

PART II
GENERAL LEGISLATION

Chapter 68

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[HISTORY: Adopted by the Borough Council of the Borough of Whitehall: Art. I, 3-4-59 as Ord. No. 309; Art. II, 1-6-60 as Ord. No. 323; Art. III, 1-19-72 as Ord. No. 487; Art. IV, 3-1-78 as Ord. No. 570. Sections 68.1, 68.2, 68.11, 68.12, 68.21 and 68.31.1 amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I. Other amendments noted where applicable.]

ARTICLE I
Mechanical Amusement Devices
[Adopted 3-4-59 as Ord. No. 309]

§ 68.1. Pinball machines prohibited. *[Amended 2-4-81 by Ord. No. 620¹]*

No person or persons, firm or corporation shall at any time have in its or their possession within the Borough of Whitehall any mechanical device, machine or apparatus for the playing of games and amusement, said mechanical device, etc., being commonly known as "pinball" machines, upon which baseball, football and other games are played upon the insertion therein of a coin or any other disk, slug or token whatsoever. The words "insertion therein of a coin or any other disk, slug or token whatsoever" as used in this section shall be defined to include the payment of any coin or currency or tender of any kind to any person in custody of the device to permit playing of the device.

§ 68.2. Violations and penalties.²

Any person or persons, corporation, partnership or other entity whatsoever violating any of the provisions of this Article shall, upon conviction, be sentenced to pay a fine not to exceed the maximum fine of three hundred dollars (\$300.), plus costs of prosecution, and, in default of payment of such fine and costs of prosecution, imprisonment for a term not exceeding thirty (30) days; provided, however, that if the District Justice determines that the defendant is without the financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines or costs in installments and over such periods of time as the District Justice deems to be just.

ARTICLE II
Other Amusement Devices
[Adopted 1-6-60 as Ord. No. 323]
[Amended 12-19-01 by Ord. No. 939]

§ 68.3. License required.

No person or persons, firm or corporation shall at any time have in its or their possession within the Borough of Whitehall any mechanical device, machine or apparatus whatsoever for the playing of games and amusements which are played through the insertion therein of a coin, currency or any other metal disk, slug or token whatsoever, including debit or credit type cards and/or any other type of remuneration, including any device, whether installed as part of a table or free standing, which permits one or more people to play any type of game by means of a

¹ Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.

² Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.

screen or electronically whereby a video or electric beam or impulse bounces on and across the device, without first having procured a license therefor as hereinafter provided in this Article. Upon granting a license provided by this Article, the Chief of Police, or his designee, shall issue a metal disk, plate or sticker setting forth the number of the license for each machine so licensed, which said disk, plate or sticker shall be attached and fastened to the respective machine or device so that the same may be clearly observable and readable.

§ 68.4. Application for license.

Any person or persons, firm or corporation desiring to procure a license as provided in § 68.3 shall apply therefor in writing to the Chief of Police. Said application shall set forth the name or names, the residence or residences of the person or persons, firm or corporation so applying, together with the present and previous occupation of the applicant or applicants and the length of residence at the present and at the previous places of residence; whether the applicant has ever been charged with a violation of the gambling laws of the Commonwealth of Pennsylvania; the name of the owner of the premises upon which the aforesaid machines are to be used and installed, and if the owner of the premises is not the applicant, then the applicant shall set forth the length of time for which the premises have been leased; and whether applicant is a citizen of the United States. The applicant shall also set forth the manufacture and nature of the machines to be installed.

§ 68.5. Additional Information Required.

In addition to the information required by §68.4 above, the applicant shall provide the following information:

- A. A statement that the applicant has been provided with a copy of this Chapter 68, as amended, has read it and agrees to be bound by the provisions thereof;
- B. A statement that the applicant will not operate any device covered by this Article as a gambling device and that the owner and operator shall not award any prize or free games to anyone using that device;
- C. A statement that the issuance of a license by the Borough does not sanction, condone or permit the use of any device for gambling purposes or possession of illegal gambling devices;
- D. A statement that obtaining or displaying a license does not sanction or permit the use of any device for gambling purposes or possession of an illegal gambling device;
- E. A statement that the applicant understands that if any person illegally uses or possesses a gambling device, he may be prosecuted by law enforcement officials;
- F. A statement that because the Borough intends to foster compliance with the laws of the Commonwealth of Pennsylvania and the United States regarding illegal possession and/or use of gambling devices, the applicant understands that no Borough employee or agent may promise, suggest or insinuate that the use or possession of any illegal gambling device is permissible or shall not be prosecuted and that no such promise, suggestion or insinuation has been made by any Borough employee or agent with respect to the amusement devices for which a license is sought; and
- G. If the machines to be installed are not owned by the applicant, the full name and

address of the actual owner or vendor shall be stated along with a statement that all of the information and representations set out in subparagraphs A through G apply equally to the owner or vendor.

