ORDINANCE No. 523

AN ORDINANCE PROVIDING FOR THE LICENSING BY THE CITY OF PAYETTE, IDAHO, OF COIN OPERATED AMUSEMENT DEVICES AS DEFINED BY HOUSE BILL NO. 43 PASSED BY THE LEGISLATURE OF THE STATE OF IDAHO AT THE TWENTY-NINTH SESSION AND APPROVED BY THE GOVERNOR OF THE STATE OF IDAHO ON MARCH 11, 1947; PROVIDING LIMITATIONS ON LICENSES; PROVIDING THE LICENSE FEES TO BE PAID ON EACH SUCH MACHINE OR DEVICE AND THE APPORTIONMENT AND PAYMENT OF THE PORTION THEREOF TO THE STATE OF IDAHO AND PAYETTE COUNTY AS PROVIDED BY SAID HOUSE BILL NO. 43; PROVIDING REGULATIONS AND CONTROLS FOR THE OPERATION OF SAID DEVICES AND LICENSING THE SAME; PROVIDING THE FORM OF LICENSE OR STAMP TO BE OBTAINED AND DISPLAYED THEREON AND FOR CANCELLATION THEREOF; PROVIDING FOR THE PRORATING OF LICENSE FEES FOR THE CALENDAR YEAR; PROVIDING PENALTIES FOR VIOLATION OF THIS ORDINANCE; PROVIDING FOR THE REVOCATION OF LICENSES AND FOR NOTICE OF HEARING PRECEDING SUCH REVOCATIONS; PROVIDING A SAVING CLAUSE; AND REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF PAYETTE, IDAHO:

Section 1. For the purpose of this ordinance the following definitions shall apply in the interpretation of the provisions of this ordinance;

(a) A "Coin operated Amusement Device" is a machine or mechanical device into which may be inserted any piece of money or other object and from which as a result of such insertion and the application of physical or mechanical force may issue wholly upon any chance or uncertain or contingent event, any piece or pieces of money, or any check, memorandum, or other tangible evidence calling for money or property, or which check, memorandum, or other tangible evidence is, after issuance, actually redeemed in money or exchanged for money or property by any person whatsoever; which device is defined as and hereby declared to be gaming but not lottery.

(b) For the purpose of this act any machine having multiple combinations for coin denominations that can be operated by the insertion, in separate slots, of different coin denominations, each such slot shall be deemed a separate machine and device and shall be required to pay the license fee hereinafter prescribed for each device.

(c) The word "person" includes an individual person, partnership, corporation, or association.

Section 2. It shall be unlawful for any person, firm, corporation or association to possess, lease, rent, license, or permit the use of or control, place, maintain, or to permit the operation of, upon any premises or at any place, location or building in the City of Payette, Idaho, any coin-operated amusement device, unless and until such coin-operated amusement device shall be licensed by the City of Payette, Idaho, as hereinafter provided; and it shall be unlawful to permit any person under the age of twenty years to play a coin-operated amusement device, or to operate or permit the operation of such device in any public place where persons under twenty years of age would have access thereto.

Section 3. Before any such coin-operated amusement device may be operated within the City, an application for a license for

each such device or devices, shall be filed with the City Clerk of the City of Payette, Idaho on an application form provided by the City. Said application form shall provide, among other things, the following information:

The name of the applicant; the name of the place and the location where it is proposed such coin-operated device is, or devices are, to be operated; the number of such devices and the make, serial number, type, and coin denomination of each machine desired to be operated by the applicant at such location; such application shall be signed and verified by the applicant, or if the application is made by a partnership, then by one of the partners, or if by a corporation or association, then by an officer of such corporation or association.

Such application, accompanied by the sum of $550.00 for each device, shall be applied toward the gross license fee hereinafter fixed, and shall be filed with the City Clerk. Such application shall be presented to the City Council at any regular or special meeting of the Council for approval or disapproval. If the City Council determines that said application fully complies with all the provisions of said House Bill No. 43 and this ordinance, it shall approve said application and authorize the clerk to issue a license for each such machine so approved as hereinafter provided. In the event such application be disapproved, the tendered license fee shall be returned to the applicant.

Section 4. No coin-operated amusement device may be operated on any premises except those owned or leased by the licensee. No person other than the licensee may have any legal, equitable, or financial right, title or interest in such device, whether by ownership, mortgage, conditional sales contract, or otherwise, nor receive any rental or remuneration therefrom or from the operation thereof.

