

## City of Latrobe: Proposed Amendments to City Code

**Executive Summary:** The proposed content is to amend the City Code to regulate businesses and organizations providing mechanical and non-mechanical devices classified as game of chance or game of skill.

**Description of Intent:** The reason for the proposed changes to the City Code is to further the purpose of the zoning regulations. The City, through its planning and zoning regulations, wishes to provide for its citizens and tourists the atmosphere that is both safe, healthy and aesthetically pleasing and one that fosters activities appropriate for residents and visitors of all ages within the downtown area, the commercial corridors, and adjacent neighborhoods.

It is further to promote the health, safety and general welfare of the citizens of the City and to establish reasonable regulations. The proposed changes to the City Code have neither the purpose nor the effect of imposing a restriction on access to mechanical and non-mechanical devices classified as a game of chance or game of skill used for personal amusement and entertainment purposes.

The proposed content is based on existing ordinances adopted by four (4) municipalities in the Commonwealth of Pennsylvania that have ordinances which regulate businesses and organizations providing mechanical and non-mechanical devices classified as a game of chance or game of skill. These municipalities are the City of Philadelphia along with Bensalem Twp, Gratz Borough, and Lemoyne Borough.

**Ordinance Description:** An ordinance of the members of Council of the City of Latrobe amending various sections of the City of Latrobe City Code. Specifically, amending Part III: Land Use and Development Administration and Regulation, Chapter 166: Zoning, and Articles III, V, and VII to create certain additional definitions, criteria, and regulation to businesses and organizations providing mechanical and non-mechanical devices classified as a game of chance or game of skill by conditional use in certain zoning districts.

The general description of the commercial use classification will be Local Gaming Device Facility.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Mayor and members of Council of the City of Latrobe, Westmoreland County, Pennsylvania, and it is hereby ENACTED and ORDAINED by the authority of the same as follows:

AMENDMENT 1: The existing table of permitted uses established in §166-16 Permitted uses, A. Land Use Table of Article III: General Requirements and General Uses, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following commercial use

classification title as part of the Commercial Use section:

USE	C-1	C-2	C-3	C-4
Local Gaming Device Facility		C	C	C

AMENDMENT 2: The listing and description of conditional uses established in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses of Article V: Commercial Zoning District, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following conditional uses as part of the Special Exceptions and Conditional Uses section:

(3) Local Gaming Device Facility

A. Location. Each business or organization with an operating local gaming device shall be located no closer than 1,200 feet, measured property line to property line, from any other business or organization with an operating local gaming device.

Each business or organization with an operating local gaming device shall be located no closer than 1,200 feet, measured property line to property line, from a school (private or public), family day-care home, child-care facility, youth center, community center, recreational facility, park, church or religious institution, hospital, or other similar uses where children regularly gather.

B. Minor. It is unlawful for a business or organization with an operating local gaming device to knowingly allow or permit a minor not accompanied by his or her parent or legal guardian to enter or remain within any establishment. A minor may not be permitted to play a Local Gaming Device or to enter the segregated Local Gaming Area. In the Commonwealth of Pennsylvania, a person under the age of 18-years is considered a minor.

C. Signage. Each business or organization with an operating local gaming device shall post clear signage stating that minors may not enter the premises unless supervised by his or her parent or legal guardian. At least one such sign shall be placed in a conspicuous location near each public entrance to the space occupied by the business or organization.

D. Permitting License. Each business or organization with an operating local gaming device shall post near the entrance or near the cash register in an unobstructed location the valid City of Latrobe permitting license issued by the City of Latrobe Police Department.

F. Hours of Operation. Businesses or organizations with an operating local gaming device shall not be permitted to operate within the hours of 12:00 am to 8:00 am. A business or organization with a liquor license issued by the Pennsylvania Liquor Control Board, and in good standing with the PLCB, shall not operate within the hours of 2:00 am to 8:00 am.

G. Compliance. Each business or organization with an operating local gaming device shall comply with all current Federal, Commonwealth, and local laws. Failure to comply with these listed expectations and regulations in §166-23 Special Exceptions and Conditional Uses, B. Conditional Uses shall result in rejection of an occupancy permit, suspension of an occupancy permit, or termination of an occupancy permit.

H. Nonconforming Use. Each business or organization with an operating local gaming device legally existing on the effective date of this section may continue to operate as legal nonconforming

uses and shall not be required to obtain a conditional use permit. However, any change or expansion of the legal nonconforming use and a violation of all current Federal, Commonwealth, and local laws shall require compliance with this chapter and a conditional use permit.

I. Violations and Penalties. Each business or organization with an operating local gaming device found by the Police Department, Code Enforcement Department, or any other entity recognized by the City of Latrobe to be in violation of any City Code is subject to violations and penalties as listed in §166-67 Violations and Penalties and the sub-sections within Chapter 179: Amusement & Amusement Devices within Part IV: Police Administration & Regulation.

