



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Two

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge".

Be it ordained by the City Council of the City of Cambridge as follows:

Chapter Twelve entitled: "Licenses and Permits," section 12-12 entitled: "Regulations for Automatic Amusement Devices," is hereby amended by striking out the present subsection (g) entitled: "License Fee," and substituting in place thereof the following new subsection (g) which reads as follows:

(g) License Fee. Every applicant who possesses or controls four or more automatic amusement devices, before being granted a license shall pay \$100.00 as the annual license fee for the privilege of operating or maintaining for operation each automatic device as defined in subsection (a) herein. Those establishments with less than four (4) automatic amusement devices before being granted a license shall pay \$20.00 as the annual license fee for the privilege of operating or maintaining for operation each automatic amusement device. Each license shall expire on December 31 of each year. A license shall not be transferable from person to person nor place to place, and shall be usable only at the place and by the person designated in the license.

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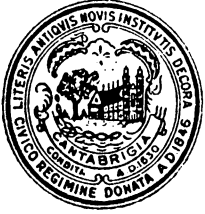
In City Council April 26, 1982.

Passed to be ordained as amended by a yeas and nays vote: Yeas 8;

Nays 0; Absent 1.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



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Nays 0; Absent 1.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

Motion of Councilman Dochay. Carried

City of Cambridge

MASSACHUSETTS

In City Council April 26, 198²

COMM. NUMBER ELEVEN

RE: REVISED DRAFT OF A PROPOSED AMENDMENT TO THE GENERAL ORDINANCES IN CHAPTER 12 ENTITLED "LICENSES AND PERMITS" IN SECTION 12-12 ENTITLED "REGULATIONS FOR AUTOMATIC AMUSEMENT DEVICES" BY STRIKING OUT THE PRESENT SUBSECTION (G) AND SUBSTITUTING IN PLACE THEREOF A NEW SUBSECTION (G).

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton	✓			
Mr. Thomas W. Danehy	✓			
Mr. Francis H. Duehay	✓			
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan	✓		✓	
Mr. Wylie				
Mayor Vellucci	✓			

8 0 1

Passed & be Ordained



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

April 26, 1982

Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA

Re: License Fees for Automatic Amusement Devices

Dear Mr. Healy:

Councillor Duehay has requested my opinion regarding the legality of a proposed amendment to §12-12(g) of the General Ordinances, which provides that an applicant having four or more automatic amusement devices shall pay an annual license fee of \$100/device, whereas an applicant having fewer than four devices shall pay \$20/device.

The governing statute, G.L. c. 140, §177A(4), as amended by St. 1981, c. 351, §83, provides:

The annual fee for a license under this section for any automatic amusement device licensed hereunder...shall be twenty dollars, unless otherwise established... in a city by city council action... by adoption of appropriate...ordinances to set such fees, but in no event shall any such fee be greater than one hundred dollars.

At the outset, I doubt that the Legislature intended to authorize cities to charge different fees depending on the number of devices in the establishment. Before the 1981 amendment, §177A(4) authorized a flat fee of \$20/device, and it seems to me that the intent of St. 1981, c. 351, §83 was merely

to authorize municipalities to establish a flat fee within the range of \$20-\$100. If the Legislature had intended to authorize the kind of fee schedule proposed here, it seems to me that they would have made their intention clear.

If it is argued that the proposed ordinance is authorized by G.L. c. 140, §177A(4), the remaining question is whether it is constitutional.

Where, under the police power, a license is required and a license fee charged for a place of amusement, the license fee must be nondiscriminatory, and must be limited to a charge which is reasonably related to the expense of issuing the license and the reasonable cost of supervision, regulation, and inspection. 4 Am. Jur. 2d, Amusements and Exhibitions, §32 (1962).

The Constitution does not require that exactly the same sum be charged everyone obtaining a license. Distinctions, however, "must not be arbitrary, but must be based on some reason or practical necessity...." 51 Am. Jur. 2d, Licenses and Permits, §39. According to McQuillin:

Classifications embodied in municipal licensing legislation must be based upon intrinsic, natural and reasonable distinctions germane to the police or revenue purpose of the law. The difference between the subjects need not be great; and if any reasonable distinction can be found to exist, the classification imposed by the licensing laws will be sustained. The classification may reasonably distinguish between business or trades or between subclasses of businesses, or between different methods of conducting the same general character of business or trade, but ordinarily not between persons engaged in the same trade or pursuit....

