

## Chapter 86

### GAMES OF CHANCE

[HISTORY: Adopted by the Town Board of the Town of Liberty 5-11-1989 by L.L. No. 2-1989.]

#### GENERAL REFERENCES

Bingo — See Ch. 55.

**§ 86-1. Definitions.** [Amended 7-8-1996 by L.L. No. 4-1996]

As used herein, the following terms shall have the same definitions as are assigned to them by § 186 of the General Municipal Law of the State of New York as the same may be amended from time to time: "board," "games of chance," "authorized organization," "lawful purposes," "net proceeds," "net lease," "authorized games of chance lessor," "single prize," "series of prizes," "authorized supplier of games of chance equipment," "one occasion" and "license period."

**§ 86-2. Authorization.**

From and after the effective date of this chapter as hereafter provided, it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct games of chance within the territorial limits of the Town of Liberty, subject to the provisions of this chapter, Article 9-A of the General Municipal Law of the State of New York and rules and regulations promulgated by the Board, as the same may be amended from time to time.

**§ 86-3. Application for license to conduct games.**

Each applicant for a license to conduct games of chance shall, after obtaining an identification number from the Board, file with the Town Clerk a written application therefor in a form to be prescribed by the Board, duly executed and verified, containing such information as may be required by law and by the rules and regulations of the Board. In each such application there shall be designated not less than four active members of the applicant organization under whom the game or games of chance will be conducted, and to the application shall be appended a statement executed by the members so designated that they will be responsible for the conduct of such games in accordance with the terms of the license and the rules and regulations of the Board and of Article 9-A of the General Municipal Law of the State of New York.

**§ 86-4. Application for license to lease premises.**

Each applicant for a license to lease premises to a licensed organization for the purpose of conducting games of chance therein shall file with the Town Clerk a written application therefor in a form to be prescribed by the Board, duly executed and verified, and which shall contain such information as shall be required by law and by the rules and regulations of the Board.

**§ 86-5. Investigation of applicants.**

The Town Clerk shall make an investigation of the qualifications of each applicant and the merits of each application with due expedition after the filing of the application. For purposes of assisting in the conduct of such investigation, the Town Clerk may call upon the resources of any duly appointed and acting Town officials and any law enforcement agencies.

**§ 86-6. Issuance of license to conduct games; fee.** [Amended 7-8-1996 by L.L. No. 4-1996]

If the Town Clerk shall determine that the applicant for a license to conduct games of chance is duly qualified therefor and meets the requirements of § 191, Subdivision 1(a), of the General Municipal Law of the State of New York and the rules and regulations of the Board and of this chapter, as the same may be amended from time to time, the Town Clerk shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee, as set by state law, for each license. No such license shall be effective for a period of more than one year.

**§ 86-7. Issuance of license to lease premises; fee.** [Amended 7-8-1996 by L.L. No. 4-1996]

If the Town Clerk shall determine that the applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under the provisions of § 191, Subdivision 1(b), of the General Municipal Law of the State of New York and the rules and regulations of the Board and the provisions of this chapter, as the same may be amended from time to time, the Town Clerk shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as such Clerk shall determine, but not to exceed one year, upon payment of a license fee as set by state law.

**§ 86-8. Hearing required prior to denial of license.**

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

**§ 86-9. Amendments to license.**

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

**§ 86-10. Form of license to conduct games; display.**

Each license to conduct games of chance shall be in the form prescribed by the Board and shall contain such information as may be required by law and/or the rules and regulations of the Board, as the same may be amended from time to time. Each such license shall be conspicuously displayed at the place where the games of chance are to be conducted at all times during the conduct thereof.

**§ 86-11. Form of license to lease premises; display.**

Each license to lease premises for the conduct of games of chance will be in such form as may be prescribed by the Board and will contain such information as may be required by law and/or the rules and regulations of the Board, as the same may be amended from time to time. Each such license shall be conspicuously displayed upon such premises at all times during the conduct of such games of chance.

**§ 86-12. Supervision and inspection of games; suspension or revocation of license.**

The Town Board shall have and exercise rigid control and close supervision over all games of chance conducted under such license to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the Board and the provisions of Article 9-A of the General Municipal Law of the State of New York, and the Board shall have the power and the authority to temporarily suspend any license issued by the Clerk pending a hearing, and, after notice and hearing, the Board may suspend or revoke the same and additionally impose a fine in the amount not exceeding \$1,000 for violation of any such provisions and shall have the right of entry by their respective agents at all times into any premises where any games of chance are being conducted, where it is intended that any such games shall be conducted or where any equipment being used or intended to be used in the conduct thereof is found for the purpose of inspecting the same. An agency of the Town Board shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this chapter.

