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December 3, 2025

Memorandum

To: Ordinance and License Committee
From: Brian Running
Re: Amendments to Amusement Arcade Ordinance

This is in response to Ald. Mike Chrisien's referral to evaluate and propose revisions to Mun. Code §8.04, the Amusement Arcade ordinance. There is a proposal to locate an arcade in Waukesha that would have ~150 machines, and under the current ordinance the annual fee would be \$6,000, making the proposal impossible. The referral's main goal is to amend the fee structure so that it is not prohibitive to arcade owners, but since a lot of the ordinance is archaic and obsolete, we are proposing a top-to-bottom review and revision.

When §8.04 was originally enacted, amusement arcades were viewed as immoral influences on impressionable youth, and a lot of the provisions in the ordinance are extreme and unnecessary. A redline and clean version of a proposed amended ordinance are attached. This is a draft proposal only, to serve as a basis for discussion. A point-by-point explanation of the proposed changes follow.

- (1)(a)(i) – An amusement arcade is subject to the state Public Accommodations Law, so using the definition of “public place of accommodation or amusement” from the state law keeps things with state law. This definition excludes non-profit organizations that offer amusement games only to their members and guests, so it aligns with the exemption in our current ordinance.
- (1)(a)(ii) – Allowing four machines without a license aligns with the current ordinance. We could require any amount of games to be licensed, but consideration is given to not upsetting the current scheme if it's not necessary. There would probably be a strong opposition from those who have four or fewer machines now and who would be subject to a fee for the first time.
- (1)(a)(iii) – This also maintains the current law. I don't know what the reason was for exempting bars – possibly because minors aren't allowed in “Class B” premises – but again, we would probably face strong opposition if we imposed this on bars for the first time. We are not opposed to extending it to bars, but the many bars that have gambling machines would be extremely unhappy about it. That's a political choice.
- (1)(b) – Attempts to modernize the definition and make the exceptions to the definition clearer.

- (2) – States the general requirement for a license explicitly, in its own section.
- (3) – Puts the license period in its own section, for clarity.
- (4) – Making licenses non-transferable between either persons or premises requires a new application and fee for changes in ownership or location, so the application process can't be avoided.
- (5) – The current ordinance requires a fee both for the premises and for each individual machine. This proposal is for a single fee for the premises, regardless of the number of machines. It provides that the fee will be as determined from time to time by the Council in a separate schedule, which is a convenient way to keep fees in one handy reference place, and makes it easy to change fees without having to amend ordinances. Alternatively, the fee could be stated in the ordinance itself. Either way, the fee would be set by the Council.
- The remainder of old section (2) was deleted either because the provisions were moved elsewhere, were archaic and obsolete, or required a potentially prohibitive fee.
- (6) – This is changed so that it only deals with the application contents, and deletes the provisions requiring disclosure of violations of law, investigation by the PD, and inspection by FD and Building Inspection. This proposal does not require that the applicant have a clean record or be of good moral character, etc. There are two reasons for this:
 - Evaluating applicants' backgrounds is subjective, inconsistent and ineffective.
 - The point of a background check is to try to weed out applicants that will not run an orderly business and will allow violations of law to take place. If that does happen, we can revoke the license and issue citations for those reasons. If it doesn't happen, then good for us, and it's irrelevant if an applicant has a bad history.
- (7) – This section says the Clerk will issue the license if the stated requirements are met. The standards are objective and no subjective discretion is required, so no Council approval is required. It's strictly ministerial.
- The remainder of the section was deleted because the requirements are unnecessary or serve no real purpose.
- (8) – Requires live supervision on the premises, and limits hours of operation.
- (9) – Allows entry by City personnel other than PD, for inspection.
- (10) – States express bases for revocation or suspension of licenses. This is where we can address the bad character of the licensee, if necessary.

Note that the penalty for violations of any provisions of Chapter 8 is stated in §8.28, so no separate penalty provision is included.

8.04 Amusement Arcades ~~and Amusement Games and Devices.~~

(1) Definitions.

