

February 6, 2012

Submitted by Councilman Matt Trafis

Having researched previously expired “moratorium” related Resolutions in Seven Hills, the lack of any specific regulations, and recent media articles, I believe that there is a significant need for immediate action by our City regarding Sweepstake / Internet Cafes. As such, attached is a DRAFT of a proposed Ordinance for which I submitted a “letter of transmittal / request for legislation” earlier today regarding Sweepstake / Internet Cafes. The proposed ordinance defines, sets safety standards, fees, penalties, etc. to this growing concept within our City.

The proposed Ordinance is a compilation of many other ordinances in Cities from Cuyahoga County that I have researched along with items that are applicable only to Seven Hills.

Significant welfare / safety enhancements as well as revenue in the range of \$30,000+ per year per location are easily attainable.

It should be noted that my proposed Ordinance is related to safety / welfare of Seven Hills as opposed to zoning changes.

Lastly, existing cafes should be subject to this Ordinance upon passage.

The research and development of this proposed legislation has been an extremely time consuming and difficult process. The reason I created this legislation in a fairly formal format, as opposed to submitting an “idea” and having the law department perform the complete preparation of legislation, was to expedite the process.

I am looking forward to any and all discussion, suggestions, and comments on this legislation in a timely basis.

Note: I have also provided all with a copy of an article from the local publication "MimiVanderhaven" in its January 19, 2012 edition regarding the new sweepstakes cafe in Seven Hills. This newspaper has a circulation in Cuyahoga County of 253,964.

Introduced by:  
Councilman Matt Trafis  
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## PROPOSED ORDINANCE REGARDING SWEEPSTAKE / INTERNET CAFES

WHEREAS, the Council has determined that it is in the best interest of the City of Seven Hills and its residents to establish a licensing and regulating requirement for such businesses that operate Interactive Entertainment and Computer Sweepstakes wherein the public is invited to the establishment for the purpose of purchasing an item of value for an opportunity to be entered into a sweepstakes.

WHEREAS, The City of Seven Hills further seeks to regulate this business to prevent safety and fire hazards, disturbances, disruption of pedestrian traffic, disorderly assemblies, theft of personal property, gambling, loitering, and truancy within the City; and

WHEREAS, the Council determines that this Chapter shall only apply to the operation of such terminals that are lawfully operating pursuant to the Ohio Revised Code and nothing in this Chapter shall be construed to legalize, license or authorize any operation of a device that is unlawful to operate pursuant to the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Seven Hills, County of Cuyahoga and State of Ohio:

### CHAPTER XXX MECHANICAL AMUSEMENT DEVICES AND INTERACTIVE ENTERTAINMENT AND COMPUTER SWEEPSTAKE DEVICES

#### XXX DEFINITIONS

As used in this chapter:

- (a) "Mechanical amusement device" means a machine which, upon the insertion of a coin or slug, operates or may be operated for use as a game, contest or amusement of any description, or which may be used for any game, contest or amusement, and which contains no automatic pay-off device for the return of money, coins, merchandise or tokens or checks redeemable in money or anything of value.
- (b) "Juke box" means any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.

- (c) "Cigarette vending machine" means any automatic vending machine used for the sale of cigarettes and matches, which is controlled by the insertion of a coin or coins. It shall not include machines or devices used solely for the vending of service, food or confections.
- (d) "Interactive entertainment and computer sweepstake 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, wherein a product or service is provided, and 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 is not gambling under state or local laws. Machines designated by the State Lottery Commission are not Interactive Entertainment and Computer Sweepstake Devices.

### XXX LICENSE REQUIRED

No person shall display or exhibit a mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device within the City without having first obtained a license therefore from the Building Department.

A separate license shall be required for each mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device displayed at any one time.

### XXX APPLICATION FOR LICENSE

Application for a license to display a mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device must be made to the Building Department upon such forms as are prepared therefore by the Building Department.

The application must be made by the owner or proprietor of the business or place at which the mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device is to be displayed.

The application shall state:

- [1] the name of the owner of the place of business,
- [2] the address of the place for which the license is requested,
- [3] the residence of the owner,
- [4] the serial number and name of the manufacturer of the mechanical amusement device, juke box cigarette vending machine, or interactive entertainment and computer sweepstake devices,
- [5] the owner of the mechanical amusement device, juke box ,cigarette vending machine, or interactive entertainment and computer sweepstake devices,

- [6] the name and address of the distributor of the mechanical amusement device, juke box ,cigarette vending machine, or interactive entertainment and computer sweepstake devices,
- [7] the nature of the business in conjunction with which the mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device is to be displayed and
- [8] such further information as may be required by the Building Department.

The distributor of such mechanical amusement device, juke box or cigarette vending machine or interactive entertainment and computer sweepstake device shall be deemed to be the agent of the owner of proprietor of the business where such mechanical amusement device, juke box or cigarette vending machine or interactive entertainment and computer sweepstake device is displayed and shall be jointly and severally liable with such owner or proprietor for the filing of the application and for the payment of the annual license.

An applicant and / or owner shall permit right of entry.

XXX ANNUAL LICENSE FEE.

An operator and/or owner of a business displaying mechanical amusement devices, juke boxes or cigarette vending machines within the City shall first obtain a license from the Building Department upon the payment of the annual license fee of one hundred dollars (\$100.00). This annual license fee shall be for the year beginning January 1 of the calendar year or for any unexpired portion of the year.

An operator and/or owner of an interactive entertainment and computer sweepstake device business within the City shall first obtain a license from the Building Department upon the payment of an annual license fee of five thousand dollars (\$5,000.00). This annual license fee shall be for the year beginning January 1 of the calendar year or for any unexpired portion of the year.

