

ORDINANCE NO. 2021-01

AN ORDINANCE TO AMEND CHAPTER 11 OF THE CODE OF ORDINANCES BY ADDING A NEW ARTICLE TO BE KNOWN AS "ARTICLE VII. – COIN OPERATED AMUSEMENT MACHINES."

WHEREAS, the duly elected governing authority of the City of Kingsland, Georgia is authorized by O.C.G.A § 50-27-86 to adopt ordinances regarding bona fide coin operated amusement machines; and

WHEREAS, this ordinance is adopted to address the interest of public health, welfare, and safety of the citizens of the City of Kingsland; and

WHEREAS, the Mayor and Council of the City of Kingsland find that in the interest of the public safety the immediate enactment of this ordinance by reasonable means, as allowed under state law and not unduly oppressive, is necessary to protect the health, safety, morals, and general welfare of the citizens of the city.

WHEREAS, enactment of this ordinance will prevent the unregulated operation of the bona fide coin operated amusement machine business; and

WHEREAS, the bona fide coin operated amusement machine business can be conducted in a manner to safeguard the fiscal soundness of the City and provide business revenue to enhance the public welfare of the citizens of the City.

NOW THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KINGSLAND, that the Code of Ordinances of the City of Kingsland be and it is hereby amended as follows:

SECTION ONE:

Chapter 11 of the Code of Ordinances is hereby amended by adding "Article VII. – Coin Operated Amusement Machines," as follows:

ARTICLE VII. – COIN OPERATED AMUSEMENT MACHINES

Sec. 1. Short Title.

This Article shall be known as the "City of Kingsland, Georgia Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 2. Gambling Devices Prohibited.

Gambling Devices, as that term is defined in O.C.G.A § 16-12-20(2), are prohibited in the City, and the ownership, use, or transport thereof shall be a misdemeanor pursuant to state law, except as exempted pursuant to O.C.G.A § 16-12-35(a) through (k) and

regulated by the Georgia Lottery Corporation ("GLC") pursuant to O.C.G.A § 50-27-70, *et. seq.*

Sec. 3. Gambling places prohibited.

Gambling places, as the term is defined in O.C.G.A § 16-12-20(3), are prohibited in the City, and the operation thereof shall be a misdemeanor pursuant to state law.

Sec. 4. Definitions.

The following words, terms, or phrases, when used in this Ordinance, shall have the meaning ascribed to them in this Section, except where the context clearly indicates a different meaning:

(a) *Amusement Game Room* means any location as provided in O.C.G.A. § 16-12-35(b), (c) or (d) where one or more Bona Fide Coin Operated Amusement Machines are operated that permit non-cash redemption as provided in O.C.G.A. § 16-12-35(d)(1)(B), (C), or (D).

(b) *Bona Fide Coin Operated Amusement Machine*:

1. means the same as this term is defined in O.C.G.A. § 50-27-70(b)(2)(A) and (B) and any applicable regulations of the State of Georgia. Examples of Bona Fide Coin Operated Amusement Machines include, but are expressly not limited to, the following:

- i. Pinball machines;
- ii. Console machines;
- iii. Video games;
- iv. Crane machines;
- v. Claw machines;
- vi. Pusher machines;
- vii. Bowling machines;
- viii. Novelty arcade games;
- ix. Foosball or table soccer machines;
- x. Miniature racetrack, football, or golf machines;
- xi. Target or shooting gallery machines;
- xii. Basketball machines;
- xiii. Shuffleboard games;
- xiv. Kiddie ride games;
- xv. Skeet ball machines;
- xvi. Air hockey machines;
- xvii. Roll down machines;
- xviii. Trivia machines;
- xix. Laser games;
- xx. Simulator games;

- xxi. Virtual reality machines;
 - xxii. Maze games;
 - xxiii. Racing games;
 - xxiv. Computerized Sweepstakes Device;
 - xxv. Coin operated pool tables or coin operated billiard tables as defined in paragraph (3) of Code Section 43-8-1; and
 - xxvi. Any other similar amusement machine which can be legally operated in Georgia.
2. The term shall also mean machines of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, card or similar object such as jukeboxes or other similar types of music machines.
3. The term "bona fide coin operated amusement machine" does not include the following:
- i. Coin operated washing machines or dryers;
 - ii. vending machines which for payment of money dispense products or services;
 - iii. Gas and electric meters;
 - iv. Pay telephones;
 - v. Pay toilets;
 - vi. Cigarette vending machines;
 - vii. Coin operated scales;
 - viii. Coin operated gumball machines;
 - ix. Coin operated parking meters;
 - x. Coin operated television sets which provide cable or network programming;
 - xi. Coin operated massage beds; and
 - xii. Machines which are not legally permitted to be operated in Georgia.
- (c) *Business Location* means any structure, vehicle, or establishment where a business is conducted.
- (d) *Location Owner or Location Operator* means an owner or operator of a Business Location where one or more bona fide coin operated amusement machines are available for commercial use and play by the public.
- (e) *Class B Machine* shall have the same definition as found in O.C.G.A § 50-27-70.
- (f) *Operator* means any person, individual, firm, company, association, corporation, or other business entity that exhibits, displays, or permits to be exhibited or displayed, in a place of business other than his own, any bona fide coin operated amusement machine in this state.

