

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT
AGENDA

DATE: MONDAY, AUGUST 1, 2011
PLACE: COUNCIL CHAMBERS
TIME: 7:30 P.M.

THERE ARE NO PUBLIC MEETINGS TONIGHT

1. ROLL CALL *MANY ABSENT*
2. INVOCATION BY COUNCILMAN DAVE HERSHER
3. PLEDGE OF ALLEGIANCE
4. READING OF THE JOURNAL
5. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS ON THE AGENDA
6. INTRODUCTION OF ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 91 – 2011

BY: ENVIRONMENTAL COMMITTEE

1ST READING

AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with CTI Environmental, Inc., for professional services for Roughing Filter Odor Control Analysis, Phosphorous Removal, and a Facility Plan Update at the Wastewater Treatment Plant, and declaring an emergency.

ORDINANCE NO. 92 – 2011

AMENDED TO 1 YR TERM
BY: HEALTH, WELFARE & BLDG REGULATIONS

PASS 8-0

AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into a lease agreement with the St. James AME Zion Church Life Center for office space to be used by the Massillon City Health Department, and declaring an emergency.

ORDINANCE NO. 93 – 2011

BY: HEALTH, WELFARE & BLDG REGULATIONS

1ST READING

AN ORDINANCE amending CHAPTER 517 "GAMBLING" of the Codified Ordinances of the City of Massillon, and enacting new Sections 517.17 "Definitions", 517.18 "Operation; License Required", 517.19 "Application Information", 517.20 "Affidavit Required", 517.21 "License Issuance; Effective Period; Fee", 517.22 "Operation of Arcade" and 517.23 "License Revocation", and declaring an emergency.

ORDINANCE NO. 94 – 2011

BY: HEALTH, WELFARE & BLDG REGULATIONS

1ST READING

AN ORDINANCE enacting a new CHAPTER 519 "SWEEPTAKES TERMINAL CAFÉ", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

ORDINANCE NO. 95 – 2011

BY: FINANCE COMMITTEE

PASS 8-0

AN ORDINANCE making certain appropriations from the unappropriated balance of the Local Law Enforcement Trust Fund and the 1201 Street Fund, for the year ending December 31, 2011, and declaring an emergency.

ORDINANCE NO. 96 – 2011

BY: FINANCE COMMITTEE

PASS 8-0
AN ORDINANCE making certain transfers in the 2011 appropriations from within the General Fund, for the year ending December 31, 2011, and declaring an emergency.

ORDINANCE NO. 97 – 2011

BY: FINANCE COMMITTEE

PASS 8-0
AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to submit an application for Ohio Public Works Commission Funding for the 2012 funding year, and declaring an emergency.

7. UNFINISHED BUSINESS

8. PETITIONS AND GENERAL COMMUNICATIONS

LETTER FROM THE DIVISION OF LIQUOR CONTROL REGARDING A NEW LIQUOR LICENSE TO FOE AERIE0190 MASSILLON DBA FOE AERIE 190 MASSILLON 303 WEIRICH BLVD NW & PATIO MASSILLON OH 44647

9. BILLS, ACCOUNTS AND CLAIMS

10. REPORTS FROM CITY OFFICIALS

A). MAYOR SUBMITS MONTHLY PERMIT REPORT FOR JULY 2011

B). AUDITOR SUBMITS MONTHLY REPORT FOR JULY 2011

11. REPORTS OF COMMITTEES

12. RESOLUTIONS AND REQUESTS OF COUNCIL MEMBER

13. CALL OF THE CALENDAR

14. THIRD READING ORDINANCES AND RESOLUTIONS

ORDINANCE NO. 83 – 2011

BY: POLICE AND FIRE COMMITTEE

DEFEATED 5-3 (MCCUNE; MANSON; SLAYLE)
AN ORDINANCE amending Section 2(D) OCCUPATION LIST OF CLASS TITLES – FIRE DEPARTMENT of Ordinance No. 127 - 1997 by repealing Section 2(D) OCCUPATION LIST OF CLASS TITLES – FIRE DEPARTMENT, and enacting a new Section 2(D) OCCUPATION LIST OF CLASS TITLES – FIRE DEPARTMENT, in the City of Massillon, Ohio, and declaring an emergency.

ORDINANCE NO. 86 – 2011

AMENDED
BY: FINANCE COMMITTEE

PASS 8-0
AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to advertise for and receive sealed bids, ~~and enter into a contract, upon award and approval of the Board of Control, with the lowest and best bidder,~~ for the lease/purchase of two (2) police cruisers for the Massillon City Police Department and two (2) dump trucks for the Massillon Street Department, and declaring an emergency.

15. SECOND READING ORDINANCES AND RESOLUTIONS

RESOLUTION NO. 9 – 2011

BY: PUBLIC UTILITIES COMMITTEE

2ND READING
RESOLUTION authorizing all actions necessary to effect a governmental natural gas aggregation program with opt-in provisions pursuant to Article 18.04, Ohio Constitution and authorizing and directing the Director of Public Service and Safety to enter into an agreement with IGS Energy Consultants, Inc. for consulting services and any other required services related to natural gas aggregation.

RESOLUTION NO. 10 – 2011

BY: FINANCE COMMITTEE

PASS 8-0
A RESOLUTION for the proposed budget for the fiscal year 2012.

16. NEW AND MISCELLANEOUS BUSINESS

17. REMARKS OF DELEGATIONS AND CITIZENS TO MATTERS NOT ON THE AGENDA

18. ADJOURNMENT

MARY BETH BAILEY - CLERK OF COUNCIL

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 91 - 2011

*1st read
2nd read 8/15
passed 9/6*

BY: ENVIRONMENTAL COMMITTEE

TITLE: AN ORDINANCE authorizing the Director of Public Service and Safety of the City of Massillon, Ohio, to enter into a contract with CTI Environmental, Inc. for professional services for Roughing Filter Odor Control Analysis, Phosphorous Removal, and a Facility Plan Update at the Wastewater Treatment Plant, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

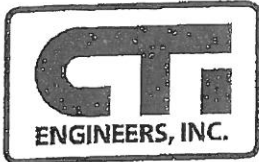
The Council of the City of Massillon, Ohio, is hereby authorized and directed to enter into a contract with CTI Environmental, Inc., for professional services for Roughing Filter Odor Control Analysis Phosphorous Removal, and a Facility Plan Update at the Wastewater Treatment Plant.

Section 2:

The Director of Public Service and Safety of the City of Massillon, Ohio, is hereby authorized and directed to enter into a contract with CTI Environmental, Inc. for professional services for Roughing Filter Odor Control Analysis Phosphorous Removal, and a Facility Plan Update at the Wastewater Treatment Plant. The City was issued a new NPDES Permit effective March 1, 2011 by OEPA and the Facility Plan Update is the first step the City must take in meeting the new requirements in the permit. The cost for the proposed services are not to exceed One Hundred Nine Thousand Five Hundred Dollars (\$109,500.00) which will paid from the WWTP services and contracts fund.

Section 3:

This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety, and welfare of the community, and for the additional reason that it is necessary to have this facility plan update completed to meet the first step requirements of the NPDES permit at the Massillon Wastewater Treatment Plant and then to resolve it. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.



CTI Engineers, Inc.
101 Central Plaza South
Suite 400
Canton, Ohio 44702
Phone 330.455.7733
Fax 330.313.2282
www.ctiengr.com

June 30, 2011

Mr. Keith A. Dylewski, P.E., P.S.
City Engineer
City of Massillon
151 Lincoln Way East
Massillon, Ohio 44646

Subject: Professional Engineering Services Proposal – City of Massillon
WWTP
Roughing Filter Odor Control Analysis, Phosphorous Removal, and
Facility Plan Update
CTI Proposal No. EP10068

Dear Mr. Dylewski:

In response to our meeting on June 24, 2011, and our previous proposal, CTI Engineers is submitting a revised proposal to provide engineering services for the analysis and preliminary design of odor control alternatives for the existing roughing filters, the analysis and preliminary design of phosphorous removal facilities and to prepare a Facility Plan Update. The Facility Plan Update is the first step the City must take in meeting the new requirements of its NPDES discharge permit which requires that detail plans be prepared for system improvements for phosphorous removal no later than September 1, 2012, and status reports every six months along the way.

