

ORDINANCE NO. 09-08-24  
(Amended 12-27-2021)

AN ORDINANCE REGULATING THE EXHIBITION, DISPLAY, LOCATION AND OPERATION OF SKILL OR PLEASURE COIN OPERATED MACHINES, DEFINING TERMS, LEVYING AN OCCUPATION TAX ON EACH MACHINE AND PROVIDING FOR AN EFFECTIVE DATE; REQUIRING A MACHINE PERMIT; PROVIDING FOR DUPLICATE PERMITS; PROVIDING FOR A TEMPORARY PERMIT FEE; REQUIRING APPLICATION FOR ISSUANCE OF A MACHINE PERMIT; PROHIBITING THE DISPLAY OF EXHIBITION OR OPERATION OF A SKILL OR PLEASURE COIN-OPERATED MACHINE WITHIN 300 FEET OF A RESIDENCE, SCHOOL, DAY CARE, CHURCH OR HOSPITAL; REQUIRING A PREMISES LICENSE FOR ANY PREMISES WHERE MORE THAN TWO MACHINES ARE LOCATED, DISPLAYED, EXHIBITED OR OPERATED; PROVIDING AN EFFECTIVE DATE FOR PREMISES LICENSE REQUIREMENT; PROVIDING FOR TERM OF LICENSE AND FOR AMENDMENT HEREOF; PROVIDING FOR LICENSE FEE AND FEE FOR AMENDMENT; REQUIRING APPLICATION FOR ISSUANCE AND STANDARDS FOR GRANTING AND DISAPPROVAL OF LICENSE; PROVIDING FOR LICENSE CANCELLATION AND APPELLATE PROCEDURE IN THE EVENT OF DISAPPROVAL OF CANCELLATION; RESTRICTING OPERATION OF MACHINES TO PERSONS OVER THE AGE OF 17 AND TO PERSONS OVER THE AGE OF 21 IF ALCOHOL IS SERVED WITHIN THE PREMISES; RESTRICTING OPERATION OF MACHINES BY SCHOOL AGE CHILDREN ON SCHOOL DAYS DURING SCHOOL HOURS; PROVIDING FOR A FINE OF UP TO \$500.00 FOR A VIOLATION OF THIS ORDINANCE; DECLARING OPERATION, DISPLAY OR EXHIBITION OF ANY SUCH MACHINE IN VIOLATION OF THIS ORDINANCE TO BE A PUBLIC NUISANCE AND SUBJECT TO ABATEMENT BY CITY; PROVIDING FOR SEALING OF MACHINES IN CERTAIN CIRCUMSTANCES; PROVIDING FOR HARMONIOUS CONSTRUCTION WITH OTHER ORDINANCES AND FOR SEVERABILITY.

**WHEREAS**, skill or pleasure Coin-operated machines, as the term is hereinafter defined, have proliferated in recent months due to their popularity as a form of amusement or recreation.

**WHEREAS**, the City Council desires to minimize and to control these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect citizens from increased crime; preserve the quality of life; preserve property values and character of surrounding neighborhoods and deter the spread of urban blight.

**WHEREAS**, the growth in the number of such machines and unregulated placement in various areas of the community, coupled with their popularity, will lead to a disturbance in areas of the City due to the large number of persons participating in or watching others participate in the operation of each machine; and

**WHEREAS**, regulation by the City is deemed desirable to insure that the locations in which such machines are placed has adequate facilities to accommodate the number of persons likely to be attracted by the placement of such machines in addition to other persons on the premises by reason of other activities or attractions located thereon; to insure that other activities conducted on the premises are not deleterious to the health, welfare, safety and morals of persons under the age of eighteen years operating or watching the operation of Coin-operated amusement machines; to ensure that the peace and order of the community will not be disrupted by persons operating or waiting to operate such machines; to ensure that the persons exhibiting such machines are of good moral character; and to require that the owner or operator of any establishment used for the exhibition of such machines is responsible for protecting the peace and order of the community from disturbances caused by patrons of such establishments;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSIONERS FOR THE CITY OF LYFORD:

### **Section 1.**

#### **Definitions**

**Skill or Pleasure coin-operated machine:** "Skill or Pleasure coin-operated machine," as that term is used herein, includes any machine or device of any kind or character which is operated by or with coins, metal slugs, tokens, or checks and that, when operated, is used or is capable of being used or operated for amusement or pleasure or to afford skill or pleasure. The following machines are expressly included within such term: marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature golf machines, miniature bowling machines, coin – operated billiard and pool games, Coin-operated electric game machines, "**eight liner machines**" and all other coin-operated machines which dispense or vend merchandise, music or service exclusively and coin-operated machines designed exclusively.

