

**BOROUGH OF BIG BEAVER
BEAVER COUNTY, PENNSYLVANIA
ORDINANCE 235**

AN ORDINANCE OF THE BOROUGH OF BIG BEAVER, BEAVER COUNTY, PENNSYLVANIA, COMMONWEALTH OF PENNSYLVANIA ESTABLISHING AN ORDINANCE FOR THE LICENSING, APPLICATION AND ISSUANCE REQUIREMENTS FOR MECHANICAL AMUSEMENT DEVICES, SKILLED GAMES, AND ELECTRICAL AND/OR ELECTRONIC AMUSEMENT DEVICES; REVIEW AND INVESTIGATION OF APPLICATION; LICENSING FEES; RECOVATION OF LICENSE; PROHIBITED DEVICES; AND VIOLATION AND PENALTY PROVISION RELATIVE THERETO.

Section 1 – Purpose.

- A. The purpose of this Ordinance is to establish the regulation and operation of Mechanical Amusement Devices, Skilled Games and electrical and/or electronic Amusement Devices in or on any establishment within the Borough of Big Beaver for the health, safety and welfare of the residents, consumer, and business owners in the Borough of Big Beaver.
- B. To further this purpose, no Proprietor of any establishment shall set up, allow to be set-up, establish or cause to be set up or established, exhibit, display or maintain on the premises of any Establishment within the Borough of Big Beaver, for the purpose of gaining advantage or profit, any mechanical amusement device, or electrical or electronic amusement device, machine, or apparatus of any kind for the playing of games or otherwise used for the purpose of amusement or entertainment by the insertion therein of any legal tender, or paper currency, or coin, metal disc, slug, or token; or by payment through credit card or debit card whether inserted or not; or by payment through any form of cryptocurrency; or by payment using Near Field Communication (NFC); or by payment using a touchless means through any type of cellular based mechanism, without first obtaining a License from the Borough. A License Fee shall be paid for each such Device. Upon the payment of the License Fee provided by this Ordinance, and if the application fully complies with this Ordinance, the Borough shall issue a License setting forth the number of Devices licensed by the Borough. Said License shall be displayed in a clearly observable and readable location at the place or establishment where the machine/Devices are installed and used. No person or persons, firm, partnership, corporation or other entity shall at any time have in his/her or their possession within the Borough of Big Beaver any Mechanical Amusement Devices or electrical and /or electron Amusement Devices without first having procured a License therefore as hereinafter provided in the Ordinance.

Section 2 – Definitions.

- A. The following words and phrases when used in this ordinance shall have the meanings given to them in this section unless the context clearly indicates otherwise. Words used in this Ordinance which are not specifically defined shall carry the definition as ascribed

to them by the prevailing Merriam-Webster Dictionary or the prevailing Oxford English Dictionary.

