

# RESOLUTION

Number \_\_\_\_\_

## Promulgating Updated Rules and Regulations for the Operation of Charitable Bingo in Houston County

DATE APPROVED: \_\_\_\_\_

MINUTE BOOK \_\_\_\_\_ PAGE \_\_\_\_\_

WHEREAS, pursuant to the authority granted in Amendment Number 569 to the Constitution of Alabama 1901, the Houston County Commission (“the Commission”), for the welfare and benefit of the citizens of Houston County (“the County”) and the State of Alabama, desires to ensure that all forms bingo made lawful in Houston County by Amendment Number 569, Constitution of Alabama, 1901 (designated in the official recompiled Constitution of Alabama of 1901 as Local Amendments to the Constitution of Alabama of 1901, Houston County §1) shall be regulated according to law;

WHEREAS, Amendment Number 569 to the Constitution of Alabama, 1901, (“Amendment 569”) provides that

*[t]he operation of bingo games for prizes or money by certain nonprofit organizations and certain private clubs for charitable, educational, or other lawful purposes (hereinafter referred to collectively as “Charitable Bingo” or “Charity Bingo”) shall be legal in Houston County, subject to any resolution or ordinance by the county commission as provided by law regulating the operation of bingo. The county commission may promulgate rules and resolutions for issuing permits or licenses and for operating bingo games within the county jurisdiction.*

WHEREAS, on December 1, 2004, Alabama Attorney General Troy King (“the Attorney General”) announced the findings from his unprecedented, hands-on evaluation and review of gambling occurring in Alabama (“A.G. Review”);

WHEREAS, the Attorney General states in the findings of his “A.G. Review” that, notwithstanding his personal opposition to gambling, “[i]t is not my job as Attorney General, however, to determine whether Alabama will allow gambling. It is not my personal belief on a public policy matter that controls my actions as Attorney General, but, instead, it is the law and my duty to faithfully enforce it that must guide me;”

WHEREAS, the Attorney General in his A.G. Review states that “Alabama is a state with an unusual provision in her constitution that allows for the enactment of constitutional amendments affecting less than the whole state;”

WHEREAS, Amendment 569, is one of eighteen different local constitutional amendments authorizing some form of bingo in a given city or county within the State of Alabama;

WHEREAS, the Attorney General notes that “[t]he use of the word bingo is the source of much of the debate regarding what type of gambling is allowed in Alabama.” He went on to describe what is meant by the term “bingo” under Alabama law as follows:

*Bingo evolved from a game that has been played in Italy since 1530. The game made its way across Europe and to the United States some time in the 1920s under the name ‘beano.’ It is a game played on a grid consisting of five horizontal and five vertical squares containing numbers that are covered up as numbers are randomly drawn and that is won when a preordained pattern is covered on the card. There are believed to be over 1.4 million variations of the ‘bingo’ card. This is a game that must be played against other players and not played as a house banked game.*

*Bingo has evolved from its origins hundreds of years ago to cards where the numbers are covered by buttons or other markers, to sheets of paper where the numbers are daubed with a paint pen, to laptop computer-like devices where multiple cards can be played simultaneously, to video consoles where the bingo game is simulated using computer chips.*

...

*The games played on these video consoles must have certain important features to be bingo: First, the game must incorporate the typical features of traditional bingo, including, but not limited to, a grid of five horizontal and five vertical squares, numbers randomly selected, and a preordained winning pattern. Spinning wheels and other video graphics must not affect game play. Second, just as in traditional bingo halls, players on the machines must compete against one another. Consequently, the electronic machines must be linked so that players are competing against each other to permit the machines to comply with the constitutional requirement of “bingo.” For example, such a machine might depict a bingo card in the upper left hand corner of the machine, and as the game play commences, balls containing numbers begin to fall. When a number depicted on the card is dropped, it would be marked on the cards of those playing and players would win prizes in the same manner that they win prizes in traditional bingo halls. If the machines at any facility should ever be determined to be operating independently or hosting games for single participants, then these facilities would be operating outside the bounds of the constitutional grant and would be subject to the appropriate legal action.*

