



Regular 6/10/2025

Item # 6

CCM/O 2025-004

CITY COUNCIL MEMORANDUM FOR ORDINANCE

Prepared By: Fred Morris

Approval: Yousry Zakhary

Coin Operated Machines and Indoor Amusement Facilities Ordinance

DESCRIPTION:

Consideration and approval of an ordinance amending Chapter 10, Article V, Division 3 of the Code of Ordinances that brings local regulation of gambling machines in line with State law. **Third and Final Reading**

BACKGROUND:

In 2014, the City of Fort Worth adopted ordinances that restricted amusement redemption machines that are used for gambling in the city. The City was sued upon the effective date of the ordinances, and after over nine years, the litigation has ended in the City's favor. In June, the Texas Supreme Court declined further appeals in *Stephannie Lynn Rylie, et al v. The City of Fort Worth and David Cooke, in his Official Capacity as City Manager*, leaving in place a Second Court of Appeals opinion holding that eight liners are unconstitutional lotteries because they are games of chance. In December 2024, the Fort Worth City Council voted to approve final amendments to their code that ban what are commonly called "8-Liners".

Machines that award a prize directly from the machine, like claw and crane machines, and machines that award a prize dependent on the players ability to throw, roll, flip, toss, hit or drop a ball are not "gambling" devices. Gambling devices are any machine that pays cash, gift cards and/or gift certificates and that "pay" anything of value by chance and NOT by skill. Gambling device versions of bingo, keno, blackjack, lottery, roulette or video poker ARE gambling devices.

Other types of licensed machines, like pool tables, juke boxes and pin ball machines, are unaffected by this amendment – only gambling machines are addressed.

The amendment presented recognizes the decision of the Texas Supreme Court in determining "8-Liners" are illegal in Texas. This amendment adds language to the current licensing provisions for coin-operated machines that specifically define a gambling device.

FISCAL IMPACT / FUNDING SOURCE:

NA

STAFF RECOMMENDATION:

Staff recommends approval of an ordinance amending Chapter 10, Article V, Division 3 of the Code of Ordinances that brings local regulation of gambling machines in line with State law.

ATTACHMENT(S):

Ordinance 2025-004

ORDINANCE NO. 2025-004

AN ORDINANCE AMENDING CHAPTER 10 – LICENSES, TAXATION AND MISCELLANEOUS BUSINESS REGULATIONS; ARTICLE V. – PUBLIC AMUSEMENTS; DIVISION 3. – COIN-OPERATED MACHINES AND INDOOR AMUSEMENT FACILITIES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, in *City of Fort Worth v. Rylie, Court of Appeals Second Appellate District of Texas No. 02-17-00185-CV*, the Second Court of Appeals of Texas, Fort Worth, found that electronic gaming machines, the amusement redemption machines that includes games that are more commonly referred to as "eight-liners", were unconstitutional because they are illegal lotteries as they require consideration for a chance to win a prize, and that city ordinances regulating such machines were not preempted by the Texas Occupation Code; and;

WHEREAS, the City Council of Bellmead has determined that it is in the best interest of the public health, safety, and general welfare to prohibit the operation of said electronic gaming devices within the City of Bellmead; and

WHEREAS, the City Council is amending the Code of Ordinances to prohibit 8-Liner amusement redemption machines from operating in the city.

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

Subdivision 1. Definitions

Sec. 10-160. 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 means 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 Section 47.01(4)(b) of the Texas Penal Code. Amusement Redemption Machine does not include the following skill or pleasure machines:

1. A machine that awards the user noncash 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 noncash 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 the authority of sweepstakes contestants as provided by the Texas Business and Commerce Code, Section 43, or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.

Fire Marshall means the representative of the Fire Chief of the City of Bellmead or other person designated by the city manager.

Coin-operated machine means any kind of machine or device operated by or with a coin or other United States currency, metal slug, token, electronic card, or check, including a music or skill or pleasure coin-operated machine.

Facility supervisor means a natural person who manages, controls or operates an indoor amusement facility on behalf of the owner or operator.

Gambling device means any electronic, electromechanical, or mechanical contrivance that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term includes, but is not limited to, gambling device versions of bingo, keno, slot machines, blackjack, lottery, roulette, video poker, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits.

Indoor amusement facility means an amusement enterprise wholly enclosed in a building offering entertainment or games to the general public, for a fee, including, but not limited to a bowling alley, billiard parlor/pool hall, and a facility with video games, computer games, skill or pleasure coin-operated machines, or amusement redemption machines. Indoor amusement facility does not include a business that exhibits less than two (2) video games, computer games, skill or pleasure coin-operated machines, or amusement redemption machines as a secondary use of the property, if the business does not otherwise fall into the definition of an indoor amusement facility.

