

## Chapter 97 - Coin-Operated Amusement Devices and Arcades

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1. Short Title. This Chapter shall be known and may be cited as the Coin-Operated Amusement Devices and Arcades Ordinance.
2. Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

"Arcade" means any place, premises or establishment or room open to the public set aside in a commercial establishment where the income from coin-operated amusement devices exceeds five (5%) percent of the income of the principal business conducted at the place, premises, room or establishment.

"Accessory to a principal use" means the commercial use of coin-operated amusement devices which is not an arcade.

"Coin-operated amusement device" means any machine, instrument, or contrivance, whether video, electronic, or mechanical, which may be operated or set in motion upon the insertion of a coin, token, trade token, slug, place, disc, key, card or similar object, whether the device is activated by insertion of such object, or is activated after paying a fee, membership fee, or admission price, or their equivalent, which may be operated by the public generally for use as a game, entertainment, or amusement, whether or not registering a score and whether operated by hand, electrically or by any other form of power.

"Owner" means any person, corporation, partnership or association who owns, operates or conducts any place, premises, establishment or room set aside in commercial establishments in which any coin-operated amusement device or coin-operated music device may be operated.

"Person" means individuals, clubs, societies, partnerships, association, firms and corporations.

3. License Required. It is unlawful for any person, either as owner, lessee or manager, to establish, operate, conduct or maintain any arcade or coin-operated amusement device without first obtaining a license for the device, and the arcade, from the City Clerk pursuant to this Chapter.
4. Location.
  - A. No arcade is permitted on any property unless the property is zoned B-3 (Commercial) as defined in the Zoning Ordinance for the City of Troy.
  - B. No arcade, where the income from coin-operated amusement devices exceeds thirty-five (35%) percent of the income of the principal business is permitted in any part of a building when the building is within three hundred (300) feet of a residential zoning district.

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- C. No arcade, where the income from coin-operated amusement devices exceeds thirty-five (35%) percent of the income of the principal business, is permitted on any part of a lot which is within fifteen hundred (1500) feet of a building containing another arcade where the income from coin-operated amusement devices exceeds thirty-five (35%) percent of the income of the principal business.
- D. No license for an arcade or coin-operated amusement device shall be issued for any place, premises, establishment or room unless located within a building in which persons assemble for amusement, entertainment, or recreation, classified as an Assembly Use Group in the current edition of the Michigan Building Code as adopted in Chapter 79, Section 8.1 of the City of Troy Ordinance.

(Rev. 05-16-2005)

### 5. License Application

- A. Each applicant for a license under this Chapter shall have attained eighteen (18) years of age, and shall not have been convicted of an offense involving gambling, narcotics, sex with a minor, accosting or soliciting, any crime involving moral turpitude, or violated any of the provisions of this Chapter for a period of five (5) years prior to the application.

The City Clerk shall refer all applications for licenses under this Chapter to the Chief of Police or ordinance designee, who shall:

- (1) Investigate the qualifications and background of the applicant,
- (2) Furnish a written report to the City Clerk, accompanied by a recommendation from the Chief of Police or ordinance designee whether a license should be granted or refused. The City Clerk may conduct other investigations for the purpose of determining whether a license should be granted to the applicant.

(Rev. 03-17-03)

- B. Each person, firm or corporation desiring to obtain an arcade license and licenses for coin-operated amusement devices as required by this Chapter shall file a written application with the City Clerk on forms approved by the City Clerk for the City of Troy, together with a non-refundable application fee in accordance with Chapter 60, Fees and Bonds of the City of Troy Code of Ordinances. The application shall include the following information:

(Rev. 03-17-03)

- (1) The applicant's date of birth, correct name, post office address and residence, the length of time the applicant has resided within this State and the applicant's places of residence for the ten (10) years preceding application.