ROUGHING FILTER ODOR CONTROL ANALYSIS

The roughing filters consist of six (6) octagonal filters (25 ft. H by 28 ft. W) which treat the effluent from the primary clarifiers before it is discharged into the three(3) aeration tanks. The filters are located in three pairs over the three tanks. The primary effluent flow is pumped to the top of the filters and is distributed equally to the three filter pairs. As the warm wastewater trickles down the filter media to the aeration tanks it warms the air within the filters and creates an updraft which is visible as a cloud during cold weather.

The roughing filters were constructed during the 1973 WWTP expansion primarily to supplement the plant's activated sludge treatment capacity and "pretreat" wastewater which was high in BOD₅ largely due to discharges from the

Superior Provision Company a local meat processor. It has been reported that Superior contributed financially to the construction of the roughing filters.

When Superior suspended operations, the BOD₅ influent load to the plant decreased, the filters were no longer required, and were taken offline in 1987. As industrial operations expanded the aeration tank treatment capacity was reached and the need for the roughing filters was again realized. They were placed back in service in March, 1999.

When the WWTP was expanded in 2002 -2004 the roughing filters were again incorporated into the design as they can remove as much as 80 % of the carbonaceous BOD₅ while the aeration tanks are being used to remove the remaining carbonaceous BOD₅ and for nitrification. This eliminated the need to add additional aeration tank capacity and reduced the construction cost of the expansion.

Since 2005, the industrial loading to the WWTP has increased significantly through the addition of new industries and the expansion of existing ones. The plant is once again nearing its organic capacity and the current makeup of high strength industrial wastes appear to be contributing to odor emissions primarily from the roughing filters.

Capturing and treating emissions for the existing roughing filter is not an easy task as they require from 18,000 to 36,000 CFM of natural drafting air to support their operation. This volume of air would have to be captured by constructing covers and then adding a treatment system to treat the captured air. The existing roughing filter exterior structure was not designed to support covers or the associated wind loads and will require further structural analysis and possibly the design of additional support mechanisms.

An opinion of the cost of construction to cover the roughing filters and the first and second stage screw pumps and to collect and add facilities to treat the air was approximately \$3,500,000 in 2006.

Another option to eliminate the roughing filter odors would be to replace the roughing filters with an MBBR BOD roughing reactor which is essentially a submerged roughing filter without any return sludge or backwashing requirements. This would eliminate the second stage screw pumps, the roughing filters and the excessive emissions currently produced by them. The MBBR BOD roughing reactor would be two parallel process trains each approximately 37L x 60 W x 14 SWD which could possibly be located in the process train between the first stage screw and the aeration tanks. The total reactor tank volume would be a little over one half the size of one of the three (3) existing aeration tanks.

During the 2002-2004 WWTP expansion, considerations were incorporated for the addition of a fourth aeration tank on the opposite side of the plant drive and a

blind flange was provided in the main aeration tank header piping to facilitate the addition of additional aeration piping to the tank.

Further evaluation and an analysis of the plant hydraulic profile will be needed to make a final determination of its feasibility. Existing excess blower capacity if available may be utilized to minimize or eliminate the cost of providing additional blowers.

The City has received a new NPDES permit which includes a requirement to design and construct phosphorous removal facilities. The impact this may have on any WWTP secondary process changes should also be considered at this time as well as the anticipated requirement for total nitrogen removal in future permit cycles so an efficient and effective system can be designed at this time.

TOTAL PHOSPHORUS OBJECTIVES & PROJECT APPROACH

For this portion of the project, CTI will be assisted by Obrien & Gere Engineers, Inc. (OB&G) who have developed specific competence in this area through work on nutrient removal projects in the Chesapeake Bay region. CTI has formed a strategic alliance with OB&G to pursue nutrient removal projects in Ohio and are currently beginning work on nutrient removal projects in Sebring and Salem. Greg McCue attended a nutrient removal workshop held last December in Canton which was a joint effort by CTI and OB&G. We've attached resumes of OB&G personnel who are expected to be assisting with the project.

The existing City of Massillon WWTP is an advanced secondary biological treatment plant with anaerobic solids digestion and solids dewatering with a design capacity of 15.8 MGD. Unit processes include: Screening, Grit Removal, Equalization, Preaeration, Primary Clarification, Roughing Filters, Activated Sludge, Final Clarification, Tertiary Filtration, High River Stage Effluent Pumping, Return Activated Sludge (RAS) & Waste Activated Sludge (WAS) Pumping, Ultraviolet Effluent Disinfection, Sledge Blending, Gravity Belt Thickening, Anaerobic Digestion, Belt Filter Press Dewatering, and Sludge Cake Storage Pad.

The Massillon WWTP averages an influent total phosphorous (TP) level of approximately 3 mg/L. In the 2011 NPDES Permit issued by OEPA, it is required that the WWTP reduce TP to 1.0 mg/L in the final effluent no later than March 1, 2016.

The primary objectives of this TP Removal Study are to:

- Identify a cost-effective approach to meet an effluent TP limit of 1.0 mg/L
- Evaluate potential alternative approaches to optimize nutrient removal including a coagulant chemical feed system and biological phosphorus removal (BPR),

- Evaluate an alternative plant configuration to achieve BPR,
- Identify other improvements to plant facilities and operation related to the alternative BPR approach and considering the effects of removing the roughing filters to eliminate odors,
- Identify the effect various alternatives will have on other plant processes such as solids handling operations, tertiary filter operations, UV disinfection, etc.,
- Issue a Biological Treatment Technical Memorandum (with a proposed biological mass balance / basis of design) that identifies and preliminarily screens various treatment options, including combinations of fixed-film and suspended growth activated sludge alternatives that would achieve TP removal and overall nutrient balance (optimization of existing infrastructure to meet pending treatment requirements). The memo and engineering analysis will preliminarily assess the cost impacts of meeting the TP limit and accommodating a given influent TP loading condition.

The issue of solids handling, however, may be directly related to the issue of TP removal – in particular, liquid sludge holding, thickening, and stabilization. The solids handling systems are critical to TP removal in order to not adversely impact the liquid treatment performance (overload and/or recycle strengths) and to remove the nutrients from the WWTP (stored in waste sludge, and not allowed to return to the liquid treatment side of the plant). It is often a holistic approach to nutrients and solids management.

While compiling historical and current operating data, discuss operational settings and decision-making practices with O&M staff during a site visit in order to prepare the initial treatment process model to evaluate the existing configuration and the preliminarily recommended biological treatment system.

Several pieces of information are necessary to create a reliable process model of the wastewater treatment facility. These include primary effluent characterization, return flow characterization, measurement of some kinetic rates within the current process, and process-related historical data. Parameters associated with screened influent and recycle flow characterization often include: COD (total, filtered, fine-filtered), BOD₅ and CBOD₅ (total and filtered), TSS and VSS, TKN, Ammonia-N, Nitrate-N, Total P and Orthophosphate, Alkalinity (as CaCO₃), pH, temperature, and Dissolved Oxygen (and can also include Acetate, Calcium, Magnesium, etc.). In addition, for example when Ammonia conversion is a point of interest, kinetic rate measurements are made by sampling ammonia (and, often, nitrate and DO levels) at different points along the activated sludge system.

As noted above, it is assumed that the WWTP collects enough of this information to provide a meaningful and useful initial process model, and no supplemental sampling campaign will be conducted. Engineering judgment and/or default values may need to be applied if plant information is not available for this initial

work, given the level of influent TP, history of plant operating conditions, and degree of TP removal to meet the proposed NPDES Permit limit.

Ammonia, Nitrate, DO, and Ortho-P profiling of the existing biological treatment system may be requested.