Licensing officer means the City Manager of the City of Bellmead or the city manager's designee.

Music coin-operated machine means any kind of coin-operated machine, including a phonograph, piano, or graphophone that dispenses music or is used to dispense music; is operated by inserting a coin, metal slug, token, or check; and is not an amusement machine designed exclusively for a child.

Operator means a person who exhibits or displays, or permits to be displayed, a coin-operated machine in this city in a place of business that is not owned by the person.

Owner means any person owning any "coin-operated machine" or indoor amusement facility in this city.

Person includes an individual, association, trustee, receiver, partnership, corporation, or organization or a manager, agent, servant, or employee of an individual, association, trustee, receiver, partnership, operation, or organization.

Service coin-operated machines means every pay toilet, pay telephone and all other machines or devices which dispense service only and not merchandise, music, skill or pleasure.

Skill or pleasure coin-operated machine means any kind of coin-operated machine that dispenses, or is used or is capable of being used to dispense or afford, amusement, skill, or pleasure or is operated for any purpose, other than for dispensing merchandise, music, or service. The term includes marble machines, marble table machines, marble shooting machines, miniature race track machines, miniature football machines, miniature golf

machines, miniature bowling machines, billiard or pool games, or machines or devices that dispense merchandise or commodities or plays music in connection with or in addition to dispensing skill or pleasure; and does not include an amusement machine designed exclusively for a child.

(Ord. No. 06-002, § 3, 4-11-06; Ord. No. 06-003, § 1, 5-16-06; Ord. No. 06-005, § 1, 7-11-06; Ord. No. 2008-007, § 1, 6-10-08)

Subdivision 2. Coin-Operated Machines

Sec. 10-161. Prohibited locations for skill or pleasure coin-operated machines.

- (a) No skill or pleasure coin-operated machine or amusement redemption machine shall be permitted within three hundred (300) feet, measured from front door to front door, of any school building, church or hospital in this city.
- (b) No licensed indoor amusement facility can be located within one thousand (1,000) feet of another licensed indoor amusement facility.
- (c) A business or facility that exhibits less than five (5) skill or pleasure coin-operated machines or amusement redemption machines as a secondary use of the property may not be located in the same building that another business or facility exhibiting less than five (5) skill or pleasure coin-operated machines or amusement redemption machines as a secondary use of the property is located.
- (d) A business or facility that exhibits less than five (5) skill or pleasure coin-operated machines or amusement redemption machines as a secondary use of the property may not be located within one thousand (1,000) feet of a licensed indoor amusement facility.

Subdivision 3. Indoor Amusement Facilities

Sec. 10-162. License required and exceptions.

- (a) A person commits an offense if the person:
 - Recklessly or with criminal negligence owns or operates an indoor amusement facility without an indoor amusement facility license; or
 - Recklessly or with criminal negligence owns or operates a gambling device within the city limits of the City of Bellmead; or
 - Knowingly allows a building in which the person holds an ownership interest to operate gambling devices or be operated as an indoor amusement facility without an indoor amusement facility license.
- (b) Acquisition of a license under this article is a separate and distinct requirement from any other licensing requirement. Possession of some other license shall not relieve a person of the requirement to obtain a license pursuant to this division.
- (c) It is a defense to prosecution under this section that the person is operating an indoor amusement facility at a:
 - Place owned by the federal, state, or local government;
 - Non-profit organization that operates the indoor amusement facility for the organization's exclusive use and to further the purposes of the organization; or
 - Place licensed by the Texas State Lottery Commission.

Sec. 10-163. Injunction and prosecution.

- (a) A person who owns or operates or causes to be operated an indoor amusement facility without the license required under this division is subject to a suit for injunction, as well as prosecution for criminal violations.
- (b) A person who owns or operates or causes to be operated a Gambling device as defined in this Code of Ordinances is subject to a suit for injunction, as well as prosecution for criminal violations.

Sec. 10-164. License application.

- (a) An application for a license to operate an indoor amusement facility must be made to the licensing officer on the form prescribed by that official. The application must be accompanied by a sketch or diagram showing the configuration of the premises as well as the location of all coin-operated machines, pool tables, and exits. The sketch need not be professionally prepared.
- (b) If a person who wishes to own or operate an indoor amusement facility is an individual, he must sign the application for a license as the applicant. If the person who wishes to own or operate an indoor amusement facility is other than an individual, each individual who has a twenty (20) per cent or greater interest in the business must sign the application for a license.
- (c) All applications must be accompanied by a non-refundable application fee in an amount determined as a part of the city's annual budget. An application shall not be considered to have been filed until the application fee is paid and all information required by the application form is submitted.
- (d) All applications must be accompanied by a statement signed by the persons listed in subsection (b) that states that the entertainment or games offered at the indoor amusement facility will not be used as gambling devices and that all facts contained in the application are true and correct.

