



September 04, 2013
Following the Council Meeting

City Council Work Session

1. Shannon Mixon will update Council on the 911 addressing
2. Chapter 90 Revised Taxi Cab Statue
3. Ordinance for Coin Operated Machines
4. Potential Fiber Optic infrastructure between the City of Statesboro and Georgia Southern University

General discussion on emerging issues

*******THERE WILL BE NO ACTION TAKEN*******

CHAPTER 90- TAXICABS

- Sec. 90.1. - Definitions.
- Sec. 90.2. - Indemnity for benefit of city.
- Sec. 90.3. - Identification and markings generally.
- Sec. 90.4. - Safe mechanical condition of taxicabs required.
- Sec. 90.5. - Cleanliness of taxicabs required.
- Sec. 90.6. - Authority for removal of taxicabs from streets.
- Sec. 90.7. - Required.
- Sec. 90.8. - Application.
- Sec. 90.9. - Fee.
- Sec. 90.10. - Duration.
- Sec. 90.11. - Issuance.
- Sec. 90.12. - Display.
- Sec. 90.13. - Fixed place of business required.
- Sec. 90.14. - Coverage required.
- Sec. 90.15. - Blanket policy.
- Sec. 90.16. - Notice when voided.
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- Sec. 90.19. - Qualifications of applicant.
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- Sec. 90.23. - Examination of applicant; issuance or denial of permit.
- Sec. 90.24. - Permit to be displayed.
- Sec. 90.25. - Alteration of permits prohibited.
- Sec. 90.26. - Not transferable.
- Sec. 90.27. - Duration; renewal.
- Sec. 90.28. - Suspension.
- Sec. 90.29. - Revocation.
- Sec. 90.30. - Driving after suspension or revocation prohibited.
- Sec. 90.31. - Administrative hearing.

Sec. 90-1. - 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:

Company means the holder of a license to operate a taxicab business under the provisions of this article, whether a person, firm, partnership or corporation.

Driver means any person who drives or operates a taxicab on the streets of the city for a licensed taxicab company.

Driver's permit means the written authority granted by the city for an individual to drive or operate a taxicab within the city.

License means the right and privilege granted by the city for the operation of a taxicab business

incorporating the use of one or more taxicabs within the corporate limits of the city.

City Marshal means the individual employed by the city who is in charge of code enforcement.

Street means any street, alley, lane, avenue, court or public place in the city.

Taxicab means a motor vehicle engaged in the business of carrying passengers for hire, or offering to carry persons for hire, except motor vehicles used as ambulances, sightseeing cars and buses, and except for limousines and buses operated on a fixed route.

Sec. 90-2. - Indemnity for benefit of city.

Any taxicab company operating under this article shall hold the city harmless against any and all liability, loss, costs, damages or expenses which may accrue to the city by reason of the negligence, default or misconduct of the company in connection with the rights granted to such company under this article. Nothing in this article shall be considered to make the city liable for damages because of any negligent act or omission or commission by any taxicab company, its servants, agents, drivers or other employees, during the operation by the company of a taxicab business or service, either in respect to injuries to persons or with respect to damage to property which may be sustained.

Sec. 90-3. - Identification and markings generally.

Every taxicab shall have a sign plainly indicating on the door on each side of the vehicle, in letters not less than four inches high, the full name and telephone number of the taxicab company operating the vehicle, including words such as "Taxicab," "Taxi," or "Cab." Such sign shall be professionally applied and shall be either painted or magnetically affixed to each side of the vehicle in clearly visible colors. There shall be no outside advertising of any kind on taxicabs.

Sec. 90-4. - Safe mechanical condition of taxicabs required.

Every taxicab operated on the streets of the city shall be maintained in a safe mechanical condition, with all safety and pollution control equipment remaining intact and operative, at all times when the taxicab is in service.

Sec. 90-5. - Cleanliness of taxicabs required.

Each vehicle operating under this article shall be kept painted, and in a clean, sanitary condition, free of litter and debris, and at all times suitable for public transportation of passengers. The city marshal, upon observing violations of this section or any other provision of this article which deals with the physical condition of taxicabs, shall place a deadline decal on the windshield of the vehicle, such decal to list all violations. No driver or other unauthorized person shall remove or deface a deadline decal. No driver shall use a vehicle to transport passengers for hire while a deadline decal is in place. The deadline decal will be removed by City Marshal only after correction of all listed violations.

