

# THE CORPORATION OF THE TOWN OF MILTON

## BY-LAW NO. 126-2002

BEING A BY-LAW TO LICENSE CHARITABLE OR RELIGIOUS ORGANIZATIONS TO CONDUCT AND MANAGE LOTTERY SCHEMES FOR CHARITABLE OR RELIGIOUS PURPOSES

**WHEREAS** Section 207 of the *Criminal Code of Canada* empowers an authority in the Province to issue a license that contains such terms and conditions relating to the management and conduct of lottery schemes to which the license relates as the said authority may prescribe;

**AND WHEREAS** The Lieutenant Governor in Council of Ontario by Order in Council 2688/93, as amended, did empower municipal councils to issue licenses authorizing a charitable or religious organization to conduct and manage lottery schemes for charitable or religious purposes;

**AND WHEREAS** the Council of the Corporation of the Town of Milton desires to enact a lottery license by-law consistent with Order in Council 2688/93, as amended, and to repeal By-law No. 137-2001, and to enact a new by-law to license charitable or religious organizations to conduct and manage lottery schemes for charitable or religious purposes.

NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MILTON ENACTS AS FOLLOWS

### DEFINITIONS

1. In this By-law:

- (a) "Bazaar" means a one (1) day event where any combination of the following lotteries may be conducted in conjunction with the sale of goods for charity:
  - (i) a raffle not exceeding \$500 in prizes;
  - (ii) a bingo not exceeding \$500 in prizes;
  - (iii) a maximum three (3) wheels of fortune with a maximum \$2.00 bet.
- (b) "Bingo" means a lottery scheme where consideration is given for a chance to win a cash prize(s) by being the first to complete a specified arrangement of numbers on bingo paper from numbers selected at random.

- (c) "Bingo Hall" means the place or premises where the lottery scheme is being conducted.
- (d) "Break Open Ticket" means a device which is made of cardboard and which has one (1) or more perforated cover window tabs behind which are winning and losing numbers or symbols which must be revealed by tearing off the cover tab.
- (e) "Charitable Object or Purpose" means any object or purpose for:
  - (i) THE RELIEF OF POVERTY: This includes, but is not limited to, providing assistance to the disadvantaged such as directly providing funds or goods, providing social services or programs or facilities aimed at the disadvantaged.
  - (ii) THE ADVANCEMENT OF EDUCATION: This includes, but is not limited to, the provision of opportunity, supplies or facilities. Any purpose that advances education and makes it available to a sufficient section of the public such that it is not restricted by any means would be considered charitable.
  - (iii) THE ADVANCEMENT OF RELIGION: This includes, but is not limited to, the provision and maintenance of places of public worship as well as other religious objectives.
  - (iv) ANY CHARITABLE PURPOSE BENEFICIAL TO THE COMMUNITY: This includes, but is not limited to, the community as a whole without discrimination so that the purposes have a truly public character; this may include but is not limited to certain cultural, ethnic, native, historic or heritage pursuits and their physical facilities; community projects undertaken by service organizations, improvement of quality of health, medical research, treatment programs, preventative programs, and their physical facilities, sporting and recreation public facilities; amateur sporting leagues or associations administering activities solely for children or youth development under controlled conditions.
- (f) "Charitable Organization" means an organization based within the boundaries of the Town of Milton, which is created primarily for a charitable object or purpose, is operated not for profit, and includes religious organizations.
- (g) "Council" means the Council of the Corporation of the Town of Milton.
- (h) "Gross Proceeds" means all money and other things of value received by a person in the conduct of a lottery event.
- (i) "Licensee" means the person to whom the license is issued.

