

ORDINANCE NO. 294

AN ORDINANCE TO AMEND THE CODE OF THE CITY OF BESSEMER BY ADDING A NEW CHAPTER, WHICH CHAPTER SHALL BE DESIGNATED AS CHAPTER 78 OF TITLE VII OF SAID CODE:

THE CITY OF BESSEMER HEREBY ORDAINS:

An ordinance to provide for the regulation, licensing and operation of amusement centers in the City of Bessemer, County of Gogebic, State of Michigan, and to provide penalties for any and all violations of this Ordinance, it has been recognized that amusement centers, as defined herein, due to their very nature, have an inordinate attraction to school aged youth, and that, unless appropriate regulations are imposed, such attraction will jeopardize school attendance and have a deleterious effect in relation to youth related concerns; and, the City Council has and does hereby determine it to be necessary to adopt an ordinance to provide regulations and restrictions that provide for the orderly licensing and operation of amusement centers within the City of Bessemer; and therefore, the following Chapter 78 of City Code is enacted as follows:

7.131 Short Title: This Ordinance shall be known and may be cited and referred to as the City of Bessemer Ordinance to Regulate Amusement Centers and shall hereinafter be referred to as "this Ordinance".

7.132 Definitions: For purposes of construction and application of this Ordinance, the following definitions shall apply:

(a) "Accessory amusement area" shall mean the accessory use of a portion or portions of an establishment situated in a permanent, fully enclosed building for three or more coin operated amusement devices, where such use is incidental to a principal use of an establishment which is a commercial recreation use, or a use in connection with which minors are not permitted on the premises unless accompanied by a parent or guardian.

(b) "Amusement center" or "arcade" shall mean any establishment situated in a permanent, fully enclosed building with three or more coin operated amusement devices, as defined herein, unless such establishment constitutes an "accessory amusement area" as defined herein.

(c) "Coin operated amusement device" shall mean any amusement machine or device whether mechanically, electrically, hydraulically, pneumatically or otherwise activated or operated by means of the insertion of a coin, token or similar object involving

amusement and/or competition with or between one or more person and the device or between two or more persons. This definition shall also include all devices and machines which may, by mechanical adjustment, be set in motion or operated by any means other than the insertion of a coin, etc., where a fee is otherwise charged. This term does not include vending machines in which there are not incorporated gaming, amusement or competitive features and/or such devices for young children such as merry-go-rounds and horse rides. Further, this definition does not include the machines designed solely for the purpose of playing music.

(d) "Council" as used herein shall mean and refer to the Bessemer City Council.

(e) "Person" shall mean any one or more natural human beings, corporations, partnerships, ventures and/or other entities to which the law attributes rights and liabilities, or any combination thereof.

7.133 License Requirement: No person shall operate or maintain an amusement center without having first secured a license for such use from the council in accordance with the provisions of this Ordinance.

No person shall operate or maintain an accessory amusement area without having first secured a license for such use from the City Council in accordance with the provisions of this Ordinance.

7.134 Procedure for Obtaining License: All applications for a license under the provisions of this Ordinance shall be in writing, duly verified by the applicant, on a form furnished by the City Clerk, and shall be filed with the City Clerk, and accompanied by the annual license fee plus the annual fee per device within the center or area. The initial annual fee shall be utilized for processing the application and shall not be refundable, however, the per machine charge shall be returnable to the applicant if the application is not approved. The amount of all fees shall be established by the Council by resolution.

(1) All applications for a license under this Ordinance shall provide the following information:

(a) The names in full, dates of birth, current addresses, motor vehicle operators license numbers and type of legal interest of all persons having an ownership or possessory interest in the amusement center or area, as well as the names and addresses of all lessors of equipment or fixtures.

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(b) A site, building and procedural operation plan.

(c) The business address, legal description and telephone number of the amusement center or area to be licensed.

(d) The serial number, type and location of the amusement device to be installed on the premises and any other devices regulated hereunder.

(2) The Council shall, upon receipt of the application, request the following:

(a) A written report from the Bessemer Fire Chief that the location or proposed location of the amusement center or area, and devices therein, shall not create a fire hazard, and that all fire prevention regulations are being satisfied.

(b) A written report from the City Building Inspector that all electrical, pneumatic and hydraulic connections to each device shall comply with the building code, and that all building and zoning regulations have been satisfied.