1. Application – As used herein, shall mean the document on which each person and/or proprietor seeks a License.
2. Cryptocurrency – As used herein, a digital currency, by whatever name it is known by, that can be used to buy goods, and services using an online ledger with strong cryptography to secure online transactions and using a technology called blockchain.
3. Device – Shall mean electrical and/or electronic amusement Device, or mechanical amusement Device or both.
4. Electrical and/or Electronic Amusement Device(s) – Machines or apparatus, other than a juke box as defined herein, which use video displays or readouts or emits electrical and/or electronic audio and/or video signals through the insertions of any legal tender or paper currency, coin, slug, disc, metal disc, or token; by payment through credit card or debit card, whether inserted or not; or by payment through any form of cryptocurrency; or by payment using Near Field Communication (NFC); or by payment using a touchless means through any type of cellular based mechanism, for the playing of a game for amusement or entertainment purposes and not for any gambling purpose or in any way contrary to law.
5. Establishment – Any place within the Borough of Big Beaver, except a private residence.
6. Skill Gaming Terminal (Skilled Games) - An 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, tokens, or electronic credits to be exchanged for cash; merchandise; or anything of value whether the payoff is made automatically from the device or manually.
7. License – As used herein, the certified document from the Borough approval of the Application by a Person and/or Proprietor for any Device.
8. License Fee – As used herein, the required moneys owed at time of Application for any Device in the Borough.
9. Mechanical Amusement Device – Any machine or apparatus, other than a jukebox as herein defined, which through the insertions of any legal tender or paper currency, coin, slug, disc, metal disc, or token; by payment through credit card or debit card, whether inserted or not; or by payment through any form of cryptocurrency; or by payment using Near Field Communication (NFC); or by payment using a touchless means through any type of cellular based mechanism, for the playing of a game for amusement or entertainment purposes, but not for any gambling purpose or in any way contrary to law.
10. Near Field Communication (NFC) – As used herein, a short-range wireless technology that utilizes a smartphone, tablet, wearable, payment card, or other mechanism to exchange data between two Devices that are close to one another, and which can be used for making payment(s) for the playing of a game on a Device.
11. Person – As used herein, includes a person, firm, corporation, partnership, or association which shall, at any time, have in its possession for use or operation within

the Borough of Big Beaver, any mechanical amusement Device, or electrical or electronic amusement Device, for use or operation by members, if the business requires membership, or the general public.

12. Proprietor – Owner, occupant, manager, person in control, lessor, or lessee of any Establishment.
13. Borough – The Borough of Big Beaver, Beaver County Pennsylvania.
14. Vendor – Person who/which owns in whole or part, leases to others, maintains or repairs a device.

Section 3 – Application and License Required.

- A. No Person shall have in their possession or control any Device unless he/she/they have applied for it in writing and procured a License therefore from the Borough. The following information required in this Section shall be furnished over the signature of the applicant and shall be made under oath or affirmation.

Said Application shall set for the following:

1. The name, address, and telephone number of the Vendor of each Device to be licensed.
2. The name, address, and telephone number of all Proprietors of the establishment in which each Device is to be located, used or installed.
3. The name of the Proprietor of the premises upon which the Device(s) is/are to be used and installed.
4. If the proprietor of the premises is not the applicant, the length of the time for which the premises has been leased.
5. Citizenship status of the applicant.
6. Present and previous occupation(s) for the last fifteen (15) years, of the applicant(s).
7. Length of time at the present residence and each previous place or residence for the past fifteen (15) years of the applicant(s).
8. The location and description of each Device to be displayed or operated on/in the Establishment.
9. The manufacturer, serial number, name, and description of the Device(s) to be installed and used.
10. The name and address of the Proprietor(s) of the Device(s) to be installed and used.
11. A verification by the Vendor and Proprietor that the facts set forth in the application are true and correct to the Vendor's and Proprietor's personal knowledge, information, and belief, and that any false statement therein are made subject to the penalties of the Pennsylvania Crimes Code, 18 Pa. C.S.A. 4904, relating to unsworn falsification to authorities.
12. That the Vendor(s) and Proprietor(s) acknowledge they have been provided a copy of this Ordinance and that he/she/they have read and agree to be bound by all terms and provisions of this Ordinance.
13. An acknowledgement that a License does not sanction or condone the use or possession of any Device for gambling whether illegal per se or as modified.
14. An acknowledgement that the illegal use or possession of an illegal gambling Device, either per se or as modified, may result in a criminal prosecution by the law enforcement officials.

15. A description of the anticipated hours the Device(s) will be in operation
16. A description of the maximum number of people expected to be using the Devices in the establishment during its hours of operations.
17. The information required herein shall be furnished over the signature of the applicant or applicants and shall be made under oath or affirmation.
18. An acknowledgement by the applicant, owner, or proprietor that it or they consent to and permit a designated Borough inspector to inspect the establishment for compliance with this Ordinance.

Section 4 - Investigation of Applicants and Issuance of License.