WHEREAS, the Attorney General in his A.G. Review, recognizes the impact of technology upon the game of “bingo” as he addresses the confusion that may ensue from the appearance or form of today’s technologically advanced and computer generated “media” bingo games. The Attorney General states that

*[i]t cannot be concluded, as some have, that just because the game is being played on video consoles, it is not ‘bingo.’ Just as no one would contend that e-mails are any less a form of correspondence than are letters written with a quill pen, but instead represent a technological evolution in correspondence, similarly, bingo games that are depicted on a video console can still be bingo – albeit a technologically advanced form of bingo – but bingo nonetheless.*

WHEREAS, the Attorney General has concluded “*that, as a matter of law, machines that operate in the manner described above are permissible*” in counties “operating under a valid constitutional amendment;”

WHEREAS, Amendment 569 as adopted by the Legislature and approved by vote of the people is a valid constitutional amendment which provides that Charitable Bingo “*shall be legal in Houston County, subject to any resolution or ordinance by the county commission as provided by law regulating the operation of bingo.*”

WHEREAS, Alabama Attorney General Opinion Number 97-072 held that once a valid constitutional amendment makes Charitable Bingo legal within the limits of a city or county, the city or county “*does not have the authority to decline to permit bingo operations by qualified organizations, but that its power is limited to the authority to regulate bingo operations.*”

WHEREAS, Amendment 569 related to Charitable Bingo in Houston County does not contemplate the impact of the technological evolution in computer technology upon the game of “bingo” and current “media” forms of “bingo” that have emerged from said technological advances;

WHEREAS, it is the intent of the Houston County Commission that all forms of the game known as “bingo,” including but not limited to, “media” forms of “bingo” shall be subject to licensure and regulation in Houston County;

WHEREAS, Amendment Number 569 to the Constitution of Alabama, 1901, also requires that the county commission shall, pursuant and Amendment 569, insure compliance with the following minimum requirements:

- (1) No Person under the age of nineteen (19) years shall be permitted to play any Bingo Game, nor shall any Person under the age of nineteen (19) years be permitted to conduct or assist in the operation of any game of Bingo.

- (2) Except for special permit holders, no bingo permit or license shall be issued to any nonprofit Organization or club unless the organization or club shall have been in existence at least five (5) years and owned real property in the county for five (5) years immediately prior to the issuance of the permit or license except for the following:
  - (a) A fraternal, or benevolent, or charitable organization which qualifies as an exempt organization under Section 501(c) of the Internal Revenue Code.
  - (b) A private club with annual membership dues of three hundred dollars (\$300) or more.
- (3) Bingo Games may be operated at the Location owned or leased by the nonprofit Organization or club operating the Bingo Games. If the premises are leased, the rate of rental shall not be based on a percentage of receipts or profits resulting from operating the Bingo games.
- (4) No nonprofit organization or club shall enter into any contract with any individual, firm, association or corporation, to have the individual or entity operate Bingo Games or concessions on behalf of the nonprofit organization or club. No nonprofit organization or club may pay consulting fees, any compensation or salary to any individual or entity for any services performed relating to operating or conducting any Bingo Game.
- (5) A nonprofit organization or club shall not lend its name or allow any other person or entity to use its identity in operating or advertising of a Bingo Game in which the nonprofit organization or club is not directly and solely operating the Bingo Game or concessions.
- (6) Prizes given by any nonprofit organization or qualified private club for playing Bingo Games shall not exceed the cash amount or gifts of equivalent value set by the Legislature during any Bingo Session. The Legislature shall set a maximum amount for any calendar week. For the purposes of these Rules and Regulations, prizes given by any nonprofit organization or club, or on its behalf for the playing of Bingo Games, shall not be less than 50 percent of the gross receipts in cash or equivalent value during any Bingo Session.
- (7) One hundred percent of the net revenues derived from operating bingo games shall be designated and expended for charitable or educational purposes.
- (8) No person or organization, by whatsoever name or composition thereof, shall take any expense for the operation of Bingo Games except as permitted by law, Amendment No. 569 to the Constitution of Alabama 1901, and the Rules and Regulations set forth herein.

