

Meeting Date: 01/07/14 (7)

ORDINANCE NO. 10313 (N.S.)

AN ORDINANCE AMENDING TITLE III OF THE SAN DIEGO  
COUNTY REGULATORY CODE  
RELATING TO PUBLIC SAFETY, MORALS AND WELFARE

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The purpose of this ordinance is to update and clarify language as part of the ongoing sunset review of Title III of the County's Regulatory Code as it relates to the "Public Safety, Morals and Welfare." The requested actions represent changes to align with current practices, terminology and references.

Section 2. Section 31.401 of the San Diego County Regulatory Code relating to "Local Emergency Caused By Gasoline Shortage" is hereby amended to read as follows:

SEC. 31.401. PROCLAMATION OF LOCAL EMERGENCY CAUSED BY GASOLINE SHORTAGLE.

(a) Government Code section 8630 provides that a local governing body or local official designated by ordinance may proclaim a local emergency whenever the governing body or designated official determines that a condition of disaster or of extreme peril to the safety of persons and property within the jurisdiction exists which is likely to be beyond the control of the services, personnel, equipment and facilities of the jurisdiction and require the forces of other political subdivisions to combat. This chapter establishes procedures that shall go into effect if there is a gasoline shortage emergency proclaimed by the Board of Supervisors or a designated County official.

(b) If the Board is not in session when a condition exists that constitutes a local emergency due to a gasoline shortage section 31.103(a) shall apply. Whenever the Director proclaims a local emergency under this chapter it shall remain in effect for no more than seven days unless the Board ratifies the Director's proclamation and extends the proclamation of the local emergency.

(c) Whenever a local emergency due to gasoline shortage is proclaimed, the Board shall review the need for continuing the proclaimed emergency at its regularly scheduled meetings until the emergency is terminated, but no less frequently than 21 days after its previous review. If, however, the emergency is proclaimed during a period of time when the Board is meeting weekly, the Board shall review the need for continuing the emergency at least every 14 days.

Section 3. Chapter 1 Division 2 Title 3 of the Regulatory Code relating to "Fireworks" is hereby amended to read as follows:

SEC. 32.101. PURPOSE.

California Health and Safety Code sections 12500 et seq. regulate fireworks and pyrotechnic devices and authorize local jurisdictions to require permits for the manufacture, possession, sale or discharge of fireworks. This chapter establishes fireworks regulations for the unincorporated area of the County in addition to those regulations contained in the County Fire Code and 19 California Code of Regulations, Chapter 6.

SEC. 32.102. [RESERVED].

SEC. 32.103. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Fireworks" has the same meaning as the term "fireworks" in Health and Safety Code section 12511. The term "fireworks" includes, but is not limited to, devices designated by the manufacturer as fireworks, blank cartridges, toy pistols, toy cannons, toy canes or toy guns in which explosives are used, firecrackers, torpedoes, sky-rockets, Roman candles, rockets, daygo bombs, sparklers, snap caps, party poppers, paper caps, chasers, fountains, smoke sparks, aerial bombs and fireworks kits. "Fireworks" does not include auto flares, paper caps that do not contain in excess of an average of twenty-five hundredths of a grain of explosive content per cap and toy pistols, toy canes, toy guns or other devices for use of these caps.

(b) "Fireworks kit" has the same meaning as the term "fireworks kit" in Health and Safety Code section 12512 and means any assembly of materials or explosive substances, which is designed and intended by the seller to be assembled by the person receiving the material or explosive substance and when assembled, comes within the definition of "fireworks," above.

(c) "Sell" means to sell, offer to sell, solicit the sale of, take orders for, give away, offer to give away, distribute or deliver.

SEC. 32.104. PERMITS REQUIRED FOR MANUFACTURE, POSSESSION, SALE AND DISCHARGE OF FIREWORKS.

(a) It shall be unlawful for any person to manufacture, possess, sell or distribute fireworks in the unincorporated area of the County without a permit issued by the Sheriff.

(b) An application for a permit to manufacture, possess, or sell fireworks shall be submitted on a form provided by the Sheriff and accompanied by the fee required in section 21.1901. The permit shall expire one year from the date it is issued and may be renewable.

