ORDINANCE NO. 2026-16

AN ORDINANCE OF THE CITY OF PRESIDIO, TEXAS; PROVIDING FOR THE REGULATION OF GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES; ESTABLISHING REGULATIONS, PERMIT AND PERMIT FEES; USE; PROVIDING FOR A PENALTY OF NOT MORE THAN FIVE HUNDRED DOLLARS ($500.00) PER VIOLATION; PROVIDING A SEVERABILITY CLAUSE; REPEALING CLAUSE; OPEN MEETING CLAUSE; PUBLICATION; AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Presidio, Texas ("City") has determined that there is a need for regulations related to the operation of game rooms within the City; and

WHEREAS, the City has experienced growth and interest in the operation of game rooms in the City and recognizes concern over the number of game rooms, location, and method of operation of the game rooms and possible adverse effects; and

WHEREAS, the City Council desires to provide control over the possible adverse effects and thereby protect the health, safety, and welfare of the citizenry as well as provide an atmosphere suitable for economic growth within the City; and

WHEREAS, the City Council has the statutory authority to adopt an ordinance that is for the peace and order of the municipality and for trade and commerce pursuant to Texas Local Government Code Chapter 51; and

WHEREAS, the City Council has the statutory authority to restrict the exhibition of coin operated amusement machines within three hundred (300) feet of a church, school, or hospital pursuant to Texas Occupations Code Chapter 2153; and

WHEREAS, the City Council has the statutory authority to impose an Occupations Tax on the operation of eight-liners pursuant to Texas Occupations Code Chapter 2153; and

WHEREAS, the City Council finds that the unlicensed and unauthorized operation of machines in game rooms constitutes a public nuisance and potential threat to the community; and

WHEREAS, licensing amusement redemption machines establishments is a legitimate and reasonable means of regulation to ensure that operators of amusement redemption machine establishments do not allow their establishments to be used as places of illegal activities; and

WHEREAS, the provisions herein are necessary to promote and protect the health, safety, and welfare of the public by creating an environment that is protective of the public and provides an enhanced quality of life for the residents and surrounding community.

NOW THEREFORE IT BE ORDAINED BY THE CITY COUNCIL OF THE CITY OF PRESIDIO, TEXAS:

SECTION 1. FINDINGS OF FACT.

The foregoing recitals are incorporated into this Ordinance by reference as findings of fact as expressly set forth herein.

SECTION 2. ENACTMENT

The regulations provided for in ***Attachment "A"*** and hereby incorporated for all purposes and shall be known as the "Presidio Game Room Ordinance."

SECTION 3. SEVERABILITY

If any word, article, phrase, paragraph, sentence, clause or provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 4. REPEALER

All ordinances and resolutions and parts thereof in conflict herewith are hereby expressly repealed insofar as they conflict with the regulations provided for herein.

SECTION 5. OPEN MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public as required and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

APPROVED, AND ADOPTED FINAL READING THIS 26th DAY OF OCTOBER 2026 BY THE CITY COUNCIL OF THE CITY OF PRESIDIO, TEXAS.

INTRODUCTION AND FIRST READING — ***October 12, 2026***

SECOND AND FINAL READING — ***October 26, 2026***

City of Presidio, Texas PRESIDIO TEXAS La Junta de los Rios A.D. 1863

Jo Ferguson, Mayor City of Presidio

ATTEST:

Brenda Ornelas-Acuña, City Secretary

City of Presidio

APPROVED AS TO FORM:

Alan Bojorquez, City Attorney or

Cynthia Treviño, City Attorney City of Presidio

PRESIDIO GAME ROOM ORDINANCE
ATTACHMENT "A"

SECTION 1. DEFINITIONS

Amusement redemption machine means any electronic, electromechanical, or mechanical contrivance, including sweepstake machines, designed, made, and adapted solely for bona fide amusement purposes, and that by operation of chance or a combination of skill affords the user, in addition to any right of replay, an opportunity to receive exclusively non-cash merchandise prizes, toys, or novelties, or a representation of a value redeemable for those items and is in compliance with section 47.01(4)(b) of the Texas Penal Code. Also referred to as "coin operated machine." Amusement redemption machine does not include:

1. A machine that awards the user non-cash merchandise prizes, toys, or novelties solely and directly from the machine, including claw, crane, or similar machines; nor

2. A machine from which the opportunity to receive non-cash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, varies depending upon the user's ability to throw, roll, flip, toss, hit, or drop a ball or other physical objects into the machine or a part thereof, including basketball, golf, bowling, or similar machines where the theme of the machine is not one traditionally recognized or associated as a casino-type gambling activity or game such as eight-liners, games played with cards, dice or other playing boards or mediums, such as poker, blackjack, keno, bingo, slots, craps, roulette, baccarat or similar games. A representation of value means cash paid under authority of sweepstakes contestants as provided by the Texas Business and Commerce Code, § 43; nor

3. A machine or any device defined in V.T.C.A., Penal Code § 47.01 as a gambling device, or any activity prohibited or described in V.T.C.A., Penal Code ch. 47.

