

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, APPROVING THE CONTINUED RECEIPT OF THE CITY'S SHARE OF BINGO PRIZE FEE FUNDS; AMENDING CHAPTERS 2 AND 8 OF THE MESQUITE CITY CODE, AS AMENDED, BY DELETING SECTION 2-61, IN ITS ENTIRETY, IN CHAPTER 2 FOR THE PURPOSE OF REMOVING THE ONE PERCENT GROSS RECEIPTS TAX NO LONGER RECOGNIZED BY THE TEXAS BINGO ENABLING ACT; AND BY ADDING A NEW ARTICLE XIV ENTITLED "GAMING" TO CHAPTER 8 AND ADDING A NEW SECTION 8-881 ENTITLED "BINGO" FOR THE PURPOSE OF PROVIDING FOR THE CONTINUED RECEIPT OF THE CITY'S SHARE OF BINGO PRIZE FEE FUNDS; PROVIDING A REPEALING CLAUSE; PROVIDING A SEVERABILITY CLAUSE; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, on March 1, 1982, Resolution No. 4-82 was adopted whereby the City Council of the City of Mesquite, Texas ("City Council"), called for a special election in the City of Mesquite ("City") to be held on April 3, 1982, for legalizing Bingo Games for charitable purposes as authorized by the Texas Bingo Enabling Act (currently codified as Texas Occupations Code, Title 13, Subtitle A, Chapter 2001 Bingo)(the "Bingo Enabling Act"); and

WHEREAS, on April 3, 1982, Resolution No. 7-82 was adopted declaring the results of the canvass of votes upon the issue of legalization of Bingo in the City whereby Bingo was legalized; and

WHEREAS, on April 19, 1982, Council Action No. 176-82, the City Council moved and approved unanimously to authorize preparation of an ordinance levying a two percent gross franchise tax on charitable Bingo games; and

WHEREAS, on May 3, 1982, Ordinance No. 1780 was adopted levying a two percent *gross receipts tax* on Bingo games; and

WHEREAS, on September 12, 1983, Ordinance No. 1927 was adopted levying a one percent *gross receipts tax* on Bingo; and

WHEREAS, the State no longer recognizes a *gross receipts tax* on Bingo; instead, a *bingo prize fee* is collected in its place; and

WHEREAS, this year the 86th Legislature of the State of Texas enacted H.B. No. 914 amending various sections in the Bingo Enabling Act; and

WHEREAS, the Texas Lottery Commission ("TLC") sent a letter to Mayor Stan Pickett, dated July 17, 2019, attached hereto as Exhibit "A" and made a part hereof for all purposes (the "letter from TLC"), alerting the City to the changes to the Bingo Enabling Act; and

WHEREAS, the letter from TLC states currently non-profit charitable organizations conducting bingo collect a five percent fee on prizes awarded and said *bingo prize fee* is submitted each quarter to the TLC, which in turn TLC remits a *pro rata* share of the *bingo prize fee* collected to the City of Mesquite at the end of each fiscal year; and

WHEREAS, the letter from TLC also states the City of Mesquite currently receives a share of the *bingo prize fee* on charitable bingo activity because the City elected to do so prior to September 1, 1993; and

WHEREAS, the letter from TLC further states H.B. No. 914 changes the collection and remittance of the prize fees whereby the City will no longer receive its *bingo prize fee* payments from the TLC at the end of the fiscal year; instead, the licensed organizations conducting bingo in the local jurisdiction will be responsible for sending eligible local governments 50 percent of the *bingo prize fees* they collect on a quarterly basis; and

WHEREAS, lastly, the letter from TLC states effective January 1, 2020, the City shall only continue to receive a share of the *bingo prize fee* collected after January 1, 2020, only if the governing body meets certain requirements; and

WHEREAS, as set forth in Section 11 of H.B. 914, the City Council must do the following to continue to receive a share of the *bingo prize fee*: (1) the City Council must approve the continued receipt of its share of *bingo prize fee* funds by a majority vote; (2) notify the TLC of the City Council's decision no later than November 1, 2019; and (3) notify each licensed authorized organization within the City's jurisdiction of the continued imposition of the *bingo prize fee*; and

WHEREAS, the Finance Department of the City seeks approval by the City Council for the continued receipt of the City's share of *bingo prize fee* funds which is in the public interest.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. The City Council hereby finds and determines the recitals made in the preamble of this ordinance are true and correct, and hereby incorporates such recitals here in the body of this ordinance as if copied in their entirety.

