

Chapter 94

GAMES OF CHANCE

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[HISTORY: Adopted by the Town Board of the Town of Patterson 9-27-76, approved by electors 11-2-76. (readopted 4-13-2005 by L.L. No. 9-2005) Amendments noted where applicable.]

GENERAL REFERENCES

Bingo - See Ch. 55.

§ 94-1. Statutory authority.

This chapter is enacted pursuant to the authority granted by Chapter 960, Laws of the State of New York, 1976, which amended the General Municipal Law of the State of New York by adding a new Article, Article 9-A, thereto.

§ 94-2. Legislative declaration.

A. It is declared to be the public policy of the Town of Patterson to allow the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings, where the beneficiaries are undetermined, as being in the public interest. It hereby finds that as conducted prior to the enactment of this chapter, games of chance were subject to exploitation by professional gamblers, promoters and commercial interests.

B. It is hereby declared to be the policy of the Town Board of the Town of Patterson that all phases of the supervision, licensing and regulation of games of chance and the conduct of games of chance should be closely controlled and that the laws, ordinances, and regulations pertaining thereto should be strictly construed and rigidly enforced.

§ 94-3. Territorial applicability.

This chapter shall be applicable to all territory within the limits of the Town of Patterson, County of Putnam, State of New York.

§ 94-4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

AUTHORIZED GAMES OF CHANCE LESSOR - An authorized organization which has been granted a lessor's license pursuant to the provisions of this chapter.

AUTHORIZED ORGANIZATION - Means and includes a bona fide religious or charitable organization or bona fide organization of veterans or volunteer firemen which, by its charter, certificate of incorporation, constitution or Act of the Legislature, shall have among its dominant purposes one (1) or more of the lawful purposes as defined in this section, provided that each shall operate without profit to its members, and provided that such organization has engaged in serving one (1) or more of the lawful purposes as defined in this section for a period of three (3) years immediately prior to applying for a license under this chapter. No organization shall be deemed an "authorized organization" which is formed primarily for the purpose of conducting games of chance and the distribution of the proceeds thereof to itself or any other organization which does not devote at least seventy-five percent (75%) of its activities to other purposes set forth in this definition. No political party shall be deemed an "authorized organization. "

AUTHORIZED SUPPLIER OF GAMES OF CHANCE EQUIPMENT - Shall have the meaning set forth in the definitions in Article 9-A of the General Municipal Law.

GAMES OF CHANCE - Means and includes specific games of chance in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo" or "lotto," which are controlled under Article 14-H of the General Municipal Law, and also not including slot machines, bookmaking and policy or numbers games as defined in § 225.00 of the Penal Law. No "game of chance" shall involve wagering of money by one player against another player.

LAWFUL PURPOSES - One (1) or more of the following causes or deeds or activities:

- A. Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.
- B. Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures.
- C. Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

LICENSE PERIOD - A period of time not to exceed fourteen (14) consecutive hours.

NET LEASE - Shall have the meaning set forth in the definitions in Article 9-A of the General Municipal Law.

NET PROCEEDS - Shall mean:

- A. In relation to the gross receipts from one (1) or more occasions of games of chance, the amount that shall remain after deducting the reasonable sums necessary and actually expended for supplies and equipment, prizes, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the State Board, janitorial services and utility supplies, if any, and license fees.
- B. In relation to the gross rent received by an organization licensed to conduct such games for the use of its premises by another licensee, the amount that shall remain after deducting the reasonable sums necessary and actually expended for janitorial services and utility supplies directly attributable thereto, if any.

OFFICER - for the purpose of this chapter, the chief law enforcement officer of Putnam County in

the State of New York, being the Sheriff of Putnam County as provided for by the option set forth in Subdivision 2 of § 194 of the General Municipal Law.

ONE (1) OCCASION - The conducting of any type of game of chance during one (1) license period. No series of prizes on any "one (1) occasion" shall aggregate more than the amount set forth in General Municipal Law §189.

PRIZE - A sum of money or item of merchandise awarded by the authorized organization to a participant in any one (1) operation or conducting of a game of chance in which participants utilize currency for participation and in which those who are not winners surrender their participating currency at the conclusion of the single operation of such game of chance. No "prize" for any one (1) participant shall exceed the sum of three hundred dollars (\$300.). If a prize is awarded based on odds, only that portion in excess of the winning participant's bet shall be considered as a "prize." For the purpose of this definition, the value of a "prize" which consists of merchandise shall be the actual cost of the item of such merchandise.

STATE BOARD - The New York State Raving and Wagering Board.

TOWN BOARD - The Town Board of the Town of Patterson.

TOWN CLERK - The Town Clerk of the Town of Patterson.

§ 94-5. Games of chance authorized.