**Owner:** "Owner," as used herein, is, according to context, the person, individual, firm, company, association or corporation who owns a skill or pleasure coin-operated machine or the person, firm, company, association, individual or corporation who holds either legal or equitable title to the premises upon which a skill or pleasure coin-operated machine is to be located, displayed, exhibited or operated.

**Operator:** "Operator," as used herein, means any person, firm, company, association or corporation who exhibits, displays or permits to be exhibited, displayed or operated in a place of business owned by him or under his control any " Skill or Pleasure coin-operated machine," in the City of Lyford.

**Premises:** "Premises," as used herein, means a designated piece of real property within the corporate limits of the City of Lyford, together with all the buildings and structures thereon, upon where a skill or pleasure coin- operated machine is located or proposed to be located.

**City Official:** "City Official" means a police officer, code enforcement or building official of the City of Lyford.

## **Section 2.**

### **Occupation Tax Levied**

Effective there is hereby levied on each skill or pleasure coin- operated machine within the corporate limits of the City an annual occupation tax in the sum of \$20.00 per machine on or before January 31st of each subsequent year in which tax hereby levied remains in full force and effect. No tax is hereby levied on any such machine, which is exempt from the payment of State Tax. Request for permit must be made by January 3<sup>rd</sup> and application must be filed by January 15<sup>th</sup> of each year.

## **Section 3.**

### **Machine Permit Required**

No skill or pleasure coin-operated machine may be exhibited, located or operated within corporate limits of the City without a permit authorizing such exhibition, location and operation issued by the City Secretary. Payment of an occupation tax as hereinbefore required shall be a condition precedent to obtaining such a permit, but no additional permit fee shall be charged. Any skill or pleasure coin-operated machine located, exhibited or operated without a permit shall be subject to being sealed by the City Secretary on her authorized representative in such a manner as to prevent its operation. Any machine so sealed by the City or State of Texas for nonpayment of tax shall not have the seal removed except upon payment to the City of a fee of \$50.00 for the release of each machine in addition to any other fees required by law to be paid to the State of Texas. Any person who breaks or removes a seal placed by the City on a skill or pleasure coin- operated machine or who removes from its location any machine, which has been sealed, shall be guilty of a misdemeanor and be subject to a fine not to exceed \$500.00.

## **Section 4.**

### **Permit to be Affixed to Machine: Duplicate Permits Authorized**

The permit required above shall be evidence of payment of the occupation tax hereby levied and shall be securely attached to the machine in a manner that will require the continued application of steam and water to remove it. In the event a valid permit is lost, stolen or destroyed the City Secretary shall issue a duplicate permit for a fee of \$50.00. No permit is required for any machine exempt from taxation under the State Law.

## Section 5.

### Information required for issuance of permit

Any person wishing to exhibit, locate or display a skill or pleasure coin-operated machine within the corporate limits of the City and any person wishing to continue exhibit, locate or display such machines within the City must apply to the City Secretary and shall require the applicant to furnish the following information:

A. The name, address, telephone number and nature of the business entity wherein a machine is proposed to be located, displayed or exhibited.

B. The make, type and serial number of each machine proposed to be placed in such location.

C. The name, address and telephone number of the owner of each machine listed on the application.

D. Whether each machine listed on the application has affixed a valid permit issued by the State of Texas and the number of such permit.

E. The application must be submitted under oath by the owner of the premises at which the machines are intended to be located, displayed, exhibited or operated and the application must be accompanied by the permit fee or occupation tax hereinabove imposed and levied.