H. Definition.

CASH - United States currency and coin, including cash equivalent.

CASH EQUIVARIANT - A ticket, token, chip, gift card, voucher, billet, electronic credit, prepaid debit card, or other similar instrument or representation of more than nominal value.

COIN-OPERATED AMUSEMENT GAME - A mechanical, computerized or electrical contrivance, terminal, machine, or other device that requires the insertion of a coin, currency, or token to play or activate a game the outcome of which is predominantly and primarily determined by the skill of the player and does not pay, award, or offer a prize in the form of cash or merchandise. The term does not include a slot machine, a hybrid slot machine, or a skill slot machine as those terms are defined in the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 1103, a video gaming terminal as that term is defined in the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 3102, and/or a Local Gaming Device as that term defined hereinbelow.

LOCAL GAMING AREA – A room, floor within a building, or physical space within an establishment dedicated solely for the display and operation of a local gaming device.

LICENSED GAMING FACILITY - A location at which a Pennsylvania Gaming Control Board licensed gaming entity as defined in the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 1103, is authorized to place and operate slot machines.

LOCAL GAMING DEVICE – Any of the following devices are subject to this ordinance.

(a). A mechanical, computerized or electrical contrivance, terminal, machine, or other device that, upon insertion or payment of cash or cash equivalent as a wager, is available to play or operate one or more games, the play or outcome of which is determined by any element of either chance or skill, and that may deliver, or entitle the player to receive, cash or cash equivalent at the conclusion of one or more such games.

(b). A redemption terminal or other associated equipment necessary to operate or utilize a machine, terminal, contrivance, or other device as described in subparagraph (a) above.

(c). A slot machine, a hybrid slot machine, or a skill slot machine as those terms are defined in the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 1103, that is not in operation at a licensed gaming facility as defined in Section 1103 of the Pennsylvania Race Horse Development and Gaming Act.

(d). A video gaming terminal, as that term is defined in the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 3102, that is not in operation at a truck stop establishment that term is also defined the Pennsylvania Race Horse Development and Gaming Act, 4 Pa.C.S. Section 3102.

(e). An electronic video monitor as that term is defined in the Pennsylvania Crimes Code, 18 Pa.C.S. Section 5513, and/or that operates and/or is operated as defined and described in the Pennsylvania Crimes Code, 18 Pa.C.S. Section 5513.

The term Local Gaming Device does not include:

(a) A lottery game, as that term is defined under the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

(b) A coin-operated amusement game.

(c) A device used to play multiplayer video gaming competitions where the element of chance does not have a material effect on the play or outcome of the game.

(d) A device operated pursuant to and in accordance with the act of July 10, 1981 (P.L.214, No. 67), known as the Pennsylvania Bingo Law, and/or pursuant to and in accordance with a license or permit issued under the Pennsylvania Bingo Law.

(e). A device operated pursuant to and in accordance with the act of December 19, 1988 (P.L.1262, No. 156), known as the Pennsylvania Local Option Small Games of Chance Act, and/or pursuant to and in accordance with a license or permit issued under the Pennsylvania Local Option Small Games of Chance Act.

**REDEMPTION TERMINAL** - The collective hardware, software, communications technology and other ancillary equipment used to facilitate the payment of cash or a cash equivalent to a player as a result of playing a Local Gaming Device.

**I. Monitoring of Local Gaming Devices.** Each business or organization with an operating local gaming device shall at all times have the device(s) monitored by an employee and through video surveillance and recording. Recordings of the video surveillance shall be retained at the establishment for a period of thirty (30) days from the date of recording for review and inspection by officers and/or inspectors of the City of Latrobe Police Department.

**J. Display of Local Gaming Devices.** Each business or organization with an operating local gaming device shall have the device(s) located in a segregated Local Gaming Area that is visible by employees at all times. The segregated Local Gaming Area must be segregated from other areas dedicated for the display and sale of products, the consuming, producing and serving of food and beverages, and other amusement and entertainment activities. The segregated Local Gaming Area shall be secured from access by minors. The local gaming device shall not be visible from the sidewalk or street.

**K. Number of Local Gaming Devices.** Each business or organization with an operating local gaming device shall have 42 square feet of area dedicated to each device in the segregated Local Gaming Area. Exemptions to the number of local gaming devices are businesses and organizations with a

liquor license issued by the Pennsylvania Liquor Control Board. These businesses and organizations shall comply with all other criteria of this ordinance.

(a). No more than three (3) Local Gaming Devices may be placed on the premises of a licensed establishment that holds an active restaurant liquor license, brewery liquor license, limited distillery liquor license, limited winery liquor license or brewery pub license that is in good standing with the Pennsylvania Liquor Control Board.

(b). No more than five (5) Local Gaming Devices may be placed on the premises of a licensed establishment that holds an active club liquor license that is in good standing with the Pennsylvania Liquor Control Board.

L. Alcohol Consumption. Unless the business or organization is licensed by the Pennsylvania Liquor Control Board, no alcohol consumption is permitted within the premises of a business or organization with an operating local gaming device.