9 McQuillin, Municipal Corporations, §26.60 (1978).

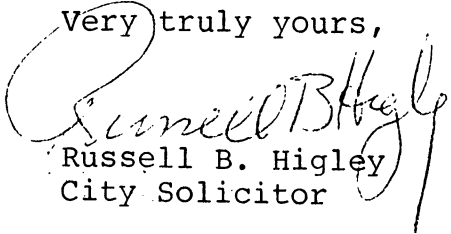
One reason for setting different fees might be a difference in the amount of police supervision required. 51 Am. Jur. 2d, Licenses and Permits, §39 (1970). Thus, the difference could be supported if it could be shown that establishments with four or more devices require more supervision.

April 26, 1982

Further, regarding "activities that, though tolerated, are recognized as being hurtful to public morals, productive of disorder, or injurious to the public, the courts have indicated that the amount exacted may be such as to effect a reasonable restriction or restraint or a practical prohibition of the activities." Id., §40. If automatic amusement devices fall within this category, the classification could be defended on the ground of encouraging establishments to have fewer than four devices.

If the fee in question is a license fee imposed under the police power for the purpose of regulation (as seems likely), as opposed to a tax for revenue (see McQuillin, op. cit., §26.15), then the reason for the classification would have to be related to the regulatory purpose. See McQuillin, op. cit., §26.60, p. 131: "When a city taxes only for police supervision of a class of business, that business must be classified on the basis of the necessity of police supervision, and it is not due process to use any other basis."

Very truly yours,



Russell B. Higley
City Solicitor

RBH:jl



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

April 16, 1982

Russell B. Higley, Esq.
City Solicitor
City Hall
Cambridge, MA 02139

Dear Russ:

Enclosed you will find a copy of a proposed amendment to the General Ordinances of the City of Cambridge regarding the fees for automatic amusement devices.

Your approval is required on this amendment prior to the City Council meeting of April 26, 1982.

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

Paul E. Healy, City Clerk.



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CITY OF CAMBRIDGE

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OFFICE OF
THE CITY CLERK

April 21, 1982

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA 02139

Dear Russ:

In regard to a proposed amendment to the General Ordinances of the City of Cambridge on the increase of the license fees for automatic amusement devices, I have been requested by Councillor Duehay to request an opinion from you on the legality and deficiency of providing a reduced rate for those establishments with less than four automatic amusement devices.

I would appreciate a response from you prior to the April 26th City Council meeting.

Very truly yours,

Paul E. Healy, City Clerk

PEH/dl

Enc. (1)



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7 Unfinished Business

City of Cambridge

MASSACHUSETTS

In City Council

4/12/1982

Pinball
Automatic
Amusement

- Pending & 2nd Reading -

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton	✓			
Mr. Thomas W. Danehy	✓ (1)	→ →	→ →	✓ (2)
Mr. Francis H. Duehay	✓			
Ms. Sandra Graham		✓ (2)	—	✓ (1)
Mr. Leonard J. Russell	✓			
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan	✓			
Mr. Wylie	✓			
Mayor Vellucci		✓		

7 + 0 +
~~7 2 - 0 - 0~~
 6 2 0 - 1

#7

Humphreys

Boyer



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In City Council April 12, 1982.

Passed to be ordained as amended by a yea and nay vote:- Yeas 6;
Nays 2; Absent 0; Present 1.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



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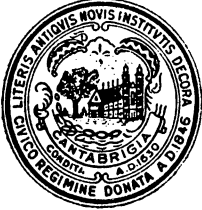
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Nays 2; Absent 0; Present 1.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

Ord 147
City of Cambridge

MASSACHUSETTS

In City Council

3/22/

1982

EPS

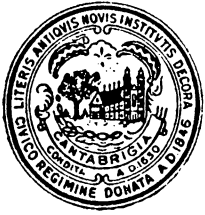
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Mr. Daniel J. Clinton		✓		
Mr. Thomas W. Danehy	✓ ②	←	←	✓ ①
Mr. Francis H. Duehay	✓			
Ms. Sandra Graham	✓			
Mr. Leonard J. Russell			✓	
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan			✓	
Mr. Wylie	✓			
Mayor Vellucci	✓			

5	1	2	+
6	1	2	0

EPS
SA
11

Passed to be Ordained -

Not Recommended



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City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Two.