Administrator means the Presidio City Administrator or the City Administrator's designee.

Applicant means a natural person who applies for a game room license on behalf of the licensee.

Arcade game means any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes that does not afford the user any opportunity of a free replay or a chance to receive any additional consideration other than amusement through playing.

Chief of Police means the Chief of Police of the City of Presidio is authorized to enforce and administer this Ordinance or the Police Chief's authorized representative.

City means the City of Presidio.

Coin-operated machine means any kind of machine or device operated by or with a coin or other United States currency, metal slug, token, electronic card, or check, including a music or skill or pleasure coin-operated machine.

Advertise means the act of drawing the public's attention to a game room in order to promote the availability of the residence for use as a game room. Said advertising may be found in any medium, including but not limited to, newspapers, magazines, brochures, websites, or mobile applications.

Establishment means a business that operates amusement redemption machines as regulated in this Ordinance.

Game Room means a for-profit business located in a building or place that contains six (6) or more: amusement redemption machines; or electronic, electromechanical, or mechanical contrivances that, for consideration, afford a player the opportunity to obtain a prize or a thing of value, the award of which is determined solely or partially by chance, regardless of whether the contrivance is designed, made, or adopted solely for bona fide amusement purposes.

Licensee *means any person, individual, firm, company, association, or corporation operating an amusement redemption machine establishment in the City.*

Music coin-operated machine means any kind of coin-operated machine, including a phonograph, piano, or graphophone, that:

1. Dispenses music or is used to dispense music;
2. Is operated by inserting a coin, metal slug, token, or check; and
3. Is not an amusement machine designed exclusively for a child.

Occupation tax receipt is a form of receipt that is designed to physically attach to a device or machine. Also referred to as a permit sticker.

Operator means a person who exhibits or displays, or permits to be exhibited or displayed, a coin- operated machine in this state in a place of business that is not owned by the person.

Operational machine means a machine that is ready to be played and accessible to the public.

Owner means any person, agent, operator, firm, trust, corporation, partnership, or any other legal entity who has a legal or equitable interest in the property; or who is recorded in the official records of the county as holding title to the property; or who otherwise has control of the property, including the guardian of the estate of any such person, and the executor of the estate of such person if ordered to take possession of real property by a court.

Person includes an individual, association, trustee, receiver, partnership, corporation, or organization or a manager, agent, servant, or employee of an individual, association, trustee, receiver, partnership, corporation, or organization.

Police Officer means a licensed peace officer of the city, county or state.

Premises means property, a lot, plot or parcel of land, including any structures or portions of structures thereon.

Skill or pleasure coin-operated machine means any kind of coin-operated machine that dispenses or is used or is capable of being used to dispense or afford, amusement, skill, or pleasure or is operated for any purpose, other than for dispensing only merchandise, music, or service. The term:

1. Includes a marble machine, marble table machine, marble shooting machine, miniature racetrack machine, miniature football machine, miniature golf machine, miniature bowling machine, billiard or pool game, or machine or device that dispenses merchandise or commodities or plays music in connection with or in addition to dispensing skill or pleasure; and
2. Does not include an amusement machine designed exclusively for a child.

Sweepstakes means a contest that awards one or more prizes based on chance or the random selection of entries.

SECTION 2. OCCUPATIONS TAX

Section 2.1 Occupation Tax Levied.

a) Every person who owns, controls, exhibits, displays, or who permits to be exhibited or displayed in this city any coin-operated machines, shall pay, and there is hereby levied on every coin-operated machine, except such as are exempted herein, an annual occupation tax of one-quarter[1] the tax charged and collected by the state[2].

b) Nothing in this article shall prevent the operator of such machines from paying the tax levied in this section for the account of the owner, but the payment of such tax by such operator or other person shall not relieve the owner from the responsibility of complying with all provisions of this article.

