

Chapter 5.08

Code sections 326.3 and 326.5. (Ord. 817 §2, 2015)

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5.08.010 Short title.

This Chapter may be cited as the City of Ripon Bingo Ordinance. (Ord. 817 §1, 2015)

5.08.020 Authority for enactment.

This chapter is enacted pursuant to Article IV, Section 19 of the California Constitution and Penal

5.08.030 Definitions.

Unless specifically defined below, words or phrases used in this Chapter shall be interpreted so as to give them the meaning they have in common usage and to give this Chapter its most reasonable application:

“Bingo” has the meaning set forth in Penal Code section 326.5 (o) as it now exists or may hereafter be amended.

“Calendar week” means Monday through Sunday.

“City Administrator” means the City Administrator of the City of Ripon or any person he or she designates to enforce the requirements of this Chapter.

“Conduct,” “operate” and “staff” all mean persons directly involved in the conduct of a bingo game and include, but are not limited to, calling numbers, distributing cards, and the awarding of prizes.

“Permittee Organization” means an organization to which the City Administrator has issued a permit to conduct bingo games under this Chapter.

“Premises” means real property within the City on which bingo games are or may be permitted under this Chapter and which are: (I) owned or leased by an organization, or property whose use of which is donated to the organization, and (ii) which is used by that organization for an office or for performance of the purposes for which the organization is organized. Premises need not be used or leased exclusively by, or donated exclusively to, a Permittee Organization.

“Remote Caller Bingo Game” has the meaning set forth in Penal Code Section 326.3 (t) as it now exists or may hereafter be amended.

“Security personnel” means one or more persons exclusively employed to protect persons and property at bingo games. (Ord. 817 §3, 2015)

5.08.040 Bingo games authorized; remote caller bingo games authorized.

A. Nothing in this Chapter shall prohibit the holding of any bingo games in compliance with the

requirements of this Chapter by organizations exempted from payment of the bank and corporation tax by Sections 23701 (a), 23701 (b), 23701 (d), 23701 (e), 23701 (f), 23701 (g), 23791 (k), 23701 (l) and 23701 (w), and of the Revenue and Taxation Code, or by mobile home park associations and senior citizens organizations, and school districts, provided that the proceeds of such games are used solely for charitable purposes.

B. Bingo games for charitable purposes are authorized pursuant to Section 19, Article IV of the California Constitution, and Penal Code section 326.5, and in accordance with the provisions of this Chapter. Eligible organizations may apply for a permit to conduct bingo games in the City under the provisions of Penal Code Section 326.5 and the provisions of this Chapter.

C. Remote Caller Bingo Games for charitable purposes are authorized pursuant to Section 19, Article IV of the California Constitution, and Penal Code section 326.3. Remote Caller Bingo Games shall be conducted in accordance with Penal Code section 326.3 and this Chapter and only by organizations exempted from payment of the bank and corporation tax by Sections 23701 (a), 23701 (b), 23701 (d), 23701 (e), 23701 (f), 23701 (g), 23701 (k), 23701 (l) and 23701 (w), and of the Revenue and Taxation Code, or by mobile home park associations, senior citizens organizations, and charitable organization affiliated with school districts. In addition, no organization shall be authorized to conduct Remote Caller Bingo Games unless the organization (I) has been incorporated or in existence for three or more years; and (ii) has a City-issued permit to conduct bingo games. (Ord. 817 §4, 2015)

5.08.050 California Penal Code Section 326.3 incorporated.

The provisions of Penal Code section 326.3 are incorporated herein by this reference and apply along with provisions of this Chapter to control Remote Caller Bingo Games authorized by this Chapter. In the event of any conflict between the provisions of

this Chapter and Penal Code section 326.3, Section 326.3 shall control. (Ord. 817 §5, 2015)

5.08.060 California Penal Code Section 326.5 incorporated.

Notwithstanding the provisions of Penal Code section 326.5 (a), the provisions of Penal Code section 326.5 are incorporated herein by this reference and apply along with provisions of this Chapter to control bingo games authorized by this Chapter. In the event of any conflict between the provisions of this Chapter and Penal Code Section 326.5, the more restrictive provision shall control. (Ord. 817 §6, 2015)

5.08.070 Permit required.

No person or organization may conduct or allow another to conduct bingo games, and no person may act as a Bingo Manager in the City without first obtaining a permit from the City Administrator to do so. (Ord. 817 §7, 2015)

5.08.080 Application for permit.

A. Applications for a permit to conduct bingo games in the City must be in writing on a form provided by the City Administrator and shall contain the following information:

