

**BOROUGH OF ST. CLAIR
SCHUYLKILL COUNTY, PENNSYLVANIA**

ORDINANCE NO. 455

**AN ORDINANCE OF THE BOROUGH OF ST. CLAIR,
SCHUYLKILL COUNTY, PENNSYLVANIA, REGULATING
GAMES OF SKILL AMUSEMENT DEVICES WITHIN THE
BOROUGH; PROVIDING FOR THE ISSUANCE OF BOROUGH
LICENSES AND THE IMPOSITION OF A REGISTRATION FEE;
IMPOSING RESTRICTIONS ON THE NUMBER AND
PLACEMENT OF SKILL VIDEO GAME TERMINALS;
IMPOSING LIMITATION OF ACCESS BY INDIVIDUALS
UNDER EIGHTEEN (18) YEARS OF AGE TO GAMES OF SKILL
AMUSEMENT DEVICES; REGULATING HOURS OF
OPERATION AND MAINTENANCE OF ORDER; AND
PROVIDING FOR THE REPORTING OF REVENUE FOR
PURPOSES OF COLLECTING THE BOROUGH BUSINESS
PRIVILEGE TAX.**

The Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania (the “Borough”), hereby enacts and ordains as follows:

WHEREAS, Section 1201 of the Borough Code, 53 P.S. § 46201, entitled “ General Powers” , authorizes the Borough to make and adopt ordinances necessary for the proper management, care and control of the Borough, and the maintenance of the health and welfare of the Borough and its citizens; and

WHEREAS, Section 1202 of the Borough Code, 53 P.S. § 46202(5)(20)(ii), entitled “ Specific Powers” , authorizes the Borough to adopt ordinances to secure the safety of persons or property within the Borough and to regulate, license and prohibit business within the Borough.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY the Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, in accordance with the general powers permitted by the Borough Code (53 P.S. § 46201, et seq.), as follows:

Section 101. Title.

This Ordinance shall be known as the “St. Clair Borough Games of Skill Ordinance”.

Section 102. Citation.

This Ordinance may be cited as the “St. Clair Borough Games of Skill Ordinance”.

Section 103. Intent.

It is the intent of the Borough to establish rules and regulations for skill video game operators. This will include, but not be limited to, issuance of licenses to individuals or companies who make available to the public a skill video game system within the Borough of St. Clair in accordance with this Ordinance and any rules or regulations promulgated by the Commonwealth of Pennsylvania. It is also the intent of this Ordinance to establish enforcement authority over these regulations and to develop enforcement procedures.

Section 104. Definitions

APPLICANT – A person which applies for permission to engage in an act or activity that is regulated under the provisions of this Ordinance.

ESTABLISHMENT – An entity that permits an operator to place and operate skill video game systems on the establishment’s premises under this Ordinance.

OPERATOR – An entity licensed by the Borough to operate a skill video game system by:

- (1) Providing skill video game systems to establishments.
- (2) Providing onsite collection of skill video game system revenue and skill video game system data reporting as required by this Ordinance.

PERSON – Includes a corporation, partnership, limited liability company, business trust, other association, government entity, other than the Commonwealth, estate, trust, foundation or natural person.

PLAYER – An individual who is at least eighteen (18) years of age when the individual plays a skill video game system.

Section 105. Licenses.

Section 105.1. License Required. From and after the effective date hereof, no person, entity or operator may offer for use or play within the Borough any mechanical, electronic or video skill gaming device without first having procured a license therefore from the Borough Secretary.

Section 105.2. Issuing Authority. The Borough Secretary has the authority to issue licenses under this Ordinance.

Section 105.3. Privilege. The issuance or renewal of a license shall be a revocable privilege.

Section 105.4. Attachment of License to Device. Upon payment of the proper license fee and approval of the license application, as set down in this Ordinance, the Borough Secretary shall be authorized to issue a license form for each mechanical, electronic or video skill gaming device so licensed, which license shall be attached and fastened to the respective device so that the same may be readily observable and readable.

Section 105.5. Transfer of License Restricted. License shall apply to the establishment and location to which it is issued, and transfer from one establishment to another or from one video skill gaming device to another is prohibited except upon approval of the Borough Secretary, after submission of an amended application and payment of the fee so specified.

