

CITY OF SHERWOOD, OREGON

ORDINANCE NO. 815

AN ORDINANCE OF THE CITY OF SHERWOOD, OREGON AUTHORIZING THE OPERATION OF BINGO OR LOTTO GAMES BY CHARITABLE, RELIGIOUS OR FRATERNAL ORGANIZATIONS, PROVIDING FOR THE CONSIDERATION, ISSUANCE AND REVOCATION OF PERMITS, ESTABLISHING CERTAIN LIMITATIONS TO GAME OPERATIONS AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, ORS 465.100 permits cities to prohibit license or regulate the operation of bingo or lotto games by charitable, religious or fraternal organizations;

WHEREAS, the Council of the City of Sherwood finds that it is reasonable and necessary to provide for the licensing and regulation of said bingo and lotto games;

THE CITY OF SHERWOOD ORDAINS AS FOLLOWS:

Section 1: Purposes. The purpose of this Ordinance is to authorize the operation of bingo or lotto games as defined in Section 2 of this Ordinance by charitable, religious or fraternal organizations under certain circumstances, and to provide adequate regulation of such games to ensure that they are operated in compliance with ORS 465.100 and 167.117 and other applicable State statutes and this Ordinance, and in furtherance of bona fide charitable, religious or fraternal purposes.

Section 2: Definitions. For purposes of this Ordinance, the following definitions shall apply:

- (a) "Bingo or lotto" means a game as defined in ORS 167.117(1).
- (b) "Charitable, religious or fraternal organization" means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other nonprofit purposes, and who is exempt from federal and Oregon state income taxes because of such charitable, fraternal or religious purposes.
- (c) "Person" means any human being and, where appropriate, any combination of human beings, or any organization, in any form, including but not limited to sole proprietorship, partnership, corporation or association, that exists for any purpose.

Section 3: Permit Required. A permit shall be required for any person to maintain, operate, conduct, or allow others to engage in, in or upon any premises within the City of Sherwood, any bingo or lotto game, except for social games as defined by ORS 167.117(12). Such person shall be a bona fide charitable, fraternal or religious organization as defined by Federal and State law and shall conduct bingo or lotto games only by permit and in compliance with this Ordinance and ORS 465.100 and 167.117. A bingo or lotto game operated without a permit issued pursuant to this Ordinance or in violation of any provision of this Ordinance or applicable State statutes shall constitute a violation and shall be subject to the penalties contained in Section 13 of this Ordinance and applicable State law.

Section 4: Application Form; Fees. Every applicant for an annual permit to conduct bingo or lotto games on more than fifty-two (52) days per such permit period as a charitable, fraternal or religious organization shall file an application with the City Recorder and pay a nonrefundable fee of three hundred dollars (\$300.00). Every such applicant to conduct such games on fifty-two (52) or less days per such permit period shall pay a nonrefundable fee of one hundred fifty dollars (\$150.00). Provided that no fee shall be required for any such applicant to conduct such games when conducted at an annual bazaar, open house or meeting that occurs only once in a twelve month period and does not last longer than seven (7) days. Provided further, that any applicant for a renewal of such annual permit that demonstrates, upon the basis of the four (4) previous quarterly reports filed on a timely basis pursuant to Section 10, that its gross proceeds collected during such yearly period were less than five hundred dollars (\$500.00), shall not be required to pay a fee to have such permit renewed.

Section 5: Application Form Contents. The application form for a permit to conduct bingo or lotto games as a charitable, fraternal or religious organization shall set forth or provide the following information:

- (a) The proposed location(s) for such games and the type of premises to be used therefor;
- (b) The name and address of the applicant organization and the charitable, religious or fraternal purposes for which proceeds from such activities will be used;
- (c) The name, address and date of birth of the principal managing persons thereof. For the purposes of this section, "principal managing person" shall include any person who has supervisory authority over employees and/or operations of the organization as it relates to the conduct of permitted bingo games, or any person who has the authority to supervise the premises and conditions under which permitted bingo games are conducted, and such term shall also include the chief elected official of the organization and any other elected official(s) whose authority extends to the supervision or management of the permitted bingo games;
- (d) The name, address and date of birth of all individuals who will be responsible for the verification of the accuracy of income, prizes and profits, and responsible for the depositing of such proceeds in the organization's account or disbursing such proceeds after deposited;
- (e) Any criminal arrests or convictions for any theft, fraud or gambling activities for any individuals who will be operating or conducting such games or are principal managing persons of the applicant organization;
- (f) A detailed description of the previous bingo or lotto game activities of the organization applying for the permit for the past five (5) years;
- (g) Whether such organization previously operated a bingo or lotto game in this or any other city or state under any license or permit and has had such license or permit suspended or revoked, the reason(s) therefor, and a detailed explanation of all of the pertinent facts and circumstances surrounding such suspension or revocation;
- (h) Written proof that the organization is qualified as a charitable, fraternal or religious organization according to its purposes and exempt from the payment of federal and state income taxes and a statement of the charitable, religious or fraternal purposes for which such money is to be used;
- (i) A copy of a current City business license or charitable solicitations permit, if required;
- (j) Fingerprints shall only be required of all persons described in Parts (c) and (d) of this section; and
- (k) Any additional information related to the purposes of this Ordinance that may be required by the Chief of Police, the City Recorder or the City Manager. Provided that an applicant who does not believe that such information may be required may appeal such request if the permit is denied on such basis.