§ 68.6. Required customer use area; maximum number of devices.

No device, commonly known as a pool table, permitted by this Article shall be installed on any premises unless there is a minimum of 400 square feet of customer use area and no more than one (1) such device shall be permitted in any one establishment. A certified floor plan of the premises shall be submitted to confirm the existence of the required 400 square feet of customer use area.

No applicant or establishment wherein gaming devices, other than a pool table, as such devices are described in this Article, shall be permitted to have more than six (6) such gaming devices. Each gaming device, machine or apparatus capable of simultaneous play by more than one player shall be considered as an individual and/or separate device per player station and shall be required to be licensed accordingly. There shall be a minimum of 250 square feet of customer use area per gaming device. No gaming device, machine or apparatus which is capable of more than two (2) players playing simultaneously is permitted.

No device permitted by this article shall be placed in any area where the device or the crowds generated by the use of the device will create an obstruction to any public pathway or any common gathering area.

One (1) juke box will be permitted without reference to any required minimum customer use area.

§ 68.7. Investigation Period; Citizenship Requirement.

No license shall be granted until a period of seven (7) days shall have elapsed from the date of application, during which time the Chief of Police, or his designee, may at his discretion investigate the facts set forth in the application. In no event shall a license be granted to a person not a citizen of the United States.

§ 68.8. Annual Fee.

No license shall be issued until an annual fee therefor shall be paid as set out in the Comprehensive Fee Resolution of the Borough of Whitehall for each and every device licensed, installed and used under the terms of this Article in the Borough of Whitehall.

If a new gaming device is installed between January 1 and July 1 of any year, the full annual fee shall be paid. If the device is installed after July 1 of any year, fifty percent (50%) of the annual fee shall be paid.

§ 68.9. Expiration; Renewal; New Licenses.

All licenses shall expire on December 31 of each year and all applications for licenses shall be made and the fees due therefor shall be paid to the Borough on or before the 15th day of February of each year; provided, however, if any such amusement devices are proposed to

be installed in the Borough of Whitehall after the 15th day of February of any one year, it shall be necessary that a license be secured and an annual fee paid therefor prior to the installation of such device or apparatus.

§ 68.10. Transfer Permit; Fee.

Any licensee may transfer the license for a licensed device to any similar device to be installed in the same premises by the same licensee and to be used to replace any already licensed device; provided, however, that said licensee makes application in writing for a transfer to the Chief of Police, said application to state all facts required in **§68.4** and **§68.5**, and in addition thereto, the license number to be transferred. Upon approval of the transfer by the Chief of Police, or his designee, and the payment of a transfer fee, the Chief of Police shall issue a transfer permit.

§ 68.11. Installation and licensing of additional devices.

After a license has been issued, a new license must be obtained and a fee paid, as set forth herein, if additional devices are to be installed, subject to the limitations set out in this Article.

§ 68.12. Violation and penalties³

Any person or persons, corporation, partnership or other entity whatsoever violating any of the provisions of this Article shall be liable to the maximum penalties provided by law. Each and every day that any provision of this Article is violated shall constitute a separate and distinct offense under this Article and shall be subject to separate and distinct penalties hereunder. The enforcing officer may cause a device which is in violation of this Chapter to be deactivated in lieu of issuing a citation.

Article III repealed 12-19-01 by Ord. No. 939

ARTICLE III
Pool, Billiards and Snooker Tables
[Adopted 1-19-72 as Ord. No. 487]

~~§ 68.13. License required. [Amended 2-4-81 by Ord. No.620⁴]~~

~~No person or persons, firm or corporation shall at any time have in its or their possession within the Borough of Whitehall any mechanical device, machine, table or apparatus whatsoever for the playing of pool, billiards or snooker wherein such games are played upon the insertion therein of a coin or any other disk, slug or token whatsoever without first having procured a license therefor as hereinafter provided in this Article. The words "insertion therein of a coin or any other disk, slug or token whatsoever" as used in this section shall be defined to include the payment of any coin or currency or tender of any kind to any person in custody of the device to~~

³ Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.

