

Chapter 73

AMUSEMENTS AND AMUSEMENT DEVICES

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[HISTORY: Adopted by the Borough Council of the Borough of Dormont 5-6-2002 by Ord. No. 1514. This ordinance also provided for the repeal of former Ch. 73, Amusements and Amusement Devices, adopted 1-4-1999 by Ord. No. 1482. Amendments noted where applicable.]

ARTICLE I Amusements

§ 73-1. License required; conduct of public exhibitions.

No person or entity shall conduct a public exhibition, including a circus, fair, carnival, rodeo, feat of horsemanship, menagerie, caravan of animals, animal show, exhibition of any natural or artificial curiosity or performance or exhibition of such nature within the Borough of Dormont without first obtaining a license for such performance or exhibition from the Borough Manager.

§ 73-2. Application for license.

Applications for licenses shall be made upon forms to be supplied by the Borough Manager for that purpose. Applications shall contain the following information:

- A. For all licenses required by this article:

- (1) The name and address and telephone number of the applicant.
 - (2) The type of applicant, i.e. whether an individual, partnership, corporation or other type of legal entity.
 - (3) If the applicant is a natural person, the age, date and place of birth and citizenship of the applicant and any resident natural agent of the applicant.
 - (4) If the applicant is a partnership, the names, addresses and telephone numbers of all partners and managers.
 - (5) If the applicant is a company, the names, addresses and telephone numbers of all owners and officers and managers.
 - (6) Any prior convictions of the applicant or any partners, owners, officers or managers of the applicant for violation of any law or ordinance.
 - (7) A statement that the applicant shall comply with all local, county, state and federal requirements.
- B. For licenses to conduct public exhibitions as required by this article:
- (1) The proposed location and duration of the exhibition.
 - (2) The nature of the exhibition to be presented.
 - (3) A detailed list of each exhibition, entertainment, performance and/or amusement device to be located on the proposed location of the event.
 - (4) The number of pieces of equipment for music and all loudspeaker devices and other devices for amplification of sound.

§ 73-3. Investigation of applicants; issuance of license.

- A. Upon presentation of an application as provided herein, the Borough Manager may conduct an investigation as to the truth of the statements contained therein and as to any or all other matters which might tend to aid the Borough Manager in determining whether or not a license should be granted. The Borough Manager may consider among other things the effect of the amusement or exhibition upon the peace, welfare and good order of the borough when granting a license; the Borough Manager may approve or disapprove each particular exhibition and may also approve or disapprove any lighting system or device emitting or amplifying sound used at any exhibition, as well as impose further conditions, the violation of which shall constitute a violation of this chapter and shall subject the violator, upon conviction, to the penalties provided for offenses against this chapter.

§ 73-4. License fees.

The license fee for each public exhibition as required by this article shall be as set forth from time to time by resolution of the Borough Council for each day such exhibition shall continue, payable at time of application. No renewals of such licenses shall be granted, and subsequent

exhibitions by past licensees shall require complete new applications and investigations, unless such requirements shall be waived by the Borough Manager.

§ 73-5. Insurance.

Before any license shall be issued for any exhibition hereunder, the applicant shall be required to secure a public liability insurance policy in such principal sum as the Borough Manager may deem sufficient to protect members of the public and the borough and naming the borough as an additional insured. Said policy shall be issued by an insurance company authorized to do business in the Commonwealth of Pennsylvania.

§ 73-6. Rules of conduct.

Licensees shall not permit gambling at any licensed exhibition nor on any licensed premises, except as may be permitted by any local ordinance which has been or may have been or may hereafter be enacted by the Borough Council. No licensee shall permit the giving of any performance of a lewd, suggestive, vulgar or immoral type or the use therein of any indecent or obscene language or any behavior tending to corrupt the public morals or incite the public to break any law or ordinance. No licensee shall permit any disorderly, lewd, dissolute, drunken or boisterous person, any person under the influence of intoxicating liquor or narcotic or hallucinogenic drug or any person whose conduct tends in any way to corrupt the public morals to be admitted to or to remain in or about any licensed exhibition or premises.

§ 73-7. Posting of license; transfer or changes.

- A. Licensees shall post their licenses conspicuously at the location of the licensed exhibition or on the premises licensed.
- B. Licensees desiring to transfer their licenses to new locations within the borough shall submit an application for such relocation, change or revision to the Borough Manager. No refund of any license fee shall be made if an application for relocation, change or revision is disapproved.
- C. No license shall be transferable from an approved applicant to another person or entity.

