

277

**CITY OF SEVEN POINTS, TEXAS  
AMUSEMENT MACHINES  
NO. 277**

277

**ORDINANCE NO. 277**

**AN ORDINANCE AMENDING CHAPTER 4 OF THE CODE OF ORDINANCES AND REPEALING ORDINANCE NO. 30 AND REPEALING ORDINANCE NO. 34, BY AMENDING REGULATION APPLICABLE TO AMUSEMENT MACHINES; PROVIDING THAT THIS ORDINANCE SHALL BE CUMULATIVE OF ALL ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY FOR VIOLATIONS HEREOF; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION IN THE OFFICIAL NEWSPAPER; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Seven Points is a General Law Type A city and Chapter 6 of the Local Government Code; and

**WHEREAS**, portions of the City's Code of Ordinances pertaining to permits for amusement machines is confusing and unclear; and

**WHEREAS**, the City Council deems it advisable and in the public<sup>5</sup> interest<sup>REST</sup> to amend Chapter 4 to clarify regulations of amusement machines.

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

**SECTION 1.**

Section 3 of the City Code is hereby amended to read as follows:

The following definitions in Section 3 of the City Code are hereby amended to read as follows. The remaining definitions shall remain unaltered.

**Sec. 3 Definitions**

*Amusement machine.* Any machine or device of any kind or character, that is operated by or with coins, metal slugs, tokens, or checks, when such machine dispenses or is used or is capable of being used or operated for amusement or pleasure or when such machine is operated for the purpose of dispensing or vending of "merchandise or music" or "service" exclusively, as those terms are defined in the Texas Revised Civil Statutes, Title 132, Chapter Eight (Sec. 8802 et seq.), as amended. (An "amusement machine" pursuant to this definition is the same as a "skill or pleasure coin-operated machine" pursuant to the Texas Revised Civil Statutes, Title 132, Chapter Eight, Section 8801 (5), as amended.)

*Amusement establishment.* Any structure where one or more amusement machines are operated for profit.

*Conviction, convicted.* For the purposes of this chapter, a person is considered convicted if a sentence is imposed on the person, the person is placed on community supervision (including deferred adjudication community supervision), or the court defers final disposition of the person's case.

## SECTION 2.

Section 3-A of the City Code is hereby amended to read as follows:

### **Sec. 3A. PERMITS REQUIRED**

It shall be unlawful for any business, firm, association or persons, corporations and every other organization, to own, operate, or exhibit for play any pool table, marble machine, pin ball machine, shuffle board, dart board, domino table, coin-operated amusement machine, or any other table or device where games can be played, without first having obtained a permit from the City of Seven Points, Texas, and the permit shall be displayed at all times in some conspicuous place of business.

Permits shall be deemed personal to the permittee and shall not be assignable or transferable from one person to another or one location or place of business to another.

## Section 3.

### **Sec. 3. B. FEES**

The city secretary and/or the code compliance officer is authorized to collect an annual fee of ten dollars (~~\$10.00~~) per business plus seven dollars and fifty cents (~~\$7.50~~) per table or machine, in advance and the anniversary dates of the first permit issued to such establishment.

## Section 4.

### **Sec. 3. C. NUMBER OF PERMITS**

Only one (1) permit shall be required of each business establishment regardless of the number of tables or devices on which the business establishment is paying the required fee.

## Section 5.

### **Sec. 3-D APPLICATION PROCEDURE**

An owner of an establishment desiring a permit under this chapter shall file an application in writing with the city secretary and/or the code compliance officer. The application must include the following information:

\* \* \*

**AMENDED**  
Date 6-14-12  
Sec 3.B. Fees  
Amended  
6/14/12  
\$15.00  
per machine

If the applicant is an individual, that the applicant has not been convicted for any crime directly related to the business for which the permit is sought or, if the applicant has been convicted of such a crime, the date, location, and nature of the offense and the penalty received.

