

Games of Chance and The Conduct Thereof by Qualified Organizations

1. Purpose and Intent:

The purpose and intent of this Local Law is to foster and support worthy causes and undertakings enabling qualified organizations to conduct Games of Chance as permitted by, and in accord with Article 9-A of the General Municipal Law of the State of New York.

2. Statutory Authority; Title:

This Local Law is enacted pursuant to the authority of Article 9-A of the General Municipal Law of the State of New York and shall be known as: Games of Chance and The Conduct Thereof by Qualified Organizations.

3. Definitions:

Unless otherwise defined, the words and terms used in this Local Law shall have the same meanings as such words and terms are used in Article 9-A of the General Municipal Law of the State of New York.

Words singular in form may include the plural and words plural in form may include the singular; and, words in the masculine gender shall include the feminine and neuter genders.

4. Enforcement:

The Town Clerk is hereby delegated the authority granted to the Town Board by Article 9-A of the General Municipal Law, entitled “Local Option for Conduct of Games of Chance by Certain Organizations,” in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings and the collection and transmission of fees.

5. Certain Games Authorized:

It shall be lawful for any Authorized Organization, upon obtaining a license therefore as provided in and otherwise complying with the provisions of Article 9-A of the General Municipal Law of the State of New York, to conduct Games of Chance within the territorial limits of the Town of Ashford, subject to the provisions of this Local Law, the provisions of Article 9-A of the General Municipal Law of the State of New York and the provisions set forth by the New York State Racing and Wagering Board. Nothing contained herein shall be deemed to authorize any other Games of Chance, or to authorize the conduct of games of Bingo or Lotto, as such terms are defined in Article 14-H of the Article 9-A of the General Municipal Law of the State of New York, to be conducted within the Town of Ashford.

6. License Required:

No person, firm, association, corporation or organization other than an Authorized Organization licensed under the provisions of this Local Law shall be permitted to conduct Games of Chance within the territorial limits of the Town of Ashford.

7. Application for License:

A. Each applicant for license, after obtaining an identification number from the State Board, shall file with the Town Clerk a written application therefor in a form to be prescribed by the State Board or the Town Clerk, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant, together with sufficient facts relating to its incorporation and organization to enable the Town Clerk to determine whether or not it is a bona fide Authorized Organization.

(2) The names and addresses of its officers and the place where and the date and time when the applicant intends to conduct Games of Chance under the license applied for.

(3) The amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another Authorized Organization licensed under this Local Law to conduct Games of Chance or for the use of the premises of an authorized Games of Chance lessor.

(4) All other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of Games of Chance; and the names and addresses of the persons to whom and the purposes for which they are to be paid.

(5) The purposes to which the entire net proceeds of the Games of Chance are to be devoted and in what manner; and that no commission, salary, compensation, reward or recompense will be paid to any person for conducting Games of Chance or for assisting therein, except as otherwise provided in Article 9-A of the General Municipal Law.

(6) That no member of the applicant has ever been convicted of a crime or, if convicted, that he has received a pardon or a certificate of good conduct.

(7) The name of each single type of Game of Chance to be conducted under the license applied for and the number of merchandise wheels and raffles, if any, to be operated.

(8) Any other information as shall be prescribed by the rules and regulations promulgated by the State Board.

B. In each application there shall be designated not less than four active members of the applicant organization under whom the Games of Chance will be conducted, and to the application shall be appended a statement executed by the members so designated that they will be responsible for the conduct of the Games of Chance in accordance with the terms of the license, Article 9-A of the General Municipal Law, the provisions of this Local Law and the rules and regulations of the State Board.

C. Each applicant for a license to lease premises to a licensed organization for the purposes of conducting Games of Chance therein shall file with the Town Clerk a written application therefor in a form to be prescribed by the State Board or the Town Clerk, duly executed and verified, which shall set forth the name and address of the applicant; the designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms to the specifications contained in the

definition of “Authorized Organization” set forth in Article 9-A of the General Municipal Law; and any other information as shall be prescribed by the State Board and the provisions of this Local Law.