Section 106. Application and Licensing.

Section 106.1. Application For License. Any operator desiring to procure a license for a mechanical, electronic or video skill gaming device shall, in writing, on a form provided by the Borough, apply to the Borough Secretary.

Section 106.1.1. Each application shall be kept on file with the Borough Secretary and shall specify:

- (a) The name and address of the applicant and, if a firm, corporation, partnership or association, the principal officers thereof and their addresses.
- (b) The address of the premises where the licensed mechanical, electronic or video amusement device is to be operated, together with the character of the business carried on at such place.
- (c) The number and character and type of mechanical, electronic or video amusement devices as have been previously installed on and after the effective date of this Ordinance.
- (d) A plan of the premises, showing the location or locations where a mechanical, electronic or video amusement device or similar device or machine is to be displayed or maintained, as well as the location or locations of the supervision of the establishment.

Section 106.2. All applications must be signed by the applicant.

Section 106.3. When increasing the total number of devices or replacing a device for any reason, the proper license fee shall accompany each application.

Section 106.4. Investigation, Issuance, Renewal, Denial, Revocation and Suspension.

Section 106.4.1. Investigation. The application for a license hereunder shall first be referred by the Borough Council to the Borough Secretary, who shall make or cause to be made such investigation as it deems necessary. After said investigation is completed, a recommendation for approval or denial of said application will be made to the Borough Council.

Section 106.4.2. Determination. In making a decision under this subsection, the Borough shall determine whether the applicant is able to comply with all applicable laws of the Commonwealth of Pennsylvania and the Borough of St. Clair relating to the activities in which the applicant intends to engage under this Ordinance.

Section 106.4.3. Written Decision. A decision to deny, not renew, revoke or suspend a license by the Borough shall include a notice specifying in detail how the applicant has not satisfied the requirements of this Ordinance. The Borough may request additional information from the applicant before making such decision. Within thirty (30) days of the Borough's decision, the applicant may request a hearing before Borough Council in accordance with the Pennsylvania Local Agency Law, 2 Pa.C.S.A. § 101, et seq. If a hearing is requested, Borough Council shall set a hearing date within thirty (30) days after the decision.

Section 107. Provisional Licenses.

Section 107.1. The Borough Secretary shall issue a provisional license to operate a skill video game system beginning on the effective date of this Ordinance to an operator that meets the requirements for a provisional license as contained herein. An operator who has filed an application for registration information with the Borough Secretary under this Ordinance shall be permitted to continue operation of any video skill gaming devices in existence at the time this Ordinance has been passed, under a provisional license.

Section 107.2. Any operator operating video skill gaming devices at the time the Ordinance has been passed shall submit to the Borough Secretary the license application fee payment and registration information for each license. The following shall apply:

- (a) A submission to the Borough under this paragraph shall include prepayment of the initial license fee and the registration information under Sections 106 and 110. Payment under this paragraph shall be considered payment in full for an initial license application fee.

- (b) Upon submission of registration information and fees, an operator shall be considered to have a provisional license pending.
- (c) A provisional license shall be valid until the Borough approves and issues or disapproves the initial license under this Ordinance.
- (d) Payment shall be forfeited if the Borough declines to issue the initial license or revokes the provisional license.
- (e) If a provisional license is denied, suspended or revoked, the licensee shall cease the operation or use of skill video game systems or related equipment.

Section 107.3. Beginning sixty (60) days after the effective date of this Ordinance, an operator operating skill video game systems at the time the Ordinance has been passed may not apply for a provisional license.

Section 108. License Renewal.

Section 108.1. Renewal. An application for a renewal license shall include information required by the Borough in Section 106.

Section 108.2. Approval. One year after receipt of an initial license an operator shall apply for a renewal license. The Borough shall consider renewal of a license using the same process for granting licenses in Section 106.

Section 108.3. Nonrenewal Decision. A decision to deny or not renew a license by the Borough shall include a notice specifying in detail how the applicant has not satisfied the Borough's requirements for renewal. The Borough may request additional information from the applicant before deciding to grant or deny an application for renewal. Within thirty (30) days of the Borough's decision to deny renewal, the applicant may request a hearing before Borough Council in accordance with the Pennsylvania Local Agency Law, 2 Pa.C.S.A. § 101, et seq. If a hearing is requested, Borough Council shall set a hearing date within thirty (30) days of the nonrenewal decision.

