

ORDINANCE NO. O-2018-66

AN ORDINANCE AMENDING CHAPTER 10, ARTICLE VII, RAFFLES
OF THE WHEATON CITY CODE

WHEREAS, the City of Wheaton, Illinois ("City") is an Illinois home rule municipality pursuant to the provisions of Article VII, Section 6 of the Illinois Constitution, 1970, and as such the City may exercise any power or perform any function pertaining to its government and affairs; and

WHEREAS, the City has determined it to be in the best interests of the City and its residents to consider certain amendments to the Wheaton City Code pertaining to raffles.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and City Council of the City of Wheaton, Illinois, by its home rule authority as follows:

Section 1: That Sections 10-191 through 10-198 of the Wheaton City Code are hereby repealed and rescinded in their entirety and replaced with the following:

"Sec. 10-191. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person managing or supervising the raffle or any entity described in subsections 10-195(a)(1) and 10-195(a)(2) as being qualified to submit an application for a raffle license.

Business means a voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of a community.

Charitable means an organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefit on the public.

Educational means an organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax supported schools.

Fraternal means an organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burden of government by caring for those who otherwise would be cared for by government.

Labor means an organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

Net proceeds means the gross receipts from the conduct of raffles, less reasonable sums expended for prizes, local license fees, and other reasonable operating expenses incurred as a result of operating a raffle.

Nonprofit means an organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation.

Person means the manager or supervisor of the raffle.

Raffle means a form of lottery, as defined in Section 28-2(b) of the Criminal Code of 2012, conducted by an organization under this Act, in which:

- (1) The player pays or agrees to pay something of value for a chance, represented and differentiated by a number or by a combination of numbers or by some other medium, one or more of which chances is to be designated the winning chance;
- (2) The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

Religious means any church, congregation, society, or organization founded for the purpose of religious worship.

Veterans means an organization or association comprised of members of whom substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

Sec. 10-192. - Construction of article.

Nothing in this article shall be construed to authorize the conducting or operating of any gambling scheme, enterprise, activity or device other than raffles as provided for in this article.

Sec. 10-193. – Authority for issuance of license.

The City Manager shall have the authority to issue licenses for raffles, subject to the limitations set forth in this Article.

Sec. 10-194. - License—Required.

No person or entity shall conduct raffles or any raffle related activities in the city without first having obtained a license therefore pursuant to the provisions of this article.

Sec. 10-195. - Same—Application.

(a) Applications for licenses to conduct raffles shall be made in writing on the forms provided by the City and shall be delivered to the city manager. Applications for raffle licenses shall not be submitted to the city manager more than one year in advance of the date of the requested raffle drawing. Licenses shall be issued only to:

(1) Bona fide religious, charitable, labor, business, fraternal, educational or veterans' organizations, which operate without profit to their members, as defined in this article. Such organizations shall have been in existence continuously for a period of no less than five years immediately before making application for a license, and such organizations shall have had for that entire five-year period a bona fide membership engaged in carrying out its objectives.

(2) A nonprofit fundraising organization that the city manager determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

(b) Such applications shall be signed by the applicant or its duly authorized representative(s) and shall contain the following information:

- (1) The name and address of the applicant;
- (2) The areas within the city in which raffle chances, tickets, and the like will be sold or issued;
- (3) The time period during which raffle chances will be sold or issued;
- (4) The manner in which the proceeds from the raffle will be used for charitable purposes;
- (5) The time of determination of winning chances and the location at which winning chances will be determined;
- (6) The retail value of each prize awarded;
- (7) The aggregate retail value of all prizes or merchandise to be awarded;
- (8) The price to be charged for the raffle ticket;
- (9) A sworn statement attesting to the not-for-profit character of the prospective licensee organization signed by the presiding officer and secretary of the prospective licensee organization;
- (10) Written proof issued by the State that the applicant is in good standing with the Office of the Illinois Secretary of State and which specifies the date of incorporation of the organization as a nonprofit organization;
- (11) A sworn statement by the applicant as to whether the applicant or any officer, director, employee or person associated with the applicant organization or corporation, including any person participating in the management or operation of the raffle which is the subject of the application, or person who has a proprietary, equitable or credit interest in such raffle has ever been convicted of a felony, and the details of the circumstances of any such felony conviction(s);
- (12) A sworn statement by the applicant as to whether the applicant or any officer, director, employee or person associated with the applying organization or corporation, including any person participating in the management or operation of the raffle which is the subject of the application, or person who has a proprietary, equitable or credit interest in the raffle has ever been convicted of a violation of any ordinance or statute regulating gambling and the details of the circumstances of any such conviction(s); and
- (13) A sworn statement by the owner, manager, or duly authorized representative of any rented premises on which the winning chance or chances in the applicant's raffle shall be determined, that the owner, manager, or duly authorized representative of such premises consents to the use of such premises for such raffle activity and has never been convicted of a felony or any local ordinance or State law regulating gambling.

