

Sec. 1.5. Term of license; jurisdiction; scope.

A license issued for an amusement redemption machine game room under this ordinance:

- (a) Is an annual license which expires December 31st of each year unless it is suspended or cancelled earlier;

- (b) Is effective for a single place of business only;
- (c) Vests no property right in the licensee except to maintain, display for public patronage, and permit the use or skill or pleasure of amusement redemption machines in accordance with the terms and conditions of this ordinance;
- (d) Shall automatically expire if the licensee thereof sells the property or the business, transfers equity to accomplish same, or otherwise disposes of amusement redemption machines; and
- (d) Is not assignable or transferable.

In addition, the City shall not refund any portion of a license fee after the license is issued, nor shall it prorate or reduce in amount any fee due to the City. Notwithstanding the foregoing, the initial license issued to an existing amusement redemption machine game room following the adoption of the ordinance from which this ordinance is derived and the game room's compliance with the requirements of this ordinance shall not expire until December 31st of the year in which it is issued. Thereafter, any such license shall expire as provided herein-above.

Sec. 1.6. Restrictions, regulations, controls, and limitations.

- (a) All building and fire code standards must be met. Inspection by building officials and the issuance of a certificate of occupancy shall be obtained before a license for an amusement redemption machine game room is issued.
- (b) Only one amusement redemption machine game room shall be permitted on any lot or in any single building, structure or strip center except for amusement redemption machine game rooms in existence as of the date this ordinance goes into effect and which do not meet this criteria; in which case full compliance with this subsection shall be required within six (6) months of the effective date of this ordinance or upon abandonment of use at such location, whichever occurs first.
- (c) No amusement redemption machine game room shall be situated within 1,000 feet of any church, school, daycare, or hospital except for amusement redemption machine game rooms in existence as of the date this ordinance goes into effect and which do not meet this criteria; in which case full compliance with this subsection shall be required within six (6) months of the effective date of this ordinance or upon abandonment of use at such location, whichever occurs first.
- (d) The distance shall be measured in a straight line without regard to intervening objects or structures and from the nearest lot line of the amusement redemption machine game room seeking a license to the nearest lot line of the church, school, daycare, or hospital.
- (e) No amusement redemption machines, or related business activities shall be allowed to be situated and/or performed outdoors.

(f) The hours of operation for an amusement redemption machine game room shall be limited to the following hours:

(1) Monday through Sunday, open at 11:00 a.m. and close at 11:00 p.m.

(g) One parking space shall be provided for each two amusement redemption machines within the amusement redemption machine game room, plus one additional parking space for each employee per shift.

(h) The owner, operator, or manager of the licensed premises must be present to supervise the operation of the amusement redemption machine game room. The amusement redemption machine game room shall not be left unattended.

(i) Amusement redemption machines must be situated within the licensed premises as to be in full and open public view, which entails being visible to all patrons of the establishment.

(j) No person under the age of 21 years shall be permitted inside the building, structure, facility or space housing the amusement redemption machine game room.

(k) A sign stating that no one under the age of 21 is allowed inside the amusement redemption machine game room shall be posted in plain sight immediately inside the entrance stating that:

"No person under the age of 21 years shall be permitted inside the building, structure, facility or space housing the amusement redemption machine game room."

(l) An amusement redemption machine game room operator must be a person who is at least 21 years of age.

(m) The total number of operational amusement redemption machines allowed in one amusement redemption machine game room establishment shall be limited to the maximum number of forty (40) amusement redemption machine games. Any back-up, nonoperational or replacement amusement redemption machines shall be secured in a locked storage area or closet to which the public is not allowed to enter and such machines shall not be connected to electricity or be otherwise operational.

(n) (1) Every game room shall have transparent unobstructed windows or open space on at least one (1) side so that the area is open to view by the general public passing by on a public street or using a corridor, lobby or other room to which the public has access and is admitted without charge. The owner, manager, or employee of a game room shall not permit any obstruction of such public view by the use of drawn shades, blinds, partitions, tinting or other structures or obstructions.