- (a) ~~“Amusement Arcade.” means a premises that meets all of the following: Premises in the business of offering to the public for use for a fee, amusement games and devices.~~
- ~~(i) Is a Public Place of Accommodation or Amusement as defined in Wis. Stat. §106.52(1)(e).~~
- ~~(ii) Has within it more than four Amusement Games, as defined below, that are offered for use after payment of a fee by the user.~~
- ~~(iii) Is not licensed as a “Class B” retail premises. A “Class B” premises is exempt from the licensing requirement of this Section. If 4 or less amusement games and devices are on the premises, such premises do not constitute an amusement arcade. Bowling machines, pool tables and billiard tables are not considered amusement games and devices in this section.~~
- ~~(ii) Establishments having a combination Class B liquor and fermented malt beverage licenses are not considered amusement arcades in this section.~~
- (b) ~~“Amusement Games and Devices.” means a~~Any coin-operated machine, game, or device ~~intended for amusement, or any machine, game or device for which the owner or operator shall make a charge for the use thereof for amusement purposes, and including without limitation by enumeration, video games, pinball machines, foosball tables, air hockey tables, table shuffle boards, skee ball, basketball games, golf simulators, miniature baseball diamonds, basketball courts, bowling alleys, pin games, marble games, quiz games, video games, video devices, electronic games, foosball and all other similar games and devices for recreation, pleasure, and amusement of like nature. Regardless of the foregoing, Amusement Game does not include jukeboxes, which are subject to permitting under Mun. Code §8.05; pool tables, billiards tables, or bowling alleys, which are subject to licensing under Mun. Code §8.07; or games at carnivals, festivals, or fairs, which are subject to permitting under Mun. Code §8.11.~~

(2) Requirement of License. All Amusement Arcades shall obtain and maintain at all times while open for business an Amusement Arcade License issued by the City Clerk. Licenses shall be in a form prepared by the City Clerk and shall be displayed in the Amusement Arcade at all times.

(3) License Period. Licenses shall be good for one year, and shall expire each year on June 30.

(4) Licenses Not Transferable. Licenses shall not be transferable among premises or persons.

~~(2)(5) Fees & Term.~~ The annual fee for an Amusement Arcade License shall be as shown in the License Fee Schedule approved by the Common Council from time to time and maintained by the City Clerk. [Alternate: The annual fee for an Amusement Arcade License shall be \$@@@] The fee shall be payable upon application and renewals, shall be non-refundable, and shall not be prorated.

~~(a) Amusement Arcade.~~ All licenses issued hereunder shall expire on June 30 of each year. The fee shall be \$50, not prorated, for each premises to be used as an amusement arcade.

~~(b) Amusement Games and Devices.~~ A license shall be obtained from the City for amusement games or devices for each premises set forth for use by the public in an amusement arcade or

~~in any other location. The fee shall be \$40 for each amusement game or device, not prorated, and shall expire on June 30 of each year.~~

~~(i) The license shall identify the licensee, the number of amusement games or devices licensed, and the premises on which the game or device will be used.~~

~~(ii) The Chief of Police shall keep a record of all licenses issued hereunder.~~

~~(iii) Licenses shall not be transferable as to persons.~~

~~(3)~~**(6) Application for Amusement Arcade License.**

~~(a) Application for a license shall be on a form furnished by the City Clerk, and shall be filed with the City Clerk.~~

~~(b) ~~Such form~~The application shall require the following information:~~

~~(i) Name and address of the applicant. If the applicant is a partnership, corporation, limited-liability company, association, club, or other such entity, the names and addresses of all partners, members, officers, and directors shall be given. If a corporation, the names and addresses of all officers, directors, and stockholders. If a club, the names and addresses of all officers.~~

~~(ii) If the person or persons have ever been convicted of a violation of federal, State or municipal law.~~

~~(iii)(ii) Address of the Amusement Arcade and the Location of premises to be licensed and name and address of the owners of the property.~~

~~(iv)(iii) The number of games, machines, tables or devices Amusement Games to be located on in the Amusement Arcade premises.~~

~~(c) Application shall be signed and sworn to by the applicant/applicants.~~

~~(d) Each applicant, upon filing an application, shall pay the license fee required to the City Treasurer.~~

~~(e) The Chief of Police shall investigate all persons named in an application for a license and report his findings to the City Clerk.~~

~~(f) The Building Inspector and the Fire Inspector shall investigate the premises named in an application and report their findings to the City Clerk.~~

