

Ordinance No. 102
Computerized Charity Sweepstakes

AN ORDINANCE REQUIRING A PERMIT FOR ESTABLISHING INSPECTION AND OCCUPANCY FEE FOR OPERATING CERTAIN COMPUTERIZED SWEEPSTAKES MACHINES OR DEVICES; REQUIRING PAYMENT OF FEE PRIOR TO ISSUANCE OF PERMIT; ESTABLISHING PENALTIES; REPEALING ALL ORDINANCES IN CONFLICT HERewith AND PROVIDING FOR AN EFFECTIVE DATE AND PUBLICATION.

WHEREAS, this Ordinance is necessary to protect the public safety, health and welfare of the City of Log Cabin and is adopted pursuant to the regulatory authority set forth by the City Council of the City of Log Cabin.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOG CABIN, TEXAS:

Section 1.

THAT Computerized Charity Sweepstakes Machines of the Code of Ordinances of the City of Log Cabin, Texas, shall read as follows:

§ AUTHORIZED MACHINES DEFINED

Definitions

- A. Charity Sweepstakes Machines. A computerized machine or device used to provide electronic instant win game pieces for sweepstakes conducted by charitable and/or non-profit corporations or organizations. These machines may contain a device to collect donations and make games pieces available to the person making the donation.
1. Sweepstakes means a contest or game that awards one or more prizes based on chance or the random selection of entries that does not require a purchase or donation to enter the sweepstakes. Prizes awarded may be cash, merchandise, services or other things of value similar to prizes awarded by for profit corporations in sweepstakes promotions.
 2. Conducting a sweepstakes means distributing any material that promotes a sweepstakes, describes the prize or prizes, states one or more of the sweepstakes rules, includes any current or future opportunity to enter the sweepstakes, or provides any method for the recipient of the material to obtain any additional information about the sweepstakes. This includes sweepstakes conducted on the Internet or stand-alone computerized electronic devices.
 3. All sweepstakes entries are prohibited from requiring a donation to the charity or a purchase of any product or a validation of any kind that requires a donation or purchase. Identical entries to those received with a donation or purchase of a product sold by the charity must be provided at the location to persons who do not make a donation or a purchase. This method of entry for

- those not making a donation or purchase shall be deemed to be a reasonable alternative method of entry. These entries provided without a donation or purpose must provide the same opportunity to win the same prizes as those provided with a donation or purchase. The charity may limit the recipient to one entry per day without making a donation or purchase similar to the limitations by for profit corporations conducting sweepstakes to promote the sale of their products. The charity shall maintain a record of the name, address, and date for each entry of those who do not make a donation.
4. All proceeds from donations must be deposited in a separate bank account of the charity for each location and all expenses for that location must be paid directly from that account or a petty cash account.
 5. The location shall have a device which records the amount of donations and the amount of prizes paid from each device. Daily records must be maintained of these donations and prizes paid. A copy of these records shall be maintained at the location. All records including but not limited to the amount of donations, prizes, expenses, and bank records shall be made available to the city upon request within ten days.
 6. A receipt for donations shall be made available on request to anyone making a donation.
 7. A record shall be maintained of all persons who receive a cash or merchandise prize of \$600.00 or more and an Internal Revenue Service form shall be provided to each recipient who receives any prize of \$600.00 or more. The record of these prizewinners shall include their name, address, and telephone number along with a copy of their social security card and a copy of their driver's license or other photo identity. If this form is not provided the charity shall withhold 31% of the prize winnings and submit it to the IRS.
 8. Charities may not provide extra sweepstakes opportunities to those who make donations than they provide to those who do not make donations. Favoritism of any type to those who make donations to the charity is prohibited.
 9. Each location shall prominently display the rules regulating the sweepstakes. A copy of the rules shall be readily available to anyone requesting a copy. The rules shall contain the name of the charity conducting the sweepstakes, a statement that no donation or purchase is necessary, a statement that a donation or purchase will not improve the chances of winning, the company promoting the sweepstakes for the charity, if any, the types of prizes to be awarded, the largest and smallest prize to be awarded, the odds or winning prizes, whether the odds are dependent on the number of people participating in the sweepstakes, the duration and termination dates of the promotion, the availability of lists of winners of \$600 or more, any restrictions or eligibility requirements, and that no purchase or donation is necessary.
 10. Each location must prominently display signs with the name of the charity conducting the sweepstakes and signs that state that no donation is necessary and that making a donation will not improve your chances of winning.

- B. Excluded Machines. A charity sweepstakes machine does not include:
1. A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor
 2. A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit or drop a ball or other physical object into the machine or a part thereof, including basketball, skeeball, golf, bowling, pusher, or similar machines.