Sec. 10-165. Application review.

- (a) *Preliminary inspection.* The licensing officer shall forward a copy of all indoor amusement facility applications to the police department, traffic department, health department, fire department, planning department, inspection department and any other city department that wishes to participate in the review process. Upon receipt of the copy of the application, each department shall make such inspection and/or investigation of the applicant and the premises that is necessary for the enforcement of ordinances and laws for which the department has responsibility. Upon completion of the review, the reviewing department shall forward to the licensing officer its recommendation for approval or disapproval of the application. If the recommendation is for disapproval, the department shall clearly set forth its reason for the recommendation. If all departments recommend approval, then a final inspection shall be conducted.
- (b) *Final inspection.* The city shall make a final inspection of the facility after all equipment and furnishings are in place to ensure the facility complies with all applicable codes and ordinances. If after final inspection, the recommendation is for disapproval, the city shall clearly set forth its reason for the recommendation. If the recommendation is for approval, a license shall be issued in accordance with section 10-166.

Sec. 10-166. License issuance or denial; term; time limitation for compliance with division.

- (a) *Issuance.* The licensing officer shall issue an indoor amusement facility license, upon payment of the license fee, to an applicant within thirty (30) days of the filing of an application, unless the licensing officer finds one (1) or more of the following is true:
 - (1) An applicant is under eighteen (18) years of age;
 - (2) An applicant has falsely answered a question or request for information on the application form;

- (3) The indoor amusement facility is not in compliance with applicable laws and ordinances;
- (4) The applicant has been denied a license or the renewal of a license under this article within the preceding twelve (12) months or has had a license issued under this article revoked within the preceding twelve (12) months and the denial or revocation has not been successfully appealed; or
- (5) An applicant or applicant's spouse has been convicted of a crime involving the gambling, gambling promotion, keeping a gambling place, or possession of a gambling device, equipment or paraphernalia; the sale of an alcoholic beverage without a permit or license from the state; prostitution or promotion of prostitution; manifesting the purpose of engaging in prostitution; or unlawfully carrying a weapon, provided;
 - a. If the conviction was for a misdemeanor offense, less than two (2) years have elapsed since the date of the conviction or the date of release from confinement for the conviction, whichever is the later date; or
 - b. If the conviction is for a felony offense, less than five (5) years have elapsed since the date of conviction or the date of release from confinement for the conviction, whichever is the later date; or
 - c. If the conviction is for two (2) or more misdemeanor offenses or a combination of misdemeanor offenses occurring within any twenty-four (24) month period, less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement for the last conviction.
 - d. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant or applicant's spouse.
 - e. **Transitional Compliance for Existing Facilities and Coin-Operated Machines.** Any indoor amusement facility or business operating coin-operated machines within the City of Bellmead on the effective date of this ordinance that is in possession of a valid permit may continue to operate under the terms of that permit until its expiration. Upon expiration, no license or permit shall be renewed or reissued unless the facility or business is in full compliance with all provisions of ,the Bellmead Code of Ordinances, including but not limited to the prohibition of gambling devices as defined herein. This transitional period does not constitute an exemption or grandfathering. All facilities and businesses shall be required to meet the current regulatory standards upon permit renewal.
- (b) *Extension of review period.* If the applicant is in the process of correcting conditions on the premises so that the premises will comply with applicable ordinances and laws, the applicant shall have thirty (30) days from date of notice to bring the premises into compliance, or a new application shall be required.
- (c) *Term.* No license shall be effective until it has been issued. All licenses for indoor amusement facilities issued under the provisions of this article shall be valid for a period of one (1) year from the date of issuance. The date of issuance shall be stated on the license.

Sec. 10-167. Contents; posting of license; notice of change in ownership.

- (a) An indoor amusement facility license issued under this article shall state on its face to whom it is issued, the date of issuance, the date of expiration, the address and location of such indoor amusement facility and shall be signed by the licensing officer.
- (b) The license shall be posted by the licensee in a conspicuous place and in such a manner and position that it may be easily read at any time of day or night.
- (c) A replacement license may be issued for a lost, destroyed or mutilated license upon application. A replacement license shall have the word "REPLACEMENT" stamped across its face and shall bear the same number as the one it replaces.

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- (d) A licensee shall notify the licensing officer within ten (10) days of a change or partial change of ownership or change of address or trade name.

