



**AN ORDINANCE AMENDING THE CODE OF ORDINANCES
OF THE TOWN OF NAGS HEAD, NORTH CAROLINA**

WHEREAS, the Town finds that the use of land or structures for internet or electronic sweepstakes businesses is not consistent with the values in the Town's Land Use Plan which promote a family-based vacation environment within the Town, particularly if located in Town's residential areas or the Town's central business corridor; and

WHEREAS, the Town finds that internet or electronic sweepstakes businesses create concerns regarding criminal activity, loitering, and parking capacity. Each of these concerns may cause an increase in demand for police and other services and may cause negative effects for neighboring properties; and

WHEREAS, the Town finds that the C-3 District provides an alternative location for internet or electronic sweepstakes businesses that reduces the negative impacts on neighboring properties and inconsistency with the Town's Land Use Plan; and

WHEREAS, the Town finds that immediate application of the zoning ordinance amendments herein may cause limited, if any, economic harm to property owners who currently use land or structures for internet or electronic sweepstakes businesses in districts other than the C-3 District. The economic harm is limited because most, if not all, of the machines used in such businesses are leased rather than owned, require little or no permanent improvements to land or structures, can be easily relocated, are reusable and may be upgradeable and are not being used as the primary revenue stream for the businesses in which they are located; and

WHEREAS, the Town has considered and has balanced the potential harm to the public created by the presence of internet or electronic sweepstakes businesses with the limited potential of economic harm to property owners who currently use land or structures for such businesses in districts other than the C-3 District. Based on this consideration and balancing of interests, the Town finds that a two (2) year amortization period is reasonable prior to application of the zoning ordinance amendments provided for herein to such property owners. A two (2) year amortization period provides local business owners time to honor any lease agreements with internet or electronic sweepstakes machine companies, to make arrangements to discontinue or relocate the use, or to otherwise minimize or avoid any economic loss from the adoption of this ordinance.

NOW THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Nags Head, North Carolina, that Chapter 48, Zoning, of the Code of Ordinances shall be amended as follows:

PART I That **Section 48-7 Definitions** be amended as follows:

Internet or Electronic Sweepstakes machine mean a machine(s) that runs one or more games or processes with any of the following characteristics: (1) payment, directly or as an intended addition to the purchase of a product, whereby the customer receives one or more electronic sweepstakes tickets, cards, tokens or similar items entitling or empowering the customer to enter a sweepstakes, and without which item the customer would be unable to enter the sweepstakes; or (2) payment, directly or as an intended addition to the purchase of a product, whereby the customer can request a no purchase necessary free entry of one or more sweepstakes tickets or other item entitling the customer to enter a sweepstakes.

PART II That **Section 48-376 Internet Sweepstakes machines** be added as follows:

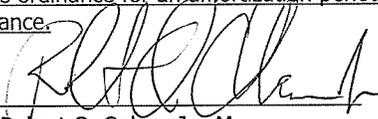
Internet or electronic sweepstakes machines are allowed only as an accessory use to a principal use listed in the C-3 commercial services district providing the following requirements are met:

- (a) Only two Internet or electronic sweepstakes machines shall be permitted per principal use.
- (b) Operating hours of the Internet or electronic Sweepstakes machines shall be the same as the normal operating hours of the principal use in which it is located.
- (c) All applicable state and local regulation's and license requirements for Internet Sweepstakes machines shall be met.

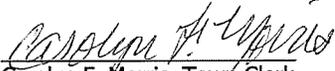
PART III That **Section 48-408 C-3 commercial services district** be amended as follows:

(b) (21) Internet or electronic Sweepstakes machines as defined in Section 48-7 and 48-376 as an accessory use, limited to two machines, per location.

PART IV All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed. This ordinance shall be in full force and effect from and after the 1st day of August 2012. The amendments to the Zoning Ordinance contained herein shall not apply to otherwise lawful buildings or structures which were made unlawful by and at the time of the adoption of this ordinance for an amortization period of two years from the effective date of this ordinance.


 Robert O. Oakes, Jr., Mayor
 Town of Nags Head

ATTEST:


 Carolyn F. Morris, Town Clerk



APPROVED AS TO FORM:

John Leidy, Town Attorney

Date adopted: August 1, 2012 (Second Reading)

Motion to adopt by Commissioner Comr. Cahoon

Motion seconded by Commissioner Comr. Sadler and Comr. Walters

Vote: 3 AYES

2 NAYS (Mayor Oakes and Mayor Pro Tem Remaley)



**TOWN OF NAGS HEAD
STATEMENT OF CONSISTENCY
WITH THE LAND USE PLAN FOR A ZONING TEXT AMENDMENT
(Second Reading of Internet/Sweepstakes Ordinance)**

BE IT HEREBY RESOLVED by the Board of Commissioners for the Town of Nags Head, that in accordance with provisions of North Carolina General Statute 160A-383, the Board of Commissioners hereby finds and determines that the adoption of the requested zoning text amendment regarding internet sweepstakes machines is consistent with the goals, objectives and policies of the Town's adopted Land Use Plan, and that this action is reasonable and in the public interest because it addresses an emerging concern related to community appearance (p. 104) and in the desire to "maintain an economy based on family-vacation tourism" (p. 87)

READ, APPROVED AND ADOPTED by a vote of 3 – 2 (Mayor Oakes and Mayor Pro Tem Remaley cast the NO votes), this the 1st day of August 2012.

Robert O. Oakes Jr., Mayor



ATTEST:

Carolyn Morris, Town Clerk
Cliff Ogburn, Town Manager