

BY-LAW NUMBER 73-2007
OF THE CORPORATION OF THE
MUNICIPALITY OF CHATHAM-KENT

By-law for the licensing and regulating of Lotteries in the
Municipality of Chatham-Kent.

FINALLY PASSED the 23rd day of April, 2007

WHEREAS the Criminal Code of Canada provides that the province, through its Lieutenant Governor, may license certain lottery schemes and prescribe terms and conditions relating to the management and conduct of those lottery schemes to which the licence relates.

AND WHEREAS the Lieutenant Governor in Council by Order in Council 2688/93 empowers a municipal council to issue a lottery licence to a charitable or religious organization for charitable or religious purposes of a direct benefit to the residents of Ontario where it deems it to be in the best interests of the inhabitants of the Municipality.

BE IT THEREFORE ENACTED by the Council of the Corporation of the Municipality of Chatham-Kent as follows:

Definitions

1. In this By-law:
 - (a) "Bingo Event" means a game schedule stating the beginning and end time to a series of consecutive bingo games.
 - (b) "Charitable object or purpose" means any object or purpose relating to,
 - (i) the relief of poverty;
 - (ii) the advancement of education;
 - (iii) the advancement of religion; or
 - (iv) any other purpose beneficial to the community.
 - (c) "Charitable Organization" means an organization which is registered as a "Non-Profit Organization", or is a "Registered Charity" within the meaning of the Income Tax Act.
 - (d) "Chatham-Kent" means The Corporation of the Municipality of Chatham-Kent.
 - (e) "Commission" means the Alcohol and Gaming Commission of Ontario, Gaming Registrations and Lotteries Section;
 - (f) "Council" means Council of the Corporation of the Municipality of Chatham-Kent.

- (g) “Designate” means the person who was appointed by Council to assist the Manager, Licensing Services in the issuance of lottery licences.
 - (h) “Licensee” means a person to whom a licence is issued.
 - (i) “Lottery Event” means a single occasion at which a lottery scheme is conducted.
 - (j) “Lottery Licensing Officer” means the Manager, Licensing Services appointed by the Council .
 - (k) “Lottery Scheme” has the same meaning as in the Criminal Code (Canada) ;
 - (l) “Person” means a corporation, organization, association or partnership, including a charitable organization;
 - (m) “Pooling Bingo Hall” means charitable organizations licensed to conduct bingo events at a registered bingo hall pooling their lottery proceeds in order to get an equal share in the proceeds from all time slots.
 - (n) “Provincial Licensee” means a person to whom a license to conduct a lottery has been validly issued by the Province of Ontario.
2. (a) Every Charitable Organization wishing to conduct lotteries within the Municipality of Chatham-Kent shall complete an application in the form prescribed by the Commission from time to time.
- (b) All lottery applications shall be made to the Lottery Licensing Officer or Designate no later than 14 days prior to the date on which the lottery event is to occur.
3. No Charitable Organization shall be considered by Chatham-Kent for a lottery licence unless:
- (a) has produced proof of registered charity status and it has produced a copy of its Letters of Incorporation, if incorporated;
 - (b) it has produced proof of existence for at least one year prior to its application;
 - (c) it can establish a physical presence within the Municipality of Chatham-Kent or municipalities adjacent to, with a local board of directors and local address;
 - (d) it provides details of the charitable or religious purposes to which it wishes to put the lottery proceeds and those uses are permitted uses as set down by the Ministry from time to time.
 - (e) it agrees to establish a Lottery Trust Account in accordance with the Commission guidelines ;
 - (f) it agrees to retain at least 50% of the proceeds of the lottery event to be used to directly benefit residents of the Municipality of Chatham-Kent; and
 - (g) complies with all applicable law including all regulations, orders, directives and policies of the Province of Ontario and the Government of Canada.

4. No licence shall be issued until the license fee provided for herein has been paid.

Bingo Licences – (in Non-Pooling Bingo Halls)

5. The Lottery Licensing Officer or Designate may issue licences for bingo events to a Charitable Organization where the amount or value of the prize or prizes to be awarded by such Charitable Organization is no greater than \$5,500.00 in value.
6. The fee for the licence to conduct a bingo event shall be 3% of the value of the prizes to be awarded by such Charitable Organization, or such lesser fee established by the Council of the Corporation of the Municipality of Chatham-Kent from time to time.
7. The same Charitable Organization may be licensed to conduct no more than 52 bingo events per year and a licence cannot be issued for a term of more than 6 months.
8. Every Charitable Organization shall conduct all bingo events in accordance with the Terms and Conditions for bingo events as prescribed by the Commission from time to time.

