

CHAPTER 31 LICENSES AND PERMITS

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31.01 GARAGE SALES *Amended, 13-6-2*

A. PERMITS AND FEES:

1. For the purposes of the Section, the term “garage sale” shall mean and include all sales of tangible personal property conducted on premises in the City that are zoned for residential use, regardless of the name by which such sale may be called.
2. Permits for garage sales shall be limited to the sale of household goods and furnishings. No person, firm or corporation shall, at any garage sale, sell any goods acquired in wholesale lots.

B. **LICENSING:** Such license shall be issued to any one address only twice within a 12-month period and no such license shall be issued for more than six days total for the 12 month period. The license shall allow for the sale to be conducted between the hours of 8 a.m. and 5 p.m. on the permitted days. Each license issued under this Section 31.01 must be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale.

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C. **SIGNS:** Signs advertising or indicating the existence, location and time of a sale shall be limited to three in number and shall be displayed only during the dates the sale is in progress. A sign must have its own support or post to be affixed in the ground. Under no circumstances shall a sign be attached to a telephone pole, tree or a federal, state or local sign or signal. No sign shall project higher than three feet above the ground level. All signs must be removed by the party holding the sale within 24 hours of the last day of the sale.

D. **INFORMATION TO BE FILED:** The information to be filed with the license application shall be as follows:

1. Name of person, firm, group, corporation, association or organization conducting said sale.
2. Name of owner of the property on which said sale is to be conducted if appli-

cant is other than the owner.

3. Location at which sale is to be conducted.
4. Dates of sale.
5. Date, nature of any past sale.
6. Relationship or connection applicant may have had with any other person, firm, group, organization, association or corporation conducting any past sale and the date or dates of such sale.
7. Whether or not applicant has been issued any other vendor's license by any local, state or federal agency.
8. The location of any signs applicant intends to place.
9. Sworn statement or affirmation by the person signing that the information therein given is full and true and known to him to be so.

E. PERSONS AND SALES EXCEPTED: The provisions of this Section 31.02 shall not apply to or affect the following persons or sales:

1. Persons selling goods pursuant to an order or process of a court of competent jurisdiction.
2. Persons acting in accordance with their powers and duties as public officials.
3. Any person selling or advertising for sale an item or items of personal property which are specifically name or described in the advertisement and which separate items do not exceed five in number.
4. Not-for-profit organizations provided they file with the Administrator a request for exception containing the information specified in Section 31.01-D herein, together with the name of the organization, proof of its not-for-profit status and a description of the purpose of the sale.

F. PENALTY: Any person, association or corporation conducting any such sale without being properly licensed therefore or who shall violate any of the other terms and regulations of this Section 31.01 shall, upon conviction, be fined not less than \$25 nor more than \$500 for each violation.

31.02 RAFFLES

A. **DEFINITIONS:** In addition to the definitions found in Appendix A of this Code, the terms used in this Section 31.02 are defined as follows:

Business organization: A voluntary organization composed of individuals and businesses who have joined together to advance the commercial, financial, industrial and civic interests of the City.

Charitable organization: An organization or institution organized and operated to benefit an indefinite number of the public. The service rendered to those eligible for benefits must also confer some benefits upon the public.

Educational organization: An organization or institution organized and operated to provide systematic instruction in useful branches of learning by methods common to schools and institutions of learning which compare favorably in their scope and intensity with the course of study presented in tax-supported schools.

Fraternal organization: An organization of persons having a common interest, the primary interest of which is to both promote the welfare of its members and to provide assistance to the general public in such a way as to lessen the burdens of government by caring for those who otherwise would be cared for by the government.

Labor organization: An organization composed of workers organized with the objective of betterment of the conditions of those engaged in such pursuit and the development of a higher degree of efficiency in their respective occupations.

Net proceeds: The gross receipts from the conduct of raffles, less sums expended for prizes, local license fees and other reasonable operating expenses incurred as a result of operating a raffle.

Non-profit organization: An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of such operation.

