

CHAPTER 12-B

BINGO GAMES

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12B-1 Definition of “Bingo”. As used in this ordinance “bingo” means a game of change 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. Notwithstanding Section 330(c) of the Penal Code, as used in this section, 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 shall not be known prior to the game by any person participating in the playing or operation of the bingo game. All such preprinted cards shall bear the legend, “for sale or use only in a bingo game authorized under California law and pursuant to local ordinance.” (Ord. 478)

12B-2 Organization eligible for City license to conduct bingo games. Corporations, community chests or trusts, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or for the prevention or cruelty to children or animals; labor, agricultural, or horticultural organizations, fraternal beneficiary societies, orders, or organizations; business leagues, chamber of

commerce, real estate boards, and boards of trade; civic leagues; social welfare and employees' organizations; nonprofit pleasure and recreation clubs; voluntary government employees beneficiary organizations, exempted from the payment of the bank and corporation tax by Sections 23701 (a), 23701 (b), 23701 (d), 23701 (e), 23701 (f), 23701 (g) and 23701 (1) of the Revenue and Taxation Code and a contribution or gift or which would be a charitable contribution under Section 170 (c) (2) of the Internal Revenue Code of 1943; and mobile home park associations and senior citizens organizations; and provided that the proceeds of such games are used only for charitable purposes, are eligible to apply to the City for a license to conduct bingo games in the city under the provisions of Section 326.5 of the Penal Code and the provisions of this Ordinance.

(Ord. 478)

12B-3 Application for license. Eligible organizations desiring to obtain such license to conduct bingo games in the City of Imperial shall file an application in writing therefor in the office of the City Clerk on a form to be provided by the City Clerk. The issuing authority shall be the City Clerk. The license issued shall be for a term of one (1) year from the date of issuance, subject to renewal and annual fee.

(Ord. 478)

12B-4 Applicant must be qualified. No license shall be issued to any organization unless such applicant is an eligible organization under Section 2 and its application conforms to the requirement, terms and conditions of the Ordinance.

(Ord. 478)

12B-5 Content of Application. Said application for a license shall contain the following:

- 1) The name of the applicant organization and a statement that the applicant is an eligible organization under Section 2.
- 2) The name and signature of at least two (2) officers, including the presiding officer, of the corporation or community chest and the trustee of any trust.
- 3) The particular property within the City of Imperial, including the street number, owned or leased by the applicant, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized, together with the occupancy capacity of such proposed location.
- 4) Proposed days of week and hours of day for conduct of bingo games.
- 5) That the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this Ordinance, as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the City Clerk upon violation of any such provisions.
- 6) Said application shall be signed by the applicant under penalty of perjury.

- 7) In accordance with Penal Code Section 326.5 (1) (2), the annual license fee shall be \$50.00, paid upon application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. An additional fee one percent of the monthly gross receipts over \$5,000.00 derived from bingo games shall be paid to the City.
- 8) The applicant shall also submit, with its application a Certificate or Determination of Exemption under the appropriate Sections of the Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board in Sacramento, showing the exemption. (Ord. 622)

12B-6 Investigation of Applicant. Upon receipt of the completed application and the fee, the City Clerk shall refer the same to interested departments of the City, including, but not limited to, the City Attorney, Police Department, and the Fire Department, for investigation as to whether or not all the statements in the application are true and whether or not all the property of the applicant qualifies and the extent to which it qualifies, as property on which bingo games may lawfully be conducted, as to fire, occupancy, and other applicable restrictions. (Ord 478)

12B-7 Contents of license. Upon being satisfied that the applicant is fully qualified, under the law, to conduct bingo games in the City, the City Clerk shall issue a license to said applicant, which shall contain the following information:

- 1) The name and nature of the organization to whom the license is issued.
- 2) The address where bingo games are authorized to be conducted.
- 3) The occupancy capacity of the room in which bingo games are to be conducted.
- 4) The date of the expiration of such license.
- 5) Such other information as may be necessary or desirable for the enforcement of the provisions of this Ordinance. (Ord. 478)

12B-8 Summary suspension of license pending opportunity for hearing – Misdemeanor to continue after suspension – Revocation.

- a) Whenever it appears to the City Clerk that the licensee is conducting a bingo game in violation of any of the provisions of this Ordinance, the City Clerk shall have the authority to summarily suspend the license and order the licensee to immediately cease and desist any further operation of the bingo game.
- b) Any person who continues to conduct a bingo game after any summary suspension thereof under subsection (a) shall be deemed guilty of a

misdemeanor and upon conviction thereof, shall be punishable by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the County jail for a period not exceeding six (6) months, or by both such fine and imprisonment.

- c) The order issued under subsection (a) shall also notify the licensee that it shall have five (5) days from the date of such order to request a hearing to determine whether such license shall be revoked. Failure to request, in writing, such hearing before the City Clerk within said five (5) day period, shall result in a revocation of the license.
- d) Upon such request by the licensee, whose license has been suspended under subsection (a), for a hearing to determine whether such license shall be revoked, the City Clerk shall provide such hearing within ten (10) days after receipt of such request at which hearing the suspended licensee may appear before the City Clerk for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless notice of the time and place of such hearing shall have first been given at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to said suspended licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the suspension and revocation.
- e) Any organization whose license is revoked under this section shall not conduct any bingo games in the City until such time as the City Council, on appeal, determines to over-rule the decision of the City Clerk. (Ord. 478)

12B-9 Revocation of license – Alternative procedure.