**§ 86-13. Alcoholic beverages.** [Amended 7-8-1996 by L.L. No. 4-1996]

Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of games of chance, but the offering of all other alcoholic beverages is prohibited; provided, however, that nothing herein shall be construed to limit the offering for sale of any other alcoholic beverage in premises where only the games of chance known as "bell jar" or "raffles" are conducted.

**§ 86-14. Sundays and holiday restrictions.**

Except as provided in § 86-15, no games of chance shall be conducted on Sunday unless specifically so provided in the license. The Town Clerk is hereby authorized to include such provision in any such license upon a proper showing by the application of the need therefor. No games of chance shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

**§ 86-15. Time and frequency limitations.** [Amended 7-8-1996 by L.L. No. 4-1996]

No game or games of chance shall be conducted under any license issued under this chapter more often than 12 times in any calendar year. No particular premises shall be used for the conduct of games of chance on more than 24 license periods during any one calendar year. Games shall be conducted only between the hours of 12:00 noon and 12:00 midnight on Monday, Tuesday, Wednesday and Thursday, and only between the hours of 12:00 noon on Friday and 2:00 a.m. Saturday, and only between the hours of 12:00 noon on Saturday and 2:00 a.m. Sunday. The 2:00 a.m. closing period shall also apply to a legal holiday. The above restrictions shall not apply when only the game of chance known as the "bell jar" is conducted.

**§ 86-16. Age restrictions.**

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

**§ 86-17. General restrictions.**

No person shall hold, operate or conduct any games of chance under any license issued under this chapter except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game 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. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. At least two officers, directors, trustees or clergy of the authorized organization shall, upon request, certify under oath that the persons assisting in holding, operating or conducting any game of chance are bona fide members of the authorized organization, auxiliary or affiliated organization. Upon request by the Town Clerk, any such person involved in such games of chance shall certify that he or she has no criminal record. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this chapter except those that are reasonable and are necessarily expended for games of chance, supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the Board, janitorial services and utility supplies, if any, and license fees and the cost of bus transportation, if authorized by the Town Clerk.

**§ 86-18. Admission charge; prizes.**

Not more than \$2 shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be conducted under any license issued under this chapter. The Town Clerk may, in his or her discretion, fix a minimum fee. Every winner shall be determined and every prize shall be awarded and delivered 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 game of chance.

**§ 86-19. Advertising.**

No game of chance conducted or to be conducted in the Town of Liberty shall be advertised as to its location, the time when it is to be or has been played or the prizes awarded or to be awarded or transportation facilities to be provided to such game by means of 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 sign not exceeding 60 square feet in area may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and, when an organization is licensed to conduct games of chance on premises of an authorized games of

chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. 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 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.

**§ 86-20. Receipts; books and records.**

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

**§ 86-21. Additional fee based on net proceeds.**

Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the Town Clerk as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period covered by such statement and determined in accordance with such schedule<sup>1</sup> as shall be established, from time to time, by the Board to defray the actual cost to the Town of administering the provisions of this chapter.

**§ 86-22. Examination of books and records.**

- A. The Town Clerk shall have the power to examine or cause to be examined the books and records of:
- (1) Any authorized organization which is or has been licensed to conduct games of chance, so far as they may relate to games of chance, including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof, under oath, in relation to the conduct of any such game under any such license, the use of its premises for games of chance or the disposition of net proceeds derived from games of chance, as the case may be.
  - (2) Any authorized games of chance lessor, so far as they may relate to leasing premises for games of chance, and to examine said lessor or any manager, officer, director, agent or employee thereof, under oath, in relation to such leasing.

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<sup>1</sup>. Editor's Note: A fee schedule is located in Ch. A152, Fees.

- B. 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 chapter.

**§ 86-23. Appeals.**

Any applicant for or holder of any license issued or to be issued under this chapter aggrieved by any action of the Town Clerk to which such application has been made or by which such license has been issued may appeal to the Board from the determination of said Town Clerk by filing with the Town Clerk a written appeal within 30 days after the determination or action appealed from, and, upon the hearing of such, the evidence, if any, taken before such Town Clerk 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 Board upon said appeal shall be binding upon the Town Clerk and all parties to said appeal.

**§ 86-24. Statement of familiarity.**

Any person or persons who shall execute an application on behalf of any authorized organization shall, by the making of such application, warrant that said person is familiar with the provisions of state law and the rules and regulations of the Board which may be applicable to such license and agrees to abide thereby.

**§ 86-25. When effective.**

This chapter is subject to mandatory referendum and shall become effective only if approved by a majority of the electors voting thereon at the general election of the Town of Liberty to be held on November 7, 1989.<sup>2</sup> If so approved, this chapter shall become effective immediately upon filing with the Secretary of State of the State of New York, in accordance with the requirements of the Municipal Home Rule Law.

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2. Editor's Note: This local law was approved at referendum on November 7, 1989.