(c) A written report to the Council from the Gogebic County Sheriff's Department, or designated agent, specifying whether any of such persons have been convicted of a felony or other crime involving moral turpitude. In addition, the Gogebic County Sheriff's Department, or designated agent, will be requested to express an opinion regarding any unsafe or hazardous conditions that exist in the proposed amusement center area, or that might exist due to the proposed amusement center being established in the area.

(3) All applications for license under this Ordinance, together with the reports received shall be presented to the City Council at a regular or special meeting called for the purpose of considering such application. The Council may, if it deems advisable, adjourn the hearings on any application for the purpose of holding public hearings, or securing additional information regarding the application.

(4) In the event that any of the reports received and/or a review of the application, including the site, building and procedural operation plan, establish that unsatisfactory conditions endangering the public health, safety and welfare exist, or will be created, the Council shall refuse to issue the license to the applicant and state the reason or reasons thereof. The applicant may request a hearing on such denial. The Council shall have the authority to issue conditional or probationary licenses for specified reasons. The failure to provide any and all of the required information for the license shall constitute sufficient reason to

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refuse issuance of the license, or to issue a conditional or probationary license.

(5) In the event the application and subsequent reports reflect that the application should be approved, and that issuance of the license would not be detrimental to the public health, safety and welfare of the citizens of the City of Bessemer, the Council shall grant the license.

(6) A license year shall be determined pursuant to Section 7.5 of the City Code.

7.135 Inspection: Any establishment licensed pursuant to the provisions of this Ordinance shall be open to inspection at any reasonable time by any law enforcement officer of the State, County or of the municipality, and/or by the Building Inspector, or his designate.

7.136 Prohibitions and Restrictions: Amusement Centers: The following prohibitions and restrictions as to amusement centers shall apply:

(a) The permissible hours for an amusement center shall be during the hours of 9 a.m. and 10 p.m., Monday through Saturday, and between the hours of 12 o'clock noon and 10 p.m. on Sunday, provided, however, that no amusement center shall be open or in operation during any time when any Bessemer School is in session, grades K through 12, except during normal lunch hours. Provided further, all hours will comply with local curfew regulation.

(b) It shall be unlawful to transfer any license from the designated licensee to any other person of premises.

(c) No intoxicating liquors shall be either consumed or sold, or possessed on the premises, or persons under the influence of intoxicating liquors permitted to frequent, be in, or remain on the premises.

(d) No drugs, narcotics, marijuana or controlled substances defined by State law shall be sold, used or found on the premises or on the person of any one on the premises. No person under the influence of drugs, narcotics, marijuana or controlled substances shall be permitted to frequent, be in, or remain on the premises, and all owners, licensees and their agents shall have a duty to diligently pursue enforcement of this requirement.

(e) No gambling in any form shall be permitted on the premises.

(f) No amusement center shall be open for business unless the licensee shall have one or more agents on the premises

who are twenty-five (25) years of age, or older in the ratio of one such person to each twenty (20) patrons. Accordingly, in the event only one such person is on the premises, no more than twenty (20) patrons shall be permitted at a time, etc.

(g) The amusement center or recreation hall shall not be conducted in a manner generally reputed in the immediate vicinity thereof as being immoral and a detriment or menace to the morals and good citizenship of the community or be frequently or habitually occupied by persons of low repute.

(h) No indecent, immoral or profane language, or indecent, immoral or disorderly conduct shall be allowed on the premises nor shall the same be allowed to become a resort nor shall disorderly persons, or any disorderly conduct, as defined in Chapter 114 of the City Code be allowed to be conducted upon the premises.

(i) The amusement center or recreation hall shall not be neglected in the management or control of the premises which result in the premises becoming a nuisance to the surrounding environs.

7.137 Prohibitions and Restrictions - Accessory Amusement Areas:

(1) Coin operated amusement devices shall not be operated at any time the principal use is not open for the business.

(2) All prohibitions and restrictions set forth in 7.136 shall apply to accessory amusement areas, excepting paragraph one and, provided that this Section shall not be deemed to prohibit the sale or consumption of intoxicating liquors in such areas as are authorized by license issued by the state of Michigan.

