

ORDINANCE NO. 2005- 45

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA REGULATING BINGO WITHIN THE UNINCORPORATED PORTION OF ST. JOHNS COUNTY, FLORIDA; MAKING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; ESTABLISHING REQUIREMENTS FOR BINGO OPERATORS, LESSORS, PREMISES, AND EQUIPMENT, AND OTHER BINGO-RELATED REQUIREMENTS; MAKING CERTAIN ACTS UNLAWFUL; PROVIDING PENALTIES; REPEALING AND REPLACING ORDINANCE NO. 94-24; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. Legislative findings. The Board of County Commissioners of St. Johns County, Florida finds and determines that:

(a) Section 849.0931, Florida Statutes, was enacted by the Legislature in order to authorize certain charitable, civic, community, benevolent, religious or scholastic works and other similar activities to conduct bingo games and to donate essentially the entire proceeds derived from these games to these endeavors, thus, bringing aid and comfort to the community and its members.

(b) Section 849.0931 also authorizes condominium associations, cooperative associations, homeowner associations as defined in s. 720.301, F.S., mobile home owner's associations, and residents of mobile home parks and recreational vehicle parks to conduct bingo games under certain conditions that will benefit the community.

(c) Section 849.0931, Florida Statutes, prohibits the proceeds from these games from being used for any purpose other than the enumerated purposes set forth in the statutes.

(d) Section 849.0931, Florida Statutes, authorizes certain other organizations not involved in the efforts listed above to conduct bingo games and only upon the condition that the entire proceeds be returned to the players in the form of prizes.

(e) Effective enforcement of state law intent regarding bingo games can only be brought about by local regulation of these games to ensure that the proceeds from the games are returned to the players or provided to legitimate charitable organizations to be used for legitimate charitable purposes.

(f) The Florida District Court of Appeals, Fifth District, has recognized that the Florida Legislature did not intend to preempt the "field of bingo play," and that local

governments may regulate conduct and add requirements that are in addition to state requirements (see *F.Y.I. Adventures, Inc. v City of Ocala*, 698 So.2d 583 (Fla. 5<sup>th</sup> DCA 1997)).

(g) The Florida Grand Jury Report (1995) recommended that the most effective way to reduce bingo commercialization and abuse is to prohibit more than one charity from conducting bingo at any one location in a given day and to limit the operation of bingo to two (2) days per week in any one location.

(h) The Board of County Commissioners intent is to encourage opportunities for all charitable organizations to benefit from the fundraising opportunities of bingo, without facilitating a climate for bingo commercialization.

(i) The Board of County Commissioners finds that there is evidence of commercialization, as generally described by the Florida Grand Jury Report (1995), being conducted in St. Johns County.

Section 2. Definitions. In this Ordinance, unless the context otherwise requires:

(a) "Actual business expenses" means those authorized expenses that have a direct bearing on and are necessary to the conduct of a bingo game and related activities, the allocation of which shall be in accordance with generally acceptable accounting practices.

(b) "Authorized expenses" means and includes equipment and supplies, accounting services for records and reports, state and local license fees, advertising, cost of security personnel, pro rata costs for insurance and utilities such as electricity, water, gas, sewage or garbage collection resulting from conducting a bingo game, cost of refreshments provided at no cost to players and volunteers, costs of prizes, and the costs of creating and maintaining a petty cash fund no larger than \$500.00, and rental charges so long as the rental charge does not exceed the fair market rent charged for similar premises located within the County.

(c) "Bona Fide Members" shall mean a person who holds full and regular membership status in the authorized organization and an active member of a bona fide auxiliary of the bona fide organization.

(d) "Chairperson" means the person designated by a licensed organization to be responsible for the conduct of bingo games.

(e) "County" means St. Johns County, Florida.

(f) "Entire or net proceeds" means all moneys collected in exchange for the purchase of bingo cards, admissions and related sales, less only actual documented business expenses.

(g) "Lease" includes a lease, sublease, assignment, rental or agreement to use any premises for the conduct of bingo, other than premises owned by the licensed organization and used by it to conduct bingo for its own benefit.

(h) "Lessor" means a person who or organization which leases, subleases, assigns or rents any premises to be used for the conduct of bingo, or agrees to the use of the premises for the conduct of bingo.

(i) "Organization" means a charitable, nonprofit or veterans' organization as defined in F.S. § 849.0931(1)(c), or a condominium associations, cooperative associations, homeowner associations as defined in s. 720.301, F.S., mobile home owner's associations, and residents of mobile home parks and recreational vehicle parks as defined in F.S. ch. 723.

(j) "Person" means an individual, partnership, corporation, trust, foundation, group, association, organization or society, or any combination thereof.