D. Any Authorized Organization having obtained an identification number from the State Board and having applied for no more than one license to conduct Games of Chance during the period not less than 12 nor more than 18 months immediately proceeding may file with the Town Clerk a summary application in a form prescribed by the State Board duly executed and verified, containing the names and addresses of the applicant organization and its officers, the date, time and place or places where the applicant intends to conduct games under the license applied for, the purposes to which the entire net proceeds of such games are to be devoted and the information and statement required under Subsection 3 of this section.

8. Restrictions:

A. No person, firm, association, corporation or organization other than a licensee under the provisions of this Local Law shall conduct a Game of Chance or shall lease or otherwise make available for conducting Games of Chance a hall or other premises for any consideration whatsoever, directly or indirectly, except as provided in Section 7 of this Local Law.

B. No Game of Chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid wholly or partly on the basis of a percentage of the receipts or net profits derived from the operation of a Game of Chance.

C. No Authorized Organization licensed under the provisions of this Local Law shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of Games of Chance from other than an authorized supplier of Games of Chance equipment licensed by the State Board or from another Authorized Organization.

D. The entire net proceeds of any Game of Chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

E. No single prize awarded by Games of Chance other than raffle shall exceed the sum or value of \$300.00, except that for merchandise wheels, no single prize shall exceed the sum or value of \$250.00. No single prize awarded by raffle shall exceed the sum or value of \$50,000.00, except that an Authorized Organization may award by raffle a single prize having a value of up to and including \$100,000.00 if its application for a license filed pursuant to this Local Law includes a statement of its intent to award a prize having such value. For bell jars no single prize shall exceed \$500.00; provided, however, that such limitation shall not apply to the amount of money or value paid by the participant in a raffle in return for a ticket or other receipt.

F. No Authorized Organization shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of \$10,000.00 during the successive operations of any one merchandise wheel and \$3,000.00 during the successive operations of any bell jar. No series of prizes awarded by raffle shall have an aggregate value in excess of \$500,000.00.

G. In addition to merchandise wheels, raffles and bell jars, no more than five other single types of Games of Chance shall be conducted during any one license period.

H. Except for merchandise wheels and raffles, no series of prizes on any one occasion shall aggregate more than \$400.00 when the licensed Authorized Organization conducts five single types of Games of Chance during any one license period. Except for merchandise wheels, raffles and bell jars, no series of prizes on any one occasion shall aggregate more than \$500.00 when the licensed Authorized Organization conducts less than five single types of Games of Chance, exclusive of merchandise wheels, raffles and bell jars, during any one license period. No Authorized Organization shall award by raffle prizes with an aggregate value in excess of \$500,000.00 during any one license period.

I. No person except a bona fide member of any Authorized Organization or its auxiliary or affiliated organization shall participate in the management or operation of a Game of Chance as set forth in Section 14 of this Local Law.

J. No person shall receive any remuneration for participating in the management or operation of any Game of Chance.

K. The conduct of Games of Chance on Sunday is only permitted when it is specifically provided for in the license issued, and when so permitted shall be conducted only between the hours of 12:00 noon and 12:00 midnight. No Games of Chance, however, shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

L. No hall or other premises shall be used for the conduct of Games of Chance unless said hall or premises, where applicable, complies with the provisions of Title Twelve, Subpart Thirty-Six, of the Codes, Rules and Regulations of the State of New York.

M. No Game of Chance shall be conducted on other than the premises of an Authorized Organization or an Authorized Games of Chance Lessor. Nothing herein shall prohibit the sale of raffle tickets to the public outside the premises of an Authorized Organization or an Authorized Games of Chance Lessor; provided, however, that no sale of raffle tickets shall be made more than 180 days prior to the date scheduled for the occasion at which the raffle will be conducted. The winner of any single prize in a raffle shall not be required to be present at the time such raffle is conducted.

N. Subject to the provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of Games of Chance on Games of Chance premises as such premises are defined in Article 9-A of the General Municipal Law; provided, however, that nothing herein shall be construed to limiting the offering for sale of any other alcoholic beverage in areas other than the Games of Chance premises or the sale of any other alcoholic beverage in premises where only the Games of Chance known as "bell jar" and "raffles" are conducted.