- (g) *Owner* means any person, individual, firm, company, association, corporation, or other business entity owning any bona fide coin operated amusement machine in this state.

Section 5. Prohibition on Bona Fide Coin Operated Amusement Machines.

No Owner, Operator, Location Owner, or Location Operator may offer more than six (6) Class B machines at any Business Location within the jurisdiction of the City.

Section 6. Employee Notice.

The Owner or Operator of any Business Location that offers to the public any bona fide coin operated amusement machine that rewards the player exclusively as described in subsection (d) of O.C.G.A. § 16-12-35 is required to inform all employees of the prohibitions and penalties set out in subsections (e), (f), and (g) of O.C.G.A. § 16-12-35.

Section 7. Business Owner and Business Operator Notice.

The Owner or Operator of any bona fide coin operated amusement machine that rewards the player exclusively as described in subsection (d) of O.C.G.A. § 16-12-35 is required to inform each Location Owner or Location Operator of each Business Location where such machine is located of the prohibitions and penalties set out in subsections (e), (f), and (g) of O.C.G.A. § 16-12-35.

Section 8. License Required.

No person, firm or corporation shall engage in the business of owning or operating an Amusement Game Room, as that term is herein defined, without first:

- (a) applying for and obtaining an Amusement Game Room License;
- (b) paying the applicable occupational tax certificate fees; and
- (c) obtaining an occupational tax certificate.

Further, a separate Amusement Game Room license must be obtained for each Business Location in which any Bona Fide Coin Operated Amusement Machine is operated.

Section 9. Issuance of License.

Application for an annual license for operating an Amusement Game Room within the corporate limits of the City shall be made to the Planning Director or his or her designee upon a form to be supplied by the Planning Director or his or her designee for this purpose. The application for the annual registration shall include at a minimum the following information:

- (a) Verification that the applicant has obtained any and all licenses required by O.C.G.A. § 50-27-71;
- (b) Name, address, and age of the applicant and the date of the application;
- (c) Address or place where the bona fide coin operated amusement machine or machines are to be offered to the public for play and the other business or businesses operated at that place or places;
- (d) Name and address of the owner of the machine or machines and a copy of the owner's master license;
- (e) Name and address of any other business owned or operated by applicant within the corporate limits of the City; and
- (f) List of any other licenses or permits from the City held by the applicant.

A license issued in accordance with this Ordinance shall be valid until December 31 of the year in which the registration was issued.

Section 10. Occupational Tax Certificate Required.

No person, firm, or corporation shall own or operate an Amusement Game, as that term is herein defined, without first having completed the occupational tax certificate application form, paid the required occupational tax, and obtained an occupational tax certificate.

Section 11. Compliance with O.C.G.A. Provisions relating to Master Licenses, location Licenses, and Stickers for individual Machines.

Bona fide Coin Operated Amusement Machines may be used in the City only if the machines are owned by a person who holds a valid master license in accordance with O.C.G.A. § 50-27-71, and each machine offered to the public for play has a valid permit sticker in accordance with O.C.G.A. § 50-27-78. In addition, the business owner where the machines are available for play by the public must pay a location license fee in order to obtain a valid location license in accordance with O.C.G.A. § 50-27-71 (a.1) and (b). Failure to have a valid location license will result in the City license application not being processed.

Section 12. Minimum Distance Requirements.

- (a) Any Business Location which offers to the public one or more bona fide coin operated amusement machines may not be located within 300 feet of any fee simple ownership church building, school building, school grounds, college campus, or alcoholic treatment center.

