

Councillor Briefing Sessions

(9TH)

Request for Recommendation Priorities Committee



Type of Decision									
Meeting	May 16, 2007			Report Date	April 18, 2007				
Decision Requested		Yes	✓	No	Priority	✓	High		Low
	Direction Only			Type of Meeting	✓	Open		Closed	

Report Title
Charitable Gaming and the Role of the Municipality

Budget Impact / Policy Implication	Recommendation
<p>This report has been reviewed by the Finance Division and the funding source has been identified.</p> <p>There is no budget impact</p>	<p>FOR INFORMATION ONLY</p>
Background Attached	Recommendation Continued

Recommended by the Department

Doug Nadorozny
 Doug Nadorozny
 General Manager of Growth & Development

Recommended by the C.A.O.

Mark Mieta
 Mark Mieta
 Chief Administrative Officer

Report Prepared By	Division Review
Bryan Gutjahr Manager of Compliance & Enforcement Services	

BACKGROUND:

As part of the Constellation Report, staff have been requested to review licencing procedures in particular, options to make regulations simpler and less onerous.

As a result, staff have prepared this report outlining policies and procedures that are required by Provincial and Federal Legislation. Staff have also been in contract with the Alcohol and Gaming Commission of Ontario (AGCO) and made them aware of concerns brought forward by both Council and special interest groups.

GAMING AND LOTTERIES

In order to better understand the policies and procedures regarding lottery licencing, staff offers the following synopsis:

CHARITABLE LOTTERY LICENCING

The Alcohol and Gaming Commission of Ontario (AGCO) is responsible for administration of lottery licencing programs in the Province. Municipalities and the AGCO are responsible for issuing lottery licences to eligible charitable and religious organizations. Eligible charitable and religious organizations may raise funds through provincially or municipally licenced lottery events

Lotteries should be viewed as a supplement or alternative to the organizations other fundraising ventures such as membership fees and grants and donations.

There are five key elements that form the framework for charitable gaming in Ontario:

- i) The Criminal Code of Canada
 - ii) The Gaming Control Act of Ontario
 - iii) The Order in Council
 - iv) The Terms and Conditions and
 - v) The Lottery Licencing Policy Manual (LLPM)
-
- i) Criminal Code of Canada
The Criminal Code actually defines what types of gaming are illegal and it assigns to the Provinces the responsibility to regulate legal gaming.
 - ii) Gaming Control Act of Ontario
This Act requires registration of suppliers of gaming equipment and materials, bingo hall operators and ticket sellers

- iii) **Order-In-Council**
Is an Order of the Lieutenant Governor in Council of Ontario that sets out the authority and procedures for licencing of charitable organizations and also sets the limits of municipal licencing.
- iv) **Terms and Conditions**
Are the terms and conditions that may be attached to a licence issued by the Municipality that are in addition to terms and conditions set by the Province.
- v) **Lottery Licence Policy Manual**
Is the manual issued by the Province which is used by the Municipality's Licencing Officers to determine eligibility and use of proceeds.

THE ROLE OF THE REGISTRAR OF ALCOHOL AND GAMING

The Registrar has authority in three main areas:

1. To administer and enforce the Gaming Control Act
2. To administer lottery licencing framework that governs all charitable lottery licencing in the Province, including;
 - Determining the eligibility criteria for organizations to conduct and manage lottery events
 - Setting policies and terms and conditions
 - Setting licencing fees
 - Prescribing the form of an application, a licence and a licence report
 - Develop financial reporting requirements
 - Providing education and support to municipal licencing officials
3. To issue lottery licences for events including:
 - Bingo events, prize board exceeds \$5,500
 - Super Jackpot bingos
 - Raffle events - prize board exceeds \$50,000
 - Provincial break open tickets
 - All social gaming events

THE ROLE OF MUNICIPALITIES

The Order-In-Council gives municipal council the authority to issue licences for most lottery events within their community, these include:

- Bingo events - prize board up to \$5,500
- Raffles - prizes up to \$50,000
- Break Open tickets - sold within municipality
- Bazaar Gaming events and
- Media Bingos

Municipal Councils may also develop additional criteria through by-laws and policies for making

licencing decision and administering lottery licencing however this criteria cannot contravene criteria established by the registrar.