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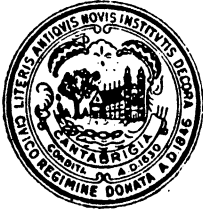
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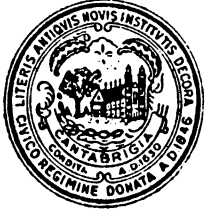
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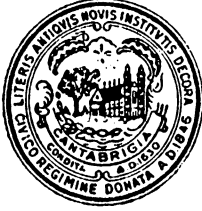
This amendment will apply to the calendar year 1982 and subsequent years.

In City Council April 12, 1982.

Passed to be ordained as amended by a yeas and nays vote:- Yeas 6;
Nays 1; Absent 2.

Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.



City of Cambridge

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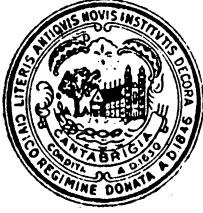
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Robert W. Healy, City Manager.

ATTEST:- Paul E. Healy, City Clerk.

City of Cambridge

MOTION FOR RECONSIDERATION SUBMITTED BY COUNCILLOR Walter Sullivan

March 22, 1982

Date

Councillor Walter Sullivan has notified the City Clerk of his intention to move reconsideration of the vote of the City Council passing to be ordained a proposed amendment to Section 12-12 of the Code of the City of Cambridge, which would increase the license fee in Subsection (g) from \$20 to \$100 annually for the operation of automatic amusement devices.

Walter Sullivan
3-22-82

Signature



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Two.

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In City Council March 22, 1982.

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Absent 2.

Robert W. Healy, City Manager

RECONSIDERATION FILED BY COUNCILLOR WALTER SULLIVAN



City of Cambridge

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FIRST PUBLICATION NO. 2140.

CITY OF CAMBRIDGE

In the Year One Thousand,

Nine Hundred Eighty-Two.

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ATTEST:-

Paul E. Healy,
City Clerk.

(C)Mar.11

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RGE PIECE OF

UR ELEGANT

EP DISH PIZZA

a side dish of salad

***Union Square
Location Only
Valid Mon.-Fri.**

Expires March 25th

Center



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CITY OF CAMBRIDGE
In the Year One Thousand,
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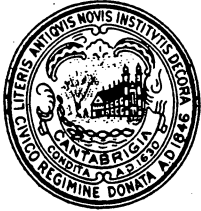
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ATTEST:- Paul E. Healy, City Clerk.



12.

CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011

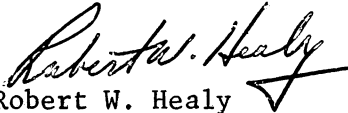
EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

March 8, 1982

To the Honorable, the City Council:

Enclosed please find copy of a proposed amendment to Section 12-12, Chapter Twelve of The Code of the City of Cambridge, which would increase the license fee in subsection (g) from \$20 to \$100 annually, for the privilege of operating or maintaining for operation each automatic amusement device as defined in subsection (a).

Very truly yours,


Robert W. Healy
City Manager

RWH/mbf
Enc.

Agenda Item Number Twelve

Re: Proposed amendment to Section 12-12
of Chapter 12 of the General Ordinances
Re: increasing the license fee for auto-
matic amusement devices in section (g)
from \$20. to \$100. annually.

4/12/82 - Passed to be ordained
as amended to pertain to
"four or more" - 6-2-0-0

Copies sent to License Comm
Law Dept
4/13/82 (dl)

In City Council,

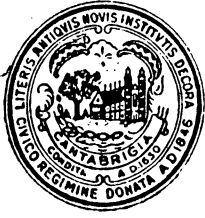
March 8, 1982

MV 3/8/1982

Passed to Ord

Pending on
ACTION IF COUNCIL
Repeal -

Repeal -



City of Cambridge

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#11 11. ⁰⁻¹² Larry hist - 4/26/82

Comm. from Paul E. Healy, City Clerk, transmitting a revised draft of a proposed amendment to the General Ordinances of the City of Cambridge in Chapter Twelve entitled "Licenses and Permits" in section 12-12 entitled "Regulations for Automatic Amusement Devices" by striking out the present section (g) and substituting a new section (g).

*L.D. Sullivan -
HADN CONSENT TO RESUB
REVISION BY COUNCIL -*

*Revised publication
4/29/82 - Chronicle
revised copy sent to License
In City Council, Comm. 4/26/82 (all)*

April 26, 1982

4/26/82

*Revised Ordinance
Proposed to be
Ordained
P-0-1*