

**MOORESTOWN TOWNSHIP**

**ORDINANCE NO. 26-2010**

**AMENDING CHAPTER 87 GOVERNING  
THE “GAMES, AUTOMATIC AND COMMERCIAL”  
TO REGULATE INDOOR AMUSEMENT PARKS**

**WHEREAS**, John’s Incredible Pizza desires to rent retail space at the Moorestown Mall;  
and

**WHEREAS**, John’s Incredible Pizza and PREIT, the owner of the Moorestown Mall,  
have approached the Township with proposed amendments to the Township Code in order to  
permit and regulate the uses associated with John’s Incredible Pizza; and

**WHEREAS**, John’s Incredible Pizza is a retail food establishment that combines  
amusements and games, with several existing locations in California; and

**WHEREAS**, the Township Community Development and Township Attorney have  
received, reviewed and advised with regard to the proposed changes to Chapter 87 governing  
“Games, Automatic and Commercial;” and

**WHEREAS**, the Township Council desires to amend the Code in order to effectuate the  
proposed amendments.

**NOW, THEREFORE, BE IT HEREBY ORDAINED** by the Township Council of the  
Township of Moorestown as follows:

Section 1. Chapter 87, governing “Games, Automatic and Commercial” is hereby amended  
as follows:

**§ 87-1. Definitions.**

As used in this chapter, the following terms have the meanings indicated:

ARCADE - Any establishment in which five or more Automatic Commercial Game are  
located.

AUTOMATIC COMMERCIAL GAME or GAME - Any automatic game machine or  
device, whether electronic or mechanical, or a combination of both, for the object of  
amusement or skill, or a combination of both, including any pinball game and video-type  
game or machine or similar device that includes a screen for display of points, lines or  
dots of light which can be manipulated or influenced by a player or operator to produce  
or simulate any game which is operated, actuated, used, maintained or set in motion or in  
operation by the deposit therein of any coin or coins or by any or similar object for which  
money is charged, or combination thereof, or for the playing or operation of which a fee  
is charged; provided, however, that the automatic commercial game shall not be  
construed to mean or include children's rides.

INDOOR CHILDREN'S RECREATIONAL ACTIVITY CENTER - Any building, room, suite, structure, area, premises or other place catering to children 12 years and under. At least 75% of the gross floor area shall be devoted to a children's physical activity center. Up to 10 automatic commercial games shall be permitted, if the annual per game licensing fee required by § 87-7B(4) of this chapter is paid by January of each year.

LICENSED OPERATOR - An operator whose premises are licensed under the terms of this chapter.

OPERATOR - Any person in whose arcade or Indoor Amusement Park, as defined in the Zoning Ordinance of the Township an automatic commercial game is placed, kept or located for operation and use by the public.

PERSON - Any individual, firm, partnership, corporation, association or other entity.

**§ 87-2. License requirements and duration.**

- A. No person shall make any automatic commercial game available for public use in an arcade or Indoor Amusement Park within the Township without first having paid the fees required by this chapter and having obtained a license for the premises where the game is to be so made available, which license is in good standing and effect.
- B. No license shall be issued under this chapter or used by any person, except for an arcade or Indoor Amusement Park which is permitted under the Zoning Ordinance of the Township and which shall have already received every required approval of the Planning Board of the Township.
- C. No automatic commercial game shall be made available for use or play by the public or a substantial part or number of the public except in an arcade or Indoor Amusement Park which is licensed hereunder and permitted under the Zoning Ordinance of the Township and which shall have already received every required approval of the Planning Board of the Township.
- D. A license, once granted, shall be good for the rest of the calendar year and expire at the close of December 31 of the calendar year of the grant, except as provided herein, or by the terms of the license or otherwise by law.
- E. A license shall be conspicuously displayed on the premises at all times.