On-going raffle: A raffle in which there is one sale of chances before an initial drawing date; thereafter, the chances shall be valid at subsequent drawings in the same raffle.

Raffle: A form of lottery, as defined in Section 5/28-2(b) of the "Criminal Code of 1961" (720 ILCS 5/28-2) conducted by an organization licensed under this Section 31.01 in which:

1. The player pays or agrees to pay something of value for a chance represented and differentiated by a number or by a combination of numbers or by some other means, one or more of which chances is to be designated the winning chance;
2. The winning chance is to be determined through a drawing or by some other method based on an element of chance by an act or set of acts on the part of persons conducting or connected with the lottery, except that the winning chance shall not be determined by the outcome of a publicly exhibited sporting contest.

Religious organization: Any church, congregation, society or organization founded for the purpose of religious worship.

Veterans organization: An organization or association comprised of members of which substantially all are individuals who are veterans or spouses, widows or widowers of veterans, the primary purpose of which is to promote the welfare of its members and to provide assistance to the general public in such a way as to confer a public benefit.

B. **LICENSE REQUIRED:** It shall be unlawful for any person to conduct or operate a raffle or to sell, offer for sale, convey, issue or otherwise transfer for value a chance on a raffle, unless conducted pursuant to a license duly issued by the City and in accordance with the provisions of this Section 31.02.

C. **LICENSE APPLICATION:**

1. **Contents of Application:** Any person seeking to conduct or operate a raffle shall file an application therefor with the Clerk on forms provided by the Clerk. The application shall contain the following information:
 - (a) The name, address and type of organization;
 - (b) The length of existence of the organization and, if incorporated, the date and state of incorporation;
 - (c) The name, address, telephone number, social security number and date of birth of the organization's presiding officer, secretary, raffles manager and any other members responsible for the conduct and operation of the raffle;
 - (d) The aggregate retail value of all prizes to be awarded in the raffle;
 - (e) The maximum retail value of each prize to be awarded in the raffle;
 - (f) The maximum price charged for each raffle chance issued or sold;
 - (g) The maximum number of raffle chances to be issued;
 - (h) The area or areas in which the raffle chances will be sold or issued;
 - (i) The time period during which raffle chances will be issued or sold;
 - (j) The date, time and location at which winning chances will be determined;

- (k) A sworn statement attesting to the not-for-profit character of the applicant organization, signed by the presiding officer and secretary of that organization; and
 - (l) A certificate signed by the presiding officer of the applicant organization attesting to the fact that the information contained in the application is true and correct.
2. Fees: A fee shall be charged by the City and paid to the Clerk at the time of application for a raffle license. Not-for-profit organizations shall be exempt from paying said license fee. The fee, based on the aggregate retail value of prizes, shall be:

<u>Aggregate Retail Value of Prize</u>	<u>Fee</u>
Less than \$500	\$ 5
\$500 to \$999	15
\$1,000 to \$9,999	25
\$10,000 to \$99,999	35
More than \$100,000	50

D. LICENSEE QUALIFICATIONS: Raffle licenses shall be issued only to bona fide charitable, educational, fraternal, labor, religious and veterans organizations that operate without profit to their members and which have been in existence continuously for a period of five years or more immediately preceding the making of application for a license and which have had during that entire five-year period a bona fide membership engaged in carrying out their objectives, or to a non-profit fund raising organization that the City determines is organized for the sole purpose of providing financial assistance to an identified individual or group of individuals suffering extreme financial hardship as the result of an illness, disability, accident or disaster.

The following are ineligible for any license under this Section 31.02:

- 1. Any person who has been convicted of a felony;
- 2. Any person who is or has been a professional gambler or a gambling promoter;
- 3. Any person who is not of good moral character;
- 4. Any firm or corporation in which a person defined in 31.02-D-1, 2 or 3 has a proprietary, equitable or credit interest, or in which such a person is active or employed;

5. Any organization in which a person defined in 31.02-D-1, 2 or 3 is an officer, director or employee, whether compensated or not; and
6. Any organization in which a person defined in 31.02-D-1, 2 or 3 is to participate in the management or operation of a raffle as defined herein.