§ 73-8. Revocation of license.

- A. The Borough Manager reserves the power to revoke any license issued under the provisions of this article at any time in cases in which such license was procured by fraud or false representation of facts or for the violation of or failure to comply with any provision of this article by any licensee or servant, agent or employee of the licensee or the conviction of the licensee of any crime or offense involving moral turpitude or the conviction of any of the licensees servants, agents or employees of any crime or offense involving moral turpitude committed on the location or premises licensed.
- B. In the case of any public exhibition as described in this chapter, such revocation shall be effective upon the service of a notice of revocation by either person, mail or posting on the

location for which a license is issued and said public exhibition shall cease operations immediately.

§ 73-9. Violations and penalties.

Each and every violation of the provisions of this article by any person or persons, firm, partnership, company or corporation shall constitute a summary offense, and upon conviction by the issuing authority for the magisterial district which includes the Borough of Dormont, be sentenced to pay a fine of not less than \$50, nor more than \$600, and costs of prosecution, and in default of payment thereof, may be committed by the issuing authority to imprisonment in conformity with the Pennsylvania Rules of Criminal Procedure for a period not to exceed 10 days. Each and-every day that a violation shall continue shall constitute a separate and distinct offense under this article and shall be subject to separate and distinct penalties hereunder.

ARTICLE II Amusement Devices

§ 73-10. Rules of construction.

In the construction of this article, the rules and definitions contained in this article shall be observed and applied, except when the context clearly indicates otherwise:

- A. Words used in the singular shall include the plural, and the plural the singular.
- B. Words used in the past or present tense shall include the future tense.
- C. Words used in the masculine gender shall include the feminine and neuter.
- D. The word "shall" is always mandatory and is not discretionary.
- E. The word "may" is permissive.
- F. The Borough of Dormont intends to favor the public interest as against any private interest.
- G. The headings prefixed to sections and other divisions of this article shall not be considered to control but may be used to aid in the construction thereof.
- H. General words shall be construed to take their meanings and be restricted by preceding particular words.

§ 73-11. Definitions.

Unless the context clearly indicates otherwise, the following words and phrases, used in this article or in an application for license of amusement devices, shall have the meaning given to them in this section:

AMUSEMENT DEVICE — Video or mechanical amusement device, jukebox and/or other electronic device, machine or apparatus whatsoever for the playing of games and amusement.

APPLICANT — Any individual, partnership, company or corporation that seeks to obtain a license for an amusement device under this article.

APPLICATION FOR LICENSE OF AMUSEMENT DEVICES — The document filed by an applicant requesting a permit to possess in the Borough of Dormont any amusement device.

BUSINESS ESTABLISHMENT — Any restaurant, bar, tavern, retail, manufacturing, wholesale, institutional, educational, religious, governmental or other nonresidential establishment, store or business, whether or not in operation.

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.

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 knockoff or knockdown device or other capability for erasing or eliminating accumulated playing credits.

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.

POOL TABLE — Any device or apparatus upon which is played the games of 8-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.

PROPRIETOR — Any individual, partnership, company or corporation that owns, leases or maintains a business establishment in which any amusement device is placed for the use, patronage, recreation or amusement of the public or of persons in or about the business establishment.

VENDOR — Any individual, partnership, company or corporation that is the lawful owner of any amusement device for which a license is sought under this article, or any individual, partnership, company or corporation that makes, assembles, sets up, maintains, sells, lends, leases, gives away, or offers for sale, loan, lease or gift, any amusement device for which a license is sought under the article.

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, including but not limited to claw machines, electric or electronic dart boards, gambling devices, pinball machines and video games.

§ 73-12. License required.

No person, firm, partnership, corporation or other entity shall operate any business or premises within the Borough of Dormont wherein are located any amusement device for the playing of

games and amusements without first having procured a license therefor as hereinafter provided in this article. There shall be no more than eight amusement devices per business establishment.

§ 73-13. Application for license.