## Section 6.

### Location, Exhibition or Operation within 300 feet of a Residence,

### School, Church, Day Care or Hospital Prohibited

No permit shall be issued for the display, exhibition or operation of any skill or pleasure coin-operated machine "eight liners" within three hundred (300) feet of a residence, school, church, day care or hospital. The three hundred (300) feet limitation hereby imposed shall be measured from the **nearest point on the property line of the premises upon which the machine is to be located, displayed or operated to the nearest point on the property line of a residence, school, church, day care or hospital in a straight line between the two points.** A Day Care is defined as a school. In computing this distance limitation, it shall not be necessary to measure from entrance to entrance nor to measure along streets.

## Section 7.

### Premises License Required in Certain Circumstances; Fee

Any applicant applying for a permit for pleasure coin-operated machines must also, at

the time the applicant applies for the machine permit or permits, apply to the City Secretary for a Premises License. The initial annual fee for a Premises License shall be **Twenty-five thousand dollars (\$25,000.00)**, payable in advance for each location to be licensed, which fee is charges to defray administration costs of investigation and licensing and the hiring of additional police and/or city employees for the regulation and enforcement of this ordinance. The Premises Licenses Fee shall be **non-refundable** to the applicant in the event the license is denied or revoked.

#### **Section 8.**

##### **Limit on number of premises licenses**

There shall not be more than five (5) skill or pleasure machine businesses, commonly known as "eight liner businesses" operating within the city limits of the City of Lyford, Texas at any one time.

#### **Section 9.**

##### **Effective Immediately**

No person, partnership, corporation, estate, trust or any other form of legal business entity whatsoever shall locate, exhibit, display or permit to operate any kind of skill or pleasure coin-operated machine on any premises located within the corporate limits of the City of Lyford without having first applied for and obtained a Premises License and any person who locates, exhibits or displays more than two (2) skill or pleasure coin-operated machines to be located, exhibited, displayed or operated on any premises within the corporate limits of the City with first having obtained a Premises License shall be guilty of a **Misdemeanor** and fined an amount not to exceed **\$500.00**. Each day such violation exists shall constitute a separate offense and shall be subject to a like penal.

#### **Section 10.**

##### **Term of license**

The Premises license hereby required shall expire on December 31<sup>st</sup> of each year. If any such business ceases to operate for one month (30 days), after three days notice from the City, the permit is automatically revoked.

**Any license acquired under this ordinance is effective the date of licensing and expires on the 31st of December of the same year.**

#### **Section 11.**

##### **Amendment License**

Should ownership of the licensed premises change during the period of the license, the Premises License shall expire.



## Section 12.

### Standards for Issuance or Disapproval of Application

It shall be grounds for disapproval for any application for any Premises License or any renewal thereof and no license shall be issued if the City Secretary finds that:

A. Premium sought to be licensed is located within three hundred (300) feet of a residence school, church, day care (school) or hospital or

B. The owner, operator or lessee of the premises has been convicted of a felony or of any other classification of crime involving moral turpitude; or

C. The premises to be licensed does not have separate sanitary facilities for both men and women; or

D. The premises to be licensed does not have adequate parking space which will be considered based on the square feet of the facility located on the premises, or

E. There is not proper lighting in the front of the premises, or

F. The premises in question does not fully comply with City fire, health, safety, building, plumbing or electrical codes; or

G. After reasonable notice from the City, The owner or operator of the premises is delinquent in the payment of any City, School, or County tax, fee or assessment including utility charges, or

H. The machines to be located on the premises have not been issued permits by both the State of Texas and the City of Lyford or a City permit is not requested for all machines at the time a permit is applied for a fifty dollars (\$50.00) release fee will be added along with the regular permit fees, or

I. No permit shall be issued for any skill or pleasure coin- operated machine "eight liner" that has been used or commissioned in connection with any act prohibited by the State Of Texas, or

J. A license or an employee of a license knowingly allowed the possession, use, or sale of a controlled substance on the premises, or

K. Unlawful or criminal activity of any kind, or

L. All skill or pleasure machine businesses shall have all doors providing ingress and egress from the game room unlocked during the hours of operation, or

