

ORDINANCE NO. O2014-31

AN ORDINANCE OF THE CITY OF WILDWOOD, FLORIDA, REGULATING BINGO WITHIN THE CITY LIMITS OF THE CITY OF WILDWOOD; PROVIDING FOR FINDINGS; PROVIDING FOR DEFINITIONS; ESTABLISHING REQUIREMENTS FOR BINGO OPERATORS, LESSORS, PREMISES, AND EQUIPMENT, AND OTHER BINGO RELATED REQUIREMENTS; MAKING CERTAIN ACTS UNLAWFUL; PROVIDING PENALTIES; PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED, by the City Commission of Wildwood, Florida, as follows:

**Section 1. Title.**

This article shall be known and may be cited as the "Wildwood Bingo Ordinance."

**Section 2. Findings**

The City Commission finds and determines that:

(a) Section 849.0931, Florida Statutes, was enacted by the legislature in order to authorize charitable, nonprofit and veterans organizations engaged in charitable, civic, community, benevolent, religious or scholastic works and other similar activities to conduct bingo games and to donate the entire proceeds derived from these games, less actual business expenses for articles designed for and essential to the operation, conduct and playing of bingo, to such endeavors, thus, bringing, aid and comfort to the community and its members.

(b) Section 849.0931(2)(a), Florida Statutes, prohibits the proceeds from bingo games from being used for any purpose whatsoever other than the enumerated purposes.

(c) Section 849.0931(3), Florida Statutes, authorizes nonprofit organizations not involved in the efforts listed above to conduct bingo games only upon the condition that the entire proceeds be returned to the players in the form of prizes.

(d) Section 849.0931, Florida Statutes, contains various other provisions intended to assure that only the groups, associations, and organizations referred to in the statute are involved in and receive and/or distribute the proceeds of these games, but the present law is inadequate to fully achieve this objective because of a lack of regulatory authority.

(e) Monies from bingo games are frequently retained illegally or taken for noncharitable purposes through various ruses such as abnormally high rentals or salaries.

(f) Arrangements between and among lessors of places where bingo games are conducted, actual or putative nonprofit organizations and concessionaires at such games have become commercialized to an extent not contemplated or intended by the legislature.

(g) Effective enforcement of any law regarding bingo games can only be brought about by local regulation of these games to insure that the proceeds from the games pass into the hands of the groups, organizations or associations identified in Section 849.0931, Florida Statutes, in the manner and for the purposes set forth in the statute.

(h) 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. 5th DCA 1997).

### **Section 3. Intent.**

It is the City Commission's intent to require those associated with bingo games to comply fully with the statutory requirements for the conduct of such games, as well as to comply with the requirements set forth in this ordinance.

### **Section 4. Definitions.**

For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

(a) BINGO CARD. The flat, usually rectangular piece of paper or thin pasteboard normally employed by players engaged in the game of bingo. More than one set of bingo numbers may be printed on any single piece of paper.

(b) BINGO GAMES. The activity commonly known as bingo wherein participants pay a sum of money for the use of one or more cards. When the game commences, numbers are drawn by chance one by one, and announced, the player covering or making those numbers on cards which they have purchased until the player who gets given numbers in the same pre-announced sequence for that particular game calls out "bingo" and is declared the winner of a predetermined prize.

(c) CHARITY. A nonprofit or veteran's organization having been in existence for three years or more, and engaged in charitable, civic, community, benevolent, religious, or scholastic works or similar activities.

(d) LEASE. Includes a lease, sublease, assignment, rental or agreement to use any premises for the conduct of bingo, other than premises owned by an organization and used by it to conduct bingo for its own benefit.

(e) LESSOR. The person or persons, partnership, or corporation that rents to or provides space to an operator, as defined in this section.

(f) MEMBER. A person who qualifies and has been accepted by an organization as a bona fide member or a person who qualifies and has been accepted by an affiliated auxiliary of the organization as a bona fide member of such auxiliary. This terms specifically excludes honorary members.

(g) OPERATOR. The person or persons, partnership, or corporation that performs, conducts, or supervises a bingo game or a series of bingo games. The following described activities are not exclusive, but they shall constitute performing, conducting, or supervising a bingo game or a series of bingo games.

(1) Supply, distribution, and collection of bingo cards.

(2) Acceptance or collection of money from players for the purpose of participating in a bingo game or a series of bingo games

(3) Distribution of prizes to players.

(4) Selecting or announcing numbers of other characters involved in playing the game of bingo.