SCOPE OF SERVICES

Responsibilities of CTI Engineers, Inc. (CTI):

ROUGHING FILTER ODOR CONTROL ANALYSIS

- I. The scope of the odor control study consists of the following tasks:
 - A. Orientation. Review previous construction documents, and the effectiveness of the existing odor control systems. Review previous odor control evaluations, available air quality data, and identify feasible odor control processes.
 - B. Alternative Analysis. Perform an analysis of replacing the existing roughing filters with an MBBR reactor with nutrient removal capabilities when coupled with the existing activated sludge process. Evaluate replacing the existing screw pumps with alternative methods for pumping primary effluent.
 - C. Perform analysis and preliminary design to retrofit or replace the existing carbon type odor control units located in the Grit Disposal room and the Sludge Blending/Solids Handling Buildings with alternative odor control systems which can also treat for mercaptans.
 - D. Report. A report shall be generated that will provide the details of the analyses and preliminary design along with conclusions and recommendations. Five copies shall be provided.
 - E. Meetings with Owner. A kick-off meeting and presentation meeting shall be provided to present the results of the study.

TP REMOVAL

- A. The study scope of services includes:
 1. Review of WWTP operational data (available influent, in-plant, and effluent performance data)
 2. Site visit/Kickoff meeting / Process workshop at the Massillon WWTP
 - a. Discussion of existing conditions and operational settings, as well as current and future operating scenarios
 - b. Review of potential wastewater treatment options
 3. Data Compilation - Compile the electronic data made available

4. Assess use of coagulant feed for polishing TP to the 1 mg/L limit if needed.
5. Initial Treatment Process Modeling
 - a. Confirm use of BioWin or GPS-X with the discussion of existing and potential biological treatment configurations, available data, needs, and future applications
 - b. Calibrate the model to existing plant performance for a specific time period (e.g., cold-weather operation) and then validate with plant data from a different period of time (e.g., warm-weather operation)
 - c. Run the model for existing conditions and the preliminarily recommended the biological treatment system
6. Preliminary assessment of an allowable TP influent loading condition
7. Chemical and Biological Treatment Alternatives Technical Memorandum, and associated process modeling and planning-level engineering analysis, along with preliminary cost budget for the impacted systems.

Discussions will include a review of permit requirements (current and potential future limitations which may include a BNR-level Total Nitrogen goal or limit), operational preferences, and parameters of concern for plant performance and critical unit processes. Modeling will include forward-flow liquid treatment systems, major solids handling systems, and significant plant recycles. Modeling software (licensing) would not be provided to the City of Massillon as part of the scope of services. The Technical Memorandum may include recommendations for further data gathering to enhance the model in a future (preliminary engineering / final design) task – for example, winter-time cold-weather data related to prospective nitrogen and/or phosphorus removal.

FACILITY PLAN UPDATE

The Scope of Services includes reviewing and updating the existing City of Massillon WWTP Facility Plan as follows:

- Incorporate results of the Roughing Filter Odor Control Analysis, and the Phosphorous Removal Study
- Projected future domestic and industrial wastewater flows and pollutant loadings
- Project anticipated future NPDES permit nutrient removal requirements

- Assess current WWTP process units performance including the tertiary treatment process, which requires that a detail study be performed by March 1, 2012 which includes an evaluation of the effectiveness of new pretreatment systems being installed by local industrial dischargers.
- Prepare recommendations for improvements

Responsibilities of City of Massillon (CLIENT):

- I. The CLIENT will be responsible to:
 - A. Provide all criteria and full information as to its requirements for the project.
 - B. Upon identification by CTI and approval by the CLIENT of the necessity and scope of information required, furnish CTI with data, reports, surveys, and other materials required for this project.
 - C. Provide access to the project site and make all provisions for CTI to enter upon public and private lands as required for CTI to perform its services under this Agreement.
 - D. Examine all studies, reports, sketches, opinions of the construction costs, specifications, drawings, proposals, and other documents presented by CTI to the CLIENT, and render in writing the CLIENT's decisions pertaining thereto within a reasonable time so as not to delay the services of CTI.
 - E. Give prompt written notice to CTI whenever the CLIENT observes or otherwise becomes aware of any defect in the project.
 - F. Furnish to CTI, prior to execution of this Agreement, a copy of any design and construction standards the CLIENT shall require CTI to follow in performing its services under this Agreement.
 - G. Requests For Information (RFIs). In order to complete this task, the City of Massillon will provide copies of:
 1. Current and proposed permits
 2. Last 5 years of MORs and operating data (electronic format)
 3. Current (4-week) sampling program data
 4. Summary of any documents and/or industrial pretreatment permit(s) related to current and future WWTP loadings

COMPENSATION

CTI proposed to perform the preceding Scope of Services for a cost plus not-to-exceed fee of One Hundred Nine Thousand Five Hundred Dollars (\$109,500.00).

We appreciate the opportunity to submit this proposal and look forward to working with you on this project. If you have any questions or desire any changes in the proposed scope of services, please do not hesitate to call.

Sincerely,

A handwritten signature in cursive script, reading "William A. Dorman".

William A. Dorman, P.E.
President

cc: Tony Ulrich

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 92 - 2011

passed

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to enter into a lease agreement with the St. James AME Zion Church Life Center for office space to be used by the Massillon City Health Department, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

This Council determines that it would be in the best interest of the City of Massillon enter into a lease agreement with the St. James AME Zion Church Life Center located at 111 Tremont Avenue SW for office spaced to be used by the Massillon City Health Department.

Section 2:

The Mayor of the City of Massillon, Ohio, be and is hereby authorized to execute on behalf of the Massillon City Health Department, a lease agreement with the St. James AME Zion Church Life Center located at 111 Tremont Avenue SW.

Section 3:

A copy of the proposed Lease Agreement is hereby attached and made a part of this Ordinance. All rental fees and moving expenses to be paid from the health department services and contract account. The contract was submitted and approved by the Board of Health at their July 19, 2011 meeting.

Section 4:

This Ordinance is declared to be an emergency measure immediately necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to lease the office space from the St. James AME Zion Church Life Center for use by the Massillon Health Department. Provided it receives the affirmative vote of two-thirds of the elected members of Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

LEASE

St. James A.M.E. Zion Church, Inc., 209 Second Street, S.W., Massillon, Ohio 44646, the Lessor, in consideration of the rents and covenants stipulated to be paid and performed by City of Massillon Department of Health, One James Duncan Plaza, Massillon, Ohio 44646, the Lessee, leases to the Lessee the following premises: See attached Exhibit "A" which describes the physical area, offices and rooms, all of which are located at 111 Tremont Street, S.W., Massillon, Ohio 44646, for the term of five (5) years commencing September 1, 2011, for the rental amount of \$21,000.00 per year, payable in equal monthly installments of \$1,750.00 each, on the first day of each month, in advance, all rent being payable at the office of the Lessor, St. James A.M.E. Zion Church, ATTN: Ed Grier, Chairman Board of Trustees, 209 Second Street, S.W., Massillon, Ohio 44647. In addition, and as additional rent, the Lessee shall pay a monthly sum of \$1,200.00, also due and payable on the first day of each month, for utilities to be provided by Lessor, excepting telephone and computer connections.

The Lessor grants the Lessee the option to renew this lease for a further term of five (5) years commencing on the expiration of the term aforesaid, and ending on the 31st day of August, 2021. Notice of the exercise of such option shall be given by the Lessee to the Lessor at least sixty (60) days before the expiration of the term of this lease. This option may be exercised only in the event that all rents have been fully paid, and all terms complied with by the Lessee. During the renewal term, if exercised, the same terms and conditions as herein shall apply, except the rental amount and cost of utilities shall be adjusted by good faith negotiation between the parties, taking into account the economic circumstances then existing.

