

Adopted: June 2, 2014
Effective: July 2, 2014

ORDINANCE NO. MC-1401

1 AN ORDINANCE OF THE MAYOR AND COMMON
2 COUNCIL OF THE CITY OF SAN BERNARDINO
3 AMENDING CHAPTER 5.36, BINGO GAMES, TO INCLUDE
4 REMOTE CALLER BINGO

5 THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN
6 BERNARDINO DO ORDAIN AS FOLLOWS:

7
8 **Section 1.** Chapter 5.36 of the San Bernardino Municipal Code is hereby amended to read
9 as follows:

10 Chapter 5.36
11 BINGO GAMES

12 **Sections:**

- 13 5.36.010 Definitions.
14 5.36.015 Remote Caller Bingo- Authorization.
15 5.36.020 License - Required.
16 5.36.030 License - Fee and investigation fee.
17 5.36.040 License - Application.
18 5.36.050 License - Issuance.
19 5.36.060 Operation of bingo game.
20 5.36.065 Operation of remote caller bingo games.
21 5.36.070 Financial interest.
22 5.36.080 Account for profits and proceeds.
23 5.36.090 Participation limited to those present.
24 5.36.100 Bingo game open to public.
25 5.36.110 Value of prizes.
26 5.36.120 Minors prohibited from participation.
27 5.36.130 Display of license.
28 5.36.140 License not transferable.
5.36.150 Suspension or revocation of license.
5.36.160 Disciplinary action - Grounds.
5.36.170 Procedure.
5.36.180 Pending revocation or suspension - Proceedings
effect on license.
5.36.190 License renewal - Effect of pendency of
proceeding to suspend or revoke license.
5.36.200 Fictitious name.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5.36.010 Definitions.

- A. "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 shall be conducted in accordance with the applicable statutes of the State of California.
- B. "Remote Caller Bingo" means a game of bingo, as defined in Penal Code §326.3(u)(1).
- C. "Minors" are all persons defined as minors under Civil Code Section 25.1.
- D. A "nonprofit organization" is an organization exempted by the bank and corporation tax by Sections 23701 (a), 23701 (b), 23701 (d), 23701 (e), 23701 (f), 23701 (g), or 23701 (l) of the California Revenue and Taxation Code.
- E. "Prizes" mean cash, kind, or both for each separate game which is held.

5.36.015 Remote Caller Bingo- Authorization.

Remote Caller Bingo is added to this Chapter pursuant to Section 19 of Article IV of the California Constitution, as implemented by Sections 326.3 and 326.4 of the Penal Code.

5.36.020 License - Required.

It is unlawful for any person, firm, corporation, association, partnership or organization other than a nonprofit organization, mobile home park association, or senior citizen organization to conduct bingo games or remote caller bingo games. Such organizations or associations shall not conduct bingo games or remote caller bingo games without first securing a license to conduct such games from the City Clerk as hereinafter provided, and the receipts of such games shall be used only for charitable purposes.

5.36.030 License - Fee and investigation fee.

- A. An annual license fee in the amount to be set by resolution shall be paid upon the approval of each application for license for the purpose of defraying the expense incidental to the processing of such application.
- B. At the time of filing of the application for a license, the applicant shall also pay to the City Clerk an investigation fee in an amount to be determined by resolution. This fee is for the purpose of defraying the costs of the inspection of the premises upon which the bingo games are to be conducted and of investigating the qualifications of the applicant.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5.36.040 License - Application.

A. Applicants for annual bingo licenses shall file a written, signed and acknowledged application with the City Clerk, showing:

1. The name and address of applicant;
2. The day, dates, hours and locations where the bingo games will be operated;
3. The name or names of the person or persons having the management or supervision of the games;
4. The maximum number of participants expected on the premises;
5. Whether food and beverages will be available;
6. Such other reasonable information as may be required as to the identity or character of the applicant, manager or members of applicant operating the games.

B. If the applicant is a nonprofit organization, the application shall be accompanied by a copy of the tax exempt status determination issued by the state Franchise Tax Board to the applicant organization.