Section 109. License Revocation or Suspension.

Section 109.1. Suspension or Revocation of License. The Borough may suspend or revoke a license if the licensee violates any provision of this Ordinance or any law or regulation of the Commonwealth of Pennsylvania. A decision to revoke or suspend a license by the Borough shall include a notice specifying in detail how the applicant has violated this Ordinance or the laws of the Commonwealth of Pennsylvania which require a revocation or suspension of the license. Within thirty (30) days of the Borough's decision to revoke or suspend the license, the applicant may request a hearing before Borough Council in accordance with the Pennsylvania Local Agency Law, 2 Pa.C.S.A. § 101, et seq. If a hearing is requested, Borough Council shall set a hearing date within thirty (30) days of the decision to revoke or suspend a

license. If a license is denied, suspended or revoked, the licensee shall cease the operation or use of skill video game systems or related equipment.

Section 110. Registration Fees.

Section 110.1. Payment. The fee for an initial or renewal license application shall be payable to the Borough when the application or renewal is submitted.

Section 110.2. Initial License and Costs. An initial license application fee shall be nonrefundable to an applicant. Initial license application fees shall be as follows:

- a. A skill video game operator initial license application fee is \$500.00 for each mechanical, electronic, or video amusement device used or played or exhibited for use or play.
- b. A skill video game operator license renewal fee is \$500.00 for each mechanical, electronic or video amusement device used or played or exhibited for use or play.

These fees may be amended from time to time by Borough Council by adopting a resolution rather than an ordinance.

Section 111. Term of License.

Section 111.1. Provisional License. A provisional license shall be valid until the issuance or denial of an initial license.

Section 111.2. Initial License. An initial license shall remain valid for one calendar year from the date of issuance.

Section 111.3. Renewal License. A renewal license shall be valid for one calendar year from the date of issuance.

Section 112. Establishment Regulations.

Section 112.1. Limits on Skill Video Game Terminals.

Section 112.1.1. Terminals. An establishment may have a maximum of two (2) skill video game terminals per 500 square feet of public floor common space available to the patrons of the establishment.

Section 112.1.2. Placement. Skill video game terminals shall be placed in public floor space visible to patrons and employees. No device may be within ten (10') feet of any doorway.

Section 112.2. Prohibition on Miniature Casinos and Stop and Gos.

Section 112.2.1. General Rule. An operator is prohibited from installing skill video game systems in an establishment where the sole or primary source of net revenue is derived from skill video game systems.

Section 112.2. 2. Exemption. Subsection 114.1. shall not apply to an organization established under Section 501(c) of the IRC of 1986.

Section 112.3. Gambling and Gambling Devices Prohibited. Gambling and gambling devices are prohibited. Nothing in this Ordinance shall in any way be construed to authorize, license or permit any gambling, game and/or device whatsoever, including, but not limited to, card games, not any machine or mechanism that has judicially been determined to be a gambling device or to be in any way contrary to any present or future laws of the Commonwealth of Pennsylvania.

Section 112.4. Limitation of Access By Individuals Under 18 Years of Age. The establishment shall prohibit the play of skill video game systems by individuals under 18 years of age.

Section 113. Enforcement and Investigation.

Section 113.1. The application for a license hereunder shall first be referred to the Borough Secretary who shall make or cause to be made such investigation as he deems necessary. After said investigation is completed, a recommendation for approval or denial of said application will be made by the Borough Secretary as described herein.

Section 113.2. A code enforcement officer or a police officer of the Borough of St. Clair, so designated by the Borough Secretary or Borough Council, may investigate applications, complaints or violations relative to this Ordinance and enforce provisions of this Ordinance.

Section 113.3. Sealing of Unlicensed Devices. An officer of the Borough Police Department or a code enforcement officer, so designated by the Borough Secretary or Borough Council, may put a seal upon any mechanical, electronic or video amusement devices for which no license fee has been paid. The operator who provides games of skill devices shall be responsible for and subject to any fines for any unlawful use thereof, as provided herein.