COVENANTS OF LESSEE:

The Lessee agrees as follows:

1. That the Lessee shall pay the rent at the times and place and in the manner specified above;
2. The Lessee shall pay all utility bills for telephone and computer connections;
3. The Lessee shall provide at its expense cleaning and janitorial services for the premises above described;
4. That the Lessee shall occupy the premises in a safe and proper manner;
5. That the Lessee shall not permit any waste;
6. That the Lessee shall not use the premises for any unlawful purpose; and that the Lessee shall obey all laws, regulations, and orders of all governmental authorities or agencies, respecting the premises;
7. That the Lessee shall not permit to be manufactured or sold, on the premises during the term, any intoxicating liquor;
8. That the Lessee shall not assign this lease, nor sublet the premises, without the written consent of the Lessor;
9. It is contemplated by the parties hereto that certain alterations to the premises by the Lessee may be desirable. Said alterations shall be at the sole expense of the Lessee and shall not proceed until the Lessor has been notified of and approved of those alterations. Such approval by Lessor shall not be unreasonably withheld.
10. That the Lessee shall permit the Lessor, or agents of the Lessor, to enter upon the premises, at all reasonable times, to examine the condition of the premises and make repairs;

11. That the Lessee shall surrender and deliver up the premises, at the end of the term, in as good order and condition as the premises now are, or may be put by the Lessor, reasonable use and natural wear and tear and damage by fire, or unavoidable casualty, excepted;
12. That any failure of the Lessor to enforce rights or seek remedies upon any default of the Lessee with respect to the obligations of the Lessee shall not prejudice or affect the rights or remedies of the Lessor in the event of any subsequent default of the Lessee;
13. That every demand for rent made after it falls due shall have the same effect in law as if made on the day and at the time the rent is due.
14. That the Lessee shall carry and maintain public liability insurance, at its own expense, during the full term of this lease, naming both Lessor and Lessee as insureds, and furnish current certificates evidencing the existence of such insurance providing that such insurance shall not be cancelled except after sixty (60) days' written notice to Lessor. Such policy shall provide coverage in an amount not less than \$1,000,000.00 single limit combined bodily injury and property damage each occurrence, to cover all situations where any other person or persons claim bodily injury, death, or property damage in or upon the premises.
15. If the nature of the Lessee's operation is such as to place any or all of its employees under the coverage of local Workers' Compensation or similar statutes, Lessee shall also keep in force, at its expense, Workers' Compensation or similar insurance affording statutory coverage and containing statutory limits. Lessee agrees to furnish to Lessor evidence of Workers' Compensation coverage.

COVENANTS BY LESSOR:

The Lessor agrees as follows:

1. That the Lessee shall peacefully and quietly enjoy the premises, during the term, without any hindrance by the Lessor or any persons lawfully claiming under the Lessor;
2. That the Lessor is the owner of the premises and has power to lease the premises and that the premises are free from all encumbrances (except a mortgage to the property);
3. That the Lessor shall pay all utilities except telephone and computer connections/wiring.
4. That the Lessor shall pay all real estate taxes and fire and extended coverage insurance on the premises.
5. That Lessor shall maintain in good condition the parking lot area.
6. That Lessor shall maintain in good working order the HVAC systems throughout the premises building, as well as the electrical and plumbing systems, and shall make repairs as quickly as possible when needed.

If any buildings on the premises are destroyed or injured by fire, the Lessor shall restore them to the condition they are in at the beginning of the term as soon as possible.

TERMINATION:

If the Lessee breaches any of his agreements, or vacates the premises during the term, makes an assignment for the benefit of creditors, or if the interest of the Lessee in the premises

are sold under legal process, or if the Lessee becomes insolvent or bankrupt, this lease shall terminate, without prejudice, however, to the Lessor's right of action for arrears of rent or breach of covenant. In case of any default, the Lessor may relet the premises for the remainder of the term for the highest rent obtainable and may recover from the Lessee any deficiency between the amount obtained and the rent reserved.

If any buildings on the premises, without any fault of the Lessee, are made unfit for occupancy by the elements, or other cause, the Lessee may surrender possession of the premises to the Lessor and terminate this lease.

If the premises are taken in appropriation proceedings or by any right of eminent domain, then this lease shall terminate. Such taking shall not operate as an eviction of the Lessee or a breach of the Lessor's covenant for quiet enjoyment; and the Lessee shall pay all rent due, and observe all other covenants up to the time when possession is required for public use. If only a part of the premises is taken, and if eight months or more of the term remains unexpired, and if the remaining premises can be substantially restored within thirty days, then, at the option of the Lessee (to be exercised by written notice to the Lessor within ten days after possession of the part taken is required for public use), this lease shall not terminate, but the Lessor shall restore the premises, the rent payable by the Lessee during the period of restoration being reduced by a reasonable amount, but after the restoration, the entire rent reserved shall be paid by the Lessee during the remainder of the term. In no event shall the Lessee be entitled to any part of the award of damages or compensation, for the taking of the premises, but the Lessor shall receive the entire amount without deduction for any interest of the Lessee.

MUTUAL COVENANTS:

It is mutually agreed between the Lessor and the Lessee that, as security for the rents to be paid and the covenants to be performed by the Lessee, a lien is reserved upon the premises leased and the interest of the Lessee if the premises, in favor of the Lessor, prior and superior to any and all other liens.

IN WITNESS WHEREOF, the parties hereto set their hands hereof this _____ day of _____, 2011, as to Lessor and Lessee.

LESSOR:

ST. JAMES A.M.E. ZION CHURCH, INC.

By:

ED GRIER, CHAIRMAN
Board of Trustees

LESSEE:

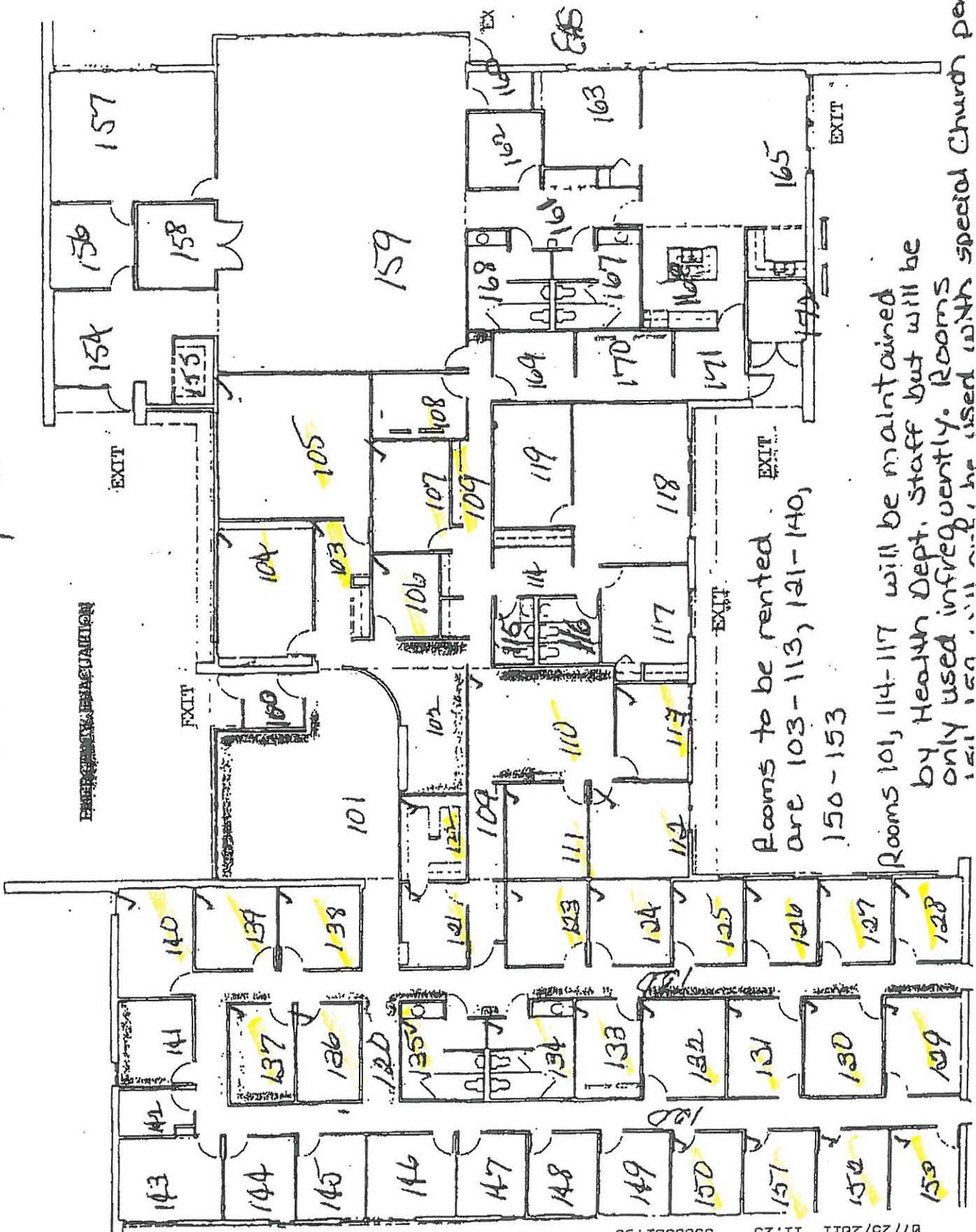
CITY OF MASSILLON DEPARTMENT
OF HEALTH

By:

FRANCIS H. CIOCHINELLI, JR.,
Mayor and Chairman of the Board of Health,
City of Massillon

OK FIRE LEAVE THE BUILDING USING THE
EXIT.

