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## Windsor's Experience with Internet Sweepstakes – HB 15-1047

Kelly Arnold, Windsor Town Manager

In late August, an internet café opened without a business license in Windsor. The business was closed down while trying to gain a business license. During this period it was determined that the café was primarily used for internet sweepstakes. In order to better understand this business, the Windsor Town Board passed an emergency ordinance for a 90 day moratorium on the business. During the moratorium period, more information was gathered to determine the fate of this business. The information gathered included:

- \* material from across the country about the legality of internet sweepstakes;
- \* the Windsor Downtown Development Authority taking a position that it did not support this business;
- \* City of Lakewood report determining the business to be illegal gambling;
- \* contact by the Federal Bureau of Investigations (FBI) that provided information on the criminal elements of sweepstakes gambling;
- \* and ultimately the determination by the Attorney General's Office that determined internet sweepstakes was a form of gambling.

During the moratorium the business closed and the Town Attorney determined that internet sweepstakes was gambling. The Town Board then approved an ordinance to ban this type of business.

The Windsor Now! ran a story on the emergency moratorium that explains the situation and the rationale of the Windsor Town Board for the moratorium. Much of this was carried over to the eventual adoption of the ordinance banning internet sweepstakes.

The following article can be found at: <http://www.mywindsornow.com/news/12951957-113/business-sweepstakes-town-businesses>

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The Windsor Town Board passed an emergency ordinance last Monday putting a 90-day moratorium on sweepstakes cafes, after the town had one open recently without a business license.

The business' model is to sell Internet access for \$60 an hour, and by purchasing the Internet service, a customer is given free entries into a sweepstakes, business owner Tran Lin said.

He said he was unaware he needed a business license before he began operating the business in town, though he said he secured a business license before recently opening a similar business in Greeley.

Town Manager Kelly Arnold said while he was having lunch recently he noticed the new business at 427 Main St., and not knowing what it was, went inside to take a look. Inside, he found a dozen new computers and chairs, with a cashier in the back of the room. He said after asking one of the employees how the sweepstakes worked, he still didn't have a full understanding of it, but understood there was an opportunity to win money.

He said the town asked the business to cease operations and apply for a business permit, leading to the meeting's discussion. He said he felt a 90-day moratorium was sufficient to learn more about these types of businesses and give the community time to provide input about whether or not they should be permitted in town.

Town attorney Ian McCargar said the moratorium is not a ban, only a temporary hold on these types of businesses until the town has time to find out more about them and decide what regulations the town should put in place to address them.

Board members had many questions about the business, including how it is different than gambling.

McCargar said what he'd learned so far was that the sweepstakes have predetermined outcomes but that no one is tasked with regulating these types of businesses the way that gambling businesses are regulated.

SweepsCoach, one company that creates software used by sweepstakes businesses and takes a cut of the business' earnings, says on its website that Internet sweepstakes cafes are different from gambling in that the customer doesn't technically pay to enter the sweepstakes. It states that like McDonald's' Monopoly promotion, where someone buys a cheeseburger and gets a free entry into the game, customers of sweepstakes cafes are simply purchasing Internet access by the minute and receive free entries into the sweepstakes.

"Simply put, the sweepstakes machines are our Monopoly game and the Internet or phone time is our cheeseburger," SweepsCoach's website states. "This makes it legal."

Board member Christian Morgan said a letter from the Lakewood Police Department outlined a number of concerns with the businesses that he said were "quite frankly, alarming," and worried about a business that could skirt regulations put in place to protect the public.

Some of the concerns cited in the paper include the business owners not being subject to background checks, the games aren't regulated by any group to make sure they are fair for customers, they are not regulated by local zoning ordinances, they don't need to report results to any public entities, they aren't obligated to exclude underage users from participating and don't have to pay a gaming tax at a rate that a casino or other publicly licensed business would have to.

The letter also states that Ohio, Florida and Mississippi passed laws in 2013 banning Internet sweepstakes cafes and similar bans are pending this year in Connecticut and California.

Board member Myles Baker said the business opening without a license was a red flag for him and appeared as though it was trying to "sneak in."

Lin assured the board he wasn't trying to sneak in and said failing to get a business license was simply an oversight.

The board unanimously passed the emergency ordinance, placing a temporary moratorium on sweepstakes cafes and Vazquez said he looked forward to working with the business owners over the following 90 days.