SECTION 2. The City Council hereby approves and imposes the continued receipt of its share of *bingo prize fee* funds as authorized by the 86th Legislature of the State of Texas in H.B. No. 914 codified at Section 2001.502 of the Bingo Enabling Act.

SECTION 3. The City Secretary is hereby authorized and directed to notify the TLC, no later than November 1, 2019, of the City Council's decision by delivering to the TLC the required form and attestation titled *Texas Lottery Commission – Charitable Bingo Division, Bingo Prize Fee Funds, County/Municipality Governing Body Vote Verification Notice*, attached hereto as Exhibit "B" and made a part hereof for all purposes (the "TLC Bingo Prize Fee Vote Verification Attestation Form").

SECTION 4. The City Manager, or his designee, is hereby authorized and directed to notify each licensed authorized organization within the City's jurisdiction of the continued imposition of the *bingo prize fee* as authorized by the Bingo Enabling Act.

SECTION 5. The Bingo Enabling Act no longer recognizes a *gross receipts tax* on Bingo; therefore, effective January 1, 2020, Chapter 2 of the Mesquite City Code, as amended, is hereby amended by deleting Section 2-61 in its entirety and in all other respects said Code and Chapter shall remain in full force and effect.

SECTION 6. The Bingo Enabling Act no longer recognizes a *gross receipts tax* on Bingo, but instead authorizes a *bingo prize fee*; therefore, effective January 1, 2020, Chapter 8 of the Mesquite City Code, as amended, is hereby amended by adding a new Article XIV GAMING, Section 8-881 Bingo, to read as follows, and in all other respects said Code and Chapter shall remain in full force and effect:

* * *

ARTICLE XIV. – GAMING

Sec. 8-880. – Reserved.

Sec. 8-881. – Bingo.

(a) *In general.* A special election was held on April 3, 1982, whereby Bingo Games were legalized for charitable purposes in the City of Mesquite as authorized by the Texas Bingo Enabling Act (currently codified at Texas Occupations Code, Title 13, Subtitle A, Chapter 2001 Bingo).

(b) *Bingo prize fee.*

(1) *Authority.* As of January 1, 2019, the City was entitled to receive a portion of bingo prize fees as authorized by the Bingo Enabling Act. Prior to November 1, 2019, the City Council, by majority vote, approved the continued receipt of its share of bingo prize fee funds and notified the Texas Lottery Commission of said decision. In addition, the City notified each licensed authorized organization within the City's jurisdiction of the continued imposition of the fee.

(2) *Collection and remittance of bingo prize fee funds.* Effective January 1, 2020, a licensed authorized organization or unit as defined in Section 2001.431 of the Bingo Enabling Act shall collect from a person who wins a cash bingo prize of more than five dollars a fee in the amount of five percent of the amount of the prize. The licensed authorized organization or unit shall remit the bingo prize fee to the Texas Lottery Commission, the City and any other applicable local governing authorities in the portions set forth and in accordance with the Bingo Enabling Act, as amended.

(3) *Deposit of City portion of bingo prize fee funds.* The City shall deposit the revenue collected from the bingo prize fee, imposed by the Bingo Enabling Act, to the credit of the general fund.

State Law reference— Prize Fee, V.T.C.A. Occupations Code, § 2001.502.

Secs. 8-882 – 8.889. – Reserved.

* * *

SECTION 7. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 8. Should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 9. Section 5 and Section 6 of this ordinance shall take effect January 1, 2020. The remaining portions of this ordinance shall take effect immediately from and after its passage and it is accordingly so passed and approved.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 16th day of September 2019.

Stan Pickett
Mayor

ATTEST:

Sonja Land
City Secretary

APPROVED AS TO LEGAL FORM:



David L. Paschall
City Attorney



Texas Lottery Commission

Commissioners:

J. Winston Krause, Chairman

Mark A. Franz • Robert Rivera

EXHIBIT "A"



Michael P. Farrell
Director

July 17, 2019

Mayor Stan Pickett
City of Mesquite
PO Box 850137
Mesquite, TX 75185-0137

RECEIVED

JUL 23 2019

CITY OF MESQUITE
CITY SECRETARY

Dear Mayor Pickett:

The Texas Lottery Commission (TLC), Charitable Bingo Operations Division, is providing this notification because your county and/or municipality currently receives a share of the prize fees collected on charitable bingo activity that occurs in its jurisdiction.

