

ST. TAMMANY PARISH COUNCIL

ORDINANCE

ORDINANCE CALENDAR NO. 4071 ORDINANCE COUNCIL SERIES NO. 09-

COUNCIL SPONSOR: MR. FALCONER PROVIDED BY: COUNCIL ATTORNEY

INTRODUCED BY: MR. FALCONER SECONDED BY: MR. BELLISARIO

ON THE 7TH DAY OF MAY 2009

ORDINANCE TO AMEND AND REENACT CHAPTER 12, ARTICLE V CHARITABLE RAFFLES, BINGO, KENO AND PULL-TAB GAMES, DIVISION 1, GENERAL, SECTION 12-025.10 OF THE ST. TAMMANY PARISH CODE OF ORDINANCES, TO PROHIBIT ANY PERSON, ASSOCIATION, ORGANIZATION, OR CORPORATION TO HOLD, OPERATE OR CONDUCT THE SPECIFIC GAME OF CHANCE IDENTIFIED AS ELECTRONIC VIDEO BINGO IN THE UNINCORPORATED AREAS OF ST. TAMMANY PARISH.

WHEREAS, Art. 12, § 6C(1)(b) of the Louisiana Constitution provides, in pertinent part, "No form of gaming, gambling, or wagering authorized by law on the effective date hereof shall be licensed or permitted to be conducted in a parish in which it was not heretofore being conducted, except licensed charitable gaming which may be conducted in any parish provided it is conducted in compliance with the law . . ."; and

WHEREAS, the "Charitable Raffles, Bingo and Keno Licensing Law" was enacted by Acts 1968, No. 609 § 1, as Subdivision 1-A of Subpart B of Part V of Chapter 1 of Title 14, containing R.S. 14:90.1 to 14:90.16. On authority of R.S. 24:253, the provisions were transferred and redesignated R.S. 33:4861.1 to 33:4861.16. In 1985, the St. Tammany Parish Police Jury, acting on the authority of R.S. 33:4861.1 – 33:4861.17, determined that "It shall be legal, and charitable raffles, bingo, keno and pull-tab games shall be permitted within the Parish subject to the provisions of this Article" and, accordingly, adopted Ord. No. 85-328 and 85-546, which is codified in existing Sec. 12-025.10 of the St. Tammany Parish Code of Ordinances; and

WHEREAS, subsequently, by Act 568, approved June 30, 1999, the Legislature repealed the existing enabling legislation and reestablished that authority in enacting Chapter 11 of Title 4 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 4:701 through 739. The enactment of Chapter 11 included the provision set forth in Paragraph A of R.S. 4:724, which provides that "Electronic or video bingo machines, hereafter termed 'electronic bingo machines', for public playing of bingo may be made available at any location licensed under this chapter for charitable bingo, provided that all requirements of this chapter not in conflict with the provisions of this Section are met." At the time of enactment, Chapter 11 also included Paragraph B of R.S. 4:706, which provides that "the governing authority of each parish shall decide whether charitable raffles, bingo, and keno as provided for in this Chapter shall be permitted within the parish." However, by Act 373, approved June 30, 2005, the Legislature enacted Paragraph D of R.S. 4:706 to provide that "the term 'bingo' shall include 'electronic video bingo,'" and

WHEREAS, St. Tammany Parish authorized charitable bingo in 1985. As of June 30, 2005, per R.S. 4:706D, the term "bingo" shall include electronic video bingo and, pursuant to Paragraph A of R.S. 4:724, "Electronic or video bingo machines, hereafter termed 'electronic bingo machines', for public playing of bingo may be made available at any location licensed under this chapter for charitable bingo, provided that all requirements of this Chapter not in conflict with the provisions of this Section are met." However in paragraph I of that same Section, the legislature expressly provided that "Nothing in this Section shall be construed to restrict the authority of local governments to restrict or prohibit the conducting of electronic video bingo." Furthermore, R.S. 4:707B provides, in pertinent part, that the governing authority of any parish *may*, consistent with the provisions of this Chapter, license charitable organizations defined in R.S. 4:703(1) to hold and operate the following specific games of chance: (4) Electronic video bingo provided for in R.S. 4:724 and as defined by rules of the office; and

WHEREAS, in Title 4, Chapter 11. Charitable Raffles, Bingo and Keno Licensing Law, the legislature has expressly provided for the following requirements and authority in pertinent part, with

emphasis and parenthetical matter added:

§718F. “Any license, permit, approval, or thing obtained or issued pursuant to the provisions of this Chapter is expressly declared by the legislature to be a pure and absolute revocable privilege and not a right, property or otherwise, under the constitution of the United States or the state of Louisiana. The legislature declares that no holder of any license or permit (whether state or parish) acquires any vested interest or right therein or thereunder”;

§724(I). “Nothing in this Section shall be construed to restrict the authority of local governments to restrict or prohibit the conducting of electronic video bingo”;

§706(B) and (C)(1). “The governing authority of each parish shall decide whether charitable raffles, bingo [which includes electronic video bingo by definition], and keno as provided for in this chapter shall be permitted within the parish. If the local governing authority elects to license and regulate charitable raffles, bingo, and keno within its jurisdiction [which includes electronic video bingo by state definition], it may adopt rules, regulations, and ordinances for charitable organizations, as defined in R.S. 4:703(1), to hold and operate games of chance authorized in R.S. 4:707 and to enforce any local provisions regarding same games of chance”;

