

BOROUGH OF VANDERGRIFT

ORDINANCE NO. 3 OF 2023

AN ORDINANCE OF THE BOROUGH OF VANDERGRIFT, COUNTY OF WESTMORELAND, COMMONWEALTH OF PENNSYLVANIA, AMENDING CHAPTER 136, ARTICLE II OF THE VANDERGRIFT BOROUGH CODE TO AMEND AND CLARIFY THE LICENSING FEES AND STRUCTURE FOR CERTAIN AMUSEMENT DEVICES, INCLUDING SKILL GAMING TERMINALS.

WHEREAS, the Borough of Vandergrift is empowered to establish Ordinances to protect the health, safety, and welfare of the public and for the benefit of the residents, citizens and general public of the Borough of Vandergrift by and through the powers granted under and pursuant to the Borough Code of the Commonwealth of Pennsylvania at 8 Pa.C.S. Section 101 et. seq.; and,

WHEREAS, in order to protect the health, safety and welfare of the public and for the benefit of residents, citizens, workers and general public of the Borough of Vandergrift, the licensing fees and schedule associated with mechanical amusement devices must be amended, and licensing fees and a licensing schedule must be established for games of skill and skill gaming terminals within the Borough of Vandergrift;

NOW THEREFORE, the Borough of Vandergrift does hereby enact and ordain as follows:

Section 136-6. Definitions and interpretation.

Section 136-6 of the Code of the Borough of Vandergrift shall be deleted in its entirety and shall be replaced with the following for clarity and for the purpose of amending the definition of “mechanical amusement device” and creating a definition for “skill gaming terminals” and “pool tables”:

A. Unless otherwise expressly stated, the following terms shall have, for the purpose of this article, the meaning indicated:

DEVICE – Any mechanical amusement device or skill gaming terminal for which, for use for profit, a license is required under this article.

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

POOL TABLE – Any table with cushions and/or pockets upon which games of pool and/or billiards in any form are played, upon payment of a price, whether or not operated by the insertion of a coin, slug, token, plate, disc or key into any slot, crevice or other opening.

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

MECHANICAL AMUSMENT DEVICE – Any mechanical amusement device, other than a “jukebox,” “pool table,” or “skill gaming terminal,” which upon insertion of a coin, slug, token, plate or disc that may be operated for use a game, entertainment or amusement, whether or not registering a score and whether or not a prize is offered, provided that such term shall not include any gambling device or any mechanism that has been judicially determined to be a gambling device.

PERSON – Any natural person, association, partnership, firm or corporation.

B. In this article, the singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 136-7. License required for certain devices.

Section 136-7 of the Code of the Borough of Vandergrift shall be deleted in its entirety and shall be replaced with the following for clarity:

No person may at any time have in his possession at any place within the Vandergrift Borough any mechanical amusement device or skill gaming terminal without first having procured a license therefor from the Mayor. In the event that the Mayor of the Borough of Vandergrift has a conflict of interest, the Vandergrift Borough Secretary shall be responsible for the review of the application presenting a conflict.

Section 136-12. Annual license fees.

Section 136-12 of the Code of the Borough of Vandergrift shall be deleted in its entirety and shall be replaced with the following for clarity:

Following the waiting period prescribed by Section 136-10 of this article, and upon payment by the applicant of the licensing fees, a license shall be issued by the Mayor to the applicant, provided that the mechanical amusement device or skilled gaming terminal meets all of the requirements and qualifications of this article and Pennsylvania law. For purposes of this Ordinance, the licensing fee for a mechanical amusement device shall be established at \$100.00. For purpose of this Ordinance, the licensing fee for a game of skill terminal shall be \$300.00. These fees may be amended, from time to time hereafter, by Resolution of the Council of the Borough of Vandergrift.

The license to be issued shall be valid for the entire year commencing on January 1 of said year and ending on December 31 of each year. If an amusement device is exchanged during the course of the year, no additional licensing fee shall be required; provided however, that if a mechanical

amusement device is added to a location, a license for the same must be obtained and the fee must be paid before the mechanical amusement device may be installed and utilized.

