

Subchapter 4.14: BINGO GAMES

4.14.010 Findings and Purpose

The purpose of this subchapter is to allow certain organizations to conduct bingo games in the Town of Colma consistent with California Penal Code Section 326.5. As used in this subchapter, "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.

[History: Ord. 756, 2/24/16]

4.14.020 Organizations Eligible to Conduct Bingo Games

(a) Pursuant to the provisions of California Penal Code Section 326.5, Section 19 of Article IV of the State Constitution, and this subchapter, the following organizations are allowed to conduct bingo games in the Town of Colma, provided they first comply with the permit requirements of this subchapter, meet all other requirements of this subchapter and any other state or local laws, and provide an identifiable benefit to the Town or the community at large, provide a service that complements or enhances a service that the Town of Colma also provides to its residents or businesses; or provide a service that the Town could provide to its residents or businesses but chooses not to:

- (1) Organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w, and 23701l of the Revenue and Taxation Code;
- (2) Mobilehome park associations;
- (3) Senior citizens organizations; or
- (4) Charitable organizations affiliated with a school district.

[History: Ord. 756, 2/24/16]

4.14.030 Permit Required

(a) Any organization seeking to conduct a bingo game in the Town shall first file with the Chief of Police, a bingo application, including any required background check fee, or other fee, in an amount set by City Council resolution, or authorized by Penal Code Section 326.5.

(b) The application shall provide the following information:

- (1) The name of the applicant organization and an explanation as to why the applicant is a qualified organization, as provided for in this subchapter, to conduct bingo;
- (2) The name and signature of at least two officers, (including the presiding officer) of the organization;
- (3) Any information deemed necessary by the City Planner and the Chief of Police to

determine whether the proposed location for the bingo game meets the necessary requirements of the Town's Zoning Ordinance, General Plan, Building Code, and any other applicable state and local laws;

- (4) A statement under penalty of perjury, certifying that the address at which the organization is seeking authority to conduct bingo games pursuant to this subchapter is the address of property owned or leased by the organization, or property donated to it and that is used by the organization for an office or for the performance of the purposes for which the organization is organized;
- (5) The application shall include, as attachments, certificates of the Franchise Tax Board and the U.S. Internal Revenue Service establishing that the organization is currently exempted from the payment of the Bank and Corporation Tax pursuant to the applicable provisions of the Revenue and Taxation Code cited in this subchapter, or any other documentation necessary, as reasonably determined by the Chief of Police, to document how the organization meets the criteria of this subchapter; and
- (6) A statement under penalty of perjury that the applicant has read and understands the provisions of California Penal Code Section 326.5.

[History: Ord. 756, 2/24/16]

4.14.040 Application Review

- (a) Upon receipt of an application, the Chief of Police shall conduct such investigation as he may deem necessary and proper into the background of the applicant and other persons to be associated with the conduct of the bingo games.
- (b) The City Planner shall review and approve the proposed location for the bingo game based on the applicable provisions of the Town's Zoning Ordinance, General Plan, Building Code, and any other applicable state and local laws. The City Planner shall have the discretion to disapprove of the proposed location based on the Town's Zoning Ordinance, General Plan, Building Code, and any other applicable state and local laws, including the protection of the public health, safety and welfare.
- (c) Upon completion of his or her investigation, the Chief of Police may approve or deny the application, in consultation with the City Planner, and may impose a requirement that security personnel be present during any proposed bingo game, along with any other conditions or requirements deemed necessary to ensure the public health, safety and welfare.
- (d) Permits issued pursuant to this subchapter shall be valid for a one year period, and may be renewed annually thereafter without further payment of a processing fee;
- (e) Notwithstanding the foregoing, an application shall be denied by the Chief of Police upon finding that any one of the following conditions exist or occur:
 - (1) The applicant or any person financially interested in the organization has been convicted of a felony, an offense perpetrated with the use of deceit or fraud, or

an offense involving moral turpitude;

- (2) The applicant has knowingly made a false, misleading, or fraudulent statement of facts in the application or another document required by the Town pursuant to this subchapter;
- (3) The applicant or any person financially interested in the organization is not of good moral character or reputation;
- (4) The bingo operation that is the subject of the application is not in compliance with applicable local and state laws.

[History: Ord. 756, 2/24/16]

4.14.050 Permit Revocation

(a) The Chief of Police may suspend, modify or revoke any permit issued pursuant to this subchapter if:

- (1) The information contained in the application is false or misleading, or
- (2) The bingo game authorized pursuant to the permit fails to comply with the provisions of Penal Code Section 326.5, the provisions of this subchapter, or the terms and conditions of the permit.