Sec. 90-6. - Authority for removal of taxicabs from streets.

The City marshal shall have the authority to remove from operation on the streets of the city any vehicle used as a taxicab which is in violation of this article and to prohibit operation of such taxicab until all deficiencies have been corrected. An order of the City marshal to remove a vehicle from the city streets may be appealed to the city manager through the administrative hearing process provided in this article.

Sec. 90-7. - Required.

No person shall operate a business involving the use of one or more taxicabs on the streets of the city unless a license for such business has first been granted by the city.

Sec. 90-8. - Application.

Application for a license required by this division shall be made on the form provided by the city clerk and shall provide for such information as is required for other business license applicants.

Sec. 90-9. - Fee.

Each person operating a taxicab shall pay an annual license fee to the city as set forth in the schedule of fees and charges on file in the office of the city clerk. Such annual license fee shall be prorated for the remainder of the initial year.

Sec. 90-10. - Duration.

For purposes of this section, the license year shall begin on January 1 of each calendar year and end December 31 next following. Each license issued under this division shall be effective only for the calendar year stated in the license unless sooner suspended or revoked.

Sec. 90-11. - Issuance.

Upon the payment of the required license fee and the filing of the proper application, the city clerk shall issue to the applicant named in the application a license for each vehicle described in such application and with respect to which such tax has been paid, which license shall describe the vehicle for which it is issued and state for what license year it is issued.

Sec. 90-12. - Display.

It shall be unlawful to operate or drive any taxicab for hire in the city without having conspicuously displayed on the taxicab a valid current license accurately describing the taxicab in which it is displayed.

Sec. 90-13. - Fixed place of business required.

Each taxicab company, as a condition for holding a city business license, shall establish and maintain a fixed headquarters on private property for the operation of the company's business. Such headquarters shall conform to the requirements of the city zoning ordinances and other applicable ordinances of the city or county (if located in the unincorporated area of the county), and shall provide adequate off-street parking space for all taxicabs not in service. Such company headquarters shall not be moved except by the approved transfer of the company's business license to another location.

Sec. 90-14. - Coverage required.

Any taxicab company desiring to do business within the city shall give and maintain a policy of indemnity insurance with an indemnity insurance company authorized to do business in the state for each vehicle in use as a taxicab, or a self-insurance certificate issued under state guidelines and regulated by the state insurance commission. The minimum coverage shall be \$25,000.00 for bodily injury to any one person, \$50,000.00 for injury to more than one person which is sustained in the same accident, and \$10,000.00 for property damage resulting from one accident, or whatever minimum

insurance coverage is required by State law, whichever is greater. Such indemnity insurance shall inure to the benefit of any person who is injured or who sustains damage to property caused by the negligence of a taxicab company, its servants or agents.

Sec. 90-15. - Blanket policy.

Any company or person operating a taxicab in the city shall give a separate policy of indemnity insurance or certificate of self-insurance for each separate taxicab for hire, except where such company or person actually owns or holds legal title to more than one taxicab, in which event, such company or person may give one policy of indemnity insurance covering all the taxicabs actually owned. This latter provision, however, shall not apply to any group of persons separately owning taxicabs who may be jointly operating or doing business under a licensed taxicab company name. The taxicab company is responsible for ensuring that individual persons operating taxicabs under such license shall comply with all state laws and local ordinances governing insurance coverage.

Sec. 90-16. - Notice when voided.

Before any policy of insurance or certificate of self-insurance required by this article is voided for any cause, nonpayment of premium or otherwise, notice shall be given, in writing, to the city marshal at least 30 days before it shall be effective.

Sec. 90-17. - Required.

No person shall operate a taxicab for hire upon the streets of the city, and no person who owns or operates a taxicab company shall permit a taxicab to be driven, and no taxicab operating under a taxicab company licensed by the city shall be driven at any time for hire, unless the driver of such taxicab shall have first obtained and shall have then in force a taxicab driver's permit issued under the provisions of this division.

Sec. 90-18. - Application.

Any person desiring a permit required by this article shall submit an application in writing on a form to be furnished by the city. Such application shall be made under oath and shall state, at minimum, the following:

- (1) The age of the applicant;
- (2) His address;
- (3) Length of time he has resided in the city;
- (4) Whether he has any physical infirmities; and
- (5) Whether he has been convicted of a violation of any of the laws of the state or of this Code or other ordinances of the city and, if so, when and of what offense, and the sentence of the court.