Sec. 10-168. License transfer.

A licensee under this article shall not transfer his license to another, nor shall a licensee operate an indoor amusement facility under the authority of a license at any place other than the address designated on the license.

Sec. 10-169. Suspension and revocation of license.

- (a) The City of Bellmead, through an official designated by the City Manager, may suspend or revoke a license if it is determined that:
- (1) The owner, operator, or facility supervisor has refused to allow an inspection of the premises, as authorized by this article;
 - (2) The owner, operator, or facility supervisor has demonstrated an inability to operate or manage an indoor amusement facility in a peaceful and law-abiding manner;
 - (3) A cause of suspension occurs and the license has already been suspended within the preceding twelve (12) months;
 - (4) An owner or operator gave false or misleading information in the material included on or with his original application or a renewal application or in response to an inquiry by the city;
 - (5) An owner, operator, or facility supervisor has been convicted of a violation set forth in subsection 10-166(a)(5);
 - (6) The indoor amusement facility has been operated without a facility supervisor being physically present; or
 - (7) The indoor amusement facility is being operated in violation of the building codes or city ordinances, or state law, including owning and operating gambling devices, as defined in this Code of Ordinances.
- (b) The fact that a conviction is being appealed shall have no effect on the suspension or revocation of the license.
- (c) Notice of suspension shall be served either in person or by certified mail to the owner or operator of the indoor amusement facility and the owner of the building in which the indoor amusement facility is located.

Sec. 10-170. License renewal and appeal.

- (a) A renewal application on the form prescribed by the licensing officer may be submitted no earlier than sixty (60) days before the expiration of the license. The renewal application must be accompanied by a renewal fee set by the city council as part of the city's annual budget. When an application for renewal is submitted less than thirty (30) days before the expiration date of the license, the expiration date of the license will not be affected.
- (b) When the renewal application has been filed as required above, the licensing officer shall have seven (7) days to determine whether to issue a renewal license, or to reject the renewal application and require the applicant to file an original application and review the renewal request under the same standards as the original license application. If the licensing officer requires that the renewal be handled as though it were a new application, the review period set out in section 10-166 shall commence upon the filing of the completed original application form, not upon the filing of the renewal application form. The following shall constitute grounds for rejecting the renewal application and requiring the filing of an original application form:

- (1) The receipt by any department of the city of confirmed complaints about the operation of the indoor amusement facility during the period that the license for which renewal is sought has been in force;
 - (2) The discovery by any official of the city of a violation of any ordinance or law during the preceding year on the premises which was related to the operation of the indoor amusement facility; or
 - (3) An increase in police calls to the indoor amusement facility or the area immediately adjacent to the premises that are related to the operation of the indoor amusement facility.
- (c) If a license expires during an extension of the review period, provided for in section 10-166, the licensee may continue to operate the indoor amusement facility until a decision on the renewal is rendered. If the renewal is denied, the licensee must cease operation of the indoor amusement facility immediately upon notification. Notice of the denial shall be sufficient if personally given to the owner, operator, or facility supervisor provided for in section 10-173, or if delivered to the owner, operator, or facility supervisor at the address shown on the renewal application by mail, return receipt requested.
 - (d) When an application for renewal is ultimately denied, the applicant shall not be issued a license for one (1) year from the date of the denial. If, subsequent to denial, the licensing officer finds that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least ninety (90) days has elapsed since the date the denial of the renewal application was final.
 - (e) The rejection of a renewal application and requirement that the renewal be handled as though it were an original application may not be appealed; however, the final denial of a license renewal by the licensing officer may be appealed in accordance with section 10-171.

Sec. 10-171. Appeal.

- (a) Appeal of denial, suspension or revocation of permit.
 - (1) *The initial decision and notice by an inspector to suspend or revoke a permit may be appealed to the supervisor over the inspector by giving written notice to the supervisor no later than the fifth calendar day after receipt of the written notice of the decision. The supervisor may uphold, reverse, or modify the decision of the inspector. If an appeal is not filed as provided herein, the decision of the inspector is final and no further appeal will be considered.*
 - (2) *The initial denial of a permit, or the decision of the supervisor over the inspector following a timely appeal of the inspector's decision to suspend or revoke a permit as provided in subsection (1) above, may be appealed to the director by filing a written notice of appeal with the director no later than the fifth day after receipt of written notice of the initial or appeal decision. The director may uphold, reverse, or modify the decision to deny, suspend or revoke the permit. If an appeal is not filed as provided herein, the initial or appeal decision is final and no further appeal will be considered.*
 - (3) *The decision of the director may be appealed to the city manager by filing notice of the appeal with the city manager no later than the fifth calendar day after receipt of written notice of the director's decision. The city manager may uphold, reverse, or modify the decision of the director. If an appeal is not filed as provided herein, the decision of the director is final and no further appeal will be considered.*
 - (4) *The decision of the city manager is final.*
- (b) *Counting days. When counting the calendar day time period specified in this section, if the final day is a Saturday, Sunday, or holiday for the regulatory authority, then the time period ends on the next day that is not a Saturday, Sunday, or holiday for the regulatory authority. In determining a date that occurs after a certain event, the first day to be counted is the calendar day after the day of the event.*

Sec. 10-172. License fees.