Section 5. The license fee required for the obtaining of the license stamp for the operation of said coin-operated device shall be the sum of Five Hundred Fifty ($550.00) Dollars for each calendar year, which license fee shall be prorated as beginning with the actual month of issue for the remainder of the calendar year, and the license fee shall include the license for the month in which the same is issued. Of the license fee so collected on each of such devices licensed, $125.00 thereof, or the prorata portion thereof if issued for less than a full calendar year, shall be collected for the State of Idaho, and $125.00 thereof, or the prorata portion thereof if issued for less than a full calendar year, shall be collected for Payette County; and the balance of said license fee shall be deposited in the general fund of the City.

Provided, further, that the moneys so collected by the City for the State of Idaho and the County of Payette, shall be deposited in and kept in a special trust fund and remitted to the Treasurer of the State of Idaho and the Treasurer of the County of Payette, Idaho, quarterly on April 1st, July 1st, October 1st, and January 1st of each year.

Section 6. The license issued under this ordinance shall be in the form of a license stamp, and a separate license must be

issued for each coin-operated amusement device. The licensee, immediately upon issuance thereof, shall securely affix the said stamp to the coin-operated amusement device in a conspicuous place, and cancel the same by cutting it criss-cross with a sharp instrument.

Section 7. (a) No license stamp shall be used on any device other than the one for which said license stamp is issued; provided, however, the City Council may authorize the issuance of a substitute license upon presentation to the City Council of a duly verified application, on a form to be provided by said City, showing such device to have become wholly or in part, worn out, accidentally broken or accidentally destroyed to such an extent that it is rendered useless. The substitute license shall bear the same license number as the one originally issued and shall be designated a substitute license and the same shall have thereon the name of the owner, location, type and serial number of the device for which the substitute license is issued. Such substituted license shall be affixed to the device for which it is issued, and be cancelled in all respects as required by law for an original license. The original license shall then be void and shall be destroyed by the licensee.

(b) The City Council may authorize the transfer of a licensed device, with the license stamp attached, from the owner thereof to another person of from one location to another location on application by the licensee, or his transferee, on a form to be provided by the City. Upon approval by the City Council, a permit for said transfer shall be issued by the City Clerk, which permit shall bear the same number as the license stamp issued for said device and the name of the transferee. Said permit shall be affixed to the device transferred and shall be cancelled in the same manner as the license stamp thereon. The license stamp originally issued shall remain on said device so transferred.

(c) A fee of $5.00 shall be collected by the City Clerk for each substitute license or permit, and the same shall be placed in the general fund of said City.

Section 8. REVOCATION AND CANCELLATION. If any licensee of a coin-operated amusement device violates any of the provisions of this ordinance or any of the provisions of said House Bill No. 43, or is convicted of violating any of the provisions of said House Bill No. 43, the City Council is hereby authorized to and empowered to revoke all licenses to operate such devices issued to said licensee; provided, however, that in the event it is brought to the attention of the City Council that such violation or violations have taken place then, before revoking such licenses, the City Council shall cause a notice in writing to be served upon such licensee setting forth in general terms the violations claimed to exist or to have existed, and such notice shall provide a time for hearing thereon before the City Council, which date of hearing shall not be less than ten (10) days nor more than twenty (20) days from the date of service of said notice, and upon or following said hearing, the City Council, upon finding that the provisions of this Ordinance or the provisions of said State Law, said House Bill No. 43, have been violated by such licensee, such license or licenses shall be revoked, and no refund of any unused portion of the license fee paid shall be made to the licensee.

Section 9. Any violation of the provisions of this ordinance, the penalty for which is not provided for by said House Bill No. 43, shall be unlawful, and any person so violating such provisions shall be guilty of an offense, and upon conviction thereof shall be fined not to exceed $100.00, and upon failure to pay such fine shall be confined in the city jail at the rate of $1.50 per day until such fine is paid in full, or confinement in the city jail not more than thirty days, or by both such fine and imprisonment, in the discretion of the court.

Section 10. If any section, provision or clause of this ordinance shall be declared invalid or unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of this ordinance, but said ordinance shall be construed as though such invalid or unconstitutional provision were not incorporated therein; and the City Council hereby declares that it would have passed this ordinance, and each section, sub-section, sentence, clause and phrase thereof, irrespective of the fact that any one or more of the sections, sub-sections, sentences, clauses or phrases be declared invalid or unconstitutional.

Section 11. That all ordinances, or parts of ordinances, insofar as they are in conflict herewith, be, and the same hereby are, repealed.

Section 12. This ordinance shall be in force and effect from and after its passage, approval and publication.

Passed by the Council this 6th day of May, 1947.

Approved by the Mayor this 7th day of May, 1947.

J. A. McMillan
Mayor

ATTEST:

Alice Bulmer
City Clerk