(2) The requirements of subsection 1.6 (n)(1) above may be waived or modified by

the building official, Mayor or Mayor's designee if the game room owner can demonstrate:

- (i) The game room is located in a structure deemed a historic landmark, or the structure is within a historic district, and deemed to have architectural or historic significance; and
 - (ii) Compliance with the unobstructed view requirement shall require alterations to the structure that will have a substantially detrimental effect on its historic or architectural features.
- (o) No amusement redemption machine nor game room-related shall be conducted outside the structure which houses the amusement redemption machines.

Sec. 1.7. Application for amusement redemption machine game room license.

An applicant for a license under the provisions of this ordinance shall file with the City Secretary a written application on a form provided for that purpose by the City which shall be signed by the applicant, who shall be the owner of the amusement redemption machine game room sought to be licensed. A separate application must be filed for each location sought to be licensed. The following information is required in the application:

- (1) Name, address, telephone number, and driver's license number of the applicant if the applicant is a natural person;
- (2) Name, address, telephone number and driver's license number of all persons who own 25 percent (25%) or more interest in the amusement redemption machine game room;
- (3) Name, address, telephone number and driver's license number of all corporate officers, if any, of such business;
- (4) Name, address, telephone number of the business;
- (5) If incorporated, the name of the business registered with the Texas Secretary of State;
- (6) If a partnership, the name, address, telephone number and driver's license of each of the general and limited partners;
- (7) The trade name by which the applicant does business and a true and correct copy of the registration of the applicant's assumed name filed in the office of the county clerk, bearing the file mark or stamp that evidences its filing in that office;
- (8) The street address of the premises;
- (9) If applicant is not the owner of the premises, the applicant shall furnish the name, address, and telephone number of the property owner;

- (10) Name, address, and telephone number of the operator of the premises to be permitted;
- (11) Number of amusement redemption machines in the premises to be permitted and tagged and the serial number of each amusement redemption machine;
- (12) Whether a previous license of the applicant, or, if applicable, a corporate officer of the applicant, has been revoked within two years of filing of the application;
- (13) The previous occupation(s) of the applicant and, if applicable, all corporate officers and partners of the applicant within the preceding five years;
- (14) A notarized statement, under oath, that:
 - a. All the facts contained in the application are true and correct;
 - b. The amusement redemption machines are not and will not be used as gambling devices;
 - c. The location and operation of the amusement redemption machine game room will not violate any applicable deed restrictions;
 - d. The amusement redemption machine game room will be operated in accordance with all laws;
- (15) Name, address, and telephone number of an emergency contact person who can be reached after hours;
- (16) A floor plan of the amusement redemption machine game room interior depicting the layout of the amusement redemption machine game room interior specifically including, but not limited to, the location of all amusement redemption machines, coin operated machines or devices, the manager's station(s), restroom facilities, kitchen and bar facilities, if any, and all areas to which patrons will not be permitted.

Any failure to provide the documents required by this section shall be grounds for denial of the application to which it applies.

Sec. 1.8. Renewal of amusement redemption machine game room license.

(a) A license may be renewed for the following calendar year beginning October 1st of each year by filing a completed application for each license and paying the applicable fee set forth in this ordinance. A renewal application shall be subject to the same requirements in this section as for a license application.

(b) Upon the expiration of a license, the licensee shall be required to obtain a renewal of the expired license if the licensee wishes to continue operating an amusement redemption machine game room. Failure to obtain the renewal within 30 days after expiration may require such person to pay an additional late fee in an amount equal to 20 percent (20%) of

the fee as currently established or as hereafter adopted by City Council from time to time.

Nothing herein authorizes the licensee to operate after the expiration of a license and before a renewal is effective.

Sec. 1.9. Grounds for denial of license; applicants or licensees indebted to City.