(k) "Premises" or "Property" means the entire parcel and all or of the buildings situated upon it.

(l) "Principal officers" means the president, vice-president or treasurer, or partner, or limited partner, or director or stockholder, or an organization's officers performing similar duties.

(m) "Session" shall mean a designated set of games played in a day or part of a day at the same property. No Session shall exceed six (6) hours from start to finish, nor shall any Session exceed seventy-five (75) games.

Section 3. Penalty. A person who knowingly and willfully violates the terms of this Ordinance, upon being found guilty, shall be punished by a fine not to exceed \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment. Each day that any violation of any provision of this Ordinance shall continue shall constitute a separate offense.

Section 4. Intent of Ordinance; exemptions.

(a) It is the intent of the County that all phases of the regulation, licensing and supervision of bingo be closely controlled and the law and regulation pertaining thereto be strictly construed and rigidly enforced, to the end that commercialization in all its forms be discouraged, participation by criminal and other undesirable elements be prevented and diversion of the proceeds of bingo games from the purposes authorized by F.S. § 849.0931 be eliminated.

(b) It is the further intent of the County that the provisions of this Ordinance shall not be applicable to those condominium associations, mobile home owners' associations, or groups of residents of a mobile home park as defined in F.S. ch. 723, or a group of residents of a mobile home park or recreational vehicle park as defined in F.S. ch. 513. Additionally, any bingo games run by a governmental entity located within the County which is part of a bona fide recreational program sponsored by such governmental entity and in which all of the proceeds of such bingo are returned to the bingo players participating in the recreational activity are exempt from the requirements of this Section.

Section 5. Administration and enforcement. Responsibility for administration of this Ordinance shall be the responsibility of the County code enforcement department. Responsibility for enforcement of this Ordinance is vested in the code enforcement department and any law enforcement agency with jurisdiction in the County, including County Sheriff, state and federal law enforcement agencies.

Section 6. Providing false information. No person shall knowingly make a false, untrue or misleading oral statement to the code enforcement department as to any matter investigated by the code enforcement department pertaining to the provisions or enforcement of this Ordinance.

Section 7. Conduct of games. Each bingo game shall be conducted under the following conditions of play:

(a) Bingo shall not be played on any premises during more than four (4) days per week.

(b) There shall be no more than three (3) jackpots on any premises during any day.

(c) No organization which conducts bingo on its own property may lease to another organization its property for the conduct of bingo so that between the lessor organization and lessee organization bingo is conducted on the same property more than four times per week.

(d) No person who assists in the conduct of any bingo game anywhere in the state may conduct or assist in conducting, or in any way be associated with, the conduct of any bingo games in the County for more than two days during any week.

(e) Each person conducting or assisting in the conduct of a bingo game shall wear a legible tag bearing his/her name and the name of the organization he/she represents. The member or volunteer of the organization shall not conduct bingo for any other organization or lessor licensed under this Ordinance.

(f) During the course of a bingo game, the organization shall post, as directed in this subsection, in a conspicuous place, in letters and numbers no less than three inches high, the following information:

(1) The names of all members or volunteers conducting or assisting in the conduct of the bingo game.

(2) The total gross receipts collected at each bingo game or series of bingo games held within the seven (7) days prior.

(3) The total value of all prizes, whether in money or other taking of value, to be awarded at each bingo game or series of bingo games.

(4) The net receipts collected but not awarded as prizes at each bingo game or series of bingo games held within the seven (7) days prior.

(g) Every person involved and present in the conduct of a bingo game must be a bona fide member of the organization for at least a period of one year and a resident of the County for at least six months prior to his or her involvement with the conduct of any bingo game. It shall be unlawful for any person or any member of any organization to falsely represent the membership status of any person involved in the conduct of a bingo game.

Section 8. Requirements for organizations; financial requirements; records.

(a) *Separate bank account required.* The entire proceeds derived from the conduct of bingo by an organization shall be deposited during the next business day in a checking account in a bank located within the County, which shall be maintained separate and apart from all other accounts of the organization and which shall not be used for the deposit of funds received from any other activity other than the conduct of bingo. Two of the principal officers of the organization shall be required to sign all checks, drafts and other instruments withdrawing or transferring funds from the checking account, without exception. The provisions of this subsection shall not preclude:

(1) In the case of an organization, the periodic transfer of the entire net proceeds derived from the conduct of bingo into a savings or other account established for the charitable, religious, educational, fraternal, patriotic, civic, community or benevolent endeavor for which the bingo games were played.

(2) In the case of an organization, the withdrawal of the entire net proceeds, or the necessary portion thereof, to be used on the next scheduled day of play as prizes.

