

(Please Use this Form for Filing your Local Law with the Secretary of State)

Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

~~County~~
~~City~~ of Cohocton
~~Town~~
Village

Local Law No. 1 of the year 19 90

A local law "Amending Local Law #1 of the year 1978 cited as Games of Chance Licensing Law" (insert title)

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

~~County~~
~~City~~ of Cohocton
~~Town~~
Village as follows:

1. Section 1 of Local Law #1 of the year 1978 is repealed and in place and instead of the same, the following is substituted:

1. Definitions

- a) The words and terms used in this Local Law shall have the same meaning as such words and terms used in Article 9-A of the General Municipal Law unless otherwise provided herein or the context requires a different meaning.
- b) "Village" shall mean Village of Cohocton, New York.
- c) "Officer" shall mean the Sheriff of the County of Steuben.

2. This Local Law shall take effect thirty (30) days following the date of enactment.

(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.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 90

~~County~~
~~City~~ of Cohocton was duly passed by Village Board
~~Town~~ Village (Name of Legislative Body)

on February 15, 19 90 in accordance with the applicable provisions of law.

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

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19

County
City of was duly passed by
Town (Name of Legislative Body)
Village

on 19 and was approved by the
not disapproved repassed after disapproval Elective Chief Executive Officer

and was deemed duly adopted on 19, in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19

County
City of was duly passed by the
Town (Name of Legislative Body)
Village

on 19 and was approved by the
not disapproved repassed after disapproval Elective Chief Executive Officer

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 thereon at the special election held on 19, in accordance with the applicable provisions of law.

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

4. I hereby certify that the local law annexed hereto, designated as local law No. of 19

County
City of was duly passed by the
Town (Name of Legislative Body)
Village

..... 19 and was approved by the
not disapproved 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 board of supervisors, 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.

(Please Use this Form for Filing your 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.

~~County~~
~~City~~ of Cohocton
~~Town~~
Village

Local Law No. 1 of the year 19 78

A local law cited as Games of Chance Licensing Law
(insert title)

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

~~County~~
~~City~~ of Cohocton
~~Town~~
Village as follows:

§ 1. Definitions: As used in this Local Law the following terms shall have the following meanings:

1. "Municipality" shall mean Village of Cohocton.
2. "Board" shall mean New York State racing and wagering board.
3. "Games of Chance" shall mean and include specific games of chance, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo or lotto" which are controlled under article fourteen - H of this chapter and also not including "slot machines", "bookmaking", and "policy or numbers games" as defined in section 225.00 of the penal law. No games of chance shall involve wagering of money by one player against another player.
4. "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational or service organization or bona fide organization of veterans or volunteer fireman, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this article, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of three years immediately prior to applying for a license under this article.

No organization shall be deemed an authorized organization which is formed primarily for the purpose of conducting games of chance and the distribution of the proceeds thereof to itself or any other organization and which does not devote at least seventy-five percent of its activities to other purposes set forth in this subdivision. No political party shall be deemed an authorized organization.

5. "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.

(b) Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures;

(c) Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

6. "Net proceeds" shall mean (a) in relation to the gross receipts from one or more occasions of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for 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, license fees, and the cost of bus transportation, if authorized by the division and (b) in relation to the gross rent received by an organization licensed to conduct such games for the use of its premises by another licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

7. "Net lease" shall mean a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any non-commercial or non-profit organization for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regular recurring expenses incident to the operation and maintenance of such leased premises.

8. "Authorized games of chance lessor" shall mean an authorized organization which has been granted a lessor's license pursuant to the provisions of this article or a municipality.

9. "Prize" shall mean a sum of money or item or merchandise awarded by the authorized organization to a participant in any one operation or conducting of a game of chance in which participants utilize currency for participation and in which those who are not winners surrender their participating currency at the conclusion of the single operation of such game of chance. No prize for any one participant in any one operation or conducting of such single game of chance shall exceed the sum of one hundred dollars. If a prize is awarded based on odds, only that portion in excess of the winning participants bet shall be considered as a prize.

For the purposes of this subdivision, the value of a prize which consists of merchandise shall be the actual cost of the item of such merchandise.

10. "Authorized supplier of games of chance equipment" shall mean any person, firm, partnership or organization licensed by the board to sell or lease games of chance equipment or paraphernalia which meets the specifications and regulations established by the board. Nothing herein shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed by an authorized organization shall be sold or leased to any other authorized organization, without written permission from the board.

