Chapter 5.48
BINGO

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Prior legislation: Ords. 564 and 661.

5.48.010 Permitted for certain organizations.

A. Pursuant to the conditions and restrictions of California Penal Code Section 326.5, bingo shall be permitted to be played in the City only for the benefit of organizations included by the provisions of Penal Code Section 326.5(a).

B. Pursuant to the conditions and restrictions of California Penal Code Sections 326.3 and 326.4 and this chapter, remote caller bingo shall be permitted to be played in the City for the benefit of organizations included by the provisions of Penal Code Section 326.3(b). [Ord. 1274 § 1, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.010].

5.48.020 Definitions.

"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. It 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."

"Remote caller bingo" or "remote caller bingo game" means a game of bingo 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 from a single location to multiple locations owned, leased, or rented by that organization. [Ord. 1274 § 2, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.020].

5.48.030 License – Required.

A. No bingo shall be played without a valid and unexpired license.

B. Only those organizations set forth in Penal Code Sections 326.3 and 326.5 are eligible to apply for a bingo license. Eligible organizations shall file a written application for a bingo license with the City on a form provided thereby.

C. The license issued shall be for a term of one year from the date of issuance, subject to renewal and annual fee.

D. A license issued to an organization set forth in Penal Code Section 326.3 allowing for remote caller bingo shall be subject to the following conditions:

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

2. 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. [Ord. 1274 § 3, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.030].

5.48.040 License – Application – Contents.

A. Said application for license shall contain the following:

1. The name of the applicant organization and a statement that the applicant organization is eligible to apply for a license under the terms of State law and this chapter;

2. The name and signature of at least two officers, including the presiding officer of the organization;

3. The address of the particular property within the City which is owned or leased by the applicant, used by the applicant for an office or for performance of the purposes for which the applicant organized, and on which bingo will be conducted, together with the occupancy capacity of such location;

4. Proposed hours and days of operation;

5.a. A statement that the applicant agrees to conduct bingo in strict accordance with the provisions of California Penal Code Section 326.5 and this chapter, as either may be amended from time to time;

b. With respect to remote caller bingo, an additional statement that the applicant also agrees to conduct bingo in strict accordance with the provisions of California Penal Code Sections 326.3 and 326.4, and this chapter, as either may be amended from time to time;

c. A statement that the applicant agrees that the license may be revoked by the City upon violation of any such provisions;

6. Proof that the applicant organization has owned or leased property within the City that was used by the applicant for an office or for performance of the purposes for which the organization is organized, for a period of at least 12 months immediately preceding the filing of such application, and the property upon which any bingo game is to be conducted is property so owned or leased by the applicant;

7. Written verification from the Community Development Department of the City that there is improved vehicular access to the premises wherein a bingo game is to be conducted and that such premises contain off-street vehicle parking facilities on the basis of not less than one parking space for each two seats, one seat being defined as an area of seven and one-half square feet;

8. Written verification from the Community Development Department of the City that the operation of such game or games is in compliance with LEMC Title 17.

B. The application shall be signed by the applicant under penalty of perjury.

C. The application process fee and annual license fee as set by resolution shall accompany the application. If an application for a license is denied, one-half of the license fee shall be refunded.

D. A certificate of determination of exemption under Section 23701 of the California Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board in Sacramento showing such exemption shall accompany the application.

E. A certified list of officers from the Secretary of State, which shows the status of the organization. [Ord. 1274 § 4, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.040].

5.48.050 Applicant must be qualified.

No license shall be issued to any organization unless such applicant is an eligible organization under LEMC 5.48.010, and its application conforms to the requirements, terms and conditions of this chapter. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.050].

5.48.060 Investigation of applicant.
Upon receipt of the completed application, fees, and exemption information, the City Manager shall refer the same to interested departments of the City, including, but not limited to, City Attorney, Sheriff Department, and the Fire Department, for investigation as to whether or not all of the statements in the application are true, and whether or not 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. 1001 § 12, 1995. Code 1987 § 5.29.060].

5.48.070 Contents of applications.
Upon a satisfactory conclusion of this investigation, the City Manager shall issue a license to the applicant. The license shall contain the name and nature of the organization to whom the license is issued, the address where bingo is authorized to be conducted, the occupancy capacity of the room or rooms in which bingo is to be conducted, the expiration date of the license, and such other information as may be necessary or desirable for the full enforcement of the provisions of this chapter. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.070].

5.48.080 License – Suspension – Revocation.
A. If a licensee is conducting bingo or allowing bingo to be conducted in violation of any provision of this chapter, the City Manager shall have the authority to suspend the license summarily and order the licensee to cease and desist from any further operation of bingo within the City.

B. An order and suspension issued under this chapter shall also notify the licensee that it shall have five days from the date of the order to request a hearing to determine whether such license shall be revoked. If no such hearing is requested within this five-day period, the license shall be revoked.