- a) Whenever it appears to the City Clerk that the licensee is conducting bingo games in violation of any of the provisions of this Ordinance, or that the license was obtained by fraudulent representation and no summary suspension is ordered, under Section 8, the license may be revoked; provided, however, the licensee may appear before the City Clerk at the time fixed by the City Clerk, for the purpose of presenting evidence why the license should not be revoked. No license shall be revoked under this section unless written notice shall have first been given at least five (5) days before the hearing thereof by depositing in the United States mail a notice directed to said licensee at the address given in the application. The notice shall set forth a summary of the ground advanced as the basis of the revocation.
- b) Any organization whose license is revoked under this section shall not conduct any bingo game in the City until such time as the City Council, on appeal, determines to overrule the decision of the City Clerk. (Ord. 478)

12B-10 Appeal of revocation to City Council.

- a) Any holder of a license whose license is revoked under this Ordinance shall have the right, within ten (10) days after receiving notice in writing of the revocation, to file a written appeal to the City Council. Such appeal shall set forth the specific ground or grounds on which it is based. The City Council shall hold a hearing on the appeal within thirty (30) days after its receipt by the city, or at a time thereafter agreed upon and shall cause the appellant to be given at least ten (10) days written notice of such hearing. At the hearing the appellant or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in support of his appeal. The determination of the City Council on the appeal shall be final.
- b) Any organization whose license is finally revoked may not again apply for a license to conduct bingo games in the City of Imperial for a period of one (1) year from the date of such revocation; provided, however, if the ground for revocation is cancellation of the exemption granted under the Revenue and Taxation Code, such organization may again apply for a license upon proof of reinstatement of said exemption. (Ord. 478)

12B-11 Maximum amount of prize. The total value of prizes awarded during the conduct of any bingo games shall not exceed Two Hundred Fifty Dollars (\$250.00) in cash or kind, or both, for each separate game which is held. (Ord. 478)

12B-12 Profits to be kept in separate fund or account. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701 (d) of the 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 ordinance, all proceeds derived from a bingo game shall be kept in a special fund or account and shall not be used commingled with any other fund or account. Such 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 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, security personnel, and license fees. (Ord. 622)

12B-13 Financial interest in licensee only. No individual, corporation, partnership, or other legal entity except the licensee shall hold a financial interest in the conduct of such bingo game. (Ord. 478)

12B-14 Exclusive operation by licensee. A bingo game shall be operated and staffed only by members of the licensee organization. Such members shall not receive a profit, wage, or salary from any bingo game. Only the licensee shall operate such game, or participate in the promotion, supervision of any other phase of such game. (Ord. 478)

12B-15 bingo games open to public. All bingo games shall be open to the public, not just to the members of the licensee organization. (Ord. 478)

12B-16 Attendance limited to occupancy capacity. Notwithstanding that bingo games are open to the public, 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 Department of Public Works of the city in accordance with applicable laws and regulations. Licensee shall not reserve seats or space for any person. (Ord 478)

12B-17 Bingo games conducted only on licensee's property. A licensee shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization, and which property is used by that organization for an office or for performance of the purposes for which the organization is organized. Nothing in this section shall be construed to require that the property owned or leased by, or whose use is donated to, the organization be used or leased exclusively by, or donated exclusively to, that organization. The license issued under this ordinance shall authorize the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. (Ord. 622)

12B-18 Minors not to participate. No person under the age of eighteen (18) years of age shall be allowed to participate in any bingo game. (Ord. 478)

12B-19 Intoxicated persons not to participate. No person who is obviously intoxicated shall be allowed to participate in a bingo game. (Ord. 478)

12B-20 Hours of operation. No licensee shall conduct any bingo game more than six (6) hours out of any twenty-four (24) hour period. No bingo game shall be conducted before 10:00 a.m. nor after 2:00 a.m. of any day. (Ord 478)

12B-21 Participant must be present. No person shall be allowed to participate in a bingo game, unless the person is physically present at the time and place in which the bingo game is conducted. (Ord. 478)

12B-22 Receipt of profit by a person – a misdemeanor under state law. Except as provided in subparagraph (j) of Section 326.5 of the Penal Code of the State of California, it is a misdemeanor for any person to receive or pay a profit, wage, or salary from any bingo game authorized under this Ordinance. A violation of this section shall be punishable by a fine not to exceed Ten Thousand Dollars (\$10,000.00), which fine shall be deposited in a general fund of the City of Imperial. Any other violation of this Ordinance and Penal Code Section 326.5, is a misdemeanor. (Ord. 478)

12B-23 City may enjoin violation. The City of Imperial may bring an action in a Court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code of this Ordinance. (Ord. 478)

12B-24 Severability. If any section, subsection or portion of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any Court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection or portion thereof, irrespective of the fact that any one or more sections, subsections, or portions be declared invalid or unconstitutional.

(Ord. 478)