Section 6: Issuance and Renewal of Permits.

(1) Upon the filing of an application for issuance or renewal of a bingo or lotto permit and payment of the required fee, the Chief of Police shall cause the applicant to be investigated to ascertain the applicant's suitability to operate or conduct such activities. The permit shall be issued as soon as practicable by the City Recorder unless grounds for denial as noted herein are established.

(2) The application shall be denied by the City Recorder if:

- (a) The applicant, any principal managing individual thereof, or

any individual who will be directly engaged in the management or operation of such activities has previously;

- (i) Engaged in the management or operation of a bingo or lotto game and the permit or license therefor has been suspended or revoked; or,
  - (ii) Committed any crime involving theft, fraud or gambling activities.
- (b) Such games as proposed by the application would not comply with all the applicable requirements of this Ordinance.
  - (c) Any statement in the application is found to be false.
  - (d) The proposed location of such games would be a detriment to the immediate vicinity thereof due to an unreasonable congregation of pedestrian or vehicular traffic.
  - (e) Any individual directly engaged in the management or operation of such activities commits any crime involving any provision of this Ordinance, in connection with the game activities for which a permit had been issued pursuant to this Ordinance.

(3) The permit shall be for a term of one (1) year, shall be nontransferable, shall expire on the first anniversary of its issuance, and shall be valid only for a single location. If the permittee wished to change the location, a written request for such change, including the address of the new location, shall be provided at least ten (10) days prior to such change for approval by the City Recorder.

#### Section 7: Suspension, Revocation of Permits.

(a) Any permit issued pursuant to this Ordinance may be suspended or revoked by the City Recorder for any cause which would be grounds for denial of a permit application, or when an investigation reveals any material violation of the provisions of this Ordinance.

(b) Any permit may be suspended or revoked by the City Recorder when an investigation reveals that the game activities cause, because of persons frequenting the premises, litter, noise, vandalism, vehicular or pedestrian traffic congestion, or other neighborhood locational problems, in the area around the premises where such games are conducted.

(c) The suspension or revocation of any permit issued pursuant to this Ordinance may only be made by providing the permittee written notice of such action and the reasons therefor. Refusal of service by the permittee is prima facie evidence of receipt of such notice. Service of such notice upon the person in charge of such game activities, during the operation thereof, shall constitute service upon the permittee.

#### Section 8: Final Determination of Permits Denial, Suspension or Revocation; Appeals.

(a) Any denial, suspension or revocation shall become effective and final ten (10) days after the giving of such written notice, as required by Section 9(c), unless it is appealed, within that time period, to the Council by the filing of a written notice of appeal with the City Recorder.

(b) The filing of a timely appeal of a denial, suspension or revocation shall stay the effect of such order until the appeal has been determined by the Council.

(c) Upon receipt of notice of the appeal, the City Recorder shall give notice to the Chief of Police and City Manager, and the City Recorder shall set a date for a Council hearing on the matter. At the hearing, the Manager and the Chief or their designees shall report to the Council concerning the matter and the reason(s) for denying, suspending or revoking the permit. The applicant or permittee shall have an opportunity to present evidence in his behalf, be heard by the Council, and file a written statement. At the conclusion of the hearing, the Council shall determine the appeal; the decision of the Council shall be final and effective immediately.

#### Section 9. Use of Game Profits.

(a) No person, other than the charitable, religious or fraternal organization conducting the bingo or lotto games and any player shall profit in any manner from the operation of such games.

(b) All proceeds remaining after the awarding of prizes pursuant to this Ordinance shall be used by the organization conducting such activities only for the purposes that have been indicated on the application filed pursuant to Section 5 as a part of the gaining and maintaining of tax exempt status of any permittee.

