ORDINANCE NO. 98

AN ORDINANCE REGULATING GAMES OF CHANCE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF WASHBURN:

Section 1. Definitions.

1. "Adjusted gross proceeds" means gross proceeds less cash prizes or the price of merchandise prizes.

2. "Bingo" means that game of chance in which each participant receives one or more cards each of which is marked off into twenty-five squares arranged in five horizontal rows of five squares each and five vertical rows of five squares each. Each square is designated by number, letter, or combination of numbers and letters, no two cards being identical. The players cover squares as the operator of such game announces the number, letter, or combination of numbers and letters appearing on an object selected by chance, either manually or mechanically, from a receptacle in which have been placed objects bearing numbers, letters, or combinations of numbers and letters corresponding to the system used for designating the squares. The winner of each game is the player or players first properly covering a predetermined and announced pattern of squares on a card being used by the player or players.

3. "Bingo equipment" means the receptacle and numbered objects drawn from it, the master board upon which such objects are placed as drawn, the cards or sheets bearing numbers or other designation to be covered and the objects used to cover them, the board or signs, however operated, used to announce or display the numbers or designations as they are drawn, public address system, and all other articles essential to the operation, conduct, and playing of bingo.

4. "Charitable organization" means any nonprofit organization operated for the relief of poverty, distress, or other condition of public concern within this state, which has been so engaged within this state for two years.

5. "Civic and service club" means any branch, lodge, or chapter of a nonprofit national or state organization which is authorized by its written constitution,

charter, articles of incorporation, or bylaws to engage in a civic or service purpose within this state, which shall have existed in this state for two years. "Civic and service club" shall also mean a similar local nonprofit organization, not affiliated with a state or national organization, which is recognized by resolution adopted by the governing body of the city in which the organization conducts its principal activities, or by the governing body of a county if such organization conducts its principal activities outside the limits of a city but within a county. Such club shall have existed in this state for two years.

6. "Distributor" means a person, firm, corporation, association, or organization which sells, markets, or otherwise distributes raffle tickets, bingo equipment or any other implements of gambling that may be used in the lawful conduct of games of chance under this ordinance to an organization licensed or authorized to conduct such games of chance under this ordinance. "Distributor" does not include a resident printer who prints raffle tickets at the request of a licensed or authorized organization, and who sells or otherwise distributes such raffle tickets to such organization.

7. "Educational, charitable, patriotic, fraternal, religious, or other public-spirited uses" are: uses benefiting an indefinite number of persons either by bringing them under the influence of education or religion or relieving them from disease, suffering, or constraint; fraternal uses specified by an organization's constitution, charter, or bylaws, not of direct benefit to the eligible organization or any member thereof; uses increasing comprehension of and devotion to the principles upon which the nation was founded, not of direct benefit to the eligible organization or any member thereof; the erection or maintainance of public buildings or works; or uses otherwise lessening the burden of government. Such uses do not include the erection, acquisition, improvement, maintenance, or repair of real, personal, or mixed property unless it is used exclusively for one or more of the stated uses. Uses shall not include any activities consisting of attempts to influence legislation or participation in any political campaign on behalf of any elected official or person who is or has been a candidate for public office. "Charitable uses" include uses benefiting a definite number of persons who are victims of loss of home or household possessions through explosion, fire, flood, or storm and the loss is uncompensated by insurance, and uses benefiting

a definite disease or injury, causing severe loss of income and incurring extraordinary medical expense which is uncompensated by insurance.

8. "Educational organization" means any nonprofit public or private elementary or secondary school in this state which has been in existence for two years.

9. "Eligible organization" means bona fide nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and other public-spirited organizations as defined by this ordinance, which may be licensed by the attorney general or authorized by the governing body of a city or county to conduct games of chance under this ordinance.

10. "Entire net proceeds" means the adjusted gross proceeds less such expenses, charges, fees, and deductions as are specifically authorized under this ordinance.

