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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.

~~County~~

~~City~~

~~Town~~

~~Village~~

of WESTERLO

Local Law No. 1 of the year 1986

A local law to permit GAMES OF CHANCE

(Insert Title)

Be it enacted by the Town Board of the

(Name of Legislative Body)

~~County~~

~~City~~

~~Town~~

~~Village~~

of WESTERLO

as follows:

Town of WESTERLO, New York

LOCAL LAW NO. 1 of the Year 1985

A local law to permit GAMES OF CHANCE

Be it enacted by the Town Board of the Town of WESTERLO as follows:

- Section 1. Origin and source of authority.
- Section 2. Definitions and word usage.
- Section 3. Enforcement.
- Section 4. License required.
- Section 5. Application for license to conduct games of chance.
- Section 6. Restrictions on conduct of games of chance.
- Section 7. Investigation; matters to be determined; insurance of licenses, fees; duration of license.
- Section 8. Hearings; appeals; amendment of licenses.
- Section 9. Form and content of licenses; display of license.
- Section 10. Control and supervision; suspension of licenses; inspection of premises.
- Section 11. Mandatory post games of chance procedure.
- Section 12. Prohibitions; penalties for offenses.

SECTION 1. ORIGIN AND SOURCE OF AUTHORITY.

This chapter is subject and subordinate to all the conditions and provisions contained in Article 9.A of the General Municipal Law, and amendments thereto, and any and all rules and regulations and opinions adopted or to be adopted by the New York State Racing and Wagering Board.

SECTION 2. DEFINITIONS AND WORD USAGE.

- A. As used in this chapter, the terms "authorized games of

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chance lessor," "authorized supplier of games of chance equipment," "games of chance," "lawful purposes," "net lease," "net proceeds," "one occasion" and "prize" shall have the meanings designated in the definitions set forth in Article 9.A of the General Municipal Law.

B. As used in this chapter, the following terms shall have the meanings indicated:

LICENSED PERIOD - A period of time not to exceed fourteen (14) consecutive hours.

OFFICER - The chief law enforcement officer of the County of Albany.

STATE BOARD - The New York State Racing and Wagering Board.

TOWN BOARD - The Town Board of the Town of Westerlo.

TOWN CLERK - The Town Clerk of the Town of Westerlo.

C. Words singular in form may include the plural and words plural in form may include the singular; and words in the masculine gender shall include the feminine and neuter genders.

SECTION 3. Enforcement.

The Town Clerk is hereby delegated the authority granted to the Town Board by Article 9.A of the General Municipal Law, entitled "Local Option for Conduct of Games of Chance by Certain Organizations," in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings and the collection and transmission of fees.

SECTION 4. LICENSE REQUIRED.

No person, firm, association, corporation or organization other than an authorized organization licensed under the provisions of this chapter shall be permitted to conduct games of chance within the territorial limits of the Town of Westerlo.

SECTION 5. APPLICATION FOR LICENSE TO CONDUCT GAMES OF CHANCE.

A. Each applicant for a license, after obtaining an identification number from the State Board, shall file with the Town Clerk a written application therefor in a form to be prescribed by the State Board or the Town Clerk, duly executed and verified, in which shall be stated:

1. The name and address of the applicant, together with sufficient facts relating to its incorporation and organization to enable the Town Clerk to determine whether or not it is a bona fide authorized organization.

2. The names and addresses of its officers and the place where and the date and time when the applicant intends to conduct games of chance under the license applied for.

3. The amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this chapter to conduct games of chance or for the use of the premises of an authorized games of chance lessor.

4. All other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of games of chance; and the names and addresses of the persons to whom and the purposes for which they are to be paid.

5. The purposes to which the entire net proceeds of the games of chance are to be devoted and in what manner; and that no commission, salary, compensation, reward or recompense will be paid to any person for conducting games of chance or for assisting therein, except as otherwise provided in Article 9.A of

the General Municipal Law.

6. That no member of the applicant has ever been convicted of a crime or if convicted, that he has received a pardon or a certificate of good conduct.

7. Any other information as shall be prescribed by the rules and regulations promulgated by the State Board.

B. In each application there shall be designated not less than four (4) active members of the applicant organization under whom the 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 the games of chance in accordance with the terms of the license. Article 9.A of the General Municipal Law, the provisions of this chapter, and the rules and regulations of the State Board.

