

**CITY OF PRESIDIO
ORDINANCE NO. 2023-2**

FOR THE REGULATION OF GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES; ESTABLISHING REGULATIONS; ZONING; AUTHORITY TO ENFORCE; PROVIDING A PENALTY CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR CODIFICATION; AND PROVIDING FOR PROPER NOTICE AND PUBLICATION; AND AN EFFECTIVE DATE.

WHEREAS, there is the potential for the location of amusement redemption machines (“game rooms”) establishments in the City limits; and

WHEREAS, the City Council of the City of Presidio (“Council”) is expressly authorized to regulate amusement redemption machines and establishments operating these machines pursuant to Local Government Code, Chapter 234;

WHEREAS, the City Council acknowledges the existence of convincing documented evidence that game rooms may have a deleterious effect on both surrounding businesses and residential areas, causing increased crime and reduced property values; and

WHEREAS, the City Council desires to minimize and control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; preserve the property values and character of surrounding neighborhoods; and deter the spread of urban blight; and

WHEREAS, licensing amusement redemption machines establishments is a legitimate and reasonable means of regulation to ensure that operators of amusement redemption machine establishments do not allow their establishments to be used as places of illegal activities such as gambling, theft, trespass, criminal mischief, and burglary; and

WHEREAS, licensing is a legitimate and reasonable means of creating accountability to ensure that operators of sexually oriented businesses comply with reasonable regulations and to ensure that operators do not knowingly allow their establishments to be used as places of illegal sexual activities or solicitation; and

WHEREAS, the Council has determined that it is in the public’s best interest and in support of the health, safety, and general welfare of the citizens of the City that amusement redemption machine establishments be regulated through a licensing process in addition to the City’s use of zoning as a regulator of amusement redemption machine establishments.

NOW THEREFORE IT BE ORDAINED AND ENACTED BY THE CITY COUNCIL OF THE CITY OF PRESIDIO, TEXAS:

That the Article “**Game Rooms and Amusement Redemption Machines**” of the Code of the City of Presidio, Texas is hereby established and shall read as follows:

SEC. GENERALS

This ordinance as herein established is hereby enacted for the purpose to control, regulate, and manage game rooms and amusement redemption machines, commonly referred to as “game rooms”. The intent of this chapter is to safeguard the life, health, safety, welfare, and property of the citizens of the City and the general public.

DEFINITIONS

SEC. Definitions

Amusement redemption machine means any electronic, electromechanical, or mechanical contrivance, including a sweepstake machine, designed made, and adopted for bona fide amusement purposes, and that by operation of chance, skill, or a affords the player the opportunity to win merchandise, prizes, toys, novelties, or an item of value, or a representation of value redeemable for those items. A reference to “coin-operated machine” in this article shall include an amusement redemption machine.

Administrator means the City Administrator, or designee of the department designated by the City Administrator to enforce and administer this Chapter.

Advertise means the act of drawing the public’s attention to a game room in order to promote the availability of the residence for use as a game room. Said advertising may be found in any medium, including but not limited to, newspaper, magazine, brochure, website, or mobile application.

Establishment means a business that operates amusement redemption machines as regulated in this Ordinance.

Game Room means a for-profit business located in a building or place that contains six or more: a) amusement redemption machines; or electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or a thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.

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

Owner means any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person, and the executor of the estate of such person if ordered to take possession of real property by a court.

Premises means property, a lot, plot or parcel of land, including any structures or portions of structures thereon.

REGULATIONS

SEC. Residential placement prohibited. Zoning

- A. It shall be unlawful for any owner or person to rent, lease, advertise, or otherwise permit or allow any residential premises to be operated or used as an unpermitted Game room.
- B. A game room is authorized to operate only in the commercial zoning.
- C. Distancing Restrictions.

1. No amusement redemption machine establishment shall be situated within three hundred (300) feet of any church, school, residential district or use, hospital, or any other amusement redemption machine establishment. The distance shall be measured along the property lines of the street fronts, and from front door to front door, or to zoning district, park, school, or hospital, as applicable, and direct lines across intersections.
2. Only one amusement redemption machine establishment shall be allowed on any lot or in any single building, structure, or tenant space on a commercial property.

D. Hours of Operation.

1. All amusement redemption machine establishments shall have all doors providing ingress and egress from the establishment unlocked during hours of operation.
2. The hours of operation for an establishment shall be limited to the following hours:
 - Monday through Thursday, open 8:00 am and close at 11:00 p.m.; and
 - Friday through Sunday, open at 8:00 am and close at 12:00 a.m.

E. Persons under the age of 18. No person under the age of 18 shall be permitted inside the establishment at any time.

SEC. License required.

An owner who desires to use its premises as a game room must have a valid, active permit from the City prior to using, allowing the use of, or advertising the use of said premises as a game room.

It shall be unlawful for an owner or operator of a game room to operate, use, or maintain a game room without first obtaining a city game room license.

The license certificate shall be conspicuously posted inside the building. The license shall list the date of issue and the date of expiration, the name of the licensee, the physical address, and local representative. The City will issue a permit sticker for each machine under the license for each establishment. The sticker must be placed and not removed from the machine.

SEC. Permit Limitations

- A. The license is not transferable upon the sale of the property.
- B. A license is effective for a single place of business only and for one building, as defined in subsection C.2 above.
- C. A game room rental permit shall expire on the last day of the month one year after the date of issuance. No game room permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. If the renewal application satisfies all the conditions of this Chapter and zoning ordinance, an application for the renewal of a game room permit shall be approved by the City Administrator, or designee.

SEC. Requirements of new applications and renewals.