- (j) "Lottery Event" means a single occasion at which a lottery scheme is conducted.
- (k) "Lottery Licensing Officer" shall include the Town Clerk, and any other person who may from time to time be authorized or delegated the authority to issue licenses.
- (l) "Lottery Scheme" includes a bingo lottery, raffle, bazaar, monte carlo event, and break open tickets.
- (m) "Ministry" means the Ministry of Consumer and Commercial Relations.
- (n) "Municipal Law Enforcement Officer" means a Municipal Law Enforcement Officer for the Town of Milton.
- (o) "Person" means a corporation, organization, association or partnership.
- (p) "Raffle" means a lottery scheme where tickets are sold for a chance to win a prize at a draw and includes 50/50 draws, elimination draws, calendar draws and sports pools.
- (q) "Registrar" means the Registrar of Alcohol and Gaming under the *Gaming Regulation and Public Protection Act, 1996*.
- (r) "Regular Bingo License" means a license permitting the conduct of a bingo on one (1) or more occasions but not exceeding thirteen (13) occasions in any three (3) month period.
- (s) "Service Organization" is an organization operated on a not for-profit basis that performs activities and undertakes projects to benefit the community.
- (t) "Town" means the Corporation of the Town of Milton.
- (u) "Town Clerk" means the Town Clerk for the Town of Milton, or his/her designate.

## **COUNCIL'S AUTHORITY TO LICENSE LOTTERY SCHEMES**

2. Council may, where it deems it to be in the best interest of the inhabitants of the Town, issue a license authorizing an eligible charitable organization to conduct and manage the following types of lottery schemes, if the proceeds from the lottery scheme are used for a charitable or religious object providing a direct benefit to the residents of Ontario,
  - (a) a bingo lottery event where the amount or value of the prize(s) awarded is no greater than \$5,500.00 in value;

- (b) a raffle lottery event where the amount or value of the prize(s) awarded does not exceed a total value of \$50,000;
- (c) a break open ticket lottery event up to one (1) year to be conducted within the geographical boundaries of the Town, other than a break open ticket lottery event which is managed and conducted in conjunction with another licensed gaming event;
- (d) a bazaar lottery event during which the only lottery events authorized to be played are:
  - (i) a maximum of three (3) wheels of fortune where 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;
- (e) 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(s) awarded is no greater than \$5,500.00.

3. Council shall not issue a license:

- (a) unless the proposed event will be conducted in accordance with the requirements of the *Gaming Services Act, 1992* and regulations;
- (b) for a lottery event in which a prize(s) not awarded at one event may be added to the amount of the prize to be awarded at a subsequent event or events;
- (c) for a lottery event in which games of a type known as razzle dazzle, roll down, three-card monte, punch board, coin table or any dice games are to be operated;
- (d) for a lottery event in which a monte carlo event is to be conducted, including games using playing cards, the game commonly known as blackjack, rapid blackjack, blackjack tournament and wheels of fortune;
- (e) to a public place of amusement or the board of a fair or exhibition or the operators of concessions leased by such board;
- (f) for such lottery events which are prohibited lottery schemes under the *Criminal Code (Canada)*;
- (g) for a super jackpot bingo event;

- (h) for a break open ticket lottery event which is managed and conducted in conjunction with another licensed gaming event;
- (i) for a provincial break open ticket lottery.

#### **APPLICATION FOR A LICENSE**

4. No lottery scheme shall be held within the Town without a license.
5. No license shall be granted to an applicant unless he/she meets the following criteria:
  - (a) the applicant is a charity or non-profit group which is a registered charitable organization or incorporated body;
  - (b) the Town may issue a license to any non-profit or charitable organization if it deems it to be in the interest of its inhabitants whether or not the organization has a physical presence in the municipality;
  - (c) sections 197, 198 and 207 of the *Criminal Code (Canada)* are complied with.
6. Every person who conducts a lottery scheme shall make an application and obtain a license authorizing them to carry on and conduct a lottery scheme in the Town and no person shall, within the limits of the Town, conduct a lottery scheme until he/she has procured such license.
7. The licensee shall be responsible and accountable for the overall management and conduct of the lottery scheme.
8. The licensee shall ensure that:
  - (a) all funds are held in a separate approved account or an approved lottery trust account into which only funds generated pursuant to licenses issued by the Town are held and records are maintained for a four (4) year period;
  - (b) on any approved lottery trust account, an annual audited statement is provided;
  - (c) all transactions shall be conducted by cheque drawn on the separate account, excluding honorariums;
  - (d) all transfer of funds are documented and may be subject to an audit;
  - (e) any sales commission paid does not exceed five (5) percent of the price of each ticket sold;

