

ORDINANCE NO. 587

AN ORDINANCE AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES OF THE CITY OF WEST COLUMBIA, TEXAS, BY AMENDING ARTICLE IX ENTITLED "AMUSEMENT REDEMPTION MACHINE GAME ROOM" BY AMENDING THE PROVISIONS IMPOSING RESTRICTIONS ON THE LOCATION OF SUCH MACHINES; 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

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

ARTICLE IX. AMUSEMENT REDEMPTION MACHINE GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES

Sec. 10-320. [unchanged]

Sec. 10-321. License Required

(a) [unchanged]

(b) [unchanged]

(c) [unchanged]

(d) [unchanged]

(e) [unchanged]

(f) *Restrictions, Regulations, Controls and Limitations for Both Game Rooms and Premises with Machines.* The following restrictions, regulations, controls and limitations shall apply to all amusement redemption machine game rooms and all establishments in which individually licensed amusement redemption machines are situated:

(1) *Condition of premises.* All building and fire code standards must be met by the building in which either the amusement redemption machine game room and/or individually licensed amusement redemption machines are located. Inspection by building official and certificate of occupancy and specific use permit shall be obtained before license is issued.

(2) *Hours of operation.* 24 hours per day, seven days a week.

(3) *Location Requirements.*

(i) The premises of any game room and/or business housing one or more individually licensed machines shall not operate (a) within 300 feet of a church, school, or hospital (b) within 1000 feet of a public school, if the City Council receives a request from the board of trustees of a school district under Section 38.007, Education Code; or c) within 1000 feet of a private school if the City Council receives a request from the governing body of the private school;

- (ii) These restrictions apply unless the game room and/or business housing one or more individually licensed machines was operating at such location prior to March 14, 2011; and the operator of any amusement redemption machine game room and/or business housing one or more machines subject to license under this Article, at such location prior to March 14, 2011, shall have an affirmative defense in any prosecution under this chapter with respect to circumstances, conditions or events existing or occurring prior to February 1, 2012, for operating such game room and/or individual machines 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. The above exceptions regarding the application of these restrictions shall apply only with respect to permits in place as of the passage and approval of these restrictions. The above exceptions shall not apply to any renewal after March 14, 2011, of existing permits, nor shall it apply to any permits issued after the effective date of these restrictions.
 - (iii) As used herein, "church" means (a) owned, leased, rented, or otherwise used or occupied as its principal meeting place and (b) 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.
- (4) The measurement of the distance between the game room and/or business housing one or more individually licensed machines and the church or public hospital shall be along the property lines of the street fronts and from front door to front door, and in direct line across intersections, which measurements shall be in accordance with the policies and procedures for such measurements employed by the Texas Alcoholic beverage commission in measuring the distances with respect to permitted licensed sales of alcohol. The measurements of the distance between the game room

and/or business housing one or more individually licensed machines and the public or private school shall be:

- (i) in a direct line from the property line of the public or private school to the property line of the place of business, and in direct line across intersections;
 - (ii) if the permit or license is located on or above the fifth story of a multistory building, in a direct line from the property line of the public or private school to the property line of the place of business, in a direct line across intersections and up the building at the property line to the base of the floor on which the permit or license holder is located.
- (5) Every applicant for an original license or permit for a location with a door by which the public may enter the place of business of the applicant that is within 1000 feet of the nearest property line of a public or private school, measured along street lines and directly across intersections, must give written notice of the application to the officials or the public or private school before filing the application with the City. A copy of the notice must be submitted to the City with the application.

(g) *[unchanged]*

Sec. 10-322. *[unchanged]*

The City Council may terminate any license to maintain and operate an amusement redemption machine game room and/or individually licensed amusement redemption machines 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 end 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. *[unchanged]*

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.

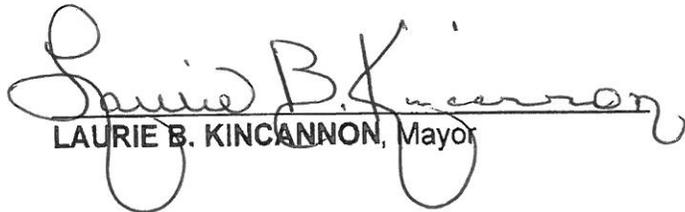
Section Four

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.

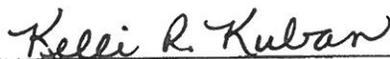
Section Five

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 14th day of March,
2011.


LAURIE B. KINCANNON, Mayor

ATTEST:



KELLI KUBAN
City Secretary