

AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF CHARLESTON BY ADDING TO ARTICLE 9, PART 1, GENERAL ADMINISTRATION AND ENFORCEMENT, A NEW SECTION 911, TEMPORARY MORATORIUM. (AS AMENDED)

BE IT ORDAINED BY THE MAYOR AND COUNCILMEMBERS IN CITY COUNCIL ASSEMBLED:

Section 1. The Zoning Ordinance of the City of Charleston is hereby amended by addition to Article 9, Par 1, General Administration and Enforcement, a new Section 911, Temporary Moratorium – Simulated Gambling Devices, to read as follows:

“Sec. 54-911. – Temporary Moratorium.

A. Findings

- a. WHEREAS, the City of Charleston, South Carolina provides municipal services to its citizens, including regulation, zoning, permitting, and licensing of businesses; and,
- b. WHEREAS, appropriate regulation, zoning, licensing, and permitting of businesses are vital to the public’s health, safety, morals and welfare as deficient regulations can lead to public harm; and,
- c. WHEREAS, City Council has learned of certain activities related to the following businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafes, sweepstakes cafes, sweepstakes redemptions centers, adult arcades, game/recreation facilities and other similarly operated facilities within the City of Charleston, being proposed or considered, which activities could harm the City’s economic activities and otherwise significantly and adversely affect the public health, safety, morals and welfare, since said activities may include forms of gaming or gambling which could lead to illegal activities; and,
- d. WHEREAS, the City of Charleston does not specifically and clearly define or establish standards slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafes, sweepstakes cafes, sweepstakes redemptions centers, adult arcades, game/recreation facilities and other similarly operated facilities within the City of Charleston
- e. WHEREAS, City Council deems it necessary to the public’s health, safety, morals and welfare to cause a study of businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafes, sweepstakes cafes, sweepstakes redemptions centers, adult arcades, game/recreation

facilities and other similarly operated facilities to be accomplished finding the following:

- i. Nuisance impacts;
 - ii. Cost impacts on community, businesses, tourism and city services;
 - iii. Criminal activities;
 - iv. Business activities;
 - v. State, County, and Municipal regulations;
 - vi. Zoning regulations; and
- f. WHEREAS, the moratorium is required to preserve the status quo for businesses using slot machines or slot machine like equipment or simulated gambling devices: game rooms, arcades, internet cafes, sweepstakes cafes, sweepstakes redemptions centers, adult arcades, game/recreation facilities and other similarly operated facilities during the period of the moratorium. However, the moratorium shall not prohibit the City's enforcement of gambling laws in association with SLED or independently.
- g. WHEREAS, City Council finds it necessary to control community development during the time period of the study and development of any amendments to the City of Charleston Code; and,
- h. WHEREAS, City Council finds that avoiding the creation of vested rights or nonconforming or inconsistent uses as a result of any new legislation brought forth as a result of the study is necessary to the public's health, safety, morals and welfare;
- i. WHEREAS, the City Council has determined that a moratorium of one hundred eighty (180) days in duration is the minimum reasonable time period needed to study this issue and determine what, if any, legislation is needed.

B. Definitions

- a. "Simulated gambling device" means any device that, upon connection with an object, is available to play or operate a computer simulation of any game, and which may deliver or entitle the person or persons playing or operating the device to a payoff. The following rules of construction apply to this definition of "simulated gambling device":
- i. The term "device" means any mechanical or electrical contrivance, computer, terminal, video or other equipment that may or may not be capable of downloading games from a central server system, machine, computer or other device or equipment. The term "device" also includes any associated equipment necessary to conduct the operation of the device.
 - ii. The term "upon connection with" means insertion, swiping, passing in range, or any other technical means of physically or electromagnetically connecting an object to a device.
 - iii. The term "object" means a coin, bill, ticket, token card or similar object, obtained directly or indirectly through payment of consideration, or obtained as a bonus or supplement to another transaction involving the payment of consideration.
 - iv. The terms "play or operate" or "play or operation" includes the use of skill, the application of the element of chance, or both.

- v. The term “computer simulation” includes simulations by means of a computer, computer system, video display, video system or any other form of electronic video presentation.
 - vi. The term “game” includes slot machine, poker, bingo, craps, keno, any other type of game ordinarily played in a casino, a game involving the display of the results of a raffle, sweepstakes, drawing, contest or other promotion, lotto, sweepstakes, and any other game associated with gambling or which could be associated with gambling, but the term “game” does not necessarily imply gambling as that term may be defined elsewhere.
 - vii. The term “payoff” means cash, monetary or other credit, billets, tickets, tokens or other electronic credits to be exchanged for cash or to receive merchandise or anything of value whatsoever, whether made automatically from the machine or manually.
 - viii. The use of the word “gambling” in the term “simulated gambling device” is for the convenience of reference only. The term “simulated gambling device” as used in this Section is defined exclusively by this subsection and does not incorporate or imply any other legal definition or requirement applicable to gambling that may be found elsewhere.
- C. Temporary Moratorium upon the issuance of zoning approvals, permits, and any other official city action to authorize or permit a new business or expansion of an existing business using simulated gambling devices.
- a. All activities relating to the acceptance, review and action upon applications for the following businesses using simulated gambling devices are temporarily suspended in order for the City of Charleston, through its officials and staff, to have adequate time and opportunity to conduct a study or studies and comprehensively analyze the adequacy of application criteria, standards, and other approved processes and procedures related to the acceptance, review and action on said applications within the City of Charleston. Accordingly, based upon the foregoing, there is hereby imposed a temporary moratorium on the receipt and/or acting upon applications for licenses, permits or any other official city action to authorize or permit a new business or expansion of an existing business using simulated gambling devices. During the time the temporary moratorium is in effect, the City will accept no applications or act on any pending applications for zoning approvals, permits or business licenses for such activities and no such new activities shall be permissible within the City. It is unlawful for any person or entity to engage in the activities that are the subjects of the Ordinance without first obtaining a business license for such activities.
 - b. This temporary moratorium will not affect any businesses, as set forth, herein, currently operating within the City, pursuant to a validly issued business license or permit, as long as the business and property are in compliance with all applicable local, county, state, and federal laws. This moratorium does not prohibit the City of Charleston from enforcing the gambling laws of the State of South Carolina or the City of Charleston independently or in connection with another governmental entity or agency.

- c. The Revenue Collections Director or his designee is authorized to renew the business license of any existing business affected by this moratorium, with a valid business license, in the event such receipt expires before the expiration of this moratorium, upon a finding that said business has not otherwise violated any local, state, county or federal law.

A. Time

- a. The temporary moratorium set forth in this Ordinance shall become effective upon ratification and shall terminate in one hundred and eighty (180) days after ratification.
- b. The City Council may extend the temporary moratorium established in this ordinance one (1) time for a period not to exceed ninety (90) days upon a finding by the City Council set forth in the ordinance that the problems giving rise to the need for the temporary moratorium established herein continue to exist and that reasonable progress is being made in carrying out a specific and prompt plan of corrective legislative action, but that additional time is reasonably needed to adequately address the issues facing the City.

B. Severability.

- a. If any Section or portion of a Section of this Ordinance proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force, or effect of any other Section or part of this Ordinance.”

Section 2. This Ordinance shall become effective upon ratification.

Ratified in City Council this _____ day of _____ in the Year of Our Lord, 2012, in the 236th Year of Independence of the United States of America.

By:

Joseph P. Riley, Jr.
Mayor, City of Charleston

ATTEST:

Vanessa Turner-Maybank
Clerk of Council