- (b) As used in this section, the terms "school building" or "educational building" shall apply only to state, county, city, or church school buildings and to such buildings at such other schools in which are taught subjects commonly taught in the common schools and colleges of this state and which are public schools or private schools as defined in subsection (b) of Code Section 20-2-690.
- (c) As used in this section, "fee simple ownership church building" shall mean a property owned in fee simple by an officially registered religious body and actively used for religious purposes.
- (d) For purposes of this Code section, distances shall be measured by the most direct route of legal public travel on the ground. The planning director or designated staff shall confirm the distances in the field to the best of their ability. The applicant may provide a signed and sealed survey provided by a Georgia licensed professional engineer of the property with the distances shown to the appropriate adjacent structure as measured in the field by said Georgia registered surveyor.

Section 13. Gross Receipts from Bona Fide Coin Operated Amusement Machines and from Business.

- (a) Every Amusement Game Room located in the City shall keep records available for inspection by City officials that set out separately annual gross receipts for the Class B amusement machines and the other products and services offered or sold at the location.
- (b) Any Location Owner or Location Operator subject to O.C.G.A § 50-27-84(c) is hereby required to provide a copy of the monthly verified report required by such code section to the City Clerk or his or her designee. Such report shall indicate the monthly gross retail receipts for each Business Location located within the City and shall be due by the twentieth day of each month, subsequent to the month in which the sales have taken place. In addition, each owner or operator must provide the City a copy of the annual audit of the reports from the Owner or Operator to the Georgia Lottery Corporation.
- (c) No Location Owner or Location Operator may derive more than fifty (50%) percent of such Location Owner's or Location Operator's monthly gross retail receipts for this business location in which the Class B machines are situated from such Class B machines. Compliance with this section requires both the availability of records for inspection and compliance with the fifty (50%) percent of gross retail receipts requirement.

Section 14. Disclosure of Machine Owner.

Any Location Owner or Location Operator seeking to locate a business within the jurisdiction of the city and offer to the public one or more bona fide coin operated

amusement machines must first submit in writing the name, physical address and mailing address of the owner of the bona fide coin operated amusement machine(s) to the City Clerk or his or her designee. No occupational tax certificate or license shall be granted by the City unless and until the information required by the section has been provided.

Section 15. Location of Machines within Business.

Any location owner or location operator who offers to the public one or more bona fide coin operated amusement machines is required as a condition of doing business in the jurisdiction of the city to locate each and every bona fide coin operated amusement machine in plain view and accessible to any person who is at the business location.

Section 16. Posting of Signs.

- (a) The Location Owner or Location Operator of any Business Location which offers to the public one or more bona fide coin operated amusement machine is hereby required to post prominently a notice including the following language:

GEORGIA LAW PROHIBITS PAYMENT OR RECEIPT OF MONEY FOR WINNING A GAME OR GAMES ON THE AMUSEMENT MACHINE; PAYMENT OR RECEIPT OF MONEY FOR FREE PLAYS WON ON THIS AMUSEMENT MACHINE; PAYMENT OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON THIS AMUSEMENT MACHINE; OR AWARDED ANY MERCHANDISE PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY ON THIS MACHINE.

Any such notice shall be at least 11.5 inches by 17.5 inches in size. Words and letters shall be in bold print and shall be at least on centimeter in size. It shall be the duty of the Location Owner or Location Operator to keep this notice posted at all times in a conspicuous place on the premises of the Business Location.

- (b) In addition to posting the notice required under subsection (a) above, every Amusement Game Room shall also post its occupational tax license and the license required by Section 8 of this Article.
- (c) The owner or proprietor of each Amusement Game Room shall inform every employee of the acts and omissions prohibited by O.C.G.A. § 16-12-35 and by this Ordinance, and of the penalties for violation of O.C.G.A. § 16-12-35 and this Ordinance.

Sec. 17. License Suspension and Revocation.

