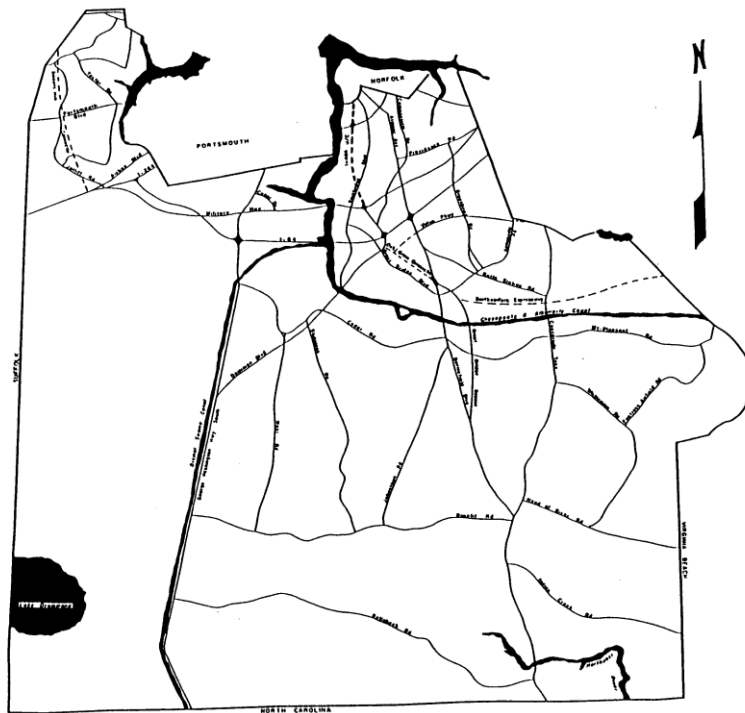


Docket Item "G"

PLN-TXT-2017-010

**Computer-Based Gaming
Establishments**

CITY COUNCIL PACKAGE FOR
JANUARY 16, 2018



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TEXT AMENDMENT SUMMARY**PLN-TXT-217-010 Computer-Based Gaming Establishments**

An Ordinance Amending Appendix A of the City Code, Entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-602; and Article 8, Section 8-602; to delete the definition of computer-based gaming establishments and to eliminate computer-based gaming as a conditional use in the B-2, General Business District; M-1, Light Industrial District; and M-2, General Industrial District.

Initiating Resolution Adopted by City Council: 9-26-17

STAFF RECOMMENDATION

Approval of version dated November 30, 2017

PLANNING COMMISSION

HEARING DATE: 12-13-17

RECOMMENDATION: **APPROVAL** of version dated November 30, 2017

VOTE: 8 - 0

ATTACHMENTS

Ordinance, Draft Minutes, Staff Report

TEXT AMENDMENT SUMMARY

PLN-TXT-217-010 Computer-Based Gaming Establishments

COUNCIL HEARING DATE FOR RESOLUTION: 9-26-17

RESOLUTION REQUESTED BY: COUNCIL MEMBER KELLY

RESOLUTION REQUESTING THE CHESAPEAKE PLANNING COMMISSION TO CONSIDER AND MAKE RECOMMENDATIONS CONCERNING PROPOSED AMENDMENTS TO ARTICLES 3, 7, 8 AND 13 OF THE CHESAPEAKE ZONING ORDINANCE TO AMEND THE DEFINITION OF COMPUTER-BASED GAMING ESTABLISHMENTS TO BE CONSISTENT WITH THE VIRGINIA CODE AND TO PROVIDE REGULATIONS FOR, OR THE ELIMINATION OF, COMPUTER-BASED GAMING ESTABLISHMENTS IN THE B-2 GENERAL BUSINESS DISTRICT, M-1 LIGHT INDUSTRIAL DISTRICT, AND M-2 GENERAL INDUSTRIAL DISTRICT.