1. The name of the applicant organization and evidence that the applicant is an eligible organization under Section 5.08.040 of this Chapter;
2. The names, and addresses and signature of the presiding officer of the applicant organization;
3. The name, address and signature of each person designated as a "Bingo Manager" pursuant to Section 5.08.160;
4. The mailing address of the applicant organization;
5. The mailing and street addresses of the premises on which bingo games will be conducted, together with the occupancy load of the room or rooms in which bingo will be played provided by the Fire Code in effect in the City when the application is made;
6. The proposed day or days of the week and hours

during which the applicant organization proposes to conduct bingo games;

7. A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of Penal Code Section 326.5 and this Chapter, as they may be amended from time to time, and understands that the City Administrator may revoke the permit for a violation of any such provision;

8. A statement that the applicant(s) have read and are familiar with the provisions of this Chapter and will require all persons who operate staff bingo games to read and be familiar with all provisions of this Chapter prior to operating or staffing bingo games;

9. A statement that the applicant intends or does not intend to conduct Remote Caller Bingo Games;

10. If applicable, a statement that the applicant agrees to conduct Remote Caller Bingo Games in strict accordance with the provisions of Penal Code section 326.3 and this Chapter, as they may be amended from time to time, and understands that the City Administrator may revoke the bingo game permit for a violation of any such provision;

11. If applicable, a valid and current license to conduct Remote Caller Bingo Games issued by the California Gambling Control Commission;

12. Such other information as may be required by the City Administrator.

B. Such application shall be signed under penalty of perjury by a person or persons with authority to bind the applicant organization.

C. An applicant shall submit with an application a Certificate of Determination of Exemption from the California Franchise Tax Board showing that the organization is exempt from tax under subsections (a), (b), (d), (e), (f), (g), (k), (l) or (w) of Revenue and Taxation Code Section 23701, or a letter of good standing from the Exemption Division of the Franchise Tax Board showing an exemption under one of said sections. This subsection shall not apply to a mobile home park association, a senior citizens organization, or a school district.

(Ord. 817 §8, 2015)

5.08.090 Contents of permits.

Upon determining that an applicant is qualified to conduct bingo games in the city, the City Administrator may issue a permit stating:

A. The name and legal nature of the organization to which the permit is issued;

B. The address of the premises on which bingo games may be conducted;

C. The capacity of the room or rooms in which bingo games may be conducted;

D. The date the permit expires;

E. Any Bingo Managers designated pursuant to Section 5.08.160;

F. Any rules for the conduct of bingo games imposed pursuant to Section 5.08.190; and,

G. Such other related information as may be necessary or desirable for the enforcement of this Chapter.

(Ord. 817 §9, 2015)

5.08.100 Permit fee.

Each initial application for an organization or Bingo Manager Permit and any renewal request related to such permit shall be accompanied by a fee of \$50 or such larger amount as may be established by resolution of the City Council consistent with Penal Code section 326.5 (l) as it now exists or may hereafter be amended. If the applicant for a permit is denied or the renewal thereof is denied, one-half of such fee shall be refunded to the applicant.

(Ord. 817 §10, 2015)

5.08.110 Duration of permit.

A permit issued under this Chapter shall expire one year after issuance or at such earlier time that the permittee Organization no longer meets the requirements of this Chapter. A Permittee may automatically renew a permit by submitting the permit fee. If there are any changes to the original permit application, the Permittee shall submit a new application. (Ord. 817 §11, 2015)

5.08.120 Investigation by police.

Upon the filing of an application for a permit, the

City Administrator shall forward the application to the Chief of Police for study and investigation. The Chief of Police shall investigate all persons listed on the application. No person may operate or staff a bingo game who has been convicted of embezzlement, theft, fraud or gambling. Based on the study and investigation, the Chief of Police shall recommend to the City Administrator either denial or approval of the permit application.

(Ord. 817 §12, 2015)

5.08.130 Change in facts must be reported.

A Permittee Organization or a permitted Bingo Manger shall immediately report to the City Administrator any change in the information provided on an application for a permit under this Chapter. Prior to conducting Remote Caller Bingo Games, a Permittee Organization shall supplement its permit application by providing the City with (I) a statement that the Permittee Organization agrees to conduct Remote Caller Bingo Games in strict accordance with the provisions of Penal Code section 326.3 and this Chapter, as they may be amended from time to time, and understands that the City Administrator may revoke the bingo game permit for a violation of any such provision; and (ii) a valid and current license to conduct Remote Caller Bingo Games issued by the California Gambling Control Commission.

