

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING THE SAN DIEGO MUNICIPAL CODE BY AMENDING CHAPTER 3, ARTICLE 3, DIVISION 39, BY AMENDING SECTIONS 33.3901, 33.3903, 33.3904, 33.3906, AND 33.3907; REPEALING CURRENT SECTIONS 33.3908 AND 33.3909; RENUMBERING SECTION 33.3910 TO 33.3908; AMENDING AND RENUMBERING SECTION 33.3911 TO 33.3909; RENUMBERING SECTIONS 33.3912 TO 33.3910, AND 33.3913 TO 33.3911; AMENDING AND RENUMBERING SECTIONS 33.3914 TO 33.3912 AND 33.3915 TO 33.3913; RENUMBERING AND RETITLING SECTION 33.3916 TO 33.3914; RENUMBERING SECTION 33.3917 TO 33.3915; AMENDING AND RENUMBERING SECTIONS 33.3918 TO 33.3916 AND 33.3919 TO 33.3917; AND RENUMBERING SECTIONS 33.3920 TO 33.3918 AND 33.3921 TO 33.3919; AMENDING AND RENUMBERING SECTION 33.3922 TO 33.3920; AND RENUMBERING SECTION 33.3923 TO 33.3921, ALL RELATING TO CARDROOMS.

WHEREAS, on May 23, 1983, the City of San Diego, acting through the City Council, adopted Ordinance O-15974, new series, regulating the existence and operation of cardrooms; and

WHEREAS, the purpose and intent of the City's Cardroom Ordinance is to eliminate the deleterious effects cardrooms have on the safety, welfare, and morals of the City by enacting regulations and provisions governing the establishment, operation, management, and continued existence of cardrooms in the City of San Diego; and

WHEREAS, regulation of cardrooms by local governments is authorized and governed by state law, specifically California Business and Professions Code sections 19960 through 19972, formerly Business and Professions Code sections 19950 through 19958; and

WHEREAS, state law permits the City of San Diego to issue gambling licenses to gambling establishments because prior to January 1, 1984, there was in effect an ordinance in the City of San Diego that expressly authorized the operation of one or more cardrooms; and

WHEREAS, state law mandates that any amendment to an ordinance authorizing cardrooms that would result in an expansion of gambling in a local jurisdiction shall not be valid if the amendment results in an increase of twenty-five percent or more in the number of gambling tables in the jurisdiction, number of licensed cardrooms in the jurisdiction, number of gambling tables that may be operated in a specific gambling establishment, (up to 25 percent or two tables, whichever is greater), hours of operation of a gambling establishment, and maximum amount permitted to be wagered in a game, as compared to that authorized on January 1, 1996; and

WHEREAS, San Diego Municipal Code section 33.3904 prohibits the “establishment of new cardrooms” as defined in section 33.3903; and

WHEREAS, San Diego Municipal Code section 33.3908 prohibits the “transfer of ownership or control” of existing cardrooms, as defined in section 33.3903; and

WHEREAS, the City Council now desires to amend San Diego Municipal Code sections 33.3903 and 33.3908 to permit the sale or transfer of existing cardrooms; and

WHEREAS, notwithstanding those changes the City Council does not intend to expand gambling or permit new cardrooms; and

WHEREAS, pursuant to California Business and Professions Code section 19961.1, the California Department of Justice, Bureau of Gambling Control has reviewed and approved these proposed ordinance changes; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by amending sections 33.3901, 33.3903, 33.3904, 33.3906, and 33.3907 to read as follows:

§33.3901 Purpose and Intent

The City Council finds that existence of cardrooms within the City of San Diego has necessitated ever-increasing efforts by Police Department personnel in investigating and responding to criminal activity occurring in and around such establishments; that these increased efforts bring additional costs to the taxpayers and residents of the City, that such establishments attract the incursion of criminal elements into the City, may encourage compulsive gambling, and aggravate existing crime problems in areas of the City where such establishments exist. In order to eliminate the deleterious effects that such establishments have on the safety, welfare, and morals of the City, the City Council finds that it is necessary to enact the following regulations and provisions governing the establishment, operation, management and continued existence of cardrooms within the City.

§33.3903 Definitions

For the purpose of this Division, the following words and phrases shall mean:

- (a) Cardroom. "Cardroom" means any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards and similar games, and the use of which is available to the public, or any portion of the public; provided, however, that this section shall not apply to any bona fide nonprofit society, club, fraternal or other organization, as defined in section 33.3917.

- (b) [No change in text.]
- (c) Persons Financially Interested. The term “persons financially interested” includes all persons who share in the profits of the business, on the basis of gross or net revenue, including landlords, lessors, lessees, the owner or owners of the building, fixtures or equipment.