The Town Board of the Town of Patterson, New York, with this chapter, provides that it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct games of chance within the territorial limits of the Town of Patterson, subject to the provisions of this chapter, the provisions set forth in Article 9-A of the General Municipal Law and the provisions set forth by the State Board.

§ 94-6. Restrictions upon conduct of games.

A. No persons, firm, association, corporation or organization other than a licensee under the terms of Article 9-A of the General Municipal Law and the provisions of this chapter shall be permitted to conduct such games or shall lease or otherwise make available for the conducting of games of chance a hall or other premises for any consideration whatsoever, direct or indirect, except as provided under Article 9-A of the General Municipal Law and the provisions of this chapter.

B. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

C. No authorized organization licensed under the provisions of this chapter shall purchase or

receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the State Board or except from another authorized organization.

D. The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

E. No prize shall exceed the sum or value of three hundred dollars (\$300.) in any operation or conducting of a single game of chance. No single wager shall exceed six dollars (\$6.).

F. No series of prizes on any one (1) occasion or game of chance shall aggregate more than as set forth in General Municipal Law §189.

G. No person shall receive any remuneration for participating in the management of any such game.

H. The conduct of games of chance shall be permitted on the first day of the week, commonly known and designated as Sunday, unless prohibited by Subsection I below.

I. In no case shall games of chance be conducted on New Year's Eve, Easter Sunday or Christmas Day.

J. No person except a bona fide member of a licensed organization, its auxiliary or affiliated organization shall participate in the management or operation of such game.

K. No hall or other premises shall be used for the conduct of the games of chance unless said hall or premises, where applicable, complies with the ordinance regulating the licensing of places of public assembly in the Town of Patterson.

§ 94-7. Application for license to conduct games or to lease premises.

A. To conduct games of chance, each applicant for a license shall, after obtaining an identification number from the State Board, file with the Town Clerk a written application therefor in a form prescribed by the State Board, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant, together with sufficient facts relating to its incorporation and organization to enable the Town Clerk to determine whether or not it is a bona fide authorized organization.

(2) The names and addresses of its officers; the place or places where, the date or dates and the time or times when the applicant intends to conduct games under the license applied for.

(3) The amount of rent to be paid or other consideration to be given directly or indirectly

for each occasion for the use of the premises of another authorized organization licensed under this chapter to conduct such games or for the use of the premises of an authorized games of chance lessor.

(4) All other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of chance, and the names and addresses of the persons to whom and the purposes for which they are paid.

(5) The purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such game or games or for assisting therein except as in this chapter otherwise provided; and such other information as shall be prescribed by such rules and regulations.

(6) The names of not less than four (4) active members of the applicant organization under whom the game or games of chance will be conducted. Each member so designated shall execute a statement that he or she will be responsible for the conduct of such games in accordance with the terms of the license, the rules and regulations of the State Board and the provisions of this chapter. Such statement shall be attached to and filed with the written application.

(7) The name of each single type of game of chance to be conducted under the license applied for and the number of merchandise wheels and raffles, if any, to be operated.

B. Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance shall file with the Town Clerk a written application therefor in a form to be prescribed by the State Board, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant.

(2) Designation and address of the premises intended to be covered by the license sought.

(3) A statement that the applicant in all respects conforms to the specifications contained in the definition of "authorized organization" set forth in § 94-4.

(4) The licensed organization to whom the lessor proposes to lease his premises, and the rent proposed to be charged therefor.

(5) Such other information as shall be prescribed by the said State Board.

§ 94-8. Investigation; issuance and duration of license; fees.

A. The Town Clerk shall make an investigation of the qualifications of each applicant for a license to conduct games of chance, and the merits of each application, within a reasonable time after

the filing of the application. If the Town Clerk determines the following, then the Town Clerk shall issue a license to the applicant for the conduct of games of chance upon the payment of a license fee as set from time to time by resolution of the Town Board for each license period::

- (1) The applicant is an authorized organization as defined in § 94-4; and
- (2) The member or members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of good conduct; and
- (3) Such games are to be conducted in accordance with the provisions of this chapter and in accordance with the rules and regulations of the State Board; and
- (4) The proceeds thereof are to be disposed of as provided by this chapter; and
- (5) No commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting, or assisting in the holding, operation and conduct of, such games; and
- (6) No prize will be given in excess of the sum or value of three hundred dollars (\$300.) in any single game and the aggregate of all prizes given on one (1) occasion, under such license, shall not exceed the sum or value as set forth in General Municipal Law §189.

