

ORDINANCE NUMBER O- 18161 (NEW SERIES)

ADOPTED ON FEB 17 1998

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3, DIVISION 34, OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING SECTION 33.3406, RELATING TO TERMS OF BINGO LICENSE AND FEES, AND SECTION 33.3408, RELATING TO LIMITATIONS.

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3, Division 34, of the San Diego Municipal Code be and the same is hereby amended by amending Sections 33.3406 and 33.3408, to read as follows:

Sec. 33.3406 Term of License and Fees

(a) A bingo license shall expire one year from the date of issuance or at any time sooner that any of the matters disclosed under Section 33.3404 change.

(b) Upon application therefor, a bingo license may be renewed for a maximum period of one (1) year any time within six (6) months from its date of expiration.

(c) The fee for a bingo license application shall be \$50.

(d) There shall be no fee for renewal provided there is no change in the list of the members of the nonprofit, charitable organization who will operate the bingo game(s). For each name subsequently added or changed on the list there shall be a fee for each name added, but in any case the fee shall not exceed the fee for an initial license.

(e) The appropriate fee shall accompany the submission of each application or renewal.

(f) The fee shall be used to defray the cost of issuing the license.

(g) If an application for a bingo license is denied, one-half of the license fee paid shall be refunded to the organization.

SEC. 33.3407 NO CHANGE IN TEXT.

SEC. 33.3408 Limitations

(a) A qualified nonprofit, charitable organization shall conduct a bingo game only on property owned or leased by it, which property has been used by that organization as an office or for the performance of the purposes for which the licensee is organized for at least twelve (12) consecutive months immediately preceding the filing of such application. In the event the described property ceases to be used as an office or as a place for performance of the purposes for which the licensee is organized, the license shall have no further force or effect. Nothing in Section 33.3408(a) shall be construed to require that the property owned or leased by the organization be used exclusively by that organization. In the event of the loss of the lease of the premises, destruction by fire, earthquake or other circumstances beyond the control of the licensee, the game may be moved to a new location owned or leased by the licensee upon notice to the Chief of Police.

(b) No minors shall be allowed to participate in any bingo game.

(c) All bingo games shall be open to the public, not just to the members of the qualified nonprofit, charitable organization. Attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the City Manager, including the Fire Department, in accordance with applicable laws and regulations. The licensee shall not reserve seats or space for any person.

(d) All bingo games shall be operated and staffed only by individuals who are members of the qualified nonprofit, charitable organization, and who have been approved by the Chief of Police pursuant to this Division. Those members shall not receive a profit, wage or salary from any bingo game, including any free or discounted play of any bingo game. This prohibition does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game. Only the organization authorized to conduct a bingo game shall operate such game or participate in the promotion, supervision or any other phase of such game. Such members during operation of any bingo game shall wear on his or her outside clothing, in plain view, at chest height, an identification insignia or badge measuring not less than 2 1/2 inches by 3 1/2 inches in size and specifying the full name and title of such person and the name of the licensed organization. While managing, supervising or conducting any bingo game, such members shall not be allowed to participate as a player in any bingo game.

(e) Except for the organization authorized to conduct a bingo game, it is unlawful for any individual, corporation, partnership, or other legal entity to hold a financial interest in the conduct of the game.

(f) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the California Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. Those profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this Division, all proceeds derived from a bingo game shall be kept in

a special fund or account and shall be distributed only to charitable organizations exempt from payment of the bank and corporation tax by California Revenue and Taxation Code Section 23701d. Those proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) A portion of the proceeds, not to exceed twenty percent (20%) of the proceeds before the deduction for prizes, or two thousand dollars per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(3) The proceeds may be used to pay license fees.

(g) Within ten (10) business days after any bingo game is held, the licensee shall file with the Chief of Police a full and complete financial statement of all monies collected, disbursed and the amount remaining for charitable purposes. If the licensee conducts bingo games on any ongoing basis, the licensee may file a statement every month. The Chief of Police shall have the power to inspect all books, records and papers of the nonprofit, charitable organization which pertain to the operation of bingo games.

(h) It is unlawful for any person to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

(i) The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

(j) Licensed bingo operations shall limit their days of operation to the following number of calendar days per week:

(1) operations with a seating capacity of fifty (50) people or less -- four or fewer days a week;

(2) operations with a seating capacity of fifty-one (51) to one hundred (100) people -- three or fewer days a week;

(3) operations with a seating capacity of one-hundred-one (101) or more people -- two or fewer days a week. Four additional days of operation may be used during any fiscal year in conjunction with regular weekly games. The Chief of Police must be notified in writing at least thirty (30) calendar days prior to the use of an additional day.

(k) It is unlawful for any manager or alternate-manager to knowingly permit a person who is intoxicated and unable to exercise care for his safety or the safety of others to participate in or wander about any bingo game.

