

ORDINANCE NO. 914.

Final Publication No. 1984. First Publication in the Cambridge Chronicle on February 15, 1979.

CITY OF CAMBRIDGE
In the Year One Thousand, Nine Hundred Seventy-Nine
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" is hereby amended by striking out the present section 12-12 and substituting in place thereof a new section 12-12 entitled: "Regulations for Automatic Amusement Devices", to read as follows:-

Sec. 12-12. Regulations for Automatic Amusement Devices.

(a) **Definitions.** For the purposes of this Section, an "automatic amusement device" shall mean any mechanism whereby, through the insertion of a coin or token, any apparatus in released or set in motion or is put in a position where it may be set in motion for the purpose of playing any game, involving, in whole or in part, the skill of the player, including, but not exclusively, such devices as are commonly known as pinball machines, including free play pinball machines.

For the purposes of this Section, a "person" shall have the same definition as set forth in Section 1-16 of this Code.

(b) **License Required.** It shall be unlawful for any person having title to or responsibility for the maintenance or operation of any restaurant, public hall, store, place of amusement or any other place to which members of the public may resort, to maintain, operate or permit to be operated or maintained in said premises, any automatic amusement device without having first obtained a valid license from the License Commission, pursuant to the provisions of this Ordinance.

(c) **Gambling Devices Not Permitted.** Nothing in this ordinance shall in any way be construed to authorize, license or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Massachusetts.

(d) **Application.** Application for such license shall be made out in duplicate and submitted to the License Commission upon a form to be supplied by the License Commission for that purpose. The application for such license shall contain the following information:

(1) Name and address of the applicant, age, date and place of birth. If said applicant is a corporation, partnership, association, or other business entity, said application shall include certified documentation sufficient to prove the applicant's existence, principal business address, person or officer upon whom service of process may be served, and the names and addresses of all directors, partners, or if an association, of all members of said association.

(2) Prior criminal convictions, if any, of applicant or its directors, partners or members as specified in (1), above.

(3) Place where machine or device is to be displayed or operated and the business conducted at that place.

(4) Description of machine or machines to be covered by the license, mechanical features, name of manufacturer(s), serial number(s).

(5) A floor plan of the business premises intended to be used for the housing of automatic amusement devices for play by members of the public. For the purpose of this Subsection, the term "business premises" shall include the entire building or structure housing said automatic amusement devices, and open for public access. Said floor plan shall clearly indicate the total square foot area of said business premises and shall indicate the intended position of said automatic amusement devices. The scale of said plan shall be established by regulation of the License Commission.

(6) An approved Certificate of Occupancy issued by the Building Department for the business premises intended to be used for the housing of automatic amusement devices for play by members of the public.

(7) A certificate of approval issued by the City Electrical Inspector, verifying that the electrical installation in said premises is adequate for the uses intended and is in conformance with the Massachusetts Electrical Code (Form FPR-11) as amended.

(8) The names and residential addresses of all persons as defined in Section 1-16 of this Code who have any equitable interest in, or who have otherwise contributed valuable consideration to the applicant's business or to the applicant personally, insofar as said interest or consideration relates to the procurement, maintenance, operation or display of automatic amusement devices.

(9) Documentation sufficient to prove that the automatic amusement devices sought to be licensed are lawfully in the possession of the applicant.

(e) **Age of Applicant.** No license shall be issued to any applicant unless he or she shall be over eighteen (18) years of age, and provide proof of United States citizenship or legal residence status as an alien.

This provision shall similarly apply to any applicant acting as the authorized agent of a corporation, partnership, association, or other business entity.

(f) **Consideration of Application.** The License Commission shall, conduct a public hearing in accordance with the provisions of General Laws, Chapter 39, Section 23B, within thirty days from the date of receipt by the License Commission of a properly completed application as set forth in sections (d) and (e) above, to consider said application.

The License Commission shall grant a license under the provisions of this ordinance unless it specifically finds and states in writing within thirty days from the date of said public hearing that (1) the applicant is not a person of good moral character or (2) that the granting of said license at the premises intended would lead to the creation of a nuisance or otherwise endanger the public health, safety, morals, order or general welfare by:

(a) unreasonably increasing pedestrian or vehicular traffic in the area in which the premises are located or

(b) increasing the incidence of illegal or disruptive conduct in the area in which the premises are located or

(c) unreasonably increasing the level of noise in the area in which the premises are located or

(d) otherwise significantly harming the legitimate protectable interests of the affected citizens of the city.

No application shall be denied if the anticipated harm is not significant or if the likelihood of its occurrence is remote.

(g) **License Fee.** Every applicant, 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 as defined in subsection (a) herein. Each license shall expire on December 31 of each year. A license shall not be transferrable from person to person nor place to place, and shall be usable only at the place and by the person designated in the license.

(h) **Display.**

(1) The license herein provided for shall be posted permanently and conspicuously in the premises wherein said device or devices are to be operated or maintained to be operated.

(2) Such license may be transferred from one device or devices to another similar device or devices upon application to the License Commission to such effect and the giving of a description and the serial numbers of the devices involved in the transfer and the filing of a \$2.00 fee.

(3) If the licensee shall move his place of business to another location within the City of Cambridge, the license may be transferred to such new location only upon reapplication to the License Commission in accordance with the provisions of Sections d, e, and f of this ordinance.

