

Article 3: Police Regulated Occupations and Businesses**Division 34: Bingo Games for Charitable Nonprofit Organizations**

(“*Bingo Games for Charitable Nonprofit Organizations*”
added 9–15–1976 by O–11912 N.S.)

§33.3401 Purpose and Intent

Notwithstanding any other provisions of this Code, this ordinance is adopted pursuant to Section 19 of Article IV of the California Constitution in order to make the game of bingo lawful under terms and conditions of the following sections of this Division. (“*Purpose and Intent*” added 9–15–1976 by O–11912 N.S.)

§33.3402 Definitions

The following words and phrases, wherever used in this Division, shall be construed as defined in this section, unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases:

- (a) “Bingo” shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random. Pursuant to California Penal Code Section 326.5(o), as used in this Division, the game of bingo shall include cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes. The winning cards, including cards commonly known as pull-tabs (break opens), shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All provisions of this Division apply to the sale, use and redemption of such cards.
- (b) “Qualified Nonprofit, Charitable Organization” shall mean an organization exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g and 23701l of the Revenue and Taxation Code, mobile home park associations and senior citizen organizations.
- (c) “Minor” shall mean any person under the age of eighteen (18) years.

- (d) “Charitable Purposes,” when used herein, shall refer to any purpose that is religious, scientific, literary, educational in nature, or otherwise contemplated within the context of Revenue and Taxation Code Section 23701d.

(Amended 3-9-1987 by O-16823 N.S.)

§33.3403 License Required

It shall be unlawful for any person to conduct any bingo game in the City of San Diego unless such person is a member of a qualified nonprofit, charitable organization, as defined in this Division, acting on behalf of such qualified nonprofit, charitable organization and such organization has been issued a license as provided by this Division.

(Amended 3-9-1987 by O-16823 N.S.)

§33.3404 Application

An application for a bingo license shall be made to the Chief of Police on forms prescribed by the Chief of Police not less than thirty (30) days prior to the proposed date of the bingo game or games. The application for a bingo license shall contain at a minimum the following:

- (a) A list of all members who will operate the bingo games, including full names of each member, date of birth, place of birth, physical description, home address and home telephone number.
- (b) The date(s), hours of the day, place(s) of the proposed bingo game or games.
- (c) Proof that the organization is a qualified nonprofit, charitable organization as defined in this Division.
- (d) Bingo Manager. Concurrently, with the filing of an application for a bingo license, each applicant shall file a statement specifying the name and address of not less than two nor more than eight persons who shall manage, supervise, and be responsible for the conduct of all bingo games by said applicant. Said person, who shall be known as the bingo “manager” or “alternate manager,” shall be present on the premises at all times during which bingo games are conducted. With respect to bingo licenses heretofore issued, each licensed organization shall file the above statement within ten (10) days following the effective date of this ordinance.

Within ten (10) days of a change in the person designated as the bingo “manager” or “alternate manager” by any licensee, such licensee shall file a new statement containing all of the data specified in this section.

(Amended 3-9-1987 by O-16823 N.S.)

§33.3405 Application Investigation

Upon receipt of an application for a license, the Chief of Police shall make an investigation of the applicant. The Chief of Police may send copies of such application to any office or department which the Chief of Police deems essential in order to conduct a proper investigation of the applicant.

The Chief of Police and every officer and/or City department to which an application is referred shall investigate the truth of the matters set forth in the application, the character of the applicant, and may examine the premises to be used for the bingo game.

The Chief of Police shall issue the license unless he finds that the applicant has knowingly made any false, misleading or fraudulent statement of a material fact in the application for the license or in any record or report required to be filed under this Division, or that the organization is not a qualified nonprofit, charitable organization as defined in Section 33.3402(b) or that the applicant or any of its members who will operate the bingo game have previously been convicted of violating any of the provisions of this Division or of any provision of state law relating to unlawful gambling or of theft.

(Amended 3-9-1987 by O-16823 N.S.)

§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) An appropriate fee shall accompany the submission of each application or renewal.

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

(Amended 2-17-1998 by O-18464 N.S.)

(Amended 5-28-2009 by O-19851 N.S.; effective 6-27-2009.)

§33.3407 License Not Transferable

Each license issued hereunder shall be issued to a specific person on behalf of a specific qualified nonprofit, charitable organization to conduct a bingo game at a specific location and shall in no event be transferable from one person to another nor from one location to another.

(Amended 3-9-1987 by O-16823 N.S.)

§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 inches by 3 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 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 (\$2,000) per month, whichever is less, may be used for the rental of property and 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 said 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 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 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.
- (Amended 2–17–1998 by O–18464 N.S.)*

§33.3409**Inspection**

Any peace officer or regularly salaried police employee shall have free access to any bingo game licensed under this Division. The licensee shall have the bingo license and list of approved members of the qualified nonprofit, charitable organization who will operate the bingo game available for inspection at all times during any bingo game.

(Amended 3–9–1987 by O–16823 N.S.)

§33.3410**Suspension or Revocation of License**

The Chief of Police may suspend or revoke a bingo license if he finds that the licensee or any agent or representative thereof has violated any of the provisions of this Division.

If after investigation the Chief of Police determines that a bingo license should be suspended or revoked or an application for such license denied, he shall prepare a notice of suspension, revocation or denial of application setting forth reasons for such suspension, revocation or denial of application. Such notice shall be sent by certified mail to the licensee's or applicant's last address provided in the application or be personally delivered. Any person who has had an application for a bingo license denied by the Chief of Police, or who has had a bingo license suspended or revoked by the Chief of Police may appeal the decision of the Chief of Police in the manner provided in this Code.

(“Suspension or Revocation of License” added 9-15-1976 by O-11912 N.S.)

§33.3411

Penalties

Any person violating any of the provisions or failing to comply with any of the requirements of this Division shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00) or by imprisonment in the County jail for a period of not more than six (6) months or by both such fine and imprisonment.

(“Penalties” added 9-15-1976 by O-11912 N.S.)

§33.3412

Severability

If any provision, clause, sentence or paragraph of this Division or the application thereof to any person or circumstances shall be held invalid, such invalidity shall not affect the other provisions or applications of the provisions of this Division which can be given effect without the invalid provision or application, and to this end the provisions of this Division are hereby declared to be severable.

(“Severability” added 9-15-1976 by O-11912 N.S.)