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**CHAPTER 7**

**Arcade Regulation**

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Sec. 7-7-1 Title.

This article shall be known and referred to as the "City of Wrens Arcade Ordinance."

Sec. 7-7-2 Operating an Arcade or similar establishment providing patrons access to games of chance; license a privilege.

- a. Bona Fide Coin-Operated Amusement Machines requiring "some skill" may be operated in the incorporated area of the City of Wrens under a license granted by the City Council upon the terms and conditions hereafter provided.
- b. All licenses issued under the terms of this chapter shall be a mere grant of privilege to carry on the business of operating an Arcade during the term of the license, subject to all terms and conditions imposed by the terms of the license and the laws of the City and the State of Georgia.
- c. All licenses issued hereunder shall have printed on the front these words: "This License is a mere privilege subject to be revoked and annulled, and is subject to any further ordinances which may be enacted by the City of Wrens."
- d. The annual fee for said Arcade License is Three Hundred Dollars (\$300.00).

Sec. 7-7-3 Definitions.

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Defined words shall have the meaning specified unless the context in which the word or term is used clearly requires that a different meaning be used. As used in this chapter:

- a. Arcade means any business where one or more Bona Fide Coin-Operated Amusement Machines requiring some skill are available for use by Patrons of the business and includes the main structure and the surrounding property directly incorporated into such use;
- b. Bona Fide Coin-Operated Amusement Machine shall have the same meaning as given in O.C.G.A. § 48-17-1(2) and any applicable state regulations as the same may be amended from time to time;
- c. Church Building means the main structure used by any religious organization for purposes of worship and the surrounding property or campus directly incorporated into such use in compliance with the zoning ordinances of the City of Wrens;
- d. City or City of Wrens means City of Wrens, Georgia;
- e. City Park or Playground means a park, recreation center, ball fields, or playgrounds owned by the City of Wrens and operated by the City for use by the citizens of the City of Wrens;
- f. Building Inspector/Code Enforcement Officer means the Building Inspector of the City of Wrens, or such other City official as the Governing Authority may designate from time to time to carry out the functions of the Building Inspector as specified in this Chapter;
- g. Games of chance means any contrivance which for consideration affords the player an opportunity to obtain money or other things of value, the award of which is determined by chance even though accompanied by some skill, whether or not the prize is automatically paid by contrivance;
- h. Governing Authority means the Mayor and City Councilmembers of the City of Wrens;
- i. License means an Operator's License issued by the City of Wrens;
- j. Licensee means the Person or Persons to whom a License is issued;
- k. Location shall mean a business in the City of Wrens, which has been issued a valid business occupation tax certificate;
- l. Main Entrance Door means the principal entrance by which access may be obtained to the operational area of the structure. In the case of a City Park or Playground or other similar facility which does not have a principal entrance to a structure, it shall mean the main entrance gate to the facility;
- m. Master License means the certificate issued by the State Revenue Commissioner

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which every owner of a Bona Fide Coin-Operated Amusement machine must purchase and display in the owner's or operator's place of business where the machine(s) is/are located for commercial use by the public for play in order to legally operate the machine in the State of Georgia.

- n. Negotiable Instrument means money or other thing which may be exchanged for money or value other than a gift certificate which can be exchanged for merchandise only in the same Arcade where the gift certificate was won;
- o. Operator's License means a license to operate a Bona Fide Coin-Operated Amusement Machine requiring some skill and/or to operate an Arcade;
- p. Person means any individual, firm, general partnership, limited partnership, limited liability partnership, cooperative, nonprofit corporation, joint venture, association, company corporation, limited liability company, agency, syndicate, estate, trust business, trust, receiver, fiduciary, or other group or combination acting as unit;
- q. Premises means one physically identifiable place of business of one or more contiguous rooms operating under the same trade name where Bona Fide Coin-Operated Amusement Machines requiring some skill are available for use by patrons of the business. Premises include areas located within the property lines of the land in which the Arcade business is located;
- r. School Building means only the state, county, or church school buildings and buildings at other schools in which are taught subjects commonly taught in the common schools and colleges of the State of Georgia and the surrounding property or campus which is directly incorporated into such uses; provided that schools other than state or county schools must be in compliance with the zoning ordinances of the City of Wrens, Georgia;
- s. Some Skill shall have the same meaning as given in O.C.G.A. §16-12-35 (a.1)(2) and any applicable state regulations as the same may be amended from time to time; and
- t. State means the State of Georgia.
- u. Gross retail receipts shall mean the total revenue derived by the business at any one business location from the sale of goods or services and the commission earned at any one business location on the sale of goods or services but does not include revenue from the sale of goods or services for which the business will receive only a commission. Revenue from the sale of goods or services at wholesale is not included.

