

COUNCIL BILL NO. 1977

INTRODUCED BY _____

ORDINANCE NO. _____

AN ORDINANCE

OF THE CITY OF DUBOIS AMENDING CHAPTER 403 OF THE CODE OF ORDINANCES OF THE CITY OF DUBOIS TO ADD ARTICLE VI ENTITLED "MECHANICAL AMUSEMENT DEVICE AND LICENSING TAX" AND TO SET FORTH REQUIREMENTS FOR THE IMPOSITION OF SUCH TAX.

WHEREAS, the City Council of the City of DuBois has deemed it necessary to make certain amendments and updates to Chapter 403 of the Code of Ordinances of the City of DuBois entitled "**TAXATION**" to establish a procedure for the licensing of Mechanical Amusement Devices operated by for-profit businesses within the City of DuBois;

NOW, THEREFORE, IT IS HEREBY ENACTED AND ORDAINED, by the City Council of the City of DuBois, Pennsylvania, that the following Ordinance shall be adopted and codified as Article VI under Chapter 403 entitled "**TAXATION**" as follows:

§403-49. Mechanical Amusement Devices.

a) Short Title

This part shall be known as the "Mechanical Amusement Device Ordinance".

b) Definitions. Unless the context clearly indicates otherwise, the following words and phrases, used in this Part or in any application for license of amusement devices, shall have the meaning given to them in this section:

i. **AMUSEMENT DEVICE**

Any mechanical, electronic, and/or video amusement device, jukebox, or pool table and/or other electronic device, machine or apparatus whatsoever, 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 (via the internet, app,

mobile device or in person), may be operated or used as a game, skill game, entertainment or amusement, whether or not registering a score and whether or not a prize or payment is offered.

ii. **APPLICANT**

Any individual, partnership, corporation, unincorporated enterprise owned by two or more persons, limited liability company, trust or other business entity, domestic or foreign, required to seek and/or who is seeking to obtain a license for an amusement device under this Part.

iii. **APPLICATION FOR LICENSE OF AMUSEMENT DEVICES**

The document filed by an applicant requesting a permit to possess in the City of DuBois any video or mechanical amusement device, jukebox, or pool table and/or other electronic device, machine, or apparatus whatsoever, for the playing of games and amusement.

iv. **BUSINESS ESTABLISHMENT**

Any restaurant, bar, tavern, retail, manufacturing, wholesale, institutional, or other nonresidential establishment, store or business, whether or not in operation.

v. **GAMBLING DEVICE**

Any device, machine, or apparatus used for the playing of poker, blackjack, keno, bingo, or other casino games by the insertion therein of any coin, currency, metal disc, slug, or token, or by the payment of any price (via the internet, app, mobile device or in person).

vi. **ILLEGAL GAMBLING DEVICE**

Any device, machine, or apparatus designed and/or specifically equipped to be used for the playing of poker, blackjack, keno, bingo, slots, or other casino gambling games by the insertion therein of any coin, currency, metal disc, slug, or token, which has, or is designed to facilitate the ready use of, a knock off or knockdown device or other capability for erasing or eliminating accumulated playing credits.

vii. **JUKEBOX**

Any device, machine, or apparatus which plays recorded music, whether by record, tape, compact disc, or other means, by the insertion therein of any coin, currency, metal disc, slug, or token, or by the payment of any price (via the internet, app, mobile device or in person).

viii. **POOL TABLE**

Any device or apparatus upon which is played the games of eight-ball, billiards, pool, snooker, or other similar games for which a fee is charged, whether or not such device is operated through the insertion of coin, currency, metal disc, slug, or token, or by the payment of any price (via the internet, app, mobile device or in person).

ix. **PROPRIETOR**

Any individual, partnership, or corporation who owns, leases, or maintains the for-profit business establishment in which any jukebox, pool table, or video or mechanical amusement device is placed for the use, patronage, recreation, or amusement of the public or of persons in or about the business establishment.

x. **VENDOR**

Any individual, partnership, corporation, unincorporated enterprise owned by two or more persons, limited liability company, trust or other business entity, domestic or foreign, who is the lawful owner of any jukebox, pool table, or video or mechanical amusement device for which a license is sought under this Part, or any individual, partnership, or corporation who makes, assembles, sets up, maintains, sells, lends, leases, gives away, or offers for sale, loan, lease, or gift, any jukebox, pool table, or video or mechanical amusement device for which a license is sought under the Part.

xi. **VIDEO OR MECHANICAL AMUSEMENT DEVICE**

Any device, machine, or apparatus used for the playing of games or otherwise used for the purpose of amusement or entertainment by the insertion therein of any coin, currency, metal disc, slug, or token, or payment via the internet, app, or in person, including, but not limited to, "claw machines", "electric or electronic dart boards", "gambling devices", "pinball machines", "skill games" and "video games".

c) **License Required.** No individual, partnership, corporation, unincorporated enterprise owned by two or more persons, limited liability company, trust or other business entity, domestic or foreign, shall at any time have in his/their possession within the City of DuBois any video or mechanical amusement device, jukebox or pool table for the playing of games and amusement without first having procured a license and paying a license fee or tax therefor as hereinafter provided in this Part.

d) **Application for License.** Any Applicant, as defined herein, desiring to procure a license as required in (c) of this Part, shall apply therefor in writing to the City of DuBois Code Enforcement Officer. Said application shall require information including, but not limited to, the following with regard to the Applicant, Proprietor, and/or Vendor, as appropriate:

- (i) The application status (new or renewal license)
- (ii) The type of business
- (iii) Business information including but not limited to the name of the business, the mailing address and location of the business, phone number, email address and business contact information.
- (iv) A list of the type and number of mechanical devices as well as the vendor.

