

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE, TEXAS AMENDING THE ORANGE CODE OF ORDINANCES, CHAPTER 4 "BUSINESS AND COMMERCE" ARTICLE 4.1700 "GAME ROOMS" IN ITS ENTIRETY BY PROHIBITING AMUSEMENT REDEMPTION MACHINES AND GAME ROOMS WITHIN THE CITY OF ORANGE; REPEALING ALL ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; PROVIDING AN EFFECTIVE DATE; AND OTHER MATTERS

WHEREAS, the City Council previously adopted Ordinance 2023-17 providing for the regulation of amusement redemption machines and game rooms in the City of Orange, and

WHEREAS, in *City of Fort Worth v. Rylie*, 563 S.W.3d 346, 352 (Tex. App. 2018), *rev'd*, 602 S.W.3d 459 (Tex. 2020), the Second Court of Appeals found that electronic gaming machines, amusement redemption machines that includes games that are more commonly referred to as "eight-liners", were unconstitutional because they are illegal lotteries as they require consideration for a chance to win a prize, and that city ordinances regulating such machines were not preempted by the Texas Occupation Code; and,

WHEREAS, The Texas Supreme Court declined to hear an appeal of the case cited above, and

WHEREAS, game rooms that operate amusement redemption machines, such as but not limited to eight liners, can have a deleterious effect on both the existing business around them and the surrounding residential areas adjacent to them, causing increased crime, such as gambling, theft, criminal trespass, criminal mischief, and burglary; and

WHEREAS, game rooms that operate amusement redemption machines have objectionable operational characteristics contributing to urban blight and downgrading the quality of life in the adjacent area; and

WHEREAS, the City Council desires to minimize these adverse effects and thereby protect the health, safety, and welfare of the citizenry; protect citizens from increased crime; preserve the quality of life; preserve property values and character of surrounding neighborhoods and deter the spread of urban blight; and

WHEREAS, the City Council believes that amusement redemption machines including but not limited to eight-liner machines and game rooms are detrimental to the health, safety and welfare of the citizens of Orange; and

WHEREAS, the City Council finds that banning game rooms and amusement redemption machines carries out the goals and is consistent with the master plan; and

WHEREAS, the City Council finds that banning game rooms and amusement redemption machines from the City of Orange is beneficial to the health and general welfare of the city; now, therefore

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGE, TEXAS

Section 1. the Orange Code of Ordinances Article 4.1700 "Game Rooms" is hereby amended in its entirety to read as provided in Exhibit "A" to this ordinance.

Section 2. Exhibit "A" attached to this ordinance is hereby incorporated into this ordinance as though written verbatim into the ordinance.

Section 3. It is expressly ordained that if any section, or subsection clause, sentence or paragraph of this ordinance, including the attached exhibits, shall be found to be illegal, invalid or void by any court of competent jurisdiction, then such findings shall not affect the remaining portions of this ordinance, but the same shall be valid and in effect, it being the expressed intention of the City Council of the City of Orange, Texas, to pass each and every sentence, clause, paragraph, section or exhibit individually.

Section 4. That all Ordinances that are in conflict with the provisions of this Ordinance be repealed to the extent of such conflict and all other Ordinances of the City not in conflict with the provisions of this Ordinance shall remain in full force and effect.

Section 5. That, any person who violates any provision of this Ordinance shall be deemed guilty of a misdemeanor and upon conviction shall be fined in an amount not to exceed the maximum amount allowed by the City of Orange Code of Ordinances Chapter 1 "General Provisions" Section 1.106 "General Penalty for Code Violations" of the City of Orange Code of Ordinances. In addition, the City may pursue other legal remedies as provided for in Exhibit "A" to this ordinance.

Section 6. After this ordinance is approved upon second and final reading and publication as required by State law and the City Charter.

PASSED AND APPROVED on first reading this the 14th day of October, 2025.

PASSED, APPROVED AND ADOPTED on final reading this the 28th day of October, 2025.



Larry Spears Jr., Mayor

ATTEST:



Patricia Anderson, City Secretary

APPROVED AS TO FORM:



, City Attorney

EXHIBIT "A"

ARTICLE 4.1700-CERTAIN AMUSEMENT REDEMPTION MACHINES AND GAME ROOMS PROHIBITED

Sec. 4.1701- Definitions

- (a) The following words, terms, and phrases when used in this section, shall have the meaning ascribed to them in this section, exception where the context clearly indicates different meaning:

Amusement Redemption Machine. Any electronic, electromechanical or mechanical contrivance, including sweepstakes machines, designed, made, and adopted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill and chance affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys or novelties, or a representation of a value redeemable for those items and is in compliance with Tex. Penal Code §47.01(4)(b).