Section 2.2 Payment of Occupation Tax; receipt to be attached to machine.

a) The occupation tax levied hereby shall be paid to the city secretary, who shall issue an occupation tax receipt.

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[1] Tex. Occ. Code Sec. 2153.451(b) The city occupation tax cannot exceed one-fourth (1/4) of the state tax.
[2] Tex. Occ. Code Sec. 2153.401(b) The state occupation tax is sixty dollars ($60.00).

b) The occupation tax receipt shall be attached to the coin-operated machine mentioned in the receipt and shall bear the serial number of the particular machine.

c) All occupation taxes assessed on the basis of a calendar year. Occupation taxes shall not be prorated.

d) It shall hereafter be unlawful for any person to operate, exhibit or display any coin operated machine in the city without having attached hereto an occupation tax receipt and no occupation tax receipt issued for a certain coin-operated machine shall be transferred to any other machine.

Section 2.3 Nonpayment of occupation tax.

a) Nonpayment of tax shall result in the sealing of each machine the levied tax is not paid for.

b) A fee of $5.00 shall be imposed for the release of each sealed coin-operated machine.

Section 2.4 Application to illegal machines.

a) Nothing in this Ordinance shall be construed or have the effect to license, permit, authorize or legalize any machine, device, table or coin-operated machine, the keeping, exhibition, operation, display or maintenance of which is now illegal or in violation of any article of the penal code of this state or the Constitution of this state.

SECTION 3. BUSINESS RESTRICTIONS

Section 3.1 Proximity to schools, churches and residential areas.

a) Skill or pleasure coin-operated machines are prohibited within three hundred (300) feet of any school or church building or residential area.

b) The distance shall be measured along the property lines of the street fronts, and from front door to front door, or to zoning district, park, school, or hospital, as applicable, and direct lines across intersections.

c) Additional zoning regulations may be applicable. Reference Zoning Ordinance No. 2021-12 for applicable land use regulations.

d) The hours of operation for an establishment shall be limited to the following hours:
   1. Monday through Thursday, open 8:00 am and close at 11:00 p.m.; and
   2. Friday through Sunday, open at 8:00 am and close at 12:00 a.m.

e) All Establishments shall have all doors providing ingress and egress from the establishment unlocked during hours of operation.

SECTION 4. GAME ROOMS AND AMUSEMENT REDEMPTION MACHINES

Section 4.1 Construction of section.

a) This Section does not authorize or permit the keeping, exhibition, operation, display or maintenance of a machine, device or table prohibited by state law.

Section 4.2 License required.

a) An owner who desires to use its premises as a game room must have a valid, active permit from the City prior to using, allowing the use of, or advertising the use of said premises as a Game Room.

b) It shall be unlawful for an owner or operator of a Game Room to operate, use, or maintain a game room without first obtaining a city game room license.

c) A game room license is required for each game room located in the City.

d) An Owner, Operator or Lessee of a Game Room shall be required to secure a license annually. A Game Room shall be required to secure a license paying to the City and annual inspection and game room license fee in the amount adopted by the City Council, as amended from time to time.

d) The license certificate shall be conspicuously posted inside the building. The license shall list the date of issue and the date of expiration, the name of the licensee, the physical address, and local representative.

Section 4.3 Permit limitations.

a) The license is not transferable or assignable.

b) A license is effective for a single place of business only and for one building.

c) A game room permit shall expire on December 31 of each year.

d) Permit fees must be submitted before an application is reviewed for issuance of the license. Permit fees will not be prorated on any basis.

e) No game room permit may be renewed without a completed renewal application submitted by the owner and payment of the renewal fee. The renewal application must satisfy all the application requirements before the game room permit is renewed.

Section 4.4 Requirements of new applications and renewals.

a) Every application for a game room permit or permit renewal shall include the following information:

1. The name, address, contact information, and authenticated signature of the owner of the business/premises.
2. The name, address, and contact information of the operator, or agent if any, or if different than the owner, and designated local responsible party.
3. Proof of Liability Insurance.
4. A copy of the owner's driver's license.
5. A signed waiver authorizing the City of Presidio to request a criminal history report from the Texas Department of Public Safety, Texas Comptroller's Office or any other law enforcement agency.
6. A copy of a license or application for license to sell alcoholic beverages at the location if alcoholic beverages will be sold on the premises.
7. A notarized statement, under oath, that:
   i. All the facts contained in the application are true and correct;
   ii. The machines used at the proposed game room location are not and will not be used as gambling devices;
   iii. The location and operation of the game room will not violate any applicable deed restriction; and
   iv. The game room will be operated in accordance with all applicable local, state and federal laws.
8. A floor plan of the game room interior depicting the layout of the machines, the manager's station, restroom, kitchen and bar facilities, if any, and restricted access areas.

b) An application for game room renewal permit may be filed beginning forty-five (45) days prior to the expiration of a current permit. Every complete application for a game room renewal permit shall include updates, if any, to the information contained in the original permit application or any subsequent renewals.