~~(4) Application for Amusement Games or Devices License.~~

~~(a) Application for a license shall be on a form furnished by the City Clerk and shall be filed with the City Clerk.~~

~~(b) Such form shall require the following information:~~

~~(i) Name and address of applicant. If the applicant is a corporation, the president and secretary of the corporation.~~

- ~~(ii) The address of the premises on which the amusement game or device is to be used.~~
- ~~(iii) Name and address of owner of game or device.~~
- ~~(iv) Any further information the Council may require.~~
- ~~(c) Application shall be signed and sworn to by the applicant/applicants.~~
- ~~(d) Each applicant, upon filing an application, shall pay the license fee required to the City Treasurer.~~

(5)(7) Granting of a License for Issuance of Amusement Arcade License. Amusement Arcade Licenses shall be issued by the City Clerk if all of the following are met:

- (a) The applicant is at least 18 years of age, if an individual.
- (b) The application is complete and accurate.
- (c) The fee has been paid in full.
- (d) The applicant is not in default of payment of any other fees, charges, forfeitures, or other amounts due to the City or Municipal Court.
- (e) The premises in which the Amusement Arcade is located is not in default of payment of property taxes.
- ~~(a) No license shall be granted for an amusement arcade if:~~
 - ~~(i) The establishment holds a Class A beer license.~~
 - ~~(ii) The premises are within 500' of any school.~~
 - ~~(iii) There is another licensed amusement arcade within 1,500' of the premises seeking a license providing those existing in nonconformity to this requirement may continue to exist upon securing an arcade permit. Upon termination of the establishment business at such location or after a move from the premises, an arcade permit cannot be granted to such premises unless the 1,500' requirement is met.~~
 - ~~(iv) The licensee has not provided a sufficient bicycle storage area which shall be located off the public way.~~
 - ~~(v) There is not a clear observation area of the interior of the premises from the public way at all times by window/door design.~~
 - ~~(vi) There are not adequate rest rooms on the premises.~~
- ~~(b) No license shall be issued to an applicant, partner or principal officer or stockholder holding 20% or more of the capital stock of the corporation if applicant is:~~
 - ~~(i) Not of good moral character.~~
 - ~~(ii) Under 18 years of age.~~
- ~~(c) The City Clerk shall issue the license only when authorized by the Common Council.~~

- ~~(d) A partnership's license shall not be voided by the withdrawal of a partner if an original partner remains. A new license is required if a new partner joins unless he already holds a license.~~
- ~~(e) A corporation license shall become void if an unqualified person becomes a principal officer or stockholder owning 20% or more of the capital stock of the corporation.~~
- ~~(f) All changes in membership of a partnership or all changes in identity of the principal officers or stockholders owning 20% or more of the capital stock of a corporation shall be reported to the City Clerk within 10 days after they occur.~~
- ~~(g) A license granted shall bear date of issue, name of licensee and location of premises.~~
- ~~(h) Such license granted shall not be transferable to any other person, firm or corporation.~~
- ~~(i) The holder of such license shall, by written application to the City Clerk and approval by the Council, may transfer to another location for a fee of \$25.~~
- ~~(6) **Granting of a License for an Amusement Game or Device.** The City Clerk shall issue a license only when authorized by the Common Council.~~
- ~~(8) **Condition for Operation and Conduct of an Amusement Arcade**~~**Supervision and Hours of Operation.**
 - ~~(a) An individual 18 years of age or older having authority to supervise operations of the Amusement Arcade shall be on the premises at all times that it is open for business.~~The licensee shall:
 - ~~(7)~~(b) Amusement Arcades shall not be open for business from 12:30 a.m. to 9:00 a.m.
 - ~~(a) Provide 10 sq. ft. of floor area for each person on the premises at any one time if the arcade accommodates more than 100 people. If the arcade accommodates less than 100 people at any one time, 10 sq. ft. of floor area must be provided for each person on the premises. Square footage is determined by multiplying length times width and subtracting the game machine area.~~
 - ~~(b) Prohibit any card playing whatsoever on the premises.~~
 - ~~(c) Maintain the premises in a sanitary condition at all times and provide approved lighting and ventilation conditions.~~
 - ~~(d) Post in a conspicuous place the license issued and a copy of this section.~~
 - ~~(e) Prohibit anyone on the premises from gambling or making bets.~~
 - ~~(f) Prohibit anyone on the premises from having in his possession any intoxicating liquor or fermented malt beverage at any time.~~
 - ~~(g) Have a person 18 years of age or older who is in charge of the operation on the premises at all times that the establishment is open.~~
- ~~(8) **Exemption from Licensing of an Amusement Arcade.**~~
 - ~~(a) Exempt from securing a license for an amusement arcade are:~~

