

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

~~XXXXXX~~

~~XXXX~~ of DELAWARE

Town
~~Village~~

Local Law No. 2 of the year 19 99.

A local law to authorize the conduct of games of chance by authorized organizations in the Town of Delaware, pursuant to Article 9-A of the General Municipal Law of the State of New York.

Be it enacted by the Town Board of the
(Name of Legislative Body)

~~XXXXXX~~

~~XX~~ of Delaware as follows:

Town
~~Village~~

§1. Definitions.

As used herein the following terms shall have the same definitions as are assigned to them by §186 of the General Municipal Law of the State of New York as the same may be amended from time to time. "Board," "games of chance," "authorized organization," "lawful purposes," "net proceeds," "net lease," "authorized games of chance lessor," "authorized supplier of games of chance equipment" and "one (1) occasion".

§2. Authorization to conduct games.

From and after the effective date of this local law having been approved by Referendum of the Town of Delaware as hereafter provided, it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct games of chance within the Town of Delaware, subject to the provisions of this local law, Article 9-A of the General Municipal Law of the State of New York and the rules and regulations promulgated by the Board, as the same may be amended from time to time.

§3. Application for licenses.

- A. Each applicant for a license to conduct games of chance shall, after obtaining an identification number from the Board, file with the Town Clerk a written application therefor in a form to be prescribed by the Board, duly executed and verified, containing such information as may be required by law and by the rules and regulations of the Board. In each such application, there shall be designated no less than four (4) active members of the application organization under whom the game or games of chance will be conducted; and to the application shall be appended a statement, executed by the members so designated, that they will be responsible for the conduct of such games in accordance with the terms of the license, the rules and regulations of the Board and of Article 9-A of the General Municipal Law of the State of New York.
- B. Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance therein shall file with the Town Clerk a written application therefor in a form to be prescribed by the Board, duly executed and verified, and which shall contain such information as shall be required by law and by the rules and regulations of the Board.

§4. Investigation of applicants.

The Town Clerk shall make an investigation of the qualifications of each applicant and the merits of each application with due expedition after the filing of the application. For purposes of assisting in the conduct of such investigation, the Town Clerk may call upon the resources of the constables of the Town of Delaware, other duly appointed and acting Town officials and other law enforcement agencies.

§5. Issuance of licenses.

- A. If the Town Clerk shall determine that the applicant for a license to conduct games of chance is duly qualified therefor and meets the requirements of §191, Subdivision 1(a), of the General Municipal Law of the State of New York and the rules and regulations of the Board and the provisions of this local law, as the same may be amended from time to time, he/she shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars (\$25.00) for each license period.

- B. If the Town Clerk shall determine that the applicant seeking to lease a hall or premises for conduct of games of chance to an authorized organization is duly qualified to be licensed under the provisions of §191, Subdivision 1(b), of the General Municipal Law of the State of New York and the rules and regulations of the Board and the provisions of this local law, as the same may be amended from time to time, he/she shall issue a license permitting the applicant to lease said premises for the conduct of such games to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as such Clerk shall determine, but not to exceed twelve (12) license periods during a calendar year, upon payment of a license fee of fifty dollars (\$50.00). Nothing herein shall be construed to require the applicant to be licensed under Article 9-A of the General Municipal Law to conduct games of chance.

§6. Hearings.

No application for the issuance of a license to an authorized organization shall be denied by the Town Clerk until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

§7. Amendments to licenses.

Any license issued under this local law may be amended, upon application made to the Town Clerk who issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional fee, if any, as would have been payable if it had been so included.

§8. Form and display of licenses.

- A. Each license to conduct games of chance shall be in the form prescribed by the Board and shall contain such information as may be required by law and/or the rules and regulations of the Board, as the same may be amended from time to time. Each such license shall be conspicuously displayed at the place where the games of chance are to be conducted at all times during the conduct thereof.
- B. Each license to lease premises for the conduct of games of chance will be in such form as may be prescribed by the Board and will contain such information as may be required by law and/or the rules and regulations of the Board, as the same may be amended from time to time. Each such license shall be conspicuously displayed upon such premises at all times during the conduct of such games of chance.

§9. Control and supervision of games; penalties for offenses.

An enforcement officer designated by the Town Board shall have and exercise rigid control and close supervision over all games of chance conducted under such license to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the Board and the provisions of Article 9-A of the General Municipal Law of the State of New York. The enforcement officer designated by the Town Board and the Board shall have the power and the authority to temporarily suspend any license issued by the Clerk, pending a hearing and after notice and hearing, the Board may suspend or revoke the same and additionally impose a fine in an amount not exceeding one thousand dollars (\$1,000.00) for violation of any such provisions, and shall have the right of entry by their respective officers and agents at all times into any premises where any games of chance are being conducted or where any equipment being used or intended to be used in the conduct thereof is found for the purpose of inspecting the same. An enforcement officer designated by the Town Board shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this local law.

§10. Sale of alcoholic beverages.

Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of games of chance on Games of Chance Premises as such premises are defined in Subdivision 19 of §186 of the General Municipal Law; provided, however, that nothing herein shall be construed to limit the offering for sale of any other alcoholic beverage in areas other than the Games of Chance Premises or the sale of any other alcoholic beverage in premises where only the game of chance known as the "bell jar" is conducted.

§11. Days of conduct.

Except as provided in §12, no games of chance shall be conducted on Sunday unless specifically so provided in the license. The Town Clerk is hereby authorized to include such provision in any license, upon a proper showing by the applicant of the need therefor. No games of chance shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

§12. Frequency of games; hours.