- (a) The City may suspend or revoke the City-issued license of any Location Owner or Location Operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the Location Owner or Location Operator of a violation of subsection (e), (f), or (g) of O.C.G.A. § 16-12-35.
- (b) The City may suspend or revoke any other type of City-issued license of any Location Owner or Location Operator to manufacture, distribute, or sell alcoholic beverages as a penalty for the conviction of the Location Owner or Location Operator of a violation of subsection (e), (f), or (g) of O.C.G.A. § 16-12-35.
- (c) The City may suspend or revoke a City-issued alcohol license or any other type of City-issued license issued to a Location Owner or Location Operator as a penalty for violating any section of this Ordinance.
- (d) The suspension or revocation of a license under this Ordinance, or other penalties imposed, shall be in accordance with the following guidelines of due process:
 - 1. No license which has been issued or which may be issued pursuant to this Ordinance shall be suspended or revoked except for due cause and after hearing and upon prior three-day written notice to the holder of the license of the time, place and purpose of the hearing and a statement of the charges upon which the hearing shall be held, unless such hearing has been waived pursuant to stipulation as provided under Subsection (8). Such notice shall provide the reasons for the suspension or revocation sought and shall be mailed or delivered to the holder of the license.
 - 2. The term "due cause" for the purpose of this section shall include, but not be limited to:
 - i. Conviction of, or the entering of a plea of guilty or nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any felony; for violating any law, administrative regulation, or ordinance involving alcoholic beverages, gambling, narcotics; or for violating any tax law.
 - ii. Conviction of, or the entering of a plea of guilty of nolo contendere by, the licensee or any of his employees or any person holding an interest in the license for any sex offense.
 - iii. Suspension or revocation of any state license required as a condition for the possession, sale, or distribution of alcoholic beverages.
 - iv. Material falsification of any fact given in an application for a license issued under this chapter or bearing upon the licensee's qualification therefor. Any act which may be construed as a subterfuge in an effort to circumvent any

of the qualifications for a license under this chapter shall be deemed a violation of the requirement attempted to be circumvented.

- v. Failure to meet or maintain any standard prescribed by this Ordinance as a condition or qualification for holding a license.
 - vi. Any other factor known to or discovered by the City whereby it is objectively shown the licensee, any of the licensee's employees or any person holding an interest in a license, has engaged in conduct at or involving the licensed business or has permitted conduct on the licensed premises that constitutes a violation of federal or state law, local ordinance or administrative regulations involving alcoholic beverages, gambling or narcotics for all alcohol licensed businesses and including any sex offense under state law or local ordinances with respect to businesses licensed for on-premises consumption. With respect to this section, it shall be rebuttably presumed that the act was done with the knowledge or consent of the licensee; provided, however, that such presumption may be rebutted only by evidence which precludes every other reasonable hypotheses save that such licensee did not know, assist or aid in such occurrence, or in the exercise of full diligence that such licensee could not have discovered or prevented such activity.
- 3. Notice of suspension or revocation proceedings shall be served on the person named as licensee in the application. Notice shall be in writing. The notice may be served personally or by first class mail. If by mail, the notice shall be addressed to the licensee at its address as provided by the licensee to the City. The burden shall be on the licensee to provide notice, in writing, of any change of address for service of notices and process. In the case of service by mail of any notice required by the Ordinance, the service is complete at the time of deposit in the United States Postal Service.
 - 4. The hearing shall be conducted by a hearing officer appointed by the City Manager.
 - 5. Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The City shall bear the burden of providing by a preponderance of the evidence that due cause exists to suspend or revoke the license. At the hearing the licensee shall have the right to represent itself or be represented by counsel, may cross examine all witnesses offered by the City, and may call witnesses and present evidence in its own behalf. Formal rules of evidence shall not apply to hearings under this section, although the hearing officer shall have the right to exclude evidence which carries no indicia of reliability. All testimony shall be offered under oath of affirmation.
 - 6. The hearing officer shall make his final determination within ten (10) business

days of the completion of the hearing. The decision shall be placed in writing and contain the judge's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: permanent revocation of license; suspension of the license for up to twenty-four (24) months; and/or a civil monetary penalty no to exceed the amount allowed under the City Code. Where a license is suspended and the term of the suspension is longer than the remaining term of the license, imposition of suspension for a period in excess of the term of the existing license shall be applied to any renewal license.

7. The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee within twenty (20) business days of the close of the hearing. The decision of the hearing officer shall constitute final action by the City.
8. Upon receipt of notice of adverse action against the licensee under this section, the licensee may waive its right to a hearing and stipulate to a sanction agreed to by the City. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 19. - Criminal penalties for violations by owners or operators of Coin Operated Amusement Machines.

- (a) The penalty for a violation of the provisions of this Ordinance by the owner or operator of Coin Operated Amusement Machines, after conviction in the City of Kingsland Municipal court, shall be a fine of up to One Thousand Dollars (\$1000) per violation.
- (b) In addition to a monetary fine imposed by the City of Kingsland Municipal Court, the Mayor and Commissioners may also suspend or revoke permits and licenses granted by the City as provided elsewhere in this Ordinance. A suspension or revocation of a license or permit shall be in addition to, rather than in lieu of, a monetary penalty imposed by the City of Kingsland Municipal Court.
- (c) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of an order suspending or revoking the registration for the offering of any amusement game at the location is punishable, after conviction in Municipal Court, by a fine not to exceed One Thousand Dollars (\$1000) per violation, imprisonment not to exceed fifty (50) days, or both such fine and imprisonment.