C. 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 State Board or the Town Clerk, duly executed and verified, which shall set forth the name and address of the applicant; the designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization", set forth in Article 9.A of the General Municipal Law; and any other information as shall be prescribed by the State Board and the provisions of this chapter.

SECTION 6. RESTRICTIONS ON CONDUCT OF GAMES OF CHANCE.

A. No person, firm, association, corporation, or organization other than a licensee under the provisions of this chapter shall conduct a game of chance or shall lease or otherwise make available for conducting games of chance a hall or other premises for any consideration whatsoever, directly or indirectly, except as provided in Section 5 of this chapter.

B. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid wholly or partly on the basis of a percentage of the receipts or net profits derived from the operation of a game of chance.

C. No authorized organization licensed under the provisions of this chapter shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than an authorized supplier of games of chance equipment licensed by the State Board or from another authorized organization.

D. The entire net proceeds of any game of chance and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

E. No prize shall exceed the sum or value of one hundred dollars (\$100) in any operation or conducting of a single game of chance. No single wager shall exceed ten dollars (\$10).

F. No series of prizes on any one (1) occasion of games of chance shall aggregate more than one thousand dollars (\$1,000).

G. No person except a bona fide member of any authorized organization or its auxiliary or affiliated organization shall participate in the management or operation of a game of chance as set forth in Section 12 of this Chapter.

H. No person shall receive any remuneration for participating in the management or operation of any game of chance.

I. The conduct of games of chance on Sunday is only permitted when it is specifically provided for in the license

issued. No games of chance, however, shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

SECTION 7. INVESTIGATION: MATTERS TO BE DETERMINED: ISSUANCE OF LICENSES: FEES: DURATION OF LICENSE.

A. 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.

B. If the Town Clerk shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this chapter; that the member of the applicant designated in the application to conduct games of chance is a bona fide active member of the applicant and is a person of good moral character and has never been convicted of a crime, if convicted, has received a pardon or a certificate of good conduct; that such games of chance are to be conducted in accordance with the provisions of this chapter and in accordance with the rules and regulations of the State Board and that the proceeds thereof are to be disposed of as provided by this chapter; and if the Town Clerk is satisfied that no commission, salary, compensation, reward or recompense whatsoever shall be paid or given to any person holding, operating, conducting or assisting in holding, operating or conducting any games of chance, except as otherwise provided in this chapter; and that no prize will be given in excess of the sum or value of one hundred dollars (\$100) in any single game of chance and that the aggregate of all prizes given on one (1) occasion under said license shall not exceed the sum or value of one thousand dollars (\$1,000), the Town Clerk 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) for each license period.

C. If the Town Clerk shall determine that the applicant seeking to lease a hall or premises for the conduct of games of chance to an authorized organization is duly qualified to be licensed under this chapter; that the applicant satisfies the requirements for an authorized games of chance lessor as defined in Article 9.A of the General Municipal Law; that the Town Clerk shall find and determine that there is a public need and that a public advantage will be served by the issuance of the license; that the applicant has filed its proposed rent for each game of chance occasion; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in Article 9.A of the General Municipal Law; and that the leasing of a hall or premises for the conduct of games of chance is to be in accordance with the provisions of this chapter and in accordance with the rules and regulations of the State Board, he shall issue a license permitting the applicant to lease said premises for the conduct of games of chance to the authorized organization set forth in the application during the period therein specified or such shorter period as the Town Clerk shall determine but not to exceed one (1) year upon payment of a license fee of fifty dollars (\$50).

D. Under this chapter, no license shall be issued which shall be effective for a period of more than one (1) year.

SECTION 8. HEARINGS: APPEALS, AMMENDMENT OF LICENSES.

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

B. Any applicant for or holder of any license hereunder aggrieved by any action of the Town Clerk to which an application has been made or by which a license has been issued may appeal to the State Board from the determination of the Town Clerk by filing with the Town Clerk written notice of appeal within thirty (30) days after the determination or action appealed from; and, upon the hearing of such appeal, the evidence, if any, taken

before the Town Clerk and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue. The action of the State Board upon said appeal shall be binding upon the Town Clerk and all parties to said appeal.

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

SECTION 9. FORM AND CONTENT OF LICENSES; DISPLAY OF LICENSES.