- (f) only the type of game(s) provided for in the license shall be conducted or performed;
- (g) the license shall be produced upon demand;
- (h) the original of each license shall be displayed in a conspicuous place on the premises where the lottery scheme is to be conducted and at all times during the conduct thereof;
- (i) an application for a license to conduct a lottery scheme shall be in the form prescribed by the Ministry.
- (j) there is compliance with all of the terms and provisions set out in the application for the license;
- (k) no license shall be issued until the license fee has been paid;
- (l) the gross proceeds from the lottery scheme shall be used for the charitable or religious object or purpose as set out by the licensee in the application for a license, less the cost of the prizes awarded and such reasonable and necessary administrative expenses actually incurred in the management and conduct of the lottery, provided the expenses do not exceed such limits as provided for in this By-law;
- (m) itemized invoices and proof of payment are obtained for each expense incurred and where any single expenditure exceeds \$500.00, these shall be submitted with the lottery license report;
- (n) a detailed record of all charitable donations made is kept;
- (o) a detailed record of how profits from the lottery have been dispersed is maintained;
- (p) a lottery license report, in a form acceptable to the Lottery License Officer, is submitted to the Lottery License Officer with respect to each event;
- (q) books, records, and other documents in support of all financial reports or statements are maintained and these records shall be kept up to date and be retained for no less than four (4) years from the date of the lottery scheme;
- (r) the amount or value of each prize awarded or the money or other valuable consideration paid to secure a chance to win a prize or the total value of all prizes to be awarded, as the case may be, does not exceed the amount specified in this By-law for the class of license applied for.

9. The licensee shall not:
  - (a) where only one (1) approved lottery trust account is maintained, deposit monies received from any source other than lottery events conducted by the licensee into the designated trust account;
  - (b) close the approved lottery trust account until all monies have been donated to approved charitable purposes and a report has been submitted to the Lottery Licensing Officer on an original application for a license;
10. An application for a lottery license shall be made to the Lottery Licensing Officer no later than ten (10) days prior to the date on which the lottery scheme is to occur, or where there is more than one (1) lottery scheme applied for in the application, at least twenty-one (21) days prior to the date of the first lottery scheme applied for.
11. The Lottery Licensing Officer may require clearances from the following with respect to an original or annual application or if there has been a change in officers from what was on the application:
  - (a) the Halton Regional Police Service;
  - (b) the Ministry of Consumer and Commercial Relations; and
  - (c) the Department of Consumer and Corporate Affairs,and may issue the appropriate license unless the investigation discloses any reason to believe that the applicant is not of good character or that the carrying on of the said lottery or event will be likely to result in a breach of the law or be in any way adverse to the public interest, in which event, the license shall not be issued or renewed.
12. No license under this By-law shall be transferred except with the consent in writing of the Lottery Licensing Officer and the Lottery Licensing Officer shall not be bound to give such consent.
13. The Lottery Licensing Officer or such other person as may be designated by the Lottery Licensing Officer shall, on behalf of Council, sign all licenses issued thereby pursuant to this By-law.
14. A license may be suspended, cancelled or renewal refused by the Lottery Licensing Officer for breach of any provision of this By-law.

