

# Ordinance



City Council  
City of Wilmington  
North Carolina

0-2010-62

**Introduced By:** Sterling B. Cheatham, City Manager

**Date:** 8/3/2010

**Land Development Code Amendment (LDC-12-510)**

**LEGISLATIVE INTENT/PURPOSE:**

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to define electronic gaming establishments, and to add prescribed conditions for such uses.

**THEREFORE, BE IT ORDAINED:**

SECTION 1: Chapter 18, Article 5, Sec. 18-194. CB, Community Business District of the Wilmington City Code is hereby amended to read as follows:

(c) *Uses Permitted under Prescribed Conditions.* The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

(23) Electronic gaming establishments

SECTION 2: Chapter 18, Article 5, Sec. 18-195(c). RB, Regional Business District of the Wilmington City Code is hereby amended to add as follows:

(23) Electronic gaming establishments

SECTION 3: Chapter 18, Article 5, Sec. 18-196(c). CBD, Central Business District of the Wilmington City Code is hereby amended add as follows:

(11) Electronic gaming establishments

SECTION 4: Chapter 18, Article 5, Sec. 18-197 (d). CS, Commercial Services District of the Wilmington City Code is hereby amended to add as follows:

CERTIFIED TO BE A TRUE COPY  
Jennifer Soan Sidbury  
CITY CLERK

(23) Electronic gaming establishments

SECTION 5: Chapter 18, Article 6, Sec. 18-320, Electronic Gaming Establishments of the Wilmington City Code is hereby amended to read as follows:

Sec. 18-320. Electronic Gaming Establishments.

In addition to any other restrictions set forth in this chapter, electronic gaming establishments shall be subject to the following conditions:

(a) All establishments shall be separated no less than five hundred (500) feet from any place of worship, school, day care, public park, residential use or zoning district, and any other electronic gaming establishment. The distance between any proposed electronic gaming establishment and any applicable existing use shall be measured by following a straight line from the nearest point of the lot line of the proposed use to the nearest point of the lot line of the lot on which the existing permitted use is located.

(b) All legally operating gaming operations made nonconforming by the adoption of this section shall be removed or brought into compliance with these provisions within 24 months of the date of the adoption of this section. Any business owner affected by this amortization may petition to the City Council for an extension of the amortization period.

(c) Parking shall be provided at a ratio of one (1) space per four hundred (400) square feet of gross floor area.

(d) The maximum daily cash payout shall not exceed \$600. Winnings in excess of this amount shall be paid out in the form of a check or credit.

(e) Establishments shall not be permitted within any gateways into the city, as identified in Sec. 18-608 (d) of this Chapter, nor in the area between the Cape Fear Memorial and Isabel Holmes bridges, west of 5th Avenue.

Sec. 18-321--18-339. Reserved.

SECTION 6: Chapter 18, Article 15. Sec. 18-812. Definitions of the Wilmington City Code is hereby amended add, in alphabetical order, as follows:

*Electronic Gaming Establishment.* All businesses, whether as a principal or an accessory use, where persons utilize electronic machines, including but not limited to computers and gaming terminals, to conduct games of chance, including sweepstakes, and where cash, merchandise or other items of value are redeemed or otherwise distributed, whether or not the distribution is determined by games played or are predetermined. This term includes, but is not limited to internet cafes, internet sweepstakes, video sweepstakes or cybercafés. This does not include any lottery approved by the State of North Carolina or any game or process prohibited by North Carolina General Statutes Sections 14-304 through 14-309.

SECTION 7: That any person violating the provisions of this ordinance shall be subject to the

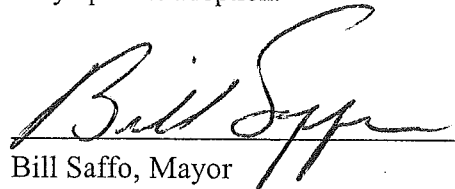
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penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 8: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 9: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

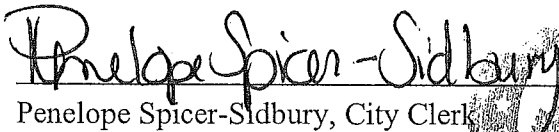
SECTION 10: That this ordinance shall be effective immediately upon its adoption.

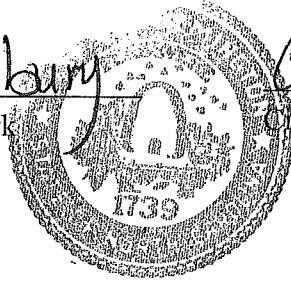
  
Bill Saffo, Mayor

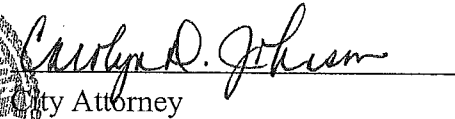
Adopted at a regular meeting  
on August 3, 2010.

ATTEST:

APPROVED AS TO FORM:

  
Penelope Spicer-Sidbury, City Clerk



  
Carolyn D. Johnson  
City Attorney

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