

Chapter 9

Bingo

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**[HISTORY: Adopted by Attica Village Board 3-4-58.
Referendum approving 3-18-58.]**

S 9-1. Short title.

This ordinance shall be known and may be cited as the “Village of Attica Bingo Licensing Ordinance.”

S 9-2. Definitions.

As used in this ordinance, unless the context requires otherwise, the following terms shall have the following meanings:

CONTROL COMMISSION-Shall mean the State Lottery Control Commission.

BINGO or GAME-Shall mean and include a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

AUTHORIZED ORGANIZATION-Shall mean and include only bone fide religious, charitable or nonprofit organizations of veterans, volunteer firemen and similar nonprofit organizations of veterans, volunteer firemen and similar nonprofit organization.

LICENSE-Shall mean a license issued pursuant to the provisions of this ordinance.

STATE LAW-Shall mean Chapter 854 of the Laws of the State of New York of 1957.

S 9-3. Restrictions upon conduct of bingo games.

The conduct of bingo games authorized by this ordinance shall be subject to the following restrictions:

- A. No person, firm, association, corporation or organization other than an authorized organization licensed under the provisions of this ordinance, shall be permitted to conduct such games.
- B. The entire net proceeds of any game shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

- C. No single prize shall exceed the sum or value of two hundred fifty dollars (\$250.).
- D. No series of prizes on any on (1) occasion shall aggregate more than on thousand dollars (\$1000).
- E. No person except a bona fide member of any such organization shall participate in the management or operation of such game.
- F. No person shall receive any remuneration for participating in the management or operation of any such game.
- G. The unauthorized conduct of a bingo game and any willful violation of any provision of this ordinance shall constitute and be punishable as a misdemeanor.

S 9-4. Application for license.

- A. Each applicant for a license shall file with the Village Clerk a written application therefore in the form prescribed in the rules and regulations of the control commission, duly executed and verified, in which shall be stated the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable the Village Clerk to determine whether or not it is a bona fide authorized organization; the names and addresses of its officers; the specific kinds of games of chance intended to be held, operated and conducted by the applicant, and the place or places where, the date or dates and the time or times when such games of chance are intended to be held, operated and conducted by the applicant under the license applied for; the 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 purpose for which, they are to be paid; the specific purposes to which the entire net proceeds of such games of chance are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for holding, operating or conducting such game or games of chance or for assisting therein except as in this ordinance otherwise provided; and that no prize or aggregate of prizes will be offered or given under such license of a value in excess of the sum or value authorized to be offered or given by this ordinance, and a description of all prizes to be offered and given in all such games of chance to be held, operated and conducted under such games of chance to be held, operated and conducted under such license and such other information as shall be prescribed by such rules and regulations.
- B. In each application there shall be designated an active member or members of the applicant organization under whom the game or games of chance described in the application are to be held, operated and conducted, and to the application shall be appended a statement executed by the applicant and by the member or members so designated that he or they will be responsible for the holding, operation and conduct of such game of chance in accordance with the terms of the license and the provisions of the rules and regulations governing

the holdings, operation and conduct of such games of chance and of this ordinance, if such license is granted.

- C. In the event that any premises upon which any such game of chance is to be held, operated or conducted or which is to be used for any other purpose in connection with the holding, operating or conducting thereof, is to be leased from any person, persons or corporation, a written statement shall accompany the application signed and verified under oath by such person or persons or executed and verified under oath on behalf of such corporation, stating his or its address and the amount of rent which will be paid for such premises and that such lessor or lessors or if a corporation all of its officers and each of its stockholders who hold ten percent (10%) or more of its stock issued and outstanding, are of good moral character and have not been convicted of crime.

D.

Ss 9-5. Investigation; matters to be determined; issuance of license; fees; duration License.

- A. The Village Clerk shall make or cause to be made an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application, and if he shall determine that the applicant is duly qualified to be licensed under this ordinance to hold, operate and conduct games of chance under the provisions of this ordinance and the rules and regulations governing the holding, operation and conduct thereof in the village; that the member or members of the applicant designated in the application to hold, operate or conduct the games of chance, to hold, operate and conduct which the license was applied for, are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime; that such games of chance are to be held, operated and conducted in accordance with the rules and regulations governing the holding, operation and conduct thereof and that the proceeds thereof are to be disposed of as provided by this ordinance, and if the Village Clerk is satisfied that 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 any such games of chance except as in this ordinance otherwise provided; and that no prize will be offered and given in excess of the sum or value of two hundred fifty dollars (\$250.) in any single game of chance, and that the aggregate of all prizes offered and given in all of such games of chance, held, operated and conducted on a single occasion, under said license shall not exceed the sum or value of on thousand dollars (\$1000.), he shall issue a license to the applicant for the holding, operation and conduct of the specific kinds of games of chance applied for, accordingly, upon payment of a license fee or fees of ten dollars (\$10.) for each occasion upon which any games of chance are to be conducted under such license.
- B. On or before the 30th day of each month, the Village Clerk shall transmit to the state comptroller a sum equal to fifty percent (50%) of all license fees

collected by the village pursuant to this section during the preceding calendar month.