(a) The City shall refuse to approve issuance or renewal of a permit or license for one or more of the following reasons:

- (1) Any failure to provide the information required by this ordinance;
- (2) A determination by the City that inaccurate, erroneous or incomplete information has been submitted;
- (3) A false statement as to a material matter made in an application for a license;
- (4) Revocation of a license, pursuant to this ordinance, of the applicant or a co-owner or a corporate officer of the applicant within two years preceding the filing of the application;
- (5) Refusal or failure to pay the occupation tax on any amusement redemption machine;
- (6) Refusal or failure to pay the correct license fee amount;
- (7) Refusal or failure to pay the correct City tag fee amount provided for in this Ordinance;
- (8) The applicant or a co-owner for such license has, within the past three years, been convicted of any violation of this ordinance;
- (9) The applicant or a co-owner for such license has, within the past five years, been convicted of any violation of regulations adopted by Runnels County relating to game rooms; and/or
- (10) The applicant or a co-owner for such license has, within the past ten years, been convicted of a crime involving moral turpitude.

(b) The City shall not issue or renew a license under this ordinance and shall suspend or cancel a license if it be determined that the applicant or licensee is indebted to the City for any fee, costs, penalties, or delinquent taxes.

Sec. 1.10. Suspension or revocation of license for violation of this ordinance.

(a) Power and authority. If any individual, company, corporation or association who owns, operates, exhibits, or displays any amusement redemption machine(s) in an amusement redemption machine game room in this City shall violate any provision of this

ordinance, the City shall have the power and authority to suspend or revoke the license(s) issued hereunder to any of the foregoing by giving written notice, stating the reason justifying such suspension or revocation, and the same shall be suspended or revoked ten days from date of such notice.

(b) Suspension. The Mayor or his designee shall suspend a license for a period not to exceed 30 days if he determines that a licensee or an employee of a licensee has:

- (1) Violated or is not in compliance with any of the provisions of this ordinance;
- (2) Refused to allow or interfered with an inspection of the amusement redemption machine game room premises; or
- (3) Demonstrated an inability to operate or manage an amusement redemption machine game room in a peaceful and law-abiding manner thus necessitating action by law enforcement officers.

(c) Revocation for continuing violations. The Mayor or his designee shall revoke a license if a cause of suspension occurs and the license has been previously suspended within the preceding twelve months.

(d) Automatic revocation. The Mayor or his designee shall revoke a license if he determines that:

- (1) A licensee gave false or misleading information in the material submitted to the City during the application process;
- (2) A licensee or an employee of a licensee knowingly allowed the possession, use, or sale of a controlled substance on the premises; or
- (3) A licensee or an employee of a licensee knowingly operated the amusement redemption machine game room during a period of time when the licensee's permit was suspended.

(e) Effect of revocation. No license shall be issued within a period of one-year to anyone whose license has been revoked, except at the discretion of the Mayor or his designee. If the license of an individual, company, corporation, or association owning, operating, or displaying amusement redemption machines in this City is cancelled, such individual, company, corporation or association shall not operate, display or permit to be operated or displayed such amusement redemption machines in any amusement redemption machine game room until a new license is granted.

Sec.1.11. Appeal from denial, suspension or revocation of license.

If the Mayor or his designee refuses to approve the issuance of a license or the renewal of a license to an applicant, or suspends or revokes a license issued under this ordinance, this action is final unless the applicant or licensee, within ten days after the receipt of written notice of the action, files a written appeal with the City Secretary, who shall, within ten days after the appeal is filed forward same to City Council for its consideration at a public meeting following a hearing. The City council shall, within 30

days, grant such 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.

Sec. 1.12. Display of license.

A valid license issued under this ordinance for an amusement redemption machine game room shall be displayed at or near the entrance of the business premises, and such display shall be permanent and conspicuous.

Sec. 1.13. Inspections.

(a) The premises in which such amusement redemption machines are located shall conform to all construction codes currently adopted by the City, including, but not limited to: the building codes and fire prevention codes of the City, and the Police Chief, Fire Marshal of the City and their assistants, the City inspector/code enforcement officer, or the chief building official, or the Mayor may enter into the premises where such amusement redemption machines are located at any time during normal business hours for the purposes of inspecting said premises for fire hazards.