(h) ORGANIZATION. A charitable, nonprofit or veterans' organization as defined in Fla.Stat. § 849.0931(1)(c), or a condominium association, cooperative association, homeowner association as defined in Fla.Stat. § 720.301, mobile home park owner's association, and residents of mobile home parks and recreational vehicle parks as defined in chapter 723 of the Florida Statutes.

(i) OWNER. The person or persons, partnership, or corporation that holds legal title to the physical premises in which a bingo game or a series of bingo games is played.

(j) PLAYER. Any person who has paid some amount of money to the operator for one or more bingo cards, and who has some expectation of receiving a prize if one or more of his bingo cards contains a sufficient number of numbers which are the same as those announced by the operator during a bingo game.

(k) PREMISES. An indoor or outdoor area used for the conduct of bingo.

(l) PRIZES. Any cash or other thing of value awarded to a player of a bingo game or players in a series of bingo games.

## **Section 5. Permits.**

(a) **Class A permit** - It shall be unlawful for any operator to perform, conduct, or supervise a bingo game or a series of bingo games without having first obtained a valid annual Class A permit. Every operator shall obtain an annual Class A permit from the City manager. In no case shall a Class A permit be issued to a charity, or organization, that is not based, located, and operated in Sumter County, Florida. In order to receive the Class A permit, the operator shall tender to the City manager the sum of \$100.00 and in addition shall provide the following information under oath:

(1) If the operator is a corporation, the names and addresses of its officers and directors and a true and correct copy of its articles of incorporation and bylaws. If the operator is a limited liability company, the names and addresses of its members and managers and a true and correct copy of its operating agreement. If the operator is a partnership, the names and addresses of all the partners and a true and correct copy of the partnership agreement. If the operator is not a corporation or partnership, the names and addresses of all persons who constitute the operator and any agreement or document under which the operator exists or conducts itself.

(2) A detailed description of the charitable, civic, community, benevolent, religious, or scholastic works or other similar activities in which the operator is involved and the specific endeavors to which the proceeds from the bingo games shall be donated.

(3) The address of the premises in which the operator performs, conducts, or supervises bingo games, and the days of the week on which the operator performs, conducts, or supervises bingo games. If the days are changed, a supplemental statement must be filed with the City Manager prior to the change.

(4) The names and addresses of all persons, firms, corporations, or business entities owning directly or indirectly 10% or more of the operator.

(5) A financial statement of the operator, evidencing the amount and sources of the previous year's gross revenue and the distributees with the amount of the previous year's distributions. This statement must be certified as correct by the officers of the corporation, one of the partners, or one who controls the operator, but need not be audited. The information supplied shall cover the period of the operator's most recently concluded fiscal year.

(6) In the case where an operator is a condominium association, cooperative association, or mobile home park created pursuant to law, the operator is not required to tender the sum of \$100.00, and the provisions of subsections (2), (4), and (5) above shall not be applicable, provided only residents of the condominium, cooperative, or mobile home park are allowed to participate or play in such bingo games; and all of the proceeds from the bingo games are returned to the players in the form of prizes.

(b) **Class B permit** - It shall be unlawful for any owner or lessor to rent or provide space to or permit its premises to be utilized by an operator without having first obtained a valid annual Class B permit from the City manager. This requirement for a Class B permit shall not apply when an operator, charity, or organization, holding a Class A permit is the owner or sole lessee of the premises upon which it conducts bingo games only and solely for its own benefit. In order to receive the Class B permit, the owner or lessor shall tender to the City manager the sum of \$2,000.00 and in addition shall provide the following information under oath:

(1) Complete information as to the rentals and other financial benefits received from any operators using the premises during the preceding 12 months. In the event that this the first year of operation, the owner or lessor must provide an estimate, or projection, based on their business plan for the initial year of operation.

(2) If the owner or lessor is a corporation, it shall supply the names and addresses of its officers and directors and a true and correct copy of its articles of incorporation and bylaws. If the owner or lessor is a limited liability company, the names and addresses of its members and managers and a true an correct copy of its operating agreement. If the owner or lessor is a partnership, the partnership shall supply the names and addresses of all the partners and a true and correct copy of the partnership agreement. If the owner or lessor is not a corporation or partnership, the names and addresses of all persons who constitute the owner or lessor, and any agreement or document under which the owner or lessor exists or conducts itself shall be supplied.

(3) The address of all premises held by the owner or lessor in which the operator or any operator performs, conducts, or supervises bingo games and the days of the week in which any and all operators perform, conduct, or supervise bingo games.