C. If the applicant does not own the premises for which the license is sought, the applicant shall submit with the application a copy of the lease under which the applicant has the right to use such premises. If the use of the premises is donated, a copy of the agreement under which the applicant has the right to use the premises shall be submitted.

D. For Remote Caller Bingo, applicants must also submit a copy of the executed agreement between the applicant and the provider of the equipment to be used.

5.36.050 License - Issuance.

A. When an application is filed, the City Clerk shall refer the application to the Community Development Department, the Fire Department, the Police Department and to all other interested departments of the City for investigation. The Community Development Department, Fire Department and the Police Department shall make reports of their findings, together with recommendations as to whether or not the applicant should be granted a license, to the City Clerk within twenty working days after the application was referred to them. The license shall be issued for a specified location and shall specify the maximum number of participants permitted on the premises. The license shall be valid for the remainder of the calendar year from the date of issuance.

1. Upon receipt of the application, or whenever there is a change of officers of the organization or in the position of game manager, the Chief of Police, or his designee, shall make an investigation regarding the character and moral fitness of applicants, the cost of which investigation shall be borne by the applicants pursuant

1 to Penal Code §326.5(1)(2) in an amount set by resolution. This investigation shall
2 include the obtaining of criminal history statements, through fingerprints, for all
3 officers/board members and game manager(s) associated with the day to day
4 operation of the game. The purpose of this investigation is to determine those
5 persons who have been convicted of crimes involving lotteries, gambling, larceny,
6 perjury, bribery, extortion, fraud or similar crimes involving moral turpitude. If any
7 person investigated does in fact have a criminal record, or presents any cause for
8 concern related to the community's public health, peace, safety, or welfare, such
9 person shall be notified in writing and the license suspended until such person is
10 removed from the application or does not participate in bingo operations. Such
11 person shall not, at any time in the future, be permitted to participate in any way in
12 any bingo operation licensed under this article. Any person objecting to the Chief of
13 Police's determination pursuant to this subsection may appeal to the City Manager
14 or designee provided he or she files a notice of appeal with the City Clerk within ten
15 days of the Chief of Police's determination.

- 11 B. An applicant shall not be entitled to more than one license in the City; provided, however,
12 that a church or nonprofit organization, which is subsidiary to or affiliated with an
13 organization operating throughout the state or nation, and which is separately and
14 independently operated and staffed locally, shall be considered as an individual applicant
15 for purposes of this Chapter.
- 16 C. Licenses are not transferable and there are no rebates if the bingo operation licensed under
17 this article is discontinued during the period for which the license was issued.

16 5.36.060 Operation of bingo game.

17 A bingo game shall be conducted only on property owned or leased by, or donated to, the
18 licensed organization or association and used by it for an office or for performance of the
19 purposes for which the organization or association is organized. Use solely for the purposes of
20 conducting bingo games is not an acceptable use. The bingo game shall be operated and staffed
21 only by members of the licensed organization or association which organized the game, except
22 that security personnel may be employed. No person may receive or pay a profit, wage, or
23 salary from the receipts of any bingo game, except that security personnel employed by the
24 organization conducting the bingo game may be paid from the revenues of bingo games. Only
25 the organization or association licensed to conduct a bingo game shall operate such game or
26 participate in the promotion, supervision, or any other phase of such game. Bingo games shall
27 not be held:

- 25 A. For more than two sessions in any one week; or
26 B. For more than five hours in any twenty-four-hour period; or
27 C. Between the hours of two a.m. and six a.m. of any one day; or
28 D. In any one session, after the awarding of prizes in the total amount or value of
five thousand dollars.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5.36.065 Operation of Remote Caller Bingo Games.

