

ORDINANCE NO. 4840

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING THE CODE OF THE CITY OF CHANDLER, CHAPTER 58, LICENSES FOR TELE-TRACK WAGERING FACILITY SITES BY DELETING SECTION 58-1 DEFINITIONS, SECTION 58-3 THEATER LICENSE REQUIRED, SECTION 58-4 MECHANICAL AMUSEMENT DEVICE LICENSE REQUIRED, AND SECTION 58-5 APPLICATION, ISSUANCE AND CONTENTS OF LICENSE; EFFECT OF MISTAKE AS TO FEE DUE CITY; AND RENUMBERING CHAPTER ALL OF WHICH REPEALS LICENSING FOR THEATERS AND MECHANICAL AMUSEMENT DEVICES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES, AND PROVIDING FOR SEVERABILITY.

WHEREAS, the City conducted a review of all specialty licenses issued to determine their correlation with public health and safety; and

WHEREAS, the City desires to remove those specialty licenses that do not have a direct correlation with public health and safety; and

WHEREAS, the City desires to amend Chapter 58 to delete the license and fee requirements for a theater license and a mechanical amusement device license, as they do not have a direct correlation to public health and safety.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section. 1. That the Chandler City Code, Chapter 58 Licenses for Tele-track Wagering Facility Sites is amended hereby to read as follows: (additions in ALL CAPS, deletions in strikeout):

Chapter 58 - LICENSES FOR TELE-TRACK WAGERING FACILITY SITES AND OTHER LICENSES⁽¹⁾

~~58-1. Definitions.~~

~~For the purposes of this chapter, unless the context otherwise requires, all words and phrases shall have the same meaning attributed to them as is provided in A.R.S. § 5-101 et seq. In addition the following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:~~

~~*Mechanical amusement devices:* Any machine or device which, whether or not activated or operated by the insertion of a coin, slug, token, plate or disc into such machine, may be operated by the public generally by manipulating special equipment whereby a score is established, the~~

~~object of which is to secure a special number or numbers or a high total score, whether a prize is offered or not, when the element of skill in such manipulation predominates over chance or luck. This shall include but not be limited to such devices as marble machines, pinball machines, skill ball and all games, operations or transactions similar thereto under whatever name they may be indicated. It shall also include the operations of any and all mechanical grabbing devices irrespective of the fact of whether the element of skill in grabbing articles predominates over chance or luck. This shall not include pool tables, whether or not activated or operated by the insertion of a coin, slug, token, plate or disc in such machine.~~

~~Theaters: Any place within the limits of the City for use in giving theatrical exhibitions, concerts, shows or other public exhibitions.~~

58-258-1. - Tele-track wagering facility site license required.

No person shall operate a tele-track wagering site within the City without first obtaining and properly maintaining in force a license for a racing meeting and pari-mutuel wagering from the State as required by A.R.S. § 5-101 et seq. and also from the City of Chandler as provided herein.

~~58-1.1.1. Application.~~ A person desiring to obtain a tele-track wagering facility site license shall make application to the Management Services Director (MSDDIRECTOR), who shall refer such application to the ~~Planning and~~ Development SERVICES Department, Police Department and Fire Department for appropriate recommendations. The application shall be in such form as prescribed by the MSD DIRECTOR and shall be fully completed before processing by the DIRECTORMSD. The application must be submitted at least forty-five (45) days prior to the proposed date of providing tele-track wagering within the City; however, this provision may be waived by the DIRECTORMSD.

The application shall include a description of the proposed tele-track wagering activity and shall include, but not be limited to, the required information set forth in this subsection.

- A. Full name and address of the applicant and owner/managing agent of the property on which the wagering facility is to be located.
- B. Proof of current license from the Arizona Racing Commission to conduct tele-track wagering within the State of Arizona.
- C. Proof of a liquor license allowing for on-site consumption of alcohol in effect for the site at which the tele-track wagering is to be located.
- D. Designation of managing agent of the applicant and managing agent of the owner of the property on which the tele-track wagering will be located.
- E. Name, address and telephone number of statutory agent in Arizona if either the applicant or the owner of the site is a corporation.
- F. A floor plan containing an accurate drawing to scale of all buildings upon the premises and the lot lines of the parcel on which the activity will take place.

G. A vicinity ownership map showing and labeling all lots within three hundred (300) feet of the exterior boundaries of the lot on which the activity is to be located. The three hundred-foot measurement shall exclude any public property or public rights-of-way.