§33.3904 Application for License — Contents

Applications for cardroom licenses shall be limited to a new owner of an existing cardroom, or renewal of the licenses of existing cardrooms. There shall be no establishment of new cardrooms. A valid license issued pursuant to the provisions of this Division or its predecessor must be renewed annually upon the following terms and conditions:

- (a) All applications shall be under oath, and shall include, among other things, the true names and addresses of all persons financially interested in the business. The application shall be accompanied by a nonrefundable investigation fee. The past criminal record, if any, of all persons financially or otherwise interested in the business shall be shown on such application. The application shall also be accompanied by fingerprints of persons financially interested.
- (b) An application for renewal shall be completed and submitted to the Chief of Police of the City of San Diego within thirty days of the expiration of the existing license.
- (c) If an application for renewal is not filed, or the application fee is not paid

within the time specified by subsection (b), the license shall expire one year after the date of its issuance or last renewal.

§33.3906 License — Work Permit — Issuance

Except as otherwise provided in this code, upon completion of the investigation, the Chief of Police shall approve the application for the license or issue the work permit, unless the applicant, if an individual, or in the case of an applicant which is a corporation or partnership, or any of its officers, directors, holders of five percent or more of the corporations' stock, has within five years immediately preceding the date of filing of the application, been convicted in a court of competent jurisdiction of any of the following offenses:

- (a) any offense involving gambling specified in sections 319-337.9 of the California Penal Code;
- (b) any felony offense, involving the sale of any controlled substance specified in sections 11054, 11055, 11056, 11057 or 11058 of the California Health and Safety Code;
- (c) section 266(i), 315, 316, 318 or subdivision (b) of section 647 of the California Penal Code;
- (d) any offense which requires registration as a sex offender under California Penal Code section 290;
- (e) any offense in another state which, if committed in this state, would have been punishable as one or more of the heretofore mentioned offenses;
- (f) any offense involving the use of force or violence upon the person of another; or

- (g) any offense of theft, embezzlement or moral turpitude; or any statute, ordinance, or regulation pertaining to the same or similar business operation; or which would manifest a disability to perform properly the duties of the business or occupation.

The license or work permit approved or issued by the Chief of Police shall remain valid for a period of one year from the date of issuance unless sooner revoked or suspended. No person shall be granted a license to operate more than one cardroom. No cardroom license shall be assignable or transferable. In addition to any other restrictions provided by law, the City may not issue a work permit to anyone who is disqualified from holding a state cardroom license, for any of the reasons specified in California Business and Professions Code sections 19850 through 19879. Any application for a work permit shall be subject to objection by the state Division of Gambling Control. If the Division objects to the issuance of a work permit, it shall be denied. Such denial may be reviewed in accordance with the Gambling Control Act (Business and Professions Code sections 19800-19987).

§33.3907 Revocation or Suspension

In addition to the grounds enumerated in section 33.0403, in the event that any person holding a license or permit issued pursuant to this Division is convicted of any of those crimes enumerated in section 33.3906, or in the case of a license, attempts to transfer ownership or control of same except as provided by this Division, the Chief of Police may, in addition to other penalties provided by law, suspend or revoke the license or permit.

Section 2. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering section 33.3910 to 33.3908, to read as follows:

§33.3908 Limitations on Number of Cardrooms

At no time shall there be issued and in effect cardroom licenses for more than the number of cardrooms in existence as of the effective date of this ordinance; provided, however, that if and when any existing license is surrendered, revoked, or not renewed as required by the provisions hereof, the maximum number of cardroom licenses shall be deemed reduced to that extent.

Section 3. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by amending and renumbering section 33.3911 to 33.3909, to read as follows:

§33.3909 Regulations

It shall be unlawful to operate a cardroom in violation of any of the following regulations and rules:

- (a) Not more than one cardroom shall be located at any one address.
- (b) All card games that are lawful in the State of California and approved by the Division of Gambling Control of the State Department of Justice shall be allowed to be played in any cardroom.
- (c) No establishment licensed under this Division as a cardroom shall contain more tables for the playing of cards than the number for which the license fee has been paid. In no case shall any establishment contain more than eleven tables for the playing of cards. No more than twenty-two card tables shall be allowed to operate in the City at any time. This number is derived from the maximum number of card tables permitted at each

cardroom, multiplied by the maximum number of licensed cardrooms allowable under this Division.

- (d) Not more than nine players shall be permitted at any one card table.
- (e) Cardrooms shall be located on the ground floor and so arranged that the playing surface of each table is plainly visible from the sidewalk immediately adjacent to said cardroom. As used in this section, “sidewalk” means that portion of a public highway or public street other than the roadway, which is set apart by curbs, barriers, markings or other delineations for pedestrian travel.
- (f) No minor shall be permitted at any card table, or participate in any game played thereat.
- (g) All cardrooms shall be closed at 2:00 a.m., and shall remain closed until 9:00 a.m. of every day.
- (h) All cardrooms shall be open to police inspection during all hours of operation.

Section 4. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering sections 33.3912 to 33.3910 and 33.3913 to 33.3911, to read as follows:

§33.3910 Stakes

Only table stakes shall be permitted.

§33.3911 Intoxicating Liquor Prohibited

No alcoholic liquor or beverages shall be served, sold, consumed, or given away in any cardroom, and no cardroom shall have an entrance leading to any establishment which serves or sells intoxicating liquor.