(c) A person to whom a permit has been issued under this chapter may apply for a public display permit by submitting an application to the local fire districts at least 30 days before the event for which a permit is requested. No person shall be granted a public display permit unless the display will be handled by or under the supervision of a State licensed pyrotechnic operator. A public display permit shall only be valid for a single event.

SEC. 32.105. LIABILITY INSURANCE FOR FIREWORKS DISPLAY REQUIRED.

No public display permit may be granted unless the applicant provides a certificate of public liability insurance that meets the minimum requirements of the State Fire Marshal under Health and Safety Code section 12610 and California Code of Regulations section 19.993. The certificate shall name the County of San Diego as an additional insured for damages claimed for personal injury or damage to any property, which arise from or are caused by any fireworks display. The County may require additional amounts of insurance as it deems necessary based upon the circumstances.

SEC. 32.106. DISPOSAL OF UNUSED FIREWORKS.

A person to whom the local fire districts issues a fireworks display permit under this chapter shall immediately and safely dispose of fireworks that remain unused after a public fireworks display. Fireworks shall be disposed of in compliance with all federal, State and County laws and regulations.

SEC. 32.107. EXCEPTIONS.

No permit shall be required under this chapter for:

- (a) A railroad or other transportation agency regulated by the United States, the State of California or a local public entity using fireworks for signaling or for illumination.
- (b) The sale or use of blank cartridges for theatrical purposes or for signaling or ceremonial purposes at an athletics event.
- (c) Use by the United States Armed Forces.

SEC. 32.108. [RESERVED.]

Section 4. Section 32.603 of the San Diego County Regulatory Code relating to “Fortune-Telling” is hereby amended to read as follows:

SEC. 32.603. FORTUNE-TELLING – LICENSE REQUIRED.

It shall be unlawful for a person to engage in or offer to engage in fortune-telling for any type of consideration, in the unincorporated area of the County, without a license from the Issuing Officer. The Sheriff shall be the Issuing Officer for a fortune-telling license. A fortune-telling license shall only be issued to an individual.

Section 5. Sections 33.101 and 33.107 of the San Diego County Regulatory Code relating to “Shooting Regulations” are hereby amended as follows:

SEC. 33.101. NO SHOOTING NEAR HABITATION – SHOOTING RANGES.

(a) Other than in defense of person it shall be unlawful for any person to discharge any pistol, revolver, shotgun, rifle or any other firearm or device fired or discharged with explosives, at any place within the unincorporated territory of the County which is not a reasonably safe distance from all recreational areas, communities, roads or any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith.

(b) For purposes of this section, 150 yards or less is not a reasonably safe distance from any occupied dwelling house, residence, or other building or any barn or other outbuilding used in connection therewith unless the person discharging the firearm or device is the owner, person in possession of the premises or a person having the express permission of the owner or person in possession of the premises.

#### SEC. 33.107. EXCEPTION FOR MILITARY SALUTES AND CEREMONIES.

Nothing in this chapter shall prohibit or prevent the use of firing a weapon at a ceremonial gathering in which the purpose is to honor and salute members of the United States military. Not less than 72 hours prior to any discharge of firearms under this section, the County Sheriff's Department shall be notified in writing of the activity, purpose, weaponry used, location and estimated attendance. The Sheriff's Department shall have the discretion to request additional information and documentation and deny any use that may present a risk to the public safety and welfare. All ceremonies under this section shall be operated in accordance with local, state and federal laws.

Section 6. The following sections of Chapter 2, Division 7 of Title 3 of the San Diego County Regulatory Code relating to "Bingo" are hereby amended to read as follows:

#### SEC. 37.201. BINGO AUTHORIZED.

Article IV, section 19 of the California Constitution provides that the Legislature may by statute authorize counties to provide for bingo games for charitable purposes. The Legislature adopted Penal Code section 326.5, which authorizes counties to adopt an ordinance to allow bingo. The purpose of this chapter is to authorize bingo in the unincorporated area of the County pursuant to the provisions of section 326.5 of the Penal Code and the terms and conditions provided in this Chapter and not otherwise.

#### SEC. 37.202. DEFINITIONS.

The following definitions shall apply to this chapter:

(a) "Bingo" has the same meaning as the term "bingo" in Penal Code section 326.5(o).

(b) "Bingo manager" means a person designated by an applicant for a bingo license who will be responsible for the operation and management of any bingo game conducted pursuant to a license issued under this chapter. An applicant may designate more than one bingo manager for a bingo game.

