# ORDINANCE NO. 2918

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, AMENDING CHAPTER 18 OF TITLE 5 AND ADDING CHAPTER 18A TO THE ONTARIO MUNICIPAL CODE RELATED TO CHARITABLE BINGO GAMES.

WHEREAS, the City of Ontario is authorized pursuant to California Constitution Article IV, § 19 and Penal Code sections 326.3 and 326.5 to determine whether or not to permit specified charitable organizations to conduct traditional and remote caller bingo games within the City; and

WHEREAS, all local traditional bingo ordinances must comply with the provisions of Penal Code Section 326.5; and

WHEREAS, Penal Code Section 326.5 was recently amended by the California Legislature; and

WHEREAS, the City currently permits traditional bingo under Chapter 5-18 of the Ontario Municipal Code; and

WHEREAS, the City wishes to amend Chapter 5-18 to ensure it complies with Penal Code Section 326.5; and

WHEREAS, the City is authorized by Penal Code Section 326.3 to permit remote caller bingo; and

WHEREAS, the City wishes to allow remote caller bingo.

THE CITY COUNCIL OF THE CITY OF ONTARIO, CALIFORNIA, DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 18 of Title 5 of the Ontario Municipal Code is hereby amended to read in full as set forth in the attached Exhibit "A," incorporated by this reference.

SECTION 2. A new Chapter 18A of Title 5 of the Ontario Municipal Code is hereby adopted to read in full as set forth in the attached Exhibit "B," incorporated by this reference.

SECTION 3. 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.

SECTION 4. The Mayor shall sign this Ordinance an the City Clerk shall cause the same to be published within fifteen (15) days after its passage, at least once, in a

newspaper of general circulation, printed and published in the City of Ontario, California. This Ordinance shall become effective thirty days following its passage.

SECTION 5. That the City Clerk of the City of Ontario shall certify to the adoption of this Ordinance.

The City Clerk shall certify as to the adoption of this Ordinance and shall cause a summary thereof to be published within fifteen (15) days of the adoption and shall post a certified copy of this ordinance, including the vote for and against the same, in the Office of the City Clerk, in accordance with Government Code Section 36933.

PASSED, APPROVED, AND ADOPTED this 12th day of January, 2010.

PAUL S. LEON, MAYOR

ATTEST:

for MARY E. WIRTES, MMC, CITY CLERK

APPROVED AS TO FORM:

JOHN E. BROWN, CITY ATTORNEY

STATE OF CALIFORNIA )
COUNTY OF SAN BERNARDINO )
CITY OF ONTARIO )

I, MARY E. WIRTES, City Clerk of the City of Ontario, DO HEREBY CERTIFY that foregoing Ordinance No. 2918 was duly introduced at a regular meeting of the City Council of the City of Ontario held January 5, 2010 and adopted at an adjourned regular meeting held January 12, 2010, by the following roll call vote, to wit:

| | | |
|---|---|---|
| AYES: | MAYOR/COUNCIL MEMBERS: | LEON, WAPNER, MAUTZ, BOWMAN AND DORST-PORADA |
| NOES: | COUNCIL MEMBERS: | NONE |
| ABSENT: | COUNCIL MEMBERS: | NONE |

For MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

I hereby certify that the foregoing is the original of Ordinance No. 2918 duly passed and adopted by the Ontario City Council at an adjourned regular meeting held January 12, 2010 and that Summaries of the Ordinance were published on January 8, 2010 and January 19, 2010, in the Inland Valley Daily Bulletin newspaper.

For MARY E. WIRTES, MMC, CITY CLERK

(SEAL)

Exhibit "A"

## CHAPTER 18: BINGO FOR CHARITY


**Section 5-18.01** **Legislative authorization**
**Section 5-18.02** **Bingo authorized**
**Section 5-18.03** **Qualified applicants: Applications for permits**
**Section 5-18.04** **Permits: Applications: Verification**
**Section 5-18.05** **Annual permits**
**Section 5-18.06** **Permits: Conditions**


### Section 5-18.01. Legislative authorization.

This chapter is adopted pursuant to the provisions of Cal. Const. Art. IV, § 19 as implemented by Cal. Penal Code § 326.5.

### Section 5-18.02. Bingo authorized.

Bingo, as defined in Cal. Penal Code § 326.5(o), may be lawfully played in the City pursuant to the provisions of Cal. Penal Code § 326.5 and this chapter and not otherwise. This chapter does not authorize or prohibit remote caller bingo as governed by Cal. Penal Code §§ 326.3 and 326.4 and Chapter 18A of Title 5 of this code.

### Section 5-18.03. Qualified applicants: Applications for permits.

(a) The following organizations are qualified to apply to the City Manager or designee for a permit to operate a bingo game if the receipts of those games are used only for charitable purposes:

(1) An organization exempt from the payment of the bank and corporation tax by Cal. Rev. & Tax. Code §§ 23701, 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k and 23701w; and
(2) A mobile home park association of a mobile home park which is situated in the City; and
(3) Senior citizen organizations; and
(4) Charitable organizations affiliated with a school district.

