



AGENDA ITEM EXECUTIVE SUMMARY

Title:	Recommendation to Approve an Amendment to Chapter 5.14 Amusement Game Devices Regarding Amusement Game Device License Fees
Presenters:	Rita Tungare, Director of Community & Economic Development

Please check appropriate box:

	Government Operations		Government Services
X	Planning & Development (8/10/2015)		City Council

Estimated Cost:	N/A	Budgeted:	YES		NO	
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If NO, please explain how item will be funded:

Executive Summary:

Background:

Staff has been working with a business owner (Paul Ojeda) who would like to locate a video arcade in downtown St. Charles. He would like to place this business in the vacant retail space located at 228 W. Main Street.

Per Chapter 5.14 Amusement Game Devices, Mr. Ojeda’s proposed business is required to obtain an Amusement Game Device license for the business and a separate license for each machine located in the business. Below is the current fee structure for these licenses:

- \$150.00 for the business (annual fee)
- \$150.00 for each machine (annual fee)

Under these provisions, if the owner places 60 machines in the space, it would equate to \$9,150 per year in license fees; which, Mr. Ojeda has stated will make his business model unfeasible.

Government Operation Committee:

Staff presented this item to the Government Operations Committee on 8/3/2015. Based on direction from the Committee, staff has prepared a revised draft amendment.

Proposed Ordinance Amendment:

Staff is proposing a 3 tiered system that increases with the number of Amusement Game Devices located in a business. The proposed tiers were based on a conversation with Doc Mack who owns the Galloping Ghost in Brookfield, IL. Mr. Mack indicated that most medium sized arcades will have between 40 to 70 games, and large arcades generally have 100 or more.

3 Tiers:

- Tier 1 - Establishments with 1 to 5 Amusement Game Devices – **Fee \$100.00.**
 - This is meant for businesses that place a few Amusement Game Devices in their establishment such as a restaurants with a juke box, bars with one or two video games, or a business with a Red Box DVD rental machine.
- Tier 2 - Establishments with 6 to 50 Amusement Game Devices – **Fee \$250.00.**
 - This tier will mainly apply to medium sized arcades (based on Mr. Mack’s comments) and businesses that have Amusement Game Devices in addition to other activities such as Under the Big Top or movie theaters that have a small video game area.
- Tier 3 - Establishments with 51 or more Amusement Game Devices – **Fee \$500.00**
 - This tier primarily applies to businesses where the majority of activity is devoted to Amusement Game Devices.

Additional Amendments to Chapter 5.14

Based on review and advice from legal counsel, staff is proposing to eliminate the following obsolete sections of Chapter 5.14:

- 5.14.015 Amusement Game Device Arcade – This section defines Amusement Game Device Arcades. This definition is no longer consistent with the Zoning Ordinance, which defines these uses as Indoor Recreation and Amusement.
- 5.14.025 Maximum Number of Licenses Per Establishment - This section states that a business can only have more than 12 amusement game device licenses if they meet certain criteria established in the Zoning Ordinance. Since the proposed fee tier structure does not contemplate individual Amusement Game Device Licenses, and the Zoning Ordinance no longer provides specific requirements for Video Game Device Arcades, this section is no longer necessary.

Attachments: <i>(please list)</i>	
Proposed Ordinance Amendments to Section 5.14.060 License – Fee – Keeping or displaying machines for use	
Recommendation / Suggested Action <i>(briefly explain):</i>	
Recommend Approval of an Amendment to Chapter 5.14 Amusement Game Devices Regarding Amusement Game Device License Fees	
<i>For office use only:</i>	<i>Agenda Item Number: 4f</i>

Chapter 5.14

AMUSEMENT GAME DEVICES

Sections:

- 5.14.010 Amusement Game Device.
- 5.14.015 Amusement Game Device Arcade.
- 5.14.020 License - Required - Keeping or displaying machines for use - Display of license.
- 5.14.025 Maximum number of licenses per establishment.
- 5.14.030 License – Application.
- 5.14.040 License - Investigation – Denial.
- 5.14.050 License - Investigation – Issuance.
- 5.14.060 License - Fee - Keeping or displaying machines for use.
- 5.14.080 License – Transfer.
- 5.14.090 License - Suspension – Revocation.
- 5.14.100 Rules of operation – Designated.
- 5.14.110 Rules of operation - Noncompliance unlawful.
- 5.14.120 Violation – Penalty.

