



**By-Law 135-2008
of The Corporation of the City of Oshawa**

Being a by-law respecting the licensing of lotteries.

Whereas by Order in Council 2688/93, as amended by Order in Council 2038/97 and Order in Council 267/98, a municipal council may, where it deems it to be in the best interests of the inhabitants of the municipality, issue a licence authorizing any eligible charitable or religious organization to conduct and manage a bingo lottery, a break-open ticket lottery, a raffle lottery, a media bingo or a lottery scheme held at a bazaar;

Now therefore the Council of The Corporation of the City of Oshawa enacts as follows:

Definitions

1. In this By-law:

- (a) "Charitable object or purpose" means any object or purpose for:
 - i) the relief of poverty,
 - ii) education,
 - iii) the advancement of religion, or
 - iv) other charitable purpose beneficial to the community;
- (b) "Charitable Organization" means an organization which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization;
- (c) "City" means The Corporation of the City of Oshawa;
- (d) "Director" means the City's Director, Municipal Law Enforcement and Licensing Services;
- (e) "Hearings Officer" means the Hearings Officer from time to time appointed by Council pursuant to the Hearings Officer By-law 26-2008;
- (f) "Licensee" means a person to whom a licence is issued;
- (g) "Person" means a corporation, organization, association or partnership and includes a charitable organization; and
- (h) "Registrar" means the Registrar of Alcohol and Gaming within the meaning of the *Alcohol and Gaming Regulation and Public Protection Act*, 1996, S.O. 1996, c. 26, Sch.

Appointment and Authority

- 2. The Director is appointed as the City's lottery licensing officer and is responsible for regulating and enforcing the provisions of this By-law.
- 3. The Director may assign the Director's powers and duties with respect to this By-law to any employee or employees of the City as designated by the Director other than the duties and powers prescribed by section 20. The person or persons designated shall be responsible for the administration of this By-law to the extent of the Director's assignment.
- 4. The Director is authorized to issue licences permitting eligible Charitable Organizations to conduct and manage the following lottery schemes:
 - (a) a bingo lottery event where the amount or value of the prize or prizes awarded is no greater than the maximum amount prescribed by the Registrar;

- (b) a raffle lottery event where the amount or value of the prize or prizes awarded does not exceed the maximum amount prescribed by the Registrar;
 - (c) a break-open ticket lottery event, up to one year in duration, to be conducted from one location within the geographical boundaries of the City, other than a break-open ticket lottery event which is managed and conducted in conjunction with another licensed gaming event;
 - (d) a bazaar lottery event during which the only lottery events authorized to be played are:
 - i) a maximum of three wheels of fortune where individual bets are no more than \$2,
 - ii) a raffle lottery not exceeding \$500 in prizes, and
 - iii) a bingo lottery not exceeding \$500 in prizes; and
 - (e) a media bingo lottery event conducted on or through the medium of television, radio, newspaper or other means of communication where the amount or value of the prize or prizes awarded is no greater than the maximum amount permitted by the Registrar.
5. Where, in the Director's opinion, it is in the best interests of the City's inhabitants to do so, the Director may issue a licence in the approved form to any eligible Charitable Organization.
 6. For the purpose of section 5, the Director may impose any special terms and conditions in relation to the licence as, in the Director's opinion, are in the best interests of the City's inhabitants provided those terms and conditions do not conflict with those of the Registrar.

Application

7. Charitable Organizations applying to conduct or manage a lottery in the City must provide services directly to a significant number of City residents.
8. The application for a licence to conduct and manages lotteries shall be in the form prescribed by the Registrar and shall be accompanied by such supporting documentation as required by the Registrar.
9. Without limiting section 8, the Director may require the Charitable Organization making an application to conduct and manage lotteries to submit with its application such further supporting documentation as necessary.
10. An application for a licence to conduct and manage lotteries shall be signed by two of the signing officers of the Charitable Organization, on whose behalf the application is being made, and shall be submitted to the Director who shall determine if it complies with the provisions of Order in Council 2688/93, the Regulations promulgated under the provisions of the *Gaming Control Act*, 1992, S.O. 1992, c.24, any terms and conditions issued by the Registrar, and the provisions of this By-law.

