

ORDINANCE NO: 11 -2011
INTRODUCED BY: Roche

AN ORDINANCE EXTENDING A TEMPORARY MORATORIUM ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS FOR ZONING, OCCUPANCY, AND/OR BUILDING PERMIT APPROVALS FOR SWEEPSTAKES/INTERNET CAFES AND THE ISSUANCE OF SUCH APPROVALS; AND DECLARING AN EMERGENCY.

WHEREAS, the City of Richmond Heights may legitimately regulate the location and operation of businesses within the City, including Sweepstakes/Internet Cafes; and

WHEREAS, for purposes of this Ordinance, a "Sweepstakes/Internet Cafe" is defined as any premises upon which any "Computerized Sweepstakes Device", as defined below, is located for the use or entertainment of the public, whether or not such premises has other business purposes of any nature whatsoever; and

WHEREAS, for purposes of this Ordinance, a "Computerized Sweepstakes Device" is defined as 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, and which may be operated by the public generally for use as a contest of skill or chance, 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, and which may or may not be gambling under state or local laws. Machines designated for use by the State Lottery Commission are not Computerized Sweepstakes Devices for purposes of this Ordinance; and

WHEREAS, this Council is aware of the current operations of two Sweepstakes/Internet Cafes in the City and their overwhelming popularity and is aware of recent inquiries to the City regarding zoning issues for the establishment of one or more other Sweepstakes/Internet Cafes in the City and no applications for such use are pending; and

WHEREAS, pursuant to Ordinance No. 72-2010, adopted by this Council on September 28, 2010, a three-month moratorium through December 28, 2010, was enacted on the acceptance, processing and issuance of any applications for zoning, occupancy, and/or building permit approvals for Sweepstakes/Internet Cafes; and

WHEREAS, pursuant to Ordinance No. 88-2010, adopted by this Council on December 14, 2010, a three-month extension of the moratorium through March 28, 2010, was enacted; and

WHEREAS, this Council needs to continue to study 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, to

receive guidance from the Ohio Attorney General related thereto, and, if appropriate, to review draft legislation related to the same and to allow time for any legislation to go through the Code amendment process, all for the purpose of furthering the public health, safety and general welfare; and

WHEREAS, this Council believes that an additional two-month extension of the temporary moratorium on the acceptance, processing, and issuance of applications for zoning, occupancy, and/or building permit approvals for Sweepstakes/Internet Cafes will not deny property owners an economically viable use of their property and will afford City officials and this Council the time necessary to determine whether to put into place reasonable zoning and business regulations to further the aforesaid purposes.

NOW, THEREFORE, Be it Ordained by the Council of the City of Richmond Heights, State of Ohio, that:

Section 1: The moratorium adopted by Ordinance No. 72-2010 of this Council, and extended through March 28, 2011 by Ordinance No. 88-2010, is hereby extended for an additional two months through May 28, 2011, for the reasons set forth in the preamble to this Ordinance and during which the City shall not accept or process any applications for zoning, occupancy, and/or building permit approvals for Sweepstakes/Internet Cafes, and further shall not issue any such approvals during said additional three-month period.

Section 2: For purposes of this Ordinance, a “Sweepstakes/Internet Cafe” is defined as 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 3: Whenever the provisions of this Ordinance conflict with any other ordinance or any provision of the Codified Ordinances of the City, the provisions of this Ordinance shall control.

Section 4: 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 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 5: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and general welfare of the City and its residents and property owners and for the further reason that it is necessary to extend the temporary moratorium currently in effect in order to have a pause for planning purposes so as to further the orderly development of the City with respect to the establishment and operation of Sweepstakes/Internet Cafes, and if appropriate, to adopt well thought-out and contemporary zoning and business regulations for the City, and to protect the public interest and rights of

property owners; wherefore, this Ordinance shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED: _____

Daniel J. Ursu, Mayor

APPROVED: _____

ATTEST: _____

Betsy Traben
Clerk of Council

David H. Roche
President of Council