

ORDINANCE NO. 4805

**AN ORDINANCE OF THE CITY OF BAKERSFIELD
AMENDING CHAPTER 5.12 OF THE BAKERSFIELD
MUNICIPAL CODE RELATING TO BINGO GAMES, AND
ENACTING CHAPTER 5.13 RELATING TO REMOTE CALLER
BINGO**

BE IT ORDAINED by the Council of the City of Bakersfield as follows:

SECTION 1.

Chapter 5.12 of the Bakersfield Municipal Code is hereby amended to read as follows:

Chapter 5.12 BINGO GAMES

5.12.010 Definitions.

Whenever used in this chapter, unless a different meaning clearly appears from the context, the words set out in this section shall have the following meanings:

A. "Applicant" means an association or organization applying for a permit to conduct bingo games.

B. "Bingo" means 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. Bingo includes cards having numbers or symbols which are concealed and preprinted in a manner providing for distribution of prizes.

C. "Eligible organization" means one of the following:

1. Organization exempted from the payment of bank and corporation taxes by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, and 23701w of the California Revenue and Taxation Code as those sections are amended from time to time;

2. Mobile home park associations;

3. Senior citizens' organizations with a membership requiring that the member, or the member's spouse be fifty years of age or older; or

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4. Charitable organizations affiliated with a school district.

D. "Person" means any individual, partnership, corporation or association of any nature whatsoever.

5.12.020 Permit—Required.

It is unlawful for any person to operate or participate in the operation of a bingo game within the city in violation of this chapter or without having a valid permit therefor in accordance with the provisions of this chapter.

5.12.030 Application—Issuance—Fee.

A. Applications for annual permits under this section shall be made on forms to be furnished by the city manager or designee, shall be submitted no less than thirty days prior to commencement of any game, shall be signed under penalty of perjury by the two officers of the applicant, including the presiding officer, and shall require the following information:

1. The name of the applicant and a statement that applicant is an eligible organization pursuant to subsection C of Section 5.12.010 of this chapter;

2. The names and telephone numbers of two officers of the applicant, including the presiding officer;

3. The street address of the particular property within the city owned or leased by the applicant used by such applicant for an office or for performance of the purposes for which the applicant is organized, on which property bingo games will be conducted;

4. The proposed day of the week and hours of operation of the bingo games;

5. The business tax certificate number of the business;

6. Prior permits held by the applicant in the past three years and whether such permits were ever revoked or suspended, and the reasons therefor.

B. The application shall be submitted with the following:

1. Payment of a fee for processing any such application and for law enforcement and public safety costs directly related to bingo activities as set forth in Section 3.70.040.

2. A Certificate of Determination of Exemption under one of the Revenue and Taxation Code Sections listed in subsection (C)(1) of Section 5.12.010 or a letter of good standing from the Exemption Division of the California Franchise Tax Board showing the required exempted status; in the case of an applicant mobile home park association, the applicant shall submit a statement that the members thereof are residents of a duly permitted mobile home park located within the city; in the case of an applicant senior citizens' organization, the applicant shall submit a statement specifying the qualifications for membership in such organization. Mobile home park associations and senior citizens' organizations are not required to be exempted from the bank and corporation tax.

3. A statement signed by the presiding officer of the applicant that no director, officer or salaried or paid employee of the applicant is a director, officer or salaried or paid employee of an organization or association permitted to conduct bingo games under the provisions of this chapter.

C. The city manager or designee shall, in his or her discretion, issue a permit if he or she finds:

1. That the applicant has actively engaged in the activities described in its articles of incorporation or bylaws within the city for a period of not less than six months immediately preceding the date of its application.

2. That the applicant is an eligible organization.

3. That the application is complete and truthful;

4. That no director, officer or salaried or paid employee of the applicant is a director, officer or salaried or paid employee of an organization or association permitted to conduct bingo games under the provisions of this chapter.

5. The building and the business for which the application is made will be maintained and conducted in accordance with all laws of the city and the state, including, but not limited to health, structural soundness, fire safety and zoning.

