

ORDINANCE NO. 94-36

AN ORDINANCE CREATING THE POLK COUNTY BINGO ORDINANCE; PROVIDING DEFINITION; PROVIDING A LIMITATION ON THE CONDUCT OF BINGO GAMES; LIMITING THE EXPENSES THAT MAY BE PAID FROM BINGO PROCEEDS; REQUIRING A BINGO PERMIT; PROVIDING FOR A PERMIT APPLICATION AND APPLICATION FEE; PROVIDING FOR THE REVOCATION OF THE PERMIT; REQUIRING A FINANCIAL STATEMENT; PROVIDING FOR THE MAINTENANCE OF RECORDS; PROVIDING THE PENALTY FOR VIOLATIONS; PROVIDING FOR INJUNCTIVE RELIEF; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:

WHEREAS, Polk County, a non-charter county, possesses the power pursuant to Article VIII, Section 1, *Florida Constitution*, and Section 125.01(1), *Florida Statutes*, to exercise its police power to promote the health, safety and welfare of the inhabitants of Polk County; and

WHEREAS, the present laws governing the conduct of bingo games in the State of Florida as provided in Section 849.0931, *Florida Statutes*, are inadequate to ensure that the various charitable, non-profit, and veterans' organizations receive all of the proceeds to which they are entitled under state law because of the record-keeping requirements; and

WHEREAS, reported decisions of the courts of the State of Florida establish that monies from bingo games have been retained

illegally or utilized for non-charitable purposes; and

WHEREAS, the Polk County Board of County Commissioners wishes to ensure effective enforcement of the laws quoted above regarding bingo games, and to see that the proceeds from such games pass into the hands of legitimate local charitable organizations to be used for legitimate charitable purposes pursuant to the intent of the statutes of the State of Florida; and

WHEREAS, local regulation of bingo games is necessary and desirable; and

WHEREAS, it is the intent of this ordinance to ensure the integrity of bingo games conducted in Polk County, Florida.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Polk County, Florida:

Section I. Title. This Ordinance shall be known as the Polk County Bingo Ordinance.

Section II. Findings of Fact. The foregoing findings are incorporated herein by reference and made a part hereof.

Section III. Authority. This Ordinance is enacted pursuant to Article VIII, Section 1F, Florida Constitution, and Section 125.01(1), Florida Statutes.

Section IV. Scope. This Ordinance shall apply in the unincorporated areas of Polk County, Florida, and in the incorporated areas of Polk County to the extent permitted by Article VIII, Section 1(f) of the Constitution of the State of Florida.

Section V. Definitions. For the purposes of this ordinance,

words shall be defined as provided in Section 849.091, *Florida Statutes*, as from time to time amended. In addition to the statutory definitions adopted hereby, the following words shall be defined as set forth herein. In the event of a conflict between the statutory and ordinance definitions, the definition contained in this ordinance shall apply unless the statutory definition is more restrictive.

Section VI. Bingo Permit. It shall be unlawful for any Organization, to conduct any Bingo Game without first obtaining a permit therefor in accordance with this Ordinance. The Permit shall only be issued to an officer of the Organization. No charitable, nonprofit, or veterans' organization shall conduct any Bingo Games at any structure or location other than the structure or location described in the permit. The permit shall be conspicuously displayed at the structure or location at which the Bingo Games are conducted at all times during the conduct of the Bingo Games.

No permit shall be required for a condominium association, mobile home owners' association, or group of residents of a mobile home park as defined in Chapter 723, *Florida Statutes*, to conduct Bingo Games pursuant to the provisions of Section 849.0931(4), *Florida Statutes*, provided that no rent is paid for the structure or location where the game is played and no compensation is paid to any person or association involved in conducting the game, and that said organizations shall likewise be exempt from the record-keeping requirements contained in Section XIII below.

Section VII. Application. Application for the permit required by this Ordinance shall be made by an officer of the Organization to the Development Services Director on the form supplied by the County, along with the fee that has been as established by Resolution of the Board of County Commissioners, and shall contain at least the following information:

A. The name, address and employer identification number of the organization or individual.

B. A list of the current officers and directors of the organization and their addresses.

C. A copy of the exemption letter issued by the Internal Revenue Service.

D. A certification of the period or periods during which the organization has been in existence and active, commencing three calendar years prior to the application filing date.