M. The Fire Marshall shall make periodic inspections without notice to all skill or pleasure machine businesses.

## Section 13.

### Additional License Agreements

In addition to meeting the criteria set forth in Section 11 above, the applicant shall agree as a condition precedent to the issuance of Premises License that:

A. If the premises to be licensed is also a premises licensed by the State of Texas permitting the on-premises consumption of alcoholic beverages, that no person under the age of twenty-one (21) years will be permitted to enter or remain on the premises unless accompanied by his or her parent or legal guardian, except in connection with such minor's employment.

B. If the premise to be licensed is not licensed for the on-premise consumption of alcoholic beverages by the State of Texas, then the applicant will not permit the consumption of such beverages by any person on the premises.

C. No person in an intoxicated condition will be permitted to enter or remain on the licensed premises. No loud or boisterous behavior will be tolerated either inside or outside the premises by patrons or potential patrons on the premises. Should the Lyford Police Department receive more than three (3) disturbance calls in anyone calendar year by persons complaining of loud and boisterous behavior on or about the premises and should the Police determine that patrons of the premises are responsible for the disturbance, the receipt of such calls to the Police Department and the determination by the Police Department as to the fact that the patrons of the licensed premises are responsible for the disturbance shall be grounds for **cancellation or suspension of the license.**

D. No child under the age of eighteen (18) years shall be permitted to play or operate a skill or pleasure coin-operated machine unless accompanied by his or her parent or legal guardian.

It shall be unlawful for any person to keep, conduct or operate any skill or pleasure business for profit or to allow or permit any such business to remain open for business or open to the public before the hours of 12 p.m. to 12 a.m. on Sunday through Thursday, and before the hours of 10 a.m. to 2 a.m. on Friday and Saturday.

The 1<sup>st</sup> time violation will result in a fine not to exceed five hundred dollars \$500.00.  
The 2<sup>nd</sup> time violation will result in cancellation or suspension of the license.

E. No obscene material shall be permitted to be sold, viewed or be available for viewing or sale on the premises. No material of a sexually explicit nature or which is defined as "Harmful Material" in Section 43.24 Texas Penal Code may be displayed on the premises in such a way that any person under seventeen (17) years might view the material and thereby become offended or alarmed by the display.

F. An owner, manager, or employee of a **skilled or pleasure machine business (game room)** or other person exercising control over a game room, a portion of a game room or an operational amusement redemption machine, shall provide a City Official with immediate unrestricted access during business hours to all areas of the game room and to all operational amusement redemption machines located in the game room.

G. A city official may inspect a game room or an operational amusement redemption machine located within the City of Lyford, Texas incorporated city limits to determine whether the game or the operational amusement redemption machine complies with the City of Lyford Code of Ordinances and State Law.

An owner manager or employee of a game room or other person who does not allow a city official to inspect a game or operational amusement redemption machine commits an offense.

(a) The requirements of subsection (I) of this section may be waived or modified by the building official if the establishment owner can demonstrate:

(1) The establishment 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

I. All game room shall have all doors providing ingress and egress from the game room unlocked during the hours of operation.

#### **Section 14.**

##### **Required Information on Application**

The application for Premises License shall also require the applicant to furnish the name, address, telephone number and type of business entity of the owner of premises, supported by three (3) forms of recognized identification. Likewise, the names and addresses of any person, firm, corporation, partnership or other type of legal or business entity whatsoever having financial interest in the ownership or operation of the licensed premises shall be disclosed together with the percentage of financial interest applicable to each person or entity. The application shall be sworn to by the applicant that the information contained therein is true and correct.

