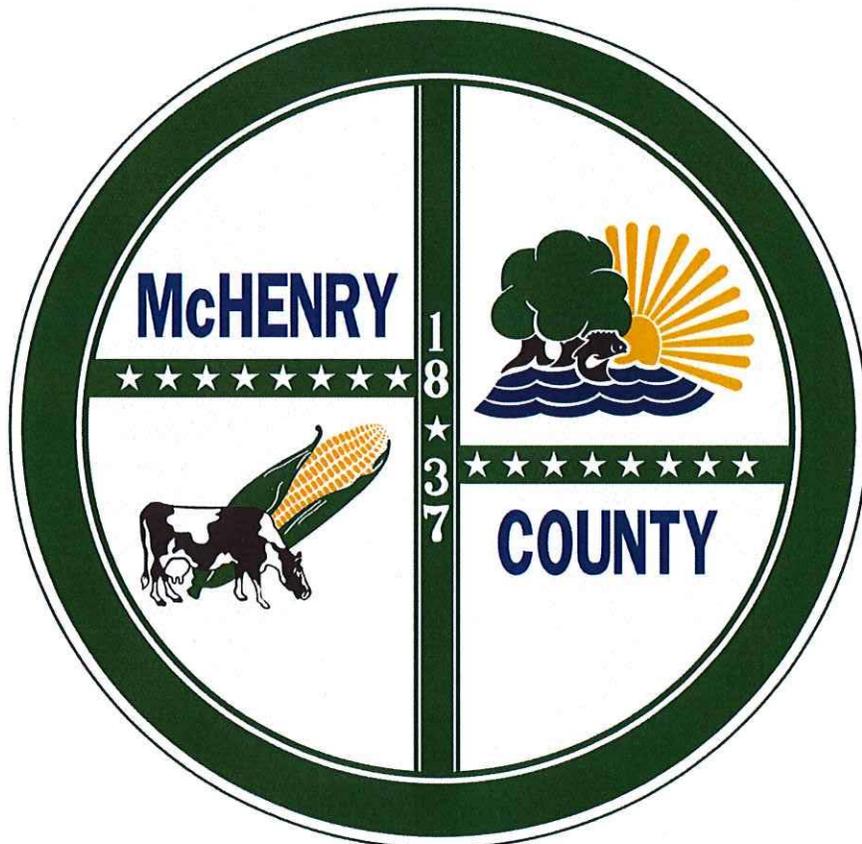


**Ordinance to License, Regulate  
and Control Coin-Operated  
Entertainment, Amusement and  
Recreation Devices in McHenry  
County, Illinois**

**March 19, 2019**



# ORDINANCE

## ORDINANCE AMENDING THE ORDINANCE TO LICENSE, REGULATE AND CONTROL COIN-OPERATED ENTERTAINMENT, AMUSEMENT AND RECREATION DEVICES IN MCHENRY COUNTY, ILLINOIS NO. O-9603-1200-32

**WHEREAS**, the Law & Government/Liquor Committee of the County Board has determined that changes in the Ordinance to License, Regulate and Control Coin-Operated Entertainment, Amusement and Recreation Devices in McHenry County, Illinois are necessary; and

**WHEREAS**, the attached amendments have been approved by the Law & Government/Liquor Committee of the County Board, and reviewed by the State's Attorney's Office.

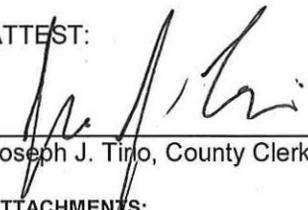
**NOW, THEREFORE BE IT ORDAINED**, by this County Board of McHenry County, Illinois hereby amends the attached Ordinance to License, Regulate and Control Coin-Operated Entertainment, Amusement and Recreation Devices in McHenry County, Illinois; and

**BE IT FURTHER ORDAINED**, that these changes shall be effective immediately upon adoption by the McHenry County Board; and

**BE IT FURTHER ORDAINED**, that the County Clerk is hereby authorized to distribute a certified copy of this Ordinance to the County Administrator, the McHenry County Liquor Commissioner and the Law & Government/Liquor Committee.