- C. No license for the holding, operation and conduct of any game or games of chance shall be issued under this ordinance which shall be effective for a period of more than one (1) year.

S 9-6. Hearing; amendment of license.

- A. No application for the issuance of a license shall be denied by the Village 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 ordinance may be amended, upon application Made to the Village Clerk, 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.

S 9-7. Form and contents of license; display of license.

Each license shall be in such form as shall be prescribed in the rules and regulations promulgated by the control commission and shall contain a description of the kind of games of chance authorized to be held, operated and conducted there-under, 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 such games of chance will be held, operated and conducted, of the number of times, or the hours during which, such games of chance are authorized to be conducted and the place or places where and the date or dates and time or times when such games of chance are to be conducted and of the specific purposes to which the entire net proceeds of such games of chance are to be devoted; if any prize or prizes are to be offered and given in cash, a statement of the amounts of the prizes authorized so to be offered and given; 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 game or games of chance shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

S 9-8. Control and supervision; suspension of licenses; inspection of premises.

The Board of Trustees shall have and exercise control and supervision over all games of chance held, operated or conducted under such license, to the end that the same are fairly held, operated and conducted in accordance with the provisions of such license, the rules and regulations promulgated by the control commission and the provisions of this ordinance governing the holding, operation and conduct of the same , and the Board of Trustees and the control commission shall have the power and the authority to suspend any license issued by the Village Clerk and to revoke the same after notice and hearing for violation of any such provision, and the Board of Trustees, or any village officer or

village officers designated by it, shall have the right of entry at all times into any premises where any such game of chance is being held, operated and conducted or where it is intended that any such game of chance shall be held, operated and 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.

S 9-9. Sunday, conduct of games on.

No games of chance shall be conducted under any license issued under this ordinance on the first day of the week, commonly known and designated as Sunday.

S 9-10. Participation by persons under eighteen.

No persons under the age of eighteen (18) years shall be permitted to participate in any game or games of chance held, operated or conducted pursuant to any license issued under this ordinance unless accompanied by an adult.

S 9-11. Frequency of game; sale of alcoholic beverages.

No game or games of chance shall be held, operated or conducted under any license issued under this ordinance oftener than on six (6) days in any one (1) calendar month, or in any room or outdoor area where alcoholic beverages are sold or served during the progress of the game or games.

S 9-12. Persons operating and conducting games; equipment; expenses; compensation.

No person shall hold, operate or conduct any game or games of chance under any license issued under this ordinance except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game or games of chance under such license except such 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 and except bookkeepers or accountants as hereinafter provided, and no such game of chance shall be conducted with any equipment except such as shall be owned absolutely or used without payment of any compensation therefore, by the licensee, and no item of expense shall be incurred or paid in connection with the holding, operating or conducting of any game of chance held, operated or conducted pursuant to any license issued under this ordinance, except such as are bona fide items of reasonable amount for goods, wares and merchandise furnished or services rendered which are reasonably necessary to be purchased or furnished for the holding, operating or conducting thereof under any circumstances whatever; no rental shall be paid for the use of any premises for holding, operating or conducting any such game of chance thereon or for any other purpose in

connection with the holding, operating or conducting thereof unless the amount of such rental is stated in a statement annexed to the application for the license as provided in S 9-4 of this ordinance or which is in excess of the sum stated as the rental to be charged therefore in such statement; and no commission, salary, compensation reward or recompense whatever shall be paid or given directly or indirectly to any person holding, operating or conducting, or assisting in the holding, operation or conduct of any game of chance so held, operated or conducted, except that reasonable compensation may be paid to bookkeepers or accountants for bookkeeping or accounting services rendered according to a schedule of compensation prescribed by the rules of the control commission.

S 9-13. Charge for admission and participation; amount of prizes; award of prizes.

Not more than one dollar (\$1.) shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be held, operated and conducted under any license issued under this ordinance, which admission, fee, upon payment thereof, shall entitle the person paying the same to a card entitling him to participate without additional charge in all regular games of chance to be played under such license on such occasion, and no charge in excess of (\$1.) shall be made for a single opportunity to participate in all special games to be played under such license on such occasion. No prize greater in amount or value than two hundred fifty dollars (\$250.) shall be offered or given in any single game conducted under any such license and the aggregate amount or value of all prizes offered or given in all games played on a single occasion shall not exceed one thousand dollars (\$1,000.), and all winners shall be determined and all prizes shall be awarded in any game played on any occasion within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any such game.

S 9-14. Advertising games.