E. The names, addresses, social security numbers, ages, and dates of membership of all members of the organization who will be involved in the conduct of any Bingo Game and a certification that each of them is a bona fide member of the organization and is a resident of the community where the organization is located. This information must be updated prior to or concurrent with any changes.

F. The names, addresses, social security numbers, ages, and dates of membership of three members of the Organization designated to be in charge of the Bingo Games. This information must be updated prior to or concurrent with any change.

G. The street address and property description of the premises where any Bingo Game will be conducted by the organization.

H. Copies of all leases and subleases in effect relating to the property where the organization will conduct any Bingo Games.

I. The certification of the owner of the property and every lessee and sublessee that there are no leases in effect other than those submitted with the application and that the rental rate charged for the premises does not exceed the rental rates charged for similar premises in the same local.

J. Certification by the organization that it will comply with all provisions of Section 849.0931, *Florida Statutes*, this Ordinance, and the permit issued pursuant to this Ordinance.

K. A statement advising whether any of the individuals listed pursuant to the paragraphs above has, preceding the application filing date, been convicted of any misdemeanor involving a theft or illegal gambling or of any felony under the laws of the State of Florida, the United States or any other State and, if so, the particular criminal act involved and the place of conviction.

L. If any individual listed pursuant to the paragraphs above or the organization has had any Bingo license under this Ordinance or a license issued by any other jurisdiction revoked or suspended and, if so, the date of each revocation or suspension.

M. The days of the week on which Bingo Games are to be conducted, which for any applicant shall not exceed two (2) days in any calendar week.

N. If the applicant is a branch, chapter, auxiliary, lodge, agency or other local unit of a non-profit charitable organization, the name of the primary organization and the street address of its principal office.

O. An executed form authorization authorizing the Sheriff or his designee to inspect all books or other records of the applicant within twenty-four (24) hours of any Bingo Game.

P. An attached, fully executed copy of any rental agreement, leases or subleases presently existing or proposed involving the premises sought to be used by the applicant and an executed form whereby applicant agrees to submit a copy of any lease, sublease, or rental agreement for the permitted structure or location that applicant enters into during the time the Bingo Permit is in effect.

Q. A notarized statement certifying, subject to the penalty of perjury, that all information on the application and any submittals or attachments thereto is true and correct, and that the applicant understands that any misstatement of material fact in the application will result in the denial of the license or, if a license is issued, and the suspension or revocation of the license.

The Applicant shall advise the Development Services Director of any changes of status for the organization or individual that occur during the term of the license.

Section VIII. Application Fee. An applicant must submit with the application, or a renewal application, the Bingo License Fee, or Bingo Renewal Fee, as established by Resolution of the Polk

County Board of County Commissioners.

Section IX. Issuance of Permit. Within fourteen (14) days of the submission of a completed application providing all requested information, documents and the fee required by this Ordinance, the Development Services Director shall issue a permit allowing the charitable, nonprofit or veterans' organization to conduct Bingo Games at the structure or location listed in the permit for a one-year period subject to the provisions of Federal, State and Local laws, ordinances and regulations. The applicant shall submit to the Development Services Director an application for renewal of the permit, in such form as prescribed by the County at least thirty (30) days prior to the termination of the existing permit. The renewal permit shall be issued by the date of the termination of the then-existing permit.

Section X. Limitation on Bingo. An Organization may not conduct Bingo Games any more than two calendar days during any calendar week. Further, only a bona fide member of an appropriate organization may conduct Bingo Games. For purposes of this Ordinance, a member of an organization is a person who has been accepted for membership pursuant to the bylaws, constitution or articles of incorporation of the organization, and who has paid all required dues and maintains an active member status.

Section XI. Organization Conducting Bingo Games. No charitable, nonprofit or veterans' organization shall serve as a sponsor of a Bingo Game conducted by another, and such an organization may participate in the conduct of a Bingo Game only

when it is the only participant in the conduct of that Game. Each organization shall maintain at each Bingo Game conducted a log whereupon the name and address of each member of the charitable, non-profit or veterans' organization who conducts the Bingo Game shall be recorded. This log shall be maintained by the organization pursuant to Section XIII below.