5.14.010 Amusement Game Device.

"Amusement game device" as used in this chapter means any machine which, upon the insertion of a coin, slug, token, plate or disc or upon payment of consideration by any other method may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It includes such devices as marble machines, pinball machines, electronic games, skill ball, mechanical grab machines, videogames, and all games, operations or transactions similar thereto under whatever name they may be known.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(b); Ord. 1979-M-38 § 1.)

~~**5.14.015 Amusement Game Device Arcade.**~~

~~"Amusement game device arcade" as used in this chapter means a business establishment where the premises are devoted primarily to the keeping or providing of more than twelve amusement game devices for operating or patronage by the public within the city.~~

~~(Ord. 1999 M 22 § 1; Ord. 1997 M 91 § 1.)~~

5.14.020 License - Required - Keeping or displaying machines for use - Display of license.

No person shall keep or provide any amusement game device for operating or patronage by the public within the city or be engaged in the business thereof, without having first obtained a license therefor from the city clerk, which license shall be in plain view in a conspicuous place on the machine or the premises.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 2(a).)

~~**5.14.025 Maximum Number of Licenses Per Establishment.**~~

~~Not more than twelve (12) amusement game device licenses shall be issued for any premises that are devoted primarily to the conduct of a principal business other than an amusement game device arcade. More than twelve (12) amusement game device licenses may be issued for premises containing an~~

~~amusement game device arcade, providing the arcade meets all of the requirements hereof and of the St. Charles Zoning Ordinance. (1997-M-91 § 1.)~~

5.14.030 License – Application.

Applications for the licenses required in Section 5.14.020 shall be filed in triplicate and shall contain the following information:

- A. If the applicant is a corporation:
 - 1. Corporate name and address,
 - 2. Names, dates of birth, and addresses of corporate officers and directors,
 - 3. Statement of principal kind of business in which corporate engages,
 - 4. Statement of whether corporate business will be conducted by a manager, and the name, address and authority of any such manager or agent,
 - 5. Names, dates of birth, and addresses of all persons, firms, and organizations owning of record five percent or more of the corporation's stock,
 - 6. Statement of whether any officer, manager, director or shareholder owning five percent or more of the stock of the corporation has ever been convicted of a felony or has ever forfeited an appearance bond on a felony charge,
 - 7. The location of the place of business and the place where the amusement game device is to be kept or displayed,
- B. If the applicant is an individual or partnership:
 - 1. Name and address, and date of birth of applicant,
 - 2. Location of place of business,
 - 3. Principal kind of business engaged in,
 - 4. Statement of whether business will be conducted by a manager or agent, and the name and address and date of birth of any such manager or agent,
 - 5. The place where the amusement game devices are to be displayed and a description of the devices,

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 3(a).)

5.14.045 License - Investigation – Denial.

No license shall be issued, nor shall a licensee be entitled to have a license continue in effect under any or all of the following conditions:

- A. Any individual, corporate officer or director, or any partner, as the case may be, has ever been convicted of a felony;
- B. Any information on the application is false;
- C. The applicant has not reached the age of majority (is an adult);
- D. The manager or agent has ever been convicted of a felony, or has not reached the age of majority (is an adult).

(Ord. 1991-M-39 § 1(a); Ord. 1981-M-46 § 1 (part).)

5.14.050 License - Investigation – Issuance.

The city clerk, the chief of police and the building commissioner of the city shall investigate the information contained in the application, and shall determine if the premises designated by the applicant as the location of the business complies with the provisions of the zoning ordinance of the city. The report of such investigation and determination, together with a copy of the application, shall be transmitted to the mayor. Upon the compliance by the applicant with the requirements of this chapter and the zoning ordinance of the city, the mayor shall instruct the city clerk to issue the license and, upon payment by the applicant of the license fee required under this chapter, such license shall be issued.

(Ord. 1997-M-91 § 1; Ord. 1979-M-38 § 3(b).)