Bingo Licences - (in Pooling Bingo Halls)

9. The Lottery Licensing Officer or Designate may issue licences for bingo events at pooling bingo halls to a Charitable Organization where the amount or value of the prize or prizes to be awarded by such Charitable Organization may be fixed, variable, progressive or a combination.
10. The fee for the licence to conduct each bingo event shall be a fixed amount per session as per the User Fee By-law, as amended from time to time.
11. Every Charitable Organization shall conduct all bingo events in accordance with the Terms and Conditions for bingo events as prescribed by the Commission from time to time.

Raffle Licences

12. The Lottery Licensing Officer or Designate may issue licences to a Charitable Organization for raffle events where the amount of the prize or prizes to be awarded does not exceed \$50,000.00 in total value.

13. The fee for a raffle licence shall be 3% of the value of the prizes to be awarded by such Charitable Organization or such lesser fee as established by Council from time to time.
14. Every Charitable Organization shall conduct all raffles in accordance with the Terms and Conditions for raffle lottery events as prescribed by the Commission from time to time.
15. Raffle licences shall not be issued to any Charitable Organization unless it has submitted all reports required under the Terms and Conditions associated with previous raffle licences issued to that organization.
16. For raffles with a total prize value in excess of \$10,000.00 the applicant shall provide the Lottery Licensing Officer or Designate with an irrevocable letter of credit in the form attached hereto as Schedule "A" from a bank or financial institution payable to the Corporation of the Municipality of Chatham-Kent in the amount of the total value of the prizes to be awarded including all taxes and with a minimum expiry date of no less than 45 days after the date of the event.

Nevada Ticket Sales

17. The fee for the Nevada ticket licence shall be 3% of the value of the prizes to be awarded by such Charitable Organization or such lesser fee as established by Council from time to time.
18. Every Charitable Organization shall conduct Nevada Ticket sales for which it is licensed in accordance with the Terms and Conditions for Break-Open (Nevada) Ticket sales as prescribed by the Commission from time to time.
19. No Provincial Licensee shall be permitted to conduct Nevada Ticket Sales within the Municipality of Chatham-Kent unless it maintains a physical presence within the Municipality of Chatham-Kent and has a Branch or Chapter established within the Municipality of Chatham-Kent for at least one year.
20. The Charitable Organization applying to sell Nevada (Break Open) Tickets at a premises not owned by it, ("third party location") must identify the name under which the third party location is registered under the Gaming Control Act and the registration number. The owner or operator of the third party location shall provide proof to the Municipality that it has paid the Charitable Organization in advance for the proceeds of the sale of a box of tickets provided that a complete audit trail of the tickets and proceeds is maintained.

Social Gaming Events

21. Social Gaming Events shall be issued by the Commission only and may be approved in principle by the Lottery Licensing Officer or Designate if the applicant is a Charitable Organization with an established physical presence in the Municipality of Chatham-Kent.
22. Only one Social Gaming Event will be permitted at any one time at any social occasion carried on by such Charitable Organization and may only be authorized where the gaming activities are ancillary or complementary to a social occasion.
23. Social Gaming Events shall be conducted in compliance with the Terms and Conditions for Social Gaming Events as prescribed by the Commission from time to time.

Bazaars

24. The Lottery Licensing Officer or Designate may issue a Bazaar licence to a Charitable Organization to conduct and manage a lottery event during which the following lottery events may be played:
 - (i) a Wheel of Fortune event at which there are no more than 3 Wheels and individual bets are no more than \$2.00;
 - (ii) a raffle lottery not exceeding \$500.00 in prizes;
 - (iii) a bingo lottery not exceeding \$500.00 in prizes;
 - (iv) a penny auction
25. Every Charitable Organization shall conduct a Bazaar according to the Terms and Conditions for a Bazaar event as prescribed by the Commission from time to time.
26. The license fee for a Bazaar shall be \$3.00 per wheel per day and 3% of the value of the prizes to be offered for a raffle or bingo event by such Charitable Organization or such lesser fee as may be determined by Council from time to time.