6. That a valid business tax certificate or appropriate Certificate of Exemption, or other certification as set forth in subsection B.2 of this section has been issued for the applicant.

7. That a permit issued under this section to this applicant has not, in the past three years, been revoked, unless the city manager or designee finds that the reasons for such revocation are unrelated to this application.

8. That no more than thirty permits to conduct bingo games will be in force and effect at any one time. Permits shall be granted in order of application.

D. Such permit may be issued with conditions to ensure the operation of the bingo games in a lawful and peaceful manner.

5.12.040 Regulations.

A. Any permit issued pursuant to this chapter shall be nontransferable, and shall be valid only as to the applicant and location provided on the application for such permit.

B. The total value of prizes awarded during the conduct of any bingo games shall not in any event exceed five hundred dollars in cash or kind, or both, for each separate game which is held. This prize limit does not apply to prizes awarded during the conduct of any remote caller bingo game as authorized in Chapter 5.13.

C. Except as provided in subsection D of this section, no permittee with gross monthly receipts from bingo games, including pull-tabs, exceeding five thousand dollars shall:

1. Conduct more than twenty-five games of bingo during that one period per week during which the permittee is authorized to conduct such games; or

2. Give away any door prizes, raffle, food, bingo cards, pull-tabs, trips, services, merchandise or any cash prize or promotion of any kind except such prizes as are authorized by subsection B of this section.

D. The provisions of subsection C of this section shall not apply to any permittee which, during the preceding two-month reporting period, used or contributed at least ten percent of its gross receipts from bingo games, including pull-tabs, for charitable purposes not related to the conduct of bingo games, provided such permittee files the report required by Section 5.12.050.

E. With respect to organizations exempt from payment of the bank and corporation tax by Section 23701d 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. Such profits shall be used only for charitable purposes.

F. With respect to organizations other than those exempt from payment of the bank and corporation tax by Section 23701d of the Revenue

and Taxation Code, all proceeds 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 proceeds shall be used only for charitable purposes, except as follows:

1. Such proceeds may be used for prizes;
 2. A portion of such 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 rental of property and for overhead, including the purchase of bingo equipment, administrative expenses, security equipment and security personnel. Such proceeds may be used to pay license fees. Monthly rental charges shall be no more than ten percent above fair market rental value;
 3. The proceeds may be used to pay license fees as set forth in Section 5.12.050.
- G. No individual, corporation, partnership or other legal entity except the permittee shall hold a financial interest in the conduct of a bingo game.
- H. A bingo game shall be operated and staffed only by members of the permittee organization. Such members shall not receive a profit, wage or salary from any bingo game. Only the permittee shall operate such game, or participate in the promotion, supervision or any other phase of such game.
- I. All bingo games shall be open to the public, not just to members of the permittee organization.
- J. 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 department of the city in accordance with applicable laws and regulations.
- K. The permittee shall not reserve seats or space for any person.
- L. Games shall be conducted only on property owned or leased by the permittee, which property is used by such organization for an office or for performance of the purposes for which the organization is organized. In the event the described property ceases to be used as an office and as a place for performance of the purposes for which the permittee is organized, the permit shall be invalid. Nothing in this chapter shall be construed, however, to require that the property owned or leased by the permittee be used or leased exclusively by such organization.

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

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

O. No permittee shall conduct bingo games more than six hours of any twenty-four hour period, nor more than once per week; any permittee having the same staff or same officers as another permittee shall be subject to a single game per week. Further, no location, including a single building or a series of contiguous rooms or buildings, shall be utilized to conduct bingo games more than six hours out of any twenty-four hours period. No bingo game shall be conducted before ten a.m. nor after two a.m. of any day. The day upon which the permittee shall be authorized to conduct bingo games shall be stated on the license.

P. 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.

Q. Permits shall be valid for one year from the date of issuance only.

5.12.050 Financial report required.

A. Each permittee shall keep a complete and accurate written record in connection with its operation, conduct, promotion, supervision and any other phase of bingo games.

B. City officers and employees shall be given access to and shall have the right to examine and audit original records of each permittee pertaining to bingo, and shall be furnished copies thereof during regular business hours.