(Ord. 817 §13, 2015)

5.08.140 Posting of permit and rules.

At all times during which bingo is played, the Permittee Organization shall post conspicuously at the public entrance to the room or rooms in which bingo is played: the Bingo Operator's Permit (including the Permittee Organization and Bingo Manager information), any rules and regulations established by the City Administrator for the conduct of bingo games under the permit, and the Permittee Organization's rules of bingo operation. The posted rules shall be legible and accessible to all players.

(Ord. 817 §14, 2015)

5.08.150 Operation and staffing of games.

A. Bingo games shall be operated and staffed only by members of the Permittee Organization, who shall not receive a profit, wage, or salary from any bingo game.

B. Only the Permittee Organization shall operate any bingo game or participate in the promotion, supervision or conduct of bingo games.

C. This Section does not preclude a Permittee Organization from employing or contracting another to employ security personnel who are not members of the Permittee Organization. Security personnel shall not operate or staff bingo games.

(Ord. 817 §15, 2015)

5.08.160 Bingo Manager.

A. One or more members of the Permittee Organization shall be designated as Bingo Managers on an application for a permit under this Chapter and on any permit issued under this Chapter. A permitted Bingo Manger shall be present at all times that a Permittee Organization conducts bingo games and that Bingo Manager shall be responsible for the conduct and operation of the bingo games and for compliance with all applicable laws, rules and regulations.

B. No person may be a Bingo Manager unless he or she is a nonsalaried, noncompensated member of the Permittee Organization for at least six months before he or she is designated as a Bingo Manager.

(Ord. 817 §16, 2015)

5.08.170 Bingo Manager Statement.

An applicant for a Bingo Manager shall file a written application in a format provided by the City Administrator stating, in addition to such information as may be required by the City Administrator.

A. Neither the Bingo Manager nor the members of the Permittee Organization will receive any profit, wage or salary, or any other direct or indirect consideration from any bingo game;

B. The Bingo Manager applicant has read and understands all requirements of this Chapter for the

conduct of bingo games in the City and accepts full responsibility for the conduct of such bingo games consistently with the requirements of this Chapter. (Ord. 817 §17, 2015)

5.08.180 Hours and days of operation.

A. Except as provided in subsection B of this Section, bingo games shall be conducted between noon and midnight for a maximum of six hours per day and no more than two days per calendar week by any Permittee Organization or on any one premises whether or not more than one organization is permitted to conduct bingo games on those premises.

B. The City Administrator may issue a permit to allow bingo games to be played over any consecutive three-day period provided that such permit is granted only once per calendar year to any Permittee Organization. A request for a permit under this subsection B shall be made on a form provided, and as otherwise specified, by the City Administrator. (Ord. 817 §18, 2015)

5.08.190 Rules of operation.

A. Except as provided in subsection C of Section 5.08.150, no person shall receive or pay profit, wage or salary from the proceeds of any bingo game conducted in the City. No person other than a Permittee Organization shall have, hold or obtain any financial interest in the conduct of bingo games.

B. No Permittee Organization or Bingo Manger shall permit:

1. Any person to participate in a bingo game, unless that player is present when the bingo game is conducted, except for Remote Caller Bingo Games;
2. Any person to play any game of bingo on credit;
3. Any minor to play bingo;
4. Any alcoholic beverage to be served or consumed in a room where a bingo game is conducted during or between the playing of the games.

C. All persons who operate or staff bingo games shall wear on the outside of their clothing an identification insignia or badge, no less than two and one-half by three and one-half inches in size, bearing the name of the Permittee Organization and the name

and any title of the staff member.

D. Bingo games authorized under this Chapter shall be conducted only on premises identified on the permit to which they are conducted.

E. Bingo games shall be open to the public and may not be limited to the members of the Permittee Organization. (Ord. 817 §19, 2015)

5.08.200 Proceeds from games must be kept in separate fund.

A. 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 profits shall be used only for charitable purposes of the Permittee Organization, except as provided in Subsection B of this Section.

B. Any Permittee Organization other than an organizations exempt from the bank and corporation tax under Section 23701 (d) of the Revenue and Taxation Code, shall use the proceeds of bingo games only for the charitable purposes of the Permittee Organization or as follows:

1. Such proceeds may be used for prizes and to pay permit and application fees under this Chapter; and
2. The portion of such proceeds specified by Penal Code section 326.5 may be used for rental property; overhead, including the purchase of bingo equipment; administrative expenses; security equipment; and security personnel.

(Ord. 817 §20, 2015)

5.08.210 Inspection of premises.

A. No person shall interfere with, prevent or refuse to permit a duly authorized representative of the City Administrator, the Ripon Consolidated Fire District or any peace officer to inspect any place in which bingo games or remote caller bingo games are conducted in the City, whether or not bingo games or Remote Caller Bingo Games are being conducted at the time of the inspection.