- A. Upon presentation of an Application as provided herein, the Borough may conduct an investigation as to the truth of the statements contained therein and as to any or all matters which might tend to aid the Borough in determining whether or not a License should be granted. The Borough may consider, amongst other things, the effect of the amusement or exhibition upon the peace, welfare and good order the Borough when granting a License. The Borough may approve or disapprove each Device and may also approve or disapprove any lighting system or Device emitting or amplifying sound relating to any such Device, as well as impose further conditions.
- B. Both prior to and following issuance of a License(s) hereunder, any Person authorized by the Borough may conduct inspections of any Establishment where any Device license under this Ordinance is located, installed, placed or used to ensure compliance with this Ordinance.
- C. The Borough shall not issue a License to any Vendor, applicant, owner or Proprietor, who is not a citizen of the United States of America, is not twenty-one (21) years of age or who has been found guilty of or accepted into the Accelerated Rehabilitative Disposition Program, for possessing or using a video or mechanical amusement Device in violation of this Ordinance, or any other municipal ordinance or the Crime Code of the Commonwealth of Pennsylvania, within three (3) years of the date of Application.

Section 5 – Devices Prohibited; Prosecution.

- A. Nothing in this Ordinance shall in anyway, be constructed or authorize, license, or permit any gambling Devices, as defined by State Law, 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. No person shall permit any Device to be located on the premises any business if such Device show or exhibits any specified anatomical area or specified sexual activity otherwise prohibited or restricted by any statute or ordinance regulating such displays.
- B. The Borough intends to prosecute the illegal possession or use of unlawful gambling Devices. No employee or agent of the Borough may promise, suggest, or insinuate, either expressly or by implication that the applicant, Vendor, owner or proprietor, who either illegally possesses or uses a per se, modified or other illegal gambling Device(s), shall not be prosecuted for a violation of the Crime Code of the Commonwealth of Pennsylvania. The Borough shall notify the appropriate law enforcement officials of the use of possession of per se, modified or other illegal gambling Device(s), whether or not

such Device(s) is/are licensed. The illegal use or possession of any unlawful gambling Device(s), either per se or as modified, may result in criminal prosecution by the Borough or any other law enforcement officials having jurisdiction to do so.

Section 6 – License Fees, Transfers, Replacements, Violations, and Confiscation.

- A. No License shall be granted until a period of ten (10) days shall have elapsed from the date of receipt of the Application by the Borough, during which time the Borough may, at its discretion, investigate the acts set forth in the Application and no License shall be granted to any person not a citizen of the United States.
- B. No License shall be issued until an annual License Fee therefore shall have been paid to the Borough in the sum of **\$150.00** or as set by the Borough by a Resolution from time to time, for every Device installed and used in the Borough, under the terms of this Ordinance, which amount, paid as aforesaid, shall be a License Fee until July 1st of each year. The License Fee hereby imposed shall be due and payable on or before July 1st in the applicable year for all Devices in operation on that date and shall thereafter become immediately due and payable on each Device placed in use or operation within the Borough. However, should any such Device be installed after July 1st of any year and Application therefore be made after said date, then in such event, the License Fee for that particular year shall be one-half (1/2) the sum established by the Borough as the then existing annual License Fee.
- C. Upon application and notification to the Borough, any Device on which the foregoing fee has been paid may be transferred from the Establishment for which the aforesaid fee has been paid to any other Establishment located within the Borough. Further, upon application and notification to the Borough, another Device, as defined herein, may replace any Device on which the foregoing fee has been paid.
- D. In the event of the nonpayment of the License Fee or failure to file Application and notification of transfer or replacement, the Device shall be confiscated by the Borough, in addition to any other penalty herein provided. Also see section 8, Revocation of License.

Section 7 – License Issuance; Display

- A. Upon the payment of the License Fee required by this Ordinance, the Borough shall issue a License as evidence of payment in the form of a paper certificate, disk, plate, or sticker, setting for the number of the License for each machine so licensed, which said certificate, 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.