(c) "Minor" means a person under the age of 18 years.

(d) "Mobilehome park" has the same definition as the term "mobilehome park" in Civil Code section 798.4.

(e) "Mobilehome park association" means any organization of individuals with at least five dues-paying members, organized and operated exclusively for residents of mobilehome parks to offer recreational and social activities to its members.

(f) "Qualified organization" means (1) an organization exempted from the payment of bank and corporation tax by Revenue and Taxation Code sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701w and 23701, (2) a mobilehome park associations, (3) a senior citizen organization, or (4) a charitable organization affiliated with school districts; and if the receipt of those games are used only for charitable purposes.

(g) "Senior citizen organization" means an organization of individuals 50 years of age and older, with at least five dues paying members, offering recreational and social activities exclusively for its members.

#### SEC. 37.203. LICENSE REQUIRED.

It shall be unlawful for a person to operate a bingo game in the unincorporated area of the County without a valid license issued by the Sheriff. A license to operate a bingo game under this chapter shall only be issued to a qualified organization.

#### SEC. 37.204. APPLICATION FOR A LICENSE TO OPERATE A BINGO GAME.

(a) An application for a license to operate a bingo game shall be filed on a form provided by the Sheriff, at least 30 days before the proposed date of any bingo game. The application shall be accompanied by: (1) proof the applicant is a qualified organization, (2) the applications of all proposed bingo managers, (3) the applications of all members of the organization who intend to staff the bingo game and (4) the application fee required by section 21.1901.

(b) A person who intends to serve as a bingo manager or staff for a qualified organization's bingo game shall submit an application on a form provided by the Sheriff and submit to a background check. No person shall serve as a bingo manager or staff for a bingo game until approved by the Sheriff.

#### SEC. 37.205. TERMS OF LICENSE.

(a) A bingo license issued under this chapter shall be valid for one year.

(b) As a condition of the license, the licensee shall be required to have at least one bingo manager present whenever a bingo game is being operated. Failure to have a bingo manager

present while a bingo game is being operated shall be grounds for revocation or suspension of the license. The bingo manager(s) shall be responsible for: (1) operating the bingo game pursuant to the terms of the license and this chapter, (2) supervising the conduct of members of the licensee operating a bingo game and (3) accounting for all receipts, disbursements for expenditures and distributions of money for charitable purposes.

#### SEC. 37.206. PROPERTY USED FOR BINGO GAMES.

(a) A bingo game shall only be conducted in the unincorporated area of the County on property licensed by a qualified organization owns or leases, or on property donated to the organization in which case the property must be used by the organization for an office or for performing the purpose for which the organization is organized. This section shall not require that the property be used or leased exclusively by, or donated exclusively to, the organization.

#### SEC. 32.207. RULES FOR OPERATING BINGO GAMES.

All bingo games shall be subject to the following rules:

- (a) No minors shall be allowed to participate in any bingo game.
- (b) All bingo games shall be open to the public, not just to the members of the licensee.
- (c) A bingo game shall only be operated and staffed by members of the licensee who have been approved by the Sheriff. Those members operating or staffing a bingo game shall not receive a profit, wage or salary from any bingo game. Only members of the licensee shall operate a bingo game or participate in the promotion, supervision or any phase of the game. The licensee may, however, employ security personnel who are not members of the organization.
- (d) If after the Sheriff has issued a license under this chapter, the licensed qualified organization submits additional names to the Sheriff for approval, the application for approval shall be accompanied by a fee of five dollars for each additional name, no part of which shall be refundable, to defray the Sheriff's cost to investigate the additional individuals for whom approval is requested.
- (e) During operation of any bingo game, approved members of the licensee shall wear on their outside clothing, in plain view, at chest height, a laminated identification card issued by the Sheriff. The card shall include a 1 inch by 1-1/4 inch photo which the member shall provide.
- (f) Approved members of the licensee shall not participate as a player in any bingo game operated by the licensee on any date that the member is managing, supervising or otherwise assisting with a bingo game.
- (g) No individual, corporation, partnership or other legal entity except the licensee shall hold a financial interest in the conduct of a bingo game.

(h) 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. The profits shall be used only for charitable purposes.