KITCHEN



Rooms to be rented. EXIT.
are 103-113, 121-140,
150-153

Rooms 101, 114-117 will be maintained by Health Dept. staff but will be only used infrequently. Rooms 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 93

only used infrequently. Rooms used with special Church permission.

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 93 - 2011

*1st read
2nd read 8/15
passed 9/6*

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE amending CHAPTER 517 "GAMBLING" of the Codified Ordinances of the City of Massillon, and enacting new Sections 517.17 "Definitions", 517.18 "Operation: License Required", 517.19 "Application Information", 517.20 "Affidavit Required", 517.21 "License Issuance; Effective Period; Fee", 517.22 "Operation of Arcade" and 517.23 "License Revocation", and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and is hereby enacting new Sections 517.17 "Definitions", 517.18 "Operation: License Required", 517.19 "Application Information", 517.20 "Affidavit Required", 517.21 "License Issuance; Effective Period; Fee", 517.22 "Operation of Arcade" and 517.23 "License Revocation", of the Codified Ordinances of the City of Massillon. Said newly created Sections shall read as follows:

SEE EXHIBIT "A" ATTACHED HERETO

Section 2:

This ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that these additions to Chapter 517 on gambling will enable the Building Department in monitoring these types of game machines in the City of Massillon. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

517.17 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (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 or the State-sanctioned lottery.
- (c) "Game machine" means any amusement device.
- (d) "Good moral character" means not having been convicted of a crime involving moral turpitude within five years next preceding the date of the application.
- (e) "Malfunction" means failure to operate in accordance with design.
- (f) "Moral turpitude" means a conviction for a theft offense, fraud, falsification, drug offense, sex offense, an offense involving gambling, or a felony.
- (g) "Operator" means any individual, corporation, or other entity conducting the business of an amusement arcade.
- (h) "Owner" means any individual, corporation, or other entity owning title to any amusement device or the real property or leasehold at which an amusement arcade is operated.
- (i) "Playing area" means that portion of the premises where the primary use is for customer play on amusement devices.
- (j) "Skill-based amusement machine."
 - (1) 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 the 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:

A. 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.

B. The outcome of the individual's play and participation is not determined largely or wholly by chance. For purposes of this chapter, "largely or wholly" means at least by 51%.

C. The outcome of play during a game is not controlled by a person or device not actively participating in the game.

D. The machine only charges one price to play a task, game, play, contest, competition, or tournament.

(2) All of the following apply to any machine that is operated as described in division (1) A. of this definition:

A. As used in this definition, "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.

B. 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.

C. 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.

D. No machine shall have a guessing game at the end of a successfully completed task, game, play, contest, competition, or tournament.

517.18 OPERATION: LICENSE REQUIRED.

(a) No individual, corporation or other entity shall be an operator of an amusement arcade at any place of business unless such operator holds a valid amusement arcade license for the place of business where such amusement arcade is operated.

(b) No individual, corporation or other entity shall permit or cause to be permitted any amusement machine, game machine, or amusement device to be operated, placed into operation, moved onto the area of play, or played, without a current and valid license for that machine.

(c) No individual, corporation, or other entity shall play any amusement device unless it is validly licensed by the City.

517.19 APPLICATION INFORMATION.

The original and renewal application for an amusement arcade license and the license for each skill-based amusement machine, game machine, or amusement device shall be upon a form prescribed by the Mayor and shall set forth therein information such as the name and address of the operator and/or owner; the address of the place of business which is to be the licensed amusement arcade, the year for which the license is sought, the number of skill-based game machines or amusement devices located at such place of business, the name and address of the operator and/or owner of each machine, a detailed explanation of the machine operation, applicable software license authorization, player skills, and training required qualifying each machine as a game of skill, and such other information as the Mayor requires. The application shall be signed by the operator and/or owner in whose name the City licenses are to be issued, must be updated if there are any changes regarding the operator and/or owner, and is nontransferable.

517.20 AFFIDAVIT REQUIRED.

The application for a license under this chapter shall be submitted on forms provided by the Mayor and be accompanied by an affidavit attesting that the operator and/or owner and all employees and agents of the operation have not been convicted of a crime of moral turpitude and to the truth of the matters set forth in such application. No person shall swear falsely in any affidavit required to be filed under this section.

517.21 LICENSE ISSUANCE; EFFECTIVE PERIOD; FEE.

The Mayor is hereby authorized to issue amusement arcade licenses and amusement and/or game machine licenses, in such form as is determined to be appropriate, for a period of up to one year, upon satisfaction of all of the following conditions:

(a) A fee of one thousand dollars (\$1,000.00) per arcade location per year has been paid.

(b) A fee of One Hundred dollars (\$100.00) per machine per month has been paid.

(c) The operator or any employee of the operator has not been convicted of a crime of moral turpitude within the past five years.

517.22 OPERATION OF ARCADE.

(a) No person under the age of 21 years shall be permitted on the premises.

(b) No arcade shall operate during the hours of 1:00 a.m. to 7:00 a.m. and on Sunday during daylight hours.

(c) No weapons, firearms, or dangerous ordinances are permitted on the premises.

517.23 LICENSE REVOCATION.

It shall be cause for revocation of any license under this chapter or for non-renewal of such license if the owner and/or operator:

- (a) Provides any false or misleading information in the material submitted during the application process;
- (b) Permits any violation of an ordinance or regulation of the City or statute of the State;
- (c) Knowingly allows gambling on the premises;
- (d) Fails to comply with any provision of this chapter;
- (e) Is convicted of a crime involving moral turpitude.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF MASSILLON,
STARK COUNTY, OHIO, AMMENDING CHAPTER 517 GAMBLING, TO THE
CODIFIED ORDINANCES OF THE CITY.

WHEREAS, a skill-based amusement machine, when played in exchange for something of value which may pay a prize, is similar in nature to a gambling device in its setting, in its manner of play, and in its general attraction to players and participants; and

WHEREAS, certain persons are more vulnerable to the lure of adult arcade gaming activities than others; and

WHEREAS, the City adopts the position that such persons are totally responsible for their participation in these activities, but the players family members and friends, who cannot be regarded as responsible may suffer; and

WHEREAS, the resources of the Safety Forces of the City and Social Service Agencies may be used to deal with the effects of excessive participation in adult arcade activities instead of being used for other beneficial purposes; and

WHEREAS, it is necessary to protect the health, welfare, and safety of the Citizens by regulating amusement arcades

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Massillon, Ohio, three-fourths of all members elected thereto concurring:

SECTION ONE.

