



MICHIGAN GARDEN CLUBS, INC.

Member of National Garden Clubs, Inc.

Member of Central Region Garden Clubs, Inc.

April 23, 2017

Revised July 20, 2017

To: All Member Clubs of Michigan Garden Clubs, Inc.

From: Rose Houk, Group Tax Exemption Chair and
Marilyn McIntosh, President, Michigan Garden Clubs, Inc.

GUIDELINES FOR ACHIEVING “QUALIFIED ORGANIZATION” STATUS (UNDER THE BINGO ACT)

In Michigan, a lottery is illegal unless specifically authorized by statute. Lotteries are a type of gaming that involves minimal participation and no skill on the part of the player, in contrast to the playing of some card games like poker. A lottery constitutes a crime unless the activity falls within a category specifically authorized or licensed under Michigan or federal law, or is within some legal exception created by statute or case law.

Raffles are a lottery. Whether you call it a game of chance, door prizes, 50/50, giveaway, or raffle, if there are 3 elements present, by definition, the event is gambling (a lottery) and must be licensed to be conducted legally. First you must be determined to be a “Qualified Organization” that is eligible for a gaming license under the Traxler-McCauley-Law-Bowman Bingo Act, popularly referred to as “The Bingo Act”.

The purpose of these *Guidelines* is to assist local garden clubs become a “Qualified Organization” for purposes of seeking a license for charitable gaming events. Prior to February of this year, unless Michigan Garden Club, Inc. (MGC) agreed to oversee a member club’s gaming activities it could not qualify for a gaming license. That restriction has now changed.

The *Guidelines* in this document were developed for MGC Member clubs because of an inquiry by Marilyn McIntosh, President of MGC. President McIntosh wanted local clubs to have a legitimate raffle for their charitable programs. Initially, MGC was told that local garden clubs could qualify only if MGC agreed to oversee the gaming activities of all member clubs. The Charitable Gaming Division (CGDiv) considered all MGC member clubs to be an “affiliate” club thus requiring oversight by the State club. MGC determined that oversight for over 160 local garden clubs that held a gaming event was an overwhelming task which MGC could not undertake.

Through continued discussions with the CGDiv of the State of Michigan Lottery Bureau and this author, it was determined that only in certain instances would member clubs be deemed an affiliate of MGC for which oversight is mandated by the statute and rules. For all other MGC member clubs, no oversight is necessary and constructs for applying for “Qualified Organization” status were developed by the CGDiv. These *Guidelines* are available ONLY for MGC member clubs - one more tangible

benefit of membership in MGC.

CATEGORIES OF “QUALIFIED ORGANIZATION” STATUS

There are two categories (with two sub-categories for each) for eligibility under which a local garden club may be a “Qualified Organization” for a license. Being qualified under any of the four sub-categories determines the kind of license for which the club may apply. The applications for *Fraternal Organizations* and *Local Civic Organizations* may be found at: <http://www.michigan.gov/cg/0,4547,7-111-1171---,00.html>. Click *Fraternal* or *Local Civic Organization* at bottom of page to go to the appropriate application. Or you may Google the Fraternal Application at: “BSL-CG-1470”; or the Local Civic Application at: “BSL-CG-1453”. For more information see the *Charitable Gaming Division Raffle Guide* at http://www.michigan.gov/documents/BSL-CG-1824_26045_7.pdf.

MGC offers no guarantee as to whether each club will in fact be granted “Qualified Organization” status. The decision to grant or deny is solely within the discretion of the Bureau of State Lottery Charitable Gaming Division.

Copies of the applications for Qualified Organization, *Fraternal and Local Civic Organizations*, and the *Michigan State Lottery Charitable Gaming Raffle Guide*, (REV 7/24/14) published by the CGDiv, may be found on the MGC website under the “Raffle Information” Folder on the “Members” side for your assistance in applying. A copy of the Charitable Gaming Directive No. 5.04.10 regarding exempt raffles is also in the Raffle Information Folder. **ALWAYS CHECK** the Michigan State Lottery website to see if the *Charitable Gaming Division Raffle Guide*, and applications have been updated. The websites for the Applications and the *Charitable Gaming Division Raffle Guide*, are recited above.

MGC will NOT be reviewing your application for "Qualified Organization" status with the CGDiv. You have full responsibility for applying. All applications should be sent directly to the Bureau of State Lottery Charitable Gaming Division as directed on the application.

Some MGC clubs may already have "Qualified Organization" status and need not re-apply unless requested by the Bureau of State Lottery Charitable Gaming Division to do so.

NOTE: If any MGC member club is granted “Qualified Organization” status, it is qualified to hold raffles which have a prize of \$100.00 or less without the necessity of seeking a license for that raffle. Often these types of raffles are during club meetings and are 50/50 raffles with small prizes. Hence, they are exempt from licensure per a Directive of the Gaming Division. You can Google “**Charitable Gaming Directive No. 5.04.01**”, or find it at: http://www.michigan.gov/documents/BSL-CG-D050401_170861_7.PDF.