9. Investigation; Matters to be Determined; Issuance of Licenses; Fees; Duration of License:

A. The Town Clerk shall make an investigation of the qualifications of each applicant and the merits of each application with due expedition, after the filing of the application.

B. If the Town Clerk shall determine that the applicant is duly qualified to be licensed to conduct Games of Chance under this Local Law; that the member of the applicant designated in the application to conduct Games of Chance is a bona fide active member of the applicant and is a person of good moral

character and has never been convicted of a crime or, if convicted, has received a pardon or a certificate of good conduct; that such Games of Chance are to be conducted in accordance with the provisions of this Local Law and in accordance with the rules and regulations of the State Board and that the proceeds thereof are to be disposed of as provided by this Local Law; and if the Town Clerk is satisfied that no commission, salary, compensation, reward or recompense whatsoever shall be paid or given to any person holding, operating, conducting or assisting in holding, operating or conducting any Games of Chance, except as otherwise provided in this Local Law; and that no prize will be given in excess of the amounts set forth in Section 8 hereof, the Town Clerk shall issue a license to the applicant for the conduct of Games of Chance, upon payment of a license fee of \$25.00 for each license period.

C. If the Town Clerk shall determine that the applicant seeking to lease a hall or premises for the conduct of Games of Chance to an Authorized Organization is duly qualified to be licensed under this Local Law; that the applicant satisfies the requirements for an Authorized Games of Chance Lessor as defined in Article 9-A of the General Municipal Law; that the Town Clerk shall find and determine that there is a public need and that a public advantage will be served by the issuance of the license; that the applicant has filed its proposed rent for each Game of Chance occasion; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in Article 9-A of the General Municipal Law; and that the leasing of a hall or premises for the conduct of Games of Chance is to be in accordance with the provisions of this Local Law and in accordance with the rules and regulations of the State Board, he shall issue a license permitting the applicant to lease said premises for the conduct of Games of Chance to the Authorized Organization set forth in the application during the period therein specified or such shorter period as the Town Clerk shall determine, but not to exceed one year, upon payment of a license fee of \$50.00.

D. Under this Local Law, no license shall be issued which shall be effective for a period of more than one year.

E. If, upon the basis of a summary application as prescribed under Subsection D of Section 7 of this Local Law, the Town Clerk shall determine that the applicant is duly qualified to be licensed to conduct Games of Chance under this Local Law, said Town Clerk shall forthwith issue said license. In the event that the Town Clerk has reason to believe that the application is not qualified, the applicant shall be directed to file an application pursuant to Subsection A of Section 7 of this Local Law.

10. Hearings; Appeals; Amendments of Licenses:

A. No application for the issuance of a license to an Authorized Organization shall be denied by the Town Clerk until after a hearing is held, upon due notice to the applicant, at which time the applicant shall be entitled to be heard upon its qualifications and the merits of the application.

B. Any applicant for or holder of any license hereunder aggrieved by any action of the Town Clerk to which an application has been made or by which a license has been issued may appeal to the State Board from the determination of the Town Clerk by filing with the Town Clerk written Notice of Appeal within 30 days after the determination or action appealed from; and, upon the hearing of such appeal, the evidence, if any, taken before the Town Clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue. The action of the State Board upon said appeal shall be binding upon the Town Clerk and all parties to said appeal.

C. Any license issued hereunder may be amended upon application to the Town Clerk if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of any additional license fee as would have been payable if it had been so included.

11. Form and Content of Licenses; Display:

A. Each license to conduct Games of Chance shall be in a form as shall be prescribed in the rules and regulations promulgated by the State Board or the Town Clerk and shall contain a statement of the name and address of the licensee, the name and address of each member of the licensee under whom the Games of Chance shall be conducted, the place where and the date and time when the Games of Chance are to be conducted and the purposes to which the entire net proceeds of the Games of Chance are to be devoted; the name of each single type of game to be conducted under the license and the number of merchandise wheels and raffles, if any, to be operated. If any prizes are to be given in cash, a statement of the amounts of the prizes authorized so to be given and any other information which may be required by said rules and regulations shall be contained therein. Each license issued for the conduct of any Games of Chance shall be conspicuously displayed at the place where the same is to be conducted at all times during the conduct thereof.

