

SEP 21 1992

ORDINANCE NO. 133A-5

BOARD OF SUPERVISORS
JAMES CITY COUNTY
VIRGINIA

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 5, BINGO AND RAFFLES, OF THE CODE OF THE COUNTY OF JAMES CITY, VIRGINIA, BY AMENDING SECTION 5-1, DEFINITIONS; SECTION 5-2, PERMIT REQUIRED; SECTION 5-3, APPLICATION FOR PERMIT; SECTION 5-4, ISSUANCE OF PERMIT; REQUIREMENTS, DURATION, WAIVER, WHERE VALID; SECTION 5-5, CONDUCT OF BINGO GAMES; SECTION 5-6, "INSTANT BINGO;" SECTION 5-7, REPORTS OF GROSS RECEIPTS AND DISBURSEMENTS REQUIRED; SECTION 5-8, AUDIT REQUIRED, FEE; SECTION 5-9, OTHER PROHIBITED PRACTICES; SECTION 5-10, DENIAL, SUSPENSION, REVOCATION OF PERMIT; AND SECTION 5-12, HEARINGS AND APPEALS.

BE IT ORDAINED by the Board of Supervisors of the County of James City, Virginia, that Chapter 5, Bingo and Raffles, is hereby amended and reordained by amending Section 5-1, Definitions; Section 5-2, Permit required; Section 5-3, Application for permit; Section 5-4, Issuance of permit; Requirements, duration, waiver, where valid; Section 5-5, Conduct of bingo games; Section 5-6, Instant bingo; Section 5-7, Reports of gross receipts and disbursements required; Section 5-8, Audit fee; Section 5-9, Other prohibited practices; Section 5-10, Denial, suspension, revocation of permit; and Section 5-12, Hearings and appeals.

Chapter 5. Bingo and Raffles

Section 5-1. Definitions.

The following words shall have the following meanings:

(1) *Organization* means any one of the following:

(a) A ~~voluntary~~ *volunteer* fire department or rescue squad or auxiliary unit thereof which has been recognized by an ordinance or resolution of the political subdivision where the ~~voluntary~~ *volunteer* fire department or rescue squad is located as being a part of the safety program of such political subdivision.

(b) An organization operated exclusively for religious, charitable, community or educational purposes; an association of war veterans or auxiliary units thereof organized in the United States, or a fraternal association operating under the lodge system.

(2) *Bingo* means a specific game of chance played with individual cards having randomly numbered squares ranging one to seventy-five (75), in which prizes are awarded on the basis of designated numbers on such cards conforming to a predetermined pattern of numbers selected at random. Such cards shall have

five ~~(5)~~ vertical rows headed respectively by the letters B.I.N.G.O., with each row having five ~~(5)~~ randomly numbered squares.

- (3) *Raffle* means a lottery in which the prize is won by a random drawing of the name or prearranged number of one or more persons purchasing chances. *However, nothing in this chapter shall prohibit an organization from using the State Lottery Department's Pick-3 number as the basis for determining the winner of a lottery. For purposes of this definition, "raffle" shall include determining the winner of a lottery by use of prepackaged pull-tab devices which are devices made completely of paper or paper products with concealed numbers or symbols that must be exposed by the player to determine wins or losses and may include the use of a seal which conceals a number or symbol that has been designated in advance as a prize winner including but not limited to pull-tab devices commonly known as tip boards or seal cards.*
- (4) *Instant bingo* means a specific game of chance played by the random selection of one or more individually prepackaged cards, with winners being determined by the preprinted appearance of the letters B.I.N.G.O. in any prescribed order on the reverse side of such card.

- (5) *"Jackpot" means a bingo card played as a part of a bingo game defined in Section 5.1(2) in which all numbers on the card are covered, each number being selected at random, and with no free or "wild" numbers.*
- (6) *Commissioner means the James City County Commissioner of the Revenue.*
- (7) *Gross Receipts means the gross amount received from all bingo and raffle operations before the deduction of any expenses including but not limited to operating costs, donations and prizes. Gross receipts shall also include interest income from all bingo games and raffles, however, such amount shall be accounted for separately.*

State law references - Virginia Code Section, 18.2-340.1, et. seq.

