

Ordinance No. 07672025-1 of 2025
Fell Township, Lackawanna County, Pennsylvania

AN ORDINANCE AMENDING CHAPTER 10, LICENSES, ADOPTING A NEW PART 4, ENTITLED "SKILL-BASED GAMING DEVICE LICENSE", WHICH PART REQUIRES A LICENSE FOR SKILL-BASED GAMING DEVICES, ESTABLISHES A FEE, REGULATIONS, INSPECTIONS, AND PRESCRIBES FINES AND PENALTIES FOR VIOLATIONS.

Part 4
Skill-Based Gaming Device License

WHEREAS the Fell Township (the "Township") Board of Supervisors (the "Board") seeks to regulate skill-based gaming devices in establishments within the Township to ensure the public health, safety, and welfare of the community through proper oversight; and

WHEREAS Pennsylvania courts have ruled that skill-based gaming devices are not gambling devices per se due to the predominant role of skill over chance, and are therefore not prohibited or regulated by state law; and

WHEREAS Section 1506 of the Pennsylvania Second Class Township Code allows the Board to make and adopt ordinances necessary for the proper management, care and control of the Township and the maintenance of peace, good government, health and welfare of the Township and its citizens, trade, commerce and manufacturers; and

WHEREAS the Township has determined that the unregulated proliferation of skill-based gaming devices may lead to illegal gambling disguised as legal skill-based gaming devices and may serve to incite criminal behavior or otherwise undermine the public health, safety and welfare of the Township and its citizens; and

NOW THEREFORE, BE IT ENACTED AND ORDAINED by the Board, that the Code of Ordinance is amended as follows:

§401. Title. This Part shall be known as the "FELL TOWNSHIP SKILL-BASED GAMING DEVICE LICENSE".

§402. Definitions. For purposes of this Ordinance:

Amusement Game- means any mechanical, electric, or electronic device used or designed to be operated for entertainment or as a game by the insertion of money, coin, token, or other article, which rewards players with free games, non-monetary prizes, or points. Such devices do not include any machine or device classified as a Skill-Based Gaming Device.

Board- means the elected board of supervisors of Fell Township, Lackawanna County, Pennsylvania.

“Code Enforcement Officer”- means the person appointed by the Township Board of Supervisors to administer and enforce the Township Code of Ordinances and this Ordinance.

“Person”- includes individuals, partnerships, limited partnerships, associations or corporations. For purposes of enforcement, persons shall include the individual members or partners of an association, partnership or limited liability company, and the individual officers of any corporation.

“Skill-Based Gaming Device”- means a use involving an electronic, computerized, or mechanical machine, or other similar device that requires payment and/or the insertion of a coin, ticket, token, or similar object, or a fee paid to access such device, to operate, activate, or play a game, the outcome of which is determined by any element of skill of the player, rather than chance determining the outcome, and that, in some or all circumstances, delivers or entitles the person playing or operating the device to receive cash or cash equivalents, gift cards, vouchers, billets, tickets, tokens, or electronic credits to be exchanged for cash, or cash equivalents, whether the payoff is made automatically from the device or other service or manually. A Skill-Based Gaming Device shall not be considered an Amusement Game.

“Township”- means Fell Township, Lackawanna County, Pennsylvania.

§403. Licensing of Skill-Based Gaming Devices.

- A. No person may possess, use or employ a Skill-Based Gaming Device anywhere within the Township without first obtaining a license from the Township Code Enforcement Officer.
- B. Any person that currently operates or allows the operation of a Skill-Based Gaming Device must obtain a license from the Code Enforcement Officer within 60 days of the adoption of this ordinance.
- C. License applications must be submitted to the Code Enforcement Officer on a form prescribed by the Township, accompanied by the applicable fee.
- D. The initial license shall be issued for the remainder of the calendar year. Thereafter, the term shall be for a period of 12 months.
- E. Each applicant must be a natural person and, in the case of an association, company, or partnership, by a member or partner thereof or, in the case of a corporation, by an officer thereof.
- F. License applications shall include:

1. The name, business address and phone number of the applicant.
2. The name, residential address and phone number of the applicant.
3. The physical location of the Skill-Based Gaming Device.
4. A sketch plan showing the location and number of Skill-Based Gaming Devices.
5. The manufacturer, model and make of the Skill-Based Gaming Device.
6. A description of how the Skill-Based Gaming Device shall be monitored to comply with the provisions of this ordinance. Such description as required by this subpart include an averment made under penalty of 18 Pa. C.S.A. §4904 (relating to unsworn falsification to authorities) that the device to be licensed may not be used, played with or manipulated by any person under the age of eighteen or any person who is noticeably under the influence of any drug or alcohol.
7. A description of each Skill-Based Gaming Device to be licensed explaining how skill predominates over chance when determining the success of the person playing or otherwise using the device. Such description shall include an averment made under penalty of 18 Pa. C.S.A. §4904 (relating to unsworn falsification to authorities) that the device to be licensed (a) does not award cash prizes through a wholly randomized system irrespective of skill, (b) does not award cash prizes through a system with pre-planned or pre-programmed ratios of wins and losses, and (c) provides an essential skill component as part of its design that is more determinative of wins than random chance alone.