7.138 Density of Devices: The maximum number of coin operated amusement devices permitted on any premises shall be computed as follows:

(a) For amusement centers and accessory amusement areas, for each coin operated amusement device, there shall be a minimum of twenty square feet of vacant floor space.

(b) For accessory amusement areas (only), there shall be no more than one device per 500 square feet of floor space open to regular public use on the total premises, up to a maximum of ten devices.

(c) The Council may, on recommendation of the Fire Department and Police Department, and for good cause shown, modify the above requirements.

7.139 Twenty-Four Special Permits: An application for a 24-hour permit may be presented to the Clerk, together with an application fee plus the fee per proposed device for the use as established in the City of Bessemer Fee Schedule. The content and processing of the application shall be governed by the applicable sections for

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licensure, above, except that a license shall be effective for a maximum period of 24 hours, and shall be granted under exceptional circumstances only, such as incidental to an outdoor assembly. In the event a permit is granted, the Council shall establish the terms and conditions of operation, taking into particular consideration promotion of the interests of the interests of school aged youth.

7.140 License Renewal and Annual Report: Prior to the first day of January of each year, the Council may renew the license for another year upon receipt of an application for such renewal, which application shall set forth any changes in devices and/or operation on the premises, and the payment of an annual license and device fee, as set forth above.

7.141 Revocation and Suspension of License: Any license issued hereunder may be revoked or suspended by the Council for any violation by the licensee of the laws of the State or the ordinances of the City, or provisions of this Ordinance.

Upon receiving information of any violation, the Council shall fix a date for hearing thereon, and the Clerk shall give the licensee written notice thereof at least five days in advance of the hearing date. Notice of the hearing may be made by personal service or, in lieu of personal service, by certified mail, and the licensed premises shall be posted with the notice of hearing.

Upon the date of hearing, or any adjourned date thereof, the Council shall hear the evidence produced concerning the alleged violations, and if the evidence produced concerning the alleged violations, and if the evidence produced at the hearing is sufficient to support a finding by the Council that the licensed premises is being conducted in a manner contrary to the laws of the State of Michigan, ordinances of the City of Bessemer, including this Ordinance, the Council shall suspend or revoke the license for a period of time, or permanently, in the Council's discretion.

7.142 Penalties:

(1) Any person who shall violate any of the terms of this Ordinance shall, upon conviction in a court of competent jurisdiction, be subject to a fine of not more than Five Hundred (\$500) Dollars, plus costs of prosecution, or to be imprisoned for a period of not more than ninety (90) days.

(2) Each business day the coin operated amusement center is open contrary to any provision or ordinance shall be adjudicated as a

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separate and distinct violation, and each such violation shall be triable and punishable separately. A "business day" is defined as the period commencing with the opening for business and concluding with the next following closing of business.

(3) In addition to the above, the City may seek a restraining order prohibiting the operation of any establishment in violation hereof.

7.143 Repeal: All other ordinances inconsistent with the provisions of this Ordinance are, to the extent of such inconsistency, hereby repealed, provided, all terms and/or provisions of the Zoning Ordinance of the City of Bessemer, as amended, establishing stricter standards shall prevail


7.144 Severability: The provisions, sections, sentences and phrases of this Ordinance are declared to be severable, and if any such portion is declared invalid or unconstitutional by a court of competent jurisdiction, such finding shall in no way affect or invalidate the remainder of the Ordinance.

7.145 Exempt Organizations: Nothing contained in this Ordinance as to the making of application for a license and the payment of a license fee shall be construed to apply to a fraternal lodge, public school church organization incorporated under the laws of this State or chartered by a superior governing body incorporated under the laws of this State, organized exclusively for fraternal, religious or charitable purposes, and conducting its affairs in a room or auditorium occupied by and under the control of such lodge or church organization: provided, however, that the exemption herein contained shall not extend so as to exempt such lodge, school or church organization from the prosecution for violation of any provisions of this Ordinance whether licensed under this Ordinance or not.


7.146 Effective Date and Declaration: This Ordinance shall become effective upon its adoption by the City Council of the City of Bessemer and publication.

Adopted and approved by the City Council of the City of Bessemer, Michigan, this 17th day of December, 1990.

ATTEST:



BRUCE CARLSON
City Clerk



PAUL SEMMERLING
Mayor