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- (2) Whether the applicant has been convicted of any crime involving gambling, narcotics, sex with a minor, accosting or soliciting, or any crime involving moral turpitude.
- (3) At least five (5) references from reputable citizens of the community wherein the applicant last resided within this State, and the written recommendations of at least two (2) citizens of that community reflecting the applicant's moral character.
- (4) The type of business and the exact location of the premise for which a license is requested.
- (5) If applicant is a corporation authorized to do business in this State, the application shall be made by the agent of the corporation who will have principal charge of the premises established, and the application shall contain all the facts and recommendations required in the case of an individual. The license issued to a corporation is revocable upon a change in the agent managing the premise, and a new license may be required by the City Council of the City of Troy before a new agent may take charge of the premise.
- (6) If the applicant is a partnership, each active partner shall join in the application for the license, and shall furnish the information and recommendations required of an individual applicant.
- (7) A scale diagram of the premise on which the business will be conducted, showing the location of each coin-operated amusement device on the premise, and each exit from the premise.

(Rev. 11-08-1982)

### 6. Inspection.

- A. No arcade license shall be issued, until investigation of the applicant and inspection of the premise is made by the City Building Department, Fire Marshal, Police Department, and other City departments or agencies necessary to determine that the applicant and the premise fully comply with all pertinent ordinances and regulations.
- B. No arcade license shall be recommended for approval by those City departments or agencies until the Police Department and other necessary agencies or departments determine that the applicant has provided sufficient paved off-street parking and sufficient aids and improvements for the efficient and safe movement of vehicular traffic. Minimum off-street parking facilities shall be the same as required by the Zoning Ordinance of the City of Troy.
- C. No arcade license shall be recommended for approval by those City departments or agencies until the Fire Marshal determines that adequate space is provided between the coin-operated amusement devices to permit safe entry and exit from the premise. The Fire Marshal shall not permit less space between devices than specified in this Chapter.

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### 7. Requirements.

- A. Each licensee shall at all times open each portion of a licensed premise for the inspection by law enforcement agencies and any City Department for the purpose of enforcing any provisions of the Code of the City of Troy.
- B. Each licensee shall at all times display the licenses granted in a conspicuous place near the entrance to the licensed establishment.
- C. Each arcade shall have at least one adult operator on the premises at all times that the premise is open to the public and who has been certified by and registered with the City Clerk following application. The operator's application shall include the following information:
  - (1) The operator's date of birth, correct name, post office address and residence, the length of time the operator has resided within the State, and the operator's places of residence for the ten (10) years preceding application.
  - (2) Whether the operator has been convicted of any crime involving moral turpitude.
  - (3) At least five (5) references from reputable citizens of the community wherein the operator last resided within this State, and the written recommendations of at least two (2) citizens of that community reflecting the operator's moral character.
- D. Only one license for each coin operated amusement device per one hundred (100) square feet of floor area where the coin-operated amusement devices are located may be issued for a facility, unless the facility is located in a wholly enclosed shopping mall that contains more than four hundred thousand (400,000) square feet of gross floor area, as long as the arcade does not have a public entrance directly to the outside of the shopping mall, and that the shopping mall has a uniformed security guard on duty at all times, and that the hours of operation of the arcade do not exceed the hours of operation of the shopping mall. Licenses may be issued to an arcade located in a wholly enclosed shopping mall as follows:

<u>Floor Area (Sq. Ft.)</u>	<u>Licenses</u> <u>per 100 Sq. Ft. of Floor Area</u>
0-800	1.0
800-1400	1.5
1400 - Up	2.25 (maximum 120 devices)

(Rev. 05-16-2005)

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- E. If the coin-operated amusement devices are accessory to a principal use, only one device may be licensed for each 750 square feet of usable floor area of the premises. Usable floor area does not include accessory unoccupied areas, restroom areas, storage areas, thickness of walls, bowling lane areas, rink areas, court areas and the like.
- F. Six (6) feet of aisle space is required between coin-operated amusement devices or groups of devices in all instances.
- G. No establishment shall contain more than one-hundred twenty (120) coin-operated amusement devices.

