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THE CORPORATION OF THE CITY OF WATERLOO

By-law Number 02 - 188 A By-law respecting the Licensing of Lotteries

WHEREAS the Council of The Corporation of the City of Waterloo has, pursuant to Section 257.2 of the *Municipal Act*, R.S.O. 1990, Chapter M.45, as amended, the authority to enact this By-law;

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE CITY OF WATERLOO ENACTS AS FOLLOWS:

PART I – GENERAL PROVISIONS

INTERPRETATION

1. For the purpose of this By-law the following terms shall have the corresponding meanings set out below:
 - (a) “applicant” means any person whose name appears as the applicant on any business licence application form received by the City;
 - (b) “By-law” means this By-law and any amendments thereto, including all Schedules forming part of this By-law and any amendments thereto;
 - (c) “charitable/non-profit corporation” means a corporation incorporated under Part III of the *Corporations Act*, R.S.O. 1990, Chapter C. 38, as amended, for the purpose of exclusively carrying on without pecuniary gain, objects of patriotic, religious, philanthropic, educational, charitable, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature;
 - (d) “Chief of Police” means the Chief of the Waterloo Regional Police Service or his or her designate;
 - (e) “City” means The Corporation of the City of Waterloo;
 - (f) “Clerk” means the Clerk of the City or his or her designate;
 - (g) “Council” means the Council of the City;
 - (h) “Fire Chief” means the Chief of the Waterloo Fire Department or his or her designate;
 - (i) “highway” shall have the same meaning as set out in the *Municipal Act*, R.S.O. 1990, Chapter M.45, as amended;
 - (j) “inspector” means any City employee authorized by the Clerk to carry out inspections under and to enforce the provisions of this By-law, or any police officer;
 - (k) “issuer of licences” means any person so designated by the Clerk;
 - (l) “licence” means the official document issued by the City under the provisions of this By-law bearing the signature or facsimile signature of the Clerk and authorizing a person to conduct a business as set out in this By-law;

- (m) “licencee” means any person licensed under this By-law;
- (n) “Medical Officer of Health” means the Medical Officer of Health of the Waterloo Regional Health Unit or his or her designate;
- (o) “municipality” means the geographic boundaries of the City of Waterloo;
- (p) “person” includes a natural person, corporation, organization, association and a partnership and the heirs, executors, administrators and other legal representatives of a person to whom the context can apply;
- (q) “register” means a written record containing entries of items or details; and
- (r) “Schedule” means all documents attached to and forming part of this By-law, including any amendments thereto.

LICENCES REQUIRED

- 2. (a) No person shall carry on a trade, calling or business, as set out in this By-law, in the municipality without a licence to do so issued by the City. Each trade, calling, or occupation must be separately licensed.
- (b) No licence issued under this By-law shall be valid unless all applicable fees, as set out in Schedule “A” to this By-law, have been paid in full.
- (c) Every licence issued under this By-law, unless the same shall be sooner revoked, shall only be in effect for the calendar year in which it is issued and, unless otherwise provided, shall expire on the 31st day of December next following the date of issue. A new licence shall be required for each calendar year thereafter.

APPLICATION FOR LICENCE

- 3. (a) No licence shall be issued to any applicant under the age of 18 years.
- (b) Every application for a licence under this By-law shall be made in writing upon the appropriate form provided by the Clerk and shall be accompanied by the applicable licence fee and proof of age if requested by the Clerk.

PARTNERSHIPS

- 4. Where two or more persons carry on or engage in partnership in any of the trades, callings, occupations or businesses licensed under this By-law, the required licence may be issued in the name of one partner only but the name and address of each member of the partnership shall be set out on the license application form.

ISSUE OF LICENCE

- 5. Every licence issued in accordance with this By-law shall be issued in the name of the City by the Clerk.

LICENCE NOT TRANSFERABLE

- 6. Every licence issued under this By-law shall be personal to the holder thereof and shall not be transferable from person to person or location to location and no

licensee shall advertise or promote or carry on business under any name other than the business name endorsed upon the licence issued to the licensee.

DISPLAY OF LICENCE

7. (a) Every person issued a licence under this By-law, where such licence is applied to or issued in respect of a premises, shall ensure that said licence is posted in the premises in a conspicuous place clearly visible to the public at all times, or as directed by the Clerk, while the licence is in effect.
- (b) Every person issued a licence under this By-law, where such licence is not applied to a premises, shall ensure that the licence is in the licensee's possession at all times while engaged in the business for which the licence was issued and such person shall produce such licence upon request of the Clerk or an Inspector.

COMPLIANCE WITH OTHER LAWS REQUIRED

8. Licencees shall comply with all conditions that are set out within their licence. The issuance of a licence under this By-law does not permit or condone the violation of any other law, by-law, statute or regulation in effect in the municipality, the Province of Ontario or the Dominion of Canada. Every licensee shall comply with all such conditions, laws, by-laws, statutes and regulations as a condition of maintaining its licence in good standing and a licence may be revoked by the City if this requirement is not complied with.