C. Each permittee shall, not later than the fifteenth calendar day of each month, file with the city treasurer a monthly income and expense report on its bingo game operations. The form of such report, identifying all required information, shall be provided by the city. Reports shall demonstrate compliance with the provisions of subsection D of Section 5.12.040 if an exemption from subsection C of that section is claimed for the month such report is filed.

5.12.060 Revocation.

Any permit issued pursuant to this chapter shall be immediately revoked by the city manager or designee whenever he finds:

A. That misrepresentations were made on the application; or

B. That any of the terms or conditions of said permit have been violated, or that the bingo games have been operated in violation of state or federal law, or the provisions of this chapter.

5.12.070 Appeal.

A. Should any applicant be dissatisfied with the decision of the city manager or designee not to grant a permit or for the revocation of a permit, then said applicant may, no later than ten days after notice of such decision is deposited in the United States mail, addressed to the applicant or permittee at the address provided on the application, make written objection to the city council setting forth the grounds for dissatisfaction, whereupon the council shall hear said objections at a regular meeting no later than three weeks following the filing of the objection with the city clerk. The applicant shall be given written notice no less than three days prior to said hearing. The council may, upon said hearing, sustain, suspend or overrule the decision of the city manager or designee, which decision shall be final and conclusive.

B. Pending the hearing before the council, the decision of the city manager or designee shall remain in full force and effect and any reversal thereof by the city council shall not be retroactive but shall take effect as of the date of the council's decision.

SECTION 3.

Chapter 5.13 of the Bakersfield Municipal Code is hereby enacted to read as follows:

Chapter 5.13 REMOTE CALLER BINGO

5.13.010 Legislative authority.

This chapter is adopted pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

5.13.020 Remote caller bingo authorized.

Notwithstanding any provision of Chapter 5.12, remote caller bingo, as defined in Section 326.3(u)(1) of the Penal Code, may be lawfully played in the city pursuant to the provisions of Sections 326.3 and 326.4 of the Penal Code and this chapter, but not otherwise.

5.13.030 Qualified applicants.

A. An organization eligible to receive a bingo permit issued pursuant to Chapter 5.12 of this code may request authorization to conduct remote caller bingo games provided:

1. The organization possesses a valid bingo permit issued pursuant to Chapter 5.12 of this code;

2. The organization has been incorporated or in existence for three years or more;

3. The receipts of the remote caller games are used only for charitable purposes. The organization conducting the game shall determine the disbursement of the net receipts of the game; and

4. The operation of bingo may not be the primary purpose for which the organization is formed.

B. The request for authorization shall be in a form prescribed by the city manager, or designee, and shall be submitted at the same time as an application for a bingo permit pursuant to Chapter 5.12. The request for authorization shall be accompanied by a filing fee in an amount determined by resolution of the City Council from time to time, for processing and law enforcement and public safety costs directly related to remote caller bingo activities as set forth in section 3.70.040. The request shall also be accompanied by any information reasonably necessary to permit the city manager, or designee, to determine that the proposed remote caller bingo operation and games will be conducted in compliance with this chapter and all applicable state laws and regulations.

C. Notwithstanding anything to the contrary in subsection B, any organization possessing a valid bingo permit issued pursuant to Chapter 5.12 of this code may submit a request for authorization to conduct remote caller bingo games at any time. However, each such request shall be accompanied by a filing fee in an amount determined by resolution of the City Council from time to time, for processing and law enforcement and public safety costs directly related to remote caller bingo activities as set forth in section 3.70.040. The request shall also be accompanied by any information reasonably necessary to permit the city manager, or designee, to determine that the proposed remote caller bingo operation and games will be conducted in compliance with this chapter and all applicable laws and regulations.

5.13.040 Application for authorization.

A request for authorization to conduct remote caller bingo shall not be granted until the city manager, or designee, has verified the facts stated in the application and determined that the applicant is qualified. In the event the city manager, or designee, grants the requested authorization, he or she shall document the action and it shall be incorporated into or attached to the bingo permit issued pursuant to Chapter 5.12 of this code.