(l) All disbursements from the bingo account shall be by consecutively numbered checks signed by two authorized officers of the licensee and shall be made payable to a specific individual or organization. There shall be written on each check the nature of the expenditure for which the check is drawn. It is unlawful for any person to issue a check drawn to "cash" or to a fictitious payee.

(m) The manager or alternate-manager shall record all donations and/or sales of bingo playing cards, hard cards, paper cards, markers, and pull-tabs (break opens) during each bingo game. Those records shall be kept on file in the bingo office with the financial statement for inspection purposes.

(n) It is unlawful for any person to induce, encourage or solicit any person to participate in any bingo game by making a false or misleading statement, including statements about the prizes to be distributed. It is unlawful for any person to publish or

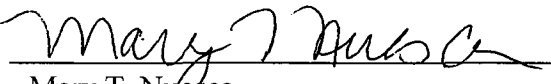
cause to be published through any news medium or advertising device, any false or misleading statement concerning any bingo game, including statements about the prizes to be distributed.

(o) It is unlawful to call or post any bingo letter or number unless the letter or number on the object drawn is displayed to the assemblage in such a manner that the letter or number is visible to the assemblage.

(p) All bingo cards presented for winnings shall be verified by a third party. Such verification shall be made prior to the beginning of the next bingo game.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Mary T. Nuesca
Deputy City Attorney

MTN:jp:520.1
04/14/97
07/21/97 COR.COPY
Or.Dept:Police
O-97-101

OLD LANGUAGE - STRIKEOUT
NEW LANGUAGE - SHADED

(O-97-101)
(COR.COPY)

STRIKEOUT ORDINANCE NUMBER O-_____ (NEW SERIES)

ADOPTED ON _____

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3,
DIVISION 34, OF THE SAN DIEGO MUNICIPAL CODE BY
AMENDING SECTION 33.3406, RELATING TO TERMS OF
BINGO LICENSE AND FEES, AND SECTION 33.3408,
RELATING TO LIMITATIONS.

Sec. 33.3406 Term of License and Fees

(a) A bingo license shall expire one year from the date of issuance or at any time sooner than any of the matters disclosed under Section 33.3404 change. It

(b) Upon application therefor, a bingo license may be renewed for a maximum period of one (1) year any time within six (6) months from its date of expiration, upon application therefor.

(c) The fee for a bingo license application shall be \$50.

(d) There shall be no fee for renewal provided there is no change in the list of the members of the nonprofit, charitable organization who will operate the bingo game(s). For each name subsequently added or changed on the list there shall be a fee for each name added, but in any case the fee shall not to exceed the fee for an initial license.

(e) The appropriate fee shall accompany the submission of each application or renewal.

(f) The fee shall be used to defray the cost of issuing the license.

(g) If an application for a bingo license is denied, one-half of the license fee paid shall be refunded to the organization. ~~An additional fee of one percent (1%) of the monthly gross receipts over \$5,000 derived from bingo games shall be collected monthly. Such fee shall be calculated annually and in conjunction with other fees generated by this section to recover the costs of enforcing this Division only. These fees shall be included in the City Clerk's Composite Rate Book.~~

SEC. 33.3407 NO CHANGE IN TEXT.

SEC. 33.3408 Limitations

(a) A qualified nonprofit, charitable organization ~~as defined in this Division~~ shall conduct a bingo game only on property owned or leased by it, which property has been used by ~~such~~ that organization ~~for~~ as an office or for the performance of the purposes for which the ~~organization~~ licensee is organized for at least twelve (12) consecutive months immediately preceding the filing of such application. In the event the described property ceases to be used as an office or as a place for performance of the purposes ~~of~~ for which the licensee is organized, the license shall have no further force or effect. Nothing in ~~this subdivision~~ Section 33.3408(a) shall be construed to require that the property owned or leased by the organization be used exclusively by ~~such~~ that organization. In the event of the loss of the lease of the premises, destruction by fire, earthquake or other circumstances beyond the control of the licensee, the game may be moved to a new location owned or leased by the licensee upon notice to the Chief of Police.

(b) No minors shall be allowed to participate in any bingo game.

(c) All bingo games shall be open to the public, not just to the members of the

qualified nonprofit, charitable organization. Attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the ~~Fire Department and Building Division~~ City Manager, including the ~~Fire Department~~, in accordance with applicable laws and regulations. The ~~Licensee~~ licensee shall not reserve seats or space for any person.

(d) All bingo games shall be operated and staffed only by individuals who are members of the qualified nonprofit, charitable organization, and who have been approved by the Chief of Police pursuant to this Division. ~~Such~~ Those members shall not receive a profit, wage or salary from any bingo game, including any free or discounted play of any bingo game. ~~This prohibition does not preclude the employment of security personnel who are not members of the authorized organization at a bingo game by the organization conducting the game.~~ Only the organization authorized to conduct a bingo game shall operate such game or participate in the promotion, supervision or any other phase of such game. Such members during operation of any bingo game shall wear on his or her outside clothing, in plain view, at chest height, an identification insignia or badge measuring not less than 2 ½ inches by 3 ½ inches in size and specifying the full name and title of such person and the name of the licensed organization. ~~Such members while~~ While managing, supervising or conducting any bingo game such members shall not be allowed to participate as a player in any bingo game.