NOW, THEREFORE, BE IT RESOLVED as follows:

The following Rules and Regulations for the Permitting and Operation of Bingo Games by Special Permit in Houston County (hereinafter sometimes referred to as "Rules", "Regulations" or "Rules and Regulations") are hereby promulgated by the Houston County Commission to regulate the issuance of permits for and the operation of Bingo Games by certain Nonprofit Organizations and/or Qualified Clubs in Houston County, Alabama pursuant to Amendment No. 569 to the Constitution of Alabama 1901.

**Section 1 Definitions.**

As used herein the following words shall have the following meanings as described herein, unless the context clearly indicates otherwise:

- (a) "Bingo" or "Bingo Games" shall mean any game of chance known as bingo, including any game defined as such by state or federal law (whether or not electronic, computer or other technologic aids are used in connection therewith), which incorporates the following elements: (i) the game must be played on a grid of five (5) horizontal rows intersected by five (5) contiguous squares contained within the grid; (ii) each square in a grid must be designated by a number or other symbol contained in a collection of numbers or symbols used for playing the game; (iii) numbers or symbols are selected by a procedure or mechanism entirely or predominately governed by chance and, as such number or symbols are selected during the playing of a particular game, the same numbers or symbols, if they are present on one or more of the squares on any grid in play, are covered or otherwise marked on such grid; (iv) the winner or winners of a particular game are the players of those grids for which a previously designated pattern or arrangement is first covered or marked; (v) one or more players must compete against one or another for prizes; (vi) money may be collected from the players of bingo for the opportunity to participate in the game, and such monetary amounts may vary to reflect the value of the prize for winning a particular game, whether for participation in the whole game or a particular phase thereof, and other factors reflecting the interplay of the amount collected from each player, the size of the prize and the probability of winning; and (vii) the prizes for winning the game can be money or anything of value without limit as to amount. To the extent that the foregoing elements are present in the game of bingo, it can be played with different kinds of equipment varying from one end of the spectrum, where traditional cards displaying the playing grids are used with tokens to cover the designated squares on the cards, to the technologically advanced end of the spectrum, where electronic devices perform the operations of the game using computers or micro-processors and interact with the human players by means of an electronic console. If the game of bingo is played on electronic devices which determine and signal the winner, such devices shall be electronically linked to ensure that multiple players are competing against each other. The prizes or

evidence thereof for winning bingo games may be disbursed by the electronic devices or consoles used in playing such games at the time each game is won or on different schedules that reflect a record of wins and losses involving multiple games.

- (b) "Bingo Equipment and Supplies" shall mean any electronic or mechanical equipment, machine or device, or computer or other technologic hardware or device, (i) which is installed, or is to be installed, at a bingo facility and (ii) which is used, or can be used, to play Bingo as herein defined. Bingo Equipment and Supplies includes any machine, device or hardware that assists a player or the playing of Bingo Games, broadens the participation levels in a common game and includes all of the ancillary Bingo supplies. Examples of Bingo Equipment and Supplies include, but are not limited to, dispensers, readers, electronic player stations, player terminals, central computer servers containing random number generators and other processing capabilities for remote player terminals, electronic consoles capable of providing game results in different display modes, telephones and telephone circuits, televisions, cables and other telecommunication circuits, and satellites and related transmitting and receiving equipment. Bingo Equipment shall not be deemed to be for any purpose a "gambling device" or "slot machine" within the meaning of the Code of Alabama 1975, Sections 13A-12-20(5) and (10) or any other provision of law, whether now in effect or hereafter enacted.
- (c) "Bingo Expenses" shall mean all expenses incurred in connection with the holding, operating and conducting of Bingo Games in accordance with Amendment 569 to the Constitution of Alabama 1901, including but not limited to, the following expenses: rental of Bingo Equipment, the payment of services necessary for the repair of Bingo Equipment, payment of prizes, rental for the Location, utilities, janitorial services, security services, banking services, permit fees, taxes and permit fees, insurance premiums, and maintenance.
- (d) "Bingo Session" shall mean a consecutive period of time up to twenty-four consecutive hours during which Bingo is played on as many as seven (7) days in a given week; provided, however, that on Sundays, Bingo shall not be played between the hours of 4:00 a.m. and 1:00 p.m. central time. Except with regard to Sundays, a holder of a Class C Bingo Permit shall not be limited in the number of Bingo Sessions it operates during any twenty-four (24) hour period.
- (e) "Class A Bingo Permit" shall mean a Special Permit issued to an applicant who desires to operate only paper card Bingo at a Class A Temporary Qualified Location five (5) or fewer days per year.
- (f) "Class B Bingo Permit" shall mean a Special Permit issued to an applicant who desires to operate only paper card Bingo at a Class B Qualified Location for no more than one five-hour session per week.

