

City of Hesperia



DATE: June 4, 2013

TO: Mayor and City Council Members

FROM: Mike Podegracz, City Manager

BY: Scott Priester, Development Services Director
Dave Reno, Principal Planner

SUBJECT: Ordinance regarding Internet Sweepstakes Cafés
(Applicant: City of Hesperia)

RECOMMENDED ACTION

The Planning Commission recommends that the City Council introduce and place on first reading Ordinance No. 2013-06, an amendment to the Hesperia Municipal Code to establish regulations for Internet Sweepstakes Cafés.

BACKGROUND

The City is proposing to extend a Municipal Code amendment to address the proliferation of internet sweepstakes cafés. The sweepstakes aspect allows customers to play gambling themed games on computers to win cash prizes. The Bureau of Gambling Control considers internet cafés that offer these types of sweepstakes to be illegal gambling operations. (Attachment 1) On April 2, 2013, the City Council adopted Urgency Ordinance 2013-04, prohibiting the establishment of these uses for 45 days. On April 16, 2013, the Council extended this Urgency Ordinance until April 2, 2015.

ISSUES/ANALYSIS

The City's code currently does not define these uses. Two definitions will be added. The first will define a "computerized sweepstakes device." This provides that any device, whether a computer or any other machine used for gambling, will be covered under the ordinance. The second will define internet sweepstakes cafés as any place where computerized sweepstakes devices are located for the use of the public. Finally, the ordinance will prohibit establishment of an internet sweepstakes café anywhere in the City.

The primary issue is that at least five of these cafés have been established in the City, under the premise that they offer business support services. Subsequent investigation revealed that no such services are offered. The only activity is gambling as defined by the state. On March 20, 2013, the Sheriff's Department and code enforcement staff closed these establishments within the City of Hesperia.

As mentioned above, an Urgency Ordinance was adopted and is effective until April 2, 2015. The Planning Commission held a hearing on a permanent ordinance on April 11, 2013. The Commission unanimously voted to recommend adoption of the permanent ordinance.

FISCAL IMPACT

This action will have impacts on code enforcement and the Sheriff's Department, if enforcement becomes a priority. Penal Code section 335a states, "Any and all money seized in or in connection with such machine or device shall immediately, after such a machine or device has been so destroyed, be paid into the treasury of the city or county." Therefore, it is possible that the City may receive revenue from the prosecution of these businesses and the subsequent destruction of gaming devices.

ALTERNATIVES

1. Decline to adopt the permanent ordinance. As this would be inconsistent with Council's previous actions to regulate Internet Sweepstakes Cafés, this alternative is not recommended.
2. Provide alternative direction to staff.

ATTACHMENTS

1. Law Enforcement Advisory, Bureau of Gambling Control
2. Ordinance No. 2013-06