Sec. 90-19. - Qualifications of applicant.

An applicant for a driver's permit under this article must:

- (1) Not be less than 18 years of age.
- (2) Have no physical infirmity which might make such applicant an unsafe or unsatisfactory

taxicab driver.

(3) Not have been convicted of operating a motor vehicle while under the influence of intoxicating beverages or drugs within two years or convicted of any drug violation within three years prior to the date of the application for such permit, or have been convicted of reckless driving or aggressive driving within one year prior to the date of the application for such permit, or been convicted of any of these offenses three or more times within three years prior to the date of the application for such permit. No permit shall be issued to any person who has been convicted of any crime relating to transporting persons for immoral purposes (prostitution, solicitation for prostitution, or any sex-related offense), or convicted of murder, rape, armed robbery, aggravated child molestation, aggravated sodomy, aggravated sexual battery and voluntary manslaughter, or who is listed as an offender in the Georgia Sexual Offender Registry maintained by the Georgia Bureau of Investigation. In regard to any other felony offense not listed above, no permit shall be issued to any person who has been convicted of any felony not listed above in the last three years. A plea of nolo contendere to any of the offenses set out in this section shall be deemed a conviction.

(4) Be a citizen of the United States or an alien admitted for permanent residence or who has otherwise been granted employment authorization by the United States Immigration and Naturalization Services.

(5) Be a resident of the state for at least three months immediately preceding the date of application.

Sec. 90-20. - Photographs of applicant.

Before any permit is granted under this division, the City Clerk shall take two photographs of the applicant. One photograph shall be attached permanently to the driver's permit for display in the vehicle which the applicant is to drive, and the second photograph shall be filed for record by the City Clerk.

Sec. 90-21. - Current state driver's license required.

Any person applying for a taxicab driver's permit under this division must show that he has a current motor vehicle operator's license issued or approved by the state, and that the license is not under suspension or revocation.

Sec. 90-22. - Police investigation of applicant.

The City Clerk shall conduct an investigation of each applicant for a taxicab driver's permit; and a report of such investigation and a copy of the traffic and police record of the applicant, if any, shall be attached to the application.

Sec. 90-23. - Examination of applicant; issuance or denial of permit.

(a) Upon proper completion of the application and payment of fees, the City Clerk shall review the application and conduct such investigation and hearings as deemed necessary. After investigation, the City Clerk shall grant or deny the permit. If the City Clerk denies the permit, the reasons for the denial shall be reduced to writing and mailed to the applicant via certified mail as notice of the denial of the permit.

(b) If the City Clerk denies the license the applicant shall have the right to appeal the denial of the license to the Mayor and City Council by filing a written notice of appeal with the City Clerk within

FORTY-FIVE (45) days of the City Clerk mailing notice of the denial of the license.

(c) Upon the applicant filing a timely notice of appeal, the City Clerk shall place the matter on the agenda for the next available City Council meeting for hearing.

(d) Upon finding by clear and convincing evidence that the City Clerk abused her discretion in denying the applicant a license, the Mayor and City Council are authorized to reverse the decision of the City Clerk and grant the applicant a license.

Sec. 90-24. - Permit to be displayed.

The permit issued under the provisions of this division shall be placed on display in the taxicab to be operated by the holder of the permit in a display case or holder designed for that purpose on the dashboard or on the sun visor facing the passenger compartment, in the clear view of the passengers at all times when the taxicab is for hire.

Sec. 90-25. - Alteration of permits prohibited.

It shall be unlawful for any person willfully to alter, deface, obliterate or destroy a taxicab driver's permit or cause or allow such behavior.

Sec. 90-26. - Not transferable.

Any taxicab driver's permit issued under this division is not transferable from one company to another and is to be used solely by the person to whom it is issued.

Sec. 90-27. - Duration; renewal.

Any taxicab driver's permit issued under this division shall be in effect for 12 months from the date of issue. Permits may be renewed, upon application and payment of the annual fee as set on the schedule of fees, for each 12-month period thereafter unless the permit for the preceding period has been revoked or is under suspension.

Sec. 90-28. - Suspension.