Fees

11. All applicable fees pertaining to the licensing of lotteries shall be payable in accordance with the fees listed in the table entitled "Lotteries-Alcohol & Gaming Commission" in the City of Oshawa's General Fees and Charges By-law, as amended.

Lotteries – Alcohol and Gaming Commission

Service Provided	Fee/Unit (\$)
Amendments of Particulars on Licence	\$25.00
Extension of Expiry Date on Licence	\$25.00
Approval for Licences issued by Province or another Municipality	\$25.00
Facsimile Transmission to or for Third Parties	\$5.00

Service Provided	Fee/Unit (\$)
List of Break-Open Ticket Sales Locations or Organizations	\$10.00
Bazaars	3% of prize value
Bingos (Non-Pooling Hall)	3% of prize value
Bingos (Pooling Halls)	\$165 per event
Break-Open Tickets	3% of prize value
Raffles	3% of prize value

12. The fees paid are not subject to refund or rebate for any reason, including suspension or cancellation of the licence, except in the case of circumstances beyond the control of the Licensee as determined by the Director.

Terms and Conditions

13. In addition to such terms and conditions as may be imposed by the Registrar, and such special terms and conditions as may be imposed by the Director pursuant to section 6, each licence is subject to the following terms and conditions, each of which is a condition of continuing to hold a licence:

- (a) the Licensee complies with the provisions of ss. 206 and 207 of the *Criminal Code*;
- (b) the Licensee maintains all funds raised in a separate lottery trust account and maintains such records for such period of time as may be prescribed by the terms and conditions;
- (c) the gross receipts derived from the lottery, less the cost of the prizes awarded and such reasonable and necessary administrative expenses actually incurred in the management and conduct of the lottery, provided the expenses do not exceed such limits as may be prescribed by the Registrar, are used for the charitable or religious object or purpose as set out by the Licensee in the application for licence;
- (d) the Licensee submits to the Director, not later than the number of days prescribed by the terms and conditions after the holding of each lottery, all documentation required by the Act and Regulations; and
- (e) the Licensee conducts or permits to be conducted only the type of game or games provided in the application and the licence.

Raffle Lotteries

14. Each raffle lottery licence is also subject to the following terms and conditions, each of which is a condition of continuing to hold a licence:

- (a) a licence is required for each individual raffle scheme;
- (b) the winner or winners are determined and publicized in the manner set out in the application;
- (c) the Charitable Organization managing and conducting the raffle:
 - i) indicates on the face of the tickets:
 - the name of the licensee;
 - the licence number;
 - the location, date and time at which the draw (draws) is to be held, including the location, date and time of each early bird draw, and the cut-off time for buying tickets for each early bird draw;
 - the total number of tickets printed;
 - the price of the ticket; and

- a description of the prizes including their value.
- ii) provides for the consecutive numbering of tickets,
- iii) retains all unsold tickets and counterfoils of sold tickets for a period prescribed by the Registrar and, upon request, produces them to such persons authorized under sections 2 and 3, and
- iv) indicates in its application the number of tickets to be printed for sale.

Break-Open Ticket Lotteries

15. An eligible Charitable Organization may be licensed to sell break open tickets either:

- (i) from a location where registration is not required; or
- (ii) from a registered break open ticket seller location in the City;

16. (a) An eligible Charitable Organization may be licensed to sell break open tickets during special community events of limited duration.

- (b) Eligible Charitable Organizations with a current break open ticket licence may also sell break open tickets at community events.

17. Eligible Charitable Organizations may be licensed to sell more than one type of break open ticket from its one location in the City provided that a separate licence is obtained for each type of ticket sold from the location.