- (g) "Class C Bingo Permit" shall mean a Special Permit issued to an applicant who desires to operate any and all games of Bingo at a Class C Qualified Location.
- (h) "Class A Temporary Qualified Location" for the holder of a Class A Bingo Permit shall mean a Location which has been inspected and approved by the sheriff of the county for the conduct of Bingo Games no more than five days per year. It is contemplated that such locations will be suitable for Qualified Clubs and Non-Profit Organizations that do not operate Bingo games on a regular basis.
- (i) "Class B Qualified Location" for the holder of a Class B Bingo Permit shall mean a Location which has been inspected and approved by the sheriff of the county for the conduct of Bingo Games for no more than one five-hour session per week.
- (j) "Class C Qualified Location" for the holder of a Class C Bingo Permit shall mean a Location which has been inspected and approved by the sheriff of the county for the conduct of Bingo Games and other lawful activities and for which the holder of a Class C Bingo Permit or Operator has submitted satisfactory evidence that the Location has in place at all times that any Bingo Games are being conducted or operated the following: (i) liability insurance in an amount not less than \$2,000,000; (ii) liquor liability insurance in the amount of not less than \$500,000; (iii) adequate parking for patrons and employees; (iv) onsite security as reasonably prescribed by the sheriff of the county; (v) onsite first aid personnel as reasonably prescribed by the sheriff of the county; (vi) such accounting procedures, controls and security monitoring as are reasonably necessary to preserve and promote the integrity of the operation of Bingo Games and the protection of the Nonprofit Organization or Qualified Club and the patrons of the Bingo Games; and (vii) satisfactory evidence that the Location is fully compliant with the Americans with Disabilities Act. No Class C Bingo Permit shall be issued with respect to a location which is not part of a mixed- or multi-use development that incorporates a hotel, restaurants, dinner theaters, other entertainment- and amusement related retail space, and an entertainment venue with the capacity for at least 3144 persons to view live entertainment such as music ("Multi-use Development"). In addition to the foregoing, in order for a location to qualify as a Class C Qualified Location, the Commission shall first have made a specific finding that said location and the overall development to be situated thereon, aids, is beneficial to or otherwise assists the County in its efforts to promote industry and economic development, develop trade and further the utilization of agricultural products as well as the natural and human resources of the State of Alabama. Any Class C Bingo Permit for the operation of Charitable Bingo at a Class C Qualified Location shall at a minimum require the following preconditions to the actual operation or playing of Charitable Bingo games: (1) At least seventy percent (70%) of the qualifying separate elements of the agreed upon multi-use development shall be completed and operational as a condition precedent to the conducting of any charitable bingo operations; (2) A branded

franchise hotel shall either be constructed or substantially completed as a condition precedent to the conduct of and charitable bingo operations; (3) One member of the Board of Directors of the Charity for purposes of the special permit shall have been approved by the Houston County Commission; (4) A development agreement between the Commission and the developer describing in detail the scope, elements and planning of the master planned multi-use development with conditions and assurances reasonably required by the Commission to assure the intent of the Rules and Regulations is effectuated.

- (k) "Permit Holder" shall mean any holder of a Class A Bingo Permit, Class B Bingo Permit, or Class C Bingo Permit.
- (l) "Location" shall mean a building, hall, enclosure, room, premises, grounds and/or outdoor area that complies with all federal, state and local laws and applicable building and fire codes.
- (m) "Nonprofit Organization" shall mean a bona fide organization for charitable, educational, or other lawful purposes which operates without profit to its members (if any) and/or which have been classified by the Internal Revenue Service as a 501(c) tax-exempt organization, or which has pending an application for such status and the County Commission determines that it would qualify for such status.
- (n) "Qualified Club" shall mean a private club with annual membership dues of three hundred dollars (\$300) or more.
- (o) "Person" shall mean any human being, corporation, partnership, business organization, association or legal entity of any kind whatsoever.