(c) All applicants for licenses under this article must have their principal place of business within Milton Township unless otherwise waived by the city council.

(d) Each license issued under this article shall be valid for a single raffle, or a specified number of raffles to be conducted during a specified period not to exceed one (1) year.

(e) For the purpose of satisfying the raffle license requirement of section 10-200(10) of this article, a raffle license shall be deemed issued to any establishment, place of business, or premises ("Premises") which submits with an applicant's application for a license under this article, a sworn statement that satisfies the requirements of section 10-195(b)13) of this article. Such license shall be limited to only allowing the applicant's raffle activities to occur on the Premises as set forth in the applicant's application for a license under this article.

Sec. 10-196 – License Fees.

The license fee shall be in accordance with Appendix B to this Code.

Sec. 10-197. – Restrictions on Issuance of Licenses.

No such raffle license shall be issued to:

- (1) Any person who has been convicted of a felony whose conviction will impair the person's ability to engage in the licensed position;
- (2) Any person who is or has been a professional gambler or gambling promoter;
- (3) Any person who is not of good moral character;
- (4) Any person whose license issued under this article has been revoked for cause;
- (5) A person who at the time of application for renewal of any license issued hereunder would not be eligible for such license upon a first application;
- (6) Any firm or corporation in which a person defined in (1), (2), or (3) of this section has a proprietary, equitable, or credit interest, or in which such a person is active or employed;
- (7) Any organization in which a person defined in (1), (2), or (3) of this section is an officer, director, or employee, whether compensated or not; or
- (8) Any organization in which a person defined in (1), (2), or (3) of this section is to participate in the management or operation of a raffle as defined in this article.
- (9)

Sec. 10-198. - Same—Issuance or denial.

Review of applications shall include, but not be limited to, consideration of the guidelines contained in section 10-197 of this article and in section 15/3.1(a) and (b) of the Raffles and Poker Runs Act, as amended [230 ILCS 15/3.1(a) and (b)]. Within 30 days from the date of an application for a license under this article, the city manager shall either issue a license or advise the applicant, in writing, of the reason for denial of a license, including a statement about the decision to refuse to issue a license, a listing of any convictions which the city determined will impair the applicant's ability to engage in the licensed activity, and a listing of convictions which formed the sole or partial basis for the denial. In the event a license is denied, the applicant shall have the right upon receipt of such written denial, to appeal the decision to the city council at the next regularly scheduled city council meeting.

Sec. 10-199. – Prizes.

- (1) The aggregate retail value of all prizes or merchandise awarded by a licensee in a single raffle shall not exceed two hundred thousand dollars (\$200,000), unless otherwise provided by resolution of the city council.
- (2) The maximum retail value of each prize awarded by a licensee in a single raffle shall not exceed two hundred thousand dollars (\$200,000), unless otherwise provided by resolution of the city council.
- (3) The maximum price which may be charged for each raffle chance issued or sold shall not exceed one hundred dollars (\$100.00), unless otherwise provided by resolution of the city council.

Sec. 10-200. - Conducting raffles.

The conducting of raffles within the city is subject to the following restrictions and conditions:

- (1) The entire net proceeds of any raffle must be exclusively devoted to the lawful purposes of the organization permitted to conduct the raffle.