⁴ Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.

permit playing of the device.

~~§ 68.14. Application for license.~~

~~Any person or persons, firm or corporation desiring to procure a license as provided in § 68.12 shall apply therefor in writing to the Mayor. Said application shall set forth the name or names, the residence or residences of the person or persons, firm or corporation so applying, together with the present and previous occupation of the applicant or applicants and the length of residence at the present and at the previous places of residence; whether the applicant has ever been charged with a violation of the gambling laws of the Commonwealth of Pennsylvania; the name of the owner of the premises upon which the aforesaid mechanical device, machine, table or apparatus is to be used and installed, and if the owner of the premises is not the applicant, then the applicant shall set forth the length of time for which the premises have been leased; and whether applicant is a citizen of the United States. The applicant shall also set forth the manufacture and nature of the mechanical device, machine, table or apparatus to be installed.~~

~~§ 68.15. Oath required.~~

~~The information required in § 68.13 hereof shall be furnished over the signature of the applicant or applicants and shall be made under oath or affirmation.~~

~~§ 68.16. Investigation period; citizenship requirement.~~

~~No license shall be granted until a period of seven (7) days shall have elapsed from the date of application, during which time the Mayor may at his discretion investigate the facts set forth in the application. In no event shall a license be granted to a person not a citizen of the United States.~~

~~§ 68.17. Annual fee.~~

~~No license shall issue until an annual fee therefor shall have been paid to the Borough of Whitehall in the sum of one hundred dollars (\$100.) for each and every mechanical device, machine, table or apparatus for the playing of pool, billiards or snooker so installed and used under the terms of this Article in the Borough of Whitehall.~~

~~§ 68.18. Expiration; renewal; new licenses.~~

~~All licenses shall expire on December 31 of each year and all applications for licenses shall be made and the fees due therefor shall be paid to the borough on or before the 15th of February of each year; provided, however, that if such mechanical device, machine, table or apparatus is proposed to be installed in the Borough of Whitehall after the 15th day of February of any one year, it shall be necessary that a license be secured and an annual fee paid therefor prior to the installation of any such mechanical device, machine, table or apparatus.~~

~~§ 68.19. Transfer permit.~~

~~Any licensee may transfer the license for a particular mechanical device, machine, table or apparatus to any similar mechanical device, machine, table or apparatus to be installed in the~~

~~same premises by the same licensee and to be used to replace any already licensed mechanical device, machine, table or apparatus, provided that the said licensee makes application in writing for a transfer to the Mayor, said application to state all facts required in § 68.13 of this Article for an original license and, in addition thereto, the license number to be transferred. Upon approval of the transfer by the Mayor and payment of a transfer fee of two dollars (\$2.), the Mayor shall issue a transfer permit.~~

~~§ 68.20. Required customer use area; number limited; placement. [Added 2-4-81 by Ord. No. 620]~~

~~68.19.1. No device permitted by this Article shall be installed in any premises unless there is a minimum of four hundred (400) square feet of customer use area, and no more than one (1) such device shall be permitted in any one establishment.~~

~~38.19.2. No device permitted by this Article shall be placed in any area where the device or the crowds generated by the use of the device will create an obstruction of any public pathway or any common gathering area.~~

~~§ 68.21. Identification disk; display.~~

~~Upon granting a license provided by this Article, the Mayor shall issue a metal disk or plate setting forth the number of the license for each mechanical device, machine, table or apparatus so licensed, which said disk or plate shall be attached and fastened to the respective mechanical device, machine, table or apparatus so that the same may be clearly observable and readable.~~

~~§ 68.22. Violations and penalties.⁵~~

~~Any person or persons, corporation, partnership or other entity whatsoever violating any of the provisions of this Article shall, upon conviction, be sentenced to pay a fine not to exceed the maximum fine of three hundred dollars (\$300.), plus costs of prosecution, and, in default of payment of such fine and costs of prosecution, imprisonment for a term not exceeding thirty (30) days; provided, however, that if the District Justice determines that the defendant is without the financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines or costs in installments and over such periods of time as the District Justice deems to be just.~~

Article IV repealed 12-19-01 by Ord. No. 939.

