



CITY OF
Swainsboro
Crossroads of the Great South



GEORGIA

City Council Meeting

January 06, 2014

The regular meeting of the Mayor and City Council, held Monday, January 06, 2014 at 6:00 P.M. at Swainsboro City Hall

Members Present: Collins, Parker, Stroud, Edenfield, Stafford, & Faulkner

Members Absent:

Prayer of Invocation: Mark White, First Baptist Church

Motion to accept minutes from the previous meeting was made.

Motion: by Stafford Seconded: by Edenfield 6-0

A. Consensus Business

None

B. New Business

None

C. Old Business

1. Mayor Schwabe asked that the council consider the game room ordinance again as presented a few months back and had been tabled. The ordinance is as follows:
Motion was made to adopt ordinance as resented.

CITY OF SWAINSBORO

AN AMENDMENT TO AMEND ARTICLE I SEC. 104, SEC. SEC 10-3, & 10-62, ENTITLED "GAME ROOM, DANCE HALL, COMMUNITY CENTERS, ARCADES AND OTHER RELATED BUSINESSES" OF THE ORDINANCES OF THE CITY OF SWAINSBORO

ARTICLE I. IN GENERAL

Sec. 104, Definitions.

As used in this section, the following terms shall have the following meanings:

Registrant - The term as used herein means any person, firm, corporation, partnership, association, organization, or other entity who, as the owner, lessee, or beneficiary has under his/her or its control any location, establishment, place or premises in or at which bona fide coin-operated amusement machines are placed or kept for use or play, or on exhibition for the purpose of use or play by the general public.

Bona fide coin-operated amusement machine – The term as used herein includes coin-operated amusement machines and means:

- (1) Every machine of any kind or character used by the public to provide amusement whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, or similar object and the result of those operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player pursuant to subsections (b) through (g) of O.C.G.A. § 16-12-35, and which can be legally shipped interstate according to federal law. Examples of bona fide coin-operated amusement machines include, but are expressly not limited to, the following:
 - a. Pinball Machines;
 - b. Console Machines;
 - c. Video Games;

- d. Crane Machines;
- e. Claw Machines;
- f. Pusher Machines;
- g. Bowling Machines;
- h. Novelty Arcade Machines;
- i. Football or Table Soccer Machines
- j. Miniature Racetrack, Football or Golf Machines;
- k. Target or Shooting Gallery Machines
- l. Basketball Machines;
- m. Shuffleboard Games;
- n. Kiddie Rides Games;
- o. Skee-ball Machines;
- p. Air Hockey Machines;
- q. Roll Clown Machines
- r. Trivia Machines;
- s. Laser Games;
- t. Simulator Games;
- u. Virtual Reality Machines;
- v. Maze Games;
- w. Racing Games;
- x. Coin-operated pool tables or coin-operated billiard tables as defined in paragraph (3) of O.C.G.A § 143-8-1 and
- y. Any other similar amusement machine, which can be legally operated.

(2) Every machine of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket or similar object such as jukeboxes or other similar types of music machines.

Arcade – The term as used herein means a location where more than (3) non-cash Redemption machines as described in O.C.G.A. § 18-12-35(c) or 16-12-35 (d) are operated.

License – The term as used herein means a license issued by the county to operate an arcade.

Location – The term as used herein means a separate building.

Dance Halls – Are defined as any private location used for musical performances, concerts, dances, where a fee is charged, a donation is solicited or a charge is imposed for the purposes of entry into the establishment.

Sec. 10-2 Registration Required.

No registrant shall make available for use within the incorporated area of the city of Swainsboro, any bona fide coin-operated amusement machine unless; (a) the state license and required sticker is affixed to the machine pursuant to O.C.G.A § 47-17-1 et seq.. (b) the bona fide coin-operated amusement machine is registered with the governing authority of the city; and (c) if required, the bona fide coin-operated amusement machine is located and used in an arcade which has been duly licensed under sections 10-1 (7) through 10-1 (11) herein below.

Sec. 10-3 Registration Or License Fee.

A registration fee will be required on a coin-operated amusement machine at the cost of \$10.00 per machine on all establishments that desire more than three (3) machines. Those businesses that only have three (3) coin-operated amusement machines shall not be required to register the machines and no cost will be allocated. Registration fee per machine will be paid annually upon renewal of said license.

Sec. 10-4 Machine Registration Form.