APPROVED (9-0, Kelly/West)

STAFF CONTACT: Planning Department
Tim Howlett, Current Planning Administrator
382-6176

PLN-TXT-2017-010

NOVEMBER 30, 2017

AN ORDINANCE AMENDING APPENDIX A OF THE CITY CODE, ENTITLED "ZONING," ARTICLE 3, SECTION 3-403; ARTICLE 7, SECTION 7-602; AND ARTICLE 8, SECTION 8-602; TO DELETE THE DEFINITION OF COMPUTER-BASED GAMING ESTABLISHMENTS AND TO ELIMINATE COMPUTER-BASED GAMING AS A CONDITIONAL USE IN THE B-2, GENERAL BUSINESS DISTRICT; M-1, LIGHT INDUSTRIAL DISTRICT; AND M-2, GENERAL INDUSTRIAL DISTRICT.

WHEREAS, the Council of the City of Chesapeake finds the public necessity, convenience, general welfare and good zoning practice so requires; and

WHEREAS, the City of Chesapeake's "computer-based gaming establishment" definition was based on and incorporated the provisions in Virginia Code Section 18.2-325.1, which has been repealed; and

WHEREAS, the Virginia Code's definition of "illegal gambling" is ambiguous and computer-based gaming establishments are not subject to any regulatory oversight at the state level; both of which have led to the proliferation of unlawfully commenced "computer-based gaming" establishments which are detrimental the City of Chesapeake's safety and welfare; and

WHEREAS, in order to protect the public safety and welfare of the community, to ensure the compatibility of land uses, the vitality of commercial districts and the overall quality of life in Chesapeake;

BE IT ORDAINED by the Council of the City of Chesapeake, Virginia that Appendix A of the Chesapeake City Code, entitled "Zoning," Article 3, entitled "Interpretation and Definitions, Section 3-403; Article 7, entitled "Business Districts," Section 7-602; and Article 8, entitled "Industrial Districts," Section 8-602 thereof, be amended and reenacted as follows:

ARTICLE 3. - INTERPRETATION AND DEFINITIONS

Section 3-403. - Definitions.

The following definitions shall be used in the interpretation and administration of this Ordinance. The definitions of various terms as presented do not necessarily represent the same definitions as may be found for the same terms in other chapters of the City Code.

~~Computer-based gaming establishments. Establishments that offer use of on-site computers and lawfully conducted sweepstakes, games, lotteries, or contests in accordance with Virginia Code Section 18.2-325.1. Such establishments shall require a conditional use permit in the B-2 General Business District, M-1 Light Industrial District and M-2 General Industrial District and shall be prohibited in all other zoning districts.~~

ARTICLE 7. - BUSINESS DISTRICTS

Section 7-602. - Table of permitted and conditional uses in business districts.

SECTION 7-602. TABLE OF PERMITTED AND CONDITIONAL USES IN BUSINESS DISTRICTS

SIC	Use	Rural		Suburban		Urban			MXD/U	Condition*	Parking**
		B 1	B 2	B 1	B 2	B 1	B 2	B 5			
7999	Indoor Recreation Facilities Not Elsewhere Classified, <u>Except Establishments Offering On-site Computers for Sweepstakes, Games,</u>	C	P	C	P	C	P	C	P	30	11

	<u>Lotteries, or Contests</u> <u>under Virginia Code</u>											
	Computer-Based Gaming <u>Establishments</u>	€		€		€						

ARTICLE 8. - INDUSTRIAL DISTRICTS

Section 8-602. - Table of permitted and conditional uses in industrial districts.

SECTION 8-602. TABLE OF PERMITTED AND CONDITIONAL USES
IN INDUSTRIAL DISTRICTS

SIC	Use	Rural			Suburban			Urban			Condition*	Parking**
		M1	M2	M3	M1	M2	M3	M1	M2	M3		
7999	Amusement and Recreation Services, Not Elsewhere Classified, Except <u>Sexually Oriented</u> <u>Businesses and</u> <u>Establishments</u> <u>Offering On-site</u> <u>Computers for</u> <u>Sweepstakes.</u>	P	P	P	P	P	P	P	P	P	22	17

<u>Games, Lotteries, or Contests under Virginia Code</u>													
Computer-based gaming establishments	€	€		€	€		€	€					

ADOPTED by the Council of the City of Chesapeake, Virginia, this _____ day of _____, 2018.

APPROVED:

Mayor

ATTEST:

Clerk of the Council

PLN-TXT-2017-010

An Ordinance Amending Appendix A of the City Code, Entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-602; and Article 8, Section 8-602; to delete the definition of computer-based gaming establishments and to eliminate computer-based gaming as a conditional use in the B-2, General Business District; M-1, Light Industrial District; and M-2, General Industrial District.

PLANNING COMMISSION RECOMMENDATION:

Planning Commission recommends that **PLN-TXT-2017-010** be **APPROVED** of version dated **November 30, 2017**. (8 - 0; Perry/Gilbert, Deneau excused)

Mrs. Shaffer read **PLN-TXT-2017-010** into the record for Commission review and action.

Staff Presentation:

Ms. Shea stated that based on findings contained in the staff report, planning staff recommended that **PLN-TXT-2017-010 version dated November 30, 2017** be **APPROVED**.

COMMISSION DISCUSSION:

Chairman Williams asked Assistant City Attorney Catherine Lindley to provide a briefing of the text amendment and what they are voting on. Assistant City Attorney Catherine Lindley stated that this will amend the ordinance prohibiting computer-based gaming within the City and by prohibiting, it will no longer be allowed in the City.

Vice Chairman Perry stated that these businesses are detrimental to the health, safety, and welfare of the citizens of Chesapeake and the purpose of this amendment is to eliminate them within the City.

COMMISSION VOTE:

Commissioner Perry moved that **PLN-TXT-2017-010 version dated November 30, 2017** be **APPROVED** as recommended by staff. Commissioner Gilbert seconded the motion. . The motion was carried by a vote of 8 - 0. Commissioner Deneau excused.

Department of Planning
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(757) 382-6176
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HEARING DATE: DECEMBER 13, 2017

TO: CHESAPEAKE PLANNING COMMISSIONERS
FROM: TIMOTHY M. HOWLETT, CURRENT PLANNING ADMINSTRATOR *TH*
THROUGH: JALEH M. SHEA, AICP, PLANNING DIRECTOR *JS*
DATE: NOVEMBER 30, 2017
RE: **PLN-TXT-2017-010 Computer-Based Gaming Establishments**
An Ordinance Amending Appendix A of the City Code, Entitled "Zoning," Article 3, Section 3-403; Article 7, Section 7-602; and Article 8, Section 8-602; to delete the definition of computer-based gaming establishments and to eliminate computer-based gaming as a conditional use in the B-2, General Business District; M-1, Light Industrial District; and M-2, General Industrial District.

TEXT AMENDMENT DESCRIPTION:

The proposed text amendment will delete the definition of computer-based gaming establishments and eliminate computer-based gaming as a conditional use in the B-2, General Business District; M-1, Light Industrial District; and, M-2, General Industrial District. Currently, the Chesapeake Zoning Ordinance (CZO) defines "computer-based gaming establishments" as a business that "offers the use of on-site computers for lawfully conducted sweepstakes, games, lotteries, or contests," and they are a conditional use in the B-2, M-1 and M-2 zoning districts.

BACKGROUND:

The proposed amendment was initiated by City Council, who adopted a resolution on September 19, 2017, requesting the Planning Commission to consider and make recommendation concerning the proposed amendment. The City Council had previously adopted a resolution on March 8, 2017, requesting the Planning Commission to consider and make recommendations concerning satellite wagering facilities and computer-based gaming. At the September meeting, City Council approved the part of PLN-TXT-2017-002 to allow satellite wagering facilities with certain conditions, and initiated the resolution to delete the definition of computer-based gaming establishments and to eliminate computer-based gaming as a conditional use in the B-2, General Business District; M-1, Light Industrial District; and M-2, General Industrial District.

DEPARTMENTAL COMMENTS:**Development and Permits:****Zoning Administrator:**

- No objections.

STAFF ANALYSIS:

According to Section 16-106 of the Chesapeake Zoning Ordinance, if the request is for a change in the text of this Zoning Ordinance, the recommendation of the Planning Commission should contain findings with respect to one or more of the following matters, as the Commission determines to be most significant:

1. **STANDARD:** Whether and in what respect the text amendment is consistent with the Chesapeake Comprehensive Plan.

FINDING: The Land Use section of the Comprehensive Plan states that "each land use should be located only on appropriate sites in terms of size, access, environmental conditions, community facilities and compatibility with neighbors." The proposed text amendment provides additional protections to ensure compatibility between land uses. Computer-based gaming establishments tend to have greater parking needs and other community impacts that have the potential to negatively impact adjacent residential neighbors.

Unlike "satellite wagering establishments", computer-based gaming lacks sufficient State regulations and oversight. It is not explicitly permitted or clearly defined by the Virginia Code; does not require any application or submittals that are subject to State review; and is not subject to continued State regulation and/or enforcement. As computer-based gaming lacks the referenced safeguards provided by the State, staff finds the subject use is not compatible with the goals of the Comprehensive Plan.

2. **STANDARD:** Whether and in what respect the proposed text amendment is consistent with the intent and purpose of this ordinance.

FINDING: According to Section 1-201.A of the Zoning Ordinance, a purpose of the Zoning Ordinance is to implement the adopted comprehensive plan of the City of Chesapeake and to promote the health, safety and general welfare of the residents of this city. The proposed text amendment to delete the definition of computer-based gaming and eliminate computer-based gambling as a conditional use permit in the B-2, General Business District; M-1, Light Industrial District; and M-2, General Industrial District, is consistent with this purpose. Unlike satellite gaming, a similar type use that is conditional in certain zoning districts in the City with specific regulations, computer-based gaming is not explicitly permitted or clearly defined by the Virginia Code, nor is it subject to State application, regulations and/or enforcement. Chesapeake has experienced a surge in computer-based gaming

establishments that are unlawfully commenced and are detrimental to the City of Chesapeake's safety and welfare. Therefore, removing computer-based gaming as a conditional use will provide an additional safeguard to protect the public safety and welfare of the community which is consistent with the intent and purpose of the City Codes.

3. **STANDARD:** The areas of the City that are most likely to be affected by the proposed text amendment and the manner in which those areas will be affected.

FINDING: The proposed text amendment has citywide application.

4. **STANDARD:** Whether and in what respect the proposed text amendment is necessitated by a change in conditions in the zoning districts affected and the nature of such changed conditions.

FINDING: The proposed text amendment will delete the definition of "computer-based gaming" that was based on, and incorporated the provisions of Virginia State Code Section 18.2-325.1, which has been repealed. Chesapeake has experienced a proliferation of computer-based gaming establishments. Such establishments have been the subject of many citizen complaints and have been the subject of numerous prosecutions for City Code violations and injunction proceedings. Over time, the City has discovered that computer-based gaming establishments tend to be incompatible with surrounding uses and are a threat to the vitality of the City's commercial districts and the overall quality of life in Chesapeake.

Staff contacted other localities around the region and state and found the following: Norfolk, Hampton, Portsmouth, Richmond and Albemarle County do not allow computer-based gaming, while Newport News allows them in in their General and Regional Business Districts and Virginia Beach allows them through a conditional use permit in the Resort, Central Business District, Business Districts and Industrial Districts. The proposed amendment to eliminate computer-based gaming is consistent with how most other Virginia localities treat this land use.

FINDINGS:

1. The proposed amendment follows good zoning practices as it will protect the public's safety and welfare.
2. The proposed amendment is consistent with how most other Virginia localities treat computer-based gaming in their Zoning Ordinances.

STAFF RECOMMENDATION:

Based on the findings contained in this staff report, staff recommends that **PLN-TXT-2017-010**, version dated November 30, 2017, be **APPROVED**.

RW:th