THE ROLE OF LOTTERY LICENCING OFFICER

Municipal Licencing Officials must:

- Determine whether or not an organization is eligible for lottery licencing, according to the guidelines as set out in the Lottery Licence Policy Manual (LLPM)
- Issue and administer licences in a fair and equitable manner, consistent with policies set out in the LLPM
- Ensure the licences meet the requirements of the Criminal Code, Order-In-Council and Terms and Conditions

What is Eligible?

The Licencing Officer must review all documentation submitted to determine eligibility of the applicant.

The decision to licence is based on what is considered eligible.

Eligible Organizations

Fall within two catagories

- 1) Charitable organizations: the organization's purposes and objects are all charitable
- 2) Non-Profit Organizations with charitable objects: this organization was a mixture of charitable and not charitable purposes.

It's charitable mandate must fall within one of the four charitable classifications.

"Charitable" refers to organizations which provide programs for:

1. **The Relief of Poverty**
i.e. food banks, soup kitchens, provide clothing, furniture
2. **The Advancement of Education**
significant training, development of mental faculties, teaching institutions or schools
3. **The Advancement of Religion**
places of worship, churches, mosques, temples and religious congregations
4. **Other Charitable Purposes Beneficial to the Community**
 - Must provide a public not a private benefit
 - Include activities that benefit the whole community
 - Promotion of arts and culture
 - Culture, Ethnic, native, historic or heritage
 - Youth sporting activities

Ineligible Organizations

These include but not limited to:

- Professional Associations
- Government Agencies or Bodies
- Political Groups
- Political Parties
- Adult Hobby Groups
- For Profit, Members Only or Private Sports Clubs and for Profit Adult Sport Teams and Leagues

Eligible use of proceeds must:

Once a Licencing Official has determined an applicant is eligible to receive a licence, then the Official must examine the intended use of lottery funds

- Used to advance the charitable purposes of the group
- Used for the direct delivery of those purposes
- Used towards the organizations stated mandate

Ineligible Use of Proceeds:

Organizations may not use lottery proceeds for:

- Fundraising activities
- Legal fees
- Volunteer recognition
- Foreign aid
- Out of pocket expenses for volunteers
- Academic and sports awards
- Out of Province travel (unless written approval given by Municipality)

Summary:

Within this report, staff have attempted to show Council and the public the enormous role the municipality plays when determining eligibility for a lottery license. As can be seen there are many procedures and policies set out by the Province that must be adhered to.

The Alcohol and Gaming Commission understands some of the difficulties encountered by the Licencing Offices when determining eligibility. They have made themselves available to us for interpretation and support. Municipal staff also recognize the misunderstanding and frustration experienced by some groups and attempt to assist them anyway we can. However, as can be seen there are many rules and policies that must be followed.

Staff have listened to the applicant groups concerns, one of which is the lengthy and somewhat complicated eligibility application. Staff have reviewed this application and we now offer a much shorter, more user friendly application for eligibility. This new application is now available at the Citizen Service Centers and we have already received positive feedback. (sample attached)

City staff have also been in constant contact with the AGCO making them aware of the concerns brought forward from Council and the public regarding accessibility to lottery licences for seniors groups.

Just last December, Don Bourgeois, Solicitor for the AGCO, held a meeting in Valley East with several seniors' groups and Shelley Martel, M.P.P. As a result of this meeting Mr. Bourgeois advised that he would bring this matter to the attention of the AGCO for a possible review of the lottery licence policy manual. It is hoped that by summer 2007 the AGCO would have completed the review and that we might see some positive changes.



Application for Licensing Eligibility and Review Questionnaire

Name of Organization: _____

Municipal Address: _____

Telephone Number: _____ Fax Number: _____

Email Address: _____ Website: _____

Mailing Address: _____ (if different from above)

1. Is the organization incorporated as a non-profit organization with Ministry of Consumer & Business Services (Ontario)?
[] Yes Registration number and date: _____ [] No

2. Is the organization registered with the Canada Revenue Agency as a charity?
[] Yes Registration number and date: _____ [] No