- (a) The machine registration shall be filed in writing on a form to be provided by the city and shall specify.
 - (1) The name and address of the registrant and if a firm, corporation, partnership or association, the principal officers thereof and their addresses;
 - (2) Registrants shall list the location and address of the premises where the licensed machine or machines are to be operated, together with the character of the business as Carried on at such place;
 - (3) Registrants shall list the number machines to be maintained on the premises;
 - (4) The name and address of the owner of the machine or machines, if other than the registrant;
 - (5) Specific identifying information on the type of each machine, its function and operation, and its state license number; and
 - (6) Other identifying information about the registrant's business including but not limited to federal employer

identification and state sales tax number and other pertinent information.

Sec. 10-5. Increasing Number Of Machines.

In the event a registrant desires to increase the number of machines to be used or played, or exhibited for use or play at his location, so that he then has more machines than as shown on his original or amended registration, he shall, prior to the operation of the new machines, notify the city and register the new machines. An amended registration shall also be required at any time a machine is replaced, even if by another machine of the same type or nature.

Sec. 10-6 Operation Regulation.

(a) All registrants hereunder shall be subject to the following regulations:

(1) *Gambling is prohibited.* Gambling devices or any gambling on the premises is prohibited. Nothing in this article shall be construed to authorize, permit or license any gambling device of any nature whatsoever or any gambling contrary to law. License holders shall review city ordinance 62-6 that prohibits gambling devices and must adhere to ordinance.

(2) *Machines are to kept in plain view.* All such machines shall at all times be kept and placed in plain view of and open and accessible to any person or persons who may frequent or be in any place of business where such devices are kept or used for play by the public.

(3) *Inspection.* The Swainsboro Police Chief, his or her designee and/or the city code enforcement officer, shall inspect or cause the inspection of any place or building in which any such machine or machines are operated or set up for operation and to inspect, investigate and test such machines as needed. **These inspections may be at will in order to assure compliance with City and State law.**

(4) *Attendant required.* It shall be unlawful for any registrant to open his business to the public unless an employee of the registrant 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.

(5) *Refunds and adjustments.* Refunds and adjustments to all customers shall be the responsibility of the registrant of the location of the machine in question; provided, however, that such refunds or adjustments shall not include refunds for any unused games or credits.

(6) *Gross income requirements.* No registrant shall derive more than 50 percent of such registrant's annual income from the business location in which the amusement machine or machines are situated from amusement machines that provide for non-cash redemption as described in subsection (c) or (d) of O.C.G.A. § 16-12-35. For the purpose of this section, annual income is the sum of the total gross receipts generated by the registrant's business at the business location where the machines are located in a calendar year. Upon request by the local government, the registrant shall provide the necessary financial documents from the registrant in order to verify the amount of annual income and the amount of such income generated from the bona fide coin operated amusement machines as described in subsection (c) or (d) of O.C.G.A. § 16-12-35.

(7) No registrant who holds any form of license described above shall allow the sale, consumption or use of alcoholic beverages on their premises.

(8) ***Hours of Operation.* Will be from 7:00a.m. until 1:00a.m. Monday through Saturday and from 1:00 p.m. until 11:00 p.m. on Sundays. Owner will be required to close the doors at these posted hours and all patrons will have to vacate the premises within one hour of the posted closing time.**

(9) ***Redemption.* Redemption is permitted not to exceed a cash value payout of \$10.00.**

Sec. 10-7. Arcade License Required

Any registrant who proposes to located more than three coin-operated amusement machines in any place of business, any business premises, or any other location shall be required to apply for and receive a valid arcade license prior to placing such machines into operation.

Sec. 10-8. Distance Requirements, Plat Required

(a) Every application for a license to operate an arcade in the City of Swainsboro shall be accompanied by a plat showing the location of the proposed arcade and the distances between the main entrance of the proposed arcade and all adjoining lands, as hereafter provided.

(b) No license for the operation of an arcade shall be issued for any location:

- (1) Within 350 yards of the property line of any public library or branch of any public library;
- (2) Within 350 yards from the property line of any church, shrine, chapel of a mortuary or other place used exclusively for religious purposes;
- (3) Within 350 yards of the property line of any school or college campus. The schools and colleges referred to herein shall include only such public, private, or church-supported schools which teach the subjects commonly taught in the public schools and colleges of this state, and shall not include private schools or colleges wherein a specialized subject such as business, music, art, vocational occupations and other special subjects are taught;

(c) The distance requirements set out above shall apply in any and all directions from the main entrance door of the proposed location, as measured in a straight line. The plat shall accompany and be made a part of the application for such license.