That the Codified Ordinances of the City of Massillon, Chapter 517 be amended as follows:

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 94 - 2011

BY: HEALTH, WELFARE & BUILDING REGULATIONS COMMITTEE

TITLE: AN ORDINANCE enacting a new CHAPTER 519 "SWEEPTAKES TERMINAL CAFE", of the Codified Ordinances of the City of Massillon, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and is hereby enacted a new CHAPTER 519 "SWEEPTAKES TERMINAL CAFE", of the Codified Ordinances of the City of Massillon. Said newly created Chapter shall read as follows:

(SEE ATTACHED EXHIBIT "A")

Section 2:

This ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason to assist the Building Department in monitoring terminal cafes operating in the City of Massillon. Immediate passage of this ordinance will correct any alleged deficiencies in the current procedure for parking appeals and render the pending lawsuit moot. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____, 2011

APPROVED: _____

MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

*1st read
2nd read 8/15
passed 9/6*

CODIFIED ORDINANCES OF MASSILLON

CHAPTER 519 Sweepstakes Terminal Café

- 519.01 Title, purpose and objectives.**
- 519.02 Construction, separability and applicability of chapter.**
- 519.03 Definitions.**
- 519.04 Computerized sweepstakes device license required.**
- 519.05 Sweepstakes Terminal Café license required.**
- 519.06 Authority of Safety Director.**
- 519.07 Nature of licenses.**
- 519.08 Procedure for obtaining licenses.**
- 519.09 Denial of Sweepstakes Terminal Café license.**
- 519.10 Conditions and regulations.**
- 519.11 Prohibited conduct and conditions in Sweepstakes Terminal Cafes.**
- 519.12 License expiration, suspension or revocation.**
- 519.13 License fees.**
- 519.14 Equal opportunity.**
- 519.99 Penalty.**

519.01 TITLE, PURPOSE AND OBJECTIVES.

(a) Title. This chapter shall be known and may be cited as the Sweepstakes Terminal Café.

(b) Purpose and Objectives. It is the purpose of this chapter and the policy of the City to establish standards for licensing, regulation and control of computerized sweepstakes devices and sweepstakes terminal cafés and premises upon which they are located and operated for public purpose. The objectives of this chapter are to prevent safety and fire hazards, disturbances, disruption of pedestrian traffic, disorderly assemblies, theft of personal property, gambling and truancy within the City.

519.02 CONSTRUCTION, SEPARABILITY AND APPLICABILITY OF CHAPTER.

(a) Construction. This chapter shall be liberally construed and applied to promote its purpose and objectives.

(b) Separability. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct and independent provision, and neither the remainder of this chapter nor the application of such provision to other persons or circumstances shall be affected thereby.

519.03 DEFINITIONS.

As used in this chapter:

- (a) "Computerized sweepstakes device" means any computer, either directly or indirectly, game or apparatus which, upon the insertion of a coin, token or similar object, or upon payment of anything of value, wherein a product or service is provided, and may be operated by the public, whether or not registering a score, and which in no way tends to encourage gambling.
- (b) "Safety Director" means the City Manager or his designated representative.
- (c) "Board" means the City Board of Zoning Appeals.
- (d) "Operator" means the person or persons having authority to control the premises of an arcade sweepstakes center or an accessory sweepstakes area.
- (e) "Licensee" means the person or persons who sign an application for a license hereunder and to whom such license is issued.
- (f) "Owner" means any person who possesses a pecuniary interest, either directly or indirectly, of twenty-five percent or more in a sweepstakes device business.
- (g) "Person" means any natural person, firm, partnership, association, corporation or any other form of business organization.
- (h) "Premises" means the building or portion thereof used for conducting the operation of a Sweepstakes Terminal Café.
- (i) "School" means any educational institution, public, private, secular or parochial, which offers instruction of high school grade or lower.
- (j) "Sweepstakes Terminal Café" means any individual premises upon which any computerized sweepstakes device is located for the public use, whether or not such premises have other business purposes of any nature whatsoever.

519.04 COMPUTERIZED SWEEPSTAKES DEVICE LICENSE REQUIRED.

No person shall display for purpose of use any computerized sweepstakes device in the City without having first obtained a license therefore as provided in this chapter, which license shall be designated as a computerized sweepstakes license. A separate license is required for each such computerized sweepstakes device.

(Ord. 8752-10. Passed 11-15-10.)

519.05 SWEEPSTAKES TERMINAL CAFÉ LICENSE REQUIRED.

No person shall conduct or operate a sweepstakes terminal café area in the City without having first obtained a license therefore as provided in this chapter, which license shall be designated as a sweepstakes terminal café license.

519.06 AUTHORITY OF SAFETY DIRECTOR.

Authority is hereby established and vested in the Safety Director to consider applications for licenses under this chapter, conduct investigations thereon and issue or deny issuance of such licenses based upon the criteria set forth in this chapter.

519.07 NATURE OF LICENSES.

(a) All Licenses. All licenses issued under this chapter shall have the following characteristics:

- (1) Each such license shall be an annual license which covers a period from January 1, through December 31 unless earlier suspended or revoked.
- (2) Each such license shall vest a personal privilege but not any property rights in the licensee.
- (3) Each such license shall be required to be displayed permanently in a conspicuous place upon the premises for which it is issued.
- (4) Each such license shall be in the name of the applicant.
- (5) Each such license shall be neither assignable nor transferable, either as to person or location. Device licenses shall not be transferred between devices.
- (6) Each such license, if lost, destroyed or mutilated, upon application within thirty days thereof may be replaced by a replacement license issued by the Safety Director bearing the word "Replacement" across its face and bearing the same license number as the license which it replaces.

(b) Computerized Sweepstakes Device Licenses. All computerized sweepstakes device licenses issued under this chapter shall have the following characteristics:

- (1) Each such license shall be issued for an individual computerized sweepstakes device only.
- (2) Each such license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of the computerized sweepstakes device for which it was issued.
- (3) Each such license, if changed, mutilated, erased or in any manner defaced, shall be void, and any amusement device which the same shall purport to license shall be deemed an unlicensed amusement device.

(c) Sweepstakes Terminal Cafe Licenses. All sweepstakes terminal cafe licenses issued under this chapter shall have the following characteristics:

- (1) Each such license shall be issued only for an individual business at an individual premise.
- (2) Each such license shall specify the name and address of each licensee, and the manufacturer, model number and serial number of each computerized sweepstakes device located upon the premises for which it was issued.

519.08 PROCEDURE FOR OBTAINING LICENSES.

(a) Applications for Licenses. All applications for licenses under this chapter shall be in writing on a form approved by and filed with the Safety Director. The application shall be signed by the owner or owners and shall contain information required by this section supplied in detail as to each such person, including general and limited partners, or partnerships, shareholders of corporations and principals of any other type of business

entity. In the event that no person owns twenty-five percent or more of the sweepstakes terminal café, such application shall be signed by an authorized representative of the sweepstakes terminal café. All applications shall contain a statement that the information contained therein is complete, accurate and truthful to the best knowledge of all applicants. Every owner and operator of the sweepstakes terminal café, shall be fingerprinted by the Massillon Police Department and said persons shall pay for the costs associated with obtaining said fingerprints.

(b) Contents of Applications. The application shall contain the following information as to all owners:

- (1) True name and all names used in the past five years;
- (2) Date of birth;
- (3) Permanent home address and all home addresses used in the past five years;
- (4) Business and home telephone numbers;
- (5) Employment history for the past five years;
- (6) A statement as to whether or not the owner has been convicted of any crime other than traffic offenses and, if so, the date and place of conviction, the nature of the offense and the penalty imposed;
- (7) A statement as to whether or not the owner has ever conducted a sweepstakes terminal café and, if so, when, where and for how long.
- (8) A description of the nature and operation of the main type of business activity to be conducted upon the premises;
- (9) A description of the nature and operation of any business to be conducted in conjunction with the sweepstakes terminal café, and the anticipated percentage of gross revenue to be derived from each respective business;
- (10) The address and telephone number of the premises and of the business, if different from that of the premises;
- (11) The name under which the business and premises will be operated;
- (12) A statement as to whether or not the owner will directly operate the sweepstakes terminal café, or whether or not an operator who is not an owner will operate it, and if the latter, the application shall contain information required by this section supplied in detail as to each such operator.
- (13) A statement and supporting documentation from a Certified Independent Regulatory Compliance Test Laboratory that the software performs in similar fashion as other permitted sweepstakes commercially offered to the public and that the entries are drawn from a pre-created finite static pool of entries with assigned values. To be certified, the Independent Regulatory Compliance Testing Laboratory must be authorized to test regulated gaming equipment by at least one state government gaming regulatory agency. Or, in the alternative, a statement and supporting documentation that the game is certified compliant by the manufacturer, which manufacturer is licensed by a state gaming authority to manufacture and certify gaming equipment.