E. ISSUANCE OF LICENSE:

1. The Administrator or his designee shall review all raffle license applications and shall, within 30 days from the date of application, accept or reject a raffle license application. If an application is accepted a license shall be issued and shall be valid for a period of 30 days from and after its issuance unless the Administrator specifically authorizes a license for a longer period, but in no case for more than 60 days, except for on-going raffles as defined herein.
2. A raffle license shall show the following:
 - (a) The area or areas in which raffle chances may be sold or issued;
 - (b) The period of time during which the raffle chances may be sold or issued;
 - (c) The maximum price which may be charged for each raffle chance issued or sold; and
 - (d) The date, time and location on or at which winning chances will be determined.
3. Said license shall be prominently displayed at the time and location of the determination of the winning chances.
4. A license shall be valid for one raffle only; however, multiple licenses may be issued for multiple raffles to a licensee.

F. CONDUCT OF RAFFLES: The operation and conduct of raffles are subject to the following restrictions:

1. The entire net proceeds of any raffle must be exclusively devoted to the lawful purpose of the organization permitted to conduct that game;
2. No person except a bona fide member of the sponsoring organization may participate in the management or operation of the raffle;
3. No person may receive any remuneration or profit for participating in the

management or operation of the raffle;

4. A licensee may rent a premises on which to determine the winning chance or chances in a raffle only from an organization which is also licensed under this Section 31.02;
5. Raffle chances may be sold, offered for sale, conveyed, issued or otherwise transferred for value only within the area specified on the license, and winning chances may be determined only at those locations specified on the license;
6. Each raffle chance shall have printed thereon the following:
 - (a) The cost of said chance;
 - (b) The aggregate retail value of all prizes to be awarded in said raffle;
 - (c) The maximum number of raffle chances to be issued; and
 - (d) The date(s), time(s) and location(s) on or at which winning chances will be determined.

However, when raffle chances are sold, conveyed, issued or otherwise transferred only at the time and location at which winning chances will be determined and only to persons then in attendance, the face of the raffle chance need not contain such information.

7. No cash prize in excess of \$500,000 may be awarded.
8. No real property, including land and any buildings thereon, may be the prize in a raffle unless the organization holding the raffle license owns fee simple title as to the entire subject real property.
9. No person under the age of 18 years may participate in the conducting of raffles of chances. A person under the age of 18 years may be within the area where winning chances are being determined only when accompanied by his parent or guardian.
10. No chance shall be sold, offered for sale, conveyed, issued or otherwise transferred for value to or by any person under the age of 18 years without the permission of his parent or guardian.

Notwithstanding the foregoing, any person may make a gift of a chance to any person of any age.

G. RAFFLES MANAGER, BONDS: All operation of and the conduct of raffles shall be under the supervision of a single raffles manager designated by the organization.

The raffles manager shall give a fidelity bond, equal in amount to the aggregate retail value of all prizes to be awarded, in favor of the licensee, conditioned upon his honesty in the performance of his duties. Terms of the bond shall provide that notice shall be given in writing to the licensing authority not less than 30 days prior to its cancellation.

H. RECORDS:

1. Each licensee shall keep records of its gross receipts, expenses and net proceeds for each single gathering or occasion at which winning chances are to be determined. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction and the recipient. The distribution of net proceeds shall be itemized as to payee, purpose, amount and date of payment.
2. Gross receipts from the operation of raffle programs shall be segregated from other revenues of the licensee, including bingo gross receipts, if bingo games are also conducted by the same non-profit organization pursuant to license therefor issued by the Illinois Department of Revenue, and placed in a separate account. Each licensee shall have separate records of its raffles. The person who accounts for gross receipts, expenses and net proceeds from the operation of raffles shall not be the same person who accounts for other revenues of the organization.
3. Each licensee shall report within 30 days after the conclusion of each raffle to its membership and to the Clerk: its gross receipts, expenses and net proceeds for raffles, and the distribution of net proceeds itemized as required herein.
4. Records required herein shall be preserved for three years, and licensees shall make available their records relating to operation of raffles for public inspection at reasonable times and places.