ARTICLE IV
Video and Electronic Games
[Adopted 3-1-78 as Ord. No. 570]

~~§ 68.23. Definitions.~~

~~As used in this Article, the following terms shall have the meanings indicated:~~

⁵ Editor's Note: Amended at time of adoption of CODE; see Ch. 1, General Provisions, Art. I.

~~VIDEO OR ELECTRONIC GAME DEVICE (GAMING DEVICE) Any device, whether installed as part of a table or freestanding, which permits one (1) or more people to play any type of game by means of a screen or electronically whereby a video or electric beam or impulse bounces on and across the device, which may or may not be coin-operated.~~

~~§ 68.24. License required; number of devices limited.~~

~~No one shall have in his possession within the Borough of Whitehall any gaming device as hereinabove defined for commercial use without having first procured a license therefor from the borough. To obtain such license, the owner must file an application with the Mayor and pay the license fee as hereinafter set forth. No applicant or establishment wherein such gaming devices shall be situated shall be permitted to have more than three (3) such gaming devices.~~

~~§ 68.25. Application for license.~~

~~The application shall set forth the name of the applicant, the number of gaming devices to be installed and information that the applicant, if an individual, or the officers and directors thereof, if a corporation, will not operate said device as a gambling device and that the owner and operator shall not award any prizes or free games to anyone using said device, and shall contain such other information as may be necessary to properly identify the owner.~~

~~§ 68.26. License fee.~~

~~The license fee for each gaming device is hereby fixed at one hundred dollars (\$100.) per year, payable in advance with the filing of the application. The "year" as herein defined shall be the calendar year, and said fee and application shall be filed on or before January 15 of each year.~~

~~§ 68.27. Proration of fee.~~

~~If a new gaming device is installed between January 1 and July 1 of any year, the full annual fee shall be paid. If the device is installed after July 1 of any year, fifty percent (50%) of the annual fee shall be paid.~~

~~§ 68.28. Installation and licensing of additional devices.~~

~~After a license has been issued, a new license must be obtained and fee paid as set forth herein if additional gaming devices are to be installed, subject to the limitation set forth in § 68.23 above.~~

~~§ 68.29. License renewal; misuse of devices.~~

~~The license shall be renewed on an annual basis upon paying the annual fee. However, if it is established that the owner of said device is using the device for gambling purposes as hereinbefore described, the license will not be renewed, and upon ten (10) days' notice from the borough, the license shall be canceled and the device shall be removed from the premises. In addition, after proper hearing before a District Justice, the penalties hereinafter~~

set forth may be imposed.

~~§ 68.30. Required customer use area; placement in premises.
[Added 2-4-81 by Ord. No. 620]~~

~~68.29.1. No device permitted under this Article shall be installed in any premises unless there is a minimum of two hundred fifty (250) square feet of actual customer use area for each installed device.~~

~~68.29.2. No device permitted by this Article shall be placed in any area where the device or the crowds generated by the use of the device will create an obstruction of any public pathway or any common gathering area.~~

~~§ 68.31. Time for securing license.~~

~~In 1978, said license shall be purchased from the borough on or before March 31, 1978, but thereafter the license shall be renewed on or before January 15 of each year.~~

~~§ 68.32. Violations and penalties.~~

~~68.31.1. Any person or persons, corporation, partnership or other entity whatsoever violating any of the provisions of this Article shall, upon conviction, be sentenced to pay a fine not to exceed the maximum fine of three hundred dollars (\$300.), plus costs of prosecution, and, in default of payment of such fine and costs of prosecution, imprisonment for a term not exceeding thirty (30) days; provided, however, that if the District Justice determines that the defendant is without the financial means to pay the fines and costs immediately or in a single remittance, such defendant shall be permitted to pay the fines or costs in installments and over such periods of time as the District Justice deems to be just.⁶~~

~~68.31.2. Each and every day that such machine or device under the terms of this Article shall be operated and used in violation thereof shall constitute a separate and distinct offense under this Article and shall be subject to separate and distinct penalties hereunder.~~

⁶ Editor's Note: Amended at time of adoption of CODE: see Ch. 1, General Provisions, Art. I.