The permit holder shall sign a statement affirming that there is either no change to such information or that any updated information is accurate and complete.

c) An application for a game room renewal permit submitted after the expiration of the most immediate permit for the premises shall be treated as an application for a new permit as described in Subsection A of this Section.

Section 4.5 Designation of local responsible party required.

a) An owner must designate the name and contact information of a local responsible party who can be contacted regarding immediate concerns and complaints from the public.

b) Said individual must be available to be reached in person or by phone at all times while occupants are on the premises of a game room.

c) If called, a local responsible party must be able to and shall be present at the premises within a reasonable time of the call from the Administrator, or his designee, but in no case more than thirty (30) minutes from the time of the call.

d) A local responsible party must be authorized to make decisions regarding the premises and its occupants and shall not act to release the owner of any liability under this Ordinance.

Section 4.6 Denial of License. Denial of renewal. Automatic Revocation.

a) The City shall refuse to approve the issuance or renewal of a license, or shall revoke the license, for one or more of the following reasons:

1. Failure to provide the information required for any application required under this Ordinance.

2. The submission of inaccurate, erroneous, or incomplete information as part of the license process.

3. The submission of false information as part of the license process.

4. Revocation of a license of the applicant or a co-owner or a corporate officer of the applicant within twelve months prior to the filing of the application.

5. Refusal or failure to pay the license fee amount.

6. The applicant or a co-owner of the license has, within the past three years, been convicted of the following crimes:

    i. Gambling, gambling promotion, keeping of an illegal gambling place, pursuant to Chapter 47 of the Texas Penal Code; or

    ii. Forgery, credit card abuse, or commercial bribery as described in Chapter 32 of the Texas Penal Code; or

    iii. A criminal offense as described in Chapter 34 of the Texas Penal Code; or

    iv. A criminal attempt, conspiracy, or solicitation to commit any of the foregoing offenses to the laws of another state or of the United States that, if committed in this state, would have been punishable as one or more of the aforementioned offenses.

b) An applicant is under the age of eighteen (18) years of age.

c) The applicant is indebted to the City for any fees, costs, penalties, or delinquent taxes.

Section 4.7 Permit fees.

a) An initial game room permit fee of $_____ is required at the time of submission of the application.

b) Any renewal application will require a permit fee of $_____ at the time of the submission of the application will include the preliminary fire inspection fees.

Section 4.8 Enforcement, Suspension, and Revocation.

a) The owner of a property used as a game room without the appropriate license and that was not registered with the City of Presidio prior to beginning operations and who is unable to obtain a license for said use or fails or refuses to obtain a permit for the use following the effective date of this Ordinance, shall discontinue the game room immediately.

b) If the license for a game room use is not renewed, the owner shall discontinue the use no later than the date on which the existing permit or any extension thereof expires.

c) A game room license may be revoked for violation of any section of this Ordinance.

d) The Owner may re-apply for a game room license upon remediation of any condition required for compliance with this Ordinance or other regulations.

Section 4.9 Appeals.

a) The decision of the City Administrator, or designee, regarding the disapproval of any application or revocation of any permit required under this Ordinance may be appealed to City Council.

b) A written notice of appeal must be filed with the City Secretary within ten (10) days after the receipt of the decision.

c) The City Secretary will include an agenda item on any regular or special called meeting of the City Council for consideration of the appeal.

d) The only decision before the City Council shall be whether or not the Applicant or Owner has complied with the requirements of this Ordinance.

e) The decision of the City Council shall be final.

SECTION 5. PENALITES AND EXEMPTIONS.

a) Any person, firm, or corporation violating any of the provisions of this Ordinance shall be deemed guilty of a Class C misdemeanor and upon conviction thereof shall be fined in a sum not to exceed Five Hundred Dollars ($500.00) and a separate offense shall be deemed committed upon each day during or on which a violation occurs or continues.

b) Each day that a violation occurs is a separate offense.

c) Proof of a culpable mental state is not required for a conviction of an offense under this Ordinance.