§708(A). “Each applicant for such a license shall file with the . . . governing body of any parish a written application therefor in the form prescribed in said rules and regulations, duly executed and verified, in which shall be stated (3) The specific kind of game or games of chance intended to be held, operated, and conducted by the applicant (specified in 707A(4) to include electronic video bingo)”;

§707(G). “No local governing authority shall issue a license to any organization unless that organization has first obtained a license from the office in accordance with this Chapter”;

§713(A). “. . .the governing authority of any municipality or parish issuing any license under this Chapter shall regulate all games of chance held, operated, or conducted under such license issued by it, to assure that they are fairly held, operated, and conducted in accordance with the provisions of the license, the provisions of this Chapter, and the rules promulgated and adopted pursuant to the provisions of R.S. 4:705(10)(b)”;

§735(B). “Any person, association, or corporation which commits any of the following acts shall, upon conviction, be subject to a criminal penalty, and be fined not more than five thousand dollars or imprisoned for one year, or both: (7) Possessing any electronic video machine or component, parts, or supplies intended for use therewith except manufacturers, distributors, or lessors and organizations licensed by . . . a parish to conduct electronic video bingo who are in possession of such machines under the provisions of R.S. 4:724 and R.S. 4:733 and the rules and regulations adopted pursuant to R.S. 4:724(F) and R.S. 4:733(H)”;

WHEREAS, the Governing Authority of St. Tammany Parish has been made aware that the state Office of Charitable Gaming has licensed certain charitable organizations to conduct electronic video bingo at locations in unincorporated areas of St. Tammany Parish. However, the state legislature has declared, in §718F, that no holder of any license acquires any vested interest or right therein or thereunder. St. Tammany Parish has not heretofore issued any license to a charitable organization to hold and operate the specific game of chance identified in R.S. 4:707(A)(4) as “electronic video bingo as provided for in R.S. 4:724 and as defined by rules of the office.” Based on the legislative authority set forth immediately herein above, and all other applicable authority, and in order to protect the public health, safety and welfare, the Governing Authority of St. Tammany Parish finds that it is necessary to prohibit the issuance of any license by the parish to conduct electronic video bingo in the unincorporated areas of St. Tammany Parish.

THE PARISH OF ST. TAMMANY HEREBY ORDAINS through its Parish Council as governing authority that it amends Chapter 12, Article V Charitable Raffles, Bingo, Keno and Pull-Tab Games, Division 1, General, Section 12-025.10 Legalized, and, as amended, hereby reenacts Section 12-025.10 to provide as follows:

ARTICLE V CHARITABLE RAFFLES, BINGO, KENO AND PULL-TAB GAMES
DIVISION 1, GENERAL
SEC. 12-025.10 Legalized

A. Except as otherwise provided in paragraph B of this Section, it shall be legal, and charitable raffles, bingo, keno and pull-tab games shall be permitted within the Parish subject to the provisions of this Article.

B. Based on the authority set forth in Title 4 of the Louisiana Revised Statutes, Sections 718(F), 724(I), 706(B) and (C)(1), 713(A) and 735(B), and all other applicable authority, it shall be prohibited in the unincorporated areas of St. Tammany Parish for any person, association, organization, or corporation to hold, operate or conduct the specific game of chance identified in R.S.4:707(A)(4) as electronic video bingo as provided for in R.S. 4:724. It shall be prohibited for any office, agency, department or employee of St. Tammany Parish to issue any license or permit to any person, association, organization, or corporation to hold, operate or conduct the specific game of chance identified in R.S.4:707(A)(4) as electronic video bingo as provided for in R.S. 4:724.

REPEAL: The amendments shall apply retroactively to the date of introduction of this Ordinance.

SEVERABILITY: If any provision of this Ordinance shall be held to be invalid, such invalidity shall not affect other provisions herein which can be given effect without the invalid provision and to this end the provisions of this Ordinances are hereby declared to be severable.

DATE OF ENACTMENT: This Ordinance shall become effective fifteen (15) days after adoption and the provisions of this Ordinance, as adopted, shall be retroactively applied to the date of introduction.

MOVED FOR ADOPTION BY _____, SECONDED BY _____

WHEREUPON THIS ORDINANCE WAS SUBMITTED TO A VOTE AND RESULTED IN THE FOLLOWING:

YEAS:

NAYS:

ABSTAIN:

ABSENT:

THIS ORDINANCE WAS DECLARED DULY ADOPTED AT A REGULAR MEETING OF THE PARISH COUNCIL ON THE _____ DAY OF _____, 2009 AND BECOMES ORDINANCE COUNCIL SERIES NO. _____.

JERRY BINDER, COUNCIL CHAIRMAN

ATTEST:

THERESA FORD, COUNCIL CLERK

KEVIN DAVIS, PARISH PRESIDENT

Published introduction: _____, 2009
Published adoption: _____, 2009

Delivered to Parish President : _____, 2009 at _____
Returned to Council Clerk: _____, 2009 at _____