**§ 87-3 License applications.**

Every license applicant must be at least 18 years of age and shall submit to the Department of Community Development the following facts and information, in writing,

upon such form or forms as the Department of Community Development may specify and sign the same, accompanied by the following things, all of which shall constitute the application:

- A. A statement of the identities of the applicant and the intended operator and making clear whether each of the applicant and intended operator is an individual or individuals, corporation or corporations, partnership or partnerships or other unincorporated associations or entities, as the case may in fact be; if a corporation, the state and country in which incorporated.
- B. With respect to and in addition to the facts and information required under Subsection A above: the names, addresses, ages and fingerprints of every individual, of every partner of a partnership; of every incorporator, director and officer of a corporation; and of every owner and principal of an unincorporated association and/or entity. Such fingerprints shall be furnished by each applicable individual's submitting to fingerprinting at and by the Township Police Department; provided, however, that the Township Police Department shall from time to time waive any requirements of fingerprints during times when a process for investigation of fingerprints is not reasonably available through external governmental agencies such as the Federal Bureau of Investigation or the State Police of New Jersey.
- C. The results of a background check to be conducted by the applicant of the intended manager or managers of the arcade or Indoor Amusement Park for which the license is sought, including the intended manager's name, address and age, to be reviewed and approved by the Moorestown Police Department. The Moorestown Police Department may, in its discretion, require any additional information it may deem necessary or the fingerprints of the manager or managers prior to approval.
- D. The prior criminal record of the applicant and intended operator and of every individual, partnership, corporation, association, entity, partner, incorporator, director, officer, owner and principal referred to in Subsections A and B above, if any, and any intended manager or managers of the arcade or Indoor Amusement Park for which a background check is submitted to the Moorestown Police Department pursuant to Subsection C above, setting forth the date or dates of conviction, the nature of the offense and the jurisdiction in which the offense occurred.
- E. A full description of all game machines and devices initially to be installed, placed, kept or located by the applicant and the manner and details of the operation by which they will be made available to the public; the maximum number of game machines (which may have more than one coin slot each, but still

be counted as one machine) and devices to be kept on the premises at any time, which number shall never exceed 150; a full description of all other machines, devices, materials, goods, produce, inventory and things to be installed, placed, kept or located, permanently or temporarily, on the same premises (regardless of by whom); and an accurate detailed sketch [minimum scale of one-fourth (1/4) inch equals one foot], showing the actual and intended locations and configuration of all of the foregoing. The applicant shall plan, design, show, implement and at all times operate, act and carry out the foregoing and with respect to the foregoing to assure reasonable protection of the health, safety, morals and welfare of the public. In so doing, the applicant shall give full regard to the requirements, standards and limitations of § 87-9 of this chapter.

- F. The street number and description of the premises and of the areas and places within the premises where the automatic commercial games are to be operated, stating the number of floor or floors of the premises and attaching a sketch accurately showing the rooms and areas, walls, partitions and other structures therein. Such sketch shall be accurately drawn to scale [minimum scale of one-fourth (1/4) inch equals one foot], with the scale set forth on the sketch and shall designate all exits, apertures, windows, lighting, including lighting intensity and kind, acoustical material, the design of all doors at entrances and exits and storage spaces to be used in and around the operation. All such matters shall be designed, shown and implemented to assure reasonable protection of the health, safety, morals and welfare of the public.
- G. A sketch accurately designating: the lands, premises and structures within 200 feet of said area, place and premises; the owners and tenants of such lands, premises and structures; and all uses and operations thereon and thereof. Such sketch shall also accurately designate prominent landmarks within the two-hundred-foot scope, be drawn to scale (minimum scale of one inch equals 60 feet), with the scale set forth on the sketch, and show all streets and proposed areas of off-street parking which may lawfully be utilized by and shall adequately provide and allow for the general public residing in, visiting and otherwise within or affected by said area, place and premises.
- H. A description of all security measures, security personnel, security safeguards and policies to be kept in effect during pertinent times. Said security measures, personnel, safeguards and policy shall assure and shall be implemented to give reasonable protection of the health, safety, morals and welfare of the public.
- I. Detailed information.
  - (1) Except in the case of an Indoor Amusement Park located in a mall: detailed information demonstrating how noise will be controlled and