#### **Section 15.**

##### **Issuance or Disapproval of License: Cancellation of License**

Should the application, reveal that the applicant is qualified in all respects for the issuance of the license applied for, and inspection of the premises reveal that the premises for



which license is sought meets the requirements of this Ordinance, then the **City Commission** shall issue the license upon the applicant's written acceptance of the terms and conditions of the license and payment of required fees. Should the applicant not qualify for the license or the premises be deficient in meeting any of the requirements hereof or should the applicant not accept any of the license conditions then such application will be denied by the **City Commission** and no license will be issued. In the event any applicant should, after issuance of the Premises License, whether original, renewal or amended become disqualified to hold such a license, or should the premises become deficient in any respect, or should the applicant, owner or operator suffer, allow or permit a violation of any of the terms and conditions of the Ordinance or the license issued hereunder, the **City Commission** shall immediately cancel such license and instruct the owner, operator or applicant to cease operation of all machines permitted under such license or any city permit issued. Grounds for cancellation of any permit shall include the use of any machine used to commit an act in violation of the laws of the State of Texas. Any licensee whose license is canceled by the **City Commission** may appeal to the **City Commissioners** by filing a written notice of appeal within five (5) days of receipt of the cancellation notice issued by the **City Commission**, which cancellation notice shall be personally delivered to any person in charge of the licensed premises or mailed by certified or registered mail, return receipt requested, to the licensee at the address of the licensee shown on application that is on file with the **City Commission**. If no appeal is filed, the action of the **City Commission** shall be final and non appealable on the sixth (6th) calendar day, the next following delivery of such notice. In the event an appeal is filed, such appeal shall be heard by the **City Commissioners** not less than ten (10) calendar days nor more than thirty (30) calendar days from the date the notice of legal appeal is received by the **City Commission** unless the time for hearing shall be extended for good cause shown by either party or by mutual consent of the parties. In any event, written notice of the time, date and place of the hearing shall be provided to the appellant at least seven (7) days prior to the scheduled date of such hearing. **Any business matters to be conducted with the City need to be addressed by the permit holder.**

## **Section 16.**

### **Violations shall be punished by Fine; Grounds for Revocation of License; Abatement of Nuisance**

A violation of the terms of this Ordinance shall **constitute a misdemeanor** and subject the person violating same to **a fine of up to \$500.00**. Each day violation shall continue it shall constitute a separate offense. Likewise, any violation of this Ordinance by an owner, operator, permit holder or licensee shall constitute grounds for revocation of any license or permit issued by the City. Further, a violation of any condition hereby imposed shall render any machine covered by this Ordinance to be a public nuisance and subject to abatement by the City in the manner allowed for abatement of public nuisances otherwise by law.

**Section 17.**

**Construction with other Ordinances**

The provisions of this Ordinance shall govern the location, operation, display or exhibition of skill or pleasure coin-operated machines and any other Ordinances imposing conflicting regulations shall be construed as inapplicable to the extent of the conflict. A conditional use permit under the City's Zoning Ordinance shall be required only if the location, operation, display or exhibition of ten (10) or more such machines is proposed. In such case, a conditional use permit shall be required in addition to the premised license and machine permit.

**Section 18.**

**Severability Clause**

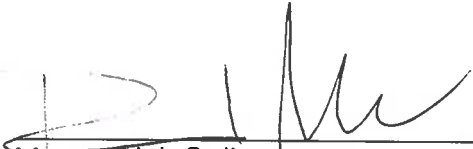
The provisions of the Ordinance shall be construed in accordance with applicable Federal and State Constitutional provisions and State Laws governing the regulation of skill and pleasure coin-operated machines. To the extent of any conflict with the State and Federal Constitutions, and statutory provisions, the provisions of the U. S. Constitutions, Constitution of the State of Texas and laws passed by the Congressional Legislature of the State of Texas shall control. Likewise, should any part of this Ordinance be finally determined to be invalid, such provision is hereby declared and found to be severable from the valid portions hereof and such valid provisions shall remain in full force and effect, notwithstanding the invalidity of any particular part or section hereof, and the remainder of this ordinance shall remain in full force and effect.

**Section 19.**


**Effective Date**

**This ordinance shall be in full force and effect on January 1, 2021 after passage, approval, adoption and publication of its description caption.**

APPROVED TO AMEND ON THIS THE 27<sup>TH</sup> DAY OF DECEMBER, 2021.

  
\_\_\_\_\_  
Mayor Rick Salinas

Attest:

  
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Lydia Moreno, City Secretary