(b) *Records.* An organization shall maintain adequate records according to generally accepted accounting practices and in a form prescribed by the County, which records shall show:

(1) Gross proceeds from any source related to the conduct of bingo, including a method of cash control with respect to admissions and other related activities.

(2) Receipts records.

(3) Actual expenses.

(4) Entire or net proceeds.

(5) The distribution or disposition of the entire or net proceeds.

These records shall be made available on demand for immediate inspection by the code enforcement department at reasonable times during normal business and whenever a bingo game is in progress, but the code enforcement department or his authorized representative shall not interrupt an actual bingo game or interfere with the operation of the premises where bingo is

played unless necessary in order to make an inspection. All records shall be retained by an organization for a minimum time of three years.

(c) *Financial statement; other reports.* Annually, each organization shall file with the code enforcement department a financial statement, in the form prescribed by the code enforcement department, containing the sources and amount of the gross revenue derived by the organization from the conduct of bingo during the 12-month or other period for which the statement is being filed and stating the names of the distributees of the net revenues and the amounts received by each. The financial statement shall be certified as correct by a principal officer, one of the partners or one who controls the organization, but need not be audited; provided that the foregoing language shall not prohibit an operation from filing an audited financial statement nor the code enforcement department from requiring the filing of an audited financial statement whenever he determines that an audited financial statement is necessary to ascertain whether the organization is obeying the law and rules promulgated under this Ordinance. The code enforcement department may also require an organization to submit other reports, on a periodic basis, covering the activities connected with or related to the conduct of bingo, which reports shall be certified as prescribed for financial statements as set forth in this subsection.

(d) *Active membership or members and volunteers.* The member, volunteer and any other person involved in or assisting with the conduct of any bingo game shall have been an active member of the licensed organization for a period of at least one year prior to his appointment or designation to conduct bingo, and proof of the length of membership shall be furnished by the licensed organization upon demand by the code enforcement department or his authorized representative. The possession by the member or volunteer or other person of a valid identification or membership card issued by the licensed organization containing the date of active membership and full name of the person to whom it is issued is required. A change of a principal officer or of a member or volunteer of a licensed organization may be made at any time, but such change shall require the immediate filing with the code enforcement department of an amendment of the licensed organization's application as prescribed by Section 9.

(e) *Compensation prohibited.* No salary, compensation, tip or reward in any form whatsoever shall be offered, solicited, paid or given, before, during or after, directly or indirectly, to any person conducting or assisting in the conduct of bingo.

(f) The principal officers of any organization conducting bingo, and all persons conducting or assisting in the conduct of bingo shall sign an acknowledgment form provided by the County which describes the penalties for violating state and local regulations pertaining to bingo, and violations pertaining to embezzlement, money laundering and racketeering. A copy of each acknowledgment form shall be provided to the County Code Enforcement Office.

Section 9. Hours; use of leased premises. Premises may be used to conduct bingo under the following conditions:

(a) Bingo shall not be conducted between the hours of 1:00 a.m. and 9:00 a.m.

(b) Not more than one organization shall lease any premises for the conduct of bingo in any 24-hour period, and no other organization shall conduct bingo upon the same premises in that time period. This prohibition shall not extend to or affect the leasing, rental or use of premises for any other purpose than the conduct of bingo.

(c) The rental fee for the lease of any premises on which bingo games are to be conducted shall not be calculated on a percentage basis of the seating capacity of the leased premises, or the game receipts before or after payment of the actual business expenses, or the number of persons attending any occasion that includes the play of bingo games. The amount paid for such lease shall not exceed the fair market value of the leasehold interest. The code enforcement department shall be authorized to require the lessor to demonstrate the manner or method by which the fair market rent was determined. The code enforcement department shall have the right to use the services of an appraiser to ascertain whether or not the rental charge represents a fair market rent for the premises.

(d) When the actual fee for the lease of any premises on which bingo games are to be conducted includes the use of equipment, tables, chairs and other appurtenances essential to the conduct of bingo, the provisions of subsection (b) of this Section shall apply, except that the amount paid for the lease may include a separate charge which shall not be greater than the fair market rental charge for such equipment. The code enforcement department may require the lessor to demonstrate the manner and method by which the fair market rental charge for such equipment was determined.

Section 10. Ordinance No. 94-24 is hereby replaced and repealed by this present Ordinance.

Section 11. Section 849.0931, Florida Statutes, is hereby incorporated by referenced into this Ordinance, except that (1) where this Ordinance provides additional or more specific regulations, the provisions of this Ordinance shall govern; and (2) violations of this Ordinance shall be prosecuted as per the provisions of this Ordinance.