contained so as not to have a detrimental effect on any person or property outside the licensed premises or interfere with the reasonable use of neighboring structures and premises; such detailed information shall be submitted by a recognized sound expert, including at the hearing on the application; upon any application for a premises license renewal, the applicant shall, on request of the Department of Community Development, submit detailed information of the actual noise-control experience at the premises and the actual experience of the impact of noise on persons and property outside the licensed premises during prior periods of operation at the licensed premises, and, upon the occasion of consideration of any application for premises license renewal, the Township Council may impose or change reasonable noise-level and noise-control requirements, conditions, restrictions and limitations.

- (2) Detailed information concerning all planned and contemplated lighting of the premises sufficient to permit a clear view of all interiors of the rooms and other areas housing games and/or children's rides.
- (3) Detailed information demonstrating conformity and how the applicant's planned and contemplated operation will conform to all applicable fire laws, ordinances, rules and regulations.

J. The signed written consent of the owner of the premises contemplated for licensing or of the owner's designated representative.

**§ 87-4. Application investigation.**

- A. The Township Manager shall cause each completed application to be investigated.
- B. The Township Manager shall submit each completed application and investigation report to the Township Council.

**§ 87-5. Hearing.**

- A. The Township Council, after receiving both the completed application and the investigation report, shall conduct a hearing upon such completed application and thereafter shall determine whether or not the applicant has complied with the requirements of this chapter.
- B. Hearings shall be conducted by the Township Council or any committee or officer designated by it, in accordance and compliance with such procedural steps as the Township Council shall direct. In every decision whether or not to grant a license or renew a license, the health, safety and general welfare of the public shall be

taken into consideration. To that end, all prior violations of this chapter and other relevant provisions of any ordinance, regulation or other law, their seriousness and the harm and likelihood of harm to the public will be material. Whenever a decision is made to grant or renew a license, reasonable conditions and limitations may be imposed, which conditions and limitations shall be and be deemed for all purposes part of the license. The decision shall set forth, in writing, findings of fact, conclusions and reasons therefor. A copy of the decision shall be sent by the Department of Community Development to the applicant.

**§ 87-6. License renewal application.**

- A. Premises license. A licensed operator shall annually apply to renew a premises license by filing notice with the Department of Community Development between October 1 and October 21 of any calendar year preceding the calendar year for which said license is to be renewed. The notice shall be accompanied by payment of that part of the annual fee as provided in § 87-7B(1) [and, if applicable, § 87-7B(2)] of this chapter and by a written statement signed by the applicant setting forth, in detail, all facts and information necessary to satisfy the requirements of § 87-3 of this chapter to the extent that such facts and information were not included in or with or have changed since the initial application of the applicant for the same premises.
- B. Objections. An objection to the renewal of any license shall be filed with the Department of Community Development. Every objection shall be in writing and signed by the person making the objection, showing legibly his or her full name and residential address. A hearing on each such objection to renewal, filed no later than November 10, shall be held as the Township Council shall direct and in accordance with § 87-5B hereof. Absent such a written timely objection, a license renewal application may be processed administratively without hearing upon the vote of the Township Council to waive a hearing.
- C. Hearings. Hearings shall be conducted in accordance with § 87-5 of this chapter. A licensed operator shall be entitled to continue the operation of the licensed premises until decision on the application.
- D. Council may refuse to renew a license issued pursuant to this Chapter, after a hearing upon notice, only in the event that the applicant:
  - (1) Shall engage in or permit any unlawful conduct in, on or about the establishment, building, structure, premises or place to which such license applies;

- (2) Shall conduct the business or commercial enterprise for which such license shall have been issued, or shall use or occupy or permit to be used or occupied the establishment, building, structure, premises or place to which such license applied, in such manner as to create any public or private nuisance;
- (3) Shall permit the establishment, building, structure, premises or place to which such license applies to be or become, wholly or in part, unsanitary or unsafe for persons lawfully entering and making use of the same or any part thereof; or
- (4) Any of the information contained in the application for renewal is materially false.