11. "One occasion" shall mean the conducting of any one type of game of chance during any one license period. No series of prizes on any one occasion shall aggregate more than one thousand dollars.

12. "Licensed period" shall mean a period of time not to exceed fourteen consecutive hours.

13. "Clerk" shall mean the Clerk of the Village of Cohocton.

14. "Officer" shall mean Village of Cohocton Police Chief.

§ 2. Powers and duties of the board. The board shall have the power and it shall be its duty to:

1. Supervise the administration of the games of chance licensing law and to adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the conducting of games under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses, and upon licensees of the board, to the end that such licenses shall be issued to qualified licensees only, and that said games shall be fairly and properly conducted for the purposes and in the manner of the said games of chance licensing law prescribed and to prevent the games of chance thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in and by criminal or other undesirable elements and the funds derived from the games being diverted from the purposes authorized, and to provide uniformity in the administration of said law throughout the state, the board shall prescribe forms of application for licenses, licensees, amendment of licenses, reports of the conduct of games and other matters incident to the administration of such law;

2. Conduct, anywhere in the state, investigations of the administration, enforcement and potential or actual violations of the games of chance licensing law and of the rules and regulations of the board.

3. Review all determinations and actions of the clerk or department in issuing an initial license and it may review the issuance of subsequent licenses and, after hearing, revoke those licenses which do not in all respects meet the requirements of this article and the rules and regulations of the board.

4. Suspend or revoke a license, after hearing, for any violation of the provisions of this article or the rules and regulations of the board.

5. Hear appeals from the determinations and action of the clerk, department or officer in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the board upon any such appeal shall be binding upon the clerk, department or officer and all parties thereto.

6. Carry on continuous study of the operation of the games of chance licensing law to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this article, and to formulate and recommend changes in such law and in other laws of the state which the board may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws which may be in effect in other states of the United States.

7. Supervise the disposition of all funds derived from the conduct of games of chance by authorized organizations not currently licensed to conduct such games;

8. Issue an identification number to an applicant authorized organization if it shall determine that the applicant satisfies the requirements of the games of chance licensing law and the rules and regulations of the board.

9. The board shall have the power to approve and establish a standard set of games of chance equipment and shall by its rules and regulations prescribe the manner in which such equipment is to be reproduced and distributed to license authorized organizations. The sale or distribution to a licensed authorized organization of any equipment other than that contained in the standard set of games of chance equipment shall constitute a violation of this section.

§ 3. Restrictions upon conduct of games of chance. The conduct of games of chance authorized by local law or ordinance shall be subject to the following restrictions irrespective of whether the restrictions are contained in such local law or ordinance, but nothing herein shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of such games:

1. No person, firm, association, or corporation or organization, other than a license under the provisions of this article, shall conduct such game or shall lease or otherwise make available for conducting games of chance a hall or other premises for any consideration whatsoever, direct or indirect, except as provided in section four of this article.

2. 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 such games.

3. No authorized organization licensed under the provisions of this article shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the board or from another authorized organization.

4. 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.

5. No prize shall exceed the sum or value of one hundred dollars in any operation or conducting of a single game of chance as provided in section one of this article.

No single wager shall exceed ten dollars.

6. No series of prizes on any one occasion of games of chance shall aggregate more than one thousand dollars as provided in section one of this article.

7. No person except a bona fide member of any such organization, its auxiliary or affiliated organization, shall participate in the management or operation of such game, as set forth in section nine of this article.

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

9. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

§ 4. Application for license. 1. To conduct games of chance. (a) Each applicant for a license shall, after obtaining an identification number from the board, file with the clerk or department, a written application therefor in a form to be prescribed by the board, duly executed and verified, in which shall be stated:

(1) The name and address of the applicant together with the sufficient facts relating to its incorporation and organization to enable such clerk or department, as the case may be, to determine whether or not it is a bona fide authorized organization;

(2) the names and addresses of its officers; the place or places where, the date or dates and the time and times when the applicant intends to conduct games 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 article to conduct such games 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 such 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 such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such game or games or for assisting therein except as in this article otherwise provided; and such other information as shall be prescribed by such rules and regulations.