- A. Except as provided in this Section, every complete application for a game room permit shall include the following information with such detail and in the form approved by the Administrator:
 1. The name, address, contact information, and authenticated signature of the owner of the

business/premises;

2. The name, address, and contact information of the operator, or agent if any, or if different than the owner, and designated local responsible party. See also Sec. --- below.
3. Proof of Liability Insurance
4. A copy of the owner's driver's license.

- B. An application for game room renewal permit may be filed beginning thirty (30) days prior to the expiration of a current permit. Every complete application for a game room renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals. The permit holder shall sign a statement affirming that there is either no change to such information or that any updated information is accurate and complete.
- C. An application for a game room renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in subsection A of this Section.

If a complete application for a game room renewal permit is submitted less than thirty (30) days prior to expiration of the current permit, the Administrator in his sole discretion may grant a one-time extension of the current permit not to exceed ten (10) days.

SEC. Designation of local responsible party required.

An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public. Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a game room. If called, a local responsible party must be able to and shall be present at the premises within a reasonable time of the call from the Administrator, or his designee. A local responsible party must be authorized to make decisions regarding the premises and its occupants and shall not act to release the owner of any liability under this chapter.

SEC. Denial of License. Denial of renewal. Automatic Revocation.

The City shall refuse to approve the issuance or renewal of a license, or shall revoke the license, for one or more of the following reasons:

- a. Failure to provide the information required by Section ---.
- b. The submission of inaccurate, erroneous, or incomplete information as part of the license process
- c. The submission of false information as part of the license process
- d. Revocation of a license of the applicant or a co-owner or a corporate officer of the applicant within twelve months prior to the filing of the application
- e. Refusal or failure to pay the license fee amount
- f. The applicant or a co-owner of the license has, within the past three years, been convicted of the following crimes:
 - a. Gambling, gambling promotion, keeping of an illegal gambling place, pursuant to Chapter 47 of the Texas Penal Code; or
 - b. Forgery, credit card abuse, or commercial bribery as described in Chapter 32 of the Texas Penal Code; or

- c. A criminal offense as described in Chapter 34 of the Texas Penal Code; or
- d. A criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses to the laws of another state or of the United States that, if committed in this state, would have been punishable as one or more of the aforementioned offenses.
- g. An applicant is under the age of eighteen (18) years of age.
- h. The applicant is indebted to the City for any fees, costs, penalties, or delinquent taxes.
- i. At the discretion of the City Administrator the applicant may be allowed an opportunity to remedy the error, omission, or inaccuracy regarding subsections a., b., or e. above. The applicant will be given two weeks to amend the application.

SEC. Liability Insurance required

It shall be unlawful for the owner of premises operating as a game room to operate without proof of liability insurance.

SEC. Building Permits Required

All work done to the property must meet all City of Presidio permitting requirements as stated and regulated in the City Ordinances. 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 is issued.

SEC. Permit fees

Fee: An owner, operator or lessee of premises on which an amusement redemption machine is made available to others shall be required to secure a permit by paying to the City an annual inspection and an amusement redemption machines permit fee as follows:

Number of Machines Located on Premises	Amusement Redemption Machine Permit Fees
1-5	\$4,000.00
6-10	\$7,750.00
11-20	\$15,000.00
21-30	\$21,750.00
31-40	\$28,000.00
41-50	\$33,750.00
51-60	\$39,000.00
61-70	\$43,750.00
71-80	\$48,000.00
81-90	\$51,750.00
91-100	\$55,000.00
For each additional 1-10 machines	Add \$5,500.00

The above fees may be paid in a one-time payment or in four equal installments due quarterly, with the first payment due immediately and the following 3 payments to be made on March first, June first, September first, and December first depending on the initial payment date. If there are any quarterly fees remaining in the Game Room application, the game room owners are obligated to pay out the fees before the business closes.

An annual fire inspection is required, the fee of which shall be established by City ordinance. The annual fire inspection may be done at the same time of the renewal of the game room permit.

SEC. Game room permit non-transferable

A game room permit is non-transferable and shall not be assigned nor transferred to another person or entity, even upon the sale of the premise. The game room permit is only transferable by inheritance.

SEC. Penalties

A. Any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction thereof shall be fined in a sum not to exceed Five Thousand Dollars (\$5,000.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

SEC. Enforcement, Suspension, and Revocation

A. The owner of a property used as a game room without the appropriate license and that was not registered with the City of Presidio prior to beginning operations and who is unable to obtain a license for said use or fails or refuses to obtain a permit for the use following the effective date of this ordinance, shall discontinue the game room immediately.

B. If the license of a game room use is not renewed, the owner shall discontinue the use no later than the date on which the existing permit or any extension thereof expires.

C. The City Administrator or designee shall suspend a license for a period not to exceed thirty (30) days if it is determined that the licensee has:

- Violated any provision of this ordinance; or
- Refused to allow or interfered with the inspection of the establishment
- The licensee may be given a grace period of two weeks to remedy

D. The City Administrator shall revoke the license if the licensee has received one or more suspensions during the prior twelve (12) months.

SEC. Appeals

If the City refuses to approve, renew a license to an applicant, or suspends or revokes a license pursuant to this Ordinance, the applicant may appeal this decision within ten (10) days after the receipt of the decision. The appeal should be filed with the City Secretary. The decision of the City Administrator may be appealed to City Council.

SEC. Miscellaneous

A. This ordinance shall be and is hereby declared to be cumulative of all other ordinances of the City of Presidio; and this ordinance shall not operate to repeal or affect any of such other ordinances except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this ordinance, in which event such conflicting provisions, if any, in such other ordinances are hereby repealed.