(i) **Revocation of License.** Every license issued under this ordinance is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee, directly or indirectly, permit the operation of any automatic amusement device contrary to the provisions of this ordinance, the ordinances of the City of Cambridge, or the laws of the Commonwealth of Massachusetts. Said license may be revoked by the License Commission after written notice to the licensee, which notice shall specify the ordinance or law violations with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violations. Ten days notice of the hearing shall be given the licensee. At such hearing the licensee and his attorney may present and submit evidence of witnesses in his defense.

(j) **Seizure and Destruction of Device.** If the Chief of Police shall have reason to believe any mechanical amusement device or devices are used as gambling devices, he shall, upon a validly issued search and seizure warrant cause said device or devices to be seized and impounded and if upon trial of the exhibitor for allowing said device or devices to be used as a gambling devices, said exhibitor be found guilty; such device or devices shall be destroyed by the police, upon proper order by the Court.

(k) **Prohibitions.**

(1) No person holding a license under this ordinance nor any employee or agent of such person shall permit persons under eighteen (18) years of age to play or operate any automatic amusement device located in an establishment also holding a license under the provisions of General Laws, Chapter 138, Sections 12 to 14. The licensee shall post permanently and conspicuously at the location of the device or devices so licensed in premises so licensed a sign warning persons under eighteen years of age of this prohibition.

(2) All Automatic Amusement devices situated on business premises for play by members of the public shall be so installed as to afford an open and accessible space of eighteen (18) inches between each device and any adjacent device, wall, or partition. Each device shall be installed in such manner as to afford a direct and unobstructed means of entrance and exit from the business premises by means of a corridor or system of corridors of no less than thirty-six (36) inches in width.

(3) Any business establishment which utilizes more than a total of one hundred and fifty (150) square feet of open and accessible space between said devices and for use as corridors between or adjacent to said devices as detailed in the immediately preceding paragraph, or any business establishment which displays on its premises a number of automatic amusement devices available for play by the public, which devices if played simultaneously could accommodate an aggregate of fifty or more players, shall be deemed a place of public assembly and shall be subject to all regulations of the Commonwealth of Massachusetts State Building Code governing places of public assembly as set forth therein.

(4) It shall be unlawful and a violation of this ordinance for any business establishment to erect and maintain for play by members of the public, more than one (1) Automatic Amusement Device for each five hundred (500) square feet of gross floor area of said business establishment.

For the purposes of this subsection, gross floor area shall be defined as the sum, in square feet, of the gross horizontal areas of all of the floors of a building, as measured from the exterior walls separating two buildings. Gross floor area shall include:

a) elevator shafts and stairwells on each floor;
b) attic space, whether finished or unfinished, not excluded in (4) below;

(c) interior balconies, mezzanines, and
d) basement and cellar areas not excluded in (2) below.

Gross floor area shall not include:

1) areas used for parking garages, accessory parking, or off street loading purposes;

2) basement and cellar areas devoted exclusively to the operations and maintenance of the building such as heating and cooling equipment, electrical and telephone facilities, and fuel storage;

4) attic space and other areas for elevator machinery or mechanical equipment necessary for the operation of the building.

(5) It shall be unlawful for any licensee or permit holder to operate any establishment without an attendant on the premises; that is, at least one employee in attendance at all times.

(6) It shall be unlawful for a licensee to allow any person under the age of seventeen (17) years to play an automatic amusement device during the hours of 8:30 A.M. to 3:00 P.M. when schools are in session.

(1) **Rules and Regulations of Commission.** The License Commission shall issue rules and regulations for the use of such automatic amusement devices, but said rules and regulations may only relate to compliance with applicable laws or ordinances, or to public safety, health order or welfare, or to steps required to be taken to guard against creation of a nuisance or to insure adequate safety and security for patrons or the affected public. The License Commission may also require from time to time the furnishing of reports concerning the ownership if such devices or other interest therein, receipts for the use of such devices and any other information which it may deem pertinent concerning such devices and their use and operation.

(m) **Penalty.** Any person, firm or corporation violating any of the provisions of this ordinance, in addition to the revocation of his or its license, shall be liable to a fine or penalty of not less than \$50.00 nor more than \$200.00 for each offense. Every day that the offense continues shall be considered a separate violation.

(n) **Repeal of Conflicting Ordinance.** All existing ordinances of the City of Cambridge are hereby repealed insofar as they may be inconsistent with the provisions of this ordinance.

(o) **Separability of Provisions.** It is the intention of the City Council that each separate provision of this ordinance shall be deemed independent of all other provisions herein, and it is further the intention of the City Council that if any provision of this ordinance be declared invalid, all other provisions thereof shall remain valid and enforceable.

(p) **Effective Date.** The ordinance shall be in full force and effect sixty (60) days from the date of passage for all business premises which currently maintain and operate automatic amusement devices for play by members of the public. For all other applicants, this ordinance shall take effect on the date of passage.

In City Council March 26, 1979.

Passed to be ordained as amended by a yea and nay vote:- Yeas 7;
Nays 1;

Absent 0; Present 1.

ATTEST:-
(C)Ap5

James L. Sullivan, City Manager
Paul E. Healy, City Clerk.