B. Each license to lease premises for conducting Games of Chance will be in a form as shall be prescribed in the rules and regulations of the State Board or the Town Clerk and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any other information which may be required by said rules and regulations. Each license shall be conspicuously displayed upon the premises at all times during the conduct of the Games of Chance.

12. Control and Supervision; Suspension of Licenses; Inspection of Premises:

A. **Officer:** As used herein, the word “Officer” refers to the Chief Law Enforcement Officer of Cattaraugus County.

B. The Officer shall have and exercise rigid control and close supervision over all Games of Chance conducted under each license, to the end that the same are fairly conducted in accordance with the provisions of said license, the provisions of this Local Law and the provisions of the rules and regulations promulgated by the State Board.

C. The Officer and the State Board shall have the power and authority to temporarily suspend any license issued by the Town Clerk pending a hearing.

D. The Officer and State Board shall have the right of entry, by their respective officers and agents, at all times, into any premises where any Game of Chance is being conducted or intended to be conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. An agent of the appropriate Officer shall make an on-site inspection during the conduct of all Games of Chance licensed pursuant to this Local Law.

13. Mandatory Post Games of Chance Procedure:

A. Within seven days after the conclusion of any licensed period, other than a license period for a raffle, or as otherwise prescribed by the Board, the Authorized Organization which conducted the Games

of Chance, its members who were in charge thereof and, when applicable, the Authorized Organization which rented its premises therefor shall each furnish to the Town Clerk and the State Board a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom; each item of expense incurred or paid; each item of expenditure made or to be made, other than prizes; the name and address of each person to whom each item of expense has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor; the net proceeds derived from the conduct of the Games of Chance during the licensed period and the use to which such proceeds have been or are to be applied; and a list of the prizes and the values thereof offered or given.

B. Within 30 days after the conclusion of an occasion at which a raffle was conducted, the Authorized Organization conducting such raffle and the members in charge of such raffle and, when applicable, the Authorized Games of Chance Lessor which rented its premises therefor shall each furnish to the Clerk or department a statement on a form prescribed by the Board, subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the number of tickets printed, the number of tickets sold, the price and the number of tickets returned to or retained by the Authorized Organization as unsold, a description and statement of the fair market value for each prize actually awarded, the amount of the gross receipts derived therefrom, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid or is to be paid, a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the raffle at such occasion and the use to which the proceeds have been or are to be applied, and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

C. Any Authorized Organization required to file an annual report with the Secretary of State pursuant to Article 7-A of the Executive Law or the Attorney General pursuant to Article 8 of the Estates, Powers and Trusts Law shall include with such annual report a copy of the statement recruited to be filed with the Clerk or department pursuant to Subsection A or B of this section.

D. Upon the filing of such statement of receipts pursuant to Subsection A or B of this section, the Authorized Organization furnishing the same shall pay to the Town Clerk as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period or, in the case of raffles, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the Town Board not to exceed 5% of the net proceeds for each license period.

E. Examination of Records:

(1) The officer, Town Clerk and State Board shall have the power to examine or cause to be examined the books and records of:

(a) Any Authorized Organization which is or has been licensed to conduct Games of Chance, as far as they may relate to Games of Chance, including the maintenance, control and disposition of the net proceeds derived from Games of Chance or from the use of its premises for Games of Chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any Games of Chance under any license, the use of its premises for Games of Chance or the disposition of the net proceeds derived from Games of Chance, as the case may be.

(b) Any Authorized Games of Chance Lessor, as far as the same may relate to leasing premises for Games of Chance, and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to said leasing.

(2) Any information so received shall not be disclosed except for the purpose of carrying out the provisions of this Local Law.

14. Prohibitions, Penalties for Offenses:

A. No person under the age of 18 years shall be permitted to attend, to conduct or to assist in the conduct of any Game of Chance conducted pursuant to any license issued under this Local Law.