Each game of skill terminal shall be licensed based on the serial number of the device. If a new device replaces an old device, an additional application must be filed for said device, by serial number and an additional fee must be paid for said device. The installation of the new device may not be completed until such time as the new license is issued and the new licensing fee paid. The only exception to this rule shall be in the event of a malfunctioning device and, at the time of application, a certification must be filed by the manufacturer indicating that the device is defective, at which time no additional fees shall be required for the replacement of said device. All additional devices added at any location shall be subject to licensing and fee.

Section 136-17. Violations and penalties

Section 136-17 of the Code of the Borough of Vandergrift shall be deleted in its entirety and shall be replaced with the following for clarity:

Any person as defined in this article or any officer, agent, servant or employee thereof, who fails, neglects or refuses to comply with any term or provision of this article, shall, upon conviction, for each and every offense, be sentenced to pay a fine of \$1,000 and costs of prosecution per unit.

REPEALER

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of any inconsistency.

SEVERABILITY

If any clause, sentence, paragraph or part of this Ordinance, or the application thereof to any person or circumstance, shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder of this Ordinance nor the application of such clause, sentence, paragraph or part to other persons or circumstances, directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to the legislative intent that this Ordinance would have been adopted had such provisions not been included or such persons or circumstances been expressly excluded from their coverage.

CODIFICATION

The provisions of this Ordinance shall be codified, annually, by update of the Code of the Borough of Vandergrift.

EFFECTIVE DATE:

This ordinance shall be effective immediately.

This Ordinance being Ordained and Enacted this 6th day of March, 2023 by the Council of the Borough of Vandergrift at a public meeting of the Borough Council of the Borough of Vandergrift at Vandergrift, Pennsylvania.

BOROUGH OF VANDERGRIFT




THOMAS HOLMES, Vice-President
Vandergrift Borough Council

ATTEST:



(SEAL)
STEPHEN J. DELLEDONNE,
Borough Secretary

APPROVED:



LENNY COLLINI, Mayor

APPLICATION TO OPERATE SKILL GAMING TERMINALS

This Application shall be presented to the Mayor of the Borough of Vandergrift, upon completion, as an Application to operate a Skill Gaming Terminal within the Borough of Vandergrift, County of Westmoreland and Commonwealth of Pennsylvania for the purpose of licensing said unit only. Each unit shall be subject to a three hundred (\$300.00) dollar annual licensing fee payable to the Borough of Vandergrift, said fee to apply to each specific unit identified below or, as added during the course of each calendar year, commencing on January 1 of each year. The licensing fee shall apply to each unit regardless of the amount of time that the unit is in service, and if the unit is replaced with another unit, said new unit shall be subject to a licensing fee. The Licensing fee shall be based upon the unit in place and shall not be a transferrable licensing fee between individual Skill Gaming Terminals.

Please complete, in full, the following:

Name of entity, corporation or individual applying for the Skill Gaming Terminal Unit Operating License:

Name of business where Skill Gaming Terminals will be operating:

Address of location where Skill Gaming Terminals will be operating:

Address of entity applying for Skill Gaming Terminal License:

Telephone number for applicant for Skill Gaming Terminal License (cell number if preferred):

Telephone number for location where Skill Gaming Terminals will be located:

List Serial Numbers for units subject to licensing under this Application:

Number of units applying for licensing: _____

License Fee of \$300.00. Total due based upon number of units to be licensed with a check made payable to the Borough of Vandergrift enclosed: _____

NOTE: PLEASE READ CAREFULLY.

Any license granted through this Application, by the Mayor of the Borough of Vandergrift or, in the event of a conflict of interest, by the Borough Secretary on behalf of the Mayor of the Borough of Vandergrift, shall be in place up to one (1) year commencing on January 1 of each year and ending at midnight on December 31 of each year. Units removed from a location and replaced with another unit must be subject to a new Licensing Application. The license shall only be valid as long as Games of Skill are lawful in the Commonwealth of Pennsylvania. Should Games of Skill be determined, at any time, by a Court of Competent Jurisdiction to no longer be lawful within the Commonwealth of Pennsylvania, the license shall immediately terminate, and no refunds shall be issued for any licensing fees that have been paid to the Borough of Vandergrift.