(14) A floor plan of the premises and the immediate vicinity drawn to scale, showing the square footage and placement of the computerized sweepstakes devices, exits, windows, storage spaces, bicycle storage racks and off-street parking.

(15) A map showing all schools, playgrounds, parks or other sweepstakes terminal cafés within a radius of 1,000 feet of the premises and all churches within a radius of 500 feet of the premises;

(16) The name, and address and telephone number of the agent of the business upon whom service of process can effectively and validly be made;

(17) The number, type, name, model and manufacturer's serial number of each computerized sweepstakes device requested to be licensed;

(18) The name and address of the owner, distributor and manufacturer of each computerized sweepstakes device requested to be licensed;

(19) Specification of terms of agreement governing the acquisition and installation of each sweepstakes device requested to be licensed;

(20) A description as to the nature and type of property or services which will be sold or supplied upon the premises;

(21) A copy of the title or lease to the premises;

(22) A copy of the Articles of Incorporation, if the owner is a corporation;

(23) A copy of the Operating Agreement, if the owner is a limited liability corporation;

(24) A copy of the Partnership Agreement, if the owner is a partnership;

(25) Specification of the days of the week and the hours of the day during which the licensed activity will be conducted; and

(26) Any other information which the Safety Director may deem reasonably necessary for the full interest of the public in the application.

(c) Reports of City Officials. Upon receipt of an application for a license under this chapter, the Safety Director shall request the following reports, which shall be rendered to him within thirty days of the date of filing of the application.

(1) A written report from the Fire Chief shall be submitted to the Safety Director as to whether the premises and computerized sweepstakes devices thereon will create a fire hazard; and

(2) A written report from the Police Chief shall be submitted to the Safety Director specifying, with regard to all owners and operators, any convictions for any felony or for any misdemeanor involving the operation of a sweepstakes device business or involving physical violence, gambling activity, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) A written report from the Chief Building Official shall be submitted to the Safety Director as to whether all building and zoning laws have been satisfied. The report shall include a formal accredited plans review report verifying proper code compliance of the facility and operations.

(d) Determination Process.

(1) Safety Director. All applications for licenses under this chapter shall be considered by the Safety Director, who shall, within ten days after receiving the written reports, either issue such licenses or deny issuance of such licenses.

(2) Appeal to Board. In the event of the denial of issuance of such a license, the applicant shall be notified of such denial and the specific reasons therefore in writing. Such notice shall be mailed or delivered to the applicant at the address specified in the application. The applicant shall have ten days after receipt of such notice within which to appeal such denial, by filing a written notice of appeal with the Board of Zoning Appeals. Thereupon, the applicant shall have not less than ten days notice of the date and place of the hearing. The appeal shall be heard by the Board of Zoning Appeals, which Board shall have the power after such hearing to confirm the denial, order the license to be issued, or, at its discretion, to issue a conditional or probationary license. In rendering its decision, the Board may, for good cause shown, modify or waive any of the provisions of this chapter in the interest of justice.

(3) Appeal to court. The decision of the Board may, within thirty days thereof, be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

(e) License Renewal. Each computerized sweepstakes device license and sweepstakes terminal café license must be renewed annually. At the time of renewal, a statement shall be filed with the Safety Director that the information listed on the original application for the license is still complete, accurate and truthful to the best knowledge of all applicants, or a statement shall be filed with the Safety Director listing each and every item of information which has changed since the original application. Such statement shall be signed by the same persons who signed the original application. The Safety Director may determine to accept such statement and issue the license requested, or he may determine to enforce the procedure required for an original license.

519.09 DENIAL OF SWEEPSTAKES TERMINAL CAFÉ LICENSE.

No Sweepstakes Terminal Café license shall be issued or renewed for any business or premises:

(a) Where any of the owners or the operators has been convicted within the last five years of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café business, or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;

(b) Where the premises do not specifically designate at least 30 gross square feet of floor area for each sweepstakes device to be located upon the premises, excluding areas used for other principal uses;

(c) Where the premises do not provide a minimum of 35 off-street parking places, or 1 such space for every 2 computerized sweepstake devices, whichever is greater;

(d) Where the premises are located within 1,000 feet of any school, playground, public park or other sweepstakes terminal café or within 500 feet of any church;

(e) Where it is determined that the premises or operation thereof would be in violation of any provision of the Building Code, the Zoning Code or the Fire Code of the City or any other pertinent provisions of local, state or federal law;

(f) Where the applicant made a false statement as to a material matter upon the application or in a hearing concerning the license;

(g) Where the application failed to provide all of the required information; or

(h) Where not all terms and conditions under this chapter and all other applicable ordinances and statutes are complied with.

519.10 CONDITIONS AND REGULATIONS.

(a) In addition to any other condition or regulation contained in this chapter or in state statutes, or in the City Building and Zoning Codes, the following conditions and regulations shall be applicable to and shall govern and control all licenses of sweepstakes terminal cafes:

(1) Each such licensee shall at all times open each and every portion of the premises for inspection by the Police Department and other City departments for the purposes of enforcing any provisions of this chapter.

(2) Each such licensee shall have present on the premises at all times when the premises are open to the public at least one adult operator who has not been convicted of any felony or of any misdemeanor involving the operation of a sweepstakes terminal café or involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude.

(3) No arcade shall operate during the hours of 1:00 a.m. to 7:00 a.m. and on Sunday during daylight hours.

(4) No such licensee shall allow living quarters to exist with direct entry to the premises.

(5) No such licensee shall operate the sweepstakes terminal café business other than on street level or on a level within three feet thereof.

(6) No such licensee shall operate the sweepstakes terminal café in any premises or structure for which a valid Certificate of Occupancy has not been issued for that use.

(7) Sweepstakes terminal cafés shall not be permitted in any residentially zoned district with the City nor in any historically zoned district within the City. Sweepstakes terminal cafés shall be required to adhere to all zoning regulations within the zoning district they are located.

(8) Each premises utilized as a sweepstakes terminal café shall be equipped with a number of parking spaces equivalent to one space for each two sweepstake devices, plus one additional parking space for each employee on duty; this required number of parking spaces is in addition to parking spaces required for any other use of the premises and in addition to any other parking spaces required by other tenants in a multi-tenant structure.

(9) No such licensee shall allow any person, other than an owner or operator over the age of twenty-one years, who shall be readily identifiable, to be in control of the premises, nor allow such operator to be regularly situated in a place upon the premises

other than a place from which he has an unobstructed view of the entire portion of the premises devoted to the operation of computerized sweepstakes devices.

(10) No person under the age of twenty-one years shall be permitted in a sweepstakes terminal café.

(11) Any and all sweepstakes rules and odds of winning shall be posted in a conspicuous place at the premises and displayed on the computerized sweepstakes device at the start of each game and/or activity.

(12) Each such licensee shall operate the sweepstakes terminal café business in compliance with any and all pertinent Federal Trade Commission rules and regulations.

(b) All computerized sweepstakes devices upon the premises of a sweepstakes terminal café shall be located thereon in conformity with the floor plan filed with the application for the license and in such a manner:

- (1) So as not to impair ingress or egress to the premises;
- (2) So as not to interfere with free and unfettered passage through the premises;
- (3) So that at least 30 gross square feet of floor area is specifically designated for each sweepstakes device, excluding areas used for other principal uses;
- (4) So that there shall be a minimum unobstructed area of five feet on either side of each sweepstakes device where persons may use, watch or wait to use such sweepstakes device;
- (5) So as to permit a clear and complete view of the interior of the premises immediately upon entry; and
- (6) So that the back of any sweepstakes device is not exposed to a window.