Remote Caller Bingo games may be conducted in the City subject and pursuant to the following provisions:

- A. Remote Caller Bingo games may be conducted by any organization eligible to receive a valid traditional bingo license issued pursuant to Section 5.36.020 if:
 - 1. The organization has been incorporated or in existence for three years or more; and
 - 2. The organization obtains approval from the Chief of Police as provided in Section 5.36.050
- B. Remote Caller Bingo games shall be conducted in compliance with Penal Code §§326.3 and 326.4 and all other applicable local and state laws and regulations.
- C. Remote Caller Bingo games shall not be conducted by any licensee more than two days during any week, except that a licensee may hold one additional game, at its election, in each calendar quarter.
- D. The licensee shall keep full and accurate records of the income and expenses received and distributed in connection with its operation, conduct, promotion, supervision and any other phase of remote caller bingo games which are authorized by this article. The City shall have the right to examine and audit such records at any reasonable time, and the licensee shall fully cooperate with the city by making such records available.
- E. In addition to the requirements of subsection (D), the licensee shall submit copies of any state mandated audits, including, but not limited to, those required pursuant to Penal Code §326.3(w)(2), to the Chief of Police within five days of their submission to the applicable state agency.
- F. Except as authorized by Penal Code §326.3, it is a misdemeanor for any person to receive profit, wage or salary from any remote caller bingo game authorized as provided in Article IV, Section 19 of the Constitution of the State.
- G. Violations of subdivision (F) of this section shall be punishable by an administrative fine not to exceed \$10,000.00, which fine shall be deposited in the general fund of the City.
- H. The licensed organization is 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. A violation of any one or more of these conditions shall constitute cause for the revocation of the organization's license. At the request of the organization, the City shall hold a public hearing before revoking any license issued pursuant to this Chapter.

5.36.070 Financial interest.

It is unlawful for any individual, corporation, partnership, or other legal entity

1 except the organization authorized to conduct a bingo game to hold a financial interest in the
2 conduct of such bingo game.

3 **5.36.080 Accounts for profits and proceeds.**

4 A All profits derived from a bingo game by organizations exempt from payment of
5 the bank and corporation tax by Section 23701(d) of the California Revenue and
6 Taxation Code shall be kept in a special fund or account and shall not be
7 commingled with any other fund or account. Such profits shall be used only for
8 charitable purposes.

9 B. With respect to all other licensees, all receipts derived from a bingo game shall
10 be kept in a special fund or account and shall not be commingled with any other
11 fund or account. Such proceeds shall be used for charitable purposes, except as
12 follows:

13 1. Such proceeds may be used for prizes.

14 2. A portion of such proceeds not to exceed twenty percent of the proceeds
15 before the deduction for prizes, or one thousand dollars per month,
16 whichever is less, may be used for rental of property, overhead, the
17 purchase of bingo or security equipment, administrative expenses, and
18 security personnel.

19 3. Such proceeds may be used to pay license fees.

20 C. Records required by this section shall be retained for a period of three years. The
21 licensee's books and records shall be available for inspection by the Chief of
22 Police or the City Clerk or their designated representative upon reasonable
23 notice.

24 **5.36.090 Participation limited to those present.**

25 It is unlawful for any person to allow a person not physically present at the time and
26 place in which the bingo game is being conducted to participate.

27 **5.36.100 Bingo game open to public.**

28 All bingo games shall be open to the public, not just the members of the licensed
organization or association.

5.36.110 Value of prizes.

The total value of prizes awarded during the conduct of any bingo game shall not
exceed two hundred fifty dollars for each separate game which is held.

1 **5.36.120 Minors prohibited from participation.**

2 It is unlawful for any person to allow a minor to participate in any bingo game.

3 **5.36.130 Display of license.**

4 Every licensee shall display the license issued by the City in a conspicuous place in the
5 premises where the bingo games are conducted.

6 **5.36.140 License not transferable.**

7 Each license issued under this Chapter shall be issued to a specific organization or
8 association for a specific location and shall in no event be transferable from one organization or
9 location to another.

10 **5.36.150 Suspension or revocation of license.**

11 The Common Council may, upon its own motion or upon the verified complaint in
12 writing of any person, investigate the actions of any licensee and may temporarily suspend, for
13 a period not exceeding one year, or revoke the permit of any licensee which commits any one or
14 more of the acts or omissions constituting grounds for disciplinary action under this Chapter.