G. A license shall be issued to an applicant for a Skill-Based Gaming Device only if:

1. The device does not award cash prizes through a wholly randomized system irrespective of skill.
2. The device does not award cash prizes through a system with pre-planned or pre-programmed ratios of wins and losses.
3. The device provides an essential skill component as part of its design that is more determinative of wins than random chance alone.
4. The device is not to be used at any time by a person under 18 years of age.
5. The device is not to be used at any time by a person who is noticeably intoxicated.
6. The device must be monitored by a security camera or personnel working at the establishment during all hours in which such Skill-Based Gaming Devices may be in use.
7. The device may not be altered or tampered with by any person after the date of its installation, except for software updates from the vendor.
8. The establishment has another principal use or offers food and beverages to its patrons.
9. Each device has a minimum area of 25 square feet.

- H. A license issued under this ordinance is non-transferable and any new owner or operator of an establishment where such Skill-Based Gaming Devices are available must obtain a new license. Licenses are only granted for the device licensed based upon the make, model and manufacture of the device provided in the application and may not be transferred to substitute a device.
- I. The license shall be publicly displayed in the establishment where the Skill-Based Gaming Device is located. In the case of loss, defacement or destruction of the license, the person to whom the license was issued shall reapply to the Township for a new one.
- J. The initial license fee, and any annual renewal fee thereafter for each Skill-Based Gaming Device shall be \$300.00 per device, payable at the time of application or renewal.

§404. Inspections. The Code Enforcement Officer shall conduct an initial inspection of every establishment where a Skill-Based Gaming Device is located to confirm the device is being used in accordance with this ordinance and the establishment complies with the applicable International Property Maintenance Code. Thereafter, the Code Enforcement Officer shall make annual inspections at the time the license is renewed.

§405. Penalties for Non-Compliance. Any person who operates an unlicensed Skill-Based Gaming Device shall, in addition to revocation of the license provided under §105 of this ordinance, be subject to one of the following fines and penalties:

- A. Civil Enforcement. The Township Code Enforcement Officer may initiate a civil enforcement proceeding before a magisterial district judge. The civil enforcement proceeding shall be initiated by complaint or by such other means as may be provided by the Pennsylvania Rules of Civil Procedure. When enforced through a civil enforcement proceeding, the Township Code Enforcement Officer shall seek civil penalties not to exceed \$600.00 per violation. In addition to or in lieu of civil actions before a magisterial district judge, the Township may enforce this ordinance in equity. In any case where a penalty for a violation of this ordinance has not been timely paid and the person upon whom the penalty was imposed is found to have been liable therefor in civil proceedings, the violator shall be liable for the penalty imposed, including additional daily penalties for continuing violations, plus court costs and reasonable attorney fees incurred by the Township in the enforcement proceedings. The Township shall be exempt from the payment of costs in any civil case brought to enforce an ordinance in accordance with this subsection.
- B. Summary Offense. The enforcement of this Ordinance may be brought by the Township Code Enforcement Officer before a magisterial district judge 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 Pa.R.Crim.P. No. 83(c) (relating to trial in summary cases). When prosecuted as a summary offense, the Township Code Enforcement Officer shall seek criminal fines not to exceed \$1,000.00 per violation and/or term of imprisonment to the extent allowed by law for the punishment of summary offenses.

§406. Revocation or Denial of License.

- A. Any person who is cited for three or more violations of this ordinance within a 12-month period shall automatically have revoked any license such person may possess from the Township for any Skill-Based Gaming Device.
- B. The Township Code Enforcement Officer shall issue a written notice of revocation after the third violation within a 12-month period. The notice of revocation shall advise the violator of the right to appeal to the Board provided the appeal is filed within 30 days of the date of notice of the revocation.
- C. Any person who is cited for more than three violations of this ordinance within a 12-month period shall be precluded from obtaining a license for 12 months for any Skill-Based Gaming Device.
- D. Any person subject to a license denial of revocation may appeal to the Board provided they do so within 30 days of the license revocation. An appeal to the Board shall stay the revocation or denial until the appeal is heard by the Board.

§406. Severability. If any section, clause, sentence, or part of this ordinance is found to be unconstitutional, illegal, or invalid, such findings shall not affect the remaining parts of this ordinance, and the remainder shall remain in full force and effect.

§407. Repealer. All ordinances or parts thereof which are inconsistent with this Ordinance are hereby repealed to the extent of their inconsistencies.

§408. Effective Date. This Ordinance shall become effective immediately following its adoption.

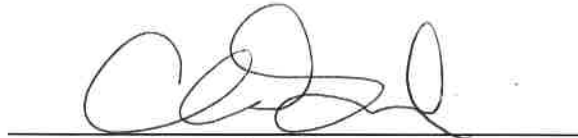
ADOPTED this 7th day of July, 2025, by the Fell Township Board of Supervisors.

ATTEST:

FELL TOWNSHIP BOARD OF
SUPERVISORS:



Secretary



Chairperson



Vice Chairperson



Supervisor