A. Each license to conduct games of chance shall be in a form as shall be prescribed in the rules and regulations promulgated by the State Board or the Town Clerk and shall contain a statement of the name and address of the licensee, the name and address of each member of the licensee under whom the games of chance shall be conducted, the place where and the date and time when the games of chance are to be conducted and the purposes to which the entire net proceeds of the games of chance are to be devoted. If any prizes are to be given in cash, a statement of the amounts of the prizes authorized so to be given and any other information which may be required by said rules and regulations shall be contained therein. Each license issued for the conduct of any games of chance shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

B. Each license to lease premises for conducting games of chance will be in a form as shall be prescribed in the rules and regulations of the State Board or the Town Clerk and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any other information which may be required by said rules and regulations. Each license shall be conspicuously displayed upon the premises at all times during the conduct of the games of chance.

SECTION 10. CONTROL AND SUPERVISION; SUSPENSION OF LICENSES; INSPECTION OF PREMISES.

A. The officer shall have and exercise rigid control and close supervision over all games of chance conducted under each license, to the end that the same are fairly conducted in accordance with the provisions of said license, the provisions of this chapter and the provisions of the rules and regulations promulgated by the State Board. The officer and the State Board shall have the power and authority to temporarily suspend any license issued by the Town Clerk pending a hearing. The officer and State Board shall have the right of entry, by their respective officers and agents, at all times, into any premises where any game of chance is being conducted or intended to be conducted or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting same. An agent of the appropriate officer shall make an on-site inspection during the conduct of all games of chance licensed pursuant to this chapter.

B. Subject to the applicable provisions of the Alcoholic Beverage Control Law, beer may be offered for sale during the conduct of games of chance, but the offering of all other alcoholic beverages is prohibited.

SECTION 11. MANDATORY POST GAMES OF CHANCE PROCEDURE.

A. Within seven (7) days after the conclusion of any licensed period, the authorized organization which conducted the games of chance, 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 and the State Board 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; each item of expense incurred or paid; each item of expenditure made or to be made, other than prizes; the name and address of each person to whom each 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 the games of chance during the licensed period and the use to which such proceeds have been or are to be applied; and a list of the prizes and the valued thereof offered or given. The authorized organization shall, at the same time furnish to the officer and to the Treasurer of Albany County a copy of the summary of admissions and receipts (control summary) which is included in the foregoing statement. 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 statement of receipts.

B. Upon filing the statement of receipts, the authorized organization furnishing same shall pay to the Treasurer of Albany County, as and for an additional license fee, a sum based upon the reported net proceeds, if any, for the licensed period covered by the statement and determined in accordance with the schedule as shall be established from time to time by the State Board to defray the actual cost to the County of Albany of administering the provisions of this chapter; but said additional license fee shall not exceed five percent (5%) of the net proceeds for said license period.

C. Examination of Records.

1. The officer, Town Clerk and State Board shall have the power to examine or cause to be examined the books and records of:

a. Any authorized organization which is or has been licensed to conduct games of chance, as far as they may relate to games of chance, including the maintenance, control and disposition of the 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 games of chance under any license, the use of its premises for games of chance or the disposition of the net proceeds derived from games of chance, as the case may be.

b. Any authorized games of chance lessor, as far as the same 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 said leasing.

2. Any information so received shall not be disclosed except for the purpose of carrying out the provisions of this chapter.

SECTION 12. PROHIBITIONS; PENALTIES FOR OFFENSES.

A. No person under the age of eighteen (18) shall be permitted to attend, to conduct or to assist in the conduct of any game of chance conducted pursuant to any license issued under this chapter.

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

C. No person shall operate or conduct any games of chance

under any license issued under this chapter except an active member of the authorized organization to which the license is issued, and no person shall assist in holding, operating or conducting any games of chance under any license except 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 is an auxiliary or a member of an organization or association which is affiliated with the licensee by being with it, auxiliary to another organization or association. 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 such authorized organization, auxiliary or affiliated organization.

D. No games of chance shall be conducted with any equipment except that owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee.

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 chapter 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 State Board; janitorial services and utility supplies, if any; license fees; and the cost of bus transportation, if authorized by the officer.

F. Not more than two dollars (\$2) shall be charged by any licensee for admission to any room or place in which any games of chance are to be conducted under any license issued under this chapter. Every winner shall be determined and every prize shall be awarded and delivered on the same calendar day as the game was played.