Sec. 20. - Penalties for violations by those who play Bona Fide Coin Operated Machines in violation of Law or Ordinance.

The City of Kingsland Municipal court is authorized to impose the following penalties on any person convicted of receiving money as a reward for the successful play or winning of any bona Fide Coin Operated Amusement Machine from any person

owning, possessing, controlling or overseeing such Bona Fide Coin Operated Amusement Machine or any person employed by or acting on behalf of a person owning, possessing, controlling or overseeing a Bona Fide Coin Operated Amusement Machines:

- (a) First Offense: a fine not to exceed Five Hundred Dollars (\$500.00) for each violation.
- (b) Second and Subsequent Offenses: a fine not to exceed One Thousand Dollars (\$1000) per violation, imprisonment not to exceed fifty (50) days, or both such fine and imprisonment.

Sec. 21. - Operating Regulations.

All businesses operating Bona Fide Coin Operated Amusement Machine(s) hereunder shall be subject to the following regulations:

- (a) Devices to Be Kept in Plain View; Gambling Devices Prohibited. All Bona Fide Coin Operated Amusement Machines shall at all times be kept and placed in plain view of and open and accessible to any person(s) who may frequent or be in any place of business where such machines are kept or used. Nothing in the section shall be construed to authorize, permit, or license any gambling device of any nature whatsoever.
- (b) Inspection. The Chief of Police or his or her designee may inspect or cause the inspection of any location in which any such bona fide coin operated amusement machine(s) are operated or set up of operating, and may inspect, investigate and test such machines as needed.
- (c) Attendant Required. It shall be unlawful for any location owner or location operator to open the location to the public unless an attendant is present. Said attendant shall be of sufficient mental and physical capacity so as to be able to provide aid to patrons if needed or desired. Said attendant shall not be less than 18 years of age.
- (d) Underage persons. Operators shall not allow any unaccompanied person under the age of 18 years old, to operate coin-operated amusement machines on their premises during the following hours: (a). Monday through Thursday after 9:00 p.m.; (b). Monday through Friday during normal public-school hours, individuals under 18 years of age shall not be allowed on the premises prior to 3:00 p.m., unless accompanied by an adult who is 18 years of age or older.
- (e) Loitering. As used in this section, "loitering" shall mean remaining idle in essentially one location and shall include the concepts of spending time idly, loafing or walking about aimlessly, and shall be unlawful for any person, firm or corporation licensed to operate bona fide Coin operated amusement machine(s) to permit loitering on

or in the immediate vicinity of any machine or business premises regulated hereunder in such a manner as to:

1. Create or cause to be created a danger of a breach of the peace;
2. Create or cause to create any disturbance of the peace, as defined by law;
3. Obstruct the free passage of pedestrians or vehicles;
4. Obstruct, molest or interfere with any person lawfully in a public place.
5. Shirt and shoes required. All location owners and location operators shall require shirts and shoes to be worn at all times by any person frequenting their location.

Sec. 22. - Licenses and Permits Nontransferable.

- (a) Licenses required pursuant to this Ordinance are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current bona fide coin operated amusement machine registration and occupational tax certificate issued by the City.
- (b) The issued license shall not be transferred to another owner at the same site within the City. A new owner or proprietor must first obtain a new annual registration if he/she intends to operate in the same of different location in the City.

Sec. 23. - Enforcing Officer.

The Chief of Police or his designee is hereby designated as the enforcement officer and shall execute all requirements of this Ordinance.

SECTION TWO:

All Ordinances or parts of Ordinances in conflict with this Ordinance are hereby repealed.

SECTION THREE:

If any section, clause, sentence, or phrase of this Ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.

SECTION FOUR:

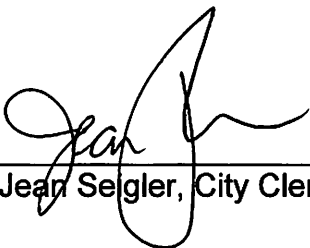
This Ordinance shall be effective immediately upon its adoption by the City

Council.

Ordained this 11 day of January, 2020, by the Mayor and Council of the City of Kingsland, Georgia.

CITY OF KINGSLAND, GEORGIA

BY: 
Dr. C. Grayson Day Jr., Mayor

ATTEST: 
Jean Selgler, City Clerk

