

**BOROUGH OF OLD FORGE  
LACKAWANNA COUNTY, PENNSYLVANIA**

**ORDINANCE No. 1 of 2024**

**AN ORDINANCE OF THE BOROUGH OF OLD FORGE, LACKAWANNA COUNTY, PENNSYLVANIA, AN ORDINANCE OF THE BOROUGH OF OLD FORGE, LACKAWANNA COUNTY, PENNSYLVANIA, AMENDING CHAPTER 339 "VENDING MACHINES AND AMUSEMENT DEVICES" OF THE CODE OF THE BOROUGH OF OLD FORGE.**

**WHEREAS**, the Borough of Old Forge has previously considered and prohibited the expansion of gaming facilities and slot machines within the Borough of Old Forge with the adoption and passage of Resolution No. 4 of 2017 prohibiting a Category 4 casino within the boundaries of the Borough and notifying the Secretary at the Pennsylvania Gaming Control Board of its decision pursuant to Pennsylvania Legislative Act 42 of 2017, 4 Pa.C.S. Section 1305.1 (a.1) entitled "Municipal Option", and;

**WHEREAS**, the Council for the Borough of Old Forge in order to protect the public health, safety, and welfare of its residents and prevent the expansion of gaming facilities and slot machines within the Borough of Old Forge desires to amend Chapter 339 "VENDING MACHINES AND AMUSEMENT DEVICES" of the Code of the Borough of Old Forge as follows:

**NOW, THEREFORE IT IS HEREBY ORDAINED AND ENACTED**, by the Borough Council of the Old Forge Borough, Lackawanna County, Pennsylvania, Chapter 339 "VENDING MACHINES AND AMUSEMENT DEVICES" shall be amended, restated and re-numbered as follows to add the following provisions indicated in *bold and italics* as follows:

**§ 339-1 Purpose and Intent.**

*To protect the public health, and safety, and welfare, against slot machines that are made available and operated outside of a licensed facility, including protecting the public against skill slot machines, also known as "games of skill" or "skill games," the outcome of which is determined by skill of the player or a combination of skill and an element of chance.*

*In order to protect the public interest, the purpose and intentions of this ordinance are declared to be to protect against the possession, offering, and operation of slot machines, including skill slot machines, and skill games located outside of a licensed facility and to protect the public against the health and safety menace of unlicensed slot machines and skill games and to declare that certain activities, behavior and conduct is classified as a nuisance in order to preserve for the people of the community their right to health, safety and comfort by regulating the conduct herein described as a nuisance.*

**§ 339-2 Definitions.**

As used in this chapter, unless the context otherwise indicates, the following terms shall have the meanings indicated:

**CIGARETTE VENDING MACHINE** - Any automatic vending machine used for the sale of cigarettes and matches and controlled by the insertion of a coin or coins. It shall not include machines or devices used solely for the vending of service, food or confections.

**COIN-OPERATED AMUSEMENT GAME** - *A defined in 4 Pa.C.S. § 3102 (relating to definitions). A coin-operated amusement game does not deliver or entitle the person playing or operating the game to receive cash, cash equivalents or gift cards or vouchers, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value.*

**JUKEBOX** - Any music vending machine, contrivance or device which, upon the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening, or by the payment of any price, operates or may be operated for the emission of songs, music or similar amusement.

**MECHANICAL AMUSEMENT DEVICE** - Any machine which, upon the insertion of a coin, slug, token, plate or disc, may be operated by the public generally for use as a game, entertainment or amusement, whether or not registering a score. It shall include such devices as marble machines, pinball machines, skill ball, mechanical grab machines, video games, *including electronic video games capable of showing moving or still images* and all games, operations or transactions similar thereto under whatever name they may be indicated.

**PERSON, FIRM, CORPORATION or ASSOCIATION** - Includes the following: any person, firm, corporation or association which owns any such machine; the person, firm, corporation or association in whose place of business any such machine is placed for use by the public; and the person, firm, corporation or association having control over such machine; provided, however, that the payment of such fee by any person, firm, corporation or association enumerated herein shall be deemed a compliance with this definition.

