



DATE: October 17, 2007

TO: Honorable Mayor and City Councilmembers

FROM: Finance Department  
City Attorney's Office

SUBJECT: **AMENDMENT OF VARIOUS PROVISIONS OF CHAPTER 8 OF THE OCEANSIDE CITY CODE REGARDING WAGERING LIMITS, NUMBER OF TABLES, FINANCIAL REPORTING REQUIREMENTS AND OTHER RULES RELATED TO CARDROOM OPERATIONS**

**SYNOPSIS**

Staff recommends that the City Council introduce and adopt an ordinance amending various provisions of Chapter 8 of the Oceanside City Code to: (1) specify that the ordinance does not impose wagering limits, (2) increase the maximum number of tables per licensee, (3) require unaudited monthly gross revenue statements and annual audited statements, (4) delete restrictions on playing certain games (pai gow and super pan nine), (5) delete the requirement of prior city manager approval of all tournaments and special promotions, and (6) clarify the circumstances under which a dealer is considered to be on duty.

**BACKGROUND AND ANALYSIS**

Chapter 8 of the Oceanside City Code regulates the operation of cardrooms within the City. The state Division of Gambling Control (the "Division"), within the California Department of Justice, monitors local ordinances such as Chapter 8 to assure that they comply with the state's Gambling Control Act. In that regard, the Division contacted the Oceanside City Attorney's Office to advise that the City's gaming ordinance does not satisfy statutory requirements pertaining to wagering limits. Specifically, the Division stated that to comply with the Gambling Control Act, Chapter 8 must be amended to either prescribe a maximum wagering limit or specify that there is no wagering limit.

Ocean's Eleven Casino is currently the only licensed cardroom in the City and received a copy of the Division's notice regarding the need to amend Chapter 8 of the City Code with respect to wagering limits. Staff consulted with Ocean's Eleven to discuss the impact of the proposed amendments regarding wagering limits; in the course of those discussions, Ocean's Eleven suggested various additional amendments to Chapter 8 designed to reconcile the ordinance's requirements with the licensee's current business

practices. Ocean's Eleven also requested an amendment to increase the maximum number of tables in any licensed cardroom from 45 to 56.

A redlined version of Chapter 8, showing the proposed changes, is attached to this staff report as Exhibit A. The proposed amendments are summarized as follows:

#### Wagering Limits

The proposed amendments clarify that the ordinance does not impose a wagering limit. This change was directed by the state Division of Gambling Control, as noted above. The specific amendments related to wagering limits appear at Sections 8.1, 8.13, 8.14 (Rule No. 20) and 8.17.D.1 of the proposed ordinance.

#### Maximum Number of Tables

The amendments related to the maximum number of tables permitted per cardroom licensee appear at Sections 8.7, 8.10, 8.14 (Rule No. 18) and 8.15.A of the proposed ordinance. The effect of these amendments, if adopted, would be to increase the maximum number of tables permitted under the ordinance, per licensee, from 45 to 56 tables. This represents a 24.4 percent increase in the number of gambling tables and, as such, may be approved by City Council without voter approval pursuant to California Business and Professions Code section 19961.

#### Amendments to Conform Ordinance Requirements to Current Business Practices

Ocean's Eleven requested various amendments to the ordinance designed to conform the requirements of Chapter 8 to the cardroom's current actual or desired practices, in accordance with state law. Specifically, proposed changes to section 8.5 would revise the reporting requirements for license holders so as to require unaudited monthly gross revenue statements and annual audited statements. Existing section 8.5 requires audited quarterly statements, but the accepted practice has been for the license holder to supply unaudited monthly statements and annual audited statements. The proposed change would reconcile the ordinance with the current practice.

The proposed ordinance would delete Rule No. 11 under Section 8.14 ("Rules and regulations"), which prohibits a cardroom from allowing the playing of pai gow and super pan nine on more than five tables at any one time. Rule No. 20 of Section 8.14 would be amended under the proposed ordinance to delete the requirement that players' fees be collected prior to the playing of the hand. State law does not require that these particular games be restricted, nor that players' fees be collected before the playing of the hand. The Division of Gambling Control has reviewed and approved the proposed deletion of Rule No. 11 and the change to Rule No. 20.

The amendments would change Section 8.15 of the proposed ordinance to delete the prohibition against special promotions or tournaments without prior city manager approval. This change would comport with industry standards, under which daily tournaments are commonplace. The proposed ordinance does not change restrictions on the number of three-day and two-week promotions or tournaments allowed per year (24 and 4, respectively). Such extended term promotions or tournaments still require

application to the city manager at least 30 days prior to the event, as well as review and investigation of the application by the city manager and the police chief. The proposed deletion of city manager approval of all tournaments and special promotions allows the cardroom operator greater flexibility in planning and organizing day-to-day cardroom activities and events.

Finally, the proposed ordinance would add language to Subsection 8.17.D.3 to clarify the circumstances under which a dealer is considered to be on duty. Subsection 8.17.D.3 prohibits a cardroom operator from permitting any employee on duty to play in any of the games except as provided in the players' house rules. The proposed amendment to this subsection would clarify that a dealer is not considered to be on duty until he or she is placed into the dealer rotation.

The proposed ordinance amendments have been discussed and reviewed by the City's Finance, Planning, and Police departments. In addition, the proposed amendments were submitted to the California Department of Justice, Division of Gambling Control, pursuant to Business and Professions Code section 19961.1; the Division found the amendments to be in compliance with the Gambling Control Act.

### **FISCAL IMPACT**

Cardroom license holders are required to pay the City an annual fee in the amount of \$2,000 per table as well as 4 percent of the cardroom's gross revenues. Ocean's Eleven has applied to the state Division of Gambling Control for permission to increase the number of tables from 45 to 56. Amending the ordinance to allow the requested increase in the number of tables will result in a \$22,000 annual increase in table fee revenue to the City. Additionally, increasing the number of tables at the cardroom should lead to an increase in its gross revenues, which, in turn, will increase gross-revenue fees to the City.

It should be noted, however, that before Ocean's Eleven may implement an expansion to 56 tables, it must process an amendment to its Development Plan and Conditional Use Permit.

Chapter 8, at Section 8.5, authorizes City Council to review and adjust cardroom gross revenue fees and table fees annually when the budget is adopted. The proposed amendments to Chapter 8 do not alter this provision.

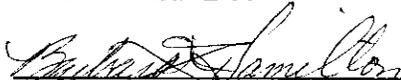
### **COMMISSION OR COMMITTEE REPORT**

Notwithstanding the adoption of the proposed ordinance, Ocean's Eleven must obtain an