C. Within 10 days after receipt of a timely hearing request by the licensee, the City Manager shall provide and conduct such a hearing. At this hearing, the suspended licensee may appear for the purpose of presenting evidence and information tending to show why the license should not be revoked.

D. No license shall be revoked under subsection (C) of this section unless notice of the time and place of the hearing has first been given at least five days before the hearing by depositing in the U.S. mail a notice directed to the suspended licensee at the address given in licensee's application. Notice shall set forth a summary of the grounds advanced as the basis for the suspension and revocation.

E. An organization whose license is revoked under this section shall conduct no bingo in the City unless the City Council, on appeal, sets aside the license revocation. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.080].

5.48.090 License – Alternative to revocation.
A. If the licensee is conducting bingo in violation of any provisions of this chapter, or the license was obtained by fraudulent representations, and if no summary suspension is ordered under LEMC 5.48.080, the license may be revoked; provided, however, that the licensee may appear before the City at

the time set by the City for the purpose of presenting evidence and information why the license should not be revoked.

B. No license shall be revoked under this section unless written notice has first been given at least five days before the hearing by depositing in the U.S. mail a notice directed to the suspended licensee at the address given in licensee's application. Notice shall set forth a summary of the grounds advanced as the basis for the suspension and revocation.

C. An organization whose license is revoked under this section shall conduct no bingo in the City unless the City Council, on appeal, sets aside the license revocation. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.090].

5.48.100 License – Revocation – Appeal.

A. A licensee whose license is revoked shall have the right within 15 days after notice of revocation is mailed pursuant to this chapter to file a written appeal with the City Council. This appeal shall set forth the specific grounds on which it is based. The City Council shall hold a hearing on this appeal within 30 days after its receipt by the City, or at such time as is thereafter agreed upon, and shall cause the appellant to be given at least 10 days' written notice of such City Council hearing. At this hearing, the appellant or its authorized representative shall have the right to present evidence, information and argument in support of the appeal. The determination of the City Council on the appeal shall be final.

B. An organization whose license is revoked by the City Council may not apply again for a license to conduct bingo in the City for a period of two years from the date of such revocation; provided, however, that if the ground for revocation is cancellation of the exemption for the organization under Section 23701 of the California Revenue and Taxation Code, such organization may apply again for a license upon satisfactory proof of reinstatement of this exemption. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.100].

5.48.110 Maximum amount of prize.

Except as may be provided pursuant to LEMC 5.48.010(B), the total value of prizes awarded during the conduct of any bingo games shall not exceed $500.00 in cash or kind, or both, for each separate game which is held. [Ord. 1274 § 5, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.110].

5.48.120 Profits to be kept in separate fund or account.

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. The licensee shall keep full and accurate record of the income 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 record at any reasonable time and the licensee shall fully cooperate with the City by making such record available. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.120].

5.48.130 Financial interest in licensee.
No individual, corporation, partnership or other legal entity except the licensee shall hold a financial interest in the conduct of such bingo game. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.130].

5.48.140 Exclusive operation by licensee.
A bingo game shall be operated and staffed only by a member 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 or any other phase of such game. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.140].

5.48.150 Bingo games open to public.
All bingo games shall be open to the public, not just to the members of the licensee organization. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.150].

5.48.160 Attendance limited to occupancy capacity.
Notwithstanding the requirement of Penal Code Section 326.5 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 Building Department of the City in accordance with applicable laws and regulations. Licensee shall not reserve seats or space for any person. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.160].

5.48.170 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. The license issued under this chapter shall authorize the holder thereof 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 purposes 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 it again owns or leases property used by it for an office or for performance of the purposes for which the organization is organized. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.170].

5.48.180 Minors not to participate.
No person under the age of 18 years shall be allowed to participate in any bingo game. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.180].

5.48.190 Intoxicated persons not to participate.
No person who is obviously intoxicated shall be allowed to participate in a bingo game. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.190].

5.48.200 Hours of operation.
No licensee shall conduct any bingo game more than six hours out of any 24-hour period. No bingo game shall be conducted before 10:00 a.m. nor after 2:00 a.m. of any day. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.200].

5.48.210 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 where the remote caller bingo game is being conducted. A person shall be deemed to be physically present at the place where the remote caller bingo game is being conducted if he or she is present at any of the locations participating in the remote caller bingo game in accordance with this chapter. [Ord. 1274 § 6, 2010; Ord. 1001 § 12, 1995. Code 1987 § 5.29.210].

5.48.220 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 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 $10,000, which fine shall be deposited in the general fund of the City. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.220].

5.48.230 Peace officer access.

Any peace officer of the City shall have free access to any bingo game licensed under this chapter. The licensee shall have the bingo license and lists of approved staff available for inspection at all times during any bingo game. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.230].

5.48.240 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. [Ord. 1001 § 12, 1995. Code 1987 § 5.29.240].

This page of the Lake Elsinore Municipal Code is current through Ordinance 1285, passed August 24, 2010.
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