Before any license for an indoor amusement facility shall be issued by the city, the person applying for the license shall pay to the city the fees that are established by the city council as part of the city's annual budget. These fees may include an application fee to cover the costs associated with processing the application in addition to an annual license fee.

Sec. 10-173. Operation of indoor amusement facilities.

- (a) *Indoor amusement facility supervisor.* A person who owns or operates an indoor amusement facility must designate one (1) or more persons as facility supervisors. The names of the facility supervisors must be included in a license application or renewal application. Whenever a change in the facility supervisors occurs, notice of that change shall be given to the licensing officer. A facility supervisor must remain on the premises of the indoor amusement facility during operating hours.
- (b) *Authority to vacate premises.* The chief of police, fire marshal or building official shall have the power to cause an indoor amusement facility to be vacated whenever any provision of this article is being violated or when a situation that poses an immediate threat to safety exists. In addition, where a violation of any ordinance of the city or state law is discovered, the chief of police, fire marshal or building official may order that an indoor amusement facility be vacated and remain closed for up to twenty-four (24) hours after it is determined that the violation that resulted in the order to close has been corrected.
- (c) *Hours of operation.* The indoor amusement facility shall not be operated between 3:00 a.m. and 8:00 a.m.
- (d) *Layout.* All skill or pleasure coin-operated machines, pool tables, and bowling lanes shall be in full and open public view. No skill or pleasure coin-operated machine, pool table, or bowling lane shall be in a room that is closed off from the main area of the facility.

Sec. 10-174. Criminal penalties.

(a) A violation of this article shall be a Class C misdemeanor, and the penalty for violating this article shall be a fine of not more than five hundred dollars (\$500.00), and each day a violation exists shall be a separate offense. It is also a criminal violation of this article and a Class C misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) and not less than fifty dollars (\$50.00) to intentionally, knowingly, recklessly or with criminal negligence provide false answers or information to the City of Bellmead on or in connection with the application for or application for renewal of an indoor amusement facility license.

(b) *Possession and/or operation of a Gambling device.* Any person or persons in possession of a gambling device as defined shall be subject to criminal penalties provided in (a) above. Machines identified as being in violation of the provisions of this ordinance will be confiscated, and any funds deposited in said machine(s) shall be subject to forfeiture and seizure policy of the Bellmead Police Department.

Secs. 10-175—10-180. Reserved.

Section 2. Cumulative Repealer Clause.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of the conflict. The remainder of such ordinances not in conflict herewith shall remain in full force and effect.

Section 3. Severability Clause.

If any sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be unconstitutional, illegal, or invalid, the same shall not affect the validity of this Ordinance as a whole, or any part or provision thereof other than the part so decided to be invalid, illegal, or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 4. Savings Clause.

That an offense committed before the effective date of this Ordinance is governed by prior law and the provisions of the Code of Ordinance, as amended, in effect when the offense was committed, and the former law is continued in effect for this purpose.

Section 5. Effective Date.

This ordinance shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

Section 6. Open Meetings Compliance.

It is officially found and determined that the meeting at which this ordinance was passed was open to the public as required by Chapter 551, Texas Government Code, and that public notice of the time, place, and subject of said meeting was given as required by law.

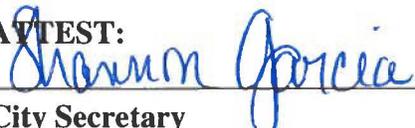
PASSED AND APPROVED ON FIRST READING May 13, 2025.

PASSED AND APPROVED ON SECOND READING May 13, 2025.

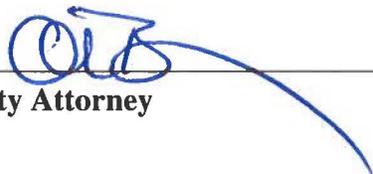
PASSED AND APPROVED ON THIRD READING June 10, 2025.




Bryan Winget
Mayor

ATTEST:

City Secretary
Shannon Garcia

APPROVED AS TO FORM & LEGALITY:


City Attorney