

**Authority:** Item 5, Planning Committee  
Report 15-002, PED15013  
CM: February 11, 2015

**Bill No. 051**

## **CITY OF HAMILTON**

### **BY-LAW NO.15-**

#### **Being a By-law to License Lotteries, repealing and replacing By-law No. 04-134**

**WHEREAS** the City of Hamilton is authorized to license lottery schemes as permitted under Order in Council 1413/08;

**NOW THEREFORE** the Council of the City of Hamilton enacts as follows:

#### **Definitions**

1. In this By-law:

“bona fide member” means a member in good standing of a charitable organization who participates in the activities of the charitable organization beyond conducting lottery schemes;

“Business Licensing By-law” means City By-law No. 07-170;

“charitable object or purpose” means any object or purpose relating to:

- (a) the relief of poverty;
- (b) the advancement of education;
- (c) the advancement of religion; or
- (d) any other purpose beneficial to the community;

“charitable organization” means a corporation, organization, association or partnership which is created primarily for a charitable object or purpose in Ontario, is operated not for profit, and includes a religious organization or a non-profit organization with charitable objects that meets all of the Registrar’s requirements;

“City” means the geographical area of the City of Hamilton or the municipal corporation as the context requires;

“conduct” used as a verb includes “manage” and used as a noun includes “management”;

“Issuer of Licences” means the Issuer of Licences as defined in the Business Licensing By-law;

“Licensing Tribunal” means the Licensing Tribunal as defined in the Business Licensing By-law;

“Registrar” means the Registrar of Alcohol and Gaming under the *Gaming Control Act, 1992*; and

“Registrar’s requirements” means any directives, standards, policies, and terms and conditions issued by the Registrar as amended or replaced from time to time and includes the Lottery Licensing Policy Manual and the Terms and Conditions.

### **Issuer of Licences’ Authority**

2. The Issuer of Licences is responsible for administering and enforcing the provisions of this By-law including but not limited to assigning Municipal Law Enforcement Officers to enforce this By-law and prescribing the format and content of any forms or other documents required under this By-law.
3. The Issuer of Licences is responsible for issuing
  - (a) licences authorizing charitable organizations to conduct the following lottery schemes:
    - a bingo lottery event where the amount or value of the prize or prizes awarded is no greater than \$5,500.00 in value;
    - a raffle lottery event where the amount or value of the prize or prizes awarded does not exceed a total value of \$50,000;
    - a break open ticket lottery event of up to two years to be conducted from a location within the City other than a break open ticket lottery event which is conducted in conjunction with another licensed gaming event;
    - a bazaar lottery event during which the only lottery events authorized to be played are:
      - (a) a maximum of three wheels of fortune where individual bets are no more than \$2.00;
      - (b) a raffle lottery not exceeding \$500.00 in prizes;
      - (c) a bingo lottery not exceeding \$500.00 in prizes;
    - a media bingo lottery event conducted on or through television, radio, newspaper or other means of communication where the amount or value of the prize or prizes awarded is not greater than \$5,000.00.
  - (b) The Issuer of Licences is responsible for issuing authorizations authorizing charitable organizations to submit an application to the Registrar for a licence to conduct a bingo lottery event at a pooling bingo hall and any reference to a “licence” in this By-law includes such an authorization unless otherwise specified.
  - (c) The Issuer of Licences is responsible for issuing no-objection letters to charitable organizations that are applying for or have been issued a lottery licence from the province or from another municipality when all or part of the

lottery scheme will take place in the City and any reference to a “licence” in this By-law includes such a no-objection letter unless otherwise specified.

4. Despite section 3, the Issuer of Licences may only issue a licence if:
  - (a) issuing the licence is consistent with the Registrar’s requirements;
  - (b) the proceeds from the lottery scheme will be used for a charitable object or purpose providing a direct benefit to the residents of the City; and
  - (c) the proposed event will be conducted in accordance with the *Gaming Control Act, 1992* and its regulations.
5. The Issuer of Licences may review a charitable organization’s eligibility for a licence and use of proceeds and the applicant or licensee shall pay any applicable fee for such a review.
- 6.(1) The Issuer of Licences may:
  - (a) attach conditions, in addition to the conditions under section 10, to a licence; or
  - (b) suspend, cancel or refuse to issue a licence where:
    - (i) the applicant or licensee has failed to comply with this By-law including failing to comply with the Licence Conditions under section 10 or the Licensee Obligations under sections 11 and 12;
    - (ii) there are reasonable grounds to believe that the applicant or licensee will not conduct the lottery scheme in accordance with the law or with honesty and integrity;
    - (iii) in its opinion it is in the public interest to do so; or
    - (iv) an applicant or licensee fails to submit financial reports or other information in accordance with the Issuer of Licences or the Registrar’s requirements.
- (2) An applicant or licensee may appeal the Issuer of Licences’ decision under subsection 6(1) to the Licensing Tribunal and such appeal shall follow the process for appealing a refusal to issue a licence under the General Provisions of the Business Licensing By-law modified as necessary, including but not limited to sections 13 through 18 inclusive as they relate to refusals.