**Section 2 Operation of Bingo Games in Houston County, Alabama.** Pursuant to Amendment No. 569 to the Constitution of Alabama 1901, the operation of Bingo Games for prizes or money by Nonprofit Organizations and/or Qualified Clubs is allowed in Houston County, provided that the Nonprofit Organization and/or Qualified Club shall first obtain a Class A Bingo Permit, Class B Bingo Permit, or Class C Bingo Permit. The holder of a Class A Bingo Permit, a Class B Bingo Permit, or a Class C Bingo Permit shall be authorized to conduct Bingo Games and pay Bingo Expenses in accordance with these Rules and Regulations the terms and conditions stipulated in the Permit and Amendment Number 569 to the Constitution of Alabama 1901.

**Section 3 Bingo Permit Required.** Except as specifically provided in Section 13.5 of these Rules and Regulations, no Nonprofit Organization or Qualified Club shall be allowed to operate a Bingo Game unless the sheriff of the county first issues a permit to said organization authorizing it to do so. The permit described herein shall be in a form designated by the sheriff. Each Class A, Class B Bingo Permit, or Class C Bingo Permit issued hereunder shall be issued to a specific qualified organization to conduct bingo at a specific Location in Houston County, Alabama. A permit is not assignable or transferable without the express, written consent of the

sheriff and shall become automatically void upon the dissolution of the Permit Holder. If a Nonprofit Organization or Qualified Club changes its name, the sheriff shall issue an amended permit bearing such name and such Nonprofit Organization or Qualified Club shall be required to comply with the permit amendment provisions set forth herein.

**Section 4 Application for Permit; Submission; Form Contents.**

- (a) Any Nonprofit Organization or Qualified Club desiring to obtain a permit to operate Bingo Games hereunder shall make application to the sheriff on forms prescribed by the sheriff and shall pay such application fee and other fees as may be provided by the Legislature pursuant to local legislation. Such permit shall be valid for a period of up to fifteen (15) years. Renewal applications shall be filed with the sheriff at least forty-five (45) days prior to expiration of any permit term and shall be on forms prescribed by the sheriff. Renewal applications shall be subject to the same application fee as provided for an original application.
- (b) The sheriff shall refuse to grant a Bingo Permit or renewal to any applicant qualified hereunder unless and until the applicant fully provides the information required hereunder, such being provided in a form and in sufficient detail to satisfy the sheriff of the county of its validity and sufficiency. The sheriff may require any reasonable confirming documentation as to any information required hereunder and shall have a reasonable time to check or confirm by any available method the accuracy or validity of any information provided hereunder.
- (c) Each application for a Bingo Permit or renewal thereof shall contain the following information and exhibits:
  - (i) The date of incorporation or other evidence of inception showing existence by the Nonprofit Organization or Qualified Club for at least five (5) years and proof of real property owned in the county for at least five (5) years immediately preceding the application, or a copy of the tax-exempt determination letter from the Internal Revenue Service indicating 501(c) status of the Nonprofit Organization, or a copy of the application for such status evidence of the County Commissions determination that it would qualify for such status, and/or other proof deemed acceptable by the sheriff verifying the qualified club status.
  - (ii) A certified copy of the charter, certificate of incorporation, by-laws, or other evidence of legal existence of the Nonprofit Organization or Qualified Club.
  - (iii) The names and residence addresses of each of the officers and directors of the Nonprofit Organization as well as the names and residence addresses of the individuals working for the Nonprofit Organization or Qualified

Club who are responsible for the operation of Bingo Games by the Nonprofit Organization or Qualified Club.

- (iv) The exact physical Location at which the applicant will conduct the Bingo Games, and proof that such Location is either owned or leased by the Nonprofit Organization or Qualified Club which is conducting (or on whose behalf is being conducted) Bingo Games. If such Location is not owned by such Nonprofit Organization or Qualified Club, the application shall include the names and addresses of the owners thereof and a copy of all rental, lease, consulting, or other agreements with the said owners regarding the use of the premises for the operation of Bingo Games.
- (v) A statement listing all convictions, if any, for criminal offenses, other than minor traffic offenses, of each of the Persons for whom names are required in subsections (iii) and (iv) above.