(i) With respect to all other organizations licensed to conduct bingo games, 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. The proceeds shall be used only for charitable purposes, except as follows:

(1) The proceeds may be used for prizes.

(2) A portion of the proceeds, not to exceed 20% of the proceeds before the deduction for prizes or \$2,000 per month, whichever is less, may be used for the rental of property, overhead, including the purchase of bingo equipment, administrative expenses, security equipment and security personnel.

(3) The proceeds may also be used to pay license fees. Within 30 days after each bingo game is held the licensee shall file with the Sheriff full and complete financial statements of all monies collected, disbursed and the amount remaining for charitable purposes. The statements shall be on forms provided by the Sheriff.

(j) The licensee shall maintain and keep on file at any location at which it operates a bingo game, a record of all donations and sales of bingo playing cards, along with the financial statements required by subsection (i)(3) above, for a period of three years, for inspection purposes.

(k) 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.

(l) All disbursements from the bingo account shall be by consecutively numbered checks signed by two authorized officers of the licensee and shall be made payable to a specific individual or organization. The memo portion of each check shall contain a brief description of the expenditure for which the check is drawn. No check shall be drawn to a fictitious payee.

(m) All bingo cards presented for winnings shall be verified by at least two approved members of the licensee. The verification shall be made before the beginning of the next bingo game.

(n) No bingo manager or approved member managing, supervising or assisting during the bingo game shall knowingly allow a person who is intoxicated to be present during a bingo game.

(o) It shall be unlawful to call or post any bingo letter or number unless the letter or number on the object drawn is displayed in a manner so that it is visible to all participants in a bingo game.

(p) The total value of prizes awarded during the conduct of any bingo games shall not exceed \$250 in cash or kind, or both, for each separate bingo game which is held.

(q) No bingo game shall be conducted between the hours of midnight and 8:00 a.m.

(r) A licensee shall not conduct bingo on more than three days during any seven day period. Once during each year, however, the Sheriff may authorize a licensee to conduct bingo games for more than three days during a seven day period, provided that the authorization shall be limited to bingo games which are conducted in conjunction with an established annual event regularly held by the licensee.

(s) It is unlawful for any person to receive a profit, wage or salary from any bingo game authorized by this chapter, except security personnel employed by the organization conducting the bingo game who may be paid from the revenues derived from the game.

(t) Any license issued pursuant to this Chapter shall be subject to the conditions contained in section 326.5 of the Penal Code and each licensee shall comply with the regulation of those provisions.

#### SEC. 37.208. INSPECTION.

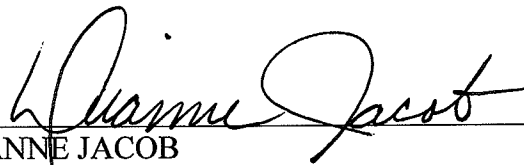
(a) Any peace officer shall have the right to inspect any bingo game licensed under this chapter. The licensee shall have the bingo license and list of approved staff available for inspection at all times during any bingo game.

(b) The licensee shall maintain full and complete accounting records supported by properly executed contracts, leases, receipts and other related documents which pertain to all: (1) monies or other receipts collected in connection with any of its bingo games, (2) disbursements for expenditures, (3) distributions for charitable purposes and (4) any remaining funds. The records shall be clearly identified and made available for inspection by representatives of the Sheriff within two days following a demand to inspect the records.

Section 7. This ordinance shall take effect and be in force thirty days after its passage, and before the expiration of fifteen days after its passage, a summary hereof shall be published once with the names of the members of this Board voting for and against it in the San Diego Commerce, a newspaper of general circulation published in the County of San Diego.



PASSED, APPROVED, AND ADOPTED by the Board of Supervisors of the County of San Diego this 7<sup>th</sup> day of January, 2014.



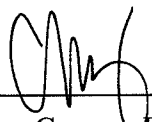
DIANNE JACOB  
Chairwoman, Board of Supervisors  
County of San Diego, State of California

The above Ordinance was adopted by the following vote:

AYES: Cox, Jacob, D. Roberts, R. Roberts, Horn

ATTEST my hand and the seal of the Board of Supervisors this 7<sup>th</sup> day of January, 2014.

THOMAS J. PASTUSZKA  
Clerk of the Board of Supervisors

By  \_\_\_\_\_  
Christina Gomez, Deputy



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