(b) Such application shall be in a form prescribed by the City Manager or designee and shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the Council from time to time. The application shall also be accompanied by the following as applicable:

(1) A certificate issued by the Franchise Tax Board of the State certifying that the applicant is exempted from the payment of the bank and corporation tax by Cal. Rev. & Tax. Code § 23701d.

(2) Such additional evidence as the City Manager or designee determines is necessary to verify that the applicant is a duly organized mobile home park association of a mobile home park situated in the City.

(3) Any other information reasonably necessary to permit the City Manager or designee to determine that the bingo operation and games will be conducted in compliance with this chapter and all applicable state laws and regulations.

**Section 5-18.04. Permits: Applications: Verification.**

The permit shall not be issued until the City Manager or designee has verified the facts stated in the application and determined that the applicant is qualified.

**Section 5-18.05. Annual permits.**

Any permit issued pursuant to this chapter shall be valid until the end of the calendar year, at which time the permit shall expire. A new permit shall only be obtained upon filing a new application and upon the payment of the permit fee. The fact that a permit has been issued to an applicant creates no vested right on the part of the permittee to continue to play bingo. The Council expressly reserves the right to amend or repeal this chapter at any time. If this chapter is repealed, all permits issued pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing legislation.

**Section 5-18.06. Permits: Conditions.**

(a) Any permit issued pursuant to this chapter shall be subject to the conditions contained in Cal. Penal Code § 326.5, and each permittee shall comply with all applicable state and local laws and regulations.

(b) In addition to the foregoing conditions, each permit issued pursuant to this chapter shall be subject to the following additional conditions:

(1) Bingo games may not be conducted by any permittee on more than two (2) days during any week, except that a permittee may hold one additional game, at its election, in each calendar quarter. No game shall be permitted or conducted after 12:00 midnight.

(2) The organization to which a permit to operate a bingo game is issued pursuant to this chapter shall be responsible to see that the conditions contained in this chapter and the provisions of Cal. Penal Code § 326.5 are complied with by the organization and its officers and members. Any violation of one or more of said conditions or provisions shall constitute cause for the revocation of the organization's permit by the Council. If requested to do so by the organization, the Council shall hold a public hearing before revoking any permit issued pursuant to this chapter.

Exhibit "B"

## CHAPTER 18A: REMOTE CALLER BINGO

**Section 5-18A.01 Legislative authorization**
**Section 5-18A.02 Remote caller bingo authorized**
**Section 5-18A.03 Qualified applicants**
**Section 5-18A.04 Application approval: Verification**
**Section 5-18A.05 Annual approval**
**Section 5-18A.06 Permits: Conditions**

### Section 5-18A.01. Legislative authorization.

This chapter is adopted pursuant to the provisions of Cal. Const. Art. IV, § 19 as implemented by Cal. Penal Code §§ 326.3 and 326.4.

### Section 5-18A.02. Remote caller bingo authorized.

Remote caller bingo, as defined in Cal. Penal Code § 326.3(u)(1), 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, and not otherwise.

### Section 5-18A.03. Qualified applicants.

(a) Any organization eligible to receive a traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code may request authorization to conduct remote caller bingo games if:

(1) The organization possesses a valid traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code; and
(2) The organization has been incorporated or in existence for three years or more.

(b) The request 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 traditional bingo permit pursuant to Section 5-18.03. The request shall 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 traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code may submit a request for authorization to conduct remote caller bingo games at any time. However, such requests shall be accompanied by a nonrefundable filing fee in an amount determined by resolution of the Council from time to time. 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.

**Section 5-18A.04. Application approval: Verification.**

A request for permission 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 approval, he or she shall provide written documentation of the decision that shall be incorporated into or attached to the applicant's traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code.

**Section. 5-18A.05. Annual approval.**

Any remote caller bingo approval granted pursuant to this chapter shall be valid until the end of the calendar year or the expiration of the traditional bingo permit that the approval was incorporated into or attached to, which is earlier. A new approval shall only be obtained upon filing a new application. The fact that an approval has been granted to creates no vested right on the part of the permittee to continue to offer remote caller bingo for play. The Council expressly reserves the right to amend or repeal this chapter at any time. If this chapter is repealed, all approvals granted pursuant to this chapter shall cease to be effective for any purpose on the effective date of the repealing legislation.

**Section 5-18A.06. Permits: Conditions.**

(a) Any approval granted pursuant to this chapter shall be subject to the conditions contained in Cal. Penal Code §§ 326.3 and 326.4, and each permittee shall comply with all applicable state and local laws and regulation.

(b) Each approval granted pursuant to this chapter shall be subject to the following additional conditions:

(1) 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, in each calendar quarter.

(2) The permittee shall maintain a valid traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code.

(3) The organization is responsible for ensuring that the conditions of this chapter and Cal. Penal Code §§ 326.3 and 326.4 are complied with by the organization and its officers and members. A violation of any one or more of those conditions or provisions shall constitute cause for the revocation of the organization's approval or traditional bingo permit issued pursuant to Chapter 18 of Title 5 of this code. Any revocation shall be conducted pursuant to Section 5-18.06.