#### **Section 5 Issuance of Permit.**

- (a) Upon receipt of a fully completed and documented application for a permit meeting all of the requirements set out herein, the sheriff shall make such investigation as the Sheriff may deem necessary or proper of the qualifications of each applicant as required herein and the truth and veracity of the information contained or attached to the application. After making such investigation and after being satisfied that all qualifications and requirements as set out herein have been fulfilled, the sheriff shall issue such permit to said applicant upon the terms and conditions herein set forth. As part of said investigation, any Person named in paragraphs (iii) and (iv) of Section 4(c) herein may be required to furnish a consent for background and criminal history check.
- (b) A Class A Bingo Permit shall be issued to an applicant who desires to operate paper card Bingo only at a Class A Temporary Qualified Location. A Class B Bingo Permit shall be issued to an applicant who desires to operate paper card Bingo only at a Class B Qualified Location. A Class C Bingo Permit shall be issued to an applicant who desires to operate any and all games of Bingo, only at a Class C Qualified Location.

#### **Section 6 Amendments; Applications; Permits.**

- (a) An applicant may amend an application filed hereunder to correct or complete the information contained therein or to change said information to comply with a change in circumstances at any time prior to the denial thereof by the sheriff or the issuance of a permit thereon, provided that said amendment is made in or on a

form satisfactory to the sheriff and the applicant pays a substitution or amendment fee of \$50.00 per amendment.

- (b) A permit, once issued, may be amended only upon resubmission of a new, completed application satisfactory to the sheriff and payment of a new application fee by the Permit Holder. The sheriff may deny amendments for any reason for which an original application may be denied. If such amendment is approved, a new permit will be issued in place of the permit being amended.

**Section 7 Contents and Display of Permits.**

- (a) Each Bingo Permit shall contain the name and address of the Permit Holder, the Location at which the Permit Holder is permitted to conduct Bingo Games, the days of the week on which the Permit Holder is permitted to conduct Bingo Games, and the date on which the permit was issued and upon which it expires.
- (b) The Permit Holder shall display the permit conspicuously at the Location where Bingo is being conducted at all times during the conduct of a Bingo Game.

**Section 8 Fee Proceeds.** All monies collected by the sheriff hereunder shall be paid to Houston County which shall be maintained as a separate Bingo account, and deposited within three business days of the collection of said fees. All expenses incurred by the sheriff in the administration and enforcement hereof shall be paid from this account, with the balance, if any, in said account to be paid to the Houston County General fund to be used by the Commission for law enforcement purposes. To the extent allowed by law, in the public interest, the said account shall be subject to audit by the State of Alabama Examiners of Public Accounts.

**Section 9 General Regulations; Prizes.**

- (a) The holder of a Class A Bingo Permit, a Class B Bingo Permit, or a Class C Bingo Permit shall be authorized to conduct Bingo Games and pay Bingo Expenses in accordance with these Rules and Regulations and Amendment Number 569 to the Constitution of Alabama 1901.
- (b) No Person under the age of nineteen (19) years shall be permitted to play any Bingo Game, nor shall any Person under the age of nineteen (19) years be permitted to conduct or assist in the operation of any game of Bingo.
- (c) No Class A Bingo Permit, Class B Bingo Permit, or Class C Bingo Permit shall be issued to any Nonprofit Organization or Qualified Club unless the organization shall have been in existence at least five (5) years and owned real property in the county for five (5) years immediately prior to the issuance of the permit or permit or meets one of the following requirements:

(1) A fraternal, or benevolent, or charitable organization which qualifies as an exempt organization under Section 501(c) of the Internal Revenue Code. If the organization has not yet received a ruling from the Internal Revenue Service as to its tax-exempt status, it may be deemed to qualify as an exempt organization if it has submitted an application for such status, and the County Commission determines that it would qualify for such status.

(2) A private club with annual membership dues of three hundred dollars (\$300) or more.

