

ORDINANCE NO.: 37 -2011
INTRODUCED BY: O'Toole

AN ORDINANCE AMENDING SECTIONS 1123.03, 1123.07, 1151.03 1169.08, AND 1169.09 AND ENACTING A NEW SECTION 1169.10 OF THE ZONING CODE TO ALLOW SWEEPSTAKES/INTERNET CAFES AS A CONDITIONAL USE IN A B-2 REGIONAL BUSINESS DISTRICT AND TO RE-NUMBER THE SECTIONS OF THE CHAPTER; AND DECLARING AN EMERGENCY

WHEREAS, pursuant to Ordinance 72-2010, this City Council enacted a moratorium on the acceptance and processing of applications for zoning, occupancy, and/or building permit approvals for "sweepstakes/internet cafes", as that term was defined therein, and on the issuance of such approvals for the purpose of studying the appropriateness of adopting one or more ordinances that reasonably regulate the location and operation of sweepstakes/internet cafes in order to minimize or eliminate potential negative secondary effects on the community that may be found to result from the operation of one or more sweepstakes/internet cafes in the City, and to further the public health, safety and general welfare; and

WHEREAS, Council's Planning and Zoning Committee has studied the relevant issues and has recommended to City Council that the City's Zoning Code be amended to allow sweepstakes/internet cafes as a conditional use in a B-2 Regional Business District, subject to specific regulations as set forth herein, to further the public health, safety and general welfare of the City of Richmond Heights, its businesses, property owners, residents, and visitors thereto.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: Existing Sections 1123.03 and 1123.07 of Chapter 1123, "Definitions", of Title 4, "Zoning Code", of the Planning and Zoning Code of the City are amended by adding the new subsections set forth below and re-lettering the existing subsections of Sections 1123.03 and 1123.07 of the Zoning Code in order to place the terms defined in the subsections therein into alphabetical order by subsection:

1123.03(f) Computerized Sweepstakes Device. "Computerized sweepstakes device" means any computer, machine, game or apparatus which, upon the insertion of a coin, token, access number, magnetic card, or similar object, or upon the payment of anything of value, may be operated by the public generally for use as a contest of skill, entertainment or amusement, whether or not registering a score, and which provides the user with a chance to win anything of value that is not *de minimus*, on a per play basis, or any cash payout or anything that could be redeemed, directly or indirectly, for any cash payout, and which is not gambling under state or local laws. Machines designated for use by the State Lottery Commission are not computerized sweepstakes devices for purposes of this Chapter.

“*De minimus*”, as used in this section, shall mean less than ten dollars (\$10.00).

1123.07(y) Sweepstakes/Internet Cafe. “Sweepstakes/internet cafe” means any premises upon which any computerized sweepstakes device is located for the use or entertainment of the public, whether or not such premises has other business purposes of any nature whatsoever.

Section 2: Existing Section 1151.03 of the Zoning Code is amended to allow a “Sweepstakes/Internet Cafe” as a conditional use only in a B-2 Regional Business District by adding the term “Sweepstakes/Internet Cafe” to the corresponding column of “Table 1151.03” therein.

Section 3. Existing Chapter 1169 of the Zoning Code is amended to add a new Section 1169.10 by re-numbering existing Section 1169.09, “Applying Standards To Pre-existing Uses”, as new Section 1169.10, and deleting Section 1169.09 in its entirety.

Section 4. Existing Chapter 1169 of the Zoning Code is amended to add a new Section 1169.09, by re-numbering existing Section 1169.08, subsection (k), pertaining to similar uses, as new Section 1169.10, to be entitled “Similar Uses”, and deleting the Section 1169.08, subsection (k) in its entirety.

Section 5. Existing Section 1169.08, "Standards for Specific Conditional Uses", of the Zoning Code is amended by enacting a new subsection (k), pertaining to sweepstakes/internet cafes, to read as follows:

(k) Sweepstakes/internet cafes may be permitted subject to the following conditions:

- (1) There shall be a parking standard of one parking space per computerized sweepstakes device in operation on the premises and an additional parking space per employee on duty on the premises.
- (2) No sweepstakes/internet cafe shall be located within five hundred (500) feet from the boundaries of a parcel of real estate having situated on it a school, public library, public playground, church, or religious institution, or within five hundred (500) feet of any establishment that has been issued a liquor permit by the State of Ohio.

This section shall not apply to any duly licensed sweepstakes/internet cafe in existence at a particular location at the time a school, public library, public playground, or any establishment that has been issued a liquor permit by the State of Ohio is established within five hundred (500) feet of said sweepstakes/internet cafe.

Section 6. Existing Section 1169.08, "Standards for Specific Conditional Uses", of the Zoning Code is amended by re-lettering existing subsection (l), pertaining to day care centers, to be subsection (j) and by re-lettering subsection (j), pertaining to retail uses, to be subsection (l).

Section 7: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 8: This Ordinance is declared to be an emergency measure immediately necessary for the preservation of public health, safety and general welfare of the citizens of, property owners and tenants in, and visitors to, the City of Richmond Heights and for the further reason that it is necessary to immediately amend the Zoning Code to provide for the regulation of sweepstakes/internet cafes and for clarity in enforcement related to businesses and proposed businesses seeking to locate in the City that will operate as a sweepstakes/internet cafe; wherefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council