For an application for a permit to operate an amusement machine establishment, the applicant must also include the following information:

- (1) The total number of amusement machines that will be located and available in the establishment.
- (2) A complete description of all amusement machines that will be located in the establishment, including without limitation the name or type and the serial numbers of the machines; and
- (3) The total floor area of the establishment, and the total floor area of that portion of the establishment that is to be open to customers or patrons for the use or operation of amusement machines.

## **Section 6.**

### **Sec. 3.E. GAMBLING PROHIBITED**

Section 3.E. of the City Code is hereby amended to read as follows:

Applications for all permits shall contain the statement that:

I understand that the permit applied for shall be subjected to all the provisions and regulations of the City Code and all other ordinances of the City and laws of the State, and I certify that I and all my employees, agents, and operators will comply with said ordinances and laws.

In addition to the statement contained in above, all applications for permits for amusement machine establishments shall contain the statement that:

I certify that none of the machines will be operated in any way that constitutes an illegal lottery, including an "eight-liner" or other such machine for which cash, prizes, or coupons are awarded, and that none of the machines is an illegal gambling device as defined by Section 47.21(4) if the Texas Penal Code, as amended.

Whenever it comes to the knowledge of an duly constituted member of the police department of the City of Seven Points, Texas, or member of the sheriff's office, officer of the Department of Safety, agent of the Texas Alcoholic Beverage Commission, or other duly constituted peace officer, that any provision of this, or any other section of this Code of the City of Seven Points, or law of the State of Texas, has been or is being violated in an establishment having a permit to

operate tables, machines or amusement devices, such officer is herewith authorized to confiscate any money or valuable thing being wagered, or gambled, on any game on any table, machine or amusement device, and to immediately suspend the operation of all tables, machines and devices in said establishment until a hearing can be had before the City Council of the City of Seven Points, Texas.

#### **Section 7.**

#### **Sec. 3. F. HOURS AMUSEMENT GAMES MAY BE PLAYED**

It shall be unlawful for any person, firm, association of persons or corporation engaged in the operation of an establishment within the city limits of the City of Seven Points, Texas, which serves or offers for sale and the consumption of alcoholic beverages of any description and which also maintains, operates or exhibits for play any pool table, marble machine, pin ball machine, shuffleboard, dart board, domino table or any other table or amusement device where games can be played to allow the operation of such table of amusement device after such time as the establishment is required to stop serving alcoholic beverages as determined by the current liquor license held by the owner or operator of such establishment.

#### **Section 8.**

#### **Sec. 3. G. HEARING**

Whenever, at a hearing before the City Council of the City of Seven Points, Texas, at a regular or special called meeting, it is determined that any provision of this section or any ordinance of the City of Seven Points, Texas, or law of the State of Texas, have been violated in a business establishment having a permit to operate tables, machines, or amusement devices, the city council may suspend the operation of all tables, machines, or amusement devices in such establishment for periods of time ranging from one (1) day to ninety (90) days.

#### **Section 9.**

#### **Sec. 3. H. DENIAL**

Section 3. H. shall be added to this section and read as follows:

The city secretary and/or the code compliance officer shall deny an application for a permit if the city secretary and/or the code compliance officer finds any of the following:

- (1) the applicant failed to furnish the city with all information required by Section 3 D of this chapter; or
- (2) the type of permit applied for requires a bond, and the applicant has not complied with the bond requirements; or
- (3) the applicant has been convicted of any crime directly related to the business for which

the permit is sought.

In addition, the city secretary and/or the code compliance officer shall deny the permit to an applicant for an amusement machine establishment if the city secretary and/or the code compliance officer concludes that the applicant has:

- (1) ever been convicted of any felony or Class A or B misdemeanor directly related to gambling; or
- (2) been convicted within the five years before applying for the permit for any Class C misdemeanor directly related to gambling.

The city secretary and/or code compliance officer shall note the reason for denial on the application and shall notify the applicant of the denial by mailing notice to the applicant at the address shown on the application.