(a) The City marshal shall have the authority to suspend a taxicab driver's permit for the following reasons:

- (1) The driver is charged with operating a motor vehicle while under the influence of intoxicating beverages or drugs, reckless driving, aggressive driving, or any felony.
- (2) Making any false statement in the application for the permit; or
- (3) Operating a taxicab in violation of any provisions of this article or applicable state law.

(b) The suspension of a taxicab driver's permit for the above reasons, may be appealed to the city manager as provided for in section 90-37.

Sec. 90-29. - Revocation.

If any driver holding a permit under this division at any time ceases to meet the qualifications described in this division, or fails to correct satisfactorily any false statement made in the application for the permit, or fails to operate his taxicab in accordance with the provisions of this article, he may have his

permit permanently revoked by the city manager or temporarily suspended by the city marshal.

Sec. 90-30. - Driving after suspension or revocation prohibited.

It shall be unlawful for any person to operate a motor vehicle for hire or taxicab for the carriage of passengers during any period in which his permit to do so is suspended or revoked in accordance with the provisions of this division.

Sec. 90-31. - Administrative hearing.

(a) This division shall be administered by the city marshal, who shall have authority to suspend a taxicab driver's permit up to six months. The city marshal may recommend revocation of a permit to the city manager.

(b) Any decision of the city marshal to suspend a taxicab driver's permit may be immediately appealed within ten days by the taxicab driver in writing to the city manager.

(c) Any appeal of a suspension or recommendation for revocation by the city marshal shall require an administrative hearing. Such hearing shall be informal and shall be presided over by the city manager or his designee. The decision of the city manager shall be provided to the taxicab driver in writing within ten days of the hearing. The decision of the city manager shall be final unless appealed to the Mayor and City Council by filing a Notice of Appeal with the city clerk within ten days of the city manager's issuance of his written decision. If the city manager affirms the suspension or approves the recommendation of revocation, and the licensee files a timely Notice of Appeal to the City Council, the Mayor and City Council shall hear the appeal at a regular or special meeting of the City Council as soon as reasonably possible but not later than THIRTY (30) days from the filing of the Notice of Appeal. The City Council shall have authority to reverse the city manager's suspension or revocation. The license shall remain suspended during the pendency of the appeal.

(d) If a taxicab driver is suspended three times within any three-year period, and if each appealed suspension is upheld, the fourth such suspension within such three-year period shall be for a period of one year.

ORDINANCE NO. _____

AN ORDINANCE BY THE MAYOR AND CITY COUNCIL FOR THE CITY OF STATESBORO RELATING TO COIN OPERATED AMUSEMENT DEVICES, PROMOTIONS, AND LOTTERIES; RELATING TO OFFENSES AGAINST PUBLIC HEALTH AND MORALS; TO PROVIDE FOR THE APPLICABILITY OF CERTAIN PROVISIONS TO CERTAIN GAMES AND DEVICES; TO PROVIDE FOR A LIMITATION ON THE ALLOWABLE NUMBER OF SUCH MACHINES AT ONE LOCATION; TO REQUIRE OWNERS AND OPERATORS OF SUCH MACHINES TO COMPLY WITH CERTAIN REGULATIONS; TO PROVIDE FOR THE SUSPENSION AND REVOCATION OF LICENSES; TO PROVIDE FOR FINES; TO MANDATE REPORTING REQUIREMENTS; TO MANDATE SIGN POSTING; TO PROVIDE FOR MINIMUM DISTANCE RESTRICTIONS; TO PROVIDE REQUIREMENTS FOR PLACEMENT OF MACHINES; TO REQUIRE DISCLOSURE OF CERTAIN CONTACT INFORMATION OF THE OWNER AND/OR OPERATOR OF MACHINES; TO PROVIDE FOR LICENSE POSTING; TO PROVIDE FOR SEVERABILITY; TO PROVIDE AN EFFECTIVE DATE; TO REPEAL ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND FOR OTHER PURPOSES.

WHEREAS, the duly elected governing authority of the City of Statesboro, Georgia is authorized by O.C.G.A. § 48-17-17 to adopt ordinances regarding bona fide coin operated amusement machines; and

WHEREAS, the City of Statesboro, Georgia (the "City") did, on the ____ day of _____, 20____, adopt an moratorium on the issuance of any license or occupational tax certificate for the operation of a business that contains more than SIX (6) Class B coin operated amusement machines; and

WHEREAS, the City has now conducted analysis on the matter and desires to adopt further and more effective regulatory provisions in regard to amusement game rooms in the City.