Section 5. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by amending and renumbering sections 33.3914 to 33.3912, and 33.3915 to 33.3913, to read as follows:

§33.3912 Tables Supervised — Identification

Each card table shall have assigned to it a person whose duty shall be to supervise the game and see to it that it is played strictly in accordance with the terms of this Division and with the provisions of the Penal Code of the State of California. It shall be unlawful for any permittee, manager, employee, or any other person employed by or having any financial interest in any establishment holding a license under the provisions of this Division, to be physically present at any time upon said premises without his or her identification card identifying him or her with the cardroom. Such identification card is to be prominently displayed on the outermost garment at approximately chest height, and such identification card shall, at all times, be readable, legible, and in good condition. No employee shall be allowed to commence work or remain upon said licensed premises who does not possess an identification card as issued by the Chief of Police.

§33.3913 Exterior Signs

No sign or other insignia advertising or relative to cardrooms shall be permitted upon the exterior of any premises occupied as a cardroom or places within the

interior of the cardroom for the purpose of being displayed to the exterior of the cardroom, except the word “cardroom” and the name of the operator thereof. Such a sign shall be flush with the building and shall be not more than one and one-half feet by six feet in size.

Section 6. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering and retitling section 33.3916 to 33.3914, to read as follows:

§33.3914 Interior Signs

There shall be posted in every cardroom, in letters plainly visible from all parts thereof, signs stating that only draw poker and/or bridge is permitted to be played and stating the charge per hour exacted from each player for the privilege of playing.

Section 7. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering section 33.3917 to 33.3915, to read as follows:

§33.3915 Charges

Each cardroom licensee shall adopt a schedule of charges to be collected from players for the privilege of participating in any game. The charges shall be clearly posted at each card table.

Section 8. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by amending and renumbering sections 33.3918 to 33.3916 and 33.3919 to 33.3917, to read as follows:

§33.3916 Regulatory Fees

In accordance with the policy of The City of San Diego, the costs of the required

enforcement of laws regulating cardrooms, police regulated businesses, shall be borne by the applicant, licensee or permittee and current costs shall be reflected in the fees required for such license or permit.

Where a fee or a sum of money is referred to in this Division, the exact amount of such fee or sum of money shall be found in the City Clerk's Composite Rate Book. A graduated table fee, based on the number of tables, is authorized by this section.

§33.3917 Exceptions to License Requirements

- (a) Establishments which are members of and sanctioned by the American Contract Bridge League and which permit only duplicate bridge games shall not be required to comply with the provisions of this Division, however such establishments shall be open to members of the San Diego Police Department for reasonable inspection.
- (b) A nonprofit society, club, fraternal or other organization having adopted by laws and duly elected directors and members may be granted a license without fee by the Chief of Police when it appears that the tables are for the exclusive use of the members of the society, club, fraternal or other organization, and no charge is made for any of the facilities.
- (c) The license issued pursuant to this section may be revoked or suspended by the Chief of Police pursuant to section 33.0403.
- (d) Any society, club, fraternal, or other organization to whom a license

has been issued pursuant to this section shall be open to any duly authorized member or members of the Police Department of the City for reasonable inspection.

- (e) Any society, club, fraternal or other organization to whom a license has been issued pursuant to this section shall not be required to comply with the sections of this Division except section 33.3917.

Section 9. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering sections 33.3920 to 33.3918 and 33.3921 to 33.3919, to read as follows:

§33.3918 Severability

If any provisions or clause of this Division or the application thereof to any person or circumstance is held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, such invalidity shall not affect other provisions of this Division or clauses or applications thereof which can be implemented without the invalid provision, clause or application, and to this end, the provisions and clauses of this Division are declared to be severable.

§33.3919 Patron Security and Safety

Each licensee shall be responsible and liable for its patrons' safety and security in and around the cardroom. Before a license to operate is approved for renewal, each cardroom licensee shall implement a plan to provide for patron safety and security. The plan shall be subject to approval by the Chief of Police.

Section 10. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by amending and renumbering section 33.3922 to 33.3920, to read as follows:

§33.3920 Location of Cardroom

It is unlawful for any cardroom to be located in a zone that has not been specifically approved for such a business. The location of cardrooms shall comply with the zoning provisions of this Code and the requirements of Business and Professions Code section 19862(a)(3).

Section 11. That Chapter 3, Article 3, Division 39 of the San Diego Municipal Code is amended by renumbering section 33.3923 to 33.3921, to read as follows:

§33.3921 Wagering Limits

Cardrooms shall be permitted to have no limit wagering at each card game.

Wagering rules shall be clearly posted at each card table.

Section 12. That a full reading of this ordinance is dispensed with prior to its passage, a written or printed copy having been made available to the City Council and the public prior to the day of its passage.

Section 13. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: JAN I. GOLDSMITH, City Attorney

By _____
John C. Hemmerling
Deputy City Attorney

JCH:amt
1/13/2014
Or.Dept:Council District 6

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of _____.

ELIZABETH S. MALAND
City Clerk

By _____
Deputy City Clerk

Approved pursuant to Charter section 265(i):

(date)

TODD GLORIA, Council President

DRAFT