**§ 87-7. License fees; issuance.**

- A. License. Each applicant shall pay to the Department of Community Development an annual fee as provided in Subsection B hereof. The portions of the fee required under Subsection B(1) and (2) hereof shall be submitted with the application and shall be nonrefundable. When an application has been approved by decision pursuant to § 87-5 of this chapter, the Department of Community Development shall notify the Township Clerk of the approval, and the Township Clerk shall issue a premises license to the applicant in accordance with the decision for use only by the intended operator disclosed in the applicant's application. The premises license shall state on its face the numbers of automatic commercial game machines (each of which may have more than one coin slot) which may be operated at one time at the licensed premises, which number shall never exceed 150, and the number of children's rides not included within the definition of "automatic commercial game" or "game" contained in § 87-1 hereof which may be operated at one time at the licensed premises, which number for establishments other than Indoor Amusement Parks shall never exceed two. All terms and provisions of the applicant's application and all conditions and limitations, if any, imposed pursuant to § 87-5B and/or every other section hereof shall be and be deemed, for all purposes, part of the license issued, whether or not expressed on the face of the license.
- B. Fees. The applicable fee for an annual license or renewal thereof, subject to Subsection C of this section, shall be the aggregate of the following:
  - (1) One thousand dollars.
  - (2) An investigation charge for each individual whose fingerprints are submitted; the investigation charge shall be in the amount of the fee

charged by the external governmental agency which will perform the fingerprint investigation process (which amount shall be determined by the Township Police Department) and shall be delivered by a separate check made payable as directed by the Township Police Department.

- (3) The amount of all costs, including overhead in excess of \$1,000 (or any prorated amount under Subsection C of this section), which the Township incurs because of the filing, processing and treatment of the application from the time of the receipt of the application until the time the application is approved or denied, which shall be payable upon such approval or denial.
  - (4) An amount equal to the lesser of: (a) \$10,000; or (b) Two hundred forty-five dollars times the number of Automatic Commercial Games, payable before the issuance of the license in the case of an application which shall have been approved.
- C. Period less than a year. Where the applicable license period begins later than January 1 of a year, neither the one-thousand-dollar portion of the fee referred to in Subsection B(1) nor the portions referred to in Subsection B(2) and (3) of this section shall be prorated, but the portion of the fee referred to in Subsection B(4) of this section shall be prorated accordingly. Where the period ends before December 31 of a year, no part of the fee shall be prorated.

**§ 87-8. Nontransferability.**

No license issued pursuant to this chapter shall be transferable from one place to another, from the applicant to any other person nor from one operator to another.

**§ 87-9. Regulations.**

- A. The licensed operator shall maintain a trained premises supervisor on duty whenever the licensed premises are open to the public, whose duties are solely to maintain security and good order, to enforce compliance with this chapter, to provide for proper operation of the automatic commercial games on the premises and to make change and provide other game-related services to patrons of the licensed premises.
- B. All automatic commercial games accessible to the public and all interior walls, partitions, appliances, equipment, machinery, apparatus and other things within and on any licensed premises shall be arranged and lighted so as to permit a clear view of all interiors of the rooms and other areas housing games.

