

ORDINANCE NO. 83-089

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

JUL 26 1983

AN ORDINANCE AMENDING ARTICLE I OF CHAPTER 18 OF THE SACRAMENTO CITY CODE, RELATING TO BINGO, AND DECLARING THIS ORDINANCE AN EMERGENCY ORDINANCE TO TAKE EFFECT ON AUGUST 1, 1983.

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Article I of Chapter 18 of the Sacramento City Code, relating to bingo games, is hereby amended to read as follows:

Article I. Bingo Games

Sec. 18.100 Bingo prohibition.

No person shall operate a bingo game in the City of Sacramento except in conformance with state law, this chapter, and any other applicable city laws.

Sec. 18.101 Definition of "bingo".

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. The game of bingo 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." Bingo as defined in this section applies exclusively to this chapter and shall not be applied in the construction or enforcement of any other provision of law.

Sec. 18.102 Organizations eligible for license.

Organizations which are exempted from the payment of the bank and corporation tax by sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, and 23701i of the Revenue and Taxation Code and mobilehome park associations and senior citizens organizations are eligible to apply for a license to conduct bingo games in the city under the provisions of the California Constitution, section 326.5 of the Penal Code and provisions of this chapter; provided that the receipts of such games are used only for charitable purposes.

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Sec. 18.103 Application for license.

The license issuing authority shall be the city manager or his designee. An eligible organization desiring to obtain a license to conduct bingo games shall file an application in writing therefor with the city manager not less than 60 days before the date on which bingo is to commence on a form to be provided by the city manager. The license issued shall be for a term of one year from the date of issuance, or for such shorter period as the city manager may determine, and shall be subject to renewal upon payment in advance of the annual fee. An applicant may request a license with a term of less than one year, but shall nevertheless pay the full annual license fee.

Sec. 18.104 Applicant must be qualified.

No license shall be issued to any organization unless such applicant is an eligible organization under Section 18.102 and its application conforms to the requirements, terms and conditions of this chapter.

Sec. 18.105 Contents of application.

An application for a license shall contain the following:

(a) The name of the applicant organization and a statement that the applicant is an eligible organization under Section 18.102.

(b) The names, addresses and signatures of at least two officers, including the presiding officer of the organization and the names, addresses and signatures of the members of the organization who will be primarily responsible for conducting bingo games (the "Bingo Manager" and the "Assistant Bingo Managers").

(c) A description of the property, including the street number, owned or leased by the applicant, or whose use is donated to the applicant, used by the applicant for an office or for performance of the purposes for which the applicant is organized, on which property bingo games will be conducted, together with the occupancy capacity of such place.

(d) Proposed days of week and hours of day for conduct of bingo games.

(e) A statement that the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the Penal Code and this chapter, as they may be amended from time to time, and agrees that the license to conduct bingo games may be revoked by the city manager upon violation of any of such provisions.

(f) The application shall be executed under penalty of perjury.

Sec. 18.106 License fee.

An annual license fee of \$50 shall accompany the application. If an application for a license is denied, one-half of the application fee shall be refunded to the organization. In addition to the \$50 annual fee, a fee of one percent (1%) of the monthly gross receipts over \$5,000 derived from bingo games shall be paid

monthly by the organization to the City. Said fee shall be paid to the City within 15 days after the end of the month for which the fee is due, and shall be accompanied by a completed Monthly Income and Expense Statement on a form provided by the city manager.

Nothing in this section shall be construed to require any refund of license fee paid in the event a bingo license is revoked under the provisions of this article.

Sec. 18.107 Certificate of exemption.

An applicant basing eligibility for a bingo license on an exemption from payment of the bank and corporation tax shall also submit, with its application, a certificate of determination of exemption under the applicable section of the Revenue and Taxation Code, or a letter of good standing from the Exemption Division of the Franchise Tax Board in Sacramento showing such exemption.

Sec. 18.108 Investigation of applicant.

Upon receipt of the completed application and fee, the city manager shall refer the application to the chief of police for investigation and report under Section 18.110(b) and shall otherwise make or cause to be made such investigation as will enable the city manager to determine whether the applicant qualifies for a license under the provisions of this chapter. The chief of police may require the driver's license number and take the fingerprints of any person whose name is included in the license application where he determines it to be necessary in order to carry out his duties under this chapter. In addition, the city manager shall refer the application to the planning director to investigate whether the conduct of bingo games on the premises will be compatible with the existing zoning and land uses in the neighborhood, and whether there is adequate off-street parking. The city manager may require such additional information from the applicant as he deems relevant to consideration of the application.

Sec. 18.109 Contents of license.