(b) The chief of police shall give written notice to the permittee at least ten days prior to the proposed suspension or revocation, and the notice shall set a hearing on the tenth day or a reasonable time thereafter. The permittee may attend the hearing and submit evidence and information as to whether the permit should be suspended, modified or revoked. The Chief of Police shall issue an order within ten days after the hearing date.

[History: Ord. 756, 2/24/16]

4.14.060 Disapproval, Suspension or Revocation of Permit - Appeals

(a) Any applicant whose application has been denied, or whose permit has been suspended or revoked, may appeal such action by filing with the City Manager a written notice of appeal within fifteen calendar days after the date of such action by the Chief of Police and by serving such notice personally by mail upon the Chief of Police.

(b) Upon receipt of a written notice of appeal, the City Manager, or his or her designee, shall fix a date for hearing the appeal, not more than thirty days from the date of the Town's receipt of the written notice of appeal. The City Manager shall also designate the time and place where the hearing is to be held. The Town shall provide at least ten days' written notice to the applicant of such hearing date and location.

(c) At any such hearing, the applicant shall be given the opportunity to be heard but formal rules of evidence shall not apply.

(d) The City Manager, or his or her designee, shall affirm, modify or reverse the action of the Chief of Police. The decision of the City Manager or his designee shall be final.

[History: Ord. 756, 2/24/16]

4.14.070 Location of Bingo Games; Hours of Operation

(a) An organization authorized to conduct bingo games shall conduct a bingo game only on property that has been reviewed and approved by the City Planner, and that is owned or leased by it, or property the use of which is donated to the organization for an office or for performance of the purposes for which the organization is organized.

(b) An organization authorized to conduct bingo games pursuant to this subchapter shall not conduct or operate any such game or games between the hours of midnight and 11:00 A.M.

[History: Ord. 756, 2/24/16]

4.14.080 Right to Inspect

The Chief of Police, or his or her designee, shall have the authority to inspect the premises and records of a permittee relating to bingo games at any reasonable time, including but not limited to times during which games are being conducted, to insure that the operation of bingo games does not constitute a violation of any applicable state or local law. All records relating to bingo games shall be maintained for at least three years. Failure to permit such inspection upon a reasonable notice shall be grounds for revocation or suspension of a permit.

[History: Ord. 756, 2/24/16]

4.14.090 Penalty

It shall be a misdemeanor for any person to receive a profit, wage or salary from any bingo game authorized under this subchapter. A violation of this section shall be punishable by a fine not to exceed ten thousand dollars, as provided in Section 326.5(c) of the Penal Code, which fine shall be deposited in the Town's general fund.

[History: Ord. 756, 2/24/16]

4.14.100 Minors

It shall be unlawful for any minor to participate in any bingo game.

[History: Ord. 756, 2/24/16]

4.14.110 Open to the Public

All bingo games allowed by this subchapter shall be open to the public, not just to the members of the nonprofit charitable organization.

[History: Ord. 756, 2/24/16]

4.14.120 Staffing

A bingo game shall be operated and staffed only by members of the nonprofit charitable organization which organized it. Such members shall not receive a profit, wage, or salary from the bingo game. Only the organization authorized to conduct a bingo game shall operate such game, or participate in the promotion, supervision, or any other phase of such game.

[History: Ord. 756, 2/24/16]

4.14.130 Financial Interest

It shall be unlawful for any individual, corporation, partnership, or other legal entity, except the organization authorized to conduct a bingo game, to hold a financial interest in the conduct of such bingo game.

[History: Ord. 756, 2/24/16]

4.14.140 Special Fund

(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. Those profits shall be used only for charitable purposes.

(b) With respect to other organizations authorized to conduct bingo games pursuant to this subchapter, 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. Those proceeds shall be used only for charitable purposes, except as permitted in Penal Code section 326.5.

[History: Ord. 756, 2/24/16]

4.14.150 Participants to be Present

It shall be unlawful for any person to participate in a bingo game unless such person is physically present at the time and place in which the bingo game is being conducted.

[History: Ord. 756, 2/24/16]

4.14.160 Prizes

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

[History: Ord. 756, 2/24/16]

4.14.170 Conduct of Bingo Games

Except as otherwise provided in this subchapter, all bingo games shall be conducted in compliance with all applicable state and local laws, including Penal Code section 326.5.

[*History*: Ord. 756, 2/24/16]