



ORDINANCE NO. 360

AN ORDINANCE PROVING FOR THE LICENSING BY THE CITY OF REXBURG, MADISON COUNTY, IDAHO OF COIN OPERATED AMUSEMENT DEVICES, PROVIDING LIMITATIONS OF LICENSEES; PROVING THE LICENSE FEE TO BE PAID EACH SUCH MACHINE OR DEVICE, AND THE APPORTIONMENT AND PAYMENT OF THE PORTION THEREOF TO THE STATE OF IDAHO AND MADISON COUNTY; PROVIDING REGULATIONS AND CONTROLS FOR THE OPERATION OF SAID DEVICES AND LICENSING THE SAME; PROVIDING THE FORM OF LICENSE FEES FOR THE CALENDER YEAR; PROVIDING PENALTIES FOR VIOLATIONS OT THIS ORDINANCE; PROVIDING FOR THE REVOCATIONS OF LICENSES AND FOR NOTICE OF HEARING PRECEDING SUCH REVOCATIONS PROVIDING A SAVING CLAUSE, AND REPEALING ALL ORDINANCES, OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF REXBURG, IDAHO:

SECTION I: For the purpose of this ordinance, the following definitions shall apply in the interpretation of the provisions of this ordinance;

- a) A "Coin operated machine or amusement Device" is a machine or mechanical device into which me be inserted and piece of money, or other object and from which as a result of such insertion and application on physical or mechanical force, may issue wholly upon and chance or uncertain or contingent event, any piece or pieces of money, or any check memorandum, or any other tangible evidence by any person whatsoever; which device is defined as and hereby declared to be a gaming but not a lottery.
- b) For the purpose of this act any machine having multiple slots, or combinations, for coins of like or different denominations, that can be operated by the insertion, in separate slots, of like or different denominations each such slot shall be deemed a separate machine and device and shall be required to pay the license fee hereinafter prescribed for each device.
- c) The word "person" included an individual person, partnership, corporation, or association.

SECTION II: It shall be unlawful for any person, firm or corporation or association to possess, lease, rent, license, or permit the use of or control place, maintain, or to permit the operation of , upon any premises or at any place location or building in the City of Rexburg, any coin operated amusement device, unless and until such coin operated amusement device shall be licensed by the City of Rexburg, Idaho, as hereinafter provided; and it shall be unlawful to permit any person under the operation of such device in any public place where persons under twenty years of age would have access thereto.

SECTION III: Before any such coin operated amusement device may be operated within the City, an application for a license for each such device or devices shall be filed with the City Clerk of the City of Rexburg, Idaho, on an application form provided by the city. Said application form shall provide, among other things, the following information;

The name of the applicant; the name of the place and the location where it is proposed such coin operated device is, or devices are, to be operated; the number of such devices and the make, serial number, type, and coin denomination of each machine desired to be operated by the applicant at such location; such application shall be signed and verified by the applicant, or if the application or association, then by an officer of the such corporation or association.

SECTION IV: The license fee required for obtaining a license stamp for each of said coin operation devices for the calendar year shall be as follows:

- a) \$750.00 per calendar year for each machine played or operated with Nichol or dimes;

- b) \$850.00 per calendar year for each machine played or operated with quarter dollars;
- c) \$1,000.00 per calendar year for each machine played or operated with half dollars or dollars;
- d) In case any device may be operated with money of more than one denomination, the license fee required for such device shall be double the amount of the license fee required for a device operated with money of only one denomination, computed on the basis of the highest denomination with which the said device will operate.

Said license fee will be prorated as beginning with the actual month of issue for the remainder of the calendar year and in computing the license fee, the month in which the license is issued shall be included.

Of the license fee so collected on each such devices \$125.00 thereof for the calendar year, or the pro rate share thereof if issued for less than a full calendar year shall be collected for Madison County; and \$125.00 thereof, or the pro rata portion thereof, if issued for less than a calendar year, shall be collected for the State of Idaho; and the balance of said license fee shall be deposited in the general Fund of the City. Provided further that the money so collected by the City for the State of Idaho and for the County of Madison quarter annually on April 1st, July 1st, October 1st, and January 1st of each year.

SECTION V: Such application, accompanied by the necessary license fees, shall be filed with the City Clerk, and be presented to the City Council at any regular or Special meeting of the City Council for approval or disapproval. If the City Council determine that said application fully complies with all the provisions of said chapter 151 of the 1947 session laws of the State of Idaho and this ordinance, it shall approve said application and authorize the clerk to issue a license for each such machine so approved as hereinafter provided. In the event such application be disapproved, the tendered license fee shall be returned to the applicant.