- (2) No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle.
- (3) No person may receive any remuneration or profit for participating in the management or operation of the raffle.
- (4) All drawings for the winning raffle ticket or tickets shall be held in a place open to the general public.
- (5) Raffle chances may be sold or issued only within the areas specified on the license, and winning chances may be determined only at those locations specified on the license.
- (6) A person under the age of eighteen (18) years may participate in the conducting of raffles or chances only with the permission of a parent or guardian. A person under the age of eighteen (18) years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.
- (7) All raffle tickets sold by a licensed organization shall include the name and address of the sponsoring organization on the raffle ticket.
- (8) The drawing of the winning raffle ticket or tickets must take place within the corporate limits of the city.
- (9) The maximum number of days during which chances may be issued or sold shall be one hundred eighty (180) days, unless otherwise provided by resolution of the city council.
- (10) A licensee may rent a premise on which to determine the winning chance or chances in a raffle only from an organization which has a city issued raffle license.
- (11) If a lessor rents premises where a winning chance or chances on a raffle are determined, the lessor shall not be criminally liable if the person who uses the premises for the determining of winning chances does not hold a license issued by the city under the provisions of this article.
- (12) If any raffle for which a license is issued under this Article is canceled, or if any such raffle is not conducted on the date contained in the application for license, the licensee shall refund all money paid for any raffle chances issued or sold to the persons to whom such raffle chances were issued or sold within forty-five (45) days after the date on which the raffle was to be conducted or within forty-five (45) days after Cancellation of the raffle, whichever is sooner.

Sec. 10-201. - Manager; bond.

All operation and conduct of raffles shall be under the supervision of a single raffle manager designated by the licensed organization. The manager shall give a fidelity bond in the sum of the total amount of the aggregate retail value of all of the prizes in favor of the organization conditioned upon his honesty and the performance of his duties. The terms of the bond shall provide that notice shall be given in writing to the city not less than 30 days prior to its cancellation. The city council may waive this bond requirement by including a waiver provision in the license issued to an organization under this article, provided that a license containing such waiver provisions shall be granted only by unanimous vote of the members of the licensed organization.

Sec. 10-202. - Records and reporting requirements.

Each organization licensed to conduct raffles and chances pursuant to this article shall keep records, provide reports, and be subject to the requirements set out as follows:

- (1) Each licensee shall keep records of gross receipts, expenses and net proceeds for each raffle at which winning chances are determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount,

a description of the purchased item or service or other reasons for the deduction, and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount, and date of payment.

- (2) Gross receipts from the operation of raffle programs shall be segregated from other revenues of the organization, including bingo gross receipts, if bingo games are conducted by the same nonprofit organization pursuant to a license therefore issued by the Illinois Department of Revenue, and placed in a separate account. Each organization shall have separate records of its raffles. The person who accounts for gross receipts, expenses, and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.
- (3) Each organization licensed to conduct raffles shall submit a report within 30 days after the conclusion of each raffle to its membership and to the city of its gross receipts, expenses, and net proceeds from raffles, and the distribution of net proceeds itemized as required under subsection (1) of this section.
- (4) Records required by this article shall be preserved for three years, and organizations shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

Sec. 10-203. – City reporting requirements.

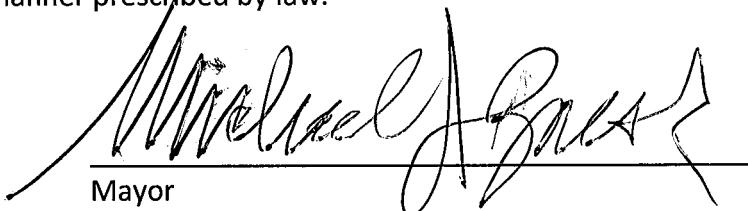
No later than May 1 of each year, the City Manager or his designee, shall prepare, publicly announce, and publish a report of summary statistical information relating to new and renewal license applications during the preceding calendar year. Each report shall show at a minimum:

- (1) the number of applicants for a license under this article within the previous calendar year;
- (2) the number of applicants for a license under this article within the previous calendar year who had any criminal conviction;
- (3) the number of applicants for a license under this article in the previous calendar year who were granted a license;
- (4) the number of applicants for a license under this article with a criminal conviction who were granted a license under this article within the previous calendar year;
- (5) the number of applicants for a license under this article within the previous calendar year who were denied a license under this article; and
- (6) the number of applicants for a license under this article with a criminal conviction who were denied a license under this article in the previous calendar year in whole or in part because of a prior conviction.

Section 2: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 3: This Ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

Mayor

A handwritten signature in black ink, appearing to read "Michael J. Bask". The signature is fluid and cursive, with a prominent "M" at the beginning.

Attest:

Shawn Bennett-Hagn
City Clerk

Roll Call Vote:

Ayes: Councilman Scalzo
Councilman Suess
Councilman Barbier
Councilman Prendiville
Mayor Gesk
Councilman Rutledge

Nays: None
Absent: Councilwoman Fitch

Passed: November 19, 2018

Published: November 20, 2018

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