**DATED** at Woodstock, Illinois, this 19th day of March, A.D., 2019.

  
\_\_\_\_\_  
Jack D. Franks, Chairman  
McHenry County Board

ATTEST:  
  
\_\_\_\_\_  
Joseph J. Tino, County Clerk

- ATTACHMENTS:**
- Coin-Operated and Amusement License Ordinance 3-19-19 (PDF)

STATE OF ILLINOIS        )  
                                  ) SS  
COUNTY OF MCHENRY     )

17.2.C

I, Joseph J Tirio, County Clerk within and for said County and State aforesaid, do hereby certify the attached to be a true and complete copy of Ordinance O-201903-12-24; Amending the Ordinance to License, Regulate and Control Coin-Operated Entertainment, Amusement and Recreation Devices in McHenry County, Illinois No. O-9603-1200-32.

WHEREOF I have hereunto subscribed my hand and affixed the official seal of said County, at my office in Woodstock, Illinois this 20<sup>th</sup> day of March, 2019.



McHenry County Clerk

McHenry County, IL Code of Ordinances
TITLE 5: BUSINESS LICENSES AND REGULATIONS
CHAPTER 5.04: COIN-OPERATED ENTERTAINMENT, AMUSEMENT AND RECREATION DEVICES

**CHAPTER 5.04: COIN-OPERATED ENTERTAINMENT,  
AMUSEMENT AND RECREATION DEVICES**

Section

- 5.04.010 Intent
- 5.04.020 Imposition and amount of fee
- 5.04.030 Application
- 5.04.040 License period
- 5.04.050 Violations and penalties
- 5.04.060 Seizure of devices
- 5.04.070 Confiscation and forfeiture—Hearing—Sale
- 5.04.080 Review under Administrative Review Act
- 5.04.090 Partial invalidity
- 5.04.100 Effective date

**§ 5.04.010 INTENT.**

Any person, firm, partnership or corporation engaged in the business of leasing, renting or contracting for the use or display of any coin-in-slot devices to be used or operated by the public within the jurisdiction of McHenry County for entertainment or recreation purposes shall, before entering any lease, retail agreement or contract agreement with the owner or lessee of any premises, obtain a license from the County of McHenry for the purpose of engaging in the business of leasing, renting or contracting for the use of any such devices. Or, any person, firm, partnership or corporation owning any of the coin- in-slot devices and also engaged in any business whereby these internally owned devices are to be used or operated by the public within the jurisdiction of the County for entertainment, amusement, or recreation purposes shall obtain a license for the purpose of so displaying such devices for use or operation by the public.

(Ord. O-9603-1200-32, § I, passed 3-21-1996)

**§ 5.04.020 IMPOSITION AND AMOUNT OF FEE.**

A. There hereby is imposed on the privilege of operating every coin-in-slot device in the County of McHenry, Illinois, outside the corporate limits of any city, village or incorporated town, which return to the player thereof no money or property or right to receive money or property, a privilege fee for each coin-receiving slot device, as follows:

1. for each (1) year License Period, a fee of (\$75.00) Seventy-Five and No/100 Dollars, from May 1 through April 30 of the following year.
2. for each (6) six month License Period, a fee of (\$37.50) Thirty-Seven and 50/100 Dollars, after October 30th of any year to April 30th of the following year.

B. In addition, a one-time, non-refundable application fee of (\$100.00) One Hundred and No/100 Dollars shall be levied for each new application.

Attachment: Coin-Operated and Amusement License Ordinance 3-19-19 (7471 : 18 - Amending Coin Operated Entertainment and Amusement

C. An exception to these fees may be determined by good cause shown and accepted by the Liquor Commissioner, who is the Chairman of the McHenry County Board.