### **Section 10.**

#### **Sec. 3. I. REVOCAATION**

Section I. shall be added to this section and read as follows:

- (a) The city secretary and/or the code compliance officer shall revoke a permit if it is determined that:
  - (1) the establishment is not being conducted in accordance with this chapter or with any ordinance or laws of the city or state; or
  - (2) any statement made in the application is untrue; or
  - (3) the applicant has ever been convicted of any crime directly related to the business for which the permit is sought.
- (b) In addition, the city secretary and/or the code compliance officer shall revoke a permit for an amusement machine establishment if it is determined that the applicant:
  - (1) has ever been convicted of any felony or Class A or B misdemeanor directly related to gambling; or
  - (2) has been convicted within the five years before the applying for the permit for any Class C misdemeanor directly related to gambling; or
  - (3) falsely certified to the statement required by Section 3. D.

### **Section 11.**

#### **Sec. 3. J. APPEAL FROM DENIAL OR REVOCATION OF PERMIT**

- (a) The city secretary and/or the code compliance officer shall give written notice of the reason for denial or revocation of a permit by mailing notice to the person or entity at the address shown on the application for the permit.
- (b) To contest the denial or revocation, the person or entity listed on the application for the permit may file with the city secretary and/or the code compliance officer, within ten days after the city secretary and/or the code compliance officer mails notice of denial or revocation, a written appeal for a hearing before the city council.
  - (1) A denial is final and effective on the day the city secretary and/or the code compliance officer denies the permit.
  - (2) A revocation is final and effective eleven days after the city secretary and/or the code compliance officer mails the notice of the revocation, unless the person or entity listed on the application appeals the revocation as prescribed by this section, in which case the revocation is stayed until the city council makes a final determination.
- (c) After an appeal is filed, the city secretary and/or the code compliance officer shall provide the city council with a record of all proceedings conducted with regard to the application for a permit, including the written application, the action of the city secretary and/or the code compliance officer, and the reasons for such action. The city secretary and/or the code compliance officer shall provide to the applicant a copy of his information at least 24 hours before the hearing, if the applicant requests such information in writing.
- (d) The city council must hold a hearing on the appeal of the denial or revocation of a permit within 30 days after the date of filing of the appeal, unless the appellant waives in writing the right to a hearing within 30 days. The judgment of the city council shall be final and conclusive as to all parties.

### **Section 12.**

It is hereby declared to be the intention of the City Council that the phrases, clauses, sentences, paragraphs, and section of this ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this ordinance shall be declared unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, and sections of this ordinance, since the same would have been enacted by the City Council without the incorporation in this ordinance of any such unconstitutional phrase, clause, sentence, paragraph or section.

### **Section 13.**

Any person, firm or corporation who violates, disobeys, omits, neglects, or refuses to comply with or who resists the enforcement of any of the provision of this ordinance shall be charged with a Class C misdemeanor and fined not to exceed Five Hundred Dollars (\$500.00)

for each offense. Each day that a violation is permitted to exist shall constitute a separate offense.

**Section 14.**

All rights and remedies of the City of Seven Points are expressly saved as to any and all violations of the provisions of Chapter 4 of the City Code, as amended, or any other ordinances which have accrued at the time of the effective date of this ordinance; and, as to such accrued violations and all pending litigation, both civil and criminal, whether pending in court or not, under such ordinance, same shall not be affected by this ordinance but may be prosecuted until final disposition by the courts.

**Section 15.**

The city secretary of the City of Seven Points is hereby directed to publish in the official newspaper of the City of Seven Points, the caption, publication clause and effective date clause of this ordinance.

**Section 16.**

This ordinance shall be in full force and effect from and after its passage and publication as required by law, and it is so ordained.

PASSED AND APPROVED THIS THE 20 DAY OF April <sup>1999</sup><sub>-2000.</sub>

\_\_\_\_\_  
MAYOR

ATTEST:

Debbie Mosley  
CITY SECRETARY

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