(Rev. 01-22-1996)

### 8. Prohibitions.

- A. No coin-operated amusement device shall display, expose, produce or emit any motion picture, printed matter, advertisement, writing, song, recitation, speech, music or other matter which depict or describe nudity, which means less than completely and opaquely covered human genitals, pubic regions, buttocks, and human female breasts below a point above the top of the areola or the covered human male genitals in a visibly turgid state. A female breast is considered uncovered if the nipple only or the nipple and areola only are covered; nor, shall a device(s) depict or describe:
  - (1) Sexual intercourse, fellatio, cunnilingus, masturbation, sodomy, bestiality, flagellation or any other act by a person involving the touching or contacting of the genitals or any sexual acts which are prohibited by law.
  - (2) The touching, caressing or fondling of the breasts, buttocks, pubic region or genitals or the stimulation thereof by any device, tool, implement or object.
  - (3) The actual or simulated displaying or exposure or simulations of the pubic hair, pubic region, anus, vulva, or genitals of humans, brutes, beasts or animals.
  - (4) The exposure of the postpubertal female breast. A female breast is considered exposed if any portion of the breast below a line above the top of the areola is exposed.
  - (5) Artificial devices or inanimate objects employed to depict any of the prohibited activities described above.
- B. No license shall permit a person to remain on the licensed premises who is nude, as defined in this Chapter.

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- C. No licensee, directly or indirectly, or by any servant, agent, or employee, shall:
- (1) Permit any indecent, immoral, or profane language or indecent, immoral or disorderly conduct.
  - (2) Permit the licensed premise to become a resort for disorderly persons.
  - (3) Permit gambling or the use, possession, or presence of gambling paraphernalia on the premises. This subsection does not apply to a redemption game if all of the following conditions are met:
    - (a) The outcome of the game is determined through the application of an element of skill by the player.
    - (b) The award of the prize is based upon the player's achieving the object of the game or otherwise upon the player's score.
    - (c) Only noncash prizes, toys, novelties, or coupons or other representations of value redeemable for noncash prizes, toys, or novelties are awarded.
    - (d) The wholesale value of a prize, toy, or novelty awarded for the successful single play of a game is not more than \$3.75.
    - (e) The redemption value of coupons or other representations of value awarded for the successful single play of a game does not exceed 15 times the amount charged for a single play of the game or \$3.75, whichever is less. However, players may accumulate coupons or other representations of value for redemption of noncash prizes, toys or novelties of a greater value up to but not exceeding, \$250.00 wholesale value.

(Rev. 02-02-1998)

- (3.1) As used in subsection (3), "redemption game" means a single player or multi-player mechanical, electronic, or manual amusement device involving a game, the object of which is throwing, rolling, bowling, shooting, placing, propelling, or stopping a ball or other object into, upon, or against a hole or other target. Redemption game does not include either of the following:
- (a) Games such as roulette, beano, cards, dice, wheels of fortune, video poker, slot machines, or other games in which winning depends primarily upon fortuitous or accidental circumstances beyond the control of the player.
  - (b) A game that includes a mechanical or physical device which directly or indirectly impairs or thwarts the skill of the player.

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(Rev. 02-02-1998)

- (4) Permit intoxicated persons on the premises.
- (5) Permit any person under the age of twelve (12) years to be on the premises unless accompanied by his parent or guardian.
- (6) Permit any persons under seventeen (17) years of age to be upon the premises after 10:30 P.M. (local time) unless accompanied by a parent or legal guardian.
- (7) Permit any persons under sixteen (16) years of age to be upon the premises from 7:30 a.m. through 2:30 p.m. (local time) on those days when any school located within any school district in the City of Troy is open for regular school attendance unless accompanied by a parent or legal guardian.
  - (a) It shall be the responsibility of the proprietor of any amusement arcade to prohibit minor children from the premises under the provisions of subsections (5), (6), and (7) above. Failure to do so shall be considered a violation of this Chapter.

(Rev. 11-08-1982)

- (8) Permit the possession or use of any alcoholic beverage on the premise, nor shall the licensed premises be accessible with any place where alcoholic beverages are kept, sold, distributed, or given away unless the licensed premises possesses a Michigan Liquor Control Commission license.

(Rev. 05-16-2005)

- (9) Permit the possession or use of a controlled substance, including marijuana, on the premises.