(Ord. O-9603-1200-32, § II, passed 3-21-1996)

**§ 5.04.030 APPLICATION.**

A. Application shall be made to the Liquor Commissioner of McHenry County (the "Commissioner") of the McHenry County Board in a form prescribed by the Commissioner. It shall set forth the description of the devices for which said application is made, the name of the applicant, including the full names of all partners (if the applicant is a partnership) and the full names of all officers, directors and stockholders owning (5%) five percent or more of the corporate stocks (if applicant is a corporation), together with such relevant data, including inspection of individual, partnership, or corporate records as the McHenry County Board may require, and said application shall be signed and sworn to by all such applicants. Such application shall be accompanied by the required application fee which shall be paid to the Treasurer of McHenry County and deposited into the General Corporate Fund of McHenry County.

B. No license shall be issued hereunder to any person who has been convicted of a felony under the laws of the United States, the State of Illinois, or of any other state; or who has been convicted of, plead guilty to, or been found guilty of any crime opposed to decency or morality; or who, in the judgment of the Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee, upon good showing, is deemed to be not of good moral character, and this shall apply to any members of any partnership, or any officer, director, or stockholder (holding 5% or more of said stock) of any corporation, when such license application is made by said partnership or corporation, EXCEPT: the Commissioner or the Law & Government/ Liquor Committee shall not require applicants to report the following information and shall not consider the following criminal history records in connection with an application for a license:

1. Juvenile adjudications of delinquent minors as defined in Section 5-105 of the Juvenile Court Act of 1987, subject to the restrictions set forth in Section 5-130 of the Juvenile Court Act of 1987.
2. Law enforcement records, court records, and conviction records of an individual who was 17 years old at the time of the offense and before January 1, 2014, unless the nature of the offense required the individual to be tried as an adult.
3. Records of arrest not followed by a conviction.
4. Convictions overturned by a higher court.
5. Convictions or arrest that have been sealed or expunged.

The Commissioner, upon a finding that an applicant for a license was convicted of a felony shall consider any evidence of rehabilitation and mitigating factors contained in the applicant's record, including any of the following factors and evidence, to determine if the conviction will impair the ability of the applicant to engage in the position for which a license is sought:

1. the lack of direct relation of the offense for which the applicant was previously convicted to the duties, functions and responsibilities of the position for which a license is sought;
2. whether five (5) years since a felony conviction or three (3) years since release from confinement for the conviction, whichever is later, have passed without a subsequent conviction;
3. if the applicant was previously licensed or employed in this State or other states or jurisdictions, then the lack of prior misconduct arising from or related to the licensed position or position of employment;
4. the age of the person at the time of the criminal offense;

5. successful completion of sentence and, for applicants serving a term of parole or probation, a progress report provided by the applicant's probation or parole officer that documents the applicant's compliance with conditions of supervision;

6. evidence of the applicant's present fitness and professional character;

7. evidence of rehabilitation or rehabilitative effort during or after incarceration, or during or after a term of supervision, including, but not limited to, a certificate of good conduct under Section 5-5.5-10 of the Unified Code of Corrections; and

8. any other mitigating factors that contribute to the person's potential and current ability to perform the duties and responsibilities of the position for which a license or employment is sought.

C. Further, no license required under this Ordinance shall be issued to any person, firm, partnership or corporation or partner, officer, director, or stockholder (holding 5% or more of said stock) whose license has previously been revoked in accordance with the provisions of § 5.04.050 of this Ordinance.

D. The Commissioner, and the Law & Government/Liquor Committee of the McHenry County Board in relation to an application submitted by the Commissioner to the Committee for review and recommendation, shall have the authority to subpoena witnesses, records and other evidence, question the applicant and other witnesses that they may require, under oath, touching upon any matter relevant to the issuance of such license.

E. If the application is approved and the individual device fee is paid, the Commissioner shall supply a license stating the name of the licensee and the year for which issued. The McHenry County Board will also issue a numbered license tag for each device licensed. This tag will be securely affixed to the device in a prominent place in plain view for inspection at all times.