§ LOCAL PERMIT FEE FOR CHARITY SWEEPSTAKES MACHINE
PREMISES PERMIT

- A. Fee. An owner, operator, or lessee of premises on which a machine is made available to others shall be required to secure a permit by paying to the city an annual inspection and premises permit fee of one dollar per month for each machine located at the premises. This fee shall be paid monthly in advance of the operation of any machine.
- B. Expiration and renewal. Permits issued under this ordinance shall automatically expire on the last day of the month following its issuance unless a permit fee for the following month has been paid by the first day of the next month. The City shall not refund any portion of a premises permit fee after the permit is issued.
- C. Sealing. The City shall have the authority to seal machines located at an establishment for which a premises permit fee has not been secured. A \$5 fee will be charged for the release of any machine sealed for non-payment of the premises permit fee.
- D. Posting of Permit. The permit shall be conspicuously posted inside the building.
- E. Persons under 21 Prohibited. The presence of persons under twenty-one (21) years of age on premises subject to a machine premises permit is prohibited and is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of a premises permit issued pursuant to this Article. It is an affirmative defense to prosecution under this subsection that the person under twenty-one (21) years of age was a bona fide employee of the establishment subject to a premises permit.
- F. Alcoholic Beverages Prohibited. The presence of alcoholic beverages on premises subject to a machine premises permit that operates machines is prohibited and is punishable by a fine not to exceed Five Hundred (\$500.00) Dollars. In addition to any other penalty or punishment imposed by law, violation of this section shall be cause for revocation of a premises permit issued pursuant to this Article.

- G. Revocation of Permit. The City Commission may revoke any permit to maintain and operate premises on which a machine is made available to others when the licensee has been found guilty by a court of competent jurisdiction of violating any provisions of this article. After such conviction, the license may be reissued if the circumstances leading to conviction have been remedied and the premises are being maintained and operated in full compliance with law and this article. Provided, however, that an owner, operator, or lessee of premises on which a machine is made available to others, who is found to be in violation of this ordinance based on a finding that the number of machines exceeds the number for which the premise is permitted shall be required to pay an amount equal to twice the difference of the original permit fee and the permit fee required for the number of machines actually on the premises.
- H. Limit on Number of Permits Issued. The City may not issue more than 1 machine premises permits per year for premises operating more than ten (10) machines. Active permit holders who do not file for renewal or do not tender the appropriate permit renewal fee prior to the first day of each month shall be deemed to have surrendered their permit and the City may then consider the next available applicant (as determined by the date and time of submission of the application) for issuance of a machine premises permit.
- I. Relocation of Premises. Active permit holders who wish to relocate the establishment for which they are permitted must notify the City and receive an amended permit prior to relocating. The City shall comply with Section B prior to issuing the amended permit. The City reserves the right to deny the relocation in the event that it finds significant negative impact on surrounding properties. In addition to the fees due for the number of machines as per Section A, a fee of \$5.00 shall be paid to the City prior to the issuance of the amended permit.
- J. Additional machines. Active permit holders who wish to increase the number of machines on premises for which they are permitted must obtain an amended permit from the City prior to placing the machines on the premises. In addition to any additional fees due for the increased number of machines as per Section A & B, a fee of \$5.00 shall be paid to the City prior to the issuance of the amended permit.
- K. Planning Department to Study Impact. The City Planning & Zoning shall establish objective guidelines for determining the impact that an establishment seeking a machine premises permit will have on surrounding properties. The City reserves the right to deny the permit in the event that it finds significant negative impact on surrounding properties. The determination that a proposed establishment seeking a machine premises permit will have a significant negative impact on surrounding properties shall be made by the City Council. The decision of the City Council shall be made public by posting at City Hall and may be appealed to the City

Council if written notice is filed with the City Secretary within 10 calendar days of the date of the City Council's decision. In the event that the permit is granted, no permit shall issue during the ten calendar day period after the City Council's decision to order to allow time for an appeal to be filed prior to commencement of operations. This section shall apply to new locations and relocation applications considered after the date of enactment of this ordinance.

Section 2.

THAT all Ordinances or parts of Ordinances in conflict with this Ordinance are repealed to the extent of such conflict only.

Section 3.

THAT if for any reason any section, paragraph, subdivision, clause, phrase, word or provision of this ordinance shall be held invalid or unconstitutional by final judgment of a court of competent jurisdiction, it shall not affect any other section, paragraph, subdivision, clause, phrase, word or provision of this Ordinance, for it is the definite intent of this City Council that every section, paragraph, subdivision, clause, phrase, word or provision hereof be given full force and effect for its purpose.

Section 4.

THAT this Ordinance shall be modified and become effective on and after adoption and publication as required by law.

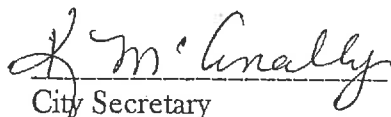
INTRODUCED on this 4th day of November, 2003.

PASSED AND APPROVED on this the 26 day of November, 2003.



Mayor

ATTEST:



City Secretary

EFFECTIVE DATE: 11/26/03