

CITY OF BRIGHTON, COLORADO

ORDINANCE NO. _____

INTRODUCED BY: Kniss

AN EMERGENCY ORDINANCE PURSUANT TO SECTION 5.10 OF THE CITY OF BRIGHTON HOME RULE CHARTER EXTENDING THE TEMPORARY MORATORIUM ESTABLISHED BY ORDINANCE NO. 2176 FOR AN ADDITIONAL FOUR (4) MONTHS ON THE ACCEPTANCE, PROCESSING AND APPROVAL OF ANY APPLICATION FOR A CITY OF BRIGHTON PERMIT OR LICENSE CONCERNING THE OPERATION OF ANY CYBER CAFÉ, SWEEPSTAKES CAFÉ, OR INTERNET SWEEPSTAKES CAFÉ, TO JULY 7 2015, AND DIRECTING CITY STAFF TO MONITOR PROPOSED STATE LEGISLATION TO REGULATE SUCH BUSINESSES, TO CONTINUE TO INVESTIGATE THE CITY'S AUTHORITY TO REGULATE SUCH BUSINESSES, AND TO PREPARE REGULATIONS FOR THE CITY COUNCIL'S CONSIDERATION, AS NEEDED; AND SETTING FORTH OTHER DETAILS RELATED THERETO.

WHEREAS, on or about September 23, 2014, the City Council adopted emergency ordinance No. 2176, establishing a temporary six month moratorium, subject to extension by legislative act, for the City to research, investigate, prepare and, if appropriate, adopt and implement regulations governing Cyber Cafes; and

WHEREAS, City staff has continued to monitor the regulation of Cyber Cafes by various municipalities in the State and by the Colorado General Assembly; and

WHEREAS, City staff believes that the Colorado General Assembly will enact State-wide regulations of Cyber Cafes in the 2015 Legislative Session and believes it is in the best interests of the City and its citizens to continue the temporary moratorium set forth in Ordinance No. 2176 for an additional four (4) months to allow City staff to review any such legislation and prepare proposed City of Brighton regulations, as needed; and

WHEREAS, the City has not received, nor is the City staff aware of, any current or anticipated applications for establishing Cyber Cafes in the City of Brighton; and

WHEREAS, the extension of the moratorium will, therefore, not cause undue hardship or unduly prejudice to any proposed businesses or individuals who might want to operate a Cyber Cafe within the City of Brighton; and

WHEREAS, this Ordinance is necessary for the immediate preservation of the public peace, health and safety in that the issuance of approvals to establish and/or operate a Cyber Café could bestow certain legal rights upon such businesses before the City has a reasonable opportunity to investigate fully the potential impacts of such businesses and to develop, adopt and implement appropriate regulations; and

WHEREAS, it is in the best interests of the citizens of the City of Brighton that this ordinance be enacted.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BRIGHTON, COLORADO, AS FOLLOWS:

Section 1. Upon the effective date of this ordinance as an emergency ordinance, and continuing until **July 7, 2015**, or further action by the City Council by ordinance, whichever shall first occur, a moratorium is hereby imposed upon the acceptance, processing and approval of any and all applications for licenses or permits, including but not limited to sales tax licensing, business licensing or land use-related permits, relating to the establishment and/or operation of any Cyber Café, as that term is defined, within the City of Brighton. City staff is hereby directed not to accept, process, review or approve any such applications during the effective period of the moratorium, except with respect to building permits issued prior to the effective date of this ordinance.

Section 2. The term “Cyber Cafe” includes establishments also known as Sweepstakes Cafes, Internet Sweepstakes Cafes, Bingo/Internet Cafes, and similar establishments that give away chances to win prizes with the purchase of a service or product from an electronic gaming machine.

Electronic gaming machine " means a mechanically, electrically, or electronically operated machine or device that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club, that is owned, leased, or otherwise possessed, in whole or in part, by any person conducting the sweepstakes or by that person's partners, affiliates, subsidiaries, agents, or contractors. The term includes an electronic gaming machine or device that:

- (a) Uses a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;
- (b) Uses software that simulates a game that influences or determines the winning or value of the prize, or appears to influence or determine the winning or value of the prize;
- (c) Selects prizes from a predetermined, finite pool of entries;
- (d) Uses a mechanism that reveals the content of a predetermined sweepstakes entry;
- (e) Predetermines the prize results and stores those results for delivery at the time the sweepstakes entry is revealed;
- (f) Uses software to create a game result;
- (g) Requires a deposit of any currency or token or the use of any credit card, debit card, prepaid card, or other method of payment to activate the electronic gaming machine or device;
- (h) Requires direct payment into the electronic gaming machine or device or remote activation of the electronic gaming machine or device upon payment to the person offering the sweepstakes game;

(i) Requires purchase of a related product with legitimate value in order to participate in the sweepstakes game, or makes a related product available for no cost but under restrictive conditions;

(j) Reveals a sweepstakes prize incrementally even though the progress of the images on the screen does not influence whether a prize is awarded or the value of any prize awarded; or

(k) Determines and associates the prize with an entry or entries at the time the sweepstakes is entered.

Section 3. City staff is hereby further directed to research, investigate, draft and submit for the City Council's consideration, before the end of the moratorium period, as extended, appropriate regulations governing or prohibiting Cyber cafes within the City of Brighton, as needed.

Section 4. The City Council finds that it is authorized to adopt this emergency ordinance pursuant to the following: C.R.S. §31-15-103, §31-15-401, §31-15-501, §§31-23-301, *et seq.*, §§29-20-101, *et seq.*, Article XX of the Colorado Constitution, and the City of Brighton Home Rule Charter.

Section 5. The City Council finds and determines that, in accordance with the foregoing recitals, an emergency exists requiring the immediate passage of this ordinance for the immediate preservation of the health, safety, morals and welfare of the citizens of the City of Brighton.

Section 6. All other ordinances or portions thereof, and all *Brighton Municipal Code* provisions inconsistent or conflicting with this ordinance or any portion hereof, are hereby superseded by this ordinance and their legal effect held in abeyance but only to the extent of such inconsistency or conflict and only for the period of the moratorium herein imposed, as such period may be terminated or extended as provided herein.

Section 7. If any section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of and shall be severable from the remaining portions of this ordinance. The City Council hereby declares that it would have adopted this ordinance and each part or parts hereof irrespective of the fact that any one part or parts may be declared unconstitutional or invalid

Section 8. **Emergency Declaration and Effective Date.** By reason of the fact that it is necessary to provide sufficient time for the review, consideration, and implementation of the appropriate action by the City Council to the studies, analysis, findings and recommendations of the City Manager, City Attorney and City Staff, it is hereby declared that an emergency exists, that this ordinance is necessary to the immediate preservation of the public peace, health, safety and welfare, and that it shall be in full force and effect upon its adoption.

INTRODUCED, ADOPTED ON FIRST AND FINAL READING AS AN EMERGENCY ORDINANCE AND ORDERED PUBLISHED THIS 3rd DAY OF MARCH, 2015.

CITY OF BRIGHTON, COLORADO

By: _____
Richard N. McLean, Mayor

ATTEST:

Natalie Hoel, City Clerk

APPROVED AS TO FORM:

Margaret R. Brubaker Esq.
City Attorney

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