11. "Fraternal organization" means a nonprofit organization within this state, except for college and high school fraternities, which is a branch or lodge or chapter of a national or state organization and exists for the common business, brotherhood, or other interests of its members. Such organization shall have existed within this state for two years.

12. "Games of chance" means a game, contest, scheme, or device in which a person stakes or risks something of value for an opportunity to win something of value and in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestant or participant may also be a factor therein. For purposes of this ordinance, "games of chance" shall specifically mean and be limited to bingo, raffles, pull tabs, jars, and punchboards.

13. "Gross proceeds" means all moneys collected or received from games of chance and admissions thereto.

14. "Jar" means a vessel containing a number of pull tabs from which a participant selects a particular pull tab after paying some consideration to an operator for the opportunity of making the selection.

15. "Member" means a person who has qualified for and been admitted to membership in an eligible organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement,

and who pays regular monthly, annual, or other periodic dues or is a fully paid life member of the eligible organization. "Member" includes auxiliary members, but excludes social and honorary members.

16. "Other public-spirited organization" means a nonprofit organization recognized by the governing body of a city or county by resolution as public-spirited and eligible to conduct games of chance under this ordinance.

17. A "pull tab" is a single-folded or banded ticket or is a card, the face of which is initially covered or otherwise hidden from view to conceal a number, symbol, or set of symbols, a few of which numbers or symbols out of every set of pull tabs have been designated in advance and at random as prize winners, for which, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon, and possibly obtain a prize-winning pull tab, a person pays some consideration to an operator.

18. "Punchboard" means a board or device containing a number of holes or receptacles of uniform size in which are placed mechanically and at random serially numbered slips of paper or other substance which may be punched or drawn from said hole or receptacle by any person desiring to do so, and which the public, upon payment of a consideration, may punch or draw such numbered slips of paper or other substance from such holes or receptacles and obtain an award if the number drawn corresponds to a winning number.

19. "Raffle" means a game of chance in which the prize or prizes, other than cash, are won by one or more of numerous persons buying chances. The winner is determined by drawing a number or numbers from a container holding numbers representative of all chances sold. The date of the drawing, the prize or prizes to be awarded, the name of the organization, the name of the licensing or authorizing authority, the license or authorizing resolution number, and the price of the chance shall be clearly printed on the raffle tickets which shall be numbered consecutively.

20. "Religious organization" means any nonprofit organization, church, body of communicants, or group gathered in common membership for mutual support and edification in piety, worship, and religious observances which has been so gathered or united in this state for two years.

21. "Veterans organization" means any congressionally chartered organization within this state, or any branch or lodge or chapter of a nonprofit national or state organization within this state, the membership of which consists of individuals who were members of the armed services or forces of the United States. Such organization shall have been in existence in this state for two years.

Section 2. Organizations Eligible Under this Ordinance - Use of Proceeds.

Nonprofit veterans, charitable, educational, religious, and fraternal organizations, civic and service clubs, and public-spirited organizations, as those terms are defined by this ordinance, are eligible to conduct games of chance under the conditions of this ordinance. The entire net proceeds of such games of chance are to be devoted to educational, charitable, patriotic, fraternal, religious, or other public-spirited uses as defined by this ordinance.

Section 3. City Approval Required.

Any eligible organization not required to be licensed by the attorney general of the State of North Dakota, these being all eligible organizations which do not maintain a building for the use of its members and guests and offer meals or liquor or both as part of its operation, shall apply in writing to the governing body of the city for permission to conduct games of chance at least thirty (30) days prior to each occasion, stating the particular game of chance, time, place, and educational, charitable, patriotic, fraternal, religious, or other public-spirited uses to which the proceeds will be devoted. The governing body may at its own discretion and upon application by an eligible organization grant permission for such games for specifically designated times, places, and uses, covering a period of one year. Fees for such permission or authorization shall be in the amount of Ten Dollars ($10.00) for one occasion, and in the amount of Twenty-Five Dollars ($25.00) for an authorization covering more than one occasion for a period up to and including one year. A copy of each resolution or permit granted by the city under this ordinance shall be sent to the attorney general not later than thirty (30) days after issuance.