Section 5-2. Permit required.

Prior to the commencement of any bingo game or raffle by a qualified organization as defined in this chapter, such organization shall obtain an annual permit from the ~~county administrator~~ Commissioner. Such permit shall only be granted after a reasonable investigation has been conducted by the ~~county administrator~~ Commissioner.

Section 5-3. Application for permit.

Application for the *annual* permit shall be accompanied by a check in the amount of twenty-five ~~(\$25.00)~~ dollars payable to the treasurer of James City County. Application for such annual permit shall be made on a form provided by the ~~county-attorney's~~ *Commissioner's* office. Such application shall be a matter of public record.

Section 5-4. Issuance of permit; requirements, duration, waiver, where valid.

(1) Prior to the issuance of any permit, an organization must meet the following requirements:

- (a) Except for recently established volunteer fire and rescue companies or departments, as defined in this ~~article~~ *chapter*, after county approval, such organization shall have been in existence *as a nonprofit organization* and met on a regular basis in the county ~~where application is made~~ for a period of at least two ~~(2)~~ years immediately prior to making application for such permit. However, this requirement shall not apply to any lodge or chapter of a national or international fraternal order or a national or international civic organization which is exempt under Section 501(c)(3) of the United States Internal Revenue Code and which has a lodge or chapter holding a bingo permit issued under the provisions of this ~~article~~ *chapter* anywhere within this Commonwealth, or

to booster clubs which have been operating for less than two years and which have been established solely to raise funds for school-sponsored activities in public schools which are less than two ~~(2)~~ years old.

~~(b) Such organization shall be operated currently and shall have been operated in the past as a nonprofit organization and shall have been in existence as such nonprofit organization for a period of at least two (2) years immediately prior to seeking a permit as hereinafter provided.~~

~~(e)~~ (b) Any organization whose gross receipts from all bingo operations exceed or can be expected to exceed seventy-five thousand ~~(75,000.00)~~ dollars in any calendar year shall have been granted tax-exempt status pursuant to Section 501G(c)(3) of the United States Internal Revenue Code. *While tax exempt status is being pursued from the Internal Revenue Service, the same documentation may be filed with the County along with a fee of \$250. The Board of Supervisors may, upon review of such documentation as it deems necessary, grant interim certification for the purpose of this chapter until the Internal Revenue Service issues its determination of tax exempt status or for a period of eighteen months, whichever is earlier.*

~~(d)~~ (c) An organization shall designate an individual who shall be responsible for filing the annual or quarterly financial report required by this chapter if the organization goes out of business or otherwise ceases to exist.

- (2) All permits shall have the following requirements:
- (a) A permit shall be valid only in the county and only at such locations as are designated in the permit application. However, a permit may be issued to an organization which relocates its meeting place on a permanent basis from ~~one~~ *another* jurisdiction to ~~another~~ *and the County*; complies with the requirements of subsection (1); ~~of this section; and~~ *provided further,* that such organization was the holder of a valid permit at the time of such relocation; *and notifies the Commission in writing, at the time of such relocation.* An organization which has a permit under this ~~article~~ *chapter* to conduct a raffle may sell such raffle tickets both in and out of the ~~jurisdiction issuing such permit~~ *County except that pull-tab devices used as part of a raffle may be sold only upon the premises owned or exclusively leased by such organization and at such times as it is not open to the public, except to members and their guests.*
- (b) All permits shall be issued on a calendar basis and unless otherwise provided shall be valid for one ~~(1)~~ calendar year beginning on January 1.
- (c) All applications for such permit shall be acted upon by the ~~county administrator~~ *Commissioner* within sixty ~~(60)~~ days from the filing thereof.

(3) Upon compliance by the applicant with the provisions of this chapter, the ~~county--administrator~~ *Commissioner* may issue an annual permit, *however, no organization may hold more than one annual permit per year.* All permits shall be subject to reasonable regulation by the ~~county~~ *Commissioner* to ensure the public safety and welfare in the operation of bingo games and raffles.