Section 12. Severability. If any Section, subsection, sentence, clause, phrase or provision of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such holding shall not be construed to render the remaining provisions of this Ordinance invalid or unconstitutional.

Section 13. Effective date. This Ordinance shall take effect on June 1, 2005.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 4<sup>th</sup> day of May, 2005.

BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA

By:   
Bruce A. Maguire, Chairman

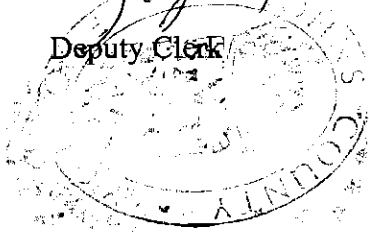
ATTEST: Cheryl Strickland, Clerk of Court

Rendition Date: 05-05-05

By: *Jerry Bulla*

Effective Date: 06-01-05

Deputy Clerk





**NOTICE OF PUBLIC HEARING BY THE ST. JOHNS COUNTY BOARD OF COUNTY COMMISSIONERS**

NOTICE IS HEREBY GIVEN that the Board of County Commissioners of St. Johns County, Florida, will hold a public hearing on Wednesday, May 4, 2005 at 9:00 a.m. in the County Auditorium at the County Administration Complex, 4020 Lewis Speedway (County Road 16-A) and U.S. 1 North, St. Augustine, Florida, to consider adoption of the following ordinance:  
**AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA REGULATING BINGO WITHIN THE UNINCORPORATED PORTION OF ST. JOHNS COUNTY, FLORIDA; MAKING LEGISLATIVE FINDINGS; PROVIDING DEFINITIONS; ESTABLISHING REQUIREMENTS FOR BINGO OPERATORS, LESSORS, PREMISES, AND EQUIPMENT, AND OTHER BINGO-RELATED REQUIREMENTS; MAKING CERTAIN ACTS UNLAWFUL; PROVIDING PENALTIES; REPEALING AND REPLACING ORDINANCE NO. 94-24; AND PROVIDING AN EFFECTIVE DATE.**

The proposed ordinance is on file in the office of the Clerk of the Board of County Commissioners at the St. Johns County Administration Complex, 4020 Lewis Speedway (CR 16A and U.S. #1), St. Augustine, Florida and may be examined by parties

Interested prior to the public hearing. Interested parties may appear at the public hearing and be heard with respect to the proposed ordinance. If a person decides to appeal any decision made by the Board of County Commissioners with respect to any matter considered at the public hearing, he/she will need a record of the proceedings, and for such purposes he/she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

**NOTICE TO PERSONS NEEDING SPECIAL ACCOMMODATIONS AND TO ALL HEARING IMPAIRED PERSONS:** In accordance with the Americans with Disabilities Act, persons needing a special accommodation to participate in the proceedings should contact ADA Coordinator, at (904) 823-2235 at the St. Johns County Courthouse, 4010 Lewis Speedway, Room 276, St. Augustine, FL 32084. For hearing impaired individuals: Telecommunication Device for the Deaf (TDD): Florida Relay Service: 1-800-955-8770, no later than 5 days prior to the date of the meeting.

**BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA**  
CHERYL STRICKLAND, ITS CLERK  
By: Patricia DeGrande, Deputy Clerk,  
L1006-5 April 23, 2005

COPY OF AD

**THE ST. AUGUSTINE RECORD**

PUBLISHED EVERY MORNING MONDAY THROUGH FRIDAY, SATURDAY AND SUNDAY MORNING  
ST. AUGUSTINE AND ST. JOHNS COUNTY, FLORIDA

STATE OF FLORIDA,  
COUNTY OF ST. JOHNS

Before the undersigned authority personally appeared **CHARLES BARRETT** who on oath says that he is an Accounting Clerk of the St. Augustine Record, a daily newspaper published at St. Augustine in St. Johns County, Florida: that the attached copy of advertisement, being **NOTICE OF HEARING** in the matter **BINGO** was published in said newspaper in the issues of **APRIL 23, 2005.**

Affiant further says that the St. Augustine Record is a newspaper published at St. Augustine, in said St. Johns County, Florida, and that the said newspaper heretofore been continuously published in said St. Johns County, Florida, each day and has been entered as second class mail matter at the post office in the City of St. Augustine, in said St. Johns County, for a period of one year preceding the first publication of the copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing the advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **25TH** day of **APRIL, 2005.**

by *Charles Barrett* who is personally known to me or who has produced **PERSONALLY KNOWN** as identification.

*Patricia A. Bergquist*

(Signature of Notary Public)



Patricia A. Bergquist  
My Commission Expires 12/31/2007

(Seal)

PATRICIA A. BERGQUIST