The governing body shall have the power, on its own motion based on reasonable grounds or on written complaint, to suspend or revoke an authorization in accordance with Chapter 28-32 of the North Dakota Century Code for violation, by the authorized organization or any officer, director, agent, member, or employee of such organization, of this ordinance.

Section 4. Persons Permitted to Conduct Games of Chance - Premises - Equipment - Expenses - Compensation.

1. No person, except a member of an eligible organization may hold, operate, or conduct any game of chance under this ordinance.

2. No person, except a member of an eligible organization or a member of an organization auxiliary to an eligible organization, may assist in the holding, operating, or conducting of any game of chance under this ordinance.

3. No item of expense shall be incurred or paid in connection with the holding, operating, or conducting of any game of chance held, operated, or conducted pursuant to this ordinance, except bona fide expenses in reasonable amounts as provided under Section 8. No games of chance shall be conducted with any equipment other than equipment owned by or rented at a reasonable rate from an eligible organization.

4. The governing board of an eligible organization shall be primarily responsible for the proper utilization of the entire net proceeds of any game of chance held in accordance with this ordinance.

5. The premises where any game of chance is being held, operated, or conducted, or where it is intended that such game will be held, shall be open to inspection by representatives of the governing body authorizing games of chance, and by peace officers of the city, county or state.

6. When any merchandise prize is awarded in a game of chance, its value shall be its current retail price. No merchandise prize shall be redeemable or convertible into cash directly or indirectly.

7. Equipment, prizes, and supplies for games of chance shall not be purchased or sold at prices in excess of the usual price thereof.

8. The entire net proceeds derived from the holding of games of chance must be devoted within one year from the date such proceeds were earned to the uses permitted by this ordinance. Any organization desiring to hold the net proceeds of game of chance for a period longer than one year from the date such proceeds

were earned must apply to the governing body for special permission, and upon good cause shown, the governing body may grant the request.

9. No person, firm, corporation, association, or organization convicted of a felony or a class A misdemeanor, or determined to have participated in organized crime or unlawful gambling, shall be permitted to sell, distribute, conduct, or assist in games of chance under this ordinance.

Section 5. Bingo Games - Method of Play.

1. The equipment used in the playing of bingo and the method of play shall be such that each card shall have an equal opportunity to be a winner. The objects or balls to be drawn shall be essentially the same as to size, shape, weight, balance, and all other characteristics which may include their selection. All objects or balls shall be present in the receptacle before each game is begun. All numbers announced shall be plainly and clearly audible or visible to all the players present. Where more than one room is used for any one game, the receptacle and the caller must be present in the room where the greatest number of players are present and all numbers announced shall be plainly audible or visible to the players in the other room or rooms. The card or sheet of the players shall be part of a deck, group, or series of cards or sheets, no two of which shall be alike. Such deck, group, or series shall not be so prepared or arranged as to prefer any card or sheet.

2. The particular arrangement of numbers required to be covered in order to win the bingo game and the prize shall be clearly and audibly or visibly described and announced to the players immediately before each game is begun.

3. Any player shall be entitled to call for a verification of all numbers drawn at the time a bingo winner is determined, and for verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the member designated to be in charge of the occasion, but if such member is also the caller, then in the immediate presence of an officer of the eligible organization.

4. No person who is not physically present on the premises where the bingo game is actually conducted shall be

allowed to participate as a player in the game.

5. No person shall act as a caller or assistant to the caller in the conduct of any game of bingo unless such person is a member of the eligible organization conducting such game or a member of an organization auxiliary to the licensee.

Section 6. Punchboards and Jars - Sale of Chances.

No person or organization engaged in the selling of chances from jars or punchboards under this ordinance shall discard the chances from any jar or punchboard once the contents of such jar or punchboard are offered for sale to eligible participants, unless all of the highest denomination of winners have been sold.

Section 7. Statement of Receipts - Expenses.