AMENDMENT 3: The listing and description of parking requirement within the off-street parking standards table established in §166-31 Parking requirements; off-street loading, A. Number of Spaces, (6) Off-street parking standards table, of Article VII: Supplemental Regulations, of Chapter 166: Zoning, of Part III: Land Use and Development Administration and Regulation of the Code of Ordinances of the City of Latrobe, as amended, is hereby amended to include the following listing and description of parking requirement of the Parking requirements; off-street loading section:

USE	NUMBER OF SPACES
Local Gaming Device Facility	1 for each 4 occupants at its highest peak.

AMENEDMENT 4: Updating the Police Department; specifically Chapter 179: Amusement and Amusement Devices to include additional content to regulate businesses and organizations with operating local gaming devices.

#### PART IV: Police Administration and Regulation

##### Chapter 179: Amusement and Amusement Devices

###### §179-1 Definitions [ADD Games of Chance to the list of definitions]

GAMES OF CHANCE - Punchboards, lotteries, raffles and pull-tabs, as defined in this chapter, provided that no such game shall be placed by or with the assistance of any mechanical or electrical device or media, and further provided that the particular chance taken by any person in any such game shall not be made contingent upon any other occurrence or the winning of any other contest, but shall be determined solely at the discretion of the purchaser. This definition shall not be construed to authorize any other form of gambling currently prohibited under any provision of Title 18 of the Pennsylvania Consolidated Statutes (relating to crimes and offenses). Similarly, this definition shall not be construed to in any way authorize games defined elsewhere within the Code of the City of Latrobe as “Local Gaming Devices.”

§ 179-6 Violations and penalties. [ADD the removal of devices starting with content at (a).]

Any person who shall fail, neglect or refuse to comply with any of the terms or provisions of this chapter shall, upon conviction thereof, for each and every offense be sentenced to pay a fine of not more than \$600, and costs of prosecution or, in default of payment of such fine and costs, to undergo imprisonment for not more than 30 days, provided that each day's continuance of a violation of any provision of this chapter shall constitute a separate offense.

(a). In addition to the fines and penalties specified in the above section, upon determination by an officer and/or inspector of the Police Department, the Code Enforcement Department, and/or entity recognized by the City of Latrobe that Local Gaming Devices are present in any premises, facility, establishment, and/or location in which Local Gaming Devices are prohibited, the Police Department shall issue a Notice of Violation that shall, among other things, require the owner and/or occupant of the facility or establishment to remove the Local Gaming Devices from the facility or establishment within five (5) calendar days of the date of the Notice of Violation.

(b). If the Local Gaming Devices continue to be present in any premises, facility, establishment, and/or location in which Local Gaming Devices are prohibited five (5) calendar days after the date of the Notice of Violation, then the Police Department shall:

1. File a Citation in District Magisterial Court
2. Issue a Cease and Desist Order to the owner and/or occupant of the premises, facility, establishment, and/or location wherein the Local Gaming Devices are located directing the closure of the premises, facility, establishment, and/or location wherein the Local Gaming Devices are located until such time as the Local Gaming Devices are removed from the subject premises, facility, establishment, and/or location.

(c). If the Local Gaming Devices continue to be present in any premises, facility, establishment, and/or location in which Local Gaming Devices are prohibited two (2) calendar days after the date of the Cease and Desist Order, then the Police Department shall:

1. File a Citation in District Magisterial Court
2. Temporarily revoke the Use and Occupancy Permit for the premises, facility, establishment, and/or location wherein the Local Gaming Devices are located until such time as the Local Gaming Devices are removed from the subject facility or establishment.

§179-7 Notice to Liquor Control Board. [ADD this sub-section to the chapter]

In addition to any other fines, penalties and/or sanctions as may be provided for by the laws of this Commonwealth and /or this City, the City of Latrobe shall provide notice of any violation of the provisions of this Chapter to the Pennsylvania Liquor Control Board.

§179-8 Crimes Code. [ADD this sub-section to the chapter]

In addition to any other fines, penalties and/or sanctions as may be provided for by the laws of this Commonwealth and /or this City, any person who violates, causes a violation, and/or otherwise fails, neglects, or refuses to comply with the provisions of this Chapter, or any of them, shall, be in

violation of the Pennsylvania Crimes Code, 18 Pa.C.S. Section 5513, and shall be subject to the penalties and punishments as set forth in the same.

#### AMENDMENT TO FEE SCHEDULE

ADMINISTRATIVE CODE: Schedule A – Miscellaneous Administrative Fee and Costs

ADD the term “Local Gaming Device” to the description of amusement devices and machines that are assessed at an annual fee within (16). Amusement License / per year, Sub-section (v).

ADD the description of Redemption Terminal to Sub-section (v). – “A redemption terminal or other associated equipment necessary to operate or utilize a machine, terminal, contrivance, or other device as described within this subparagraph.”