3. How long has the organization been in existence? _____

4. How many members comprise your organization? _____

5. Date of fiscal year-end: _____ Date of last filing: _____

6. Please describe the organization's membership criteria: _____

7. Please list and describe the charitable programs and services delivered by the organization: _____

8. Indicate the specific purpose(s) to which lottery proceeds will be applicable: _____

9. Does the organization currently manage and conduct any gaming event (lotteries) within the City of Greater Sudbury or any other municipality?
[] No [] Yes, location and type of event: _____

10. For the purpose of lottery licensing, all organizations must have a lottery trust account. Please complete the following information and attach a copy of a void cheque;
Name and address of Financial Institution: _____
Account number: _____ Date opened: _____

11. Is the benefit to be achieved by the organization denied to any segment of the community?
[] No [] If Yes, please indicate reason(s): _____

12. Has your organization ever had a licence revoked or refused?
[] No [] If Yes, please indicate reason(s): _____

13. Sports Organizations:
 1. What are the main age brackets of the youth? _____
 2. Please provide a list, organized by team or division, of all youth including their home address, date of birth with proof of age.

14. Type of Lottery for which the application is being made:
 Bingo Name and address of location: _____
 Break-Open/Nevada Name and address of location: _____
 Raffle
 Bazaar

15. Names of **bona fide members*** who will conduct one or more of the lottery events referred to in this application:
 1. _____ 2. _____
 3. _____ 4. _____
 5. _____ 6. _____

Definition of Bona Fide Member: *a member of the eligible organization in good standing, who has activities within the organization beyond conducting lottery events. "Members of convenience" whose only activity is to assist at bingo events are not considered to be bona fide members.*

16. The designated members of the organization who will be responsible for keeping and maintaining records of all financial transactions, and signing all reports and applications, pertaining to the licenced lottery activities:

We the undersigned, declare that all information provided in and with this statement is factual and correct. **Please refer to the Municipal Freedom of Information and Protection of Privacy Act section 8.8 (1) for disclosure information.

 Print Name of Principal Officer

 Print Name of Principal Officer

 Signature of Principal Officer

 Signature of Principal Officer

 Title

 Title

 Date

 Date

For further information or inquiries please call
 Pat Faulkner, Licensing Officer
 Local: 3-1-1
 Outside Greater Sudbury: (705) 674-4455, extension 2469
 Compliance and Enforcement Services - Licensing Section
 PO BOX 5000, STN A
 200 Brady Street
 Sudbury ON P3A 5P3

Alcohol and Gaming Commission of Ontario

www.agco.on.ca

Application Requirements

When an organization first applies for any type of lottery licence, or whenever an eligibility review is required, it must provide all of the following information and documents that apply:

- a copy of its **Letters Patent**;
- a copy of its **Constitution, By-laws and Articles of Incorporation**;
- a copy of the current **Operating Budget** reflecting proposed revenue and expenditures for the Organization's entire operation for the upcoming fiscal year;
- a copy of the **Proposed Budget** for the current year outlining the amount of funds the Organization is requesting to raise during their upcoming fiscal year period via the conduct of lottery events, including the detailed proposed use of lottery proceeds;
- a copy of its **Financial Statements** for the preceding year;
- a list of **Board of Directors or Executive Members** including their names, addresses, contact numbers and duration of their term;
- copies of current **Criminal Record Searches** for the members that will be signing lottery licence applications and reports;
- its latest report to the Public Guardian and Trustee;
- its charitable number for income tax purposes;
- a copy of its Notification of Charitable Registration letter from the Canada Revenue Agency with any supporting documentation indicating the applicant's status and terms of registration;
- copies of its charitable returns to the Canada Revenue Agency for the previous calendar year;
- a detailed descriptions of its activities, programs, and services;
- a copy of its annual report; and
- a copy of the Organization's **Dissolution Clause**: a clause that, if the organization should dissolve, provides for the distribution of the organization's assets and property held or acquired from the proceeds of lottery events (i.e., lottery trust accounts or property purchased with lottery proceeds) to charitable organizations that are eligible to receive lottery proceeds in Ontario.

The organization must also provide any other information that will assist the licensing official to determine the charitable nature of its purposes, objects and activities.

After the review has been completed, the licensing officer may require additional information to process the application. The organization must provide any information that is requested.

If any changes are made to the documents submitted, the organization must provide the licensing authority with the amended documents as soon as they are available.

Because organizations change, an organization that is considered eligible for lottery licensing must continue to provide the licensing authority with any amended documents as soon as they are available.

