

ORDINANCE NO. 2023-02

AN ORDINANCE OF THE CITY OF SINTON, TEXAS, REPEALING IN ITS ENTIRETY ARTICLE XI, CHAPTER 114, OF THE CODE OF ORDINANCES OF THE CITY OF SINTON, TEXAS, ENTITLED COIN-OPERATED MACHINES, AND REPLACING IT WITH A NEW CHAPTER 114, ENTITLED COIN-OPERATED MACHINES; PROVIDING FOR A REPEALER CLAUSE, PROVIDING A SAVINGS CLAUSE, PROVIDING FOR CODIFICATION, AND ORDAINING OTHER PROVISIONS RELATING TO COIN OPERATED MACHINES.

WHEREAS, City Code of Ordinances article XI contains regulations for specific types of businesses; and,

WHEREAS, on March 17, 2022, the Second Court of Appeals for the State of Texas in *City of Fort Worth v. Rylie*, 649 S.W. 3d 246, 248 (Tex App. 2022), *reconsideration en banc denied* (July 21, 2022) determined that amusement redemption machines, as defined herein, are unconstitutional and that local ordinances regarding such machines are not preempted by the Texas Occupations Code; and

WHEREAS, the City Council believes it is in the best interests of the residents to ban amusement redemption machines from operating within City limits and to render their use unlawful.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SINTON, TEXAS:

SECTION 1: INCORPORATION OF RECITALS. The City Council finds that the statements set forth in the Recitals are true and correct and the City Council hereby incorporates such Recitals as findings of fact.

SECTION 2. AUTHORITY OF LAW. All requirements of the law have been met in the passing of this ordinance.

SECTION 3. The Code of Ordinances of the City, Title XI, Business Regulations, Chapter 114, Coin-Operated Machines, is repealed and replaced with a new Chapter 114, Coin-Operated Machines, attached hereto as Exhibit A.


SECTION 4. REPEALER CLAUSE. This ordinance shall be cumulative of all other ordinances dealing with the same subject, and any provision of any ordinance in direct conflict with any provisions of this Ordinance is hereby repealed and the provisions of this Ordinance shall supersede any provisions in conflict herewith; all provisions of any other ordinance not in conflict herewith shall remain in full force and effect.

SECTION 5. SAVINGS CLAUSE. If any section, part, or provision of this Ordinance is declared unconstitutional or invalid, by a court of competent jurisdiction, then, in that event, it is expressly provided, and it is the intention of the City Council in passing this Ordinance that its parts shall be severable and all other parts of this Ordinance shall not be affected thereby and they shall remain in full force and effect.

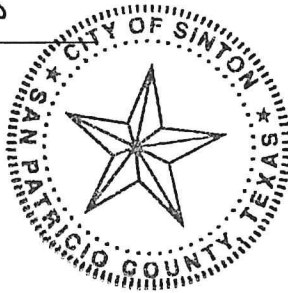
SECTION 6. PUBLICATION AND EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage.

SECTION 7. CODIFICATION. That this Ordinance shall be published in the Code of Ordinances of the City of Sinton, Texas.

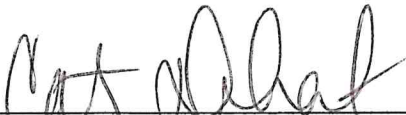
PASSED AND APPROVED on this the 17th day of January, 2023.



Edward Adams, Mayor
City of Sinton



ATTEST:



Cathy Duhart, City Secretary
City of Sinton

EXHIBIT A

CHAPTER 114 AMUSEMENT REDEMPTION MACHINES

Sec. 114.01 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amusement Redemption Machine. Any electronic, electromechanical, or mechanical contrivance, including sweepstake machines, designed, made and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys or novelties, or a representation of a value redeemable for those items and is in compliance with Tex. Penal Code § 47.01(4)(b). *Amusement Redemption Machine does not include:*

1. A machine that awards the user non-cash merchandise prizes, toys or novelties solely and directly from the machine, including claw, crane or similar machines; nor

2. A machine from which the opportunity to receive non-cash 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 objects into the machine or a part thereof, including basketball, golf, bowling or similar machines. A representation of value means cash paid under authority of sweepstakes contestants as provided by the Tex. Business and Commerce Code § 43, or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.

City Official. A police officer, code enforcement officer, fire marshal or building official of the city.

Game Room. A building, facility, or other place where one or more amusement redemption machines are present.

Game Room Owner or Owners. A person who has an ownership interest in a game room.

Licensee. Any person, individual, firm, company, association, or corporation operating an amusement redemption machine game room in the city.

Manager, Operator, or Owner. An individual who supervises, manages or participates in the performance of activities that contribute to the functioning of a game room, including, but not limited to, operating cash register/drawer, credit card transaction or some other depository on the premises of a game room, displays, delivers or provides to a customer of a game room merchandise, goods, entertainment or other services, takes orders from a customer of a game room for merchandise, goods, entertainment or other services or acts as a door attendant to regulate entry of customers.

Sec. 114.02 Amusement Redemption Machine Ban

1. No person shall maintain, display for patronage, or otherwise keep for operation by the patrons any amusement redemption machine within the City limits.

2. No person shall operate a game room within the City limits.

Sec. 114.03 Enforcement

If any person owns, operates, exhibits, or displays any amusement redemption machine(s) in an amusement redemption machine game room within City limits, that person shall be guilty of a misdemeanor and, upon conviction, shall be fined no more than \$1,000.00 per violation. In addition to the above, the city may enforce this chapter through injunctive relief.

Sec. 114.04 Existing Law

Nothing herein shall be construed to have the effect to license, permit, authorize or legalize any machine or device, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any section of the Penal Code of this state or the constitution of this state.