Upon being satisfied that the applicant is fully qualified under law to conduct bingo games, the city manager shall issue a license to the applicant, which shall contain the following information:

- (a) The name and nature of the organization to which the license is issued.
- (b) The address where bingo games are authorized to be conducted.
- (c) The occupancy capacity of the room in which bingo games are to be conducted.
- (d) The date of expiration of the license.
- (e) Such other conditions as may be necessary or desirable for the enforcement of the provisions of this chapter.

Sec. 18.110 Denial of license.

If the city manager determines that the applicant does not qualify under this chapter or other city or state laws for issuance of a license, he shall deny the license application. The city manager shall not issue a license unless it appears:

- (a) That all of the statements made in the application are true;
- (b) That no person whose name is required to be contained in the license application and no other manager of the applicant has been convicted of any felony or misdemeanor involving moral turpitude, or any provision of this chapter;
- (c) That the applicant has not engaged in any fraudulent transactions or enterprises which the city manager deems relevant to the application;
- (d) That the bingo games will not be a fraud on the public;
- (e) That the bingo games will be conducted for charitable purposes and not for private profit;
- (f) That the proposed method or methods of conducting bingo games will not be contrary to the provisions of this chapter;
- (g) That the applicant organization has a membership capable of supplying adequate volunteer personnel to operate and staff the bingo games;
- (h) That the applicant is maintaining an adequate system of record keeping and accounting, which will be available to the city manager or his designee for inspection;
- (i) That no license to play bingo on the same premises is held by any other organization;
- (j) That the conduct of bingo games on the premises will be compatible with the existing zoning and land uses in the neighborhood, and that there is adequate off-street parking.
- (k) That the conduct of bingo games on the premises does not violate any provision of Chapter 9 (Building Code) or Chapter 15 (Fire Protection) of the Sacramento City Code.

Sec. 18.111 Posting of license.

A copy of the license shall be conspicuously posted at the location of the bingo games.

Sec. 18.112 Suspension or revocation of license.

- (a) Any license issued under the terms of this chapter may be suspended or revoked by the city manager if he determines that the activity authorized by the license has been or is being conducted, maintained or carried out in a

manner contrary to or in violation of any law of the state, city or federal government, or any provision of this chapter. The city manager may also suspend or revoke the license upon any grounds which would justify a denial of a license.

(b) No license shall be revoked or suspended until a hearing has been held by the city manager or his designated representative. Written notice of the time and place of such hearing shall be served upon the organization to which the license was granted at least five days prior to the date set for such hearing. Such notice shall contain a brief statement of the grounds to be relied on for revoking or suspending the license. Notice may be given either by personal delivery or by depositing the notice in the U. S. mail in a sealed envelope postage prepaid, addressed to the organization to be notified at its address and as it appears on its application for the license.

Sec. 18.113 Appeal from denial or revocation of license - judicial review.

(a) Any licensee or applicant aggrieved by the decision of the city manager in denying, suspending, or revoking a license may, within ten days after such decision is delivered or sent to the licensee in writing, appeal to the city council by filing a written notice of appeal with the city clerk and paying an appeal fee of \$100.00. During the pendency of an appeal of a suspension or revocation, the license shall remain in effect.

(b) If such appeal is not taken within ten days, the decision of the city manager shall be final. If a timely appeal is filed, the city council shall thereupon hold a hearing on the appeal. The decision may deny, suspend or revoke the permit, if the city council finds any of the grounds specified in section 18.110 or section 18.112(a). The city council's decision shall be final forthwith.

(c) Judicial review may be had by filing a petition for a writ of mandate in accordance with the provisions of the code of civil procedure. Any such petition shall be filed within thirty days after the day the decision of the city council becomes final.

Sec. 18.114 Effect of denial or revocation.

When the city manager has denied or revoked any license as provided for herein and the time for appeal to the city council has elapsed or if after appeal to the city council the decision of the manager has been affirmed by such body, no application for the same type of license at the same location shall be accepted from the applicant or license holder for a period of one year after the action by the city manager in denying or revoking the license.

Sec. 18.115 Transferability of license; return upon expiration.

Any license issued under this chapter shall be non-transferable and shall be returned to the city manager within seven days of its expiration.

Sec. 18.116 Profits to be kept in separate fund or account; use.

(a) 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.

(b) With respect to other organizations authorized to conduct bingo games pursuant to this chapter, 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. Proceeds are the receipts of bingo games conducted by organizations which are not within subdivision (a) of this section. 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 20 percent of the proceeds after the deduction for prizes, or \$1,000 per month, whichever is less, may be used for rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment, and security personnel.

(3) Such proceeds may be used to pay license fees.