(4) The names and addresses of all persons, firms, corporations, or business entities owning directly or indirectly 10% or more of the owner or lessor.

(5) A financial statement of the owner or lessor, evidencing the amount and sources of the previous year's gross revenue. This statement must be certified as correct by the officers of the corporation, one of the partners, or one who controls the owner or lessor, but need not be audited. If the operator is the owner or sole lessee, it shall not be required to pay the \$2,000.00 Class B permit fee or supply the other information required of owners or lessors under this section.

(6) An affidavit, sworn to under penalties of perjury, that the owner or lessor has complied with the requirements of Florida Statute § 849.0931, as well as this ordinance.

(7) In the case where a condominium association, cooperative association, or mobile home park qualifies for the exemption provision of subsection (a)(6) above, no permit shall be required, provided the owner or lessor of the space or premises to be utilized by an operator is one of the following.

- a. The unit owners of the associations.
- b. The mobile home owners of the park.
- c. The developer of the associations.
- d. The mobile home park owner of the park.

## **Section 6. Requirements for organizations; records; financial requirements**

The following requirements shall apply to all Class A permit holders:

(a) 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.

(b) *Compensation prohibited.* No salary or compensation 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.

(c) The principal officers of any charity, or organization conducting bingo, and all persons conducting or assisting in the conduct of bingo shall sign an acknowledgment form provided by the City 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 Wildwood Police Department.

(d) Each operator shall maintain adequate records for a minimum of three years of all bingo activity on a per game basis which shall include the following: gross game receipts and all income from any source, including, but not limited to, admission charges; all payout for prizes whether in cash or merchandise; any and all operating expenses; and net proceeds.

(e) The records required to be kept under this ordinance shall be made available on demand for immediate inspection by any law enforcement officer or by the City or its authorized representative at reasonable times during normal business hours and whenever bingo games are in progress, but law enforcement officers shall not interrupt an actual bingo game in progress or interfere with the operation of the premises where bingo is played unless necessary in order to make an inspection.

## **Section 7. Requirements for owners and lessors; records; financial requirements.**

The following requirements shall apply to all Class B permit holders:

(a) No owner or lessor and no officer, director, stockholder, member, manager, employee or any other person having an interest in the lessor shall conduct, assist or participate in the conduct of bingo or render any service or offer, distribute or

give anything of value to anyone conducting, assisting or participating in the conduct of bingo or to any member of a permitted organization.

(b) Separate bank account. The entire proceeds derived by an owner or lessor from the leasing of premises upon which bingo is conducted shall be deposited in a checking account in a bank which shall be maintained separate and apart from all other amounts of the owner or lessor and shall to not be used for the deposit of funds received from any other activity than the leasing of premises for the conduct of bingo. If the owner or lessor is other than an individual, two (2) of the required principal officers or partners 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 the periodic withdrawal or transfer of the net proceeds, after payment of the actual business expenses related to the premises from which the funds were derived, for the use of the owner or lessor.

(c) An owner or lessor shall maintain adequate records according to generally accepted accounting practices, which records shall show all income from the leases or rentals, all gross proceeds, actual business expenses and the entire or net proceeds from leases or rentals of premises for the conduct of bingo, and which shall also include copies of the executed leases or agreements, if any, for such premises. All records shall be maintained by the owner or lessor for a minimum of three (3) years.

(d) The records required to be kept under this ordinance shall be made available on demand for immediate inspection by any law enforcement officer or by the City or its authorized representative at reasonable times during normal business hours and whenever bingo games are in progress, but law enforcement officers shall not interrupt an actual bingo game in progress or interfere with the operation of the premises where bingo is played unless necessary in order to make an inspection.

(e) Financial statement; other reports. Annually, each owner or lessor shall file with the City a financial statement, in the form prescribed by the City, containing the sources and the amount of the gross revenue derived by the lessor from the leasing of premises for the conduct of bingo during the twelve-month or other period for which the statement is being filed, and stating the actual business expenses related to the premises. The financial statement shall be certified as correct by a principal officer, one of the partners or one who controls the lessor, but need not be audited; provided, that the foregoing language shall not prohibit a lessor from filing an audited financial statement.

(f) All leases and agreements with any operator, charity, or organization shall be in writing and shall be kept and maintained according to the record requirements of this ordinance.

(g) The principal officers of any owner or lessor shall sign an acknowledgment form provided by the City 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 Wildwood Police Department.

**Section 8. Display of information.**

(a) During the course of any and all bingo games, the operator shall post in a conspicuous place the following information:

(1) Names of all persons operating or assisting in the operation of the bingo game, together with the name of the charity, or organization, with which they are associated.