- C. Within each room or other area housing games accessible to the public for use thereof, the density of the games shall never exceed an average ratio of one game to 35 square feet of floor area accessible to the public for use of the games. For the purpose of this ratio, all areas in which games either may not be located or customarily are not located (e.g., employee-only areas, restrooms, stairways, foyers, halls, closets and storage areas and power and utility areas) shall be excluded.
- D. No operation of any automatic commercial game shall be permitted except:
- (1) Between the hours of 9:00 a.m. and 11:00 p.m. Mondays through Saturdays; and
  - (2) Between the hours of 10:00 a.m. and 11:00 p.m. Sundays.
- E. No operator or other person shall offer or deliver or permit to be offered or delivered any prizes or awards, whether in cash or otherwise, as an inducement to the use of any automatic commercial game, with the following exceptions.
- (1) Distributing vouchers, coupons and the like, each redeemable at the licensed premises for no more than \$20 worth of free games per coupon.
  - (2) Awarding free games as prizes (to a maximum value of not more than \$20 in free games per prize) for contests involving games of skill or for achieving specified scores in the performance of games of skill.
  - (3) Distributing promotional items with a wholesale value not exceeding \$20 per each item, such as frisbees, T-shirts, hats, etc., which items must bear the operator's name and logo.
  - (4) Awarding value-based coupons, based on times played on a machine and/or a specific score or performance. Such coupons shall be redeemable for merchandise from the redemption center permitted in Subsection E(5) of this section.
  - (5) Each licensed arcade or Indoor Amusement Park shall be permitted one redemption center for the purposes of redeeming coupons issued under Subsection E(4) of this section. The redemption center shall be limited to an area of ~~100~~ 700 square feet.
- F. No operator shall permit any person using an automatic commercial game to operate the same for any gambling purpose prohibited by law. In the event that it shall be determined judicially or admitted by the operator that any automatic commercial game shall have been operated as a gambling device, the applicable premises' license shall immediately terminate and become null and void.

- G. No operator of an Arcade (which is not an Indoor Amusement Park) shall permit any individual under the age of 17 years on the licensed premises between the hours of 9:00 a.m. and 3:00 p.m. on any day when Moorestown High School is in session.
- H. No licensed operator shall permit any substantial deviation from any term, provision, condition or limitation of his or her license imposed pursuant to §§ 87-3, 87-5B, 87-6C, 87-7 and 87-9 or any other section of this chapter or imposed by law.
- I. No operator shall permit the noise level on any licensed premises to interfere with the reasonable use of neighboring structures or premises.
- J. No operator shall permit smoking or the striking of matches, production of flame or ignition of any material within areas to which the public is invited.
- K. No game machine or device available for play shall exhibit, display, generate or impart any message or matter which is patently obscene, indecent or calculated to debase the morals of minors.
- L. Except in the case of an Indoor Amusement Park, no game machine or device available for play, use or operation shall be placed or located within one-half (1/2) foot of any other game machine or device, except where a wall or other effective barrier physically separates a game machine from other game machines and devices and the playing spaces in front of them; provided, however, that such wall or barrier shall never interfere with, prevent or hinder the clear view of all interiors required under Subsection B hereof.
- M. Upon conviction of any violation of this chapter, all licenses held by the applicant and/or used by the licensed operator so convicted shall immediately terminate and become null and void; provided, however, that such termination shall not constitute a bar to any new application under this chapter.

**§ 87-10. (Reserved).**

**§ 87-11. Transitional rules.**

Upon the effective date of this chapter, any license issued and outstanding which expresses on its face a certain number of games shall be deemed to express such number of games for the unexpired term of said license as is permitted under this chapter.

Section 2. Repealer. Any Ordinances inconsistent with this ordinance are hereby repealed to the extent of its inconsistency.

Section 3. Severability. If any provision of this Ordinance is deemed unlawful by a Court is found to be contrary to law by a court of competent jurisdiction, such provision shall be of no force or effect; but the remainder of this Agreement shall continue in full force and effect.

Section 4. Effective date. This Ordinance shall take effect upon proper passage in accordance with the law.

#### NOTICE AND CERTIFICATION

The ordinance published herewith was introduced and passed upon first reading at a meeting of the Township Council of the Township of Moorestown, County of Burlington, State of New Jersey, held on November 29, 2010. This ordinance will be further considered for final passage by the Township Council at a meeting to be held in the Auditorium of the William Allen Middle School, 801 North Stanwick Road, NJ on December 13, 2010 at 7:30 pm or at any time and place to which such meeting may be adjourned. All persons interested will be given the opportunity to be heard concerning such ordinance. During the week prior to and including the date of such further consideration, copies will be made available at the Municipal Clerk's Office in said Municipal Building to any member of the general public who shall request such copies.

Patricia L. Hunt, RMC  
Township Clerk