ORDINANCE NO. 304

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF YUCAIPA, CALIFORNIA, AMENDING CHAPTER 5.08, "BINGO", OF TITLE 5, "BUSINESS LICENSES AND REGULATIONS", OF THE YUCAIPA MUNICIPAL CODE

WHEREAS, the passage of Senate Bill 1369 in 2008 authorized the establishment of a new bingo game known as Remote Caller Bingo, which has the potential to revive interest in a game that has raised hundreds of millions of dollars for many worthy causes in the decades since the voters amended Article IV, Section 19(c) of the California Constitution authorizing charity bingo; and

WHEREAS, the City Council believes it is appropriate for the nonprofit organizations that are located in the City of Yucaipa to be able to offer Remote Caller Bingo games that will draw more players and generate more revenues for community needs; and

WHEREAS, the City desires to update existing procedures and regulations that cover the licensing and operation of charity bingo games to protect the health, safety, and general welfare of its residents that choose to participate in Remote Caller Bingo games.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF YUCAIPA DOES ORDAIN AS FOLLOWS:

Section 1. The definition of "Bingo" in Section 5.08.010 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

""Bingo" shall mean a game of chance in which prizes are awarded on the basis of designated numbers or symbols that are marked or covered by the player on a tangible card in the player's possession and that conform to numbers and symbols, selected at random and announced by a live caller, and shall include Remote Caller Bingo games, or shall have the meaning otherwise set forth in Section 326.5(o) of the California Penal Code."

Section 2. The following definition is hereby added to Section 5.08.010 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code to read as follows:

""Remote Caller Bingo" means a game of bingo 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 from a single location to multiple locations owned, leased, or rented by that organization."

Section 3. The following definition contained in Section 5.08.010 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

""Nonprofit organization" means an organization exempted from the payment of the Bank and Corporation Tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701l, or 23701w of the California Revenue and Taxation Code."

Section 4. Section 5.08.020 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

"No person or organization other than a nonprofit organization may conduct bingo games. A nonprofit organization may conduct bingo games only after having first obtained a license from the city clerk pursuant to this chapter, and provided that the receipts of such games may be used only for charitable purposes or as otherwise allowed pursuant to Section 326.5 of the Penal Code. Remote Caller Bingo may be lawfully played in the City of Yucaipa pursuant to the provisions of Sections 326.3 and 326.4 of the California Penal Code, and this chapter, and not otherwise. Any Remote Caller Bingo license issued pursuant to this chapter shall be subject to the conditions contained in Sections 326.3 and 326.4 of the Penal Code, and each licensee shall comply with the requirements of those provisions and any applicable regulations set forth in Title 4 of the California Code of Regulations."

Section 5. Subsection B of Section 5.08.090 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

"B. Violated any provision of this chapter or of any statute relating to the permitted activity, including Sections 326.3 and 326.4 of the California Penal Code; or"

Section 6. Section 5.08.130 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

"A bingo game, including a Remote Caller Bingo game, shall be conducted only on non-residential property owned, rented, or leased by the nonprofit organization, or property whose use is donated to the organization, and which property is used by such organization for an office or for performance of the purpose for which the organization is organized. Except for the operation of a Remote Caller Bingo game, the bingo game shall be operated and staffed only by members of the nonprofit organization that organized the game. Such members of the nonprofit organization shall not receive a profit, wage or salary from any bingo game. Only the nonprofit organization that is licensed to conduct the bingo game shall receive any proceeds from the operation of the game. No bingo game may be conducted between the hours of two a.m. and six a.m. or may last more than five hours in any twenty-four (24) hour period. The number of bingo sessions may not exceed ten such sessions in any calendar month, except that a licensee may hold one additional game, at its election, in each calendar quarter."

Section 7. Section 5.08.200 of Chapter 5.08 of Title 5 of the Yucaipa Municipal Code is hereby amended to read as follows:

"The total value of prizes awarded during the conduct of any regular bingo game shall not exceed two hundred fifty dollars ($250.00) in cash or kind, or both, for each separate game that is held, except that for games of Remote Caller Bingo, the total value of the prizes awarded for each game shall be determined

by the entity that is calling the Remote Caller Bingo game in compliance with Section 326.3 of the Penal Code."

Section 8. Severability.

If any section, subsection, subdivision, sentence, clause, or phrase in this ordinance, or any part thereof is for any reason held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance or any part thereof. The City Council hereby declares that it would have passed each section irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, or phrases be declared unconstitutional, invalid, or ineffective.