Section 113.4. Within sixty (60) days after the effective date of this Ordinance, an operator shall coordinate with the Borough Secretary to ensure that only provisional licensees are operating accepted skill video games and approved skill video game terminals.

Section 113.5. Specific Authority and Duties of Borough Secretary and Council Designees.

Section 113.5.1. The Borough Secretary shall have the specific power and duty to issue, approve, renew, revoke, suspend, condition or deny issuance or renewal of a license or approval provided under this Ordinance.

Section 113.5.2. The Borough Secretary, an officer of the Borough Police Department or a code enforcement officer, so designated by the Borough Secretary or Borough Council, may conduct or cause to be conducted investigations of any complaints or violations under this Ordinance.

Section 114. Violations, Penalties and Costs.

Section 114.1. Compliance. Failure to comply with any provision of this Ordinance and/or failure to comply with an order to abate and/or correct a violation of this Ordinance, shall be a violation of this Ordinance and subject any person, partnership, corporation or the partners or officers thereof, to criminal and civil prosecution and the suspension or revocation of any license previously issued.

Section 114.2. Fines/Penalties. Any person, partnership, corporation, or the partners or officers thereof, who have violated or permitted the violation of any provision of this Ordinance shall be subject to a civil penalty not to exceed \$600.00 per violation and not more than \$1,000.00 per violation in any criminal proceeding to the extent allowed by law for the punishment of a summary offense. Each day of a violation shall constitute a separate offense for which a civil penalty or summary conviction may be sought. In addition to the civil penalty or criminal fine assessed, the violations shall include court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings.

Section 114.3. Civil Actions. If the civil penalty is not paid, the Borough shall initiate a civil action for collection of the costs in accordance with the Pennsylvania Rules of Civil Procedure.

Section 114.4. Criminal Actions. Enforcement shall also be permitted by a criminal action in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. The municipal solicitor may assume charge of the prosecution without the consent of the District Attorney as required under Pennsylvania Rule of Criminal Procedure No. 454 (relating to trial and summary cases).

Section 114.5. Other Remedies. In addition to or in lieu of enforcement under other sections of this Ordinance, the Borough may enforce an Ordinance in equity in the Court of Common Pleas of Schuylkill County. It is the intent of the Borough Council that any and all remedies or enforcement procedures available under the Borough Code shall be adopted as part of any penalty enforcement provision of this Ordinance. In addition to these penalties, all other remedies are hereby reserved, including an action in equity for the proper enforcement of this Ordinance.

Section 114.6. License Revocation. If any person, partnership, corporation, or the partners or officers thereof is convicted of three (3) violations which occurred in any rolling twelve (12) calendar month period, then the license shall be revoked by the Borough for one (1) year and the use and placement of skill video gaming terminals must be discontinued while the license is revoked. The conviction of a fourth or more violations shall be cause for permanent revocation of the license.

Section 114.7. Reinstatement. The Borough Council may, in its sole discretion, approve the reinstatement of a license, if satisfied that there has been an appropriate change of ownership and/or that the cause of the violations has been corrected and that all other requirements of this Ordinance have been met.

Section 114.8. Correction of Violations. The imposition of a fine or penalty for any violation of or noncompliance with this Ordinance shall not excuse the violation or noncompliance or permit it to continue, and all such persons, partnership, corporation, or the partners or officers thereof, shall be required to correct or remedy such violations and or noncompliance pursuant to this Ordinance.

Section 115. Appeals.

Section 115.1. Filing of Appeal. Appeals of an action of the Borough Secretary or other delegated official under this Ordinance to deny any application for, or to renew, or to revoke or suspend a license, shall be filed with the Borough Council within thirty (30) days of the date of the denial of the application or renewal, or suspension or revocation of a license. Appeals shall be processed as follows:

- a. All appeals shall be in writing and signed by the Appellant on forms prescribed by the Borough, and shall be accompanied by a fee, the amount of which shall be established by Resolution of the Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.

- b. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, the relevant sections of this Ordinance, and the relief sought.