15. Where the Lottery Licensing Officer refuses to issue the license applied for, or recommends revocation of a license, the applicant or licensee may appeal to the Town Clerk.
16. Every person obtaining a license under this By-law shall keep his license posted in a conspicuous place on the premises in respect to which the license is issued, and every person so licensed shall, when so requested by the Lottery Licensing Officer, Municipal Law Enforcement Officer, Police Officer, or any other person authorized by Council, produce the license for inspection.
17. The licensee shall provide to the Lottery Licensing Officer, Municipal Law Enforcement Officer, Police Officer, or any person authorized by the Lottery Licensing Officer, direct and unencumbered access to all books and records of the licensee pertaining to the nature, management and conduct of the event for which the license has been granted at any time, including prior to, during or after the conclusion of the event, and shall deliver to the Lottery Licensing Officer, Municipal Law Enforcement Officer, Police Officer, or any person authorized by the Lottery Licensing Officer, such books and records upon request.
18. The licensee shall not prevent, hinder, molest or interfere, or permit a servant, agent or employee of the licensee to prevent, hinder, molest or interfere, with a Municipal Law Enforcement Officer, Police Officer, or any person authorized by the Lottery Licensing Officer, in doing anything the Municipal Law Enforcement Officer, Police Officer, or any person authorized by the Lottery Licensing Officer is authorized to do in law or under this By-law.
19. Where a license has been issued and the lottery event or occasion is cancelled by the organization, the Town shall retain one-third (1/3) of the license fee for each lottery event or occasion cancelled by the licensee.

## **BINGO LOTTERIES**

20. Every bingo licensee shall comply with the Ministry of Consumer and Commercial Relations' Terms and Conditions under which a Bingo Lottery License is issued.
21. Every bingo license applicant shall be provided, at the time of application, with a copy of the Ministry of Consumer and Commercial Relations' Terms and Conditions for a bingo lottery license.
22. The license shall specify :
  - (a) the name and address of the licensee;
  - (b) the place where the bingo lottery is to be operated;



- (c) the *Gaming Services Act, 1992* registration number of the supplier, if applicable;
  - (d) the date(s) of operation of the bingo event;
  - (e) the starting and finishing times of each bingo event; and
  - (f) the value of the prize(s) awarded consisting of the maximum money or retail value of the prize(s) to be awarded at the bingo event.
23. The licensee shall not permit any person apparently under the age of eighteen (18) years of age to play any game of bingo.
  24. The amount that may be expended for the conduct and management of a bingo lottery shall comply with the Ministry of Consumer and Commercial Relations' Terms and Conditions for a bingo lottery license.
  25. A bingo lottery license covering a series of bingos may be issued to any religious or charitable organization making a first application to the Town for a period not to exceed one (1) calendar month. Subsequent bingo lottery licenses may be issued for a period of three (3) months.
  26. The licensee shall not combine the value of the prize(s) awarded for two (2) or more bingo lottery licenses into one (1) event.
  27. The organizations operating within a bingo hall shall be required to form a bingo committee comprised of a representative from each licensed organization, one of whom shall act as chairperson. The committee shall inform the Lottery Licensing Officer of its membership and chairperson. The purpose of this committee will be to discuss and make decisions on issues of common interest and concern and to deal with the landlord, centralized purchasing, game structures, prize money, bingo card prices and advertising.
  28. Every licensee shall ensure that advertisements clearly state the name of the licensee conducting the bingo event(s) and the license number.
  29. The licensee shall supply samples of advertising and promotional materials to be used in connection with the event if requested to do so for review by the Lottery Licensing Officer.
  30. The aggregate amount of all prizes offered or given in all games played on a single occasion under the authority of a bingo license shall not exceed \$5,500.00.

## **RAFFLE/BAZAAR/BREAK OPEN TICKET LOTTERY LICENSES**

31. The licensee shall comply with the Ministry of Consumer and Commercial Relations' Terms and Conditions for the particular type of lottery for which the application is made.
32. Each applicant shall be provided, at the time of application, with a copy of the applicable Terms and Conditions under which such lottery license is issued.
33. The licensee shall not permit any person apparently under the age of eighteen (18) years old to purchase a ticket(s).
34. The licensee shall not use any type of "scratch and win" ticket.
35. The licensee shall ensure that advertisements shall clearly state the name of the licensee and the license number.
36. The gross proceeds derived from the lottery shall be used for the charitable or religious purpose set out in the license application, less the cost of the prizes awarded and such reasonable and necessary administration expenses actually incurred in the conduct of the lottery, provided expenses do not exceed the limits prescribed by the Ministry.
37. Break open tickets may be sold from premises other than those that the charity owns or regularly occupies.

