

## ORDINANCE NO. 09-04

AN ORDINANCE OF THE CITY OF FORT MEADE, FLORIDA;  
CREATING A BINGO ORDINANCE; PROVIDING A SHORT  
TITLE; PROVIDING FINDINGS AND INTENT; PROVIDING FOR  
THE REGULATION OF BINGO; REPEALING PORTIONS OF  
PRIOR ORDINANCES AND RESOLUTIONS; PROVIDING FOR  
SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF FORT  
MEADE, FLORIDA:

**SECTION 1. SHORT TITLE.** This Ordinance shall be entitled and may  
be referred to as the "Fort Meade Bingo Ordinance."

**SECTION 2. LEGISLATIVE FINDINGS AND INTENT.** The City hereby  
makes and declares the following findings and statements of legislative intent:

(1) The City owns, operates, and manages a mobile home park  
within the city limits of Fort Meade, Florida.

(2) It has come to the attention of the City that certain  
individuals are using common facilities owned by the City for the purpose of  
conducting bingo games.

(3) Bingo games conducted by for profit organizations and  
individuals are generally prohibited in Florida.

(4) Section 849.0931, Florida Statutes, was enacted by the  
Legislature in order to authorize certain charitable, civic, community, benevolent,  
religious or scholastic works and other similar activities to conduct bingo games  
and to donate essentially the entire proceeds derived from these games to these  
endeavors, thereby, bringing aid and comfort to the community and its members.

(5) Section 849.0931 also authorizes condominium  
associations, cooperative associations, homeowner associations as defined in  
Section 720.301, Florida Statutes, mobile home owner's associations, and  
residents of mobile home parks and recreational vehicle parks to conduct bingo  
games under certain limited conditions that will benefit the community.

(6) Section 849.0931, Florida Statutes, prohibits the proceeds  
from these games from being used for any purpose other than the enumerated  
purposes set forth in the statutes.

(7) Section 849.093, Florida Statutes, authorizes certain other organizations not involved in the efforts listed above to conduct bingo games, but only upon the condition that the entire proceeds be returned to the players in the form of prizes.

(8) Effective enforcement of state law intent regarding bingo games can only be brought about by local regulation of these games to ensure that the proceeds from the games are returned to the players or provided to legitimate charitable organizations to be used for legitimate charitable purposes.

(9) The Florida District Court of Appeals, Fifth District, has recognized that the Florida Legislature did not intend to preempt the "field of bingo play," and that local governments may regulate conduct and add requirements that are in addition to state requirements (*See F.Y.I. Adventures, Inc. v City of Ocala*, 698 So.2d 583 (Fla. 5th DCA 1997)).

(10) Several Florida grand jury reports throughout Florida during the 1990s recommended that the most effective way to reduce bingo commercialization and abuse is to prohibit more than one charity from conducting bingo at any one location in a given day and to limit the operation of bingo to two (2) days per week in any one location.

(11) Subsection (11)(d) of Section 849.0931, Fla. Stat., provides that bingo games cannot be held on City-owned property unless the governing authority has, by appropriate ordinance or resolution, specifically authorized the use of such property for the conduct of such games.

(12) At least one group is illegally using City-owned buildings to conduct bingo games when the City has not authorized bingo games to be played by any organization or individuals.

(13) The City Commissioners find that there is evidence of commercialization and lack of compliance with state law in Fort Meade, as generally described by the Florida grand jury reports from the 1990s, being conducted in Florida.

(14) The City is willing to grant such authority to conduct games, but only pursuant to the terms and conditions of this ordinance.

**SECTION 3. USE OF CITY FACILITIES FOR BINGO.** Except as otherwise specified herein, City facilities and buildings may not be used for the playing or conducting of bingo games. Bingo games may be played and conducted within the activities building located within the Fort Meade Mobile Home Park subject to the rules set forth in this ordinance, payment of necessary

fees, and issuance of appropriate permits as set forth herein. As proprietary landlord, the City may in its sole discretion, deny any request for permits under this Section 3 based upon the applicant's failure to comply with the standards set forth in this Section, other sections of this ordinance, or past or current violations of state or local bingo rules, regulations or laws. In addition to the other terms, conditions, and requirements set forth in this Ordinance, the following additional terms and conditions shall apply:

(1) A separate permit must be applied for and issued as a part of the application filed pursuant to Section 6 hereof.

(2) All net proceeds are to be returned to the bingo players participating in the recreational activity;

(3) Bingo shall be held at the activities building no more than two (2) days per week as established by the City;

(4) No single jackpot shall exceed one hundred dollars (\$100.00) and there shall be no more than one (1) jackpot per section of bingo;

(5) No other game prize shall exceed twenty-five dollars (\$25.00);

(6) The only persons authorized to play bingo at the activities building must be residents of the City Mobile Home Park, and must be determined by the City to be an organization or group of citizens who have not violated state bingo laws;

(7) No salaries or expenses shall be paid to any persons for any game operations; and

(8) No minor shall be accepted under any circumstance.