(b) All law enforcement personnel and the inspector /code enforcement officer of the City shall have the right to enter into said premises at any time during normal business hours for the purpose of inspection and enforcement of the terms of this ordinance.

(c) The City shall have the authority to seal any amusement redemption machine located in any amusement redemption machine game room for which a license fee has not been paid. A fee in the amount in the amount of \$5000.00 will be charged for the release of any machine sealed for non-payment of said license fee.

(d) The City shall have the authority to seal any amusement redemption machine located in any amusement redemption machine game room for which a City tag fee has not been paid. A fee in the amount in the amount of 1500.00 will be charged for the release of any machine sealed for non-payment of said license fee.

(e) Sec. 1.14. Responsibility of licensee.

A licensee hereunder shall not permit any of the following activities within the licensed premises:

- (1) The operation of any amusement redemption machine by a person younger than 21 years of age;
- (2) Gambling by any person;
- (3) The possession of gambling materials; and
- (4) Unlawful or criminal activity of any kind.

Sec. 1.15. Parking facilities.

Any person who desires a license for the operation of two or more amusement

redemption machines in one specific location shall be required to provide sufficient off-street parking to accommodate the vehicles of the patrons as provided ok herein. Such parking area shall be maintained in a safe, clean manner and shall not interfere with safe and expeditious movement of other vehicular or pedestrian traffic.

Sec. 1.16. Violations of existing laws not authorized.

Nothing herein shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table, or gaming machine, the keeping, exhibition, operation, display or maintenance of which is illegal or in violation of any ordinance of the City, any regulation of Runnels County, any section of the penal code of this state, or the constitution of this state.

Sec. 1.17. Offense; Penalties.

(a) A person who fails to comply with the requirements of this Ordinance commits a Class C misdemeanor punishable by a fine not to exceed Five Hundred Dollars(\$500.00).

(b) Proof of a culpable mental state is not required for a conviction of an offense under this ordinance.

(c) Each day that a violation occurs is a separate offense.

(d) In addition to the penalty described in (a) above, the City may pursue other remedies such as injunctive relief, abatement of nuisance, revocation and removal of current license and tag(s) and securing an amusement redemption machine so as to render it inoperable.

SECTION 3 - Severability Clause.

In the event any clause, phrase, provision, sentence, or part of this Ordinance or the application of the same to any person or circumstance shall for any reason be adjudged invalid or held unconstitutional by a court of competent jurisdiction, it shall not affect, impair, or invalidate this Ordinance as a whole or any part of the same notwithstanding the omission of any such part thus declared to be invalid or unconstitutional, whether there be one or more parts.

SECTION 4 - Effective Date.

This ordinance shall become effective on and after its adoption and publication as required by law.

SECTION 5 – Repealing Clause

Any ordinance of the City of Miles in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions of the ordinances of the City of Miles not in conflict with the provisions of this ordinance shall remain in full force and effect.

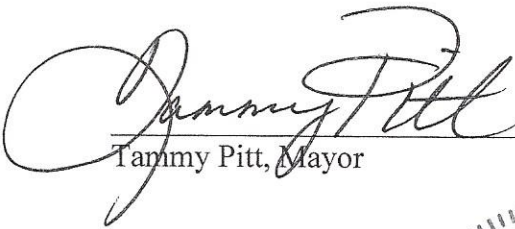
SECTION 6 - Publication

The City Secretary of the City of Miles, Texas, is hereby directed to publish this ordinance in the official newspaper of the City of Miles, Texas.

SECTION 7 – Effective date

That this ordinance shall take effect immediately from and after its passage and publication, as the law in such cases provide.

PASSED AND APPROVED on this 13th day of December 2021.


Tammy Pitt, Mayor

ATTEST:


Amy Fischer
City Secretary