SECTION VI: No coin operated amusement device may be operated on any premises except those owned or leased by the licensee. No person other than the licensee may have any legal, equitable, or financial right, title or interest in such device, whether by ownership or, mortgage, conditional sales, contract, or otherwise, nor receive any rental or remuneration there from the operation thereof.

SECTION VII: The license issued under this ordinance shall be in the form of a license stamp, and a separate license must be issued to for each coin operated amusement device. The licensee, immediately upon assurance thereof, shall securely affix the said stamp to the coin operated amusement device in a conspicuous place, and cancel the same by cutting it criss cross with a sharp knife or instrument.

SECTION VIII:

- a) No license stamp shall be used on any device other than the one for which said license stamp is issued; provided however, the City Council may authorize the issuance of a substitute license upon presentation to the City Council of a duly verified application, on a form to be provided by said city, showing such device to have become wholly or in part, worn out, accidentally broken, stolen, or accidentally destroyed to such an extent that it is rendered useless, the substitute license shall bear the same license number as the one originally issued and shall be designated a substitute license and the same shall have thereon the name of the owner, location, type and serial number of the device for which the substitute license is issued, such substitute license shall be affixed to the device for which it is issued, and to be canceled in all respects as required by law for an original license. The original license shall then be void and shall be destroyed by the licensee, if possible.
- b) The City Council may authorize the transfer of a licensed device, with the license stamp attached, from one owner thereof to another person or from one location to another location on application by the licensee, or his transferee, on a form to be provided by the city. Upon approval by the City Council, a permit for said transfer shall be issued by the City Clerk, which permit shall bear the same number as the license stamp issued for said device and the number of the transferee. Said permit shall be affixed to the device transferred and shall be canceled in the same manner as the license stamp originally issued shall remain on said device so transferred.
- c) A fee of \$5.00 shall be collected by the City Clerk for each substitute license or permit, and the same shall be placed in the General fund of said City.

SECTION IX: REVOCATION AND CANCELLATION.

If any licensee of a coin operated amusement device violates any of the provisions of this ordinance or any of the provisions of said chapter 151 of the 1947 Session Laws of the State of Idaho, the City Council is hereby authorized to and empowered to revoke all licenses to operate such devices issued to said licensee; provided, however, that in the event it is brought to the attention of the City Council that such violations have taken place then, before revoking such licenses, the City council shall cause a notice in writing to be served upon such licensee setting forth in general terms the violations claimed to exist or to have existed, and such notice shall provide a time for hearing thereon before the City Council, which date of hearing shall provide a time for hearing thereon before the City Council, which date of hearing shall not be less than ten (10) days nor more than twenty (20) days from the date of service of said notice, and upon or following said hearing, the City Council, upon finding that the provisions of this ordinance or the provisions of the State law, said chapter 151 of the 1947 Sessions Laws of the State of Idaho, have been violated by such licensee, such license or licenses shall be revoked, and no refund of any unused portion of the license fee paid shall be made to the licensee. And the granting to him of another license shall be in the discretion of the Council.

SECTION X: It shall be unlawful for any person within the corporate limits of the City of Rexburg to operate or play any coin operated amusement device, and for any owner of persons in charge thereof, to permit the operation or playing of any coin operated amusement device between the hours of 1:00 o'clock a.m. Sunday and 7:00 o'clock a.m. Monday in any week. And all coin operated amusements devices shall be covered and kept covered during said hours.

SECTION XI: Any violation of the provisions of this ordinance, the penalty for which is not provided for by said chapter 151 of the 1947 Session Laws of the State of Idaho, shall be unlawful, and any person so violating such provisions shall be guilty of a criminal offense, and upon conviction thereof shall be fined not to exceed \$100.00, and upon failure to pay such fine is paid in full, or for confinement in the City jail not more than thirty days, or by both fine and imprisonment, in the discretion of the Court.

SECTION XII: If any section, provision or clause of this ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of this ordinance, but said ordinance shall be construed as though such invalid or unconstitutional provision were not incorporated therein; and the City Council hereby declared that it would have passed this ordinance, and each section, sub section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the section, sub-sections, sentences clauses or phrases be declared in valid or unconstitutional.

SECTION XIII: That all ordinances, or parts of ordinances, insofar as they are in conflict herewith be, and the same are hereby repealed.

SECTION XIV: This ordinance shall be in force and effect from and after its passage, approval and publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR this 4th day of June, 1947.

J.B. DeMott, Mayor

(SEAL)

ATTEST:

Gilbert T. McKinley, City Clerk