B. No Games of Chance shall be conducted under any license issued under this Local Law more often than 12 times in any calendar year. Games of Chance shall be conducted only between the hours of 12:00 noon and 12:00 midnight on Sunday, Monday, Tuesday, Wednesday and Thursday; only between the hours of 12:00 noon Friday and 2:00 a.m. Saturday; and only between the hours of 12:00 noon Saturday and 2:00 a.m. Sunday. The 2:00 a.m. closing period shall also apply to a legal holiday. The above restrictions shall not apply when only the Game of Chance known as the “bell jar” is conducted.

C. No person shall operate or conduct any Games of Chance under any license issued under this Local Law except an active member of the Authorized Organization to which the license is issued, and no person shall assist in holding, operating or conducting any Games of Chance under any license except an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee is an auxiliary or a member of an organization or association which is affiliated with the licensee by being with it, auxiliary to another organization or association. At least two officers, directors, trustees or clergy of the Authorized Organization shall, upon request, certify under oath that the persons assisting in holding, operating or conducting any Game of Chance are bona fide members of such Authorized Organization, auxiliary or affiliated organization.

D. No Games of Chance shall be conducted with any equipment except that owned or leased by the Authorized Organization so licensed or used without payment of any compensation therefor by the licensee.

E. No items of expense shall be incurred or paid in connection with the conducting of any Game of Chance pursuant to any license issued under this Local Law except those that are reasonable and are necessarily expended for Games of Chance supplies and equipment; prizes and stated rental, if any; bookkeeping or accounting services, according to a schedule of compensation prescribed by the State Board; janitorial services and utility supplies, if any; license fees; and the cost of bus transportation, if authorized by the Officer.

F. The Clerk, in the Clerk’s discretion, may fix a minimum fee for admission to any room or place in which any Games of Chance are to be conducted under any license issued under this Local Law. Every winner shall be determined and every prize shall be awarded and delivered on the same calendar day as the game was played.

G. No person, association, corporation or organization lawfully conducting or participating in the conduct of Games of Chance or permitting the conduct upon any premises owned or leased by him or it

under any license issued hereunder shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this Local Law. However, this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of Games of Chance under any license obtained by any false pretense or by any false statement made in any application for a license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any Game of Chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

H. Any person, association, corporation or organization who or which shall make any material false statement in any application for any license issued pursuant to this Local Law; shall pay or receive a rental in excess of the amount specified as the permissible rent in the license provided for in Section 7 of this Local Law for the use of any premises for conducting Games of Chance; shall fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of Games of Chance or the leasing of premises to be used for the conduct of Games of Chance; shall falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of Games of Chance, to the disposition of the proceeds thereof and to the application of the rents received by any Authorized Organization; or shall divert or pay any portion of the net proceeds of any Game of Chance to any person, association or corporation, except in furtherance of one or more of the lawful purposes defined in this Local Law, shall be guilty of a misdemeanor and shall forfeit any license issued under this Local Law and be ineligible to apply for a license under this Local Law for at least one year thereafter.

I. Any person, association, corporation or organization holding, operating or conducting Games of Chance shall be guilty of a misdemeanor, except when operating, holding or conducting:

(1) In accordance with a valid license issued pursuant to this Local Law; or

(2) On behalf of a bona fide organization of persons 60 years of age or over, commonly referred to as “senior citizens,” solely for the purpose of amusement and recreation of its members where:

(a) The organization has applied for and received an identification number from the State Board.

(b) No player or other person furnishes anything of value for the opportunity to participate.

(c) The prizes awarded or to be awarded are nominal.

(d) No person other than a bona fide active member of the organization participates in the conduct of Games of Chance.

(e) No person is paid for conducting or assisting in the conduct of the Games of Chance.

J. No alcoholic beverage shall be offered or given as a prize in any Games of Chance.

K. The unauthorized conduct of a Game of Chance shall constitute a misdemeanor punishable by a fine not to exceed \$500.00 or imprisonment for a period not to exceed six months for each offense, or by both such fine and imprisonment. In addition, the unauthorized conduct of a Game of Chance, as outlined in Subsection I hereunder shall result in the forfeiture of any license issued under this Local Law and shall bar the person, firm, corporation, association or organization from applying for a license under this Local Law for at least one year, at the discretion of the State Board.

15. When Effective:

This Local Law shall become effective upon its approval by a majority of electors voting on a proposition submitted at the next general election.