Section 9. Effective Date.

This ordinance shall take effect thirty (30) days after the date of its adoption by the City Council.

Section 10. Publication and Posting.

The City Clerk is hereby directed to cause the following summary of this ordinance to be published by two (2) insertions in the Yucaipa News Mirror, a newspaper of general circulation that is printed, published, and circulated in the City of Yucaipa, and hereby designated for that purpose by said Council of the City of Yucaipa: "Ordinance No. 304 amends Chapter 5.08, "Bingo", of the Yucaipa Municipal Code, regarding licenses to conduct bingo games, including Remote Caller Bingo, in the City of Yucaipa."

PASSED, APPROVED and **ADOPTED** on this 13th day of September, 2010.

Dick Riddell, Mayor

ATTEST:

Jennifer Shankland, City Clerk

APPROVED AS TO FORM:

Michael Estrada, City Attorney

Chapter 5.08

BINGO

Sections:

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5.08.210	Participation of minors prohibited.
5.08.220	Use of fictitious name or address prohibited.
5.08.230	Violation—Penalty.

5.08.010 Definitions.

As used in this chapter:

"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, and shall include cards having numbers or symbols which are concealed and pre-printed in a manner providing for disbursement of prizes.

"Minors" are all persons defined as a person under eighteen (18) years of age.

"Nonprofit organization" means an organization exempted from the payment of bank and corporation tax by Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(l) of the Revenue and Taxation Code.

"Prizes" means cash, kind or both for each separate game which is held. (Ord. 157 § 12, 1996; Ord. 117 § 1, 1993)

5.08.020 License required.

No person other than a nonprofit organization may conduct bingo games. A nonprofit organization may conduct bingo games only after having first obtained a license from the city clerk pursuant to this chapter, and provided that the receipts of such games may be used only for charitable purposes. (Ord. 117 § 2, 1993)

5.08.030 License—Fee.

An annual license fee, set by resolution of the city council, shall be payable upon the filing of an application for license or for renewal of a license. If an application for a license is denied, one-half of the license fee shall be refunded to the applicant. (Ord. 117 § 3, 1993)

5.08.040 License—Application.

Applicants for bingo games shall file a written, signed, and acknowledged application with the city clerk showing:

A. The name and address of applicant;

B. The dates, hours and location where the bingo games will be operated;

C. The name or names of the person or persons having the management or supervision of such games;

D. Such other reasonable information as may be required as to the identity or character of the applicant, manager, members of the applicant operating such games;

E. The maximum number of participants expected on the premises;

F. Proof by copy of exempt status issued by the California State Franchise Tax Board. (Ord. 117 § 4, 1993)

5.08.050 License—Granting.

After making and filing the application, the city clerk shall refer the application to the police department for investigation. The police department shall make a report to the city clerk of the findings, together with a recommendation as to whether or not the applicant shall be granted a license within ten working days of receipt of the application. The license shall be issued for a specified location and shall be valid for a period of one year from date of issuance. (Ord. 117 § 5, 1993)

5.08.060 License—Display.

Every licensee shall display the license issued by the city in a conspicuous place on the premises where the bingo games are conducted. (Ord. 117 § 6, 1993)

5.08.070 License—Nontransferability.

Each license issued hereunder shall be issued to a specific nonprofit organization and shall in no event be transferable from one organization to another. (Ord. 117 § 7, 1993)

5.08.080 License—Suspension or revocation.

The city council may, upon its own motion or upon the verified complaint in writing of any person, investigate the actions of any licensee and may temporarily suspend, for a period not exceeding one year, or revoke the permit of any licensee which commits any one or more of the acts or omissions constituting grounds for disciplinary action under this chapter. (Ord. 117 § 8, 1993)

5.08.090 Disciplinary action—Grounds.

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

A. Knowingly made any false, misleading or fraudulent statement of a material fact in an application for a license, or in any report or record required to be filed with the city; or

B. Violated any provision of this chapter or of any stature relating to the permitted activity; or

C. Been convicted of a felony or any crime involving moral turpitude; or

D. Committed any unlawful, false, fraudulent, deceptive or dangerous act while conducting permitted bingo games; or

E. Violated any rule or regulation adopted by the city council relating to the licensed bingo games; or

F. Conducted the permitted bingo games in a manner contrary to the peace, health, safety and general welfare of the public; or