B. The Town Clerk shall make an investigation of the qualifications of each applicant for a license to lease premises to another licensee for the purpose of conducting games of chance, and the merits of each application, within a reasonable time after the filing of the application. If the Town Clerk determines the following, then the Town Clerk shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as the Town Clerk shall determine, but not to exceed one year, upon payment of a license fee as set from time to time by resolution of the Town Board:

- (1) The applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under this chapter; and
- (2) The applicant satisfies the requirements for an authorized games of chance lessor as defined in § 94-4; and
- (3) There is a public need and that public advantage will be served by the issuance of such license; and
- (4) The applicant has filed its proposed rent for each game of chance occasion; and
- (5) There is no diversion of the funds of the proposed lessee from the lawful purposes

as defined in this chapter; and

(6) Such leasing of a hall or premises for the conduct of such games is in accordance with the provisions of this chapter and in accordance with the rules and regulations of the State Board.

C. No license shall be issued under this chapter which shall be effective for a period of more than one (1) year.

D. On or before the 30th day of each month, the Supervisor of the Town of Patterson shall transmit to the State Comptroller from the funds collected in the preceding month:

(1) Fifteen dollars (\$15.) per each license period as defined in § 94-4, and

(2) Fifty percent (50%) of all authorized games of chance lessor license fees as authorized in Subsection B section.

§ 94-9. Hearing; amendment of license.

A. No application for the issuance of a license to an authorized organization shall be denied by the Town Clerk until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

B. Any license issued under this chapter may be amended, upon application made to the Town Clerk which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee, if any, as would have been payable if it had been so included.

§ 94-10. Form and content of license; display.

A. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations promulgated by the State Board and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where and the date or dates and time or times when such games are to be conducted and of the purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be given in cash, a statement of the amounts of the prizes authorized so to be given; the name of each single type of game of chance to be conducted under the license applied for and the number of merchandise wheels and raffles, if any, to be operated, and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

B. Each license to lease premises for conducting games of chance will be in such form as shall

be prescribed in the rules and regulations of the State Board and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

§ 94-11. Control and supervision; suspension of license.

A. The enforcement officer shall have and exercise rigid control and close supervision over all games of chance conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the State Board and the provisions of this chapter, and such officer and the Board shall have the power and the authority to temporarily suspend any license issued by the Town Clerk pending a hearing, and after notice and hearing the said Board may suspend or revoke the same and, additionally, impose a fine in an amount not exceeding one thousand dollars (\$1,000.) for violation of any such provisions, and shall have the right of entry, by its respective officers and agents, at all times into any premises where any game of chance is being conducted or where it is intended that any such game shall be conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. An agent of the enforcement officer shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this chapter.

B. The Town of Patterson herein provides that the powers and duties set forth in Subsection A of this section shall be exercised by the chief law enforcement officer of Putnam County, being the Sheriff of Putnam County, and the fees provided for in § 94-13 shall be remitted to the chief fiscal officer of Putnam County in the State of New York.

C. Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of games of chance but the offering of all other alcoholic beverages is prohibited.

§ 94-12. Prohibitions.

A. No person under the age of eighteen (18) years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this chapter. No person under the age of eighteen (18) years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this chapter.

B. No game or games of chance shall be conducted under any license issued under this chapter more often than twelve (12) times in any calendar year. Games shall be conducted only between the hours of 12:00 noon and 12:00 midnight on Monday, Tuesday, Wednesday, Thursday and Sunday (unless prohibited by § 94-6I), and only between the hours of 12:00 noon on Friday and 2:00 a.m. Saturday, and only between the hours of 12: 00 noon on Saturday and 2: 00 a.m. Sunday. The 2:00

a.m. closing period shall also apply to a legal holiday.

C. No person shall hold, operate or conduct any games of chance under any license issued under this chapter except an active member of the authorized organization to which the license is issued, and no person shall assist in holding, operating or conducting any games of chance under such license except an active member or a member of an organization or association which is an auxiliary to the licensee, or a member of an organization or association of which such licensee is an auxiliary, or a member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association. At least two (2) officers, directors, trustees or clergy of the authorized organization shall, upon request, certify, under oath, that the persons assisting in holding, operating or conducting any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization.

D. No games of chance shall be conducted with any equipment except that owned or leased by the authorized organization so licensed or that used without payment of any compensation therefor by the licensee.

E. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this chapter except those that are reasonable and are necessarily expended for games of chance supplies and equipment; prizes; stated rental, if any; bookkeeping or accounting services according to a schedule of compensation prescribed by the State Board; janitorial services and utility supplies, if any; license fees; and the cost of bus transportation, if authorized by the officer.

F. Not more than two dollars (\$2.) shall be charged by any licensee for admission to any room or place in which any games of chance are to be conducted under any license issued under this chapter. Every winner shall be determined and every prize shall be awarded and delivered on the same calendar day as the game was played.