- A. No game or games of chance shall be conducted under a license issued under this local law more than twelve (12) times in any calendar year.
- B. Games shall be conducted only between the hours of 12:00 noon and 12:00 midnight on Monday, Tuesday, Wednesday and Thursday and only between the hours of 12:00 noon on Friday and 2:00 a.m. on Saturday and only between the hours of 12:00 noon on Saturday and 2:00 a.m. on Sunday. The closing period of 2:00 a.m. shall also apply to legal holiday.

§13. Restrictions on minors.

No person under the age of eighteen (18) years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this local law. No person under the age of eighteen (18) years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this local law.

§14. Conduct of games.

- A. No person shall hold, operate or conduct any games of chance under any license issued under this local law except an active member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of

chance under such license except such an active member or a member of an organization or association which is an auxiliary to the licensee or a member of an organization or association of which such licensee or a member of an organization or association of which such licensee is an auxiliary or member of an organization or association which is affiliated with the licensee by being with it, auxiliary to another organization or association.

- B. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee.
- C. At least two (2) officers, directors, trustees or clergy of the authorized organization shall, upon request, certify under oath that the persons assisting in holding, operating or conducting any game of chance are bona fide members of the authorized organization, auxiliary or affiliated organization.
- D. Upon request by the enforcement officer designated by the Town Board, any such person involved in such games of chance shall certify that he or she has no criminal record.
- E. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this local law, except those that are reasonable and are necessarily expended for games of chance, supplies and equipment, prizes, stated rental, if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the Board, janitorial services and utility supplies, if any, and license fees and the cost of bus transportation.

§15. Admission price; prizes.

- A. Not more than two dollars (\$2.00) shall be charged by any licensee for admission to any room or place in which any game or games of chance are to be conducted under any license issued under this local law.
- B. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played.
- C. No alcoholic beverage shall be offered or given as a prize in any game of chance.

§16. Advertisement; signs.

No game of chance conducted or to be conducted in the Town of Delaware shall be advertised as to its location, the time when it is to be or has been played or the prizes awarded or to be awarded or transportation facilities to be provided in such game by means of newspapers, radio, television or sound tracks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one (1) sign not exceeding sixty (60) square feet in area may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization and, when an organization is licensed to conduct games of chance on premises of an authorized game of chance lessor, one (1) additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire-fighting equipment belonging to licensee which is a volunteer fire company or upon any first aid or rescue squad equipment in and throughout the community or communities served by such volunteer fire company or such first aid or rescue squad, as the case may be.

§17. Records.

Within seven (7) days after the conclusion of any license period, the authorized organization which conducted the game, its members who were in charge thereof and, when applicable, the authorized organization which rented its premises therefor shall each furnish to the Town Clerk a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred or paid and each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the conduct of games of chance during such license period and the use to which such proceeds have been or are to be applied and a list of prizes offered and given, with the respective values thereof. It shall be the duty of each

licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

§18. Additional license fee.

Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the Town Clerk as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period covered by such statement and determined in accordance with such schedule as shall be established from time to time by the Board to defray the actual cost to the town of administering the provisions of this local law.

§19. Examination of records.

- A. The Town Clerk shall have power to examine or cause to be examined the books and records of:
- (1) Any authorized organization which is or has been licensed to conduct games of chance, so far as it may relate to games of chance, including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance or the disposition of net proceeds derived from games of chance, as the case may be.
 - (2) Any authorized games of chance lessor so far as it may relate to leasing premises for games of chance, and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.
- B. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this local law.

§20. Appeals.

Any applicant for or holder of any license issued or to be issued under this chapter, aggrieved by any action of the enforcement officer designated by the Town Board or Town Clerk to which such application has been made or by which such license has been issued, may appeal to the Board from the determination of said enforcement officer or Town Clerk by filing with the enforcement officer or Town Clerk a written appeal within thirty (30) days after the determination or actin appealed

from; and upon the hearing of such, the evidence, if any, taken before such enforcement officer or Town Clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue; and the action of the Board upon said appeal shall be binding upon the enforcement officer or Town Clerk and all parties to said appeal.

§21. Effect of making application.

Any person or persons who shall execute an application on behalf of any authorized organization shall, by the making of such application, warrant that he is familiar with the provisions of state law and the rules and regulations of the Board which may be applicable to such license and agrees to abide thereby.

§22 Effect of invalidity.

If any clause, sentence, phrase, paragraph or any part of this local law shall for any reason be adjusted finally by a Court of competent jurisdiction to be invalid, such judgment shall not effect, impair or invalidate the remainder of this local law, but shall be confined in its operation and effect to the clause, sentence, phrase, paragraph or any part thereof, directly involved in the controversy or action in which such judgment shall have been rendered. It is hereby intended to be the legislative intent that the remainder of this local law would have been adopted had any such provisions not been included.

§23. Referendum.

This local law shall be submitted for the approval of the electors of the Town of Delaware at the general election of local government officers in such Town to be held on November 2, 1999 in accordance with §23 of the Municipal Home Rule Law of the State of New York.

§24. Effective date.

This local law shall take effect immediately upon filing in the office of the Secretary of State following approval upon Referendum.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

~~1. (Final adoption by local legislative body only.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)~~

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 19 99 of the ~~(County)(City)(Town)(Village)~~ of Delaware was duly passed by the Town Board on August 18 19 99, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted to the people by reason of a (mandatory)(~~permissive~~) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(~~special~~)(~~annual~~) election held on November 2 19 99, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)

~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body) (Elective Chief Executive Officer*)~~

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

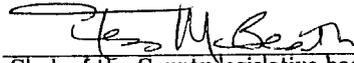
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.~~

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19 _____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

~~(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)~~

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 3, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
TESS MCBEATH, Town Clerk

Date: November 10, 1994

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
COUNTY OF Sullivan

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature KENNETH C. KLEIN

Town Attorney
Title

~~County~~
~~City~~ of Delaware
~~Town~~
~~Village~~

Date: _____