Sec. 10-9. Consideration For License Approval

(a) In determining whether or not an arcade license applied for hereunder shall be granted, renewed, transferred

or issued to a new location, in addition to all the provisions of this section the following shall be considered to be in the public interest and welfare:

- (1) *Reputation Character.* The registrant's reputation, character, trade and business associations or past business ventures, mental and physical capacity to conduct this business;
- (2) *Previous Violations of License Laws.* If the registrant is a previous holder of an arcade license in the city or in any other jurisdiction and has violated any law, regulation or ordinance relating to such business;
- (3) *Manner of Conducting Prior Arcade Business.* If the registrant is a previous holder of an arcade license, the manner in which he conducted the business there under, especially as to the necessity for unusual police observation and inspections in order to prevent the violation of any law, regulation or ordinance relating to such business;
- (4) *Location.* The location for which the license is sought, as to traffic congestion, general character of neighborhood, and the effect such an establishment would have on the adjacent and surrounding property values;
- (5) *Number of Licenses in General Area.* The number of licenses already granted for arcades in the general area of the place for which the license is sought;
- (6) *Previous Revocation of License.* If the registrant has had any license issued under the police powers of any governing authority previously suspended or revoked, or has had an arcade license suspended or revoked;
- (7) *Payment of Taxes and Other Charges.* Whether or not the registrant or business is delinquent in payment of any local taxes or other fees or charges;
- (8) *Prior Incidents.* Evidence that a substantial number of incidents requiring police intervention have occurred within the immediate area during the 12 months immediately preceding the date of application.
- (9) *Previous Denial or Revocation.* The denial of an application, or the revocation of a license, occurring within the preceding 12 months, which was based on the qualifications of the proposed location.

(b) *Renewal.*

(1) All licenses granted hereunder are privilege license and shall expire on December 31st of each year. Registrants who desire to renew their license shall file an application therefore with the permit office of the City of Swainsboro for such renewal, upon forms approved by the City Administrator or his designee, on or before December 1st of each year.

(2) All licenses to be renewed for the subsequent calendar year shall be submitted By the permit office to the city for approval no later than December 15th of each year. Any licenses that have been placed on probation, suspension or have been revoked by the city during the year shall be submitted on a separate list by the permit for review and further consideration.

(c) *Audit.* Upon renewal of a license to operate an arcade, verified records of sales from amusement games as they relate to the total annual income of the business shall be furnished. Verification must be submitted by both the license holder and the management of the establishment. The city council may cause an *audit* of the books of a business holding an arcade license to be made at any time. Failure of a registrant who holds a license to operate an arcade to cooperate in the execution of the audit shall be a violation of this section.

Sec. 10-10 Individuals Not Eligible For License.

The following individuals and organizations are not eligible for an arcade license:

(a) A person or persons or a corporation, partnership or other form of business or Organization in which any officers, directors or partners have been convicted of a felony in any jurisdiction. A conviction, for purposes of this paragraph, includes a guilty plea or a plea of nolo contendere.

(b) A person or persons or a corporation, partnership or other form of business Organization in which any of the officers, directors or partner have been convicted in any jurisdiction of a non-felonious crime of moral turpitude, lottery, gambling or illegal possession or sale of narcotics or alcoholic beverages within the five years preceding the filing of the application. A conviction, for purposes of this paragraph, includes a quality plea or a plea of nolo contendere.

(c) A person whose license to operate an arcade has been revoked for cause in any state or territory of the United States within the ten years preceding the filing of the application.

(d) A person who has knowingly falsified information or made any material misrepresentation on the application for a license under this section or any application under the city beer and wine license ordinance submitted within the ten years preceding the filing of the application

(e) Should any such registrant or partner or officer or director of any registrant entity, after a license has been granted be convicted of or plead guilty or nolo contendere to a crime involving moral turpitude or to the violation of any laws of the state regulating gambling or the lottery laws, said license shall be subject after hearing to immediate suspension or revocation.

Sec. 10-11. Application For License.

All registrants for a license to operate an arcade shall give notice of their intention to make such application by advertisement in the form prescribed by the city administrator. Advertising as referred to in this section means there shall be a sign posted 30 days prior to the hearing of the application in a prominent position on the property (where it can be read from the road); also, all new registrants shall be required to advertise two times in the legal organ before applications are heard by the city council. Advertising in the newspaper shall be during the thirty-day period prior to

the hearing of the application by the city council. Before the application is presented to the city council, the registrant shall furnish proof that the advertisement has been completed as required hereinabove.

Sec. 10-12. License Not Transferable.

No license to operate an arcade may be sold, transferred or assigned by a registrant or by operation of law, to any other person or persons, corporation, partnership or other business entity, or to any other location or any expansion of an existing location. Any such sale, transfer or assignment or attempted sale, transfer or assignment shall be deemed to constitute a voluntary surrender of such license, and such license shall thereafter be null and void; provided and excepting, however, that if the registrant is a partnership and one or more of the partners should die, or one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of such license, and in such case the license, upon notification to the permit office, shall be placed in the name of the surviving partner. A license to operate an arcade issued to a corporation shall be deemed terminated and void when either any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of a license, or any stock authorized but not issued at the time of the granting of a license is thereafter issued and sold, transferred or assigned.

Sec. 10-13. Right Of Suspension.

The City Council shall have the right to permanently suspend any license issued under this section following a violation issued to any license holder during a twelve month period whenever a person, firm, corporation, or other business organization doing business hereunder shall deviate from the normal operation for which the license was obtained or fails in performance to meet the required regulations and codes set forth by the city council, county health department; violates any law, ordinance or regulation of the United States, or the state, or Emanuel County; or when it shall be proven before the board, or its designated hearing officer, that there is a violation of nuisance law; or when the health, interests and safety of the public demand the suspension of such license. The hearing officer shall report the suspension of such license to the next regular or called meeting of the Swainsboro City Council; then the license shall be suspended, placed on probation or permanently revoked, or otherwise it shall be restored and remain in full force.

Sec. 10-14. Penalties For Violation Of Section.

Violation of this ordinance shall be punishable as a misdemeanor local ordinance violation and shall include one or more of the following penalties;

- (a) A monetary fine up to a maximum of \$1,000.00;
- (b) Maximum imprisonment of 6 months;
- (c) Suspension or revocation of the registrant's license and any other city licenses held by the registrant, including but not limited to license for the sale of alcoholic beverages;
- (d) Revocation of machine registration and prohibition of machine operation at any Location which does not require an arcade license.

In addition, the city council or its designee may notify the appropriate state agencies of any violation pertaining to the improper use of bona fide coin-operated amusement machines. The agencies to be notified may include, but not limited to the state revenue department, the state bureau of investigation and the state lottery commission. Violators may be prosecuted under O.C.G.A. § 16-12-35, and any other applicable provision of state or federal law.

All ordinances and parts of ordinances in conflict with the amendments are hereby repealed.

This date January 06, 2014 at the regular meeting of the Mayor and City Council of the city of Swainsboro.

Motion: by Stafford Seconded: by Faulkner 6-0

D. Committee Reports

Police: Councilperson Stafford gave the December Police Report.

Councilperson Stafford reported that the Police Personnel Committee had met and interviewed candidates for the vacant police officer position. The committee recommended Tyler Beasley for hire. Motion was made to hire Mr. Beasley as a police officer.

Motion: by Stafford Seconded: by Parker 6-0

The yearly animal shelter report was presented to council.

Public Works: The new bucket truck has been purchased and delivered.

Fire: Councilperson Collins gave the 2013 yearly Fire Report.

Recreation: Routine

Airport: No Report

Executive: No Report

Water & WW: Routine

Downtown Development: No Report

Administrative: No Report

Building Inspection: No Report

Mayor : Mayor Schwabe reported a shelter was set up by the city for any citizens needing a place to relocate because of the weather at the Swainsboro Recreation Center. Call 911 for any details.

Mayor Schwabe made the following committee assignment for the 2014 year

Public Works - John Parker

Administration- Sandra Stroud

Water & Waste Water - Cleve Edenfield

Police - Johnny Ray Stafford

Recreation - Rita Faulkner

Fire - Bobbie Collins

All other committee assignments would remain the same for the 2014 year.

Mayor Schwabe asked for Mayor Pro Tem nominations.

Cleve Edenfield was nominated and seconded no one opposed.

Meeting was adjourned.

Submitted: Al L Lawson, City Administrator