(2) The total retail value of all prizes, whether in money or merchandise to be awarded per each bingo game.

(3) The information in subsections (1) and (2) above shall be posted after each game is completed and indicate separate entries for game. All figures shall remain posted until the last bingo game is played for that day.

**Section 9. Identification and name tags.**

All persons operating or assisting in the operation of any bingo game shall wear legible tags evidencing their name and the charity, or organization, with which they are associated. The person shall not conduct bingo for any other charity, or organization, licensed under this ordinance.

**Section 10. Conduct of bingo games.**

The following rules and regulations shall govern bingo games:

(a) The operator is required to maintain adequate records of its purchase of bingo cards from whatever source acquired showing the serial number systems above of all the cards. The records will be subject to the same inspection provisions as stated in this ordinance.

(b) Supplies and equipment bought by operators for all games shall be purchased from a bona-fide distributor authorized to do business in the state and maintaining an office therein.

(c) A distributor of bingo equipment and supplies who sells equipment or supplies to an operator of a game to be held in the City shall provide the operator with a card stating thereon the name and address of the manufacturer of the bingo cards supplied by the distributor. The operator shall affix and permanently display the card or place card on a wall during each game the supplied cards are used.

#### **Section 11. Additional requirements.**

(a) 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 six months and resident of Sumter County for at least two 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.

(b) Bingo shall not be played on any premises during more than five (5) days per week.

(c) There shall not be more than three (3) jackpots on any premises during any day.

(d) No bingo shall be played on Sundays.

(e) The hours of operation for bingo games for a Class B permit holder shall be restricted to daylight hours (from dusk until dawn).

(f) The sale or consumption of alcohol on the premises of a Class B permit holder shall be prohibited.

(g) The game of bingo shall not be conducted or played under any other name, designation, title label, term or pseudonym.

#### **Section 12. Prohibition of minors.**

(a) No person under the age of eighteen (18) years shall:

(1) Participate or be allowed to participate in any bingo game; and

(2) Be present or allowed to be present in that part of the premises where a bingo game is being conducted.

#### **Section 13. Dates for issuance of permits.**

All permits required by this section shall be issued by the City manager beginning October 1 of each year and expiring on September 30 of the succeeding year. Any

operator, lessor, or owner required to have a permit pursuant to this section, shall obtain the permit prior to commencing any bingo game.

#### **Section 14. Security requirements.**

All Owners or Lessors possessing a Class B permit shall maintain the following security devices and standards at their premises:

(a) A security camera system with inside and outside visual monitoring operating twenty-four (24) hours a day and capable of recording and retrieving an identifiable image both inside and outside the premises;

(b) A safe or cash management device for restricted access to cash receipts;

(c) A conspicuous notice at all public entrances to premises stating cash register contains limited amount of cash;

(d) At exits to premises, height markers displaying height measures;

(e) A silent alarm system capable of notifying law enforcement;

(f) At least one Florida state licensed, armed security guard, when the premises is open for business; and

(g) Tinted windows or other obstructions of the view through the glass of any Bingo operation shall be prohibited for purposes of visual security of police offices.

#### **Section 15. Providing false information.**

No person shall knowingly make a false, untrue, or misleading oral statement to any code enforcement officer, or any other City official, as to any matter investigated in relation to the provisions or enforcement of this ordinance.

#### **Section 16. Violations.**

Any person, firm, corporation, or business entity violating any of the provisions of this section shall be guilty of a punishable violation. Upon conviction of such a violation, any operator, lessor, or owner shall automatically have its permit revoked.

#### **Section 17. Penalty.**

A person who knowingly and willfully violates the terms of this ordinance, upon being found guilty, shall be punished as provided in section 1-7 of this Code.

**Section 18. Incorporation clause.**

Section 849.0931, Florida Statutes, is hereby incorporated by reference 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 19. 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 20. Effective date.**

This ordinance shall take effect immediately upon its final adoption by the City Commission.

PASSED AND ORDAINED this 14<sup>th</sup> day of July, 2014, by the City Commission of the City of Wildwood, Florida.

SEAL

CITY COMMISSION  
CITY OF WILDWOOD, FLORIDA

ATTEST: Cassandra Lippincott  
Cassandra Lippincott, City Clerk

Ed Wolf  
Ed Wolf, Mayor

First Reading: June 23, 2014

Second Reading: July 14, 2014

Approved as to form:  
Ashley S. Hunt  
Ashley S. Hunt, City Attorney