**SKILL** - *The knowledge, dexterity, adroitness, acumen or other mental or physical ability of an individual.*

**SKILL GAME** - *An electronic, computerized, mechanical contrivance, terminal, machine or other device that requires the insertion of a coin, currency, ticket, token or similar object to operate, play or activate a game the outcome of which is determined by any element of skill of the player and which may deliver or entitle the person playing or operating the device to receive cash, cash equivalents or gift cards or vouchers, billets, tickets, tokens or electronic credits to be exchanged for cash or to receive merchandise or anything of value, whether the payoff is made automatically from the device or manually.*

**SLOT MACHINE** - *As defined in 4 Pa.C.S. § 1103 (relating to definitions). The term includes a slot machine that accepts a credit card or debit card.*

§ 339-3 Unlawful devices.

- A. *Except where such conduct occurs within a licensed facility, it is hereby declared to be a common nuisance for any person, firm or corporation to maintain, own, lease, use, operate, or make available to the public a slot machine, skill game, or any other device to be used for gambling purposes.*
- B. *The term "licensed facility" when used in this ordinance shall have the meaning set forth in Section 1103 of the Pennsylvania Horse Development and Gaming Act, 4 Pa.C.S. §§ 1101 - 1904, et seq (the "Gaming Act").*
- C. Nothing in this chapter shall in any way be construed to authorize, license or permit any gambling devices whatsoever or any mechanism that has been judicially determined to be a gambling device or in any way contrary to law or that may be contrary to any future laws of the Commonwealth of Pennsylvania.

§ 339-4 License required.

Any person, firm, corporation or association displaying for the public patronage or keeping for operation any cigarette vending machine, jukebox, coin operated amusement machine or mechanical amusement device as herein defined by § 339-2 shall be required to obtain a license from the Borough of Old Forge upon payment of a license fee. Application for such license shall be made to the Code Enforcement Officer upon a form to be supplied by the Borough.

§ 339-5 License application.

- A. The application for such license shall contain the following information:
  - (1) The name and address of the applicant, his age and date and place of birth.
  - (2) Prior convictions of the applicant, if any.
  - (3) The place where the machine or device is to be displayed or operated and the business conducted at that place.
  - (4) A description of the machine to be covered by the license, mechanical features, name of the manufacturer and serial number.
- B. No license shall be issued to any applicant unless he/she shall be over 21 years of age and a citizen of the United States.

§ 339-6 Inspections; issuance of license.

Application for license shall be made out in duplicate, one copy being referred to the Chief of Police and the other copy to the Borough Zoning Officer.

- A. The Chief of Police shall investigate the location wherein it is proposed to operate such machine, ascertain if the applicant is a person of good moral character and either approve or disapprove the application.
- B. The Code Enforcement Officer shall inspect all wiring and the connections to the machine, determine if the same complies with the standards of the Pennsylvania Uniform Construction Code and shall either approve or disapprove the application.
- C. No license shall be issued to any applicant unless approved by the Chief of Police and the Borough Zoning Officer.

§ 339-7 License fees; expiration of license.

- A. Every applicant, before being granted a license, shall pay an annual license fee as set from time to time by resolution of the Borough Council for the privilege of operating or maintaining for operation each cigarette vending machine, jukebox or mechanical amusement device as defined in § 339-2 herein.
- B. Each license shall expire one year from the date of issuance.

§ 339-8 Display of license; transferability.

- A. The license or licenses herein provided for shall be posted permanently and conspicuously at the location of the machine in the premises wherein the device is to be operated or maintained to be operated.
- B. Such license may be transferred from one machine or device to another similar machine upon application to the Code Enforcement Officer to such effect and the giving of a description and the serial number of the new machine or device. Not more than one machine shall be operated under one license, and the applicant or licensee shall be required to secure a license for each and every machine displayed or operated by him/her.
- C. If the licensee shall move his place of business to another location within the Borough of Old Forge, the license may be transferred to such new location upon application to the Code Enforcement Officer giving the street and number of the new location. The new location shall be approved by the Chief of Police and the Code Enforcement Officer in the same manner as provided in § 339-6 of this chapter.
- D. A license shall not be transferable from person to person nor from place to place and shall be usable only at the place and by the person designated in the license.