(c) Any licensee under this chapter shall keep full and accurate records of the income and 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 manager or his designee shall have the right to examine and audit such records and the license holder shall fully cooperate with the city manager by making such records available upon request. The city manager or his designee shall have the authority to prescribe the keeping of any records which he deems necessary, and licensees shall compile and maintain such records and make them available to the city manager for examination and audit.

Sec. 18.117 Maximum prize.

The total value of prizes awarded during the conduct of any bingo games shall not exceed \$250.00 in cash or kind, or both, for each separate game which is held.

Sec. 18.118 Financial interest in license holder only.

No individual, corporation, partnership, or other entity except the licensee shall hold a financial interest in the conduct of any bingo game.

Sec. 18.119 Exclusive operation by licensee.

A bingo game shall be operated and staffed only by members of the license holding organization. Such members shall neither pay nor 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. This section does not preclude the employment of security personnel who are not members of the license-holding organization at such bingo game by the organization conducting the game.

Sec. 18.120 Bingo games open to public.

All bingo games shall be open to the public, not just to the members of the license-holding organization.

Sec. 18.121 Attendance limited to occupancy capacity.

Notwithstanding the bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which the game is conducted as determined by the fire department in accordance with applicable laws and regulations. The licensee shall not reserve seats or space for any person.

Sec. 18.122 Bingo only on licensee's property.

(a) The organization which holds a bingo license shall conduct a bingo game only on property owned or leased by it, or property whose use is donated to the organization and which property is used by the organization for an office or for the 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 by the licensee or as a place for performance of the purposes for which the licensee is organized, the license shall have no further force or effect. In addition, in the event the described property ceases to be used for the conduct by the licensee of bingo games, 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 or occupies property whose use is donated to the organization for an office or for performance of the purpose for which the organization is organized.

(b) Nothing in this section shall be construed to require that the property owned or leased by the organization, or whose use is donated to the organization, be used or leased exclusively by such organization.

Sec. 18.123 Posting and filing of rules; conduct of games.

The rules for the bingo games conducted by the licensee shall be posted by the licensee in a conspicuous place at the location of the bingo games. A copy of the rules shall be filed with the city manager, and any amendment to the rules shall be filed with the city manager within 30 days after the amendment goes into effect.

A member of the licensee organization shall be designated as "Bingo Manager." The Bingo Manager shall be responsible for the conduct and operation of the bingo games and for the compliance with all applicable laws, rules and regulations promulgated thereunder. The organization may designate no more than two "Assistant Bingo Managers."

The Bingo Manager or a designated Assistant Bingo Manager shall be present at all times during the playing of any bingo game.

All staff members of a bingo game shall wear on their outside clothing an

identification insignia or badge, no less than 2 1/2" x 3 1/2" in dimension, indicating the name of the organization and the name and title of the staff member.

Sec. 18.124 Minors not to participate.

No person under the age of 18 years shall be allowed to participate in any bingo games.

Sec. 18.125 Intoxicated persons not to participate.

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

Sec. 18.126 Hours of operation.

Except as otherwise provided in the bingo license, no bingo game shall be conducted between the hours of 2:00 a.m. and 10:00 a.m. of any day unless permission therefor is received from the city manager.

Sec. 18.127 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 in which the bingo game is being conducted.

Sec. 18.128 Violations.

(a) It is a misdemeanor under Section 326.5(b) of the Penal Code of the State of California for any person to pay or 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 ten thousand dollars, which fine shall be deposited in the general fund of the City of Sacramento.

(b) Except as provided in subdivision (a) of this section, a violation of any provision of this chapter is an infraction and shall be punishable by (1) a fine not exceeding fifty dollars for a first violation; (2) a fine not exceeding one hundred dollars for a second violation within one year; (3) a fine not exceeding two hundred and fifty dollars for each additional violation within one year.

Sec. 18.129 City may enjoin violation.

The City of Sacramento may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the Penal Code or any provision of this chapter.

SECTION 2.

This ordinance is an emergency measure to take effect on August 1, 1983. The reasons for the emergency are that the ordinance is necessary to bring our bingo regulations into conformance with state law, the existing moratorium expires on July 31, 1983, and it is necessary to commence imposition of the new fee on

gross receipts as soon as possible to provide funds for administering the bingo regulations.

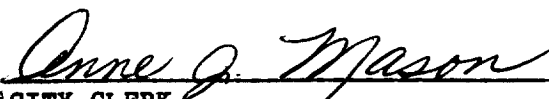
PASSED FOR PUBLICATION: July 19, 1983

ENACTED: July 26, 1983

EFFECTIVE: August 1, 1983


MAYOR

ATTEST:


Assistant CITY CLERK