519.11 PROHIBITED CONDUCT AND CONDITIONS IN SWEEPSTAKES TERMINAL CAFÉS.

No licensee of a sweepstakes terminal café by himself, directly or indirectly, or by any servant, agent or employee, shall permit or fail to take active steps to eliminate the activities specified in this section from occurring upon the premises. All such licensees shall have a duty to diligently pursue enforcement of this section. The actions of the operator and the failure to take action by the operator shall be imputed to the licensees. No such licensee shall:

- (a) Permit any indecent, immoral or profane language, or indecent, immoral or disorderly conduct, upon the premises;
- (b) Permit the premises to become a gathering place for disorderly persons of any type;
- (c) Permit the gambling in any form or the possession or use of gambling paraphernalia upon the premises;
- (d) Permit intoxication or the possession or use of alcoholic beverages upon the premises;
- (e) Permit the possession or use of any unlawful drug, narcotic or controlled substance;

- (f) Permit the public streets, sidewalks, alleys or walkways in the immediate vicinity of any entrance or exit to the premises to become littered;
- (g) Permit the premises or the activity conducted thereon to become a public nuisance to the surrounding environs;
- (h) Permit the walkways to become obstructed in any manner so that pedestrian traffic is hindered;
- (i) Permit any computerized sweepstakes device thereon to be operated at any time the premises is not open for business, or permit the entrance to be locked at any time that the premises are open for business;
- (j) Permit the premises to become overcrowded so as to constitute a hazard to the health or safety of persons therein or to be in violation of any of the City's fire, health or sanitation codes;
- (k) Permit any computerized sweepstakes device to be offered to the public for operation unless fully operable and in safe operation condition;
- (l) Permit the premises to be open for business without displaying the licenses therefore in a conspicuous place thereon;
- (m) Permit the operation of any unlicensed computerized sweepstakes device upon the premises;
- (n) Permit any violation of any ordinance of the City or statute of the State to take place upon the premises.
- (o) No weapons, firearms, or dangerous ordinances are permitted on the premises.

519.12 LICENSE EXPIRATION, SUSPENSION OR REVOCATION.

(a) Expiration. Any sweepstakes terminal café license issued under this chapter shall expire upon the transfer or sale of a majority interest in the business, or the discontinuation of the business for a continuous period of thirty days. Any computerized sweepstakes device license issued under this chapter shall expire upon the transfer or sale of such computerized sweepstakes device.

(b) Suspension and Revocation. All licenses issued under this chapter shall be suspended or revoked by the Board of Zoning Appeals upon its finding of the occurrence of any of the following events;

- (1) A false statement by any licensee as to a material matter made in an application for license or in a hearing concerning the license;
- (2) Conviction of any license of any felony or of any misdemeanor involving physical violence, gambling activities, controlled substances, alcoholic beverages, minors or any crime involving moral turpitude;
- (3) Conviction twice within a one-year period of any license or operator for a violation of this chapter.

(c) Hearing. The suspension or revocation of any license under this chapter shall not be made without a hearing. The licensee shall be given at least ten days prior written

notice of intent to suspend or revoke, which shall set forth the time and place of the hearing and the specific reasons for such suspension or revocation. The licensee shall have the right at the hearing to present testimony and other relevant evidence and to orally examine any person offering evidence as to the reasons for suspension or revocation.

(d) Appeal. The decision of the Board may be appealed to a court of competent jurisdiction under Ohio R.C. Chapter 2506.

519.13 LICENSE ISSUANCE; EFFECTIVE PERIOD; FEE.

The Mayor is hereby authorized to issue computerized sweepstakes device licenses, in such form as is determined to be appropriate, for a period of up to one year, upon satisfaction of all of the following conditions:

(a) Computerized Sweepstakes Devices. The fee for each computerized sweepstakes device license shall be one hundred dollars (\$100.00) per device, per month, or any portion of a month. This fee shall be payable in advance, on a quarterly basis, on the first day of January, April, July and October.

(b) Sweepstakes Terminal Café. The fee for a sweepstakes terminal café shall be one thousand dollars (\$1,000.00) per year, or any portion of a year. This fee shall be payable on January 1 of each and every year. This fee shall never be prorated.

(c) Replacement License. The fee for a replacement license shall be fifteen dollars (\$15.00).

(d) Filed with Application. License fees under this chapter shall be filed with the application for license.

(e) Return of Fee. In the event an application is denied under this chapter, the amount of five hundred dollars (\$500.00) shall be retained for application review. All other fees submitted for the Computer Sweepstakes Terminal Café license and related device licenses shall be returned to the applicant. In the event any license is suspended or revoked under this chapter, no portion of the license fee shall be returned to the owner.

519.14 EQUAL OPPORTUNITY.

No person shall be denied any license or the right to use a licensed sweepstakes device under this chapter in the City because of race, color, creed, sex, religious belief or national origin.

519.99 PENALTY.

Whoever violates any of the provisions of this chapter is guilty of a misdemeanor of the first degree. A separate offense shall be deemed committed each day during or on which a violation occurs or continues.

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO.95 – 2011

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain appropriations from the unappropriated balance of the Local Law Enforcement Trust Fund and the 1201 Street Fund, for the year ending December 31, 2011, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is appropriated from the unappropriated balance of the Local Law Enforcement Trust Fund, for the year ending December 31, 2011 the following:

\$12,000.00 to an account entitled "Supplies & Materials" 1215.305.2410

Section 2:

There be and hereby is appropriated from the unappropriated balance of the 1201 Street Fund, for the year ending December 31, 2011 the following:

\$800.00 to an account entitled "Utilities" 1201.435.2340

Section 3:

This Ordinance is hereby declared to be an emergency measure, for the efficient operation of the various departments of the City of Massillon and for the preservation of the public health, safety and welfare of the community. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

DATE: AUGUST 1, 2011

CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN GAMBER, PRESIDENT

COUNCIL CHAMBERS

ORDINANCE NO. 96 - 2011

LEGISLATIVE DEPARTMENT

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE making certain transfers in the 2011 appropriations from within the General Fund, for the year ending December 31, 2011, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

There be and hereby is transferred from the 2011 appropriation from within the General Fund, for the year ending December 31, 2011, the following:

FROM:	Supplies & Materials	1100.440.2410	\$63,000.00
TO	Supplies & Materials	1100.435.2410	\$63,000.00

Section 2:

That this Ordinance is hereby declared to be an emergency measure, the reason for the emergency being that said funds are necessary for the preservation of the public health, safety and welfare of the community and for the additional reason that the funds are required in the specific accounts to pay city obligations by the end of 2011. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

PASSED IN COUNCIL THIS _____ DAY OF _____ 2011

APPROVED: _____
MARY BETH BAILEY, CLERK OF COUNCIL

GLENN E. GAMBER, PRESIDENT

APPROVED: _____

FRANCIS H. CICCHINELLI, JR., MAYOR

DATE: AUGUST 1, 2011 CLERK: MARY BETH BAILEY

MASSILLON CITY COUNCIL
CITY OF MASSILLON, OHIO
GLENN E. GAMBER, PRESIDENT

COUNCIL CHAMBERS

LEGISLATIVE DEPARTMENT

ORDINANCE NO. 97 - 2011

passed

BY: FINANCE COMMITTEE

TITLE: AN ORDINANCE authorizing the Mayor of the City of Massillon, Ohio, to submit an application for Ohio Public Works Commission Funding for the 2012 funding year, and declaring an emergency.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF MASSILLON, STATE OF OHIO, THAT:

Section 1:

The Council of the City of Massillon, Ohio, hereby determines it to be necessary and in the public health, safety and welfare to authorize the Mayor of the City of Massillon, Ohio, to submit an application for Ohio Public Works Commission Funding for the 2012 funding year and execute any such documents necessary to obtain such funding.

Section 2:

That the Mayor of the City of Massillon, Ohio, is hereby authorized and directed to submit an application for the 2012 Ohio Public Works Commission Funding and execute any documents necessary to obtain such funding for the following project for the year 2012. Said project shall be as follows:

- a). Keuper Blvd NE Improvement Project
- b). 1st Street NE Improvement Project
- c). Lincoln Way Resurfacing Project

Section 3:

That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the health, safety and welfare of the community and for the additional reason that it is necessary to submit the project in order to receive Ohio Public Works Funding. Provided it receives the affirmative vote of two-thirds of the elected members to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.