G. No games of chance conducted or to be conducted in the Town of Westerlo shall be advertised as to its location, the time when it is to be or had been played, the prizes awarded or to be awarded or transportation facilities to be provided to such games by means of newspaper, 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 owned or occupied by a licensed authorized organization; and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one (1) additional such sign may be displayed on or adjacent to the premises in which the games of chance are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensee which is a volunteer fire company, or upon any first aid or rescue squad in and throughout the community or communities served by such volunteer fire company or such first aid or rescue squad.

H. No person, association, corporation or organization lawfully conducting or participating in the conduct of games of chance or permitting the conduct upon any premises owned or leased by him or it under any license issued hereunder shall be liable to prosecution or conviction for violation of any provision of Article 225 of the Penal Law or any other law or ordinance to the extent that such conduct is specifically authorized by this chapter. However, this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for a license or otherwise, or permitting the conduct upon any premises owned or leased by him or it any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

I. Any person, association, corporation or organization who

or which shall make any material false statement in any application for any license issued pursuant to this chapter shall pay or receive a rental in excess or the amount specified as the permissible rent in the license provided for in Section 5 of this chapter for the use of any premises for conducting games of chance; shall fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance; shall falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization; or shall divert or pay any portion of the net proceeds of any game of chance to any person association or corporation except in furtherance of one (1) or more of the lawful purposes defined in this chapter, shall be guilty of a misdemeanor and shall forfeit any license issued under this chapter and be ineligible to apply for a license under this chapter for at least one (1) year thereafter.

J. Any person, association, corporation or organization holding, operating or conducting games of chance shall be guilty of a misdemeanor, except when operating, holding or conducting:

1. In accordance with a valid license issued pursuant to this chapter, or

2. On behalf of a bona fide organization of persons sixty (60) years of age or over commonly referred to as "senior citizens" solely for the purpose of amusement and recreation of its members where:

a. The organization has applied for and received an identification number from the State Board.

b. No player or other person furnishes anything of value for the opportunity to participate.

c. The prizes awarded or to be awarded are nominal.

d. No person other than a bona fide active member of the organization participates in the conduct of games of chance.

e. No person is paid for conducting or assisting in the conduct of the games of chance.

K. No alcoholic beverage, with the exception of beer, shall be sold at any games of chance.

L. No alcoholic beverage shall be offered or given as a prize in any games of chance.

M. The unauthorized conduct of a game of chance shall constitute a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500) or imprisonment for a period not to exceed six (6) months for each offense, or by both such fine and imprisonment. In addition, the unauthorized conduct of a game of chance, as outlined in Subsection I hereunder, shall result in a forfeiture of any license issued under this chapter and shall bar the person, firm, corporation, association or organization from applying for a license under this chapter for at least one (1) year at the discretion of the State Board.

SECTION 13.

This law shall be presented at a public hearing to be held on not less than five (5) days notice and shall thereafter be submitted to a vote at a special election to be held no sooner than sixty (60) days after its adoption.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein 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.....
County
City
of the Town of was duly passed by the
Village (Name of Legislative Body)
on 19..... in accordance with the applicable provisions of law.

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

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

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. of 19.86...
~~County~~
~~City~~
of the Town of Westerlo was duly passed by the Town Board
~~Village~~ (Name of Legislative Body)
on November 6, 19.86... and was approved by the N/A
~~not disapproved~~ Elective Chief Executive Officer *
~~repassed after disapproval~~
on 19..... Such local law was submitted to the people by reason of a
mandatory referendum, and received the affirmative vote of a majority of the qualified electors voting
~~permissive~~ thereon at the special election held on February 6, 1986..., in accordance with the appli-
~~annual~~ cable provisions of law.

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

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

*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 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 § 36 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 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 paragraph3..... above.


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

Date: February 12, 1986

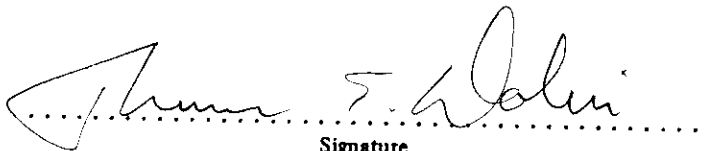
(Seal)

(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 ...ALBANY.....

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
.....
Town Attorney
.....
Title

Date: February 12, 1986

County
Cityx of ...Westerlo.....
Town
Villagex