B. Failure to allow, or interference with, an inspection constitutes a violation and shall be grounds for revocation of a permit or denial of a bingo application or permit. (Ord. 817 §21, 2015)

5.08.220 Permit revocation.

A. Whenever it shall be shown or whenever the City Administrator has knowledge that a permittee, or agent thereof, has violated any of the provisions of this Chapter, the City Administrator shall immediately suspend the permit and give the organization or Bingo Manager written notice ("Notice of Suspension") by registered mail of the suspension and a brief statement of the reasons therefor.

B. Upon receipt of the Notice of Suspension, the organization or Bingo Manager shall cease from conducting any bingo game or Remote Caller bingo Game, and the failure to do so shall constitute a separate and further violation of this Chapter. (Ord. 817 §22, 2015)

5.08.230 Appeal.

A. In the event of any finding or decision of the City Administrator which is adverse to the application of an organization or Bingo Manager for a permit or renewal thereof under this Chapter, or if a permit is suspended or revoked, the organization or Bingo Manager may appeal to the City Council, provided, that such appeal is filed with the City Clerk within fifteen calendar days from the date of the finding or decision of the City Administrator. The City Administrator shall notify the organization or Bingo Manager of this right to appeal. The finding or decision shall be mailed by registered mail, to the organization or Bingo Manager at the address which appears on the application for a permit or renewal thereof.

B. Failure of the City Administrator to receive a timely request for an appeal constitutes a waiver of the right to contest the finding or decision. Unless a timely appeal is filed, a finding or decision of the City Administrator shall be final.

C. Within forty-five (45) calendar days of the filing date of an appeal, the City Council shall conduct a hearing on the appeal. The City shall give the appellant at least five calendar days' mailed notice of the date, time, and location of the hearing at the address(es) specified on the appeal. The failure of

any appellant to receive a properly addressed notice of hearing shall not invalidate any action or proceeding by the City pursuant to this Chapter.

D. Appeal hearings are informal, and formal rules of evidence and discovery do not apply. Within ten calendar days after conclusion of the hearing, the City Council shall render its decision. The decision of the City Council shall be a final decision.

E. The failure of any appellant to appear at the hearing without such cause as the City Council may deem sufficient to justify a continuance shall constitute a default and the finding or decision of the City Manager shall thereupon be final.

(Ord. 817 §23, 2015)

5.08.240 Audit and accounting requirements.

A. Prior to July 31st and prior to January 31st of each year, a Permittee Organization shall, at its own expense, submit in a format approved by the City Administrator a report of gross revenues, expenses and other information reasonably required by the City Administrator to enforce this Chapter. A Permittee Organization shall annually submit to the City Administrator a copy of its Federal tax return not later than sixty calendar days after that return is filed with the Internal Revenue Service.

B. A Permittee Organization shall maintain complete and accurate records of income received from, and prizes and other expenses disbursed in connection with the operation and staffing of bingo games.

C. The City Administrator may at any time demand a complete and detailed accounting of the records required under subsection B of this Section and any other data or information pertaining to the operation of bingo games maintained by a permitted organization. The City Administrator may subject that accounting and such data and information to, an agreed upon procedures examination, audit, and/or any other accounting review which may extend to, without limitation: (i) proceeds from the operation of bingo games, (ii) an accounting of the number of players and number of games played over a designated period, (iii) an inspection of bingo cards,

funds, equipment or any other records or documentation in connection with the operation of games over a designated period, or (iv) a documentation of the charitable use of the proceeds of bingo games;

D. Such detailed accounting or further data or information shall be provided at the expense of the Permittee Organization if, in the sole discretion of the City Administrator, such detailed accounting or further data or information is necessary for the enforcement of this Chapter.

E. In the event a Permittee Organization fails to render an accounting or provide information pursuant to the provisions of this Section within sixty calendar days of the City Administrator's request,

the City Administrator may suspend that organization's permit until the requested accounting or information is provided.

(Ord. 817 §24, 2015)

5.08.250 Civil remedies and criminal penalties.

The city attorney may bring an action to enjoin a violation of this Chapter.

A violation of subsection A of Section 5.08.160 and Penal Code section 326.3 © shall be punishable by a fine not to exceed ten thousand dollars, which fine shall be deposited in the General Fund of the City. A violation of any other provision of this Chapter constitutes a misdemeanor punishable under Section 1.08.020 of this Code. (Ord. 817 §25, 2015)