15 **5.36.160 Disciplinary action - Grounds.**

16 It shall be a ground for denial, revocation or other disciplinary action of any applicant,
17 licensee, the agent, or employee, or any person connected or associated with the applicant or
18 licensee as partner, director, officer, stockholder, general manager, or person exercising
19 managerial authority of or on behalf of the licensee if such organization or person has:

- 20 A. Knowingly made any false, misleading, or fraudulent statement of a material fact
21 in an application for a license, or in any report or record required to be filed with
22 the City Clerk; or
- 23 B. Violated any provision of this Chapter or of any statute relating to the permitted
24 activity; or
- 25 C. Been convicted of a felony or any crime involving moral turpitude; or
- 26 D. A bad moral character, intemperate habits or a bad reputation for truth, honesty,
27 or integrity; or
- 28 E. Committed any unlawful, false, fraudulent, deceptive, or dangerous act while
conducting permitted bingo games; or
- F. Violated any rule or regulation adopted by the Common Council relating to

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

the licensed bingo games; or

- G. Conducted the permitted bingo game in a manner contrary to the peace, health, safety, and general welfare of the public; or
- H. Failed to comply with zoning, building and safety, health regulations, all applicable local and state fire regulations and all laws of the City.

5.36.170 Procedure.

An applicant or licensee may, within ten days after service of a written notice of denial of a license or suspension or revocation of his license, file a request for a hearing with the Common Council. The request for a hearing shall be in writing and signed by or on behalf of the applicant or licensee. It need not be verified or follow any particular form. Failure to file such a request for a hearing shall constitute a waiver of the licensee's right to a hearing.

5.36.180 Pending revocation or suspension - Proceedings effect on licensee.

Pending the final determination of a proceeding for revocation or suspension of a license, a licensee may continue to operate bingo games until the Council makes such final determination.

5.36.190 License renewal - Effect of pendency of proceeding to suspend or revoke license.

A licensee may file an application for renewal of a license. Renewal application should be filed at least thirty days prior to expiration of the license period. In the event a renewal application is filed during the pendency of a proceeding to suspend or revoke the license, such filing shall continue such license in full force and effect until the entry of the final order by the Council terminating proceedings.

Failure of the Council to revoke, suspend, limit or condition the license shall have the effect of granting the license. The application for renewal shall become a part of the pending proceeding and be subject to all evidence which has been or is thereafter presented. No further notice to the applicant is required and the Council is authorized to consider and make findings upon such application in accordance with this Chapter.

5.36.200 Fictitious name.

It is unlawful for any person or persons to sign a fictitious name or fictitious address in connection with applications submitted pursuant to this Chapter.

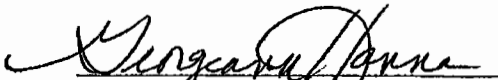
///
///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

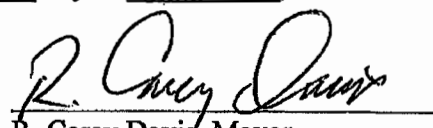
AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN BERNARDINO AMENDING CHAPTER 5.36, BINGO GAMES, TO INCLUDE REMOTE CALLER BINGO

I HEREBY CERTIFY that the foregoing Ordinance was duly adopted by the Mayor and Common Council of the City of San Bernardino at a joint regular meeting thereof, held on the 2nd day of June, 2014, by the following vote, to wit:

COUNCIL MEMBERS:	AYES	NAYS	ABSTAIN	ABSENT
MARQUEZ	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
BARRIOS	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
VALDIVIA	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
SHORETT	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
NICKEL	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
JOHNSON	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
MULVIHILL	<u> X </u>	<u> </u>	<u> </u>	<u> </u>


Georgann Hanna, City Clerk

The foregoing Ordinance is hereby approved this 4th day of June, 2014.


R. Carey Davis, Mayor
City of San Bernardino

Approved as to form:
Gary D. Saenz, City Attorney

By: 