5.13.050 Annual authorization.

A remote bingo authorization granted pursuant to this chapter shall be valid until the expiration of the bingo permit approved pursuant to Chapter 5.12 of this code. A request for authorization shall be made each year with the application for a bingo permit under Chapter 5.12. The grant of a prior request shall not create a vested right to the permittee to continue to offer remote caller bingo. The city council reserves the right to amend or repeal this chapter at any time. If this chapter is repealed, all authorizations granted pursuant to this chapter shall terminate on the effective date of the ordinance that repeals this chapter.

5.13.060 Permit conditions.

A. Any authorization granted pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each permittee shall comply with all applicable state and local laws and regulations.

B. Each authorization granted pursuant to this chapter shall be subject to the following conditions:

1. Remote caller bingo games shall not be conducted by any permittee on more than two days during any week, except that a permittee may hold one additional game, at its election, during each calendar quarter.

2. The permittee shall maintain a valid bingo permit issued pursuant to Chapter 5.12 of this code.

3. The permittee granted authorization shall be responsible for ensuring that the conditions of this chapter and sections 326.3 and 326.4 of the Penal Code are complied with by the organization and its officers and members.

C. A violation of any permit condition or provision hereof shall constitute a cause for the revocation of the organization's authorization

hereunder. Any revocation shall be conducted pursuant to sections 5.12.060 and 5.12.070.

SECTION 4.

If any section, subsection, sentence, clause, phrase, or word of this Ordinance is for any reason held to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions be declared invalid and unconstitutional.

SECTION 5.

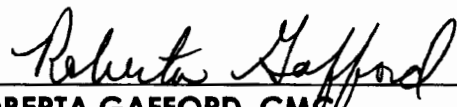
This Ordinance shall be posted in accordance with the Bakersfield Municipal Code and shall become effective thirty (30) days after the date of its passage.

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I **HEREBY CERTIFY** that the foregoing Ordinance was passed and adopted by the Council of the City of Bakersfield at a regular meeting thereof held on MAY 06 2015, by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

COUNCILMEMBER RIVERA, MAXWELL, WEIR, SMITH, HANSON, SULLIVAN, PARLIER ✓
COUNCILMEMBER None
COUNCILMEMBER None
COUNCILMEMBER None


ROBERTA GAFFORD, CMC
CITY CLERK and EX OFFICIO CLERK of the
Council of the City of Bakersfield

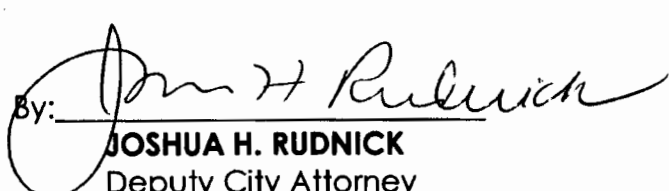
APPROVED: MAY 06 2015

By: 

HARVEY L. HALL
Mayor

APPROVED AS TO FORM:

VIRGINIA GENNARO
City Attorney

By: 
JOSHUA H. RUDNICK
Deputy City Attorney

JHR:lsc

AFFIDAVIT OF POSTING DOCUMENTS

STATE OF CALIFORNIA)

County of Kern) ss.
)

ROBERTA GAFFORD, being duly sworn, deposes and says:

That she is the duly appointed, acting and qualified City Clerk of the City of Bakersfield; and that on the 8th day of May, 2015 she posted on the Bulletin Board at City Hall, a full, true and correct copy of the following: Ordinance No. 4805, passed by the Bakersfield City Council at a meeting held on the 6th day of May, 2015 and entitled:

AN ORDINANCE OF THE CITY OF BAKERSFIELD AMENDING
CHAPTER 5.12 OF THE BAKERSFIELD MUNICIPAL CODE RELATING
TO BINGO GAMES, AND ENACTING CHAPTER 5.13 RELATING TO
REMOTE CALLER BINGO.

ROBERTA GAFFORD

City Clerk and Ex Officio of the
Council of the City of Bakersfield

By: *Jeanne Ober*

DEPUTY City Clerk