Enforcement

27. (a) The Lottery Licensing Officer may suspend, cancel or refuse to issue a licence hereunder where:
 - (i) there has been a breach of any term or condition provided for herein in the current license application or previous license issued;

- (ii) there has been a breach of any requirements set forth in this by-law;
 - (iii) a licensee fails to submit financial reports relating to the conduct of any lottery event; or
 - (iv) there are reasonable grounds to believe that the licensee did not or will not conduct and manage the lottery scheme in accordance with all applicable law and with honesty and integrity.
 - (b) The Lottery Licensing Officer may consider the following factors when determining the qualification and eligibility of the applicant:
 - (i) the number of licences to be issued;
 - (ii) the playing locations already in existence; or
 - (iii) the ability of the licensee to raise sufficient funds to comply with the terms and conditions of the licence.
28. Notwithstanding section 27, an applicant for a lottery license may appeal the decision of the Lottery Licensing Officer or Designate to Council and the Council may on appeal issue or reinstate a licence, or refuse to issue or reinstate a license if it is satisfied after examining all relevant factors including the best interests of the community.
29. Every person who contravenes any of the provisions of this By-law is guilty of an offence and shall upon conviction be liable to pay a fine not exceeding five thousand (\$5,000) dollars (exclusive of cost) for each such offence, and every such fine shall be recoverable under the Provincial Offences Act and all the provisions of which shall apply except that the imprisonment may be for any term not exceeding six (6) months. The imposition of a penalty for a contravention of this By-law shall not excuse the condition or matter resulting in such contravention or permit it to remain or continue, and the person who has contravened the By-law shall rectify any condition or matter resulting thereby. Nothing herein contained shall in any way modify, affect or derogate from any other remedy available to Chatham-Kent or any other corporation or person with respect to such contravention.
30. Should any section of this By-law be declared by a Court of competent jurisdiction to be invalid, the same shall not affect the validity of the By-law as a whole or in part thereof, other than the part which was declared to be invalid.
31. That By-law 124-2004 of the Corporation of the Municipality of Chatham-Kent is hereby repealed.

THIS By-law shall come into full force and effect upon the final passing thereof.

READ A FIRST, SECOND AND THIRD TIME, this 23rd day of April, 2007

Original Signed By

Mayor – Randy R. Hope

Original Signed By

Clerk – Elinor Mifflin

“SCHEDULE A”

BANK LETTERHEAD

Agreement

THE MUNICIPALITY OF CHATHAM-KENT
315 King Street West, Chatham, Ontario.

Dear Sir:

WE HEREBY AUTHORIZE you to draw on (name and address of Bank) for the account of (name of Customer) up to an aggregate amount of \$XXX (numbers written out in full) available on demand as follows:

Pursuant to the request of our customer (name of customer) (name and address of Bank) hereby establishes and gives to The Corporation of The Municipality of Chatham-Kent an irrevocable Letter of Credit in its favour in the total amount of (\$XXX) (numbers written out in full) which may be drawn upon by The Corporation of The Municipality of Chatham-Kent at any time and from time to time upon written demand for payment made upon us by The Corporation of The Municipality of Chatham-Kent by the signature only of The Treasurer or the Deputy City Treasurer thereof, which demand we shall honour without enquiring whether you have any right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer or objection by our said customer to payment by us. This Letter of Credit relates to obligations of our said customer to The Corporation of The Municipality of Chatham-Kent to be performed under an Agreement to which the said Corporation of The Municipality of Chatham-Kent and our said customer are parties, which Agreement bears date of (day) of (month) 20().

The amount of this Letter of Credit may be reduced from time to time as advised by notice in writing to this undersigned from time to time by The Corporation of the Municipality of Chatham-Kent by the signature only of the Treasurer or the Deputy City Treasurer thereof.

This Letter of Credit will continue in force for a period of one year, but shall be subject to the condition hereinafter set forth. It is a condition of this Letter of Credit that it shall be deemed to be automatically extended without amendment from year to year from the present or any future expiration date hereof unless at least 30 days prior to any such future expiration that it elects not to consider this Letter of Credit to be renewable for any additional period.

Partial drawings are permitted against this Letter of Credit.

The undersigned acknowledges that as at this date, the Treasurer for the Corporation of the Municipality of Chatham-Kent is Stuart Wood.

DATED at (City), Ontario this (day) of (month), 20().

(name of Bank)

per:

per:

Letter of Credit No.

Amount

Initial Expiry Date