

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

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.

§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.

§33.3902 Cardrooms Regulated

[No change in text.]

§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~~ 33.39197 ~~hereof~~.

(b) [No change in text.]

~~(c) Transfer of Ownership or Control. The "transfer of ownership or control" of a cardroom business means and includes any of the following:~~

~~(1) The sale, lease or sublease of such business or part thereof.~~

~~(2) The transfer of securities which constitute any interest in such business, whether by sale, exchange or similar means.~~

~~(3) The establishment of a trust, gift or other similar legal device which transfers the ownership or control of such business.~~

~~(4) — The transfer by bequest or other operation of law upon the death of the person possessing such ownership or control.~~

~~(d)~~(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

~~Except as provided in Section 33.3909, a~~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) ~~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.~~

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) ~~Said application 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.~~

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 ~~(ab)~~ herein, the license shall expire one ~~(1)~~ year after the date of its issuance or last renewal.

§33.3905 Application for Work Permit — Contents

[No change in text.]

§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's 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 ~~and~~ Control Act (Business and Professions Code sections 198040 - 1995887).

§33.3907 Revocation or Suspension

In addition to the grounds enumerated in Section 33.04043, 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.

~~§33.3908 — **Transfer of Ownership or Control Prohibited — Incorporation Prohibited**~~

~~(a) — Except as provided in Section 33.3909, no cardroom license may be sold, transferred, or assigned by the licensee or by operation of law, to any other person, persons, or legal entity, and any such sale, transfer, or assignment, or attempted sale, transfer, or assignment, shall be deemed a voluntary surrender of the license, which license shall thereupon be terminated and void; provided, however, that if the license is held by a partnership or corporation, and one or more of the partners or shareholders dies, or chooses to divest himself or herself of his or her entire interest in the cardroom, the remaining partners or shareholders may acquire the interest~~

~~of such partner or shareholder without effecting a surrender or termination of the license. No new partners or shareholders are permitted to acquire any interest in the cardroom upon the death of, or sale by any existing partner or shareholder. A license issued to an individual shall terminate with the death of the individual.~~

~~(b) — A licensee may not incorporate after approval of the license. Any such incorporation, or attempted incorporation, shall be deemed a voluntary surrender of such license, and the license shall thereupon be terminated.~~

~~§33.3909 —~~ **Exceptions to Prohibition of Transfer of Ownership or Control**

~~Any person or persons who are licensed to operate a cardroom under the San Diego Municipal Code as of the effective date of this ordinance shall be permitted to transfer this license to any qualified person or persons within two (2) years after this effective date. The person or persons acquiring this license shall be required to discontinue said cardroom business within ten (10) years after the date of said transfer of license. The person or persons who are to receive such license shall comply with all the provisions of this Division and must be approved by the Chief of Police as qualifying under the standards of Section 33.3906 prior to any transfer of license becoming effective.~~

§33.39108 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.

§33.391109 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, as provided in section 33.3911(e), 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.

§33.39120 Stakes

Only table stakes shall be permitted.

§33.39131 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.

§33.39142 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.

§33.39153 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.

§33.39164 Interior Size 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.

§33.39175 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.

§33.39186 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.

§33.39197 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 33.04043.
- (d) Any society, club, fraternal, or other organization to whom a license shall

~~have~~has been issued pursuant to this ~~S~~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 ~~shall~~havehas been issued pursuant to this ~~S~~section shall not be required to comply with the sections of this Division except ~~S~~section 33.39197.

§33.392018 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.

§33.392119 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.

§33.39220 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 198562(a)(3).

§33.39231 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.

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

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