I. PENALTIES: Violation of this Section 31.02 or any of its requirements or provisions shall be punishable by a fine of not less than \$50. Each day the violation continues shall constitute a separate offense. Each member of the sponsoring organization shall be jointly and severally liable with the organization and with each other for any violation.

The imposition of penalties herein prescribed shall not preclude the City from instituting appropriate action to prevent unlawful raffles or to restrain, enjoin, correct or abate a violation of this Section 31.02 or of the conditions of the raffle license issued pursuant hereto.

31.03 BED AND BREAKFAST LICENSING REQUIREMENTS *Ord. 09-9-3*

A. PURPOSE: The purpose of this Section is to set forth licensing requirements, standards and procedures for bed and breakfast establishments in the City.

B. DEFINITIONS: In addition to those terms defined in Appendix A of this Code, the following definitions shall be applicable to this Section:

Bed and breakfast establishment (“establishment”): An operator-occupied residence providing accommodations for a charge to the public with no more than 5 guest rooms for rent, in operation for more than 10 nights in a 12-month period. Breakfast may be provided to the guests only. Bed and breakfast establishments shall not include motels, hotels, boarding houses or food service establishments.

Bed and breakfast guest (“guest”): Any person or persons staying in a guest room overnight on a transient basis, but for not more than 15 consecutive days, and having a permanent residence at an address other than that of the establishment.

Guest room: A sleeping room intended to serve no more than 2 transient guests per night.

Operator: The owner of an establishment, or the owner’s agent, who is required by the Bed and Breakfast Act (50 ILCS 820/1 *et seq.*) (“Act”) to reside in the establishment, or on contiguous property.

C. LICENSING AND INSPECTION REQUIREMENTS:

1. An establishment shall not be operated or maintained in the City without first obtaining a valid operating license as required by this Section and a special use permit pursuant to the Marengo Zoning Ordinance.
2. Bed and breakfast operating license applications are available from City Hall. Completed applications shall be submitted to the City Administrator.
3. A bed and breakfast operating license shall not be issued or renewed until the facilities have been inspected and approved by the City, McHenry County Health Department and the Marengo Fire Protection District. Proof of such inspections shall be submitted with the initial application or renewal application.
4. Each license issued shall expire on December 31 after the first calendar year or portion thereof and following two consecutive calendar years of operation. Application for renewal shall be made at least 30 days before the expiration date.

5. A bed and breakfast operating license shall be conspicuously displayed within the establishment and cannot be transferred to another person, location or establishment.
6. The fee for an operating or renewal license shall be \$25 and shall be valid for the remainder of the calendar year in which it is issued and for the following two consecutive calendar years.

D. MINIMUM STANDARDS: An establishment shall be subject to the requirements of the Act and the following minimum standards:

1. Each establishment shall maintain a guest register and available for inspection by the City at any time.
2. Guests shall not be permitted to stay overnight in any portion of the establishment that is not designated as a guest room.
3. One off-street parking space shall be provided for each authorized guest room, plus an additional two spaces for the principle residential dwelling. These requirements may be reduced by the City if the operator can demonstrate the ability of and permission to use alternative off-site parking accommodations.
4. Exterior signage for the establishment in a residential zoning district shall consist of no more than one sign having an area of no more than three square feet and kept in good repair.
5. Means of egress from an establishment shall not be blocked or obstructed.
6. Whenever guests are present the owner or the owner's agent shall be present.
7. The owner of the establishment shall have liability insurance coverage for guests in the amount of at least \$500,000. A copy of such insurance coverage shall be submitted with the license application or license renewal.

E. PENALTY: Any person, firm or corporation found guilty of violating, disobeying or refusing to comply with any of the provisions of this Section, the Act and/or special use permit shall be fined not less than \$200 or more than \$750 for each offense. In addition to this penalty, a licensee violating any provision of this Section, the Act, special use permit or other applicable and relevant regulations of the City may be subject to having their license revoked, suspended or not renewed.