**SECTION 4. DEFINITIONS.** For the purposes of this article, words shall be defined as provided in § 849.0931, Florida Statutes, as from time to time amended.

**SECTION 5. PERMIT REQUIRED.** It shall be unlawful for any charitable, nonprofit, or veteran's organization to conduct any bingo game at any location within City limits without first obtaining a permit therefor in accordance with this Ordinance. No charitable, nonprofit, veterans' organization or other group of residents otherwise permitted to conduct bingo games under § 849.0931, Fla. Stat., shall conduct any bingo game at any location other than the premises described in the permit.

**SECTION 6. APPLICATION, FEE, AND ACCOMPANYING DOCUMENTS AND INFORMATION.**

An Annual Application for a permit required by this article shall be made with the City Clerk along with the fee of \$50.00 and shall include the following information and documents:

(1) The name, address, employer, employer identification number of the organization or group, and certification that the organization is chartered and located within the corporate boundaries of the city.

(2) A list of current officers and directors of the organization and their addresses.

(3) A copy of the exemption letter issued by the Internal Revenue Service.

(4) A certification of the period or periods during which the organization has been in existence and active, commencing three calendar years prior to the application filing date.

(5) The names, addresses, social security numbers, dates of birth, and dates of membership of all members of the organization or group who will be responsible for the conduct of any bingo game and a certification that each of them is a bona fide member who is a resident of the community where the organization is located. In addition, the names of the members conducting bingo games at each session will be conspicuously posted at the site.

(6) The street address and property description of the premises where any bingo game will be conducted by the organization or group.

(7) Copies of all leases and subleases in effect relating to the property where the organization or group will conduct any bingo game.

(8) The certification of the owner of the property and every lessee and sublessee that there are no leases in effect other than those submitted with the application and that the rental rate charged for the premises does not exceed the rental rates charged for similar premises in the same local.

(9) Certification by the organization or group that it will comply with all provisions of § 849.093, Fla. Stat., this article and the permit issued pursuant to this article. Additionally, the certification will contain a provision that financial statements, including subsidiary ledgers, reflecting all revenue and expense of the organization will be furnished the City upon request.

**SECTION 7. ISSUANCE OR DENIAL OF PERMIT.** Within seven days of submission of a completed application providing all information and documents

and the fee required by Section 6, if the requirements of this Ordinance have been met, the City may issue the permit allowing the charitable, nonprofit, or veterans' organization or group of residents to conduct bingo games at the premises listed in the permit subject to the provisions of federal, state and local laws, ordinances and regulations. Each permit issued shall expire at the end of the calendar year following the month of issuance. As proprietary landlord, the City may in its sole discretion, deny any request for permits under Section 3 hereof based upon the applicant's failure to comply with the standards set forth in Section 3, other sections of this ordinance, or past or current violations of state or local bingo rules, regulations or laws.

**SECTION 8. REVOCATION OF PERMIT.** Violation of any of the provisions of § 849.093, Fla. Stat., this Ordinance, or any permit issued pursuant to this Ordinance shall constitute grounds for revocation of that permit.

**SECTION 9. NUMBER OF DAYS.** Bingo games shall not be conducted upon the premises at any location more than two days per week.

**SECTION 10. ORGANIZATION OR GROUP CONDUCTING BINGO GAME.** No charitable, nonprofit or veterans' organization or group of residents shall serve as a sponsor of a bingo game conducted by another, and such an organization or group of residents may participate in the conduct of a bingo game only when it is the only participant in the conduct of that game.

**SECTION 11. SCOPE.** The provisions of this Ordinance shall apply in the incorporated area of the City of Fort Meade.

**SECTION 12. RIGHT OF ENTRY** Representatives of the City's police department and any other official having official business pertaining to the enforcement of this Ordinance, shall, upon identification of this person, be admitted to the premises without charge to conduct inspections.

**SECTION 13. INTENT OF ORDINANCE.** It is the intent of the City that all phases of the regulation, licensing and supervision of bingo be closely controlled and the law and regulation pertaining thereto be strictly construed and rigidly enforced, to the end that commercialization in all its forms be discouraged, participation by criminal and other undesirable elements be prevented and diversion of the proceeds of bingo games from the purposes authorized by § 849.0931, Fla. Stat., be eliminated.

**SECTION 14. ADMINISTRATION AND ENFORCEMENT.** Responsibility for administration of this Ordinance shall be the responsibility of the City code enforcement department. Responsibility for enforcement of this Ordinance is vested in the code enforcement department and any law enforcement agency

with jurisdiction in the City, including County Sheriff, state and federal law enforcement agencies.

**SECTION 15. PROVIDING FALSE INFORMATION.** No person shall knowingly make a false, untrue or misleading oral statement to the code enforcement department as to any matter investigated by the code enforcement department pertaining to the provisions or enforcement of this Ordinance.