XXX INDIVIDUAL DEVICE LICENSE FEE.

A device license to display one mechanical amusement device, cigarette vending machine, juke box, or interactive entertainment and computer sweepstake device shall be issued to the applicant upon the approval of the application and upon the payment of an annual / monthly device license fee as follows:

	<u>Per Device</u>
- Mechanical amusement device	\$100.00 / annual
- Juke box	\$100.00 / annual
- Cigarette vending machine	\$100.00 / annual
- Interactive entertainment and computer sweepstake device	\$50.00 / monthly

The annual and individual device license fee shall be for the year beginning January 1 of the calendar year or for any unexpired portion of the year. The annual and individual device license shall entitle the licensee named therein to display at or upon the premises therein described one mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device.

All annual and individual device license fees under this chapter shall be filed with the application for license.

### **XXX SEPARATE LICENSES REQUIRED; TRANSFERABILITY.**

A separate license shall be required for each and every mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device which is displayed by any person at any one time, but any license may change from the display of one approved mechanical amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device to the display of another approved amusement device, juke box, cigarette vending machine or interactive entertainment and computer sweepstake device to the display of another approved mechanical amusement device, juke box or cigarette vending machine at any time. The Building Department must be notified of any and all such license changes.

A license issued under the provisions of this chapter shall not be transferred from one person to another person but the license may be transferred by the licensee therein named from the place specified in the license to another place owned by the licensee, should the licensee move his business from the address specified in the license to another location.

### **XXX LICENSE EXPIRATION**

Any sweepstakes terminal café license issued under this chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty days. Any computerized sweepstakes device license issued under this chapter shall expire upon the transfer or sale of such computerized sweepstakes device.

### **XXX LATE PAYMENT PENALTY**

(a) Any and all fees either imposed under the terms and provisions of this Chapter or incurred by licensee shall be paid to the City of Seven Hills by the licensee no later than the fifteenth (15<sup>th</sup>) day of the month in which any such fees are incurred. Failure to make payment in full on or before the 15<sup>th</sup> day of any given month shall result in the

imposition of a late fee equal to that amount which is fifteen percent (15%) of the unpaid amount.

(b) The City of Seven Hills shall provide each licensee with an invoice of fees due and owing under the terms and provisions of this Chapter no later than the seventh (7<sup>th</sup>) day of each month.

### XXX Deposit of collected funds

75% of the revenue generated through fees, licensures, etc. shall be directed to the general fund and 25% of revenues generated through fees, licensures, etc. shall be directed to fund 101.112.55002 (Education / Training / Travel) for the sole purpose of officer training ie: firearms. Money to be used at the discretion of the Chief of Police. Money to be transferred to said fund on a monthly basis.

### XXX PROXIMITY OF DEVICES TO SCHOOLS, CHURCHES, PARKS AND PLAYGROUNDS; DISPLAY OF LICENSES.

No license shall be issued for the display of a mechanical amusement device at a business which is located on premises which are 500 feet from any premises occupied by a school, church, playground or public park. It shall be the duty of the licensee to conspicuously display the license issued hereunder.

### XXX GIVING OF PRIZES, AWARDS.

No person shall, by himself, by another person or otherwise, directly or indirectly, give any prize, award, merchandise, gift or anything of value to any player, or to any operator of any mechanical amusement device, or to any contestant for a high score on the device.

By the second Tuesday of each month, the operator shall cause to be delivered to the City Income Tax Department a copy of the record of things in conjunction with any Federal or State tax reporting requirements, given to persons together with the above-required information given during the preceding month. The operator and the Income Tax Division shall not disclose the social security number of any person to anyone except as required by the laws of the State of Ohio and the United States government.

### XXX HOURS WHEN CLOSED

A business, a substantial portion of whose annual gross revenue is derived from mechanical amusement devices, juke boxes, cigarette machines, and interactive entertainment / computer sweepstakes devices or a substantial portion of whose occupied space is devoted to mechanical amusement devices, juke boxes, cigarette machines, and interactive / computer sweepstakes devices shall be closed between the hours of 10:00 p.m. and 9:00 a.m. of the following day, and every day, except on Sunday, when the business shall be closed until 2:30 p.m.

As used in this section, the term “substantial portion” means twenty percent (20%) or more of the annual gross revenue of the on-the-premises business and/or twenty percent (20%) or more of the occupied space being devoted to the use of the mechanical amusement devices, juke boxes, cigarette machines, and interactive entertainment / computer sweepstakes devices.

### XXX ADMISSION OF MINORS

The licensee shall not admit any person under the age of 21 to any business, and interactive entertainment and computer sweepstake device businesses, unless such person is accompanied by and in the direct personal charge of his or her parents, legal guardian or an adult person in charge of such minor.

### XXX POSTING OF NOTICE

An owner of a business designated as an interactive entertainment and computer sweepstake device businesses shall post in a conspicuous place a notice, which shall read “MINORS PROHIBITED UNLESS ACCOMPANIED BY PARENT, GUARDIAN OR OTHER RESPONSIBLE ADULT”

### XXX PENALTY

Whoever is convicted of or pleads guilty to a violation of this Section is guilty of a misdemeanor of the first degree and shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than six (6) months or both. A separate offense shall be deemed committed each day during or on which a license or licenses held by any person who has violated any provision of this chapter.

Section X. This Council finds and determines that all formal actions of this Council concerning and relating to the adoption of this Ordinance were taken in an open meeting of this Council and that all deliberations of the Council and of any of its Committees comprised of a majority of the members of the Council that resulted in those formal actions were in meetings open to the public, in compliance with the law.