Amusement Redemption Machine does not include:

- 1) A machine that awards the user non-cash merchandise prizes, toys or novelties solely and directly from the machine, including claw, crane or similar machines; or
- 2) A machine from which the opportunity to receive non-cash merchandise prizes, toys or novelties, or a representation of value redeemable for those items, varies depending on the user's ability to throw, roll, flip, toss, hit or drop a ball or other physical objects into the machine or a part thereof, including basketball, golf, bowling or similar machines. A representation of value means cash paid under authority of sweepstakes contestants as provided by the Tex. Business and Commerce Code §43, or a gift certificate or gift card that is presented to a merchant in exchange for merchandise.

City Official. A police officer, code enforcement officer, fire marshal or building official of the City of Orange.

Gambling Device. Any electronic, electromechanical, or mechanical contrivance that for a consideration affords the play an opportunity to obtain anything of value, the award of which is determined solely or partially by change, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, of facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits.

Game room. A building, facility or other place where amusement redemption machines or gambling devices are present.

Sec. 4.1702-Restrictions, Regulations, Controls and Limitations

- (a) It shall be an offense for any person, firm, or corporation to maintain, display for patronage or otherwise keep for operation by the patrons any amusement redemption machine or gambling device.
- (b) No person, firm, or corporation shall operate a game room within the city limits, nor shall game rooms be permitted in any zoning district.
- (c) Nothing contained herein shall be construed or have the effect to license, permit, authorize or legalize any existing or future machine, device, table, amusement redemption machine, gambling device or gaming machine, the keeping, exhibition, operation, display or maintenance of which is illegal or in violation of any ordinance of the city, any section of the penal code of this state, or the constitution of this state.

Sec. 4.1703-Enforcement

- (a) In addition to prohibiting certain conduct by individuals, it is the intent of this section to hold a corporation or association criminally responsible for prohibited conduct performed by an agent acting on behalf of a corporation or association and within the scope of the agent's office or employment.
- (b) The City of Orange Municipal Court Judge shall have the power to issue to the city official or their designee search warrants, or other process allowed by law, where necessary to aid in enforcing this section.
- (c) A person who violates any provision of this section is guilty of a separate offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine in accordance with applicable law.
- (d) This section may be enforced by civil court action as provided by state and federal law.
- (e) In addition to the criminal offense and penalties prescribed in this section, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits. Any person found guilty of violating the provisions of this section shall become liable to the city for any expense, loss, or damage incurred by the city by reason of remediating such violation.

MEMORANDUM

To: Michael Kunst, City Manager

From: Kelvin Knauf, Director of Planning and Community Development

Subject: Consider and possible action on an ordinance amending the Orange Code of Ordinances, Chapter 4 "Business and Commerce" Article 4.1700 "Game Rooms" in its entirety by prohibiting amusement redemption machines and game rooms within the City of Orange

Date: October 16, 2025

Recently, the Second Court of Appeals in Fort Worth in *City of Fort Worth v. Rylie* found that electronic gaming machines such as "eight liners" were unconstitutional because they are illegal lotteries as they require consideration for a chance to win a prize. The Second Court of Appeals also ruled that city ordinances regulating such machines were not preempted by the Texas Occupation Code. The Texas Supreme Court declined to hear an appeal of the Second Court of Appeals decision so therefore the Second Court of Appeals decision stands.

On October 24, 2023 the City Council adopted an ordinance providing for the regulation and permitting of game rooms and amusement redemption machines in the city. This ordinance was codified as Article 4.1700 "Game Rooms". Because of the Second Court of Appeals decision in the Fort Worth case, it is necessary to amend Article 4.1700 to prohibit game rooms and amusement redemption machines including eight-liners.

Attached for your consideration is a proposed ordinance that amends Article 4.1700 in its entirety by prohibiting game rooms and amusement redemption machines, including eight-liners, in the City of Orange. This prohibition applies to all establishments in the City of Orange including but not limited to private businesses and non-profit organizations.

This ordinance was approved on first reading on October 14, 2025.