H. A vicinity ownership list and mailing labels properly addressed, containing names and mailing addresses, with correct zip codes, of owners of all parcels required to be shown on the vicinity ownership map as depicted on the last assessment of property by Maricopa County.

I. A parking plan showing all parking spaces available upon the site for the applicant's use.

58-1.2.- Application fee and license fee.

A. The application shall be accompanied by a nonrefundable application fee in the sum of two hundred dollars (\$200.00) and the annual license fee as required herein.

B. The annual license fee is:

1. Twelve hundred dollars (\$1,200.00) per year for up to four (4) pari-mutuel betting windows or tote machines.

2. Four hundred dollars (\$400.00) per year for each pari-mutuel window or tote machine in excess of four (4).

The annual license fee for an initial license may be prorated on a monthly basis. The license shall be valid from July 1 of each year through June 30 of the following year.

58-1.3.3- Public hearing on license; notice.

A. The City Council shall hold a public hearing on the initial application for license, and notice of said hearing shall be given by the applicant at least fifteen (15) days prior to the hearing in the following manner:

1. Notice shall be published at least once in a newspaper of general circulation in the City.

2. Notice shall be posted on the affected property.

3. Notice shall be mailed by first class mail to each owner as listed on the vicinity ownership list. The DIRECTORMSD may require additional notice if he/she deems necessary.

B. After public hearing, the Council may issue the license with any conditions it deems necessary or MAY deny said license.

58-1.4-4- Display of license nontransferability.

A licensee shall display the license set forth in this section in a conspicuous place within the facility. No license shall be transferable.

~~58-1.5.5. Renewal.~~ Annually, at least thirty (30) days prior to the first day of July of each year, a licensed tele-track wagering facility site shall apply to the DIRECTORMSD for renewal of the license. Application shall be made and reviewed as an original application except that:

A. No application fee is payable on a renewal application; except if said renewal application is not timely filed, a late fee in the sum of one hundred (\$100.00) shall be imposed.

B. Public hearing and notice shall be conducted only if required by the DIRECTORMSD.

~~58-1.6.6. Revocation, hearing.~~

A. A license may be revoked if the operation at the facility site is not in the best interests of the City. The license shall be revoked for any of the following:

1. Any violation of the laws governing wagering within the State of Arizona or the sale of liquor within the State of Arizona.

2. There occurs on the facility site repeated acts of violence or disorderly conduct.

3. The licensee knowingly files an application or other documents with material information which is false or misleading or has given testimony in an investigation or other proceedings which is false or misleading.

4. The licensee is delinquent for more than thirty (30) days in the payment of any applicable taxes or fees to the City.

5. To revoke a license, the DIRECTORMSD shall deliver or mail by certified mail to the business address as shown by the license application a written notice that such license is revoked. The reason for revocation shall be set forth in the notice together with the provisions of subsection (c) hereof on hearing and appeal rights. A revoked license shall be surrendered to the DIRECTORMSD on demand.

B. The DIRECTORMSD shall grant on demand to any licensee or managing agent whose license has been revoked a full hearing on the merits of such revocation. Appeal of the DIRECTORMSD's decision to the City Council shall be made within seven (7) calendar days after the receipt of the DIRECTORMSD's notice or revocation, and failure to demand a hearing within such time will constitute full waiver. The decision of the Council is final.

~~58-3. Theater license required~~

~~It shall be unlawful within the limits of the City for any person to operate, maintain or conduct, any theatre as defined herein, without first having procured a license so to do from the City.~~

~~58-3.1. Theater license fee. Every applicant, before being granted a license, shall pay a license fee for the privilege of operating or maintaining for operation each movie screen, stage, or concert hall, in an amount established by Council resolution. All licenses required by this article shall be paid in advance, in legal currency of the United States of America at the Office of the City Clerk.~~

~~58-3.2. *Exhibition of license.* Every person having a theater license under the provisions of this section shall produce and exhibit the same when applying for a renewal thereof and whenever requested to do so by any Police Officer or by any other officer authorized to issue, inspect or collect licenses.~~

~~58-4. *Mechanical amusement device license required.*~~

~~Any person, owning, operating, displaying for public patronage, keeping for operation, or having control over any mechanical amusement device within the City of Chandler, shall be required to obtain a license from the City and the payment of a license fee.~~