No game of chance to be conducted under any license issued under this ordinance shall be advertised as to its location, the time when it is to 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 by means of newspapers, 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 not exceeding sixty (60) square feet in area may be displayed on or adjacent to the premises where the game will be played and an additional sign may be displayed on or adjacent to the premises where the prize or prizes are displayed and additional signs may be displayed upon any fire-fighting equipment belonging to any licensee which is a volunteer fire company, or upon any first-aid or rescue-squad equipment belonging to any licensee, which is a first-aid or rescue squad, in and throughout the community or communities served by such volunteer fire company or such first-aid or rescue squad, as the case may be.

S 9-15. Statement of receipts, expenses, etc.

Within fifteen (15) days after the conclusion of the holding, operating and conducting of any such game of chance, the authorized organization which held, operated or conducted the same, and its members who were in charge thereof, shall furnish to the Village Clerk a duly verified statement showing the amount of the gross receipts derived from each game of chance, which shall include receipts from the sale of shares, tickets or rights in any manner connected with participation in said game or the right to participate their, each item of expense incurred or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefore, the net profit derived from each such game of chance, and the use to which such net profit has been or is to be applied, and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of such licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such report.

S 9-16. Examination of books and records; examination of managers, etc; disclosure of information.

The Board of Trustees and the control commission shall have power to examine or cause to be examined the books and records of any authorized organization to which any such license is issued so far as they may relate to any transactions connected with the holding, operating and conducting of any game of chance there under and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game of chance under any such license but any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this ordinance.

S 9-17. Appeals from Village Clerk or the Board of Trustees to control commission.

Any applicant for, or holder of any license issued or to be issued under this ordinance aggrieved by any action of the Village Clerk to whom such application has been made or by whom such license has been issued or by any action of the Board of Trustees, may appeal to the control commission from the determination of said Village Clerk or the Board of Trustees by filing with the Village Clerk or the Board of Trustees as the case may be, a 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 the Village Clerk or the Board of Trustees and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the control commission upon said appeal shall be binding upon said Village Clerk or the Board of Trustees and all parties to said appeal.

S 9-18. Immunity from prosecution; exemption.

No person or corporation (1) lawfully conducting, or participating in the conduct of; (2) possessing, selling or in any manner disposing of, any shares, tickets or rights to participate in; or (3) permitting the conduct upon any premises owned by him or it of any game of chance conducted or to be conducted under any license lawfully issued pursuant to this ordinance, shall be liable for violation of any provision of Article 130 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this ordinance, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of any game of chance under any license obtained by any false pretense or statement made in any application for such license or otherwise, or possessing, selling or disposing of shares, tickets or rights to participate in, or permitting the conduct upon any premises owned 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.

S 9-19. Offenses; forfeiture of license; ineligibility to apply for license.

Any person, association or corporation who or which shall make any false statement in any application for any such license or in any statement annexed thereto or shall pay any rental for the use of any premises for holding, operating or conducting any game of chance under this ordinance or for any other purpose in connection with the holding, operating or conducting thereof, unless the amount of such rental is stated in a statement annexed to the application for the license as provided in S 9-4 of this ordinance, or shall pay or receive any sum for such rental in excess of the sum stated as the rental to be charged therefore in such statement executed by him or on its behalf, or shall fail to keep such books and records as shall fully and truly record all transactions connected with the holding, operating, and conducting of games of chance under any such license or shall falsify or make any false entry in any book of record so far as they relate to any transaction connected with the holding, operating or conducting of any game of chance under any such license or shall violate any of the provisions of this ordinance or of any term of such license shall be guilty of a misdemeanor and shall forfeit any license issued to it under this ordinance and be ineligible to apply for a license under this ordinance for one (1) year thereafter.

S 9-20. Ordinance inoperative until adopted by voters.

The provisions of this ordinance shall remain inoperative in this village unless and until a proposition therefore submitted at an annual or a special election in this village shall be approved by a vote of the majority of the qualified electors in this village voting thereon.

S 9-21. Amendment and repeal of this ordinance.

This ordinance may be amended from time to time or repealed by the Board of Trustees and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty (30) days following the date of enactment of the ordinance effecting such amendment or repeal, as the case may be; and the approval of

the majority of the electors of this village shall not be a condition prerequisite to taking effect of such ordinance.

S 9-22. Severability.

If any provision of this ordinance or the application thereof to any person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this ordinance or the application thereof to other persons and circumstances shall not be affected thereby, and the Board of Trustees hereby declares that it would have enacted this ordinance without the invalid provision or application, as the case may be, had such invalidity been apparent.

S 9-23. Conflict with state law.

In the event that any provisions of this ordinance, or any amendment thereto conflict with state law, or any amendment thereto, then the applicable provisions of state law shall prevail except to the extent that this ordinance, or any amendment thereto, includes provisions imposing restrictions upon the conduct of such games in addition to the restrictions of state law.