G. No game of chance conducted or to be conducted in the Town of Patterson shall be advertised as to its location, the time when it is to be or has been played or the prizes awarded or to be awarded, or transportation facilities to be provided to such game, by means of newspaper, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one (1) sign in accordance with Chapter 154, Zoning, Article XIII, Signs and Billboards, may be displayed on or adjacent to the premises.

H. No person, association, corporation or organization lawfully conducting or participating in the conduct of games of chance or permitting the conduct upon any premises owned or leased by him or it under any license issued hereunder shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this chapter. However, this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for a license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of chance conducted under any license known to him or it to have been obtained by any

such false pretense or statement.

§ 94-13. Statement of receipts and expenses; additional fees.

A. Within seven (7) days after the conclusion of any license period, the authorized organization which conducted the games of chance and its members who were in charge thereof and, when applicable, the authorized organization which rented its premises therefor shall each furnish to the Town Clerk a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom, each item of expense incurred or paid, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each item of expense has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the conduct of the games of chance during the license period and the use to which such proceeds have been or are to be applied, and a list of the prizes and the values thereof offered and given. It shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each statement.

B. Upon filing the statement of receipts, the authorized organization furnishing same shall pay to the Town Clerk as and for an additional fee as set from time to time by resolution of the Town Board, a sum of the net proceeds, if any, for the license period covered by the statement and determined in accordance with the schedule as shall be established from time to time by the State Board, to defray the actual cost to the Town of Patterson or Putnam County for administering the provisions of this chapter.

§ 94-14. Examination of records and personnel; disclosure of information.

A. The Town Clerk and the State Board shall have the power to examine or cause to be examined the books and records of:

(1) Any authorized organization which is or has been licensed to conduct games of chance, so far as such books and records may relate to games of chance, including the maintenance, control and disposition of the net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any games of chance under any license, the use of its premises for games of chance or the disposition of the net proceeds derived from games of chance, as the case may be.

(2) Any authorized games of chance lessor, so far as such books and records may relate to leasing premises for games of chance, and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to said leasing.

B. Any information so received shall not be disclosed except for the purpose of carrying out the provisions of this chapter.

§ 94-15. Appeals to State Board.

Any applicant for or holder of any license hereunder aggrieved by any action of an officer or the Town Clerk to which an application has been made or by which a license has been issued may appeal to the State Board from the determination of the officer or the Town Clerk by filing with such officer or Town Clerk written notice of appeal within thirty (30) days after the determination or action appealed from, and, upon the hearing of such appeal, the evidence, if any, taken before such officer or the Town Clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue. The action of the State Board upon said appeal shall be binding upon the officer and Town Clerk and all parties to said appeal.

§ 94-16. Offenses; forfeiture of license; effect.

Any person, association, corporation or organization who or which shall make any material false statement in any application for any license issued pursuant to this chapter; shall pay or receive a rental in excess of the amount specified as the permissible rent in the license provided for in § 94-7 for the use of any premises for conducting games of chance; shall fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance; shall falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization; or shall divert or pay any portion of the net proceeds of any game of chance to any person, association or corporation except in furtherance of one (1) or more of the lawful purposes defined in this chapter, shall be guilty of a misdemeanor and shall forfeit any license issued under this chapter and be ineligible to apply for a license under this chapter for at least one (1) year thereafter.

§ 94-17. Compliance.

A. Any person, association, corporation or organization holding, operating or conducting games of chance shall be guilty of a misdemeanor except when operating, holding or conducting:

- (1) In accordance with a valid license issued pursuant to this chapter, or
- (2) On behalf of a bona fide organization of persons sixty (60) years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where:
 - (a) The organization has applied for and received an identification number from the State Board;
 - (b) No player or other person furnishes anything of value for the opportunity to

participate;

(c) The prizes awarded or to be awarded are nominal;

(d) No person other than a bona fide active member of the organization participates in the conduct of the games of chance; and

(e) No person is paid for conducting or assisting in the conduct of the games of chance.

B. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

§ 94-18. Approval by electors.

Except as provided in § 94-17A(2), the provisions of this chapter shall be inoperative unless and until a proposition therefor submitted at a general or special election in the Town of Patterson shall be approved by a vote of the majority of the qualified electors in the Town of Patterson voting thereon. This chapter shall become effective ninety (90) days after such approval by a majority of the qualified electors.

§ 94-19. Amendment and repeal.

This chapter may be amended from time to time or repealed by the Town Board of the Town of Patterson by a two-thirds vote of said Town Board, and such amendment or repeal, as the case may be, may be effective and operative not earlier than thirty (30) days following the date of enactment of the ordinance affecting such amendment or repeal, and the approval of a majority of electors of the Town of Patterson shall not be a condition prerequisite to the taking effect of such ordinance.