



ORDINANCE

AMENDING CHAPTER 88 "AMUSEMENTS" AND CHAPTER 231 "PEDDLING, SOLICITING AND VENDING" OF THE NASHUA REVISED ORDINANCES

CITY OF NASHUA

In the Year Two Thousand and Eight

The City of Nashua ordains that Chapter 88 "Amusements" and Chapter 231 "Peddling, Soliciting and Vending" of the Nashua Revised Ordinances, as amended, be and hereby is further amended by deleting the struck-through language and adding the new underlined language as follows:

1. **Chapter 88 - Table of Contents:**

"Article I ~~Mechanical~~-Amusement Devices"

"Article II ~~Poolrooms and Bowling Alleys~~"

"Article ~~III~~ Theaters and Shows"

"Section 88-19 Licensing of ~~theaters and~~ permanent places of amusement"

2. **ARTICLE I ~~Mechanical~~-Amusement Devices**

§ 88-1. Definitions.

The following words and phrases, as used in this article, shall have the meaning given in this section:

AMUSEMENT GAMES OF CHANCE — All ~~mechanical~~-amusement devices whose outcome is not substantially determined by the skill of the player, including but not limited to video poker, black jack, or similar machines or any machine which functions as a slot machine.

MECHANICAL-AMUSEMENT DEVICE — Any mechanical or electronic machine which, upon insertion of a coin, or any other currency, slug, token, plate or disk, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include but not be limited to such devices as marble machines, pinball machines, skill ball, mechanical grab machines and all

mechanical, electronic and video games, operations or transactions similar thereto under whatever name they may be designated or described, excepting only jukeboxes or other coin-operated machines used solely for the reproduction of music and amusement games of chance.

PERSON — Include any person who owns any ~~mechanical~~-amusement device, the person in whose place of business any ~~mechanical~~-amusement device is placed for use by the public, and the person having control over any ~~mechanical~~-amusement device.

POOL TABLE – A rectangular table, with cushions bounding the playing area with pockets (pool table) or without pockets (billiard table), whether it is coin operated or not.

3. **§ 88-2. Operation by minors prohibited; exception.**

No person shall permit a person under 16 years of age to play or operate any ~~mechanical amusement device~~ or amusement game of chance as defined in this article; provided, however, that, the provisions of this section shall not apply to any person under 16 years of age accompanied by his or her parent, guardian or other suitable adult person having care and custody of such minor.

4. **§ 88-4. Seizure and destruction of gambling devices.**

If the Chief of Police shall have reason to believe any ~~mechanical~~-amusement device or amusement game of chance is used as a gambling device, the machine may be seized by the police and impounded; if upon trial a person allowing the operation of the device is found guilty, or pleads no contest, of allowing it to be used as a gambling device, it shall become the lawful property of the Police Department to, in its sole discretion, sell or destroy the device, without compensation to the owner. If the device is sold, all proceeds collected from said sale shall be credited to the general police fund to be used to support police efforts to reduce gambling activities.

5. **§ 88-5. License required; fees.**

A. Each person shall, before allowing the operation of an ~~mechanical~~-amusement device on his premises, and annually on or before the first day of May thereafter, obtain from the Board of Aldermen a license to operate the device or devices and shall, for each license issued pursuant to this section, pay a fee of \$50 per machine for the first 10 machines and \$25 per machine for each additional machine.

B. Each person shall, before allowing the operation of an amusement game of chance on his premises, and annually on or before the first day of May thereafter, obtain from the Board of Aldermen a license to operate the device or devices and shall, for each license issued pursuant to this section, pay a fee of \$500 per machine.

C. Each person shall, before allowing the use of a pool table on his premises and annually on or before the first day of May thereafter, obtain from the Board of Aldermen a license to operate the pool table and shall, for each license issued pursuant to this section, pay a fee of \$15 per table.

ED. Licenses required under this section shall be issued subject to procedures, regulations and guidelines as established by the appropriate aldermanic committee and filed in the office of the City Clerk.

7. **§ 88-7. Violations and penalties.**

Any person who allows the operation of an ~~an mechanical~~ amusement device or amusement game of chance on any premises owned by him or under his control without a license having been issued therefor under this article shall upon conviction be fined a sum of \$100 per machine.

8. **§ 88-9. Seizure of unlawful devices.**

The Police Department is hereby authorized to seize any ~~mechanical~~ amusement device or amusement game of chance located anywhere in the City in contravention of any of the provisions of this article. Upon such seizure the Police Department shall notify the owner of such seizure and reason therefor. The Police Department shall hold any such seized machines for a period of not less than seven days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this article which led to such seizure and by payment of an administrative fee of \$30 to the City Clerk. Any ~~mechanical~~ amusement devices or amusement games of chance which are so seized and which are not redeemed within the seven-day period described in this section shall become the property of the City. Costs for transportation and storage charges will be billed to the owner/distributor for any ~~mechanical~~ amusement devices or amusement games of chance seized. The City will be held harmless for any damage occurring during the act of confiscation, transportation and storage of each machine.

9. **§ 88-10. Suspension and revocation of licenses.**

A. Upon the issuance of a criminal complaint by a court of competent jurisdiction against any person (as defined in § 88-1) associated with the license of ~~mechanical~~ amusement devices or amusement games of chance and arising from the use of the licensed ~~mechanical~~ amusement device or amusement game of chance, the license under which the device is permitted shall be considered suspended.

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10. **§ 88-11. Amusement games of chance prohibited.**

A. Starting on the effective date of Ord. No. O-96-51, adopted on September 11, 1996, from which this section is derived, no new license issued under the terms of this article shall permit the operation of an amusement game of chance as defined in § 88-1 of this article, and no amusement game of chance shall be substituted for an existing ~~mechanical~~ amusement game which is not an amusement game of chance under any existing license after the effective date of this section.

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11. Repeal "Article II Poolrooms and Bowling Alleys" in its entirety.

12. **Article III Theaters and II Shows**

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§ 88-19. Licensing of theaters and permanent places of amusement.

~~A.~~ Theaters may be licensed, for a period of 12 months from the first day of May of each year, for \$150 for each theater or cinema, payable in advance. The license shall designate the location of the theater and shall be made in the name of the proprietor or proprietors thereof and not be transferable.

~~BA.~~ Places of amusement of a permanent character, dance halls, or halls or establishments which regularly provide entertainment as identified in § 88-17A may be licensed, for a period of 12 months from the first day of May of each year, for \$50 for each place, hall or establishment, payable in advance. For purposes of this definition, "place of amusement" shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or stories above or below, where entrance is common to the rooms, space or areas; provided, however, that the license fee for a restaurant holding a valid license under the provisions of Chapter 170, Food-Service Establishments, shall be \$10 for a period of 12 months from the first day of May of each year.

~~CB.~~ Dances. This subsection shall apply to any establishment or place which permits, or permits to occur, dancing, except the following: a public or private school licensed by the state or the City for the purpose of conducting dancing classes or dance courses of study as its primary, regular and recurrent business activity; dances sponsored by an accredited educational institution, civic or religious organization or group which limits admission to its own members and their guests.

(1) No public dancing shall be permitted between the hours of 2:00 a.m. and 7:00 a.m. any day of the week.

(2) No person conducting or operating a teen dance shall permit, either by act or omission, any person under the age of 15 years to enter or remain on the premises without a parent or legal guardian present. No person conducting or operating a teen dance shall permit, either by act or omission, any person over the age of 20 years to enter or remain upon the premises, except a parent or legal guardian accompanying a person under the age of 18 years, and except bona fide employees of the person or entity conducting or operating such teen dance. For the purposes of this section "teen dance" means any dance which permits the entry of persons under the age of 18 years of age other than may be excepted under Subsection C of this § 88-19.

~~DC.~~ No license shall be granted under this section until the applicant shall obtain and maintain the insurance coverage that the Risk Management Department deems necessary. Factors to consider in determining the required insurance coverage include, but are not limited to, the use of mechanical apparatus, presence of

animals, use of rides or other amusement functions, use of vehicles, size and duration of the event, the potential audience, the need for police or other safety services, and the history of the applicant. Termination of any insurance policy or bond shall operate as a revocation of the license.

- ED. Police attendance at function. When it is determined by the Chief of Police or his designee to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the City, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments and places required to be licensed under this article shall be required to hire an off-duty police officer or officers during those hours the Chief of Police or his designee deems appropriate. The Chief of Police or his designee may suspend this requirement as he deems appropriate, but the requirement may be reinstated at the discretion of the Chief of Police or his designee.
- FE. Enforcement. The Chief of Police or his designee(s) shall have the power to issue citations for the violation of any of the provisions of this article and to enter public access areas of a business, free of charge, during hours of public access or operation and at any time a license is required by this article, and to demand the exhibition of the license for the current term by an person engaged or employed in the transaction of such business. If the person fails then and there to exhibit the license, the person shall be punishable as provided for in § 1-12 of the City Code.
- GE. It shall be the duty of all officers and agents of any corporation to see that such corporation complies with the provisions of this article. All officers or agents of any corporation required by this article to be licensed which shall do business without having paid the license fee and procured such license shall be punishable as provided for in § 1-12 of the City Code.

13. **§ 88-20. Approval of Board of Fire Commissioners.**

All applications for licenses for ~~theaters~~, halls and places of amusement must be accompanied by the recommendations and approval of the Board of Fire Commissioners.

14. **Chapter 231: Peddling, Soliciting and Vending**

§ 231-20. Exemptions

The following are exempt from the provisions of this article:

- A. Persons enrolled in elementary and secondary schools conducting such solicitations under the direction and guidance of the school or other charitable organization.
- B. Individuals under the age of 16 years who vend Girl Scout cookies, candy, lemonade, or similar items.
- C. Any person issued a charitable solicitation permit under § 231-9.

- D. A vendor activity or event, sponsored or cosponsored by the City of Nashua, shall be subject to licensure. However, payment of a fee is not required.
- E. A vendor covered under this Chapter, who sells only Christmas trees, wreaths, and/or boughs.

LEGISLATIVE YEAR 2008

ORDINANCE: 0-08-45

PURPOSE: Amending Chapter 88 "Amusements" and Chapter 231
"Peddling, Soliciting and Vending" of the Nashua Revised
Ordinances

ENDORSER(S): Mayor Donnalee Lozeau

**COMMITTEE
ASSIGNMENT:**

FISCAL NOTE: Loss of \$895.50 in revenue per year.

ANALYSIS

This ordinance will repeal ordinances for licensing pool rooms and bowling alleys. The legislation would also standardize the fee for pool tables at \$15.00 per table. This legislation will eliminate dual licensing requirements for theaters and Christmas tree vendors by eliminating the licensing requirement for theaters with the City Clerk's Office and exempting Christmas tree vendors from licensing requirements.

Approved as to form: Office of Corporation Counsel

By: 

Date: October 23, 2008