Section 5-5. Conduct of bingo games.

No organization may hold bingo games more frequently than two ~~(2)~~ calendar days in any one ~~(1)~~ calendar week, except that a special permit may be granted an organization which entitles an organization to conduct more frequent operations during carnivals, fairs and other similar events at its principal meeting place or any other site selected by such organization which is located in the ~~jurisdiction-issuing-the-permit~~ *County* and which is not in violation of Chapter 20. The sponsoring organization shall accept only cash, *or at its option checks,* in payment of any charges or assessments for players to participate in bingo games.

Section 5-6. ***Instant bingo.***

(a) Any organization qualified to conduct ~~bingo~~ games pursuant to the provisions of this chapter is authorized to play instant bingo as a part of such bingo game, and only at such location and at such times as are specified in the ~~bingo~~ application permit for regular bingo games ~~as-defined in Section 5-1.~~

(b) The gross receipts in the course of a reporting year from the playing of instant bingo shall not exceed thirty-three and one-third ~~(33-1-3)~~ per centum of the gross receipts of an organization's bingo operation.

(c) Any organization playing instant bingo shall maintain a record of the date, quantity and card value of instant bingo supplies purchased as well as the name and address of the supplier of such instant bingo supplies. The organization shall also maintain a written invoice or receipt from a nonmember of the organization verifying any information required by this section.

(d) No organization shall sell an instant bingo card to any individual below sixteen ~~(16)~~ years of age.

Section 5-7. Reports of gross receipts and disbursements required.

(a) Complete records of all receipts and disbursements shall be kept and shall be filed annually under oath with the office of the ~~county attorney or~~ ~~the~~ Commissioner ~~of~~ ~~revenue~~. All annual or quarterly financial reports and other items required to be filed under this section shall be a matter of public record. All accountings shall be made on or before the first day of November of each calendar year for which a permit has been issued. The accounting shall include a record of the gross receipts and disbursements of an organization for the year period which commenced on the first day of

October of the previous year and a record of all money in the possession of the organization that was derived from bingo or instant bingo, regardless of when the money was received. Provided, however, any organization whose gross receipts exceed fifty thousand ~~(\$50,000)~~ dollars during any calendar quarter shall be required to file an additional accounting of its receipts and disbursements during such quarter no later than sixty ~~(60)~~ days following the last day of such quarter. ~~"Gross receipts," as used in this section, shall mean the total amount of money received from bingo and "instant bingo" operations before the deduction of expenses or prizes.~~

(b) All ~~such~~ reports and receipts and disbursements shall be made on a form provided by the ~~county~~ *Commissioner's office* and acknowledged in the presence of a duly authorized notary public. The failure to file such reports when due shall cause the automatic revocation of the permit and no such organization shall conduct any bingo game or raffle thereafter until such report is properly filed and a new permit is obtained.

(c) Such financial report shall be accompanied by a certificate, verified under oath, by the board of directors that the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized and that the operation of bingo games or raffles has been in accordance with the provisions of ~~Chapter 5~~ *this chapter*.

(d) Any organization having annual gross receipts from bingo games or raffles in excess of ~~two hundred thousand dollars~~ ~~(\$200,000.00)~~ \$500,000.00, as shown on its annual financial report, shall attach to such report an opinion executed by a licensed certified *independent* public accountant that:

- (1) ~~the statement of receipts and disbursements is true and correct;~~ *The annual financial report presents fairly, in all material respects, beginning cash, gross receipts, operating costs, use of proceeds and ending cash;*
- (2) the proceeds of any bingo games or raffles have been used for those lawful, religious, charitable, community or educational purposes for which the organization is specifically chartered or organized; and
- (3) the gross receipts have been used in all *material* respects in accordance with the provisions of this ~~article~~ *chapter*. The failure to file the opinion of a licensed certified *independent* public accountant, when required, shall cause the automatic revocation of the permit and no organization shall conduct any bingo game or raffle thereafter until the opinion is properly filed with the report and a new permit is obtained.