Organizations that receive lottery licences will be subject to periodic eligibility reviews.

A GUIDE TO CHARITABLE GAMING IN ONTARIO
(Excerpts from the *Gaming Control Act, 1992*)

What is "charitable gaming" and how is it regulated in Ontario?

"Charitable gaming" refers to lottery schemes permitted by a license under the Criminal Code (Canada). Typically these may include bingos, raffles, break open tickets and social gaming events held by charitable and religious organizations. Charitable organizations are regulated by licensing policies and the terms and conditions of the licences issued by the province or municipalities under authority of an Order-in-Council. The commercial sector of the charitable gaming industry is regulated by the *Gaming Control Act, 1992* and Regulations.

Who can get a licence to conduct a lottery scheme?

Canada's Criminal Code permits charitable and religious organizations to conduct a lottery scheme to raise funds pursuant to a licence being issued. Organizations must have a demonstrated charitable or religious mandate to qualify. The courts have determined that the term "charitable" refers to organizations which provide programs for:

- a) the relief of poverty;
- b) the advancement of education;
- c) the advancement of religion;
- d) other charitable purposes beneficial to the community

The following pre-requisites are mandatory to be considered eligible for a lottery licence:

- **Organizations must have been in existence for at least one (1) year before being considered eligible for lottery licences**
- **The organization must have a place of business in Ontario, demonstrate that it is established to provide charitable services in Ontario and use proceeds for objects or purposes which benefit Ontario residents**

The primary purposes of an organization are determined by considering:

- the mandate of the organization as set out in its incorporation documents or documents stating the organization's objectives
- the objects of the organization as described in its application for licence
- the services which have actually been provided by the organization to the community

What types of charitable and religious organizations are eligible?

Types of organizations in the four categories of charitable mandate include those providing for:

(a) THE RELIEF OF POVERTY

Organizations providing assistance to:

- the sick and dying
- disabled persons
- the homeless
- victims of crime
- rehabilitating young offenders and parolees

Funds may be provided to individuals or families where the relief is a short-term or one-time payment intended to relieve an exceptional or unusual condition or circumstance. (e.g. helping a family whose house has burnt down).

(b) THE ADVANCEMENT OF EDUCATION

To be eligible, an organization must provide public programs which:

- are geared to scholastic and vocational training for individuals and lead to a recognized diploma or certificate, or
- advance a recognized field of knowledge which leads to an accredited degree, diploma or certificate, and
- do not include professional development

Examples of organizations that could be eligible:

- elementary and secondary public and Roman Catholic separate schools
- accredited colleges and universities
- private schools registered with Revenue Canada as a charitable organization
- parent/teacher associations or other groups which are non-profit entities and which support one of the above types of institutions.
- scholarship or bursary funds registered with Revenue Canada as a charitable organization.

(c) THE ADVANCEMENT OF RELIGION

Religious organizations must demonstrate that programs and services assist in the delivery of religious services and programs to the community. A religious body is considered charitable when its activities serve religious purposes for the public good. Other activities that advance religion include:

- organizing and providing religious instruction, and performing pastoral and missionary work; and
- establishing and maintaining buildings for worship and other religious use

(d) ANY PURPOSE BENEFICIAL TO THE COMMUNITY

To qualify an organization must demonstrate that:

- it is operated on a not-for-profit basis, and its purposes include charitable or religious objects,
- its services are offered to a significant portion of the public, and
- the proposed use of proceeds are consistent with its mandate

Eligible organizations include those with mandates in:

- culture and arts
- health and welfare
- physical education
- community support
- youth sports where majority of players are under 18
- service to the community (service clubs)

What lottery schemes does the Province licence?

The Province licences the following events:

- Bingo events with prize boards over \$5,500
- Super jackpot games
- Ticket raffle lotteries for total prizes over \$50,000
- Lotteries held in conjunction with another gaming event licensed by the provincial office including break open tickets at bingo events
- Provincial break open ticket lotteries
- All lottery schemes conducted in unorganized territories
- All lottery schemes at a designated Fair or Exhibition
- Social gaming events

What lottery schemes do municipalities licence?