- ~~(i) Education, religion, charitable institutions and fraternal organizations which prohibit use of amusement games on their premises by the general public and are nonprofit organizations.~~
 - ~~(ii) Those places of business and institutions which provide amusement games for use on an occasional basis. Occasional basis means no more than 3 times per year.~~
 - ~~(b) An educational, religious, charitable institution or fraternal organization may obtain a special event or fraternal organization may obtain a special event license, once during the licensing year for a fee of \$50, which fee exempts them from any and all fees for amusement games and devices to be used by the public at such event.~~
- (9) **Police Right of Consent to Entry.** Every applicant possessing a license hereunder for an amusement arcade or an amusement game or device entity holding an Amusement Arcade License consents as a condition to holding that license to the entry of ~~the p~~Police, Fire Department, Building Inspection, or other authorized representatives of the City at all reasonable hours for the purpose of inspection.
- ~~(10) Prizes Prohibited. No money, tokens, merchandise or other thing of value as a prize or reward for any result of operation of any amusement game or device shall be offered or given to anyone who plays or engages in the play of such amusement game or device, or to anyone else.~~
- ~~(11) Confiscation. An unlicensed amusement game or device may be seized by authorized personnel. The ownership or possession of an unlicensed amusement game or device is a violation of this section.~~
- (10) Revocation or Suspension of License of Amusement Arcade License. An Amusement Arcade License may be revoked or suspended, and the operation of the Amusement Arcade shall immediately cease, for any of the following reasons. Revocation or suspension shall occur only after a due-process hearing before the Common Council.
- (a) Any violation of the provisions of this Mun. Code §8.04.
 - (b) A refusal to allow entry by City personnel pursuant to subsection (9).
 - (c) The existence of any gambling machine, as defined in Wis. Stat. §945.01(3), gambling or fraudulent devices or practices within the Amusement Arcade. Buy-backs of replays constitutes gambling.
 - (d) The presence of any Amusement Game that is illegal under Federal or State law in the Amusement Arcade.
 - (e) The existence of any illegal, indecent, or immoral activities within the Amusement Arcade.
 - (f) Any other reasons deemed to be good cause by the Common Council for the protection of the health, safety, and welfare of citizens.
 - ~~(a) The Common Council may suspend or revoke any amusement arcade license at any time for good cause and which shall be in the best interests and good order of the City provided the licensee shall be accorded due process of law.~~

Subs. (2)(a) (Am. #25-89)

Subs. (2)(b) (Am. #17-83)

Subs. (2)(b)(iii) (Am. #60-88)

Subs. (4)(b)(iii) (Cr. #17-83)

Subs. (5)(a)(ii) and (iii) (Am. #41-83)

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- (b)** Amusement Game means any machine, game, or device intended for amusement, including without limitation video games, pinball machines, foosball tables, air hockey tables, table shuffle boards, skee ball, basketball games, golf simulators, quiz games, and all other similar games and devices for recreation, pleasure, and amusement. Regardless of the foregoing, Amusement Game does not include jukeboxes, which are subject to permitting under Mun. Code §8.05; pool tables, billiards tables, or bowling alleys, which are subject to licensing under Mun. Code §8.07; or games at carnivals, festivals, or fairs, which are subject to permitting under Mun. Code §8.11.

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- (9) **Consent to Entry.** Every entity holding an Amusement Arcade License consents as a condition to holding that license to the entry of Police, Fire Department, Building Inspection, or other authorized representatives of the City at all reasonable hours for the purpose of inspection.
- (10) **Revocation or Suspension of Amusement Arcade License.** An Amusement Arcade License may be revoked or suspended, and the operation of the Amusement Arcade shall immediately cease, for any of the following reasons. Revocation or suspension shall occur only after a due-process hearing before the Common Council.
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 - (f) Any other reasons deemed to be good cause by the Common Council for the protection of the health, safety, and welfare of citizens.

History:

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