- (d) Bingo Games may be operated at the Location owned or leased by the Nonprofit Organization or Qualified Club operating the Bingo Games. The Nonprofit Organization or Qualified Club may lease the Location from any Person, provided that the rate of rental for the Location shall not be calculated based on a percentage of receipts or profits earned by the operation of Bingo Games. The Nonprofit Organization or Qualified Club may lease Bingo Equipment from any Person at the reasonable rate of rental for said Bingo Equipment
- (e) A Nonprofit Organization or Qualified Club may not enter into any contract with any individual, firm, association or corporation, to have the individual or entity operate Bingo Games or concessions on behalf of the Nonprofit Organization or Qualified Club. A Nonprofit Organization or Qualified Club may not pay consulting fees, compensation, or salary, to any individual or entity for any services performed in relation to the operation or conduct of a Bingo Game.
- (f) A Nonprofit Organization or Qualified Club may not lend its name or allow its identity to be used by another Person in the operating or advertising of a Bingo Game in which the Nonprofit Organization or Qualified Club is not directly and solely operating the Bingo Game.
- (g) Prizes given by any Nonprofit Organization or Qualified Club for the playing of Bingo Games shall not exceed the cash amount or gifts of equivalent value set by the Legislature and these Rules and Regulations for any Bingo Session. For the purposes of these Rules and Regulations, prizes given by any Nonprofit Organization or Qualified Club, or on its behalf for the playing of Bingo Games, shall not be less than 50 percent of the gross receipts in cash or equivalent value during any Bingo Session.
- (h) One hundred percent of the net revenues derived from operating bingo games shall be designated and expended for charitable or educational purposes.
- (i) No person or organization, by whatsoever name or composition thereof, shall take any expense for the operation of Bingo Games except as permitted by

Amendment No. 569 to the Constitution of Alabama 1901 and the Rules and Regulations set forth herein.

- (j) No Person who has been convicted of a felony offense, and whose civil rights have not been restored by law, shall conduct or in any way participate in the operation of any Bingo Game permitted hereunder, nor shall any Person who has been convicted of any gambling offense be permitted to conduct or in any way participate in the operation of any Bingo Game permitted hereunder within twelve (12) months of the conviction.

**Section 10 Records and Accounting.** Each holder of a Class A Bingo Permit, Class B Bingo Permit, or Class C Bingo Permit shall keep and maintain the following records and accounts pertaining to each Bingo Session conducted by it for at least three (3) years from the date of such session:

- (a) An itemized list of all gross receipts for each Bingo Session, which shall include all receipts derived from the sale of Bingo cards, entrance fees, donations, or from any other source whatsoever pertaining to the operation of such session.
- (b) An itemized list of all Bingo Expenses, costs and disbursements, other than prizes paid or given as a result of the operation of any Bingo Session, together with the name and address of each Person to whom said Bingo Expenses, disbursements or consideration was paid or given; a receipt or invoice for all items purchased and for all services rendered; and such other records as will adequately reflect the amount and nature of such expenses, costs and disbursements.
- (c) All records, receipts, accounts and/or lists required to be kept and maintained hereunder shall be open to inspection by the sheriff or its authorized agents or representatives during reasonable business hours. All Locations at which Bingo Games are being held by a Permit Holder, or at which a Permit Holder intends to conduct Bingo Games, shall be open to the sheriff, or its authorized representatives, during all times at which Bingo Games are being conducted and during all other reasonable business hours. On or before April 15th of each calendar year, each holder of a Class A Bingo Permit, Class B Bingo Permit, or Class C Bingo Permit who held a permit for all or any part of the preceding calendar year shall file with the sheriff a verified copy of all records, receipts, accounts, contracts and/or lists required to be kept or maintained hereunder relating to the operation of Bingo Games for said previous calendar year.

**Section 11 Enforcement and Supervision; Rules.** The sheriff shall be charged with the duty to and shall enforce and supervise the administration and enforcement of all of the rules, regulations and reporting required hereunder. In addition to these Regulations, the sheriff shall enforce all applicable criminal and civil laws of the State of Alabama to prevent and discourage any illegal activity.