Section 115.2. Hearings. The Borough Council shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the “Local Agency Law”, 2 Pa.C.S.A. § 101, et seq., and in accordance with the following requirements:

- a. Written notice shall be given to the Appellant and to any person who has made timely request for same. Written notices shall be given not less than seven (7) days prior to the hearing.
- b. The hearing shall be held within 60 days from the date the appeal is filed unless the Appellant has agreed in writing to an extension of time.
- c. The hearing shall be conducted by the Borough Council. The decision or, where no decision is called for, the findings, shall be in writing rendered by the Borough Council within 45 days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by persona delivery or by United States First Class mail postage prepaid.
- d. The Council President or Acting Council President of the Borough Council presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.
- e. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.
- f. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
- g. The Borough Council may, but is not required to, make a stenographic record of the proceedings. In the event that a stenographic record of the proceedings is not provided by the Borough Council, a stenographic record shall be made and kept at the request of any party agreeing to pay

the costs thereof. Any part or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.

- h. The Borough Council shall not communicate, directly or indirectly, with any party or any party's representatives in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings after the commencement of hearings with any party or any party's representative unless all parties are given opportunity to be present.

Section 115.3. Appeal to the Court of Common Pleas. Any person, partnership, corporation or the partners or officers thereof, aggrieved by a decision of the Borough Council and who has a direct interest in such decision shall have the right to appeal therefrom to the Court of Common Pleas of Schuylkill County pursuant to the Local Agency Law, 2 Pa.C.S.A. § 752, et seq.

Section 116. Severability.

The provisions of this Ordinance are severable, and if any section, clause, sentence, part or provision thereof shall be held to be illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect, impair or invalidate any of the remaining sections, clauses, sentences, parts or provisions of this Ordinance. It is hereby declared to be the intent of St. Clair Borough Council that this Ordinance would have been adopted if such illegal, invalid or unconstitutional section, clause, sentence, part or provision had not been included herein.

Section 117. Repealer/Savings.

The provisions of any prior ordinance which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency. Nothing contained in this Ordinance shall be construed to affect any suit or proceeding in any court, or any rights acquired or liability incurred, or any cause of action existing prior the enactment of this Ordinance.

AN ORDINANCE OF THE BOROUGH OF ST. CLAIR, SCHUYLKILL COUNTY, PENNSYLVANIA, REGULATING GAMES OF SKILL AMUSEMENT DEVICES WITHIN THE BOROUGH; PROVIDING FOR THE ISSUANCE OF BOROUGH LICENSES AND THE IMPOSITION OF A REGISTRATION FEE; IMPOSING RESTRICTIONS ON THE NUMBER AND PLACEMENT OF SKILL VIDEO GAME TERMINALS; IMPOSING LIMITATION OF ACCESS BY INDIVIDUALS UNDER EIGHTEEN (18) YEARS OF AGE TO GAMES OF SKILL AMUSEMENT DEVICES; REGULATING HOURS OF OPERATION AND MAINTENANCE OF ORDER; AND PROVIDING FOR THE REPORTING OF REVENUE FOR PURPOSES OF COLLECTING THE BOROUGH BUSINESS PRIVILEGE TAX.

CERTIFICATION

I hereby certify that the within Ordinance is a true and correct copy of an Ordinance enacted by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, on the 6th day of May, 2025.

SEAL

Roland Price, Jr.


Roland Price, Jr., Secretary
St. Clair Municipal Building
16 South Third Street
St. Clair, PA 17970
Telephone No. (570) 429-0640

Section 118. Effective Date.


This Ordinance shall become effective immediately after the adoption hereof.

DULY ENACTED AND ORDAINED by Borough Council of the Borough of St. Clair, Schuylkill County, Pennsylvania, this 6th day of May, 2025, in lawful session duly assembled.

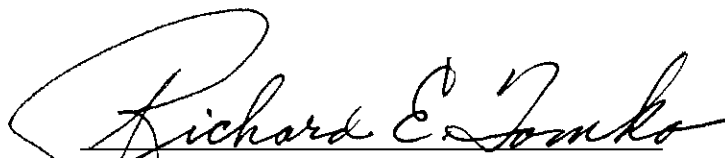
ST. CLAIR BOROUGH


THOMAS DEMPSEY
Council President

ATTEST:


ROLAND PRICE, JR.
Borough Secretary

Approved by me this 6th day of May, 2025.


RICHARD E. TOMKO, Mayor