

ORDINANCE NO. 526

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY ADDING ARTICLE IX ENTITLED "AMUSEMENT REDEMPTION MACHINE GAME ROOM"; PROVIDING FOR THE LICENSING AND REGULATION OF AMUSEMENT REDEMPTION MACHINE GAME ROOM; PROVIDING FOR THE PAYMENT OF A FEE FOR THE ISSUANCE OF SUCH LICENSE; IMPOSING RESTRICTIONS ON THE LOCATION OF SUCH ESTABLISHMENT; CONTAINING A SEVERABILITY CLAUSE; PROVIDING FOR THE REPEAL OF ANY AND ALL KINDS OF ORDINANCES, REGULATIONS, RULES OR POLICIES WHICH ARE IN ANY MANNER INCONSISTENT OR IN CONFLICT WITH THIS ORDINANCE; PROVIDING THAT THE VIOLATION OF THIS ORDINANCE SHALL CONSTITUTE AN OFFENSE PUNISHABLE BY A FINE OF NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of West Columbia, Texas, is a Type A general law municipality as defined in Chapter 6 of the Texas Local Government Code; and

**WHEREAS**, sections 51.012, 54.001, 215.074, 217.042 and Chapter 211 of the Texas Local Government Code authorize the City Council to adopt the provisions of this ordinance; and

**WHEREAS**, the City Council of West Columbia, Texas, 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 using amusement redemption machines within the City.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST COLUMBIA, TEXAS:**

**Section One**

Chapter 10 of the Code of Ordinances of the City West Columbia, Texas, shall be and is hereby amended by the addition of Article IX entitled "Amusement Redemption Machine Game Room" which shall read as follows:

**ARTICLE IX. AMUSEMENT REDEMPTION MACHINE GAME ROOM**

**Sec. 10-320. Definitions**

As of the date of the adoption of this Article, the following words and terms, when used in this Article, shall have the following meanings, unless the context clearly indicates otherwise:

(a) *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 fifty (50%) 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.

(b) *Amusement redemption machine* means:

(1) 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, 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.

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

(d) *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.

(e) *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 direct 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 a 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.

**Sec. 10-321. 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 inspection and amusement redemption machine game room license fee of Two Thousand Dollars (\$2,000.00) for the first two thousand (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, plus one dollar (\$1.00) for each square foot thereof over two thousand (2,000) square feet. Upon the payment of the required fee, a license shall be issued to such owner, operator or lessee, as the case may be, by the building official.

(b) *Expiration and Renewal.* Annual amusement redemption machine game room licenses issued by the City shall automatically expire on the 31<sup>st</sup> 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 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 thirty 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 provided will

require such person to pay an additional late fee in an amount equal to 20 percent of the fee actually due or 20 percent of the previous year's fee, 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. A \$5.00 fee will be charged for the release of any machine sealed for nonpayment of said license fee. 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.

(e) *Posting of License.* The 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) *Condition of premises.* All building and fire code standards must be met. Inspection by building official and certificate of occupancy and specific use permit shall be obtained before license is issued.
- (2) *Methods of conduction 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.
- (3) *Hours of operation.* 24 hours per day, seven days a week.
- (4) *Parking requirements.* One space for each two machines, plus one space per employee per shift.
- (5) *Location Requirements.* Premises shall not operate within 300 feet of a church, school, or hospital unless it was operating such location prior to September 13, 2004; and the operator of any amusement redemption machine game room at such location prior to September 13, 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 premises for such purpose 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 a 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.

**Sec. 10-322. 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 other ordinance of the City or any applicable State or federal law on regulation. Such termination by the City Council shall be upon the 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 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.

**Sec. 10-323. Disclaimer**

By issuing the required license, the City is not certifying the installation or use of the amusement redemption machines. By the acceptance of a license under this article, the applicant shall acknowledge that the City is not certifying or sanctioning the installation or use 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 the subject of this article may be found to violate State law. By the acceptance of a license issued under this article, the license fee paid belongs to the City and will not be refunded.

**Section Two**

It is hereby declared to be the intention of the City Council that the several provisions of this ordinance are severable, and if any court of competent jurisdiction enters a final order which holds that any section, sub-section, sentence, clause, phrase, or other portion of this ordinance is invalid, illegal, or otherwise unenforceable, then any such portion shall be deemed a separate, distinct and independent provision, and any such ruling shall not affect any other provision of this ordinance which are not specifically designated as being illegal, invalid or unenforceable.

**Section Three**

Any rules, ordinances, police regulations, resolutions, and/or policies of the City of West Columbia, whether written, or otherwise, which are in any manner in

conflict with or inconsistent with this ordinance, shall be and are hereby repealed to the extent of such conflict and/or inconsistency.

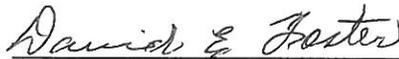
**Section Four**

Violation of this ordinance shall be punishable by a fine not to exceed \$500.00, and each day any violation of any provision of this ordinance shall continue shall constitute a separate offense.

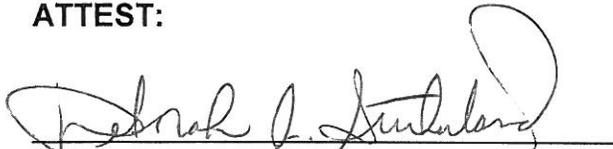
**Section Five**

This ordinance shall be effective and applicable immediately from and after the date of its passage and approval by the City Council of the City of West Columbia, and the publication of its caption as provided by law.

**PASSED AND APPROVED** this the 13th day of September,  
**2004.**

  
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**DAVID FOSTER, Mayor**

**ATTEST:**

  
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**DEBORAH SUTHERLAND**  
City Secretary