~~58-4.1. *Mechanical amusement device license fees.*~~

~~A. Every applicant, before being granted a mechanical amusement device license, shall pay a license fee for the privilege of operating or maintaining for operation each mechanical amusement device. The term of the license is January 1 through December 31. The license fee shall be set forth by Council resolution. The annual license fee for an initial license shall be pro-rated on a calendar quarter basis as follows:~~

January 1 — March 31	100% of annual license fee
April 1 — June 30	75% of annual license fee
July 1 — September 30	50% of annual license fee
October 1 — December 31	25% of annual license fee

~~The license fee provided in this section shall be due and payable immediately when such mechanical amusement device is placed at a business establishment within the City. The fee shall be delinquent five (5) days after it becomes due and thereafter shall require payment of an additional twenty (20) percent before the required license is issued. No such license shall be issued until all previous taxes and penalties have been paid.~~

~~B. Each license issued under this section shall pay an annual renewal license fee due and payable on or before January 1 of each year. Such fee shall be considered delinquent if not received on or before the last business day of January. Annual renewal fees deemed delinquent shall require payment of an additional twenty (20) percent before the required license is issued. No such license shall be issued until all previous taxes and penalties have been paid.~~

~~58-4.2. *Display of mechanical amusement device license; transferability; separate license for each machine.*~~

~~A. The mechanical amusement device license or licenses shall be posted conspicuously at the location of the machine in the premises wherein the device is to be operated or maintained to be operated.~~

~~B. Such license may be transferred from one (1) machine or device to another similar machine at the same location. The applicant or licensee shall be required to pay a license fee for each and every machine displayed or operated by him/her.~~

~~58-4.3. Gambling devices prohibited. Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law or that may be contrary to any future laws of the State.~~

~~58-5. Application, issuance and contents of license; effect of mistake as to fee due City.~~

~~Application for theater and mechanical amusement device licenses shall be made to the Management Services Director upon a form to be supplied by the City. The Management Services Director is hereby authorized and directed, upon written application and payment of the annual license fee established by Council resolution, to prepare and issue a license under this article for every person liable to pay a license hereunder and to state in each license the period of time covered thereby, the name of the person for whom issued, and the name and address of both agent and principal is required.~~

~~In no case shall any mistake of the Management Services Director in stating the amount of a license prevent or prejudice the collection for the City of what shall be actually due.~~

~~58-5.1. Transferability; assignment. No license granted or issued under the provisions of this article shall be in any manner assignable or transferable by the licensee to any other person, nor to any other location, without written permission of the Management Services Director.~~

~~58-5.2 Licenses requirement Licenses required by this Chapter shall be in addition to any other license or permit required by the City, the County or the State.~~

~~58-3.-6. - PENALTY FOR VIOLATION OF CHAPTER.~~

~~ANY VIOLATION OF THIS CHAPTER MAY RESULT IN THE ISSUANCE OF A CIVIL CITATION PUNISHABLE AS SET FORTH IN SECTION 1-8.7A OF CHAPTER 1 OF THIS CODE UNLESS SUCH VIOLATION CAUSES SUCH PERSON TO MEET THE DEFINITION OF A "HABITUAL OFFENDER" SET FORTH IN SECTION 1-8.7B OF CHAPTER 1 OF THIS CODE IN WHICH CASE THEY SHALL BE GUILTY OF A CRIMINAL MISDEMEANOR PUNISHABLE AS SET FORTH IN SECTION 1-8.3 OF CHAPTER 1 OF THIS CODE.~~

Section 2. Providing for Repeal of Conflicting Ordinances.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance, or any parts hereof, are hereby repealed.

Section 3. Providing for Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

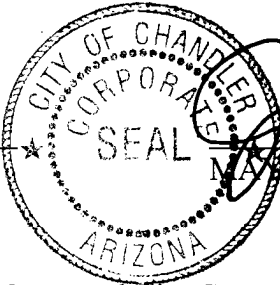
Section 4. Providing for Penalties.

A violation of this ordinance shall be a civil infraction subject to the enforcement and penalty provisions set forth in Section 1-8 of the Chandler City Code.

INTRODUCED AND TENTATIVELY APPROVED by the City Council of the City of Chandler, Arizona, this 8th day of November, 2018.

ATTEST:

Dana R. Ditz
CITY CLERK



Greg Libbey
MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this 10th day of December, 2018.

ATTEST:

Dana R. Ditz
CITY CLERK



Greg Libbey
MAYOR

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4840 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on the 10th day of December, 2018, and that a quorum was present thereat.

Dana R. Ditz
CITY CLERK

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

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