§ 339-9 Restrictions.

- A. No person, firm, corporation or association holding a license under this chapter shall permit persons under 18 years of age to play or operate any cigarette vending machine.

- B. No person, firm, corporation or association holding a license under this chapter shall permit the playing of jukeboxes, as defined in § 339-1, between the hours of 2:00 a.m. and 7:00 a.m. of any day.
- C. No person, firm, corporation or association shall permit the playing of jukeboxes or mechanical amusement devices within 600 feet of any church, public or parochial school or playground.

§ 339-10 Revocation of license.

Every license issued under this chapter is subject to the right, which is hereby expressly reserved, to revoke the same should the licensee directly or indirectly permit the operation of any cigarette vending machine, jukebox or mechanical amusement device contrary to the provisions of this chapter, the ordinances of the Borough of Old Forge or the law of the Commonwealth of Pennsylvania. Said license may be revoked by the Borough Council after written notice to the licensee, which notice shall specify the ordinance or law violations with which the licensee is charged, if after a hearing the licensee is found to be guilty of such violations. Ten days' notice of the hearing shall be given the licensee. At such hearing, the licensee and his attorney may present and submit evidence of witnesses in his defense.

§ 339-11 Seizure and destruction of machines.

If the Chief of Police shall have reason to believe any mechanical amusement device is used as a gambling device, such machine may be seized by the police and impounded, and if, upon trial of the exhibitor for allowing it to be used as a gambling device, said exhibitor shall be found guilty, such machine shall be destroyed by the police.

§ 339-12 Violations and penalties.

- A. ***Any Borough police officer or Code enforcement Officer any issue a summary citation, which shall specify he nature, date, and time of the violation.***
- B. ***It shall be a violation of this ordinance for any person to maintain, own, lease, use, operate, or make available to the public the nuisance herein specified. Any person who shall violate any provision of this ordinance shall be guilty of a summary offense and, upon conviction thereof, shall be liable to pay a minimum fine of \$250.00 up to a maximum of \$1,000.00 per violation, plus costs and fees, and may be subject to imprisonment to the extent allowed by law for the punishment of summary offenses.***
- C. Any person, firm or corporation violating any of the provisions of this chapter, in addition to the revocation of his or its license, shall be liable to ***pay a minimum fine of \$250.00 up to a maximum of \$1,000.00 per violation, plus costs and fees, and may be subject to imprisonment to the extent allowed by law for the punishment of summary offenses.***
- D. ***Enforcement shall be brought before a district justice in he same manner provided for***

*enforcement of summary offenses under the Pennsylvania Rules of Civil Procedure. In addition to or in lieu of criminal enforcement brought by the Borough, any violation of this ordinance may be enforced through an action in equity brought in the Court of Common Pleas of Lackawanna County.*

*E. A separate violation under this ordinance shall arise for each day, or portion thereof, in which violation is found to exist.*

**§ 339-13 Repealer**

*Any other ordinance provision(s) or regulation of the municipality of the municipality inconsistent with any of the provisions of this ordinance or chapter is hereby repealed to the extent of the inconsistency only.*

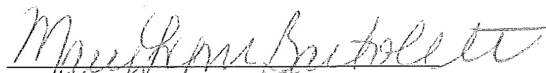
**§ 339-14 Severability**

*In the event that a court of competent jurisdiction declares any section or provisions of this ordinance or of this chapter invalid in whole or in part, the effect of such decision shall be limited to those provisions expressly stated in the decision to be invalid, and all other provisions of this ordinance and chapter shall continue to be separately and fully effective*

This Ordinance shall become effective upon enactment.

ENACTED this 20 day of February, 2024.

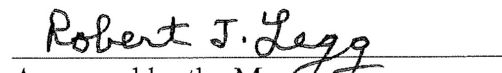
ATTEST:

  
Secretary of Council

BOROUGH OF OLD FORGE

  
President of Council

Date: 2/20/2024

  
Approved by the Mayor

This is to certify that the foregoing Ordinance was duly approved by the Council of Old Forge, County of Lackawanna and Commonwealth of Pennsylvania at this meeting February \_\_, 2024.