

Adopted  
05/17/11  
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ORDINANCE NO. 1535

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY  
OF SAN CLEMENTE, CALIFORNIA AMENDING  
CHAPTER 5.20 RELATING TO REMOTE CALLER BINGO

WHEREAS, the California Legislature has enacted Penal Code Sections 326.3-326.5 authorizing cities to enact ordinances permitting remote caller BINGO; and

WHEREAS, numerous non-profit organizations within the City operate BINGO games;  
and

WHEREAS, such organizations desire to operate or participate in remote caller bingo;  
and

WHEREAS, this Ordinance is adopted pursuant to Section 19 of Article IV of the California Constitution and implemented by Section 326.3 and 326.4 of the Penal Code.

NOW, THEREFORE, the City Council of the City of San Clemente, California hereby ordains as follows:

Section 1: Chapter 5.20 is hereby amended to read in its entirety as follows:

Chapter 5.20

Bingo and Remote Caller Bingo

**5.20.010** - Definition of bingo.

As used in this chapter "bingo" means a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the players on a tangible card in the players' possession and that conform to numbers or symbols, selected at random by a live caller. Bingo shall also 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.

*(Prior code § 13A-1)*

**5.20.020** - Organizations eligible for City license to conduct bingo games.

The following organizations are eligible for a City license to conduct bingo games (herein "Eligible Organizations"): organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, and 23701w of the Revenue and

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Taxation Code, mobilehome park associations of mobilehome parks situated in the City, charitable organizations affiliated with a school district; and senior citizens organizations, 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 chapter.

*(Prior code § 13A-2)*

**5.20.025 – Remote caller bingo.**

A. "Remote Caller Bingo Game" shall mean a game of bingo as defined in subdivision (o) of Section 326.5, in which the numbers or symbols on randomly drawn plastic balls are announced by a natural person present at the site at which the live game is conducted, and the organization conducting the bingo game uses audio and video technology to link any of its in-state facilities for the purpose of transmitting the remote calling of a live bingo game for a single location to multiple locations owned, leased, or rented by that organization, or as described in subdivision (o) of Penal Code Section 326.3.

B. Remote Caller Bingo may be played in the City provided a license is first obtained pursuant to this chapter and the game complies in all respects with the requirements of Penal Code Sections 362.3-326.4. To obtain a City license to operate a Remote Caller Bingo Game, the nonprofit charitable organizations identified in Section 5.20.020 must satisfy the requirements of this chapter and Penal Code Sections 326.3-326.5 and, in addition, provide proof to the Finance and Administrative Services Director or designee that they are licensed pursuant to Penal Code Sections 326.3 and 326.4 prior to engaging in Remote Caller Bingo.

**5.20.030 - Application for license.**

Eligible organizations desiring to obtain a license to conduct bingo games in the City, including Remote Caller Bingo Games, shall file an application in writing therefor in the office of the Finance and Administrative Services Director or designee on a form to be provided by the Finance and Administrative Services Director. The issuing authority shall be the City Manager or designee. The license shall be for a term of one (1) year from the date of issuance, subject to renewal and annual fee. The fee whether for the initial license or renewal shall be fifty dollars (\$50.00). If an application for a license is denied, one half (½) of any license fee paid shall be refunded to the organization.

*(Prior code § 13A-3)*

**5.20.040 - Applicant must be qualified.**

No license shall be issued to any organization unless such applicant is an eligible organization under Section 5.20.020 and its application conforms to the

requirement, terms and conditions of this chapter and Penal Code Sections 326.3-326.5.

*(Prior code § 13A-4)*

**5.20.050 - Contents of application.**

Said application for a license shall contain the following:

- A. The name of the applicant organization and a statement that applicant is an Eligible Organization under Section 5.20.020;
- B. The name and signature of at least two (2) officers of the Eligible Organization, including the presiding officer ;
- C. The address of the particular property owned or leased by the applicant within the City on which property bingo games will be conducted, together with a statement of the maximum legal occupancy of such place;
- D. A statement that the premises on which bingo games will be conducted are used by the applicant for an office or for performance of the purposes for which the applicant is organized;
- E. Proposed days of week and hours of day for conduct of bingo games;
- F. That the applicant agrees to conduct bingo games in strict accordance with the provisions of Sections 326.3 – 326.5 of the Penal Code and this chapter, as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the City Manager or designee upon violation of any of such provisions;
- G. Said application shall be signed by the applicant under penalty of perjury;
- H. The annual license fee fixed by resolution of the City Council shall accompany the application;
- I. The applicant shall also submit, with its application, a certificate or determination of exemption under Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701i of the Revenue and Taxation Code, or a letter of good standing from the exemption division of the Franchise Tax Board in Sacramento, showing exemption under said Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l and 23701w.

*(Prior code § 13A-5)*

**5.20.060 - Investigation of applicant.**

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Upon receipt of the completed application and the fee, the Finance and Administrative Services Director or designee shall refer the same to interested departments of the City, including, but not limited to, the City Manager, City Attorney, Police Services and Fire Services, for investigation as to whether or not all the statements in the application are true and correct and whether or not the property of the applicant qualifies, and the extent to which it qualifies, as to fire, occupancy and other applicable restrictions, as property on which bingo games may lawfully be conducted.

*(Prior code § 13A-6)*

**5.20.070 - Contents of license.**

Upon being satisfied that the applicant is fully qualified under the law to conduct bingo games in the City, the City Manager or designee shall issue a license to said applicant which shall contain the following information:

- A. The name and nature of the organization to which the license is issued;
- B. The address where bingo games are authorized to be conducted;
- C. The maximum legal occupancy of the room in which bingo games are to be conducted;
- D. The date of the expiration of such license;
- E. Such other information as may be necessary or desirable for the enforcement of the provisions of this chapter.