Bingo Lotteries

18. Each bingo lottery licence is also subject to the following terms and conditions, each of which is a condition of continuing to hold a licence:

- (a) a bingo lottery licence is issued for a single event, or for a number of events during a period not exceeding one calendar year;
- (b) the licence specifies the place where the bingo lottery is to be operated, the date or dates of operation and the starting and finishing times; and
- (c) any building, where an applicant proposes to hold a bingo lottery and which is registered under the Gaming Control Act, 1992, complies with all applicable law including, without limitation, the Fire Protection and Prevention Act, 1997, S.O. 1997, c. 4, as amended, and its regulations, the Building Code Act, 1992, S.O. 1992, c. 23, as amended, and its regulations and the City's By-laws.

Access and Inspection

19. The Director, and such officers as the Registrar or the Director may appoint and all peace officers, shall, at all reasonable times, have direct and unencumbered access to any land or building on or in which any lottery scheme contemplated by this By-law is, has been or is proposed to be undertaken, for the purpose of investigating such lottery scheme and may:

- (a) require the production for inspection of documents or things relevant to the inspection;
- (b) inspect and remove documents or things relevant to the inspection for the purpose of making copies or extracts; and
- (c) require information from any person concerning a matter related to the inspection.

Suspension or Cancellation of Licence

20. If the Licensee fails to comply with any of the provisions of this By-law, or the provisions of Order in Council 2688/93 and amendments thereto, or the terms and conditions applicable to such licence, the Director may suspend or cancel such licence.

21. The Director shall notify a Licensee of any suspension or cancellation by the Director of a licence in writing to the address indicated in the Licensee's application.

Appeal

22. Where the Director does not issue a licence in response to an application received from a Charitable Organization on the basis of grounds other than non-payment of the fee, or imposes a special term or condition or suspends or cancels a licence, the applicant or the Licensee, as the case may be, may appeal the decision to the Hearings Officer.
23. A right to appeal is exercised by:
- (a) providing to the Director written notice of appeal including particulars of the grounds of appeal; and by
 - (b) paying the fee from time to time prescribed by the City's General Fees and Charges By-law.
24. The right to appeal expires on the tenth (10th) day after notice of the Director's decision is given at which time the Director's decision is final and not subject to review.
25. The person shall be given a minimum of seven (7) days' notice of the date, time and place of the hearing of the appeal.
26. The Hearings Officer shall not make a determination with respect to the appeal unless the Hearings Officer has given the applicant or the Licensee, as the case may be, an opportunity to be heard.
27. The Hearings Officer may make any decision that the Director could make where the Hearings Officer is satisfied that that the decision is in the best interests of the City's inhabitants.
28. The Hearings Officer's decision is final and not subject to review.

Notice

29. Any notice pursuant to this By-law may be given in writing in any of the following ways and is effective:
- (a) on the date on which a copy is delivered to the person to whom or to which it is addressed;
 - (b) on the fifth (5th) day after a copy is sent by registered mail to the person's last known address;
 - (c) upon the conclusion of the transmission of a copy by facsimile transmission to the person's last known facsimile transmission number; or
 - (d) upon the sending of a copy by e-mail transmission to the person's last known e-mail address.
30. For the purpose of section 30, an applicant's or Licensee's last known e-mail address and facsimile transmission number include those provided in the applicant's or Licensee's application.

Delegation

31. It is the opinion of Council of the City that the delegations of authority in this By-law to the Director, the Hearings Officer and to the Director's designates are, for the purposes of subsection 23.2(4) of the Municipal Act, 2001, S.O. 2001, c. 25, of a "minor nature", having regard to the number of people, the size of geographic area and the time period affected by the exercise of such authority.

Prohibition

32. No person or Charitable Organization shall conduct or permit to be conducted any lottery scheme described in section 4 of this By-law without a valid licence in respect thereof.
33. No person shall conduct a lottery or permit or cause a lottery scheme to be conducted when a licence respecting the lottery scheme has been suspended.

34. Any person who contravenes any provision of this By-law is guilty of an offence and upon conviction is liable to a fine not exceeding \$5,000.

Repeal and Effective Date

35. By-law 5-97 and its amending by-laws are repealed.

36. This By-law is effective on the date of its passing.

By-law passed this fifteenth day of December, 2008.

Original Signed By

Original Signed By

Mayor

City Clerk