

**Ordinance No. 5950**

**AN ORDINANCE AMENDING PROVISIONS  
PERMITTING BINGO GAMES AND LOTTERIES BY AMENDING  
CHAPTER 5.20 OF THE RAPID CITY MUNICIPAL CODE**

WHEREAS, in Chapter 5.20 of the Rapid City Municipal Code, the City of Rapid City adopted ordinances regulating bingo games and lotteries in accordance with South Dakota Codified Laws Chapter 22-25; and

WHEREAS, under SDCL 22-25-25, certain charitable, community, and political groups may conduct bingo games and lotteries if several conditions are met; and

WHEREAS, state law previously required governing bodies of municipalities to receive requests for bingo games and lotteries and to object to such requests; and

WHEREAS, state law has changed to permit a designated administrative official of a city to conduct the reviews of requests for bingo games and lotteries and to object to such requests; and

WHEREAS, the City wishes to designate the City Attorney as its administrative official to review requests to conduct bingo sales and lotteries within the City's boundaries; and

WHEREAS, the Common Council wishes to streamline the application process for bingo games and lotteries, to relieve applicants from the burden of extensive documentation about the nature of the applicant and its anticipated bingo sale and lottery, and to modify the ordinance to reflect the current information required as a part of such applications; and

WHEREAS, the ordinances in Chapter 5.20 currently discuss the conditions under which pull tab sales can occur; and

WHEREAS, the regulations in Chapter 5.20 concerning pull tab sales are not sanctioned by state law and are not generally utilized by the City; and

WHEREAS, the Common Council believes it to be in the best interest and general welfare of the public to amend the bingo games and lotteries ordinances found in RCMC Chapter 5.20.

NOW, THEREFORE, BE IT ORDAINED by the City of Rapid City that Chapter 5.20 of the Rapid City Municipal Code be and hereby is amended to read as follows:

**CHAPTER 5.20 BINGO GAMES AND LOTTERIES**

5.20.010 Definitions.

5.20.020 Compliance with provisions required–Authority to conduct–Application.

5.20.030 Authority to conduct– Application– Determination.

- 5.20.040 Authority to conduct—Term— Revocation.
- 5.20.050 Records—Inspection.
- 5.20.060 Preexisting authority.

**5.20.010 Definitions.**

For the purpose of this chapter, the ~~following definitions of bingo games found in SDCL 22-25-23 and definition of lottery found in SDCL 22-25-24 shall apply unless the context clearly indicates or requires a different meaning.~~

- ~~—A.— ADJUSTED GROSS PROCEEDS. Gross proceeds less cash prizes or the current retail price of merchandise prizes.~~
- ~~—B.— ENTIRE NET PROCEEDS or NET PROCEEDS. The adjusted gross proceeds less reasonable and appropriate expenses, charges, fees, taxes or deductions.~~
- ~~—C.— GROSS PROCEEDS. All moneys collected or received from the conduct of bingo games or lotteries and admissions thereto.~~
- ~~—D.— OFF PREMISES PULL TAB SALES. Pull tabs sold at locations, other than bingo halls, off the premises of the principal place of business of the applicant organization.~~

**5.20.020 Compliance with provisions required—Authority to conduct—Application.**

No bingo game or lottery exempt from the general prohibition of gambling in the state pursuant to SDCL § 22-25-25 may be conducted within the city unless the provisions of this chapter have been fully complied with ~~and the Finance Officer or his or her designee has issued a license to conduct any such bingo game or lottery.~~ Any organization applying for authorization to conduct a bingo game or lottery within the city shall provide 30-days’ written notice of intent to the ~~Finance Office~~ City Attorney pursuant to SDCL § 22-25-25(6), together with the following information:

- A. The full legal name of the organization and place and date of incorporation or formation;
- B. The authority and office held by the person applying on behalf of the organization;
- C. Mailing address of the organization ~~and its principal place of business for the preceding 3 years;~~
- D. The class of exemption describing the organization as follows:
  - 1. Veterans;
  - 2. Religious;

3. Charitable;
4. Educational;
5. Fraternal;
6. Local civic or service club;
7. Political party;
8. Volunteer fire department; ~~and~~
9. Political action committee or political committee on behalf of any candidate for a political office which exists under the laws of the State of South Dakota; or
10. Local industrial development corporation as defined in SDCL 5-14-23.

~~—E.— A statement of facts which establish that the applicant is an organization of the class indicated in subsection D. of this section, together with copies of applicable charters or other documents showing the bona fide nature of the organization and operation of the applicant;~~

FE. A description of the educational, charitable, patriotic, religious or other public spirited uses for which the ~~entire net~~ proceeds of any bingo game or lottery will be devoted;

GF. The place(s) or location(s) the organization intends to conduct any bingo game or lottery;

HG. ~~A statement of t~~The date(s) and time(s) the organization intends to conduct any bingo game or lottery at each of the location(s) stated in subsection GF. of this section;

~~—I.— A list of all persons who shall conduct any bingo game or lottery or assist therein on behalf of the organization;~~

JH. ~~A complete itemization of all intended compensation for any and all~~ statement of compensation to be paid for services rendered in connection with the conduct of any bingo game or in consideration of any lottery, except for bingo games and lotteries conducted in connection with county and state fairs or civic celebrations pursuant to SDCL § 22-25-25(4);

~~—K.— Certification, under oath by an authorized officer, director or agent of the organization, that the proceeds from any bingo game or lottery shall not inure to the benefit of any individual other than as provided by SDCL § 22-25-25(4) for compensation for services rendered;~~

~~—L.— Certification under oath by an authorized officer, director or agent of the organization of any of the following conditions shall exempt the organization from compliance with the additional requirements contained in subsections M. through P. of this section:~~