A municipality may issue licences to conduct the following lottery schemes:

- Bingo events with prize boards \$5,500 and under
- Media bingo events
- Ticket raffle lotteries for total prizes \$50,000 and under
- All break open ticket lotteries not licenced by the Provincial Office
- Bazaars

How does my organization apply for a lottery licence?

- Determine what type of lottery scheme your organization intends to conduct
- Obtain the appropriate application form from your local municipal office or the Province
- Complete the form according to the instructions on the form and the policies provided by the municipal office or as set out in the guide for that lottery event.

Do I have to include anything with the application form?

First time applicants should, in addition to the materials required with the application as identified in the licensing policies, provide the following information or documents:

- A copy of its articles of incorporation or constitution and/or by-laws
- A copy of its budget or financial statements for the preceding and coming years
- Any other information that will assist in determining the charitable nature of the objects and purposes. This could include an annual report, charitable number for income-tax purposes, the fact that it meets the reporting requirements of the Charities Accounting Act
- The proposed use of proceeds must be consistent with the primary objects and purposes of the organization which must be of a charitable nature consistent with at least one of the four classifications of charitable purposes.

How will my application be evaluated?

The following questions may be used to determine the eligibility of the applicant:

- Does the organization qualify as a charitable or religious organization?
- Is the organization established to provide charitable services in Ontario and use proceeds for objects or purposes which benefit Ontario residents?
- Does the organization restrict its mandate to any segment of the community?
- Does a significant portion of the community benefit by the fund raising of the applicant?
- Is the applicant properly organized such that it is separate from any other organization? i.e. legally, financially, organizationally.
- Has the applicant been in operation for at least one (1) year and have a proven charitable mandate? If not, it is not eligible.
- Are there at least 3 persons who will assume full responsibility for the operation and conduct of the event?
- What will the proceeds of the licenced event be used for and is the intended use consistent with the classification?
- Does the organization have a place of business in Ontario?

What types of organizations are not charitable for lottery licensing purposes?

Types of organizations which cannot be considered charitable include:

- social clubs
- professional associations, unions, employee groups
- elected representative groups including municipal, regional, provincial and federal governments
- government ministries, agents or bodies
- political lobby groups
- political parties
- adult hobby groups
- private sports clubs (e.g. golf/curling)
- adult sports teams

If one of these groups wish to raise funds to donate to charities, it must become recognized as a charitable organization with an established charitable mandate, either through incorporation or by constitution and by-laws, and apply for lottery licences to be used for projects or donations that are consistent with its charitable mandate.

What is the *Gaming Control Act, 1992* and who does it affect?

The *Gaming Control Act, 1992* is an Act to regulate the individuals and businesses who supply goods, services and equipment to charitable and religious organizations that have been licenced to conduct lottery schemes. The Act provides, among other things, for:

- registration of businesses and individuals as suppliers (e.g. all bingo halls where more than one event is conducted per week, manufacturers of break open tickets and bingo paper etc.) and gaming assistants
- the types of gaming premises, services and equipment that can be provided
- the regulation of registrants

The Regulations under the Act prescribe the manner in which things are to be done including:

- Exempting persons or classes of persons from registration
- Defining classes or types of registrants
- Fees payable

Where do I find the Provincial office?

Alcohol and Gaming Commission of Ontario
Gaming Registration & Lotteries
90 Sheppard Avenue East, Suite 200
Toronto, ON M2N 0A4
Phone: (416) 326-8700
Toll free in Ontario: 1-800-522-2876
FAX: (416) 326-8711

Where can I get a copy of the *Gaming Control Act, 1992* and the Regulations?

Published copies of the *Gaming Control Act, 1992* and Regulations may be purchased at:

PUBLICATIONS ONTARIO

To order publications in Toronto

call: 326-5300

from other communities in Ontario

call: 1-800-668-9938

or write to:

Publications Ontario
5th Floor, 880 Bay St.,
Toronto, Ontario
M7A 1N8

Prepayment is required for priced publications. Make cheques payable to the Minister of Finance. Master Card and Visa are accepted.

This fact sheet contains an outline of policies and procedures and is intended to be an information document. For regulatory requirements please refer to the *Gaming Control Act, 1992*, the Regulations under the Act and the Terms and Conditions of licences issued. For copies of the policies and procedures, please contact your municipal office or the provincial licensing office.

NOVEMBER 1998