e) **Persons Ineligible for Licenses.** The City of DuBois Code Enforcement Officer shall not issue a license for any video or mechanical amusement device to any person who:

- (i) is not 21 years of age;
- (ii) has been found guilty of or accepted accelerated rehabilitative disposition for possessing or using a video or mechanical amusement device in violation of the Crimes Code of the Commonwealth of Pennsylvania, 18 Pa. C.S.A. §101 *et seq.*, within three years of the date of the application.

f) **Conditions for Issuance.** The grant of a license applied for under this Chapter shall be subject to the following conditions, in addition to the payment of fees as further addressed herein:

- (i) No license shall be granted until a period of 10 days shall have elapsed from the date of application during which time the City of DuBois Code Enforcement Officer may, at his or her direction, investigate the facts set forth in the application.
- (ii) The City of DuBois Code Enforcement Officer shall refuse to issue a license for any device that the applicant has not affirmed the fact that it is not designed, or intended to be used, for gambling purposes.
- (iii) A license shall not be issued unless/until the applicant acknowledges:
 - (1) That obtaining or displaying a City of DuBois license does not sanction or permit the use of any device for gambling purposes or possession of an illegal gambling device, either *per se*, or as modified; and

(2) That if the applicant or licensee illegally uses or possesses an unlawful gambling device, either *per se* or as modified, he or she may be prosecuted by the City of DuBois or other law enforcement officials.

g) **Construction of Provisions**. Nothing in this part shall be construed to authorize, license, or permit any gambling devices whatsoever, or any mechanism that has been judicially determined to be a gambling device, either *per se* or as modified, or in any way contrary to law, or that may be contrary to any future laws of the Commonwealth of Pennsylvania or the United States of America.

h) **License Fees/Tax**. No license shall be issued until the following annual fees shall have been paid by the applicant to the City of DuBois for each and every device to be installed or used: Establish Fee to be amended time to time by resolution.

i. Jukebox. Annual Fee established at \$100 per machine and thereafter updated in the City Schedule of Fees by a Resolution of the City Council of the City of DuBois.

ii. Pool Table. Annual Fees established at \$75 per table, and thereafter updated in the City Schedule of Fees by a Resolution of the City Council of the City of DuBois.

iii. Video, Skill or Mechanical Amusement Device.

(1) Non-Paying Device – Annual Fee established at \$100, and thereafter updated in the City Schedule of Fees by a Resolution of the City Council of the City of DuBois.

(2) Gambling and Skill Devices – Annual Fee established at \$350, and thereafter updated in the Schedule of Fees by a Resolution of the City Council of the City of DuBois.

i) **Issuance and Display of License**. Upon the payment of the license fee provided by this Part, and upon a determination that the application fully complies with this Part, the City of DuBois Code Enforcement Officer shall issue a disc, plate, sticker, or other affixable emblem setting forth the number of the license for each machine so licensed, and said disc, plate, sticker, or other affixable emblem shall be attached and fastened to the respective machine or device so that the same may be clearly observable and readable. Discs, plates, stickers, or other affixable emblems issued for a particular machine or device are not transferable to another machine or device. All discs, plates, stickers or other affixable emblems issued by the City of DuBois for video and mechanical amusement devices shall state that the video or mechanical

amusement device is for amusement purposes only, that it is not a gambling device and that only games and not money may be won on the machine or device.

j) **Inspection.** The City of DuBois or its agents may, during regular business hours, conduct inspections of any business establishment where any video or mechanical amusement device, jukebox, or pool table licensed under this Part is located, installed, placed, or used, to ensure compliance with this Part.

k) **Revocation, Debarment and Contraband Declaration.**

i. In the event any applicant, vendor, or proprietor falsifies any information on an application for license of amusement devices, or violates this Part, the City of DuBois shall immediately revoke all licenses issued under this Part to such applicant, vendor or proprietor.

ii. Moreover, in the event an applicant, vendor of a video or mechanical amusement device or a proprietor of a business establishment is convicted of possessing or using a video or mechanical amusement device in violation of the Crimes Code of the Commonwealth of Pennsylvania, 18 Pa. C.S.A. §101 *et seq.*, the City of DuBois shall revoke each license issued to such person, as an applicant, vendor, or proprietor.

iii. Additionally, the City of DuBois shall not issue a license of amusement devices to any person who has been found guilty of or accepted accelerated rehabilitative disposition, for possessing or using a video or mechanical amusement device in violation of the Crimes Code of the Commonwealth of Pennsylvania, 18 Pa. C.S.A. §101 *et seq.*, within three years of the date of application.

iv. Any video or mechanical amusement device used or possessed in violation of the Crimes Code of the Commonwealth of Pennsylvania, 18 Pa. C.S.A. §101 *et seq.*, or this Part, may be deemed contraband and forfeited in accordance with the provisions set forth in 18 Pa. C.S.A. §6501(d) (relating to scattering rubbish).

§403-50. Any/all provisions of the City Ordinances, regulations, and/or Resolutions inconsistent with this Ordinance are repealed to the extent of such inconsistency.

§403-51. This Ordinance and any/all licensing requirements addressed herein, shall be effective as of ten (10) days from final adoption.

ORDAINED AND ENACTED by the City Council of the City of DuBois, County of

Clearfield and Commonwealth of Pennsylvania on this _____ day of _____, 2023.

ATTEST:

_____ By _____
Acting City Manager Edward Walsh
Mayor and President of Council

PASSED BY COUNCIL:

_____ APPROVED: _____