Pursuant to House Bill (HB) 914, enacted by the 86th Texas Legislature, in order to continue to receive a share of bingo prize fees after Jan. 1, 2020, your county and/or municipal governing board must affirmatively vote to do so and submit proof of that vote to the TLC by Nov. 1, 2019. If no eligible local governments vote to continue receiving their share of the prize fee, the bingo organizations will keep that share for themselves to fund their charitable purposes.¹

Currently, non-profit charitable organizations conducting bingo collect a 5% fee on prizes awarded. These funds are submitted each quarter to the TLC, which in turn remits a *pro rata* share of the funds to local governments at the end of each fiscal year. Your county and/or municipality receives a share of the bingo prize fees because it elected to do so prior to Sept. 1, 1993.

Effective Jan. 1, 2020, H.B. 914 includes another change regarding the collection and remittance of prize fees. Local governments will no longer receive their bingo prize fee payments from the TLC at the end of the fiscal year; instead, the licensed organizations conducting bingo in the local jurisdiction will be responsible for sending eligible local governments 50% of the prize fees they collect on a quarterly basis.

The most immediate matter for your attention is that your local government will only continue to receive a share of the bingo prize fees collected after Jan. 1, 2020 if it meets the requirements set forth in HB 914 that require your governing body to:

- (1) approve the continued receipt of the share of bingo prize fee funds by a majority vote; and**
- (2) notify the TLC of that decision no later than Nov. 1, 2019; and**
- (3) notify each licensed authorized organization within the county's or municipality's jurisdiction, as applicable, of the continued imposition of the fee.**

¹ For the full text of H.B. 914, see <https://legiscan.com/TX/text/HB914/id/2027641>

This notification is being provided to inform you of the new statutory requirements. We will provide a further communication in the coming months that will include more information and a prescribed form that will need to be submitted to the agency's Charitable Bingo Operations Division to verify that a vote took place.

Please let us know as soon as possible if there is a specific contact person or office to direct our future correspondence, and that will serve as your county and/or municipality's official address of record for notification purposes. Without a dedicated address for this purpose, it is possible that future communications may be misdirected. This could result in your county and/or municipality *permanently* losing its share of bingo prize fees.

If you have any questions, email us at bingo.services@lottery.state.tx.us or call 800-246-4677.

Sincerely,

A handwritten signature in blue ink, appearing to read "Michael P. Farrell". The signature is fluid and cursive, with the first name "Michael" being more prominent than the last name "Farrell".

Michael P. Farrell
Director
Charitable Bingo Operations Division

**TEXAS LOTTERY COMMISSION – CHARITABLE BINGO DIVISION
BINGO PRIZE FEE FUNDS
COUNTY/MUNICIPALITY GOVERNING BODY VOTE VERIFICATION
NOTICE**

This form serves as the required notice to the Texas Lottery Commission (Commission) that a county or municipality has fulfilled two of the requirements of House Bill 914, 86th Texas Legislature (H.B. 914) that are necessary for that county or municipality to continue to receive a share of bingo prize fees after January 1, 2020. Specifically, Section 11 of H.B. 914 provides:

- “(a) a county or municipality may receive a portion of the prize fee...only if:
- (1) The county or municipality was entitled to receive a portion of a bingo prize fee as of January 1, 2019; and
 - (2) The governing body of the county or municipality:
 - (A) by majority vote of the members of the governing body approves the continued receipt of funds under that section and notifies the Texas Lottery Commission of that decision not later than November 1, 2019; and
 - (B) notifies each licensed authorized organization within the county’s or municipality’s jurisdiction, as applicable, of the continued imposition of the fee.”

Your county/municipality should consult with an attorney if you have any questions about complying with the provisions of H.B. 914.

This form is only an attestation that certain requirements set forth in H.B. 914 have been fulfilled.

Accordingly, the undersigned county or municipal representative hereby swears and affirms that:

- (1) the county or municipality was entitled to receive a share of a bingo prize fee as of January 1, 2019; and
- (2) the governing body of the county or municipality approved the continued receipt of the share of bingo prize fee funds by a majority vote.

Name of County or Municipality

Authorized Signature (Name and Title) Date

**TEXAS LOTTERY COMMISSION – CHARITABLE BINGO DIVISION
BINGO PRIZE FEE FUNDS
COUNTY/MUNICIPALITY GOVERNING BODY VOTE VERIFICATION
NOTICE**

State of Texas

County of _____

This form attesting to the fulfillment of the requirements of H.B. 914 was acknowledged before

me on _____ by _____ as _____ of
(date) (name of representative) (title of representative)

(name of county or municipality)

(Personalized Seal)

Notary Public's Signature