



# The Municipal Corporation of the Town of Fort Erie

## By-law No. 88-2022

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### Being A By-law To Amend By-law No. 185-2000, as amended (Charitable Gaming Policy for The Town of Fort Erie) and to Repeal By-law No. 187-2000

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**Whereas** By-law No. 185-2000 was passed by the Municipal Council of the Town of Fort Erie on the 10th day of October, 2000 to establish a Gaming Policy for the Town of Fort Erie and to delegate the administration to the Community Gaming Development Corporation and to repeal By-law No. 187-2000, and

**Whereas** By-law No. 187-2000 was passed by the Municipal Council of The Corporation of the Town of Fort Erie, to appoint Grace Runka and Alan Stouffer as Lottery Licence Officers and Peace Officers; and

**Whereas** at the Council-in-Committee Meeting held July 11, 2022 Report No. CS-09-2022 was approved to authorize amendments to Schedule "A" to By-law No. 185-2000, being the Charitable Gaming Policy for the Town of Fort Erie and to Repeal By-law No. 187-2000; and

**Whereas** it is deemed desirable to amend the Charitable Gaming Policy for the Town of Fort Erie;

**Now Therefore** the Municipal Council of The Corporation of the Town of Fort Erie enacts as follows:

1. **That** Schedule "A" to By-law No. 185-2000, as amended, is repealed and replaced with Schedule "A" attached hereto and forming part of this by-law.
2. **That** By-law No. 187-2000 is repealed.
3. **That** the Clerk of the Town is authorized to effect any minor modifications corrections or omissions solely of an administrative, numerical, grammatical, semantical or descriptive nature to this by-law or its schedules after the passage of this by-law.

**Read a first, second and third time and finally passed this 18th day of July, 2022.**

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Mayor

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Clerk



The Corporation of the Town of Fort Erie

# Charitable Gaming Policy

**Town of Fort Erie Charitable Gaming Policy**

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## 1. Introduction

1. The Town of Fort Erie (“the Town”) recognizes the vital contribution of Charitable Organizations and Non-Profit Organizations to enhancing the quality of life of the community.
2. This Charitable Gaming Policy (“Policy”) establishes policies, procedures, terms and conditions applicable to Lotteries administered by the Community Gaming Development Corporation, which are in addition to the applicable policies, procedures, terms and conditions prescribed by the Ontario Lottery and Gaming Corporation (“OLG”) and the Alcohol and Gaming Commission of Ontario (“AGCO”).
3. The Community Gaming Development Corporation established by the Town acts on behalf of Council to manage and administer this Policy in support of Charitable Organizations and Non-Profit Organizations in a clear, transparent, respectful and accountable manner to maximize the impact of gaming revenues in building a strong community in the Town.
4. This Policy operates in the context of, and should be read in conjunction with, the information, guidance and requirements set out in the following documents, as amended from time to time:
  - i. *Criminal Code*, R.S.C. 1985, c. C-46 (“*Criminal Code* (Canada)”);
  - ii. Order-in-Council 1413/08;
  - iii. OLG Revitalization of Charitable Bingo & Gaming Initiative Policies and Procedures for Municipalities;
  - iv. OLG Revitalization of Charitable Bingo & Gaming Initiative Policies and Standards for Charities;
  - v. *AGCO Lottery Licensing Policy Manual*;
  - vi. AGCO Lottery Licence Terms and Conditions;
  - vii. AGCO Terms and Conditions for each type of Lottery Scheme; and
  - viii. Standards and Directives issued by the AGCO Registrar.

## 2. Definitions

1. In this Policy:

**“Appeals Committee”** means a committee duly appointed by Council to hear appeals under section 6 of this Policy, which committee shall be comprised of three (3) members of Council.

**“Applicant”** means a Charitable Organization or a Non-Profit Organization applying for a Licence or Permit under this Policy.

**“Application Form”** means a form prepared by the Lottery Licensing Official to obtain from first time Applicants the information necessary for the issuance of a Licence or Permit.