1. All moneys collected or received from games of chance and admissions thereto, except cash prizes of less than one hundred dollars paid immediately, shall be deposited in a special account of the eligible organization which shall contain only such money. Cash prizes of one hundred dollars or more, the purchase prices of merchandise prizes, and all expenses for such games of chance shall be withdrawn from such account by consecutively numbered checks duly signed by a specified officer or officers of the eligible organization and payable to a specific person or organization. There shall also be written on the check the nature of the expense or prize for which the check is drawn. No check shall be drawn to "cash" or a fictitious payee.

2. No part of the net proceeds after they have been given over to another organization shall be used by the donee organization to pay any person for services rendered or materials purchased in connection with the conducting of games of chance by the doner organization.

3. No item of expense shall be incurred or paid in connection with holding, operating, or conducting any game of chance pursuant to this ordinance, except bona fide expenses of a reasonable amount actually and necessarily incurred and directly attributable only to the conduct of the games of chance, and shall not include overhead, capital costs, and general maintenance. Total expenses for games of chance shall not exceed one-third of the total adjusted gross proceeds from each such occasion.

4. Expenses for games of chance shall be incurred only for the following purposes:

   a. The purchase of necessary goods, wares, and merchandise.

   b. Payment for services rendered which are reasonably necessary for repair of equipment, and for operating or conducting games of chance.

   c. For rent if the premises or equipment are rented, or for janitorial services if premises are not rented.

   d. Accountant's fees.

   e. License fees.

   f. Utility expenses.

   g. Taxes.

   For purposes of this subsection, the following terms shall have the following meanings: "Goods, wares and merchandise" means bingo equipment, jars, pull tabs, punchboards, and raffle tickets as defined by section 1, articles of a minor nature such as pencils, crayons, tickets, envelopes, paper clips, and coupons necessary to the conduct of games of chance; "services rendered" means repair to equipment, reasonable compensation to members for conducting games of chance, and to bookkeepers or accountants, not more than two in the aggregate, for services in preparing financial reports, and a reasonable amount for rental of premises, utilities, and for janitorial service.

Section 8. Examination of Books and Records.

Representatives of the governing body of the city shall have the power to examine or cause to be examined the books and records of any eligible organization licensed or authorized to conduct games of chance under this ordinance so far as such books and records relate to any transaction connected with the holding, operating, and conducting of any game of chance.

Section 9. Form and Display of License.

Each authorization required under this ordinance shall contain a statement of the name and address of the authorized eligible organization and such other information as the authorizing authority may designate.

Each license or resolution issued for the conduct of any game or games of chance shall be conspicuously displayed at the place where the same is to be conducted at all times during any game of chance and for at least thirty minutes thereafter. The sale of a raffle ticket shall not require the display of the license or authorizing resolution.

Section 10. Penalty for Violation of Ordinance - Forfeiture of Authorization - Ineligibility for Two Years.

Any person who knowingly makes a false statement in any application for an authorizing resolution or in any statement annexed thereto, or fails to keep sufficient books and records to substantiate the receipts, expenses, or uses resulting from games of chance conducted under this ordinance, or who falsifies any books or records so far as they relate to any transaction connected with the holding, operating and conducting of any game of chance, or who violates any of the provisions of this ordinance, or of any term of an authorization shall be subject to a fine in the maximum amount of Five Hundred Dollars ($500.00), imprisonment for a period not to exceed thirty (30) days, or both. Any organization so doing shall be subject to a fine not to exceed the amount of Five Hundred Dollars ($500.00). If convicted, such organization or person shall forfeit any license or authorizing resolution issued to it pursuant to this ordinance and shall be ineligible to reapply for a license or authorization for two years thereafter.

Section 11. Expiration Date.

The provisions of this ordinance shall expire at 12:00 midnight on June 30, 1979.

Section 12. Effective Date.

This ordinance shall be in full force and effect after its passage and approval as provided by law.

Mayor Vice Chairman

ATTEST:

City Auditor

Introduction and First Reading: August 1, 1977
Second Reading and Final Passage: August 15, 1977
Approved:
Published: