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## MEMORANDUM

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**TO:** Planning & Zoning Commission

**FROM:** Garrett Langford, Manager of Planning and Zoning

**DATE:** August 7, 2020

**SUBJECT:** ZTA 2020-05 – Game Machines

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Staff proposes amending the Mesquite Zoning Ordinance (MZO) to establish new and revised regulations regarding coin-operated amusement devices, game machines, video games, and similar devices, including eight-liners.

Coin-operated amusement devices such as eight-liners can have adverse effects on nearby property, compromising the quality of life, property values, and the character of surrounding neighborhoods. Staff is proposing to amend the MZO to better address the concerns with these devices. For the current year, the City's Tax Office has issued a license to 335 amusement devices. There are 218 eight-liners, which accounts for 65% of all licensed game devices, while there are 117 non-eight-liner games. 82% of all eight-liners are located in convenience stores (55%) or tobacco stores (27%). 91% of all non-eight-liner games are located in two businesses (Peter Piper Pizza or Celebration Station).

The MZO classifies the devices described above as an accessory use when there are four or less and as a principal use when there are more than four. As an accessory use (four or less), the MZO permits it with no separation requirements. When there are more than four game machine devices, the MZO requires a Conditional Use Permit with a 100-ft separation from residential. All game machines are required to get an annual license (sticker) from the City's Tax Office. To better address the concerns with game machines, staff proposes the following amendments to the MZO:

- **Establish a separation requirement.** The Texas Occupations Code expressly authorizes a city to restrict the exhibition of coin-operated amusement machines within 300 feet of a church, school, or hospital. The measurement would be measured from the building with the game machine to the property line of a church, school, or hospital. Separation requirements would apply to accessory use or as a principal use. Staff will verify the separation by requiring an applicant to submit an affidavit of measurement where the applicant will need to provide a survey showing that they will meet the separation requirement.
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- **Identify when game machines are permitted as an accessory use.** The MZO defines an accessory use as an “activity conducted in conjunction with a principal use which constitutes only an incidental or subordinate part of the total activity and which is commonly associated with the principal use.” Staff proposes that the City codify the MZO on which principal uses a game machine may be associated with as an accessory use. The proposed list of principal uses is shown in Attachment 1. If a principal use that is not on this list wishes to have a game machine, then they would need to request a Conditional Use Permit.
- **Reduce the number of game machines permitted as an accessory use.** Currently, the MZO permits up to four game machines as an accessory use. Given the possible negative impacts that game machines may have on surrounding properties and neighborhoods, staff believes it is prudent to reduce the number from four to two game machines as an accessory use. If a business wishes to have more than two game machines, then they can request a Conditional Use Permit where City Council can evaluate the potential negative impacts on the community.
- **Establish Effect Date and Retrofit to implement changes.** Staff proposes establishing a date on which existing businesses with game machines must comply with the proposed text amendments. Staff suggests allowing one year from the date of the ordinance for businesses to come in compliance. Any new Certificate-of-Occupancy that includes game machines will be required to comply with the proposed amendments. The amendments described in the above would not apply to businesses that already have a Conditional Use Permit that authorizes game machines.

Attachment 1 – Strikethrough (language removed) and Underline (language added)



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Garrett Langford, AICP  
Manager of Planning and Zoning

## Proposed Text Amendment

*Section 3-203.I. Services*

SIC CODE	USE DESCRIPTION	O	GR	LC	THN	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
7993	Coin-operated Amusement Gameroom (More than <del>4</del> <u>2</u> Machines)		C	C			C	C		C	C	11	<del>Requires building to be located at least 300 feet from any church, school, or hospital and 100 feet from any residential district; Requires one customer restroom each for male and female; Requires licensing. Requires compliance with 3-507. Requires one customer restroom each for male and female. Requires licensing.</del>

*Section 3-203.L. Accessory Uses and Structures*

SIC CODE	USE DESCRIPTION	O	GR	LC	THN K20 NGTC 1	CV	MU	CB	SS	C	I	PKNG STND	SPECIAL CONDITIONS
7	Coin-operated Amusement Devices	P	P	P			P	P	P	P	P		Permits a maximum of <del>four</del> <u>two</u> machines. Requires licensing. <u>Requires compliance with 3-507.</u> Classify more than <del>four</del> <u>two</u> machines as <u>a</u> primary use under 7993.

**3-507 COIN-OPERATED AMUSEMENT DEVICES****Ord. 4215 / 06-04-2012**

In addition to the requirements of Section 3-203, an establishment that includes coin-operated amusement devices, either as a primary use with an approved conditional use permit or as an accessory use permitted-by-right, shall comply with the following regulations:

**A. OPEN GAMEROOMS**

All gamerooms or other areas of an establishment where coin-operated amusement devices are located and offered for the use and enjoyment of patrons or invitees of the establishment shall be kept open and accessible during business hours. It shall be unlawful and an offense for the proprietor, operator or any on-duty manager of the establishment to close, conceal or prevent, or attempt to close, conceal or prevent, any person from entering or looking with a direct line of sight into a gameroom or other such area by the use of a human or electronic sentinel, or the use of doors, curtains, partitions, walls, counters or other physical or visual obstructions.

**B. PRIMARY USE TO BE MAINTAINED**

An establishment that includes coin-operated amusement devices as an accessory use permitted-by-right shall at all times actively conduct and maintain the primary use of the establishment as declared on the approved certificate-of-occupancy. The failure to actively conduct and maintain the primary use shall create a rebuttable presumption that the coin-operated amusement devices no longer constitute an accessory use of the premises and the certificate-of-occupancy shall be subject to revocation. For purposes of this Section, “actively conduct and maintain” means to occupy not less than fifty percent (50%) of the floor space of the establishment, exclusive of restrooms and storage areas, with displays, racks or shelves stocked with goods, wares, unexpired food or other merchandise for sale to customers or with equipment or furniture necessary for producing goods or providing services to clients in accordance with the approved certificate-of-occupancy. Coin-operated Amusement Devices shall only be permitted as an accessory use to the following principal uses:

SIC	Use
<u>539</u>	<u>Miscellaneous General Merchandise Stores</u>
<u>541</u>	<u>Grocery Stores</u>
<u>549a</u>	<u>Convenience Stores</u>
<u>5812</u>	<u>Restaurants</u>
<u>7215</u>	<u>Coin-Operated Laundries/Dry Cleaning</u>

<a href="#"><u>7832</u></a>	<a href="#"><u>Movie Theaters</u></a>
<a href="#"><u>793</u></a>	<a href="#"><u>Bowling Centers</u></a>
<a href="#"><u>7999b</u></a>	<a href="#"><u>Indoor Amusement and Recreation Facilities</u></a>
<a href="#"><u>864a</u></a>	<a href="#"><u>Civic, Social, Fraternal Organizations that include Indoor Amusement</u></a>

**C. RETROFITTING REQUIRED**

An establishment with coin-operated amusement devices in use on the effective date of this ordinance shall modify or retrofit the premises to comply with the requirements of this Section no later than ~~July 15, 2012~~ [\(new date to be entered\)](#).

**D. LOCATION NEAR CHURCHES, SCHOOLS OR HOSPITALS**

[All coin-operated amusement devices are prohibited within 300 feet of a church, school, or hospital, measured from the closest point of the structure where the coin-operated amusement device is located to the nearest property line of the church, school or hospital.](#)