(b) In each application there shall be designated not less than four active members of the applicant 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 to designated, that they will be responsible for the conduct of such games in accordance with the terms of the license, and the rules and regulations of the board and of this article.

2. Authorized games of chance lessor: 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 clerk or department, a written application therefor in a form to be prescribed by the board duly-executed and verified, which shall set forth the name and address of the applicant, 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 section one of this article, and such other information as shall be prescribed by the board.

§ 5. Investigation: matters to be determined; issuance of license; fees; duration of license. 1. The clerk or department 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.

(a) Issuance of licenses to conduct games of chance. If such clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to conduct games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon or a certificate of good conduct; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the board and that the proceeds thereof are to be disposed of as provided by this article, and if such clerk or department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this article otherwise provided; and that no prize will be given in excess of the sum or value of one hundred dollars in any single game and that the aggregate of all prizes given on one occasion, under said license shall not exceed the sum or value of one thousand dollars, it shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

(b) Issuance of licenses to authorized games of chance lessors; If such clerk or department 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 article; that the applicant satisfies the requirements for an authorized games of chance lessor as defined in section one of this article that such clerk or department shall find and determine that there is a public need and that public advantage will be served by the issuance of such 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 this article; and that such leasing of a hall or premises for the conduct of such games is to be in accordance with the provisions and in accordance with the rules and regulations of the board, it shall issue a license permitting the applicant to lease said premises for the conduct of such games to be authorized organization or organizations specified in the application during the period therein specified or such shorter period as such clerk or department shall determine, but not to exceed one year, upon payment of a license fee of fifty dollars.

2. On or before the thirtieth day of each month, the treasurer of the municipality in which the licensed property is located shall transmit to the state comptroller a sum equal to fifty percent of all authorized games of chance lessor license fees and the sum of fifteen dollars per license period for the conduct of games of chance collected by such clerk or department pursuant to this section during the preceding calendar month.

3. No license shall be issued under this article which shall be effective for a period of more than one year.

§ 6. Hearing; amendment of license. 1. No application for the issuance of a license to an authorized organization shall be denied by the clerk or department, 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.

2. Any license issued under this article may be amended upon application made to such clerk or department which 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 license fee if any, as would have been payable if it had been so included.

§ 7. Form and contents of license; display of license. 1. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations promulgated by the board, and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where and the date or dates and time and times when such games are to be conducted and of the purposes to which the entire net proceeds of such games are to be devoted; if any prize or 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 to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

2. Each license to lease premises for conducting games of chance will be in such form as shall be prescribed in the rules and regulations of the board 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 information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

§ 8. Control and supervision; suspension of licenses; inspection of premises.

1. The officer or department, 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 this article and such officer or department and the board shall have the power and the authority to temporarily suspend any license issued by the clerk or department 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 to exceed one thousand dollars 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 game of chance is being conducted or where it is intended that any such game shall be 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 agent of the appropriate officer or department shall make an on site inspection during the conduct of all games of chance licensed pursuant to this article.

2. Service 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 but the offering of all other alcoholic beverages is prohibited.

§ 9. Sunday; conduct of games on. Except as provided in section nine-b, no games of chance shall be conducted under any license issued under this article on the first day of the week, commonly known and designated as Sunday, unless it shall be otherwise provided in the license issued for the holding, operating and conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality in the county wherein the license is issued, authorizing the conduct of games of chance under this article on that day. Notwithstanding the foregoing provisions of this section no games of chance shall be conducted on Easter Sunday, Christmas Day or New Year's Eve.

§ 9-a. Participation by persons under eighteen. No person under the age of eighteen years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this article. No person under the age of eighteen years shall be permitted to conduct or assist in the conduct of any game of chance conducted pursuant to any license issued under this article.

§ 9-b Frequency of games. No game or games of chance shall be conducted under any license issued under this article more often than twelve times in any calendar year. Games shall be conducted only between the hours of noon and midnight on Monday, Tuesday, Wednesday, and Thursday, and only between the hours of noon on Friday and two A.M. Saturday, and only between the hours of noon on Saturday and two A.M. Sunday. The two A.M. closing period shall also apply to a legal holiday.