## **SECURITY FOR PAYMENT OF PRIZES**

38. The Lottery Licensing Officer may require the licensee to provide security for ensuring that payment of all proposed prizes is guaranteed.
39. The security for the guarantee of payment of prizes, where required, shall be in a form prescribed by the Lottery Licensing Officer who, in addition, may require that a specified amount be submitted in the form of:
  - (a) an irrevocable letter of credit from a recognized financial institution in Ontario, payable to the Town, which expires no sooner than forty-five (45) days after the last day of the lottery event as specified in the license;
  - (b) a certified cheque, or
  - (c) a bank draft or money order.

40. The amount submitted as security for the guarantee of payment of prizes shall be held by the Town until such time as the Lottery Licensing Officer is satisfied that the lottery event has been completed and the prizes have been paid or awarded to all winners.
41. Where the licensee refuses or fails to pay out prizes to winners at a lottery event, the Lottery Licensing Officer shall cause the amount submitted as security to be realized upon and shall use the proceeds to pay the prizes to the winners.
42. The Lottery Licensing Office shall determine who is entitled to the prizes referred to in this part, and the Lottery Licensing Officer's decision is final.
43. Where a prize is not claimed by a winner within a reasonable period of time, and where, in the opinion of the Lottery Licensing Officer, all reasonable attempts have been made by the licensee to contact the winner, the unclaimed prize shall be held in trust by the licensee for a period not less than twelve (12) months from the date the prize was awarded. At the end of the twelve (12) month period the total amount of the prize held in trust, including interest, shall be included by the licensee in the gross proceeds from the lottery event.

#### **SUSPENSION OR CANCELLATION OF A LOTTERY LICENSE**

44. Council or the Town Clerk may at any time suspend, cancel, or refuse to issue a license where:
  - (a) there has been a breach of any term or condition;
  - (b) there are reasonable grounds to believe that the licensee will not conduct and manage the lottery scheme in accordance with law or with honesty and integrity;
  - (c) in its opinion it is in the public interest to do so; or,
  - (d) a licensee fails to submit the financial reports relating to the conduct of any lottery event which may be or may have been required as a term and condition of a license.
45. Where Council or the Town Clerk is satisfied that it is in the best interests of the Town, he/she may refuse to issue a license, on reasonable grounds, and in doing so may take into account such factors as the number of licenses issued and the playing locations already in existence.
46. Where the Registrar notifies the Town that a person is not eligible for a license, no license shall be issued to that person, and where the person already holds a

license under which a lottery scheme is yet to be held, the Town shall notify the Registrar of the existing license and the license may be revoked.

**PENALTY**

47. Every person who contravenes any provision of this By-law is guilty of an offence, and upon conviction, is liable to a penalty in accordance with the provisions of the *Provincial Offences Act*, R.S.O, 1990 c. P.33.

**BY-LAW REPEALED**

48. By-law 137-2001, as amended, is hereby repealed.

**SEVERABILITY**

49. 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 hereof, other than the part that was declared to be invalid.

READ A FIRST, SECOND AND THIRD TIME and finally passed this 23<sup>rd</sup> day of September, 2002.

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Gordon A. Krantz

Mayor

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Helen Lisi

Clerk

**SCHEDULE "A" TO BY-LAW NO. 126-2002**

**LOTTERY LICENSING FEES**

The following shall be the prescribed lottery licensing fees under this By-law:

Bingo:	3% of prizes
Media Bingo:	3% of prizes
Break Open Ticket	3% of prizes
Raffle	3% of prizes
Bazaar	3% of prizes/\$10 per wheel