**“Charitable Gaming”** means paper and electronic Lottery Schemes of a social charitable nature, conducted and managed by OLG and tested and approved by the AGCO and other Lottery Schemes.

**“Charitable Organization”** means a corporation, organization (including a religious organization), association or partnership that is created primarily for a charitable object or purpose in Ontario and is not operated for profit.

**“Commission”** means the AGCO and/or the OLG.

**“Corporation”** means the Community Gaming Development Corporation established by the Town.

**“Council”** means the Council of the Town.

**“Licence”** means a licence issued to an eligible Charitable Organization or Non-Profit Organization under the *Criminal Code* (Canada), by or under the authority of the Lieutenant Governor-in-Council, to conduct or manage a Lottery Scheme.

**“Licensee”** means a Charitable Organization or Non-Profit Organization to which a Licence is issued.

**“Lottery” or “Lotteries”** means one or more Lottery Schemes for which a Licence is available pursuant to section 207 of the *Criminal Code* (Canada) or for which a Permit is available in accordance with applicable permit requirements prescribed by OLG.

**“Lottery Licensing Official”** means the Coordinator, Gaming Compliance of the Corporation, their designate, or such other person or persons as may be appointed by Council from time to time to administer and enforce this Policy.

**“Lottery Scheme”** means any Lottery that has the following three components: a prize; a payment of a fee; and a chance to win.

**“Non-Profit Organization”** means a corporation that is operated for any purpose except profit but that is not a Charitable Organization.

**“Permit”** means a permit issued by the Town to an eligible Charitable Organization or Non-Profit Organization in accordance with applicable permit requirements prescribed by OLG.

“**Permittee**” means a Charitable Organization or Non-Profit Organization to which a Permit is issued.

“**Policy**” means the Charitable Gaming Policy of the Town.

“**Proceeds**” means the amount remaining after a Licensee or Permittee has deducted all approved expenses related to the management and conduct of a Lottery event from the gross receipts for the event. The Licensee or Permittee must use the Proceeds for the charitable objects and purposes approved by the Lottery Licensing Official.

“**Town**” means The Corporation of the Town of Fort Erie.

### **3. Key Functions of Community Gaming Development Corporation**

1. The key function of the Corporation is to manage and administer this Policy on behalf of Council and to continuously improve the efficiency of the administration of Lotteries within the Town by providing advice and support services to or in respect of volunteers, internal managements and operational and administrative programs relating to Charitable Gaming.
2. In furtherance of this key function, the Lottery Licensing Official shall administer this Policy and shall be responsible for, *inter alia*, developing and implementing all forms, procedures and other measures necessary for the administration of this Policy.
3. Also in furtherance of this key function, the Corporation and the Lottery Licensing Official shall:
  - i. Comply with the provisions of this Policy;
  - ii. Comply with all applicable legislation, regulations and guidance, including but not limited to all items listed in section 1.4 of this Policy; and
  - iii. Deliver minutes of Corporation meetings to the Clerk of the Town after each meeting for inclusion on the Regular Council Agenda for information purposes.

### **4. Eligibility for a Licence or Permit**

1. In order to be eligible to receive a Licence or Permit, an Applicant shall meet the following requirements in addition to those established by the Commission:
  - i. The Applicant shall be incorporated as a non-profit corporation pursuant to the *Not-For-Profit Corporations Act, 2010*, S.O. 2010, c. 15 or registered as a charitable organization under the *Income Tax Act*, R.S.C. 1985, c. 1.

- ii. The Applicant shall have been in existence as a non-profit corporation or a registered charitable organization for at least one (1) year prior to the date of the Application.
  - iii. The Applicant shall provide direct, community-based services to the residents of the Town.
2. In addition, in keeping with community-building philosophies that support cross-sector collaboration, the Applicant shall provide services to one or more of the following sectors within the Town:
- i. Promote health and well-being;
  - ii. Build a strong and diverse community;
  - iii. Foster community pride and a sense of belonging;
  - iv. Prevent community problems;
  - v. Preserve the unique characteristics of the community;
  - vi. Embrace and protect the natural environment;
  - vii. Support community and personal safety;
  - viii. Strengthen families and children;
  - ix. Make better use of existing community resources or facilities;  
and
  - x. Promote self-sufficiency and develop strong leaders.