5.14.060 License - Fee - Keeping or displaying machines for use.

The annual fee for licenses required by Section 5.14.020 shall be:

~~One hundred fifty and no/100 (\$150.00) dollars per business site, and~~

~~One hundred fifty and no/100 (\$150.00) dollars per machine~~

A. The fee for establishments with one (1) to five (5) Amusement Game Devices shall be \$100.00

B. The fee for establishments with six (6) to fifty (50) Amusement Game Devices shall be \$250.00

C. The fee for establishments with fifty-one (51) or more Amusement Game Devices shall be \$500.00

(Ord. 2005-M-16 § 1; Ord. 1997-M-91 § 1; Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 4(a).)

Formate
Hanging:
Numbering:
Alignment:
1.25"

Formate

Formate

Formate
Hanging:
Numbering:
Alignment:
1.25"

5.14.080 License – Transfer.

Such license may be transferred from one device to another similar device upon application to the city clerk; such application is to include a description and serial number of the new device and the payment of a fee of three dollars.

(Ord. 1997-M-91 § 1; Ord. 1979-M-38 § 4(b).)

5.14.090 License - Suspension – Revocation.

Nothing in the provisions of this chapter shall preclude the right of the mayor to suspend or revoke the license of the licensee, as follows:

A. The mayor may temporarily suspend any license issued under the terms of this chapter when he has reason to believe that the continued operation of a particular amusement game device or devices will immediately threaten the welfare of the community or create an imminent danger of violation of applicable law. In such case, he may, upon the issuance of a written order stating the reason for such determination, and without notice or hearing, order the premises containing the amusement game device(s) closed for not more than seven days; provided, that the licensee shall be given an opportunity to be heard in a public hearing during the seven-day period; and further provided, that if such licensee is also engaged in the conduct of other businesses on the licensed premises, such order shall not be applicable to such other businesses.

B. The mayor may suspend or revoke any license issued under the terms of this chapter upon due notice to the licensee of the time and place of a public hearing, and if the mayor determines upon hearing that the licensee has failed or refused to comply with the terms of this chapter, has failed or refused to comply with other law applicable to the business of keeping or providing amusement game devices, or has been convicted by a court of competent jurisdiction of a violation of any provision of this chapter.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 6.)

5.14.100 Rules of operation – Designated.

In addition to any other condition or regulation contained in this chapter or in the statutes of the state, the following conditions and regulations shall be applicable to and shall govern and control the business of keeping or providing amusement game devices for public use within the city:

A. No amusement game device shall be used for purposes of gambling as defined and prohibited under the laws of the state of Illinois.

(Ord. 1991-M-39 § 1(c).)

B. The Director of Finance of the city shall have the power, duty and function to enter or to authorize any law enforcing officer to enter, at any time, upon the premises licensed under this chapter, to determine whether any of the provisions of the state law or city ordinance or any rules or regulations adopted by the city or by the state have been or are being violated, and at such time to examine the premises of the licensee in connection therewith. Any person or persons appointed by the Director of Finance to assist him in the exercise of the powers and the performance of the duties provided in this subsection shall have the powers given to the Director of Finance by this subsection.

AMUSEMENT GAME DEVICES

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1 (c,f); Ord. 1982-M-22 § 1; Ord. 1981-M-46 § 2; Ord. 1979-M-38 § 5(a).)

5.14.110 Rules of operation - Noncompliance unlawful.

It is unlawful for any person licensed to engage in the business of keeping or providing amusement game devices for public use within the city to fail to comply with the conditions and regulations set forth in Section 5.14.100 of this chapter or to suffer or permit noncompliance with such conditions and regulations on or within the licensed premises.

(Ord. 1997-M-91 § 1; Ord. 1984-M-25 § 1(c); Ord. 1979-M-38 § 5 (b).)

5.14.120 Violation – Penalty.

Any person convicted of a violation of this chapter shall be subject to a fine of not less than ten dollars nor more than five hundred dollars. Each day any violation of any provision of this chapter shall continue shall constitute a separate offense.

(Ord. 1997-M-91 § 1; Ord. 1981-M-46 § 1 (part); Ord. 1979-M-38 § 5(c).)