G. Failed to comply with zoning and building and safety regulations of the city, the health department, the police chief and applicable local and state fire regulations. (Ord. 117 § 9, 1993)

5.08.100 Suspension or revocation of license without hearing.

If any applicant, licensee, the agent or employee, or any person connected or associated with the applicant or licensee as partner, director, officer, stockholder, general manager or person who is exercising managerial authority on behalf of the licensee is convicted in any court of the violation of any law regulating any activity at the licensee's business premises, the council may revoke such license forthwith without any further action thereon other than giving notice of revocation to the licensee. (Ord. 117 § 10, 1993)

5.08.110 Hearing—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 city 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. (Ord. 117 § 11, 1993)

5.08.120 Effect of pending revocation or suspension.

A. Continuing Operation of Bingo Games. Pending the final determination of a proceeding for revocation or suspension of a license, a licensee may continue to operate bingo games for the period of his license or until the council makes such final determination.

B. Renewal—Effect of Pendency or Proceeding to Suspend or Revoke License. A licensee may file an application for renewal of a license pursuant to Section 5.08.040, accompanied by the required fee. Renewal application should be filed at least thirty (30) 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 city council terminating proceedings. Failure of the council to revoke, suspend, limit or condition the license shall have the effect of granting such 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 city council is authorized to consider and make findings upon such application in accordance with this chapter. (Ord. 117 § 12, 1993)

5.08.130 Game operation.

A bingo game shall be conducted only on property owned or leased by the nonprofit organization, or property whose use is donated to the organization, and which property is used for such organization for an office or for performance of the purpose for which the organization is organized. The bingo game shall be

operated and staffed only by members of the nonprofit organization which organized the game. Such members shall not receive a profit, wage or salary from any bingo game. Only the organization licensed to conduct the bingo game shall do so. No bingo game may be conducted between the hours of two a.m. and six a.m. or may last more than five hours in any twenty-four (24) hour period. The number of bingo sessions may not exceed ten such sessions in any calendar month. (Ord. 117 § 13, 1993)

5.08.140 Alcoholic beverage consumption prohibited.

The consumption or possession of alcoholic beverages shall be prohibited in any room being utilized to conduct the bingo game. (Ord. 117 § 14, 1993)

5.08.150 Participation of intoxicated person prohibited.

No person who is obviously intoxicated shall be allowed to participate in any bingo game. (Ord. 117 § 15, 1993)

5.08.160 Financial interest limitation.

No individual, corporation, partnership, nor other person or legal entity except the organization licensed to conduct a bingo game shall hold a financial interest in the conduct of the bingo game. However, this shall not preclude the employment of security personnel who are not members of the licensed organization at such game by the organization conducting the game. (Ord. 117 § 16, 1993)

5.08.170 Profit accountability.

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. Records required by this section shall be retained for a period of three years. The licensee shall maintain a record of all receipts derived from bingo games and cash disbursement thereof including those disbursements awarded as prizes of each game. The licensee's books and records shall be available for inspection upon reasonable. No licensee may expend funds to publicize its bingo games except for small signs or handbills. (Ord. 117 § 17, 1993)

5.08.180 Participation limited to those 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. (Ord. 117 § 18, 1993)

5.08.190 Games to be open to public.

All bingo games shall be open to the public, not just to the members of the nonprofit charitable organization. (Ord. 117 § 19, 1993)

5.08.200 Value of prizes.

The total value of prizes awarded during the conduct of any bingo game shall not exceed two hundred fifty dollars ($250.00) in cash or kind, or both, for each separate game which is held. (Ord. 117 § 20, 1993)

5.08.210 Participation of minors prohibited.

No minor shall be allowed to participate in any bingo game. (Ord. 117 § 21, 1993)

5.08.220 Use of fictitious name or address prohibited.

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. (Ord. 117 § 22, 1993)

5.08.230 Violation—Penalty.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and subject to a fine of not more than five hundred dollars ($500.00) or both such fine and imprisonment; provided, however, pursuant to subsections (b) and (c) of Section 326.5 of the Penal Code, any person receiving a profit, wage, or salary from any bingo game authorized by Section 19 of Article IV of the State Constitution and this chapter shall be guilty of a misdemeanor and shall be punishable by a fine not to exceed ten thousand dollars ($10,000.00). (Ord. 117 § 23, 1993)