INSPECTIONS

9. (a) No person who has or is required to have a licence under this By-law shall obstruct or hinder or permit the obstruction or hindrance of any inspection under this By-law.
- (b) The Clerk or an Inspector may at any reasonable time enter upon and inspect any premises in respect of which an application has been made for a licence to carry on a business, trade or calling or for which a licence has been issued under this By-law.
- (c) Upon an inspection under Section 9(b) of this By-law, the applicant or licensee shall immediately produce upon request all licences, invoices, records or other like documents relevant for the purposes of the inspection and the person inspecting shall be permitted to remove such documents for the purposes of photocopying and any such document shall be returned to the applicant or licensee within 48 hours of such removal.

GROUND FOR REFUSAL TO ISSUE OR RENEW A LICENCE

10. (a) An applicant is entitled to be licensed and a licensee is entitled to have his licence renewed except where:
 - (i) the past conduct of the applicant or licensee affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he or she is to be licensed in accordance with the law and with honesty and integrity;
 - (ii) the issuance of the licence or renewal of the licence would be contrary to the public interest;

- (iii) the applicant or licensee is carrying on activities that are, or may be, if the applicant is licensed, in contravention of this By-law or any other applicable law, by-law, statute or regulation; or
 - (iv) where the applicant or licensee is a corporation, partnership or other organization, the past conduct of an officer, director, partner or member of the corporation, partnership or organization affords reasonable grounds for the belief that the applicant or licensee will not carry on the activity for which he/she is to be licensed in accordance with the law and with honesty and integrity.
- (b) The determinations in this section shall be in the sole discretion of the Clerk. If an applicant is not satisfied with a decision of the Clerk herein, the applicant may appeal that decision to Council.

ISSUANCE OR RENEWAL OF LICENCE ON TERMS AND CONDITIONS

11. Notwithstanding any other provision of this By-law, Council may issue a licence or renew a licence subject to such terms and conditions as Council in its sole discretion deems to be necessary to give effect to this By-law.

COUNCIL'S POWER TO REVOKE, SUSPEND OR CANCEL A LICENCE

12. Council may revoke, suspend or cancel a licence:
- (a) where it decides in its sole discretion that the licensee would be disentitled to a licence for the reasons set out in Section 10 of this By-law; or
 - (b) when the licensee is convicted of an offence under any provision of this By-law.

OFFENCE

13. Every person who contravenes any provision of this By-law is guilty of an offence.

PENALTIES

14. Every person who is convicted of an offence under any provision of this By-law shall be liable to a penalty as set out in the *Provincial Offences Act*, R.S.O. 1990, Chapter P.33, as amended, or any successor thereof.

SEVERABILITY

15. It is hereby declared that notwithstanding that any Section of this By-law, or parts thereof, may be found by any court of law to be invalid or beyond the power of the Council to enact, such Section or Sections or parts thereof shall be deemed to be severable from the remainder of this By-law and all other Sections or parts of this By-law are separate and independent and enacted as such and shall be read with such modifications as may be required to give effect to them in the absence of the severed provisions.
16. When any requirement of this By-law is at variance with any other law or by-law in effect in the City of Waterloo the more restrictive requirement shall apply.

SECTION II - SPECIFIC PROVISIONS

In addition to all other applicable laws, by-laws, statutes and regulations, the following provisions shall apply in respect of the licensing of lotteries:

INTERPRETATION

17. In addition to the terms defined in Section 1 of this By-law, the following terms shall have the corresponding meanings set out below:
- (a) “bingo” means a lottery scheme where consideration is given for a chance to win a cash prize or other prizes by being the first to complete a specified arrangement of numbers on a bingo card or paper from numbers selected at random.
 - (b) “break open ticket” means a ticket used in a lottery scheme where the winners of cash or other prizes are determined by reference to a pre-printed payout figure or specification which is only revealed to a purchaser after consideration is given for the purchase of the ticket.

BINGO - LICENSING CRITERIA

18. In addition to the terms and conditions under which a bingo lottery licence is issued by the Alcohol and Gaming Commission of Ontario or successor body, the following criteria shall apply to persons applying to the City for a bingo lottery licence:
- (a) an applicant shall be a charitable/non-profit corporation or shall undertake to use the proceeds of the bingo for charitable purposes;
 - (b) an applicant shall have a physical presence in the municipality or within the Regional Municipality of Waterloo and serve the residents of the municipality;
 - (c) membership in an applicant shall be not less than 25 persons in order to ensure that the applicant has sufficient members to meet an identified need in the community;
 - (d) an applicant shall provide a monetary deposit to demonstrate financial responsibility in an amount of \$1,000 or such higher amount as may be determined by the Clerk, to be maintained in the lottery trust account until such time as the Clerk is satisfied that all conditions of the bingo lottery licence have been complied with;
 - (e) non-profit organizations which are not solely charitable in nature shall be required to describe the charitable purposes for which proceeds from the bingo are to be utilized and to provide subsequent proof satisfactory to the Clerk that the proceeds were in fact used for such charitable purposes; and
 - (f) an applicant receiving a bingo lottery licence for the first time shall be subject to a one-year probationary period during which period the maximum number of licences issued to the licensee shall not exceed six per three-month period. Subsequent bingo lottery licences shall be issued only if the licensee has conducted its lottery events in accordance with City’s terms and conditions and the requirements of the Alcohol and Gaming Commission or successor body.

