



TOWN OF FREEPORT, MAINE

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MEMO

TO: Freeport Town Council

FROM: Peter Joseph, Town Manager

DATE: 06/16/22

RE: Ordinance Chapter 44 – Pinball and Video Machine Ordinance

Over the past several months, we have been reviewing and discussing several “antiquated” ordinances contained within the Town Code of Ordinances that offer little benefit to the Town, yet are potential obstacles to business and economic development at some level within the Town. Staff feels that Ordinance Chapter 44, which essentially regulates coin-operated video game and pinball machines, is an ordinance that serves little purpose in today’s Freeport and should be considered for repeal by the Town Council.

From the 1940’s until the 1970s and even the 1980s, pinball machines were considered by many governmental entities to be morally “questionable”, and many localities prohibited or regulated them due to their occasional use as gambling devices. That perception has changed to such a degree in modern society that classic pinball machines and retro video game console arcades are now becoming desirable and sought after uses to add to a municipality’s mix of entertainment businesses.

Additionally, Ordinance Chapter 44 uses a “good moral character” test, which has been identified as a potentially discriminatory test that can be biased both racially and economically.

From a revenue standpoint, Chapter 44 could theoretically generate significant revenue for the Town by imposing licensing fees on a “per game” basis. However - there has not been any revenue from this source in the budget for at least 10 years, as there are not any active pinball or video game arcades in Freeport. It could be argued that these licensing fees are high enough where they could play a factor in dissuading a potential retro video game arcade from locating in Freeport. For example, an arcade with 50 games or consoles would pay an annual licensing fee of \$5,000 to the Town. This licensing fee does not appear to be justified by any significant cost to Town operations that would be generated by the presence of a video game or pinball arcade.

CHAPTER 44

PINBALL AND VIDEO MACHINE ORDINANCE

~~Section 44-101 License Required for Coin Operated Amusement Machines~~

~~No person, firm, corporation or association shall keep for public patronage, or allow the operation of any coin operated amusement machine in or on any premises under his, her or its charge, custody or control without first having obtained an annual license therefor from the Town Clerk upon the approval of the issuance of said license by the Municipal Officers and the payment of the applicable license fees herein set forth; which licenses shall not be transferable and shall expire on July 1st of each year. Said licenses shall be granted only to qualified applicants and premises as meet the strict requirements of this Ordinance.~~

~~Section 44-102 Definitions~~

~~1. Coin Operated Amusement Machine—As used in this Ordinance, a "coin operated amusement machine" shall include any and all of those mechanical or electronic machines, or games which upon the insertion of a coin, slug, token, plate or disc, or upon payment of a fee, may be operated by the public generally, or the members of a club or organization, for use as a game, entertainment or amusement and does not dispense any form of payoff, prize or reward except free replays; whether or not they register a score and/or can be placed in operation by a remote control.~~

~~2. Qualified Applicants—The phrase "qualified applicant" shall mean a person, firm, corporation or association of good moral character. Proof of good moral character shall include general testimony of the applicant's reputation in the community and the results of a records check by the Police Department. Such results shall be considered relevant only if they disclose a felony conviction within the last ten (10) years.~~

~~3. Qualified Premises—The phrase "qualified premises"~~

shall mean the business location where the coin-operated amusement machines are to be licensed which must comply in every respect with the local zoning ordinance, and also with the State and local Building, Plumbing, Health and Fire Safety Codes, rules and regulations, and the proposed use of the premises shall not adversely effect the proper use or property values of the other property in the area and does not create any traffic hazards in the area.

~~Section 44-103 License Application and Information Required~~

1. Every applicant for such a license or the renewal of same shall complete and file an application on a form prescribed by the Town Clerk which shall state the number of amusement machines to be licensed and pay an Application Fee of \$25.00 with said application, and upon the receipt of the license as approved and granted by the Municipal Officers, the applicant shall pay an Annual License Fee of \$100.00 for each amusement machine that is so licensed.

2. As part of said application, the applicant shall file an affidavit which will identify all the owners, officers, partners, or managers of the applicant's place of business with the places of residence at the time of the application and for the immediately preceding five (5) years, and a statement as to the nature, date, and location of any criminal convictions excluding motor vehicle violations, as to those persons, within the preceding five (5) years. Also, each of those named persons, if so requested by the Chief of Police shall file a signed release authorized by Title 16, Section 620(6), "Criminal History Record Information Act" of the Maine Revised Statutes. The submission of any false information in any application for a license or the failure of any of said persons named therein to deliver said signed release, if so requested by the Chief of Police for obtaining applicable criminal record information, shall be grounds for the denial of the application or revocation of any license previously granted.

~~Section 44-104 Investigation of Application~~

- ~~1. Upon receipt of each application with the filing fee, the Town Clerk shall forward copies of same to the Codes Enforcement Officer, the Fire Chief and the Police Chief for their investigation and they shall prepare a written report as to whether the applicant and the proposed licensed premises are qualified for the issuance of said license as per the provisions of Sections 44-102-1 and 2 of this Ordinance and the other applicable provisions of the Town's Code or Ordinance, State and Federal Laws. The said report shall be filed with the Town Clerk who shall forward copies of same along with a copy of the application and affidavit to the Municipal Officers.~~
- ~~2. The Municipal Officers by a majority vote may authorize the issuance of said license, provided that the applicant and the proposed licensed premises are found qualified for the issuance of the license under the provisions of this Ordinance. Any vote for the denial of said license must set forth the reasons for same.~~

~~Section 44-105 General Conditions~~

- ~~1. No license shall be issued if the applicant or any owner, officer, manager or partner of the applicant shall have been convicted of a crime, excluding motor vehicle violations, in this State or any other state within five (5) years immediately preceding the date of the application.~~
- ~~2. No such license shall be issued for any premises if the main entrance of said premises is located within two hundred fifty (250) feet of any school, church or residential property, unless the applicant can show to the satisfaction of the Municipal Officers that the issuance of said license will have no detrimental or adverse effects on the general welfare of the area or normal use of the property in the area.~~
- ~~3. No person under twenty (20) years of age shall be permitted to use or operate such licensed amusement machine on any premises where beer, wine, liquor is served. No person under fourteen (14) years of age shall~~

~~be permitted to use or operate such licensed amusement machine on other premises without parental consent. No school age children shall be allowed to play such machines during regular school hours. It shall be the responsibility of the licensee and persons in charge of the management of the licensed premises to ensure compliance with the provisions of this section and the failure to do so shall be grounds for the revocation of said license.~~

~~4. Any such license shall not be transferable among owners or to different locations and shall be conspicuously posted on the licensed premises showing the number of duly licensed machines.~~

~~**Section 44-106 Suspension or Revocation of Licenses**~~

~~Any license granted under the provisions of this Ordinance may be suspended or revoked by the Municipal Officers for either a violation of, or failure to comply with, any of the provisions of this Ordinance. The determination as to the severity of the violation and whether a license suspension or revocation is warranted shall be made by the Municipal Officers, after due notice to the licensee and a Public Hearing relative thereto.~~