WHEREAS, this ordinance is adopted to address the interests of public health, welfare, and safety of the citizens of the City of Statesboro.

NOW THEREFORE, the Mayor and City Council find that in the interests 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.

SECTION ONE

The Code of Ordinances of the City of Statesboro, Georgia is hereby amended to add a new Article to Chapter 18, thereof, which shall be titled Article IX and which shall read in words as follows:

Article IX

Secs. 18-252 thru 259. Reserved.

Sec. 18-260. Short Title.

This Article shall be known as the "City of Statesboro's Bona Fide Coin Operated Amusement Machine Ordinance."

Sec. 18-261. 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).

Sec. 18-262. Gambling Places Prohibited.

Gambling Places, as that 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. 18-263. 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 a combination thereof.

(b) Bona Fide Coin Operated Amusement Machine 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:

- 1) Pinball machines;
- 2) Console machines;
- 3) Video games;
- 4) Crane machines;
- 5) Claw machines;
- 6) Pusher machines;
- 7) Bowling machines;
- 8) Novelty arcade games;
- 9) Foosball or table soccer machines;
- 10) Miniature racetrack, football or golf machines;
- 11) Target or shooting gallery machines;
- 12) Basketball machines;
- 13) Shuffleboard machines;
- 14) Kiddie ride games;
- 15) Skee-Ball® machines;
- 16) Air hockey machines;
- 17) Roll down machines;
- 18) Trivia machines;
- 19) Laser games;
- 20) Simulator games;
- 21) Virtual reality machines;
- 22) Maze games;
- 23) Racing games;
- 24) Coin operated pool table or coin operated billiard table as defined in paragraph (3) of O.C.G.A. § 43-8-1; and
- 25) Any other similar amusement machine which can be legally operated in Georgia.

The term "coin operated amusement machine" does not include the following:

- 1) Coin operated washing machines or dryers;
- 2) Vending machines which for payment of money dispense products or services;
- 3) Gas and electric meters;
- 4) Pay telephones;
- 5) Pay toilets;
- 6) Cigarette vending machines;
- 7) Coin operated vending machines;
- 8) Coin operated scales;
- 9) Coin operated gumball machines;
- 10) Coin operated television sets which provide cable or network programming;
- 11) Coin operated massage beds; and
- 12) Machines which are not legally permitted to be operated in Georgia.

(c) Class B coin operated amusement machine means a bona fide coin operated amusement machine that allows a successful player to accrue points on the machine and carry over points won on one play to subsequent play or plays in accordance with paragraph (2) of subsection (d) of O.C.G.A. § 16-12-35 and (A) rewards a successful player in compliance with the provisions of paragraphs (1) and (2) of subsection (d) of O.C.G.A. § 16-12-35; and (B) does not reward a successful player with any item prohibited as a reward in subsection (i) of O.C.G.A. § 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i) of O.C.G.A. § 16-12-35;

(d) Location means a business within the City that has complied with the provisions of the ordinances of the City relating to occupation taxes and business licenses and the entire office or area of the business in any one location owned or leased by the same proprietor or proprietors where the Lessor or Lessors allow the space to be used for business purposes.

(e) Location owner or location operator means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public, or shall have the same definition as found in the Official Code of Georgia, Annotated, Section 50-27-70, should that definition differ.

Sec. 18-264. License Required.

No person, firm or corporation shall engage in the business of an owner or proprietor of an Amusement Game Room, as the term is herein defined, without first having obtained an Amusement Game Room license, without first having paid the applicable occupation tax and obtained an occupational tax certificate required under this article. A separate Amusement Game Room license must be obtained for each location in the jurisdiction which bona fide coin operated amusement machines are operated.

Sec. 18-265. Issuance of License.

Application for a license for operating an Amusement Game Room within the corporate limits of the City shall be made to the City Clerk upon a form to be supplied by the City Clerk for this purpose. The license application shall include the following information:

- (a) Name, address, and age of the applicant and the date of the application;
- (b) 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;
- (c) Name and address of the owner of the machine or machines and a copy of the owner's master license;
- (d) Name and address of any other business owned or operated by applicant within the corporate limits of the City; and
- (e) List of any other licenses or permits from the City held by the applicant.

