

ORDINANCE NO. 28 -2007

Offered by All of Council

AN ORDINANCE EXTENDING BY NINETY (90) DAYS A MORATORIUM ON THE ESTABLISHMENT, OPERATION, PERMITTING OR APPROVAL OF AMUSEMENT ARCADE, AMUSEMENT DEVICE OR SKILL-BASED AMUSEMENT MACHINE BUSINESSES WITHIN THE VILLAGE OF RICHFIELD AND DECLARING AN EMERGENCY.

WHEREAS, the Village of Richfield may legitimately regulate and license the location and operation of amusement arcade, amusement device or skill-based amusement machine businesses by requiring that such businesses be concentrated in one area and/or be separated from other land uses that may suffer negative secondary effects from the operation of one or more amusement arcade, amusement device or skill-based amusement machine businesses; and

WHEREAS, the Village of Richfield may legitimately regulate the operation and appearance of amusement arcade, amusement device or skill-based amusement machine businesses; and

WHEREAS, the Village of Richfield does not presently have any business in operation that meets the definition of an amusement arcade, an amusement device or a skill-based amusement machine business set forth below; and

WHEREAS, this Council desires to request that the Planning Commission conduct a study to determine the appropriateness of adopting one or more ordinances that will regulate the location, operation and appearance of amusement arcade, amusement device or skill-based amusement machine businesses in order to minimize or eliminate any negative secondary effects that may be found to result from the operation of one or more amusement arcade, amusement device or skill-based amusement machine businesses; and

WHEREAS, at the request of the Planning Commission, this Council desires to extend the moratorium established by Ordinance No. 3-2007, passed January 16, 2007, for an additional ninety (90) days from its current expiration date of July 16, 2007.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Richfield, Summit County, State of Ohio:

SECTION 1. That this Council hereby declares the above findings to be true and correct in all respects.

SECTION 2. For purposes of this Ordinance, “amusement arcade,” “amusement device” and “skill-based amusement machine” mean:

- (a) “Amusement arcade” means any place of business where three or more amusement devices are located for the use or entertainment of persons patronizing the place of business.
- (b) “Amusement device” means any machine, device or instrument which either may be activated for play by a third party, person or device, or upon the insertion of paper money, a coin, token, slug or card, operates or may be operated as a game, contest or test of skill, or other amusement of any kind. “Amusement device” does not include vending machines.
- (c) “Skill-based amusement machine” means a skill-based amusement device, such as a mechanical, electronic, video or digital device, or machine, whether or not the skill-based amusement machine requires payment for use through a coin or bill validator or other payment of consideration or value to participate in the machine’s offering or to activate the machine, provided that all of the following apply:
 - (i) The machine involves a task, game, play, contest, competition or tournament in which the player actively participates in the task, game, play, contest, competition or tournament.
 - (ii) The outcome of an individual’s play and participation is not determined largely or wholly by chance. For purposes of this Ordinance, “largely or wholly” means at least 51%.
 - (iii) The outcome of play during a game is not controlled by a person not actively participating in the game.
 - (iv) The machine only charges one price to play a task, game, play, contest, competition or tournament.
- (d) All of the following apply to any machine that is operated as described in (c) of this section:
 - (i) As used in this section, “task,” “game” and “play” mean one event from the initial activation of the machine until the results of play are determined without payment of additional consideration. An individual utilizing a machine that involves a single task, game, play, contest, competition

or tournament may be awarded prizes based on the results of play, the prizes or rewards shall be established prior to the individual placing a wager, and the individual shall be aware of what prize or reward will occur prior to the start of play.

- (ii) Advance play for a single task, game, play, contest, competition or tournament participation may be purchased. The cost of the contest, competition or tournament participation may be greater than a single non-contest, competition or tournament play.
- (iii) To the extent that the machine is used in a contest, competition or tournament, that contest, competition or tournament has a defined starting and ending date and is open to participants in competition for scoring and ranking results toward the awarding of prizes without payment of additional consideration.
- (iv) No machine shall have a guessing game at the end of a successfully completed task, game, play, contest, competition or tournament.

SECTION 3. There is hereby extended the moratorium established by Ordinance No. 3-2007 which expires on July 16, 2007 against the establishment, operation, permitting or approval of an amusement arcade, an amusement device or skill-based amusement machine businesses within the Village of Richfield for a period of ninety (90) days from July 16, 2007 and shall be automatically extended for a further period of sixty (60) days should the study to be conducted by the Planning Commission not be received by the Clerk of Council, and acted upon by the Council, within such time period.


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 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 5. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety and welfare and for the further reason that it is immediately necessary in order to implement this moratorium at the earliest possible date so as to enable the Planning Commission to commence its study; wherefore, provided this Resolution receives the affirmative vote of two-thirds of the members of Council elected or appointed, it shall take effect

immediately upon its passage and execution by the Mayor; otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED: 6/5/07


President of Council


Mayor

Dated: 6/6/07

ATTEST:


Clerk of Council