## **5. Application Process**

1. The Corporation shall conduct the application process in a clear and transparent manner and shall treat all Applicants with fairness and respect.
2. An Applicant that has not previously applied for a Licence or a Permit shall submit an Application Form and shall further submit such other documents and information as may be required by the Lottery Licensing Official to establish the eligibility of the Applicant pursuant to section 4 of this Policy.
3. An Applicant that has previously received a Licence or Permit shall submit an application for the proposed Lottery Scheme in the form prescribed by the Commission and, subject to section 5.4 of this Policy, shall not be required to submit further documents and information to establish eligibility pursuant to section 4 of this Policy.

4. Notwithstanding the foregoing, the Lottery Licensing Official may require an Applicant that has previously received a Licence or Permit to provide documents and information to establish its eligibility pursuant to section 4 of this Policy where, in the opinion of the Lottery Licensing Official, there is reason to believe that the eligibility of the Applicant has changed and/or there are other circumstances that warrant it.
5. All Application Forms and applications in the form(s) prescribed by the Commission shall be signed by a member, agent or solicitor of the Applicant that has been designated or authorized by the Applicant for that purpose.
6. Every application for a Licence shall be accompanied by the full Licence fee as established in Schedule "CGDC-A" of By-law No. 40-09, as amended or replaced from time to time. The Licence fee shall not be refunded if the Licence is suspended or cancelled in accordance with the provisions of this Policy.
7. There is no fee to file an application for a Permit.
8. Subject to section 5.9, the Lottery Licensing Official shall issue a Licence or Permit to any Applicant that meets the requirements of this Policy.
9. Notwithstanding the foregoing, the Lottery Licensing Official may impose such terms and conditions on a Licence or Permit as the Lottery Licensing Official considers appropriate in the circumstances.
10. The Corporation shall inform the Applicant in writing of the decision(s) of the Lottery Licensing Official regarding the eligibility of the Applicant and/or to grant or refuse a Licence or Permit to the Applicant for a proposed Lottery Scheme and the grounds for the decision(s).

## **6. Appeals**

1. Where the Lottery Licensing Official determines that an Applicant is not eligible for a Licence or Permit, refuses to grant a License or Permit, and/or imposes a penalty on a Licensee or Permittee pursuant to section 7 of this Policy, the Applicant, Licensee or Permittee may, within twenty (20) days after being notified of the decision or penalty, appeal the decision to the Appeals Committee by filing a Request to Appeal.
2. For greater certainty, the following actions are not matters that can be appealed to the Appeal Committee:



- i. Policies implemented and/or approved by Council in relation to Charitable Gaming, Lotteries and/or Lottery Schemes; and
  - ii. Expiration of a Licence or Permit.
3. A Request to Appeal shall be accompanied by the appeal fee as established in Schedule "CGDC-A" of By-law No. 40-09, as amended or replaced from time to time.
4. Where no Request to Appeal is submitted within the prescribed period, the decision of the Lottery Licensing Official shall be final.
5. Upon receipt of Request to Appeal, the Corporation shall forward to the Appeals Committee the reasons for the decision from which the appeal is made, the Request to Appeal and all relevant materials regarding the appeal.
6. The Appeals Committee shall schedule a hearing of the appeal within ninety (90) days of receipt of the relevant materials. The Appeals Committee shall give all parties at least fifteen (15) days' notice of the hearing date, including the date, time and place of the hearing and the nature of the appeal.
7. The Appeals Committee may, at least fifteen (15) days before the hearing, request written comments or documentation from any department, ministry or agency of the federal, provincial or municipal government and any other local board, commission or person that the Appeals Committee determines should receive notice of the appeal.
8. The Appeals Committee shall ensure that the Applicant or Licensee and the Corporation have equal opportunity to present information at the hearing. The Appeals Committee shall deliberate on all relevant information provided to it and shall provide its decision, and the grounds for its decision, in writing.
9. The Appeals Committee shall provide its decision to the Corporation at the next meeting of the Corporation. The Corporation shall provide the decision of the Appeals Committee to the Applicant, Licensee or Permittee within ninety (90) days of said meeting.
10. The Appeals Committee may affirm, vary or reverse the decision of the Lottery Licensing Official.
11. The appeal fee paid by the Applicant, Licensee or Permittee shall be refunded in full if the Appeals Committee varies or reverses the decision of the Lottery Licensing Official.