F. Every device licensed hereunder shall prominently display the name(s) of the distributor and owner. A license issued hereunder shall be exhibited at all times. A current license tag evidencing issuance of license shall be prominently exhibited on each device at all times. The Liquor Commissioner of the County of McHenry and/or his authorized agents, the Law & Government/Liquor Committee of McHenry County Board and/or its duly authorized agents, or the Sheriff of McHenry County and/or his duly authorized deputies, reserve the right to inspect the devices for which a license is issued without notice to licensee or operator of said device.

G. It is a violation of Illinois State law (Gambling and Related Offenses at 720 ILCS 5/28-1 *et seq.*) to play a game of chance or skill as licensed herein for money or other thing of value. Such violations are a Class A Misdemeanor.

H. A "crane game" is not a gambling device if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to toys, novelties and prizes other than currency, each having a wholesale value which is not more than seven (7) times the cost charged to play the amusement device once or \$5, whichever is less. (720 ILCS 5/28-21)

(Ord. O-9603-1200-32, § III, passed 3-21-1996)

**§ 5.04.040 LICENSE PERIOD.**

The License Period for all licenses issued hereunder shall be for (1) one year, from May 1 to April 30 of each year; except that the License Period for any license issued after November 1 of any year shall be for (6) six months, but shall only extend until the next April 30 date.

(Ord. O-9603-1200-32, § IV, passed 3-21-1996)

**§ 5.04.050 VIOLATIONS AND PENALTIES.**

Attachment: Coin-Operated and Amusement License Ordinance 3-19-19 (7471 : 18 - Amending Coin Operated Entertainment and Amusement

A. 1. Any licensee, person, firm, partnership or corporation convicted of violating any of the provisions of this Ordinance on any two (2) occasions which are separated by a period of not less than thirty (3) days shall have its license revoked if, upon hearing by the Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee, there is a finding that said violations did occur. In such event the license shall be revoked forthwith, and in addition the licensee or any person, partnership, corporation or other entity shall be ineligible to be licensed in the following license year.

2. Thereafter, any licensee, person, firm, partnership, or corporation convicted of a third violation of the provisions of this Ordinance, occurring at any time, if upon hearing by the Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee, there is a finding that said violations did occur, then no such licensee, person, firm, partnership, or corporation required to be licensed under the provisions of this Ordinance shall be granted a license under the provisions of this Ordinance, and any license issued to such licensee shall be revoked.

3. For the purposes of § 5.04.050A., any and all violations occurring in a single thirty (30) day period shall be considered a single violation.

B. Any person or persons, firm, club, association, partnership or corporation violating any of the provisions of this Ordinance shall, upon conviction, be punished by a fine of not more than \$500.00. Each day that the said violations exist shall be considered a separate offense.

C. Any person or persons, firm, club, association, partnership, or corporation who shall use or operate any device which is required to be licensed under this Ordinance for other than entertainment, amusement, or recreation purposes, or permits the display or operation of such device upon their premises contrary to the provisions of this Ordinance, shall, upon conviction, be punished by a fine of not more than \$500.00. Each day that said violation exists shall be considered a separate offense.

D. Any person or persons, firm, club, association, partnership or corporation who shall knowingly file a false application or knowingly provide false information on the application required by this Ordinance shall, upon conviction, be punished by a fine of not more than \$500.00.

(Ord. O-9603-1200-32, § V, passed 3-21-1996)

**§ 5.04.060 SEIZURE OF DEVICES.**

Any duly authorized employee of the Sheriff may, without a search warrant, seize any coin-in-slot operated amusement device which is being displayed in his presence in a manner that violates any provision of this act. Such amusement device so seized shall be subject to confiscation and forfeiture as hereinafter provided.

(Ord. O-9603-1200-32, § VI, passed 3-21-1996)

**§ 5.04.070 CONFISCATION AND FORFEITURE—HEARING—SALE.**

A. After seizing any coin-in-slot operated amusement device, as provided in § 5.04.060 of this Ordinance, the Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee of the McHenry County Board shall hold a hearing in McHenry County and shall determine whether such amusement device was being displayed in a manner which violates any provision of this Ordinance.