Any person, firm, corporation or other entity, desiring to procure a license as required in § 73-12 of this article, shall apply therefor in writing to the Borough Manager. Said application shall set forth the following information:

- A. The name, address and telephone number of the vendor of each amusement device to be licensed.
- B. The name, address and telephone number of the proprietor of the business establishment in which each amusement device is to be located, used or installed.
- C. The location and description of each amusement device to be displayed or operated on the premises.
- D. 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 or belief, and that any false statements therein are made subject to the penalties of the Crimes Code, 18 Pa. C.S.A. § 4904, relating to unsworn falsification to authorities.
- E. That the vendor and proprietor have been provided a copy of this article and that he/they have read and agree to be bound by all terms and provisions hereof.
- F. That a license does not sanction or condone the use or possession of any illegal gambling device, whether illegal per se or as modified.
- G. That the illegal use or possession of an illegal gambling device, either per se or as modified, may result in a criminal prosecution by law enforcement officials.

§ 73-14. Persons ineligible for licenses.

The Borough Manager shall not issue a license for any amusement device to any person who:

- A. Is not 21 years of age.
- B. Has been found guilty of possessing or using an illegal gambling device in violation of the Crimes Code of the Commonwealth of Pennsylvania within three years of the date of application.

§ 73-15. Conditions for issuance.

- A. No license shall be granted until a period of 10 days shall have elapsed from the date of application during which time the Borough Manager may, at his or her discretion, investigate the facts set forth in the application.
- B. The Borough Manager shall refuse to issue a license for any device that the applicant has not affirmed is not designed or intended to be used for illegal gambling purposes.

- C. A license shall not be issued unless the applicant acknowledges.
- (1) That obtaining or displaying a Borough of Dormont 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 illegal gambling device, either per se or as modified, he may be prosecuted by local or other law enforcement officials.

§ 73-16. Construction of provisions.

Nothing in this article shall be construed to authorize, license or permit any illegal gambling devices whatsoever, or any mechanism that has been judicially determined to be an illegal gambling device, either per se or as modified, or that is 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.

§ 73-17. License fees.

- A. There shall be an annual license fee for each premises wherein are located any video or amusement device, which fee shall be as set forth from time to time by resolution of the Borough Council. An annual license renewal is required for places wherein are located any amusement device. Renewals of such licenses shall require merely the updating of any obsolete information contained in the original application for license, submission of the annual license fee and approval of the renewal by the Borough Manager. Renewals shall be applied for at least 60 days prior to the date of expiration of the current license.
- B. License fees submitted with applications which are either withdrawn by applicants or denied by the Borough Manager shall be refundable, less actual costs of investigation incurred by the Borough. Unexpended or unused licenses shall not, however, enable the licensee to gain a refund of license fees paid for licenses after such licenses shall have been approved by the Borough Manager.

§ 73-18. Issuance and display.

Upon the payment of the license fee provided by this article, and if the application fully complies with this article, the Borough Manager shall issue a certificate setting forth the number of the license and the place description and number of each machine permitted by the license so that the same may be clearly observable and readable. The certificate shall state that the amusement device is for amusement purposes only, that it is not an illegal gambling device and that only games and not money may be won on the machine or device.

§ 73-19. Inspection.

The Borough Manager or an agent of the Borough may, during regular business hours, conduct inspections of any business establishment where any amusement device licensed under this article is located, installed, placed or used, to ensure compliance with this article.

§ 73-20. Revocation.

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

Moreover, in the event the Borough becomes aware that a proprietor is convicted of possessing or using an illegal gambling device, the Borough shall revoke all licenses issued to such proprietor.

§ 73-21. Prohibition of suggestion or promise of nonprosecution.

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 illegal gambling devices, no Borough employee or agent may promise, suggest or insinuate, either expressly or by implication, that the applicant, licensee, proprietor or vendor, who illegally uses or possesses any device used or intended to be used for gambling purposes shall not be prosecuted.

§ 73-22. Violations and penalties.

Each and every violation of the provisions of this article by any person or persons, firm, partnership, company or corporation shall constitute a summary offense, and upon conviction by the issuing authority for the magisterial district which includes the Borough of Dormont, be sentenced to pay a fine of not less than \$50, nor more than \$600, and costs of prosecution, and in default of payment thereof, may be committed by the issuing authority to imprisonment in conformity with the Pennsylvania Rules of Criminal Procedure for a period not to exceed 10 days. Each and every day that any machine or device is used and operated in violation hereof shall constitute a separate and distinct offense under this article and shall be subject to separate and distinct penalties hereunder.