Section 10. Record Forms.

(a) Every charitable, fraternal or religious organization maintaining, conducting or operating any bingo or lotto game shall legibly record, upon forms provided by the City Recorder, on a daily basis, the following information:

- (i) total proceeds collected,
- (ii) total value of prizes awarded,
- (iii) the name, address and signature of each person awarded a prize of one hundred dollars (\$100.00) or more in any such game.
- (iv) balance of proceeds going to such organization,
- (v) name and signature of the individual(s) verifying the financial information for such games,
- (vi) a list of the names of all persons involved in the conducting of the games, and
- (vii) such other information as the City Recorder may require to effectuate the purposes of this Ordinance. Provided that a permittee who does not believe such information may be required may appeal such request pursuant to Section 8.

(b) All such information required by this Ordinance shall be maintained at the organization's permanent address for a period of not less than three (3) years from the date of the transactions recorded. Complete, legible duplicates of all such records shall be delivered or mailed to the City Recorder on a quarter-yearly basis.

(c) Every such organization shall display, in the room of the premises where such bingo games are conducted, a certified copy of the documents granting such organization tax exempt charitable, religious or fraternal status by the United States and the State of Oregon.

(d) In addition to the requirements noted above, such permittee shall file, on a form provided by the City Recorder, every three (3) months, with the City Recorder, a clear and concise statement containing the following information: a summary profit and loss statement on all game operations during such time period, indicating the total income, source of income, total expenses and nature thereof and profits turned over to the organization and the disposition thereof.

(e) At the time the permittee requests renewal of the permit, it shall provide the City Recorder a copy of the general financial report.

(f) All forms required to be maintained pursuant to this section shall be made available to the Chief of Police or the City Recorder or their designee for inspection and use to ensure compliance with all provisions of federal and state law and this Ordinance relating to such gaming activities. Provided further, that such forms, which contain confidential organizational information, shall not otherwise be disclosed except as required by law.

Section 11. Game Limitations.

(a) No charitable, religious or fraternal organization shall maintain, conduct or operate any bingo or lotto games for more than two days in any week (Monday through Sunday) nor shall any such bingo or lotto game activities be conducted for more than five (5) hours on any one day (12:01 a.m. through midnight); nor shall any single structure be used as the location of games of bingo or lotto on more than two (2) days in any week except when conducted at an annual bazaar, open house or meeting that occurs only once in a twelve (12) month period and does not last longer than seven (7) days.

(b) Any single bingo or lotto game prize shall not exceed, in total value, in money, goods, services or anything else of value, two thousand dollars (\$2,000.00).

(c) Persons who have not reached their eighteenth (18th) birthday shall not be permitted to participate in any bingo or lotto game as a player unless accompanied by a parent or lawful guardian who authorizes such participation.

Section 12: Inspection of Games, Premises and Records. Any officer of the City Police Department, or any City official designated by the City Manager, upon presentation of official identification, shall be permitted entry by the charitable, fraternal or religious organization into the premises where bingo or lotto games are played, for the limited purpose of inspecting such premises, the equipment used in playing such games, and the records described in Section 10 to ensure compliance with the provisions of this Ordinance and state law.

Section 13. Conducting Games in Violation Declared a Nuisance; Abatement.

Any bingo or lotto games maintained, conducted or operated by any charitable, religious or fraternal organization in violation of the provisions of this Ordinance or state law are hereby declared to be a public nuisance. The City Attorney is authorized to bring any action or suit to abate such nuisance in any court of competent jurisdiction when he has reasonable grounds to believe a nuisance under this Ordinance exists, regardless of whether or not any individual has been convicted of a violation of this Ordinance. Any violation of the provisions of this Ordinance shall, upon conviction, be punishable by a fine of not more than \$500.00, or by imprisonment for not more than six months, or both, for each separate offense. A separate offense shall be considered to occur on each day that a violation of this Ordinance exists, happens, or continues.

Section 14. Effective Date. This Ordinance shall be effective thirty (30) days after passage and approval.

Duly passed by the City Council this

23 day of January, 1985.

Polly Blankenbaker  
Polly Blankenbaker, City Recorder

Approved by the Mayor this 25 day  
of January, 1985.

Mary D. Tobias  
Mary Tobias, Mayor of the  
City of Sherwood

	Aye	Nay
Tobias	<u>X</u>	_____
Oyler	<u>X</u>	_____
Gothie	<u>X</u>	_____
Reid	<u>X</u>	_____
Thornton	<u>X</u>	_____