**Section 12 Revocation of Permits; Appeal.** The sheriff, for good cause shown, may revoke any permit issued pursuant hereto if the Permit Holder violates any of the material Regulations herein promulgated, provided, however, that no permit may be revoked without complying with the following procedures: The sheriff must first deliver to any Person named in the permit application pursuant to Section 4, subsections (c)(iii) and (c)(iv) hereunder ninety (90) days' written notice of its intention to revoke said permit and the grounds therefor in specific detail to allow the Permit Holder to cure any alleged violation of any of the Regulations herein provided. In curing any alleged violation, the sheriff may require a Permit Holder to post a bond for an amount which will ensure that additional violation will not occur. If the Permit Holder cures any alleged violation within the ninety-day notice period, no revocation shall be effective. In the event that the sheriff does not, in good faith, consider the violation cured within the ninety-day notice period, it shall give additional notice to the Permit Holder, in the manner set forth above, that it intends to proceed with revocation and give the Permit Holder the opportunity to pursue an appeal of such decision to the Circuit Court of Houston County. The Permit Holder may request a trial by jury. Pending appeal to the Circuit Court hereunder, the permit shall remain in full force and effect. If the Circuit Court shall order the permit revoked, the Circuit Court shall, at the request of the Permit Holder, stay the revocation and shall set a reasonable bond pending any and all appeals. Only when all appeals are exhausted may the stay be lifted and the permit revoked.

**Section 13 Effect of Revocation.** A Permit Holder whose permit is revoked as herein set out shall return such permit to the sheriff on or before the effective date of such revocation and whether returned or not such permit shall be void and not valid beyond the effective date of revocation. A Permit Holder whose permit is revoked in consequence of a violation of any rule or regulation promulgated herein shall be ineligible to apply for or have issued to it another permit hereunder for a period of three months after the effective date of such revocation. Nor shall any permit be issued to any Person which is directed or controlled by Persons listed in the application for permit filed pursuant to Section 4, subsections (c)(iii) and (c)(iv) hereof, in regard to the revoked permit or to any organization of which the membership is substantially the same as any organization whose permit has been revoked hereunder, for a period of three (3) months after the effective date of such revocation.

**Section 13.5 Alternative Permitting Process for Class C Bingo Permits.** Notwithstanding the foregoing, an applicant for a Class C Bingo Permit may request such a permit directly from the Houston County Commission, rather than from the sheriff. In such event, the Commission shall consider the economic impact of the development of which the Bingo Games would be part, and shall also review the information required by Section 4 above. A Class C Bingo Permit issued by the Houston County Commission may not be revoked by the sheriff, but rather must be revoked by action of the Commission. Upon receipt of an application containing the information required by Section 4 above, the Commission shall determine whether the application is complete. If the application is complete, the Commission may immediately consider the application.

**Section 14 Appeal of Denial of Permit.** Any Person whose application for a permit hereunder shall be denied by the sheriff of the county pursuant to these Regulations shall have the right to

appeal such denial to the Houston County Commission and to the Circuit Court in the same manner as an appeal of revocation of a permit issued hereunder may be appealed pursuant hereto provided, however, that such Person shall not operate any Bingo Game until such application shall have been granted, and a permit issued, pursuant to any order of the said Houston County Commission or Circuit Court.

**Section 15 Amendments to Regulations.** If the Houston County Commission should make any amendment to these Regulations, such amendment shall not be applicable to any Permit Holder for the term of such permit, unless the Permit Holder should voluntarily choose to be subject to such amendment by submission of a written notification to the Houston County Commission.

**Section 16 Severability.** The provisions hereto and the Regulations promulgated hereunder are severable. If any part hereof shall be declared invalid or unconstitutional, such declaration shall not affect any parts hereof which shall remain.

**Section 17** All resolutions or ordinances or parts of resolutions or ordinances heretofore adopted by the Commission which conflict with this Resolution are hereby repelled.

The above and foregoing Resolution is adopted and approved on this the \_\_\_\_ day of February, 2008, by the Houston County Commission

\_\_\_\_\_  
MARK S. CULVER, CHAIRMAN OF THE  
HOUSTON COUNTY COMMISSION

Authenticated:

\_\_\_\_\_  
William J. Dempsey  
Chief Administrative Officer

Commissioner \_\_\_\_\_ moved that said Resolution be adopted, which motion was seconded by Commissioner \_\_\_\_\_, and, upon said motion being put to vote, the following vote was recorded:

**YEAS**

**NAYS**

the Chairman thereupon announced that said motion had passed and the Resolution was adopted.