§ 9-c. Persons operating and conducting games; equipment; expenses; compensation. No person shall hold, operate or conduct any games of chance under any license issued under this article 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 such an active member or a member of an organization or association which is auxiliary to the 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. 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. At least two 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. Upon request by an officer or the department any such person involved in such games of chance shall certify that he or she has no criminal record. 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 article 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 of any, and license fees, and the cost of bus transportation, if authorized by such officer or department.

§ 9-d. Charge for admission and participation; amount of prizes; award of prizes. Not more than two dollars 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 article. The officer or department may in its discretion fix a minimum fee. 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. No alcoholic beverage shall be offered or given as a prize in any game of chance.

§ 9-e. Advertising games. No game of chance conducted or to be conducted in this state 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 to such game, by means of newspapers, radio, television or sound trucks or by means of billboards, posters or handbills or any other means addressed to the general public, except that one sign not exceeding sixty 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 games of chance lessor, one 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 any licensee, which is volunteer fire company, or upon any first-aid or first-aid on rescue squad, 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.

§ 9-f. Statement of receipts, expenses; additional license fees. 1. Within seven days after the conclusion of any license period, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized organization which rented its premises therefor, shall each furnish to the clerk or department 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, and 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.

2. Upon the filing of each statement of receipts, the authorized organization furnishing the same shall pay to the clerk or department 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 municipalities or counties of administering the provisions of this article, but such additional license fee shall not exceed five percent of the net proceeds for such occasion.

§ 9-g. Examination of books and records; examination of officers and employees; disclosure of information. The clerk or department and the board 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 they 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 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 as far they 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.

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 article.

§ 9-h. Appeals from the decision of an officer, clerk to board. Any applicant for, or holder of, any license issued or to be issued under this article aggrieved by any action of an officer, clerk or department, 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 officer, clerk or department by filing with such officer, clerk, or department a written notice of appeal within thirty days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before such officer, clerk, or department 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 such officer, clerk, or department and all parties to said appeal.

§ 9-i. Exemption from prosecution. 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 lawfully issued pursuant to this article, shall be liable to prosecution or conviction for violation of any provision of article two hundred twenty-five of the penal law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but 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 license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

§ 9-j. Offenses; forfeiture of license; ineligibility to apply for license. Any person, association, corporation or organization who or which shall:

- (1) make any material false statement in any application for any license authorized to be issued under this article;
- (2) pay or receive, for the use of any premises for conducting games of chance, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision two of section nine of this article;
- (3) fail to keep 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;
- (4) falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

(5) 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 or more of the lawful purposes defined in this article

shall be guilty of a misdemeanor and shall forfeit any license issued under this article and be ineligible to apply for a license under this article for at least one year thereafter.

§ 9-k. Unlawful games of chance. 1. Any person, association, corporation or organization holding, operating, or conducting a game or games of chance is guilty of a misdemeanor, except when operating, holding or conducting:

(a) In accordance with a valid license issued pursuant to this article or

(b) On behalf of a bona fide organization of persons sixty years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where (i) the organization has applied for an received an identification number from the board, (ii) no player or other person furnishes anything of value for the opportunity to participate, (iii) the prizes awarded or to be awarded are nominal, (iv) no person other than a bona fide active member of the organization participates in the conduct of the games, and (v) no person is paid for conducting or assisting in the conduct of the game or games.

2. The provisions of this section shall apply to all municipalities within this state, including those municipalities where this article is inoperative.

§ 9-l. Article inoperative until adopted by voters. Except as provided in section 9-k of this article, the provisions of this article shall remain inoperative in any municipality unless and until a proposition therefor submitted at a general or special election in such municipality shall be approved by a vote of the majority of the qualified electors in such municipality voting thereon.

§ 9-m. Amendment and repeal of local laws and ordinances. Any such local law or ordinance may be amended, from time to time, or repealed by the common council or other local legislative body of the municipality which enacted it by a two-thirds vote of such legislative body and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the date of enactment of the local law or ordinance effecting such amendment or repeal, as the case may be; and the approval of a majority of the electors of such municipality shall not be a condition prerequisite to the taking effect of such local law or ordinance.

§ 9-n. Severability. If any provision of this article or the application thereof to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article or the application thereof to other municipalities, persons and circumstances shall not be affected thereby, and the legislature hereby declares that it would have enacted this article without the invalid provision or application, as the case may be, had such invalidity been apparent.

§ 10. This law shall take effect immediately upon filing with the Secretary of State.