**SECTION 16. CONDUCT OF GAMES.** Each bingo game shall be conducted under the following conditions of play:

(1) Bingo shall not be played on any premises during more than four (4) days per week.

(2) There shall be no more than three (3) jackpots on any premises during any day.

(3) No organization which conducts bingo on its own property may lease to another organization its property for the conduct of bingo so that between the lessor organization and lessee organization bingo is conducted on the same property more than four times per week.

(4) No person who assists in the conduct of any bingo game anywhere in the state may conduct or assist in conducting, or in any way be associated with, the conduct of any bingo games in the City for more than two days during any week.

(5) Each person conducting or assisting in the conduct of a bingo game shall wear a legible tag bearing his/her name and the name of the organization he/she represents. The member or volunteer of the organization shall not conduct bingo for any other organization or lessor licensed under this Ordinance.

(6) During the course of a bingo game, the organization shall post, as directed in this subsection, in a conspicuous place, in letters and numbers no less than three inches high, the following information:

(a) The names of all members or volunteers conducting or assisting in the conduct of the bingo game.

(b) The total gross receipts collected at each bingo game or series of bingo games held within the seven (7) days prior.

(c) The total value of all prizes, whether in money or other taking of value, to be awarded at each bingo game or series of bingo games.

(d) The net receipts collected but not awarded as prizes at each bingo game or series of bingo games held within the seven (7) days prior.

(7) Every person involved and present in the conduct of a bingo game must be a bona fide member of the organization and a resident of the City mobile home park. It shall be unlawful for any person or any member of any organization to falsely represent the membership status of any person involved in the conduct of a bingo game.

**SECTION 17. HOURS; USE OF LEASED PREMISES.** Premises may be used to conduct bingo under the following conditions:

(1) Bingo shall not be conducted between the hours of 1:00 a.m. and 9:00 a.m.

(2) Not more than one organization shall lease any premises for the conduct of bingo in any 24-hour period, and no other organization shall conduct bingo upon the same premises in that time period. This prohibition shall not extend to or affect the leasing, rental or use of premises for any other purpose than the conduct of bingo.

(3) The rental fee for the lease of any premises on which bingo games are to be conducted shall not be calculated on a percentage basis of the seating capacity of the leased premises, or the game receipts before or after payment of the actual business expenses, or the number of persons attending any occasion that includes the play of bingo games. The amount paid for such lease shall not exceed the fair market value of the leasehold interest. The code enforcement department shall be authorized to require the lessor to demonstrate the manner or method by which the fair market rent was determined. The code enforcement department shall have the right to use the services of an appraiser to ascertain whether or not the rental charge represents a fair market rent for the premises.

(4) When the actual fee for the lease of any premises on which bingo games are to be conducted includes the use of equipment, tables, chairs and other appurtenances essential to the conduct of bingo, the provisions of subsection (2) of this Section shall apply, except that the amount paid for the lease may include a separate charge which shall not be greater than the fair market rental charge for such equipment. The code enforcement department

may require the lessor to demonstrate the manner and method by which the fair market rental charge for such equipment was determined.

**SECTION 18. PENALTIES; INJUNCTION.** A person who knowingly and willfully violates the terms of this Ordinance, upon being found guilty, shall be punished by a fine not to exceed \$500.00 or imprisonment for a term not exceeding 60 days, or by both such fine and imprisonment. Each day that any violation of any provision of this Ordinance shall continue shall constitute a separate offense. It is hereby found and declared that a violation of the provisions of this Ordinance constitutes an irreparable injury to the people of Fort Meade. Accordingly, the City may additionally or alternatively institute a civil action in a court of competent jurisdiction to seek injunctive relief to enforce compliance with this Ordinance and to enjoin any violation of this Ordinance to prevent injury to the health, safety, and general welfare caused or threatened by any violation.

**SECTION 19. SEVERABILITY.** If any provision or portion of this Ordinance is declared by any court of competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and portions of this Ordinance shall remain in full effect.

**SECTION 20. REPEAL OF PRIOR RESOLUTIONS AND ORDINANCES.** All provisions of any ordinance or resolution previously adopted by the City Commission that is inconsistent with or at variance with the provisions of this Ordinance are hereby repealed.

**SECTION 21. EFFECTIVE DATE.** This Ordinance shall take effect immediately upon adoption.



PASSED ON FIRST READING this 10th day of February, 2009.

PASSED ON SECOND READING this 10th day of March, 2009.

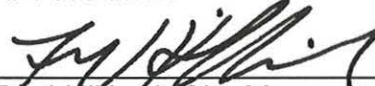
CITY OF FORT MEADE, FLORIDA

  
Robert Elliott, Mayor

ATTEST:

  
Phyllis Kirk, Deputy City Clerk

APPROVED:

  
Fred Hilliard, City Manager

APPROVED AS TO FORM AND  
LEGALITY:

  
Thomas A. Cloud, Esquire  
City Attorney