*(Prior code § 13A-7)*

**5.20.080 - Summary suspension of license pending opportunity for hearing—Continuation after suspension—Revocation generally.**

- A. Whenever it appears to the Chief of Police Services that the licensee is conducting a bingo game in violation of any of the provisions of this chapter, the Chief of Police Services shall have the authority to summarily suspend the license and order the licensee to immediately cease and desist any further operation of any bingo game.
- B. Any person who continues to conduct a bingo game after any summary suspension thereof under subsection A of this section shall be deemed to be 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.

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C. The order issued under subsection A of this section shall also notify the licensee that it shall have ten (10) days from the date of such order to request a hearing, as provided under Section 1.20.080 of this Code to determine whether such license shall be revoked. Failure to request a hearing under the provisions of Section 1.20.080 within said ten (10) day period, shall result in a revocation of the license.

D. Notice shall be provided and the hearing shall be held as provided for under Section 1.20.080 of this Code.

E. Any organization whose license is revoked under this section shall not thereafter conduct any bingo game in the City and may appeal the decision in the same manner as one would request a hearing under Section 1.20.080 of this Code.

*(Prior code § 13A-8)*

*(Prior code § 13A-9)*

**5.20.100 -**

*(Prior code § 13A-10)*

**5.20.110 - Maximum amount of prize.**

The total value of prizes awarded during the conduct of any bingo games, except Remote Caller Bingo, shall not exceed five hundred dollars (\$500.00) in cash or kind, or both, for each separate game which is held. The total value of prizes awarded during the conduct of any Remote Caller Bingo Game shall not exceed thirty-seven percent (37%) of the gross receipts of that game. Prizes shall be paid only in check. Progressive prizes are prohibited.

*(Prior code § 13A-11)*

**5.20.120 - Profits to be kept in separate fund or account.**

All profits derived from any and all bingo games shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds shall be used only for charitable purpose, except as follows: (1) such proceeds may be used for prizes; (2) a portion of such proceeds, not to exceed twenty (20) percent of the proceeds after the deduction for prizes, or two thousand dollars (\$2,000.00) per month, whichever is less, may be used for rental of the property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel. The licensee shall keep a full and accurate record of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by this chapter. The City, by and through its authorized officers, shall have the right to examine and audit

such records at any reasonable time and licensee shall fully cooperate with the City by making such records available.

*(Ord. 1163 § 26, 1995: prior code § 13A-12)*

**5.20.130 - 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.

*(Prior code § 13A-13)*

**5.20.140 - Exclusive operation by licensees.**

A bingo game shall be operated and staffed by volunteer members of the licensee organization. Such members shall not receive a profit, wage, salary or consideration from any bingo game. Only the licensee shall operate such game, or participate in the promotion, supervision, or any other phase of such game. The above notwithstanding, a licensee may retain security personnel who are not members of the licensee organization. In addition, originations providing Remote Caller Bingo may retain and pay non-members to provide the following services: administrative, managerial, technical, and financial services as provided in Penal Code Section 326.3 (k)(1).

*(Prior code § 13A-14)*

**5.20.150 - Bingo games open to public.**

All bingo games shall be open to the public, not just to the members of the licensee organization.

*(Prior code § 13A-15)*

**5.20.160 - Attendance limited to maximum occupancy.**

Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the maximum occupancy of the room in which such game is conducted as determined by Fire Services and the Building Department of the City in accordance with applicable laws and regulations. Licensee shall not reserve seats or space for any person. Moreover, not more than 750 persons may participate in a Remote Caller Bingo Game at any single location.

*(Prior code § 13A-16)*

**5.20.170 - Bingo games conducted only on licensee's property.**

A licensee shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for performance of the purposes for which the organization is organized. Nothing in this subdivision shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization. The license issued under this chapter shall authorize the holder to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as an office and as a place for performance of the purpose for which the licensee is organized, the license shall have no further force or effect. A new license may be obtained by an eligible organization, upon application under this chapter, when such organization again owns or leases property used by it for an office or for performance of the purposes for which it is organized.

*(Prior code § 13A-17)*

**5.20.180 - Minors not to participate.**

No person under the age of eighteen (18) years of age shall be allowed to participate in any bingo game.

*(Prior code § 13A-18)*

**5.20.190 - Intoxicated persons not to participate.**

No person who is obviously intoxicated shall be allowed to participate in a bingo game.

*(Prior code § 13A-19)*

**5.20.200 - Hours of operation.**

No licensee shall conduct any bingo game more than once a week and no more than six (6) hours out of any twenty-four (24) hour period. No bingo game shall be conducted before ten (10:00) a.m. nor after two (2:00) a.m. on any one (1) day.

*(Prior code § 13A-20)*

**5.20.210 - 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 being conducted.

*(Prior code § 13A-21)*

**5.20.220 - Receipt of profit by a person a misdemeanor under state law.**

It is a misdemeanor under Section 326.5(b) of the Penal Code of the State of California for any person to receive a profit, wage or salary from any bingo game authorized under this chapter, a violation of which is punishable by a fine not to exceed ten thousand dollars (\$10,000.00), which fine shall be deposited in the general fund of the City.

*(Prior code § 13A-22)*

**5.20.230 - City may enjoin violation.**

The City may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or of this chapter.

*(Prior code § 13A-23)*

**Section 2:** The City Clerk shall certify to the passage of this ordinance and cause the same to be published as required by law, and the same shall take effect as provided by law.