Section XII. Expenses. The Organization may only pay for necessary, actual business expenses for articles designed for and essential to the operation, conduct, and playing of bingo, and lease payments, if applicable. Any rental rates paid by the organization for the rental of a structure or location at which Bingo Games are conducted shall not exceed the rental rates charged for similar premises in the same locale. The reasonableness of the rate of rental for equipment shall be ascertained with regard to the cost and expected useful life of such equipment. Any expenses incurred for actual business expenses incurred by the organization shall not exceed the reasonable expenses incurred for similar services provided in the same locale.

Section XIII. Maintenance and Inspection of Records. Every organization conducting Bingo Games shall maintain, at the location in Polk County where it conducts Bingo Games, for a period of not less than three (3) years, all records made regarding bingo receipts, prizes, expenses, and proceeds. Bingo proceeds may not be commingled with any other revenues of the organization, and must be maintained in a separate bank account. The records shall include daily records, recorded at the end of each night, that

reflect number of games played, cash received in each game, amount of cash disbursements, specific expense logs, names and addresses of cash and/or prize recipients and amounts received by the recipient, charitable distributions and an end of night balance. At such time that the Board adopts by resolution a Daily Records form, the Organization must maintain its daily record on such form.

These records shall be made available on demand for immediate inspection by any law enforcement officer, or any official designated by the County to inspect such records, at reasonable times during normal business hours. However, law enforcement officers and county officials shall not interrupt any actual Bingo Games in progress or interfere with the operation of the premises where Bingo is played unless reasonably necessary to make an inspection.

Section XIV. Financial Statement. The applicant shall submit at the time of the renewal of the initial license and upon every renewal thereafter, a financial statement in the form provided by the County, containing the sources and amount of the gross revenue derived by the applicant or organization from the conduct of Bingo during the twelve (12) month period immediately prior to the date of the application. The statement shall be a year-end summary of the daily records, which statement must be certified as correct by a principal officer, one of the partners, or any similar principal, but need not be audited. The statement shall further reflect all expenses incurred by the organization.

Section XV. Enforcement. Responsibility for the enforcement of this Ordinance is vested in the Polk County Sheriff's Office, and in any municipal law enforcement department within their jurisdiction.

Section XVI. Revocation of Permit. A violation of any provision of Section 849.0931, Florida Statutes, this Ordinance or the permit issued pursuant to this Ordinance shall constitute grounds for suspension or revocation of the permit. The Development Services Director shall be responsible for suspending or revoking the permit pursuant to this provision. Any Organization or person who wishes to appeal a suspension, revocation or other determination made by the Development Services Director pursuant to this Ordinance shall file for an appeal of the determination to the Polk County Board of County Commissioners, along with the appropriate fee as established by resolution of the Board, by filing a written request for an appeal within 15 days of the determination from which appeal is sought, and setting forth therein a basis for a reversal of the determination.

Section XVII. Injunctive Relief. It is hereby found and declared that a violation of the provisions of this Ordinance constitutes an irreparable injury to the citizens of Polk County. The County may file a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Ordinance; to enjoin any violation of this Ordinance, and to seek injunctive relief to prevent injury to the health and general welfare caused or threatened by any violation hereof.

Section XVIII. Violations. A person or organization who violates the provisions of this Ordinance shall be subject to a fine of no more than five hundred dollars (\$500.00), and imprisonment in the County Jail for a period of not more than sixty (60) days. For violations that are of a continuing nature, each day that the violation continues shall constitute a separate offense.

Section XIX. Conflict with all other Ordinances and Laws. In the event that this Ordinance conflicts with any other Ordinance of Polk County or other applicable law, the more restrictive provision shall apply.

Section XX. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is held invalid or unconstitutional for any reason, such holding shall not effect the validity of the remaining portions of this Ordinance.

Section XXI. Effective Date. This Ordinance shall become effective upon receipt of acknowledgement from the Department of State that a certified copy of this ordinance has been filed with said office.

CERTIFICATION OF EFFECTIVE DATE

EFFECTIVE DATE: Acknowledgement from the Department of State was received on the 24th day of June, 1994, and filed in the Office of the Clerk of the Board of County Commissioners of Polk County, Florida.

E.D. "BUD" DIXON, CLERK

Martha H. Crews

Deputy Clerk

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