Sec. 7-7-4 License Required.

Any Person desiring to operate an Arcade located in the incorporated area of the City of Wrens shall, before doing so, have in the Person's possession a current Operator's License.

Sec. 7-7-5 Qualifications for License.

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In order to obtain a License, the applicant must satisfy the following requirements:

- a. Any applicant for a License must be at least eighteen (18) years of age.
- b. A License will be issued only to a person who is a citizen of the United States or an alien lawfully admitted for permanent residence in the United States. Where an applicant is other than a natural person it must be an entity organized and existing under the laws of the United States or one of its States, and the natural persons who are required to join in the application must meet the qualifications of the preceding sentence.
- c. For a License to be issued to a general partnership, the application must be made jointly by the partnership, any managing partner, and all other partners owning at least twenty percent (20%) interest in the assets or revenues of the partnership. If there are no managing partners and there is no partner meeting the ownership requirements, then the application must be made jointly in the name of the partnership and the general partner or partners owning the greatest percentage interest in the assets and revenues of the partnership. At least one of the applicants shall be a natural person. If none of the applicants required above is a natural person, then the natural person having primary responsibility for the operation of the partnership for which the License is sought shall join in the application.
- d. Where the applicant for a License is a limited partnership, or a limited liability partnership, the application shall be made jointly by the limited partnership, or limited liability partnership, its general partner or partners, and any other partner owning at least a twenty percent (20%) interest in the assets or revenues of the limited partnership or limited liability partnership. At least one of the applicants must be a natural person. If none of the applicants required above is a natural person then the natural person having primary responsibility for the operation of the entity for which the License is sought shall join in the application.
- e. Where the applicant for a License is a corporation, the application shall be made jointly in the name of the corporation and its president or vice president and any stockholder owning at least twenty percent (20%) of the total outstanding capital stock of the corporation.
- f. Where the applicant for a License is a limited liability company, the application shall be made jointly in the name of the limited liability company and its managers or managers, and any member owning at least a twenty percent (20%) interest in the assets or revenues of the limited liability corporation.
- g. Where the applicant for a License is an entity other than a natural person, a partnership, a limited partnership, a limited liability partnership, a corporation, or a limited liability company, the application shall be made jointly in the name of the entity, the natural person having chief executive officer authority over the business activities of the entity and any other Person having at least a five percent (5%) interest in the assets or revenues of the entity.

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- h. Licenses issued to corporations, limited liability companies, general partnerships, limited partnerships, limited liability partnership or other types of entities must be issued jointly to the entity and all of the other Persons required by this chapter to join in the application.
- i. No Person shall be granted a License unless it shall appear to the satisfaction of the Governing Authority that such Person shall be of good moral character or in the case of an entity which is not a natural person, that such entity has a good reputation, and in no event shall a License be granted to any Person who has been convicted or has pled guilty or entered a plea of nolo contendere to any charge involving a crime of moral turpitude or illegal gambling within a period of ten (10) years immediately prior to the filing of such application. In the case of partnerships, corporations, limited partnerships, limited liability partnerships, limited liability companies or other business entities, a License shall not be issued to the partnership, corporation, limited partnership, limited liability partnership, limited liability company or other entity if any partner, officer, director, shareholder, member or other Person required to be listed on the application cannot meet the requirements as set forth in the preceding sentence. At the time an application is submitted for a License, the applicant shall by a duly sworn affidavit: (1) certify that all of the requirements of this section have been met by the applicant and the other Persons required to be listed on the application as specified above; and (2) consent to a criminal background check and release the City of Wrens, its mayor and councilmembers, elected officials, officers, agents, employees and representatives from any liability resulting from any criminal background check performed on the applicant. Should any Person in whose name a License is issued after the License has been issued, be convicted or plead guilty or nolo contendere to a charge involving a crime of moral turpitude or illegal gambling the License shall be immediately revoked and canceled.
- j. No License shall be issued to any Person convicted or pleading guilty or nolo contendere to any charge under any federal, state or local law constituting a felony within ten (10) years prior to the date of the filing of the application for the License.
- k. No License shall be issued to any Person who has had any License issued under the police powers of the City revoked within two (2) years prior to the filing of the application.
- l. The Governing Authority may decline to issue a License when any person having any ownership interest in or control over the land or building in which the Arcade to be operated pursuant to the License will be located does not meet the same character requirements as herein set forth for the Licensee.
- m. If a person in whose name a License is issued is not a resident of Jefferson County, Georgia, such Person must appoint and continuously maintain in Jefferson County, Georgia, a registered agent upon whom any process, notice or demand required or permitted by law, or under this chapter, may be served. This registered agent must be a resident of Jefferson County, Georgia. If the Licensee is not a natural person, it will be required to appoint and maintain a registered

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agent in Jefferson County if it does not have in Jefferson County any agent upon whom process can legally be served on such entity under the laws of the State. The Licensee shall file the name of such registered agent along with the written consent to serve as such agent in the office of the City Clerk.

- n. An application for a license may be denied where it appears to the Governing Authority that the applicant does not have adequate financial strength or adequate financial participation in the proposed business to direct and manage its affairs, or where it appears that the applicant is intended or likely to be a surrogate for a Person or Persons who would not otherwise qualify for a License.
- o. No License shall be issued for any Arcade where more than six (6) Bona Fide Coin-Operated Amusement Machines requiring some skill, which provide for noncash redemption as described in O.C.G.A. § 16-12-35(d)(1), are located if said Arcade sells alcoholic beverages by the package.

Sec. 7-7-6 Application for License.

- a. A person desiring to obtain a License shall make application to the City Council on the forms prescribed by the Governing Authority.
- b. The application for a License shall require but shall not be limited to the following information:
  - 1. The name and address of each applicant as required by Section 7-7-5 of this chapter.
  - 2. The name and location of the proposed Arcade and the name and address of the owner of the Premises in which the Arcade is to be carried on.
  - 3. A description of all of the Bona Fide Coin-Operated Amusement Machines requiring some skill to be operated in the proposed Arcade, including the name, address and telephone number of the owner of each machine and the control number for each machine from the State Department of Revenue permit sticker affixed thereto or displayed at the location where the machine is located.
  - 4. A financial statement current within three (3) months of the application evidencing the financial responsibility of the applicant or applicants.
  - 5. Certification from the City that all taxes then due to the City by the applicant have been paid and that all taxes on the Arcade location have been paid.
  - 6. All applicants shall furnish fingerprints, a copy of the current occupation tax certificate from the City for the Arcade, and other material as required by the Governing Authority. Failure to furnish data, as required by the Governing Authority, shall be deemed to be a withdrawal of the application.
  - 7. Each application for an initial license as opposed to a renewal shall have

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attached a plat of the land on which the Arcade and/or Bona Fide Coin-Operated Amusement Machine is proposed to be located showing the location of the improvements thereon. Such plat must be prepared by a land surveyor registered under the laws of the State of Georgia and the surveyor shall show on the plat and certify as to the accuracy thereof.

8. A copy of the master license issued by the State Department of Revenue to the owner of any Bona Fide Coin-Operated Amusement Machine located in the City.
9. The application shall be accompanied by a non-refundable, investigatory and administrative fee of One Hundred and Twenty Five Dollars (\$125.00).
- c. Failure to furnish all information as required by an application form will cause the application to be deemed to be incomplete and no action will be taken thereon until it is complete. All applications shall be sworn to by the applicant before a notary public or other officer empowered by law to administer oaths.

Sec. 7-7-7 Application Approval Procedures.

- a. An application shall be presented to the Governing Authority within forty five (45) days after the date it is deemed complete. The City Clerk shall notify the applicant in writing of the date on which the application will be presented to the Governing Authority, which notice shall be given in sufficient time to entitle the applicant to meet the public notice requirements of Section 7-7-8 hereof.
- b. At the time the application is presented to the Governing Authority, the applicant may appear and present any matters in support of the application and any other Person may appear and present matters in opposition to the application.
- c. If the application is presented to a designated committee of the Governing Authority, such designated committee shall make a report and recommend action to be taken by the Governing Authority.
- d. If the presentation is made to the Governing Authority, upon the completion of the presentation, the Governing Authority shall take action denying or granting the application or deferring action for a period not to exceed forty-five (45) days in order to obtain further information. If the application is denied, the Governing Authority shall set forth the reasons for the denial.
- e. In all instances in which an application is denied under the provisions of this Ordinance, the applicant may not reapply for similar license for the same location for at least one (1) year from the date of such denial.

Sec. 7-7-8 Public Notice.

A person filing an application for a new license as opposed to an application for the renewal of an existing license shall give public notice of the filing of the application as follows:

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- a. By publishing three (3) times in the thirty (30) days preceding the consideration of the application by the City in the newspaper in which sheriff's sales in the county are placed a notice of the application in a form approved by the City; and
- b. By posting a sign for at least thirty (30) days, preceding the consideration of the application by the City, in a prominent position on the property where it can be readily read from the road stating such application is being applied for. The applicant must provide the City proof of the giving of this public notice prior to the City's consideration of the application.
- c. In all instances in which an application for a License is denied under the provisions of this chapter the applicant may not reapply for a License for the same Premises for at least one (1) year from the date of such denial.

Sec. 7-7-9 Providing verified monthly report.

Each Licensee, for the duration of the license term, to include renewals thereof, shall provide to the City a copy of each monthly verified report setting out separately the gross retail receipts from the Bona Fide Coin-Operated Amusement Machines and the gross retail receipts from the business location in accordance with O.C.G.A. § 48-17-15(c).

Sec. 7-7-10 Distance Requirements.

- a. No Arcade operated pursuant to a License shall be located in a building which is closer than one hundred (100) yards to a Church Building or a City Park or Playground, or closer than two hundred (200) yards to a School Building or an Arcade. In applying this section, the City shall determine what property is included in a School Building, Church Building, City Park or Playground or Arcade consistent with the definitions set forth in Section 7-7-3 of this chapter, and the determination of the City shall be final.
- b. For purposes of this section, distances shall be measured in a straight line from the Main Entrance Door of the establishment for which the License is being sought to the nearest point of the boundary line of the land constituting the campus of the Church Building, School Building, City Park or Playground or Arcade.
- c. No Arcade which is operated pursuant to a License from the City on the effective date of this Chapter shall be denied continued operation under such existing License, nor denied any renewal of such License, nor shall any new operator of such Arcade be denied a new License based upon the measurement set forth in this section. Upon cessation of the operation of the Arcade pursuant to such License, such exemption shall cease.
- d. As to any License issued in the future, if the distance requirements herein are met at the time of issuance of the License, the subsequent opening and operation of a Church Building, School Building or City Park or Playground within the distance prohibited herein shall not prevent the continued operation of the Arcade pursuant to the License or the renewal of the License or the issuance of a new License to any subsequent operator of such Arcade so long as the business operation of the

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Arcade or establishment does not cease.

- e. The holder of title to any property making up a Church Building, School Building or County Park or Playground may waive the distance requirements of this section as they apply to such facility in any specific instance by recording in the real estate records in the Office of the Clerk of Superior Court of Jefferson County, a written instrument evidencing such waiver and setting out the terms thereof, which instrument shall be executed and witnessed with the same formalities as a deed filed for record in such Clerk's office.

Sec. 7-7-11 Revocation or Suspension.

- a. Any License granted under this Chapter shall be subject to revocation or suspension for cause. Whenever, in the opinion of the Building Inspector, there is cause to revoke or suspend a License, written notice of intention to revoke or suspend shall be furnished the holder thereof not less than ten (10) days before the meeting of the Governing Authority at which time the holder of the License may make such showing as he/she may deem proper. After a hearing, the Governing Authority may revoke or suspend the License if, in its discretion, it is in the best interests of, peace, good order and general welfare of the City or there has been any violation of the ordinances of the City or the laws of the United States or the State of Georgia in the conduct of the Arcade or the operation of Bona Fide Coin-Operated Amusement Machines requiring some skill by any members of the public.
- b. Cause for revocation or suspension shall include, but not be limited to, the following actions by License holder:
  - 1. Conviction or a plea of guilty or nolo contendere to a charge involving a crime of moral turpitude or illegal gambling in any jurisdiction to which the applicant was subject, including any violation of the non cash redemption laws as set forth in O.C.G.A. §16-12-35 and any applicable state regulations as the same may be amended from time to time.
  - 2. If holding a License, conviction of or a plea of guilty or nolo contendere to a charge involving a crime of moral turpitude or illegal gambling, including a charge of violation of the non cash redemption laws as set forth in O.C.G.A. §16-12-35 and any applicable state regulations as the same may be amended from time to time by an employee of the Arcade operated pursuant to such License, in the course of business.
  - 3. Providing winnings, through tokens, vouchers, points, tickets, non cash merchandise, prizes, toys, gift certificates or novelties, for the successful play for a Bona Fide Coin-Operated Amusement Machine requiring some skill which can be redeemed outside of the Arcade from which issued.
  - 4. Providing false or forged information to the Governing Authority in obtaining a License under this chapter.

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5. Impersonating a License holder.
6. Using or attempting to use a License that has expired or been revoked.
7. Deriving more than fifty percent (50%) of the business owner's or business operator's monthly gross retail receipts, for the location where the License is granted, from Bona Fide Coin-Operated Amusement Machines requiring some skill which provide for noncash redemption as described in O.C.G.A. § 16-12-35(d). Licensee's monthly gross retail receipts shall be computed excluding any income derived from the sale of the Georgia Lottery Corporations lottery tickets for purposed of making this determination.
8. Violation of the distance requirements set forth in this chapter.
9. Violating any provision of this chapter.

Sec. 7-7-12 Automatic License Forfeiture for Non-use.

Any Licensee holding a License, who shall for a period of three (3) consecutive months, cease to operate the Arcade or Bona Fide Coin-Operated Amusement Machine requiring some skill as authorized in the Operator's License shall automatically forfeit the License without the necessity of any further action. If the Arcade operation is interrupted as a result of damage to the Premises where the Arcade is located which makes it impractical to operate the Arcade and if repairs of such damage are commenced within said three (3) months and diligently pursued to completion or as a result of the Premises being remodeled, then this section shall not apply to such cessation of operation. If a License is issued for the operation of an Arcade in a building which has not yet been completed, the License will not be forfeited unless the License fails to begin operations of the Arcade within a period of one hundred eighty (180) days from the date of issuance of the License.

Sec. 7-7-13 Expiration/Renewal.

- a. Each License granted hereunder shall expire on December 31<sup>st</sup> of the calendar year in which the License was issued. A Licensee who desires to renew a License shall file an application, with the City Clerk, on the form provided for renewal of the License. Applications for renewal must be filed on or before October 31<sup>st</sup> of the year in which the License being renewed expires. If a renewal application is received after such October 31<sup>st</sup>, the City cannot assure the applicant that the renewal License will be issued by January 1<sup>st</sup> of the following calendar year and the Licensee will have to cease operations from such January 1<sup>st</sup> until the renewal License is issued. If a License renewal application is received after the December 31<sup>st</sup> expiration date, such application shall be treated as an application for a new License and the applicant shall be required to comply with all rules, regulations, and fees for the granting of Licenses as if no previous License had been issued.
- b. Any Person applying for renewal of a License must pay the License fees, administrative fees and investigative fees at the time of filing the application. Failure to pay such fees at that time shall result in the application for renewal being treated as not filed or withdrawn.

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Sec. 7-7-14 Separate Application and Separate Operator's License for Each Location of an Arcade or Bona Fide Coin-Operated Amusement Machine.

Each Operator's License shall be limited to the operation of an Arcade or a Bona Fide Coin-Operated Amusement Machine requiring some skill at a specific location as described in the License. A separate application must be made and separate Operator's Licenses must be obtained for each location at which an Arcade or a Bona Fide Coin-Operated Amusement Machine requiring some skill is operated.

Sec. 7-7-15 Display at Place of Business.

The License shall at all times be kept plainly exposed to public view at the Premises for which the License was granted.

Sec. 7-7-16 Transferability.

No License shall be transferable.

Sec. 7-7-17 Penalties for Violation of this Chapter.

- a. Any violation of this Chapter shall constitute a misdemeanor and shall be punishable as such.
- b. In addition to the penalties set forth in subsection (a) above, the Governing Authority may revoke or suspend a License for violation of this chapter as set forth in Section 7-7-11 which shall be a distinct and separate penalty. Any violation of this chapter or any failure to comply with its requirements shall be grounds for immediate suspension or revocation of any and all Licenses held by the Licensee regardless of the number of Licenses or Locations involved and regardless of whether or not the Licensee knew of or contributed to such violation. It is the intent of this subsection without limiting the generality of the foregoing to grant to the Governing Authority the right to suspend or revoke any and all Licenses held by a Licensee when any violation of this chapter occurs at any place of business operated by the Licensee pursuant to a License.

Sec. 7-7-18 Receipt of Money or Other Negotiable Instruments.

- a. No person shall offer or receive from any other person, including any Licensee or any employee, agent or patron of a Licensee:
  1. Money or other Negotiable Instrument for free replays of any Bona Fide Coin-Operated Amusement Machine requiring some skill;
  2. Money or other Negotiable Instrument for any non cash merchandise, prize, toy, gift certificate, or novelty received as a reward for playing any Bona Fide Coin-Operated Amusement Machine requiring some skill; or

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3. Money or other Negotiable Instrument as a reward for playing any Bona Fide Coin-Operated Amusement Machine requiring some skill.
- b. Any person who violates any provision of this Section may, upon conviction, be punished by a fine of not less than Three Hundred Dollars (\$300.00) for each offense, nor more than Five Hundred Dollars (\$500.00) and/or confinement for ninety (90) days in jail or such other facility as the municipal court shall provide under its jurisdiction.