12. The Appeals Committee is the final arbiter of appeals locally; however, an Applicant, Licensee or Permittee that is dissatisfied with the decision of the Appeals Committee may file a complaint with the Commission.

## **7. Monitoring and Compliance**

1. The Lottery Licensing Official shall monitor the compliance of Licensees and Permittees with all applicable legislation, regulations, orders, by-laws, policies, procedures, terms, conditions, standards and directives and shall investigate any reported or suspected contraventions of same.
2. Upon request, a Licensee or Permittee shall provide the Lottery Licensing Official with all information, documentation and/or records that the Lottery Licensing Official determines are necessary to an investigation conducted under section 7.1. The Licensee or Permittee shall provide all materials within thirty (30) days of the request.
3. The Lottery Licensing Official shall disclose to the Corporation the findings of an investigation conducted under section 7.1 within thirty (30) days after the investigation is complete. The Corporation shall communicate the results of the investigation to the Town, the Commission and any other person or entity that the Corporation, in its sole and unfettered discretion, deems advisable.
4. Where the Lottery Licensing Official concludes, after an investigation, that a Licensee or Permittee has failed to comply with and/or has contravened any applicable legislation, regulation, order, by-law, policy, procedure, term, condition, standard or directive, the Lottery Licensing Official shall issue a written notice of the failure to comply and/or contravention to the Licensee or Permittee.
5. Where the Lottery Licensing Official concludes, after an investigation, that a Licensee or Permittee has failed to comply with and/or has contravened any applicable legislation, regulation, order, by-law, policy, procedure, term, condition, standard or directive, the Lottery Licensing Official may impose the following penalties:
  - i. First infraction: Suspension of the Licence or Permit, as the case may be, until rectification of the identified contravention is achieved;
  - ii. Second infraction within the same fiscal year: Six (6) month suspension of the Licence or Permit, as the case may be, with reinstatement conditional upon rectification of the identified contravention; and
  - iii. Third infraction within the same fiscal year: Cancellation of the Licence or Permit, as the case may be.

6. The Lottery Licensing Official shall notify the Licensee or Permittee by registered mail of the penalty imposed.
7. Where a Licence or Permit is suspended or cancelled in accordance with this Policy, the Lottery Licensing Official shall notify the Corporation at the next scheduled meeting of its Board of Directors and shall further notify the Commission.
8. Where a Licence or Permit is cancelled in accordance with this Policy, the Licensee or Permittee may submit a new Application Form but shall be treated as an Applicant that has not previously applied for a Licence or Permit and shall be required to establish eligibility in accordance with sections 4 and 5 of this Policy.

## **8. Break Open Tickets**

1. All Licensees operating break-open tickets in the Town shall make an application in the form prescribed by the Commission to the Lottery Licensing Official for a Licence and shall comply with the Commission's Terms and Conditions for the Lottery Scheme.

## **9. Raffles/50-50 Draws/Bazaars**

1. All Licensees operating raffles, draws and/or bazaars in the Town shall make an application in the form prescribed by the Commission to the Lottery Licensing Official for a Licence and shall comply with the Commission's Terms and Conditions for the Lottery Scheme.

## **10. Records and Freedom of Information**

1. The records of the Corporation shall be maintained, retained and disposed of in accordance with the Town's Records Management Policies and Retention Schedules as approved by the Town Clerk, Town Solicitor and Auditor.
2. The Corporation shall be subject to the provisions of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M. 56.