Upon issuing a license for an Amusement Game Room, the City official or employee shall provide the license with a copy of this Ordinance. The City shall not require a fee for an Amusement Game Room license or registration. A license issued in accordance with this Ordinance shall be valid until December 31st of the year in which the license was issued. The owner or operator of an Amusement Game Room shall be required to pay occupation taxes in accordance with Article V of Chapter 18 of the Code of Ordinances of the City.

Sec. 18-266. Occupation Tax Required.

No person, firm or corporation shall engage in the business of an owner or proprietor of Amusement Game Room, as the term is herein defined, without first having completed the occupation tax certificate application form, paid the required occupational tax and obtained an occupational tax certificate.

Sec. 18-267. Minimum Distance Requirements.

(a) Every Amusement Game Room in the City shall comply with the proximity provision for business licensed to sell alcohol set out in O.C.G.A. § 3-3-21. At a public meeting, the Mayor and Council may waive the application of this provision to an individual location if no alcohol is served or sold at such Location.

(b) Every Amusement Game Room in the City shall comply with the proximity provision for businesses licensed to sell alcohol as set out in Section 6-57 of the Code of Ordinances of the City. At a public meeting, the Mayor and Council may waive the

applicability of this provision to an individual Location if no alcohol is served at such Location.

Sec. 18-268. Number of Class B Coin Operated Amusement Machines at a Location.

No Amusement Game Room in the City shall offer to the public more than six (6) Class B coin operated amusement machines at the same Location.

Sec. 18-269. Gross Receipts from Bona Fide Coin Operated Amusement Machines and from Business.

(a) Every Amusement Game Room shall keep records available for inspection by City officials that set out separately annual gross receipts for the Class B coin operated amusement machine and the other products and services sold at the Location.

(b) Any location owner or location operator subject to Official Code of Georgia, Section 50-27-84(b)(1) is hereby required to provide a monthly report to the City Clerk of the city. Such report shall indicate the monthly gross retail receipts for each business location located within the jurisdiction of 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 allow the local government an annual audit of the reports from the owner or operator to the Lottery Corporation.

(c) No location owner or location operator may derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for this business location in which the Class B coin operated amusement machines are situated from such and any location owner or location operator found in violation of such provision may be fined and may have any city issued license suspended or revoked as allowed under this article. Compliance with this section requires both the availability of records for inspection and compliance with the fifty (50%) percent of gross retail receipts requirement. Any violations of this provision shall be reported to the Georgia Lottery Corporation.

Sec. 18-270. Notice Requirements.

(a) Every Amusement Game Room shall post a conspicuous sign with the following or substantially similar language:

'GEORGIA LAW PROHIBITS GIVING OR RECEIPT OF ANY MONEY FOR WINNING A GAME OR GAMES ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON AN AMUSEMENT MACHINE; GIVING OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY

WON ON ANY AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF AN AMUSEMENT MACHINE.'

(b) Every Amusement Game Room shall post the license issued by the City conspicuously and permanently.

(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. 18-271. 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 an Amusement Game Room within 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). The City official in charge of issuing business licenses shall notify the State Commissioner of Revenue of any observed violation of O.C.G.A. § 50-27-71 or § 50-27-78.

Sec. 18-272. 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 business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g).
- (b) The city may suspend or revoke the license of any location owner or location operator of any other license, including an Amusement Game Room license, granted by the municipality as a penalty for the conviction of the business owner or business operator of a violation of the Official Code of Georgia, Section 16-12-35, subsection (e), (f), or (g), or for "due cause" as defined in subparagraph (c)(2) below.
- (c) The suspension or revocation of licenses under this Code section 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 Article 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.
- (2) The term "due cause" for the purposes of this section shall include, but not be limited to:
 - (A) 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, misdemeanor, or any law, administrative regulation or local ordinance involving alcoholic beverages, gambling or narcotics, tax laws, or the operation of an amusement game room,
 - (B) 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 sex offense when the licensed business is for on-premises consumption.
 - (C) Suspension or revocation of any state license required as a condition for the possession, sale or distribution of alcoholic beverages.
 - (D) 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.
 - (E) Failure to meet or maintain any standard prescribed by this Article as a condition or qualification for holding a license.
 - (F) 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 violative 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 hypothesis 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 municipality. 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 this chapter, 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 mayor of the city council. The hearing officer shall be an attorney licensed to practice in the state who is disinterested in the proceeding.
- (5) Hearings shall be only as formal as necessary to preserve order and shall be compatible with the principles of justice. The city attorney shall present the city's case and bear the burden of proving 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 or affirmation.
- (6) The hearing officer shall make his final determination within ten business days of the completion of the hearing. The decision shall be placed in writing and contain the hearing officer's findings of fact, conclusions of law, and decision as to sanction, if any. Such sanction may include one or more of the following: revocation of the license, suspension of the license for no more than 12 months, imposition of a probationary period not to exceed 12 months, and/or a civil monetary penalty not to exceed the amount allowed under the city charter. Progressive sanctions, depending on the severity of the violation, are encouraged but not required. Where the remaining term of the license is less than 12 months, imposition of suspension or probation for a period in excess of the term of the existing license shall be applied to any renewal license. A subsequent violation within a probationary period shall be cause for revocation and/or denial of license renewal. A total of three separate and unrelated violations within 24 months, whether or not within a probationary period, shall be grounds for permanent revocation.
- (7) The hearing officer's decision shall be personally served or mailed by certified mail, return receipt requested to the licensee and his attorney, with a copy to the city attorney, within ten business days of the close of the hearing. The