(e) Notwithstanding the provisions of this chapter requiring an annual audit, the provisions of this section shall not be construed so as to prohibit the ~~county administrator or his designee~~ *Commissioner or his designee* from performing unannounced audits or restrict any right to secure records required to be maintained by the provisions of this chapter. The ~~county administrator~~ *Commissioner* or his designee shall have the authority to go upon the premises on which any organization is conducting a bingo game for the purpose of carrying out the duties imposed by this chapter. The application for the bingo permit shall constitute permission from, and authority granted by, such organization to any law enforcement officer to enter upon such premises.

(f) The organization shall maintain a record in writing for three ~~(3)~~ years of the dates on which bingo is played, the number of people in attendance on each date and the amount of the receipts and prizes paid on each such day. The organization shall also maintain a record of the name and address of each individual to whom a door prize, regular or special bingo game prize or jackpot from the playing of bingo is awarded, as well as the amount of such award. The organization playing bingo shall also maintain an itemized record of all receipts and disbursements, including operating costs and use of proceeds incurred in operating bingo games.

Section 5-8. Audit ~~required~~, fee.

~~(a) All reports filed pursuant to Section 18.2-340.6 of the Code of Virginia, 1950, as amended, shall be audited by the county administrator or his designee. All such reports shall be a matter of public record.~~

~~(b) The audit fee shall be one per centum of the gross receipts which an organization reports and of the interest income received from bingo or instant bingo operations, provided; however, the fee shall not exceed \$100 for gross receipts and interest income less than \$100,000, and in no case shall the fee exceed \$300. The audit fee shall accompany each annual report; however, if the gross receipts of an organization are less than two thousand dollars (\$2,000.00) for the designated reporting period, the audit fee may be waived. The audit fee shall be payable to the treasurer, James City County.~~

(a) The permittee under this chapter shall pay an audit fee at the time it files its annual report of:

(1) the actual cost incurred by the County if the audit is performed by independent auditor or accountant; or

(2) one percent of the gross receipts reported by the organization if the audit is performed by the Commissioner or his designee. The audit fee for the Commissioner, however, shall not exceed \$500.00.

(b) If the gross receipts of an organization are less than \$2,000.00 for the designated reporting period the audit fee shall be waived.

Section 5-9. Other prohibited practices.

In addition to those other practices prohibited by this chapter, all those practices enumerated in Section 18.2-340.9 of the Code of Virginia, 1950, as amended, shall also be prohibited in the County.

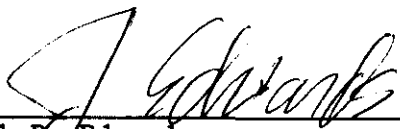
Section 5-10. Denial, suspension, revocation of permit.

The ~~board of supervisors~~ *Commissioner* may deny, suspend or revoke the permit of any organization found not to be in strict compliance with the provisions of this chapter.

Section 5-12. Hearings and appeals.

No permit to conduct bingo games or raffles shall be denied, suspended or revoked except upon notice stating the proposed basis for such action and the time and place for a hearing thereon. After a hearing on the issues, the ~~board of supervisors~~ *Commissioner* may refuse to issue or may suspend or revoke any such permit if ~~it~~ *he* determines that the organization has not complied with the provisions of this chapter. Any organization aggrieved by the decision of the ~~board of supervisors~~ *Commissioner* may appeal such decision to the circuit court.

Ordinance to Amend and Reordain
Chapter 5. Bingo and Raffles
Page 15



Jack D. Edwards
Chairman, Board of Supervisors

ATTEST:



David B. Norman
Clerk to the Board

<u>SUPERVISOR</u>	<u>VOTE</u>
DEPUE	ABSENT
TAYLOR	AYE
SISK	AYE
KNUDSON	AYE
EDWARDS	AYE

Adopted by the Board of Supervisors of James City County, Virginia,
this 21st day of September, 1992.