~~1. That the organization will not conduct more than 2 bingo sessions and/or lotteries within 1 year of authorization;~~

~~2. That the aggregate of the proceeds from more than 2 bingo sessions and/or lotteries conducted by the organization within 1 year of authorization will not exceed \$75,000; or~~

~~3. That conduct of any bingo game or lottery at location(s) off the premises of the principal place of business of the applicant organization, or at a separate eligible organization, will meet the conditions set forth in subsection L.1. or 2. of this section;~~

MI. A complete itemization of intended prizes, the value thereof, and the manner and time of award;

~~N. Each person listed in subsection I. of this section shall submit additional information as the Rapid City Police Department may reasonably request with respect to their identity and personal history, together with fingerprints and a recent photograph meeting police specification;~~

~~O. The method of bookkeeping shall be described and the books shall be intended to accurately and fairly reflect each day's transactions including, but not limited to handling of lottery tickets or pull tabs at off-premises locations, expenses and all other transactions involving bingo or lottery funds necessary so as to permit preparation of daily financial statements in conformity with generally accepted accounting principles and to maintain daily accountability. In the event the common Council authorizes an organization to conduct any bingo game or lottery, the organization shall provide monthly written reports to the city's Finance Officer no later than the fifteenth day of each month for the preceding month's operation. The reports shall indicate monthly gross proceeds, prizes paid, expenses incurred and total net profit. An annual report shall also be provided no later than April 1 indicating specifically the amounts, place(s) and purpose(s) of each and every disbursement of every manner of the gross proceeds, net proceeds, expenses and profits for the preceding 12 months of operation;~~

~~P. 1. A copy of any off-premises lease, rental or other contract between any other organization or establishment and the applicant organization shall be submitted for off-premises pull tab sales which lease, rental or other compensation shall not exceed \$150 per month per location.~~

~~2. The place(s) or location(s) identified in subsection G. of this section for any off-premises pull tab sales not exempt pursuant to subsection L. of this section, shall be limited to establishments having an on-sale liquor license, not to exceed 2 such locations at the same time within the city. The conduct of any pull tab sales at such an on-sale liquor establishment shall be clearly designated to customers by signage as to the identification of the organization conducting the lottery.~~

~~3. With respect to such locations, any pull tab sales conducted thereon shall be at times to coincide with the hours that alcoholic beverages may be dispensed in accordance with applicable law.~~

~~4. Any person engaged in conducting such an off premises pull tab sale shall be 21 years of age or older and shall be required to wear a photo identification badge or card conspicuously displayed on his or her person at all times while conducting the off premises pull tab sale or assisting therein on behalf of the organization. The badge or card shall meet police specifications and shall be obtained at the organization's expense. No person conducting such an off premises pull tab sale shall consume alcoholic beverages while so engaged, nor shall the person allow any other person under 21 years of age to purchase pull tabs.~~

~~5. The organization conducting the off premises application for authority as of June 1, 1989.~~

J. An affidavit of an authorized officer, director or agent of the organization certifying the following:

1. That proceeds from the bingo game or raffle do not inure to the benefit of any individual; and

2. That no separate organization or professional person is employed to conduct the bingo game or lottery or assist therein.

K. Other information as requested by the City Attorney.

#### **5.20.030 Authority to conduct—Application—Determination—Objection—Appeal.**

A. The Finance Officer City Attorney or his or her designee shall determine within 30 15 days of the written notice provided by § 5.20.020 whether to issue a license to the applicant authorizing the conduct of any bingo game or lottery by an organization within the city object to the applicant's request to conduct a bingo game or lottery based upon the consideration of the information submitted in compliance with the provisions herein. If the City Attorney or his or her designee does not provide written notice of objection to the application for bingo game or lottery, the applicant's request is deemed granted.

B. If the City Attorney or his or her designee objects to the applicant's request to conduct a bingo game or lottery, he or she will inform the applicant in writing of the nature of the objection. If the applicant wishes to appeal the City Attorney's objection, it must provide written notice of appeal to the City Attorney along with its reasons for the appeal within ten business days of receipt of City Attorney's objection. The City Attorney shall advance the notice of appeal to the Common Council for its review and determination. The Common Council may deny or grant the application for a bingo game or lottery with any exceptions or conditions it deems appropriate.

C. If an applicant receives the notice of objection from the City Attorney and does not appeal to the Common Council pursuant to subsection B, the application for a bingo game or lottery is deemed denied.

#### **5.20.040 Authority to conduct—Term—Revocation.**

Authority granted to conduct any bingo game or lottery shall be for a period of 1 year unless earlier terminated or repealed as provided for herein. The ~~Finance Officer~~ City Attorney or his or her designee shall have the power to cancel and revoke previous authorization to conduct any bingo game or lottery for failure of the applicant to comply with any city, state or federal ordinance, statute or regulation respecting the bingo game or lottery, or the manner of exercise thereof, or for other good cause after hearing upon notice to the organization. Upon conviction of any violation of any city, state or federal ordinance or statute by the organization relating to the conduct of any bingo game or lottery, the court in addition to other penalties imposed, may enter its judgment canceling or revoking the authority.

**5.20.050 Records–Inspection.**

The organization shall make available to the ~~Finance Officer~~ City Attorney or his or her designee upon request any and all books and records related to any transaction connected with the conduct of any bingo game or lottery.

**5.20.060 Preexisting authority.**

The provisions of this chapter shall not nullify existing authorizations ~~for the~~ conduct of any bingo game or lottery within the city, but will affect any pull tab sale shall have had its principal place of business in the city 1 year prior to application herein.

CITY OF RAPID CITY

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Mayor

ATTEST:

\_\_\_\_\_  
Finance Officer

(SEAL)