B. The Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee, shall give not less than (7) seven days' notice of the time and place of such hearing to the owner of such amusement device if he is known, and also to the person in whose possession the amusement device so taken was found, if such person is known and if such person in possession is not the owner of said amusement device.

C. In case neither the owner nor the person in possession of such amusement device is known, the Commissioner, or in the Commissioner's discretion, the Law & Government/Liquor Committee, shall cause publication of the time and place of such hearing to be made at least once in each week for (3) three weeks successively in a newspaper of general circulation in McHenry County.

D. If, as the result of such hearing, the Commissioner or in the Commissioner's discretion, the Law & Government/Liquor Committee shall determine that the amusement device seized was, at the time of seizure, being displayed in a manner in violation of this Ordinance, the Commissioner or Committee shall enter an order declaring such amusement device confiscated and forfeited to the County, and to be sold by the Commissioner in the manner provided hereinafter in this Section. The Commissioner or in the Commissioner's discretion, the Law & Government/Liquor Committee shall give notice of such order to the owner of such amusement device if he is known, and also to the person in whose possession the amusement device so taken was found, if such person is known and if such person in possession is not the owner of such amusement device. In case neither the owner nor the person in possession of such amusement device is known, the Commissioner or in the Commissioner's discretion, the Law & Government/Liquor Committee shall cause publication of such order to be made at least once each week for (3) three weeks successively in a newspaper of general circulation in McHenry County.

E. The person from whom such amusement device has been seized (or the owner of such device if that is a different person) may redeem and reclaim said device within (30) thirty days after the Commissioner's, or in the Commissioner's discretion, the Law & Government/Liquor Committee's order of confiscation and forfeiture becomes final by payment of an amount equal to twice the annual fee applicable to such amusement device, plus a penalty of (10%) ten percent, plus costs of seizure and transportation costs, if any.

F. When any amusement device shall have been declared forfeited to the County by the Commissioner or the Committee, as provided in this Section, and when all proceedings for the judicial review of the Commissioner's or the Committee's decision have terminated, the Commissioner shall (if such amusement device is not redeemed and reclaimed within the time and in the manner provided for in this Section), to the extent that its decision is sustained on review, sell such amusement device for the best price obtainable and shall forthwith pay over the proceeds of such sale to the County Treasurer, provided, however, that if the value of the property sold at any one time shall be \$500.00 or more, such property shall be sold only to the highest and best bidder on such terms and conditions and on open competitive bidding after public advertisement, in such manner and for such terms as the Commissioner by rule, may prescribe.

(Ord. O-9603-1200-32, § VII, passed 3-21-1996)

**§ 5.04.080 REVIEW UNDER ADMINISTRATIVE REVIEW ACT.**

All final administrative decisions of the Commissioner and/or the Law & Government/Liquor Committee under any provisions of this Ordinance shall be subject to judicial review pursuant to the provisions of the "Administrative Review Act" of the State of Illinois, approved May 8, 1945 and any amendment and modification thereof, and the rules adopted relative thereto.

(Ord. O-9603-1200-32, § VIII, passed 3-21-1996)

**§ 5.04.090 PARTIAL INVALIDITY.**

If a court of competent jurisdiction shall adjudge to be invalid or unconstitutional any clause, sentence, paragraph or part of this Ordinance, such judgment or decree shall not affect, impair, invalidate or nullify the remainder of this Ordinance, but the effect thereof shall be confined to the clause, sentence, paragraph or part of this Ordinance so adjudged to be invalid or unconstitutional.

(Ord. O-9603-1200-32, § IX, passed 3-21-1996)

**§ 5.04.100 EFFECTIVE DATE.**

This Ordinance shall take effect from and after its passage, approval, publication and adoption, according to law and supersedes any previous Ordinance in conflict with this Ordinance.

(Ord. O-9603-1200-32, § X, passed 3-21-1996)

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