

CITY OF COCKRELL HILL, TEXAS

ORDINANCE NO. 2007-A

AN ORDINANCE OF THE CITY OF COCKRELL HILL, TEXAS, AMENDING THE CITY OF COCKRELL HILL CODE OF ORDINANCES, CHAPTER 130 "GENERAL OFFENSES" BY AMENDING SECTION 130.50 RELATING TO THE PROHIBITION OF EIGHT-LINERS MACHINES IN THE CITY LIMITS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Cockrell Hill ("City") has the authority pursuant to Chapter 51 of the Texas Local Government Code to enact regulations that are not inconsistent with state law; and

WHEREAS, the City desires to maintain a safe environment for the citizens of the City free from illegal activity; and

WHEREAS, the City's police department has found that illegal gambling is occurring within the City; and

WHEREAS, the majority of this illegal gambling is occurring via so-called "eight-liner" machines, which are not being operated in conformity with Texas Penal Code Chapter 47; and

WHEREAS, the City recognizes that certain businesses in the City possess eight-liner machines and that such businesses were most likely unaware that the operation of such eight-liner machines violates state gambling laws; and

WHEREAS, the City desires to provide those businesses with existing eight-liner machines with a limited right to maintain those eight-liner machines, under local law, provided that the eight-liner machines are registered with the City and pay an annual permitting fee for each eight-liner machine; and

WHEREAS, the City desires to provide those businesses with existing eight-liner machines that timely register and obtain permits for each such machine to replace each machine with a one-time replacement of another eight-liner machine, provided that the new machine is registered with the City and all applicable permits fees are paid; and

WHEREAS, the City desires to prevent illegal gambling by prohibiting all new eight-liner machines in the City; and

WHEREAS, the City has enacted a prohibition against all new eight-liner machines; and

WHEREAS, the City Council of the City of Cockrell Hill, Texas, finds that it is in the best interest of the citizens of the City of Cockrell Hill to prohibit all new eight-liners within the City.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COCKRELL HILL, TEXAS:

Section 1. That all of the above premises are hereby found to be true and correct and are hereby approved and incorporated into the body of this ordinance as if copied in their entirety.

Section 2. That the Code of Ordinances of the City of Cockrell Hill, Texas, is hereby amended by amending Section 130.50 which shall read as follows:

“Sec. 130.50 GAMBLING MACHINE PROHIBITION

- (a) All eight-liner machines (also commonly called “8-liners”) shall be prohibited in the City of Cockrell Hill. This prohibition applies to eight-liner machines that are and are not operated in conformity with Texas Penal Code Chapter 47.
- (b) The following businesses, which already have 8-liners at their respective premises, may continue to maintain and operate those machines currently in operation at such businesses, provided that the number of 8-liners do not exceed the number of 8-liners shown for each respective business below:
 - Diaz’s Grocery – 3 existing 8-liners
 - Diary Mart – 3 existing 8-liners
 - Diary Way – 3 existing 8-liners
 - Friendly’s Convenience Store – 3 existing 8-liners
 - Next Door Club – 3 existing 8-liners
 - Texaco – 2 existing 8-liners
- (c) The right for any business to maintain an 8-liner described in subsection (b), above, is expressly contingent upon the business registering the 8-liner with the City and paying an annual permitting fee of \$50 per machine. The initial permit must be obtained by no later than January 31, 2007 and the permit must be renewed on an annual basis. Any 8-liner described in subsection (b), above, that is not registered and permitted by the initial permitting date will be considered in violation of this section and will lose its exempt status under this section.
- (d) Any 8-liner described in subsection (b), above, that is timely registered and permitted may be replaced with another 8-liner, on a one-time basis only, provided that the new 8-liner is registered and permitted with the City. Under no circumstances, however, may any 8-liner that is used to replace an 8-liner described in subsection (b), above, ever be replaced.
- (e) The exceptions granted to the businesses described in subsection (b), above, apply only to the City’s enforcement of this section as a local law. Nothing in this section authorizes any business in the City, including

those described in subsection (b), above, to operate 8-liners or other illegal gambling devices in violation of state law. No provision of this section may be used as a defense to criminal prosecution by the City or other appropriate state or federal law enforcement agencies for violation of any applicable state or federal laws concerning illegal gambling.”

Section 3. That all provisions of ordinances of the City of Cockrell Hill in conflict with the provisions of this ordinance be, and the same are hereby, repealed, and all other provisions not so in conflict shall remain in force and effect.

Section 4. That should any sentence, paragraph, subdivision, clause, phrase, or section of this ordinance be adjudged or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this ordinance as a whole, or any part or provision hereof other than the part so decided to be invalid, illegal or unconstitutional, and shall not affect the validity of the Code of Ordinances as a whole.

Section 5. This ordinance shall become effective, and be in full force and effect, from and after the date of its passage, and it is accordingly so ordained.

PASSED AND APPROVED this the 9th day of January, 2007.




Luis Carrera, Mayor

ATTEST:



Al Lagos, Chief Operations Officer

APPROVED AS TO FORM:



Robert F. Brown, City Attorney