decision of the hearing officer shall constitute final action by the city, subject to review upon petition for certiorari to the superior court.

- (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, as recommended by the city manager, in consultation with the Director of Public Safety or his designee. Any stipulation entered under this subsection shall be in writing, signed by the licensee, and non-appealable.

Sec. 18-273. Criminal Penalties for Ordinance Violations by Owners or Operators of Amusement Game Rooms.

(a) Penalties for violation of the provisions of Sections 18-264 thru 18-271, and Sections 18-274 and 18-275 of this Ordinance by the owner or operator an agent of an owner or operator of an Amusement Game Room, after conviction in the Municipal Court of the City, or other court of competent jurisdiction are as follows:

(1) First Offense: For a first offense in five years as measured from the dates of the issuance of the citation to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed Five Hundred (\$500.00) Dollars for each violation shall be imposed.

(2) Second Offense: For a second offense in five years as measured from the dates of the issuance of previous citations to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed Seven Hundred Fifty (\$750.00) Dollars for each violation shall be imposed.

(3) Third Offense: For a third offense in five years as measured from the dates of the issuance of previous citations to the date of issuance for the current citation for which a conviction was obtained or a plea of nolo contendere was accepted a fine not to exceed One Thousand (\$1,000.00) Dollars for each violation shall be imposed.

(b) Suspension or revocation of the owner or operator's license for offering any amusement game at the Location where the violation occurred, and suspension of other permits and licenses granted by the City may be imposed by the Mayor and Council after a public hearing as described in Sec. 18-172 of this article.

(c) Offering one or more Bona Fide Coin Operated Amusement Machine games in violation of an order suspending or revoking the license for the offering of any amusement game at the Location is punishable, after conviction in the Municipal Court of the City, by a fine not to exceed One Thousand (\$1,000.00) Dollars, imprisonment not to exceed thirty (30) days, or both such fine and imprisonment.

Sec. 18-274. Operating Regulations.

All businesses operating as an Amusement Game Room 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 this section shall be construed to authorize, permit or license any gambling device of any nature whatsoever.

(b) Inspection. The Director of Public Safety or his 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 for 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) 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 an Amusement Game Room 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 be created 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. 18-275. Licenses and Permits Nontransferable.

(a) Licenses required in this article are nontransferable. All businesses that have bona fide coin operated amusement machines on the premises shall display, in plain view, the current Amusement Game Room license 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 license if they are going to operate in the same or different location in the City.

Sec. 18-276. Enforcing Officer.

The Director of Public Safety or his designee is hereby designated as the enforcement officer and shall execute all requirements of this article.

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 effect the validity of the remaining portions of this ordinance.

SECTION FOUR

This ordinance shall become effective immediately upon its adoption by the City Council.

SO ORDAINED, this _____ day of _____, 2013

Joe R. Brannen, Mayor

ATTEST:

Sue Starling, City Clerk

(If the city has received the notice from the Lottery Corporation described in O.C.G.A. §50-27-103 whereby a final judgment or final order has been entered against at least 15 percent of master licensees and location owners and location operators in the city over any consecutive two-year period, then the city council shall be allowed, after providing no less than 60 days' notice to all master licensees and location owners and location operators located within the city, to vote to remove any Class B machines from the local jurisdiction.)