CONDUCT AND REPORTING OF BINGOS

19. A bingo lottery licence covering a series of bingos may be issued to any applicant for a period not to exceed three calendar months.
20. All applications to manage and conduct a bingo shall be accompanied by a game format listing all games to be played, the value of the prizes to be awarded for each game and the particular arrangement of numbers required to win the game.
21. Upon receipt of a bingo lottery licence, all licensees shall maintain the game formats, prize payouts and card prices upon which the licence was issued and shall not amend any of those conditions without the prior written authorization of the Clerk.
22. No person shall advertise a bingo, its game format, prize payouts, card prices or hall conditions in a manner which is inconsistent with the terms of the relevant bingo lottery licence or in a manner that may be misleading or may reflect negatively on other charitable bingo operations.
23. A licensee shall not permit any person involved in the management, conduct or operation of a bingo or the hall in which a bingo is being held to play any game of bingo in that hall. Without restricting the generality of the foregoing, this prohibition shall apply to the hall owner, lessee, manager or employee thereof; a full or part-time concessions operator, manager or employee; and to every partner, director, official, employee or volunteer of a person involved in the operation and or management of the bingo or the bingo hall. This policy shall not prohibit a person involved in the management or conduct of a bingo from playing bingo in the said hall on any day in which his or her organization is not conducting the bingo.
24. A licensee shall, on demand, immediately make available to an inspector all financial records, ledgers, vouchers and financial reports in connection with the operation of a bingo as the Clerk may require in his or her sole discretion.
25. Each licensee shall submit to the Clerk within 60 days of the calendar year-end a financial statement that reflects, in the opinion of the Clerk, the results for the year and the financial position at the end of the year in respect of the operation of all bingos licensed by the City.

BREAK OPEN TICKETS - GENERAL LICENSING CRITERIA

26. In addition to the terms and conditions under which a break open ticket lottery licence is issued by the Alcohol and Gaming Commission of Ontario or successor body, the following criteria shall apply to persons applying to the City for a break open ticket lottery licence:
 - (a) licences to sell break open tickets within the municipality shall only be granted if the applicant has a physical presence in the municipality and the proceeds from the lottery shall be used solely for charitable purposes within the City;
 - (b) licensees shall provide the municipality a list of persons, including their addresses and telephone numbers, who will be responsible for ensuring that the City's terms and conditions for break open ticket sales and all requirements of the Alcohol and Gaming Commission of Ontario are adhered to;
 - (c) all applications for a break open ticket lottery licence shall be accompanied by a letter from the owner of every location at which the tickets will be sold stating:

- (i) the name of the organization for whom they wish to sell tickets; and
 - (ii) that they have read, understand and agree to comply with the requirements of the Alcohol and Gaming Commission of Ontario;
- (d) all applicants shall provide to the City their Provincial Registration Number as a gaming supplier; and
- (e) all applicants shall provide evidence satisfactory to the Clerk that they have paid the required annual registration fee to the Province.
27. A license for a break open ticket lottery shall limit sales to one location only within the municipality.
28. Provincially mandated organizations that have been issued a Provincial licence for the sale of break open tickets will provide the City with a copy of their Provincial licence and a letter from the owner of the location at which the tickets are proposed to be sold. The City may then provide a letter of approval to sell break open tickets from that location and the applicant shall attach said letter to the Provincial licence and display it at the location of the ticket sales.
29. All persons selling break open tickets shall be at least 16 years of age.
30. Revenues derived from the sale of break open tickets shall not be commingled with other money at the location where the tickets are sold.
31. When the number of tickets within the container or other grouping of break open tickets has been reduced by one-half, the licensee shall refill the container to its original capacity by adding additional unit(s) of tickets, except where the last licensed units of tickets have been deposited into the container or break open ticket dispenser and there are no remaining tickets with which to fill the container or break open ticket dispenser.

PROVISIONS APPLICABLE TO ALL LOTTERIES

32. No lottery licence shall be issued for a period exceeding three months.
33. Third party locations and bingo halls shall be subject to periodic inspections by an inspector, with no prior notification given.
34. The licensee and the owner of the third party location (where applicable) shall upon request meet with the issuer of licences prior to a licence being issued to discuss the terms and conditions under which the licence is issued.
35. All charities that receive funds from a lottery shall maintain a separate bank account in trust for the money raised.
36. This By-law shall come into force and effect on the day of passing.
37. Schedule 7 of By-law #00-147 is repealed.

PASSED this 16th day of December, 2002

“Original Signed”
Mayor

“Original Signed”
Clerk

SCHEDULE "A" to By-law Number 02 - 188

Schedule of Fees

Lotteries (bingo or break open ticket)	3% of the value of the prizes
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