The undersigned, individually and on behalf of the entity applying for the application, does hereby certify that the Games of Skill are approved Games of Skill to be operated within the Commonwealth of Pennsylvania and are not considered Games of Chance. The undersigned further agrees that this Application shall be binding upon the applicant executing the Application, the applicant or entity applying for the license, as well as for the location where the Game of Skill shall be placed, and remain fully responsible for any violations of this Licensing Application, and does hereby affirm that the information set forth is true and correct under penalty of law.

THE UNDERSIGNED FURTHER AGREES THAT BY THE SIGNATURE HEREUNDER, THE APPLICANT CONSENTS TO THE POLICE DEPARTMENT OF THE BOROUGH OF VANDERGRIFT INVESTIGATING THE LOCATION PROPOSED AND INSPECTING THE SAME, FROM TIME TO TIME, WITHOUT A REQUIREMENT TO REQUEST FURTHER CONSENT. THIS DOCUMENT SHALL OPERATE AS A FULL LEGAL CONSENT TO THE POLICE DEPARTMENT OF THE BOROUGH OF VANDERGRIFT TO ENTER ONTO A PREMISES WHERE A

LICENSED OR UNLICENSED UNIT IS LOCATED, AND TO INSPECT THE SAME FOR PURPOSES OF LEGALITY AND LICENSING, WITHOUT RESTRICTION.

_____ (SIGNATURE REQUIRED)

_____ (PRINT NAME)

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF _____)

On this ____ day of _____, 2023, before me the undersigned officer, personally appeared _____, known to me (or satisfactorily proven), to be the person whose name is subscribed to the foregoing instrument, and acknowledged that the declarant executed it for the purposes contained herein.

Witness my hand and official seal the day and year aforesaid.

Notary Public
My Commission Expires:

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LICENSED OR UNLICENSED UNIT IS LOCATED, AND TO INSPECT THE SAME FOR PURPOSES OF LEGALITY AND LICENSING, WITHOUT RESTRICTION.

_____(SIGNATURE REQUIRED)

_____(PRINT NAME)

COMMONWEALTH OF PENNSYLVANIA)
COUNTY OF _____)

On this ____ day of _____, 2023, before me the undersigned officer, personally appeared _____, known to me (or satisfactorily proven), to be the person whose name is subscribed to the foregoing instrument, and acknowledged that the declarant executed it for the purposes contained herein.

Witness my hand and official seal the day and year aforesaid.

Notary Public
My Commission Expires:

KATHLEEN CHVALA
BOROUGH COUNCIL PRESIDENT

LENNY COLLINI
MAYOR

Borough of Vandergrift

Larry D. Loperfito
Solicitor

Office of the Secretary
Stephen J. DelleDonne
109 Grant Avenue
Vandergrift, PA 15690
(724) 567-7818

Joseph M. Caporali
Chief of Police

March 3, 2023

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IN RE:

Dear Applicant:

Operation of Games of Skill or Skill Gaming Terminals are subject to licensing within the Borough of Vandergrift and, subject to the Vandergrift Borough Code requirements. Each unit to be operated shall be subject to a three hundred (\$300.00) dollar annual fee, said amount shall apply regardless of whether the unit is licensed for one (1) day or three hundred sixty five (365) days within a calendar year. Licenses are annual in nature. Licenses do not carry over from year to year. Failure to apply for licensing in any calendar year shall disqualify the units and the applicant from utilizing the unit until the same is properly licensed. Failure to maintain a licensed unit shall be subject to the penalty provision set forth in the Vandergrift Borough Code.

The Application must be completed and executed in the presence of a Notary. The Application must be presented to the Mayor of the Borough of Vandergrift who shall act upon the same in the normal course of Borough business. Applications will be reviewed and vetted. The location subject to the application shall be investigated, in advance, by the Police Department of the Borough of Vandergrift who shall have enforcement obligations under this Ordinance.

Sincerely,

LENNY COLLINI, Mayor
The Borough of Vandergrift