~~(e) No individual, corporation, partnership, or other legal entity except the organization authorized to conduct a bingo game, to hold a financial interest in the conduct of the game.~~

~~(e) Except the organization authorized to conduct a bingo game, it is unlawful for~~

any individual, corporation, partnership, or other legal entity to hold a financial interest in the conduct of the game.

(f) With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d of the California Revenue and Taxation Code, all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account. ~~Such~~ Those profits shall be used only for charitable purposes. With respect to other organizations authorized to conduct bingo games pursuant to this Division, all proceeds derived from a bingo game shall be kept in a special fund or account and shall be distributed only to charitable organizations exempt from payment of the bank and corporation tax by California Revenue and Taxation Code Section 23701d. ~~Such~~ Those proceeds shall be used only for charitable purposes, except as follows:

~~1- (1) Such~~ The proceeds may be used for prizes.

~~2- (2) A portion of such~~ the proceeds, not to exceed twenty percent (20%) of the proceeds before the deduction for prizes, or ~~one thousand dollars (\$1,000)~~ two thousand dollars (\$2,000) per month, whichever is less, may be used for the rental of property and for overhead, including the purchase of bingo equipment, ~~and~~ administrative expenses, security equipment, and security personnel.

~~3- (3) Such~~ The proceeds may be used to pay license fees.

(g) Within ten (10) business days after any bingo game is held, the licensee shall file with the Chief of Police a full and complete financial statement of all monies collected, disbursed and the amount remaining for charitable purposes, ~~or if~~ If the licensee conducts bingo games on any ongoing basis, the licensee may file ~~such~~ a

statement every month. The Chief of Police shall have the power to inspect all books, records and papers of the nonprofit, charitable organization which pertain to the operation of said bingo games.

(h) ~~No person shall be allowed~~ It is unlawful for any person to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

(i) The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars (\$250) in cash or kind, or both, for each separate game which is held.

(j) Licensed bingo operations shall limit their days of operation to the following number of calendar days per week;

(1) operations with a seating capacity of fifty (50) people or less -- four or fewer days a week;

(2) operations with a seating capacity of fifty-one (51) to one hundred (100) people -- three or fewer days a week or less;

(3) operations with a seating capacity of one-hundred-one (101) or more people -- two or fewer days a week or less. Four additional days of operation may be used during any fiscal year in conjunction with the regular weekly games. The Chief of Police must be notified in writing at least thirty (30) calendar days prior to the use of an additional day.

(k) ~~No~~ It is unlawful for any manager or alternate-manager ~~shall~~ to knowingly permit a person who is intoxicated and unable to exercise care for his safety or the safety of others to participate in or wander about any bingo game.

(l) ~~Disbursement of funds.~~ All disbursements from the bingo account shall be by

consecutively numbered checks signed by two authorized officers of the licensee and shall be made payable to a specific individual or organization. There shall be written on each check the nature of the expenditure for which the check is drawn. ~~No~~ It is unlawful for any person to issue a check ~~shall be~~ drawn to "cash" or to a fictitious payee.

~~(m) Accountability. A~~ The manager or alternate-manager shall record of all donations and/or sales of bingo playing cards, hard cards, paper cards, markers, and pull-tabs (break opens) ~~shall be recorded~~ during each bingo game. ~~and shall be maintained and~~ Those records shall be kept on file in the bingo office with the financial statement for inspection purposes.

~~(n) False or misleading advertising. It shall be is~~ unlawful for any person, firm, corporation, or association, with intent directly or indirectly to induce, encourage or solicit any person to participate in any bingo game by making a false or misleading statement, including statements about the prizes to be distributed. ~~or games authorized pursuant to this Chapter, to make or disseminate or cause to be made or disseminated before the public in this City, in any newspaper or publication, or any advertising device, or by public outcry or proclamation, or any other manner or means whatsoever, any statement concerning any such bingo games including, but not limited to, the amount of prizes to be awarded or distributed in any game, which is untrue or misleading, and which is known or which, by the exercise of reasonable care, should be known to be untrue or misleading.~~ It is unlawful for any person to publish or cause to be published through any news medium or advertising device, any false or misleading statement concerning any bingo game, including statements about the prizes to be distributed.

(o) It ~~shall be~~ is unlawful to call or post any bingo letter or number unless the

letter or number on the object drawn is displayed to the assemblage in such a manner that the letter or number is visible to ~~such~~ the assemblage.

(p) All bingo cards presented for winnings shall be verified by a third party. Such verification shall be made prior to the beginning of the next bingo game.