Questions concerning this Guideline may also be directed to [houkra@gmail.com](mailto:hokra@gmail.com) email address with your “club name” and “question about applying for gaming license/QO” in the subject line.

Following are the criteria for applying to be a “Qualified Organization” in each of the two categories, *Fraternal Organization* and *Local Civic Organization*. Each category has two sub-categories. There are distinctions in each of the four and it is important to understand the differences. Read the instructions for application for each of the categories/sub-categories

carefully to decide under which your club may qualify. It is suggested that you submit a cover letter with your application identifying all documents that accompany the application.

Caution: MGC member clubs that are part of the Group Tax Exemption (GTE) Program should pay special attention to the materials that they must provide for qualification. GTE member clubs should apply as a Fraternal Organization pursuant to sub-category IA below. **The special instructions for these clubs are in *bold italics* within the criteria.** Also, each club that is afforded “Qualified Organization” status because it is part of the GTE Program **MUST reapply** for continued participation in the MGC GTE Program each year in accordance with the Renewal process in the *Incorporating as a Nonprofit Corporation and MGC Group Tax Exemption Program Handbook* found on the MGC website.

CRITERIA FOR CATEGORIES OF “QUALIFIED ORGANIZATION” STATUS

CATEGORY I – FRATERNAL ORGANIZATION (See Charitable Gaming Website for application)

Sub-Category 1A. Clubs applying as a *Fraternal Organization which ARE a branch, lodge or chapter (affiliate or subordinate) of a national or state organization (this includes all GTE Program clubs)*

Clubs in this category are those MGC member clubs that have 501(c)(3) status through the GTE Program with MGC. To avail themselves of this sub-category, MGC member clubs must meet the following factors:

- A local garden club must be a member of the MGC GTE Program, (***which by MGC requirements means it is also incorporated as a nonprofit corporation***).
- The club must sign an Affiliation Agreement with MGC as part of the GTE Program; (***which it does as part of the GTE Program requirements. This same agreement is sufficient for CGDiv purposes and is to be filed with the application to CGDiv***).
- The club must be exempt from federal income tax as a 501(c)(3) (***which it is as part of the GTE Program***).
- The club must be a nonprofit corporation (which is required by the GTE Program) and ***MUST include a copy of its filed Articles of Incorporation***, with the licensing qualifying application, and a ***signed and dated copy of its Bylaws***.
- The Articles of Incorporation or Bylaws must have a provision that upon dissolution all assets will revert to another nonprofit organization (MGC GTEP members already have this provision in either the Articles of Incorporation or the Bylaws and possibly both).
- The clubs which are a member of the GTE Program ***MUST include the one page letter from MGC identifying your club as part of the Tax Exempt Group with the application for “Qualified Organization” status***.
- A copy of the charter. (***MGC does not issue charters; instead the Affiliation Agreement signed by the local club and MGC should suffice for the “Qualified Organization” application. Indicate in the Application that no charter exists but the Affiliation Agreement is attached***)

- A directory published by the state organization which lists the organization in it. MGC does not publish a directory of its club members. The club should indicate none is available. (*Instead the GTE letter from MGC and the Affiliation Agreement will suffice*).
- A copy of the MGC's bylaws may be required. (*If required, a copy of the Bylaws may be obtained on the MGC website, Member side. There is no need to submit this unless requested by CGDiv*).

NOTE: All clubs that are in the GTE Program through MGC, once approved as a “Qualified Organization” are eligible to seek licenses for **ALL** events licensed under the Bingo Act, including large and small raffles, bingo, and charity games; however, only Fraternal Organizations that own or lease a location for the regular use of its membership are eligible to apply for a license for an annual Charity Game. (It is doubtful that any of the GTE Program clubs will qualify for this charity game.)

Sub-Category IB. Clubs applying as a *Fraternal Organization which are NOT a branch, lodge or chapter of a national or state organization*

Clubs in this category are those that have received a separate determination letter from IRS, even though they are a member of MGC. They are not considered an “affiliate club” by CGDiv. Clubs applying under this sub-category do not have to be a 501(c)(3) organization, but could be a 501(c)(4) or even (c)(7) organization. To avail themselves of this sub-category, the local clubs must meet the following factors:

- a local club must have a determination letter from IRS identifying it as an organization within sub-sections 501(c)(3) to 501(c)(29) of the IRS Code (and such others as may be added by IRS at a future date). (It is recommended that clubs with a 501(c)(3) determination letter apply as a *Local Civic Organization, see 2B below*.)
- The local club must **not** be affiliated with any state or national branch, lodge, or chapter, that is, have an affiliation agreement;
- The club must **not** be organized for pecuniary profit.
- The club must provide all documentation including:
 - Filed copy of Articles of Incorporation, if incorporated;
 - a copy of its Constitution if not incorporated, which is dated and signed;
 - If either a corporation or unincorporated, the club must provide a copy of the Bylaws, dated and signed;
 - Either the Articles, Constitution or Bylaws must have a provision that all assets of the organization will revert to *either* a local government or another nonprofit organization should the applying club dissolve.
 - If the club is not a 501(c) organization, a copy of one bank statement for each of the previous 5 years, excluding the current year.
 - The local club must amend the Articles, Constitution or Bylaws that all assets of the organization will revert either to a local government or another 501(c) organization if they do not currently contain that provision.