Section 8 – Revocation of License.

- A. The Borough reserves the power to revoke any License issued under the provision of this Ordinance, at any time, in cases in which such License was procured by fraud or false representation or facts or for the violation of or failure to comply with any provision of this Ordinance by any Vendor, license or servant, agent or employee of the licensee or of any crime or offense involving moral turpitude or the conviction of the licensee of any crime or offense involving moral turpitude committed on the location or premises of the

establishment licensed.

- B. The Borough shall immediately revoke each License of any applicant, owner, or Proprietor for any Device illegally used or possessed, either per se or as modified, in violation of the Crimes Code of the Commonwealth of Pennsylvania or this Ordinance.
- C. In the event any applicant, Vendor or Proprietor falsifies any information on an Application for License of the Amusement Devices, or violates this Ordinance, the Borough shall immediately revoke all Licenses issued under this Ordinance to such applicant, Vendor, or Proprietor. Moreover, in the event the Borough becomes aware that a Proprietor is convicted of possessing or using illegal gambling Device, the Borough shall revoke all Licenses issued to such Proprietor.
- D. In the event an owner of a Device, or person listed pursuant to the requirement of the Ordinance, or owner of the premises, or applicant/Proprietor of the Establishment is convicted of having a Device that is in violation of any gambling laws of the Commonwealth of Pennsylvania, the Borough shall revoke each License which has/had been issued to such person and each Borough License for Devices owned and operated by such person. In addition, the person shall be barred for a period of three (3) years from being eligible to apply for another License under this Ordinance.
- E. In the event a Device in an Establishment is determined to be in violation of any gambling laws of the Commonwealth of Pennsylvania, any Device thereafter found on the premises for a period of three (3) years shall be declared contraband and shall be confiscated by the Borough.

Section 9 Responsibility of Licensee.

- A. The responsibility to ensure that each premise and Device(s) located thereon is licensed, shall be joint and severable where the owner of the premises or the Proprietor, or Vendor of the Establishment fails to acquire the proper License or remove the Device. The owner or Vendor of each Device shall prominently display the issued License on each Device. The license, upon applying for and being granted a License hereunder, thereby consents to and permits a designated Borough Inspector the right to inspect the premises for compliance with this Ordinance.

Section 10 Violations and Penalties.

- A. For each and every violation of the provisions of this Ordinance, any Person(s), firm, partnership or corporation, violating any of the provisions of this Ordinance shall constitute a summary offense and, upon conviction by the issuing authority for the magisterial district which includes the Borough, shall be fined not less than Three Hundred (\$300.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, for each such violation of each section of this Ordinance. Each and every day that any Device is used and operated in violation hereof shall constitute a separate and distinct offense under this Ordinance and shall be subject to separate and distinct penalties hereunder.

Section 11 Severability.

- A. If any chapter, section, subsection, paragraph, sentence, or phrase of this Ordinance is for

any reason declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of the Ordinance as a whole or any section or part thereof other than the section or part thereof so declared to be invalid.

Section 12- Repealer.

- A. Any ordinance, chapter, section, subsection, paragraph, sentence, or phrase of any Ordinance of the Borough conflicting with the provision of this Ordinance shall and the same is hereby repealed to the extent of such conflict.

Section 13 – Effective Date

- A. This ordinance shall be effective upon adoption

ENACTED AND ORDAINED by the Members of Council of Big Beaver Borough, Beaver County, Pennsylvania, in public meeting this 15th day of October, 2024.

ATTEST:

BIG BEAVER BOROUGH COUNCIL



Jennifer Gasser, Secretary



Kim Wagner, Council Vice President

Read and approved by me, Michelle Joy, Mayor/Council President of the Borough of Big Beaver, this 15th day of October, 2024.



Mayor/Council President