(Rev. 05-16-2005)

- (10) Permit noise or music to emerge from the licensed premises which is disturbing to the persons in the surrounding area.

(Rev. 05-16-2005)

- (11) Permit the premises to become a nuisance.

(Rev. 05-16-2005)

9. Hours of Operation. No person shall operate or cause to be operated in the City any mechanical amusement device between the hours of 2:00 a.m. and 7:00 a.m. of the official time of the City, except on Sundays when the prohibited hours shall be between

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2:00 a.m. and 9:00 am. In establishments other than arcades, the hours of operation shall coincide with the hours of the principal use.

(Rev. 05-16-2005)

10. Parental Objection. A person who operates or causes to be operated a coin-operated amusement device arcade shall not permit a minor seventeen (17) years of age or under to remain in or frequent the arcade, if the parent or guardian of the minor notifies the person operating the arcade in writing, objecting to the minor's presence on the premises, and also furnishes a recent snapshot photo of the minor to the person operating the arcade.

11. License Fee and Expiration.

License fees shall be in accordance with Chapter 60, Fees and Bonds of the City of Troy Code of Ordinances.

(Rev. 03-17-2003)

C. Any license issued under this Chapter shall expire on December 31 following its issuance and successive renewals of the license shall require a new application and license fee for each device and arcade.

D. The City Clerk shall refund to the applicant those pre-paid license fees submitted with the application for which a coin-operated amusement device license or arcade license is denied.

E. Any license issued under this Chapter is non-transferable.

(Rev. 11-08-1982)

12. Revocation of License.

A. The City Clerk may issue a notice of intent to revoke a license issued under this Chapter upon submission of a written report to him by the Police Department for any violation of the terms of this Chapter or for disorderly or immoral conduct on the premises or for the violation of any of the rules, regulations, ordinances and laws applying to the operation of coin-operated amusement devices.

B. The City Clerk may issue a notice of intent to revoke a license issued under this Chapter upon submission of a written report to him by the Fire Department that the premises or the conduct of the business on the premises constitutes a fire hazard or violates the Fire Code or other applicable ordinances, rules or regulations of the City pertaining to fire prevention or safety.

C. A notice of intention to revoke issued under this section shall be effective fifteen (15) days from date of issue, unless a hearing is requested by the licensee within five (5) days following receipt of the notice of intent to revoke.

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- D. A person who timely requests a hearing following receipt of a notice of intent to revoke license is entitled to a hearing before the City Council at a time and place to be set by the Council. Written notice of the time and place of the hearing shall be given to the licensee by Certified or Registered mail at least ten (10) days prior to the hearing.
13. Slot Machines. Nothing herein permits the issuance of a license for any slot machine or legalizes any coin-operated machine which incorporates any gambling feature, and all use for gambling is prohibited.
14. Counting Devices. Coin-operated amusement must be equipped with a counting device so that the amount of revenue from the coin-operated amusement can be ascertained, so that a determination can be made that the enterprise falls within the five (5%) percent or thirty-five (35%) percent limitation by correlation of gross receipts there-from with the financial statement of the business. The licensee shall be required to record, certify and maintain such records for a period of two (2) years.

(Rev. 05-16-2005)

15. Enforcement Penalties.
- A. Violations. Any person, firm, or corporation violating any of the provisions of this Chapter, shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than Five Hundred (\$500.00) Dollars and the costs of prosecution, or, in default of the payment thereof, shall be punished by imprisonment in the county jail for a period not to exceed ninety (90) days for each offense or by both such fine and imprisonment at the discretion of the court, together with the costs of such prosecution.
- B. Public nuisance per se. Any building or structure which is used in violation of any of the provisions within this Chapter is hereby declared to be a public nuisance per se, and may be abated by order of any court of competent jurisdiction.
- C. Fines, Imprisonment. The owner of any building or structure which is used in violation of this Chapter, and who has knowledge of such violation shall be guilty of a separate offense and upon conviction thereof, shall be liable for the fines and imprisonment herein provided.
- D. Each day a separate offense. A separate offense shall be deemed committed upon each day a violation of this Chapter occurs or continues.