NOTE: Clubs that qualify in this sub-category, as only a social club for its members, are eligible to apply **ONLY** for a large or small raffle license. Clubs in this category may not apply for a license for bingo or charity games. Always check with the CGDiv to determine under which sub-category you qualify and for which license your club can apply.

CATEGORY 2 - LOCAL CIVIC ORGANIZATION (See Charitable Gaming Website for application)

SEE NOTE AT END OF THIS SECTION – LOCAL CIVIC ORGANIZATION 2A & 2B

Sub-Category 2A. Clubs applying as a *Local Civic Organization*

A MGC member club may apply to be a “Qualified Organization” as a local civic organization if the local garden club is **NOT** part of the MGC GTE Program and does **NOT** have a determination letter from IRS identifying it as a 501(c) organization. To avail themselves of this sub-category, the local clubs must meet the following factors:

- The local garden club has been in existence for 5 years or more.
- The club must provide, with the application, a copy of one month’s bank statements for each of the previous 5 years, excluding the current year.
- If incorporated, the club must provide a copy of the club’s filed Articles of Incorporation.
- If the club is unincorporated, it must provide a signed and dated copy of its Constitution.
- The club must provide a signed and dated copy of its Bylaws.
- The club must show, by its Constitution, Articles of Incorporation or Bylaws, that its *purposes* are 100% charitable.
- The club must show, by a statement of revenue and expenditures for the previous 12-month period, by treasurer’s report, 990 or audit, that **its entire assets are used for charitable purposes.**
- The club has, and must provide, a resolution passed by the local governmental body stating the organization is a recognized nonprofit organization in the community. The form for this resolution is included with the Application.
- The club must have in its governance documents a provision that in the event of dissolution all assets will revert to the local governmental organization that granted the resolution determining it to be a nonprofit organization.
- If **incorporated** the club must provide in its governance documents (Articles of Incorporation or Bylaws) a provision **that its duration is perpetual.**
- If a club is **unincorporated**, it must provide in its governance documents (Constitution or Bylaws) a provision that it **will remain nonprofit forever.**
- If a club is either incorporated or unincorporated, and does not have the appropriate provision, it must amend either its Articles of Incorporation, Constitution or Bylaws to provide same. (*It is recommended that the Bylaws be amended.*)

NOTE: MGC member clubs, once they are approved as a “Qualified Organization” in this sub-category, will be eligible to seek licenses for **ALL** events licensed under the Bingo Act, including large and small raffles, bingo and charity games.

Sub-Category 2B. Clubs applying as a *Local Civic Organization as an independent 501(c)(3)*

organization

Clubs in this category **have** a determination letter from IRS separate from MGC. If a MGC member club is a 501(c)(3) organization, with its own determination letter from IRS identifying them as a charitable organization under 501(c)(3) (independent from MGC GTE Program), it may qualify as a *local civic organization*. To avail themselves of this sub-category, the clubs must meet the following factors:

- The local garden club must provide a filed copy of the Articles of Incorporation or a signed and dated copy of its Constitution.
- Both incorporated and unincorporated organizations must provide signed and dated Bylaws.
- The club must provide a determination letter from IRS.
- A provision must be in its governance documents that assets will be distributed to another 501(c)(3) organization upon dissolution of the applying organization.
- The club must provide a revenue and expense statement for the previous 12-month period such as a treasurer's report, a 990 or an audit verifying that **its entire assets are used for charitable purposes**.
- A copy of a resolution from the local body of government declaring the organization to be a nonprofit organization in the community.
- If **incorporated**, the club must provide in its governance documents (Articles of Incorporation or Bylaws) a provision **that its duration is perpetual**.
- If a club is **unincorporated**, it must provide in its governance documents (Constitution or Bylaws) a provision that it **will remain nonprofit forever**.
- If a club is either incorporated or unincorporated, and does not have the appropriate provision, it must amend either its Articles of Incorporation, Constitution or Bylaws to provide same. (*It is recommended that the Bylaws be amended.*)

NOTE: Clubs that qualify in this sub-category are eligible to apply for licenses for **ALL** events licensed by the Bingo Act, e.g., bingo, charity game ticket and large and small raffles.

As of July 2017, it is strongly recommended that all garden clubs, that have a 501(c)(3) designation from IRS, and are not a GTE Program member, apply as a Fraternal Organization, see Category IB on page 4, and **NOT** as a Local Civic Organization. Qualifying as a Local Civic Organization is far more stringent. GTE Program member clubs should still apply as a Fraternal Organization, see Category IA, on page 3.

Once you receive a decision, I would appreciate an email advising of that decision, whether granted or denied. You may send an email to: houkra@gmail.com . Please put your "club name" and "CGDiv "OO" Decision" in the subject line of your email. A copy of the letter from CGDiv should be included with your email.

Thank you for your cooperation.

Rose A. Houk

**Member, Board of Directors,
Michigan Garden Clubs, Inc.**