

July 29, 2010

Office of the City Attorney  
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To the Honorable Mayor, Vice-Mayor,  
and City Council Members

Re: RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO SECTIONS 7-600, 8-600 AND 10-600 OF THE CHESAPEAKE ZONING ORDINANCE TO CLASSIFY BUSINESS ESTABLISHMENTS OFFERING LAWFUL INTERNET GAMES AND CONTESTS WITH PRIZES OF VALUE AS A CONDITIONAL USE IN THE B-2 GENERAL BUSINESS DISTRICT, M-1 LIGHT INDUSTRIAL DISTRICT AND M-2 GENERAL BUSINESS DISTRICTS, TO REGULATE THE LOCATION OF SUCH BUSINESS ESTABLISHMENTS IN RELATION TO PUBLIC NEED; AND TO PROHIBIT SUCH BUSINESS ESTABLISHMENTS IN ALL OTHER ZONING DISTRICTS.

Pursuant to the request of several City Council members, this resolution is being presented to initiate amendments to Sections 7-600, 8-600 and 10-600 of the Chesapeake Zoning Ordinance to classify businesses offering lawful internet games and contests as a conditional use in B-2 General Business, M-1 Light Industrial and M-2 General Industrial Districts and to prohibit such uses in all other zoning districts.

This proposed amendment is in response to the opening of "internet cafes" in the City, at which establishments customers play internet games and contests for a fee and have a chance to win money or other items of value. The question of whether these internet cafes are lawful is a matter of determination for the Commonwealth Attorney or the Police Department on a case-by-case basis. In general, state law prohibits as "illegal gambling" the making, placing or receipt of any bet or wager of money or other thing of value in exchange for a chance to win a prize, stake or other consideration or thing of value, dependent upon the result of any game, contest or any other event the outcome of which is uncertain or a matter of chance.

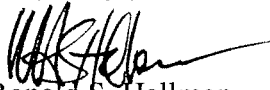
In 2010, the General Assembly enacted House Bill 1010 to expand the definition of "illegal gambling" to include the purchase of a product which credits the purchaser with free points or other measurable units that may be risked by the purchaser for an opportunity to win additional points or other measurable units that are redeemable by the purchaser for money at the location where the product was purchased. This amendment to state law is apparently intended to address "free spin" devices, whether played on the internet or otherwise. The 2010 amendment also creates an exemption from the definition of "illegal gambling" to allow certain games, contests, lotteries, schemes and promotional offerings meeting the conditions set forth in the statute. These conditions

include a method of free entry to all participants wishing to enter the contest without purchase, equal opportunity to play, equal odds of winning, written disclosures, official rules and advertising restrictions. Perhaps most importantly, no consideration or anything of value can be required in order to play or enter into the game or contest, except for the purchase of a product, if any.

Accordingly, under this new Virginia statute, lawful internet gaming may be conducted subject to the criteria under state law and further, subject to local zoning regulations. The initiating resolution envisions a zoning amendment whereby such lawful internet games and contests may be authorized by City Council by the issuance of a conditional use permit in the B-2 General Business, M-1 Light Industrial and M-2 General Business Districts. Such internet gaming facilities will not be permitted in any other zoning district. The resolution also provides flexibility to impose location restrictions in the event findings are made that justify the separation of internet cafes from schools, churches, recreational centers and similar public uses.

If the initiating resolution is adopted by City Council, the Planning Department will prepare an amendment to the Chesapeake Zoning Ordinance and will present same to the Planning Commission for review and recommendation. The Planning Commission is required by state law to take action on the proposed amendment within one-hundred (100) days of the first meeting of the Planning Commission following the adoption of the initiating resolution. After the Planning Commission makes a recommendation for approval or denial, the proposed amendment will then be brought before City Council for final action.

Very truly yours,



Ronald S. Hallman  
City Attorney

RSH:fmh  
enclosures

cc: William E. Harrell, City Manager  
Anna M. D'Antonio, Assistant to the City Manager  
Brent R. Nielson, Planning Director

**RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO SECTIONS 7-600, 8-600 AND 10-600 OF THE CHESAPEAKE ZONING ORDINANCE TO CLASSIFY BUSINESS ESTABLISHMENTS OFFERING LAWFUL INTERNET GAMES AND CONTESTS WITH PRIZES OF VALUE AS A CONDITIONAL USE IN THE B-2 GENERAL BUSINESS DISTRICT, M-1 LIGHT INDUSTRIAL DISTRICT AND M-2 GENERAL INDUSTRIAL DISTRICT; TO REGULATE THE LOCATION OF SUCH BUSINESS ESTABLISHMENTS IN RELATION TO PUBLIC NEED; AND TO PROHIBIT SUCH BUSINESS ESTABLISHMENTS IN ALL OTHER ZONING DISTRICTS.**

**WHEREAS**, the public necessity, convenience, general welfare and good zoning practice require that an amendment to Sections 7-600, 8-600 and 10-600 of the Chesapeake Zoning Ordinance, and any necessary or correlating amendments, be considered by the Planning Commission and City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of Chesapeake, Virginia, that the Planning Commission is requested to consider and make recommendations concerning proposed amendments to Sections 7-600, 8-600 and 10-600 of the Chesapeake Zoning Ordinance, and any necessary or correlating amendments thereto, to classify business establishments offering lawful internet games and contests with prizes of value as a conditional use in the B-2 General Business District, M-1 Light Industrial District, and M-2 General Industrial District; to regulate the location of such business establishments in relation to public need, and to prohibit such business establishments in all other zoning districts..

**ADOPTED** by the Council of the City of Chesapeake, Virginia, this \_\_\_\_ day of \_\_\_\_\_, 2010.

**APPROVED:**

\_\_\_\_\_  
Mayor

**ATTEST:**

\_\_\_\_\_  
Clerk of the Council