### **Licence Applications**

- 7.(1) An applicant for a licence shall file the application and all applicable fees as required by the Issuer of Licences.
- (2) The applicant shall be responsible for ensuring that:
  - (a) all forms are properly completed and submitted to the Issuer of Licences;
  - (b) all applicable fees have been paid to the Issuer of Licences;

- (c) all information as required by the Issuer of Licences is supplied to him or her and that all such information is truthful including but not limited to:
    - (i) satisfactory evidence of the charitable organization's charitable status for at least one year prior to the application;
    - (ii) the date of the charitable organization's fiscal year end and the last fiscal year's Financial Statements;
    - (iii) a list of the charitable organization's Board of Directors including contact information for each Director;
    - (iv) the name, home address and home telephone number of the bona fide member or members, in accordance with the Registrar's requirements, who will conduct the lottery scheme;
    - (v) satisfactory evidence of the charitable organization's other sources of income; and
    - (vi) the rules, if any, in accordance with the Registrar's requirements for the conduct of the lottery scheme;
  - (d) all financial reports and other information required for previous licences, if any, have been submitted to the Issuer of Licences;
  - (e) prior to issuance of the licence any change to information provided under paragraph 7(2)(b) has been brought to the attention of the Issuer of Licences in writing.
8. An application for a licence shall be made at least 30 days prior to the date on which the lottery scheme is to occur or where there is more than one lottery scheme, at least 30 days prior to the date of the first lottery scheme.
9. No licence shall be issued unless an applicant has complied with sections 7 and 8.

### **Licence Conditions**

10. Each licence shall be subject to the following conditions:
- (a) the licensee shall comply with sections 206 and 207 of the Criminal Code (Canada);
  - (b) the licensee shall comply with Order in Council 1413/08;
  - (c) the licensee shall comply with the Registrar's requirements;
  - (d) the licensee shall comply with this By-law;
  - (e) the licensee shall immediately bring to the attention of the Issuer of Licences in writing any change to information provided under paragraph 7(2)(c) that occurs during the term of the licence and pay any applicable fee for such a change;
  - (f) the licensee shall conduct or allow to be conducted only lottery schemes authorized by the licence;

- (g) the licensee shall allow only a bona fide member of the charitable organization, in accordance with the Registrar's requirements, to conduct lottery schemes authorized by the licence;
- (h) the licensee shall ensure that no person conducting or involved in the conduct of a lottery event participates as a player during that lottery event;
- (i) the licensee shall not allow any person under the age of 18 to participate as a player during a lottery event;
- (j) the licensee shall allow such inquiries and inspections as may be required by the Issuer of Licences with respect to the licensee's licence or use of proceeds;
- (k) the licence is valid only for the term for which it is issued, is personal to the licensee and is not transferable; and
- (l) the licensee shall stop conducting any lottery scheme authorized by the licence upon being directed to do so by the Issuer of Licences or a police officer.

### **Licensee Obligations**

- 11.(1) Where a licence applies to premises where a lottery scheme is taking place, the licensee shall post the licence in a conspicuous place at the premises.
- (2) Where a licence does not apply to premises where a lottery scheme is taking place, the licensee shall produce the licence on demand of the Issuer of Licences or police officer.
- 12. The licensee shall:
  - (a) keep a record for each lottery event showing each person assisting in the conduct of the lottery and the amount he or she is paid.
  - (b) where payment for anything is made by cash with a receipt instead of by cheque, ensure a written receipt is retained which includes the name, address and signature of the person to whom payment is made;
  - (c) notify the Issuer of Licences in writing within seven days if any prizes specified in the licence are not awarded on the date specified in the licence together with reasons for this and the names and address of any winners left unpaid;
  - (d) submit to the Issuer of Licences financial reports or other information in accordance with the Issuer of Licences requirements;
  - (e) deliver the licence to the Issuer of Licence upon the revocation or suspension of the licence or where no further lottery events will be held under the licence;
  - (f) provide copies of the Lottery Trust Account Bank Statements and cancelled cheques from such accounts to the Issuer of Licences with 30 days of each month's end.

### Offences

- 13.(1) No person shall conduct or allow to be conducted a lottery scheme requiring a licence under this By-law without such a licence.
  - (2) No licensee or other person associated with a lottery scheme requiring a licence under this By-law shall fail to comply with any Licence Condition listed under section 10 or any Licensee Obligation listed under sections 11 and 12.
14. Every person who contravenes this By-law is, upon conviction, guilty of an offence and is liable to a fine under the *Provincial Offences Act* of not more than \$5,000 exclusive of costs.

### General Provisions

15. In the event of a conflict between this By-law and any federal or provincial legislation, Order in Council 1413/08 or the Registrar's requirements, the federal or provincial legislation, Order in Council 1413/08 or the Registrar's requirements prevail to the extent of the conflict.
16. By-law No. 04-134 is repealed as of the day on which this By-law comes into force.
17. All licences issued under By-law No. 04-134 which are current and valid on the day this By-law comes into force shall be deemed to be:
  - (a) current and valid under this By-law; and
  - (b) subject to all of the applicable provisions of this By-law.
18. This By-law may be referred to as the Lottery Licensing By-law or the Hamilton Lottery Licensing By-law.
19. If a court of competent jurisdiction declares any provision of this By-law invalid, it is the intention of Council that the remainder of the By-law shall continue to be in force.
20. This By-law comes into force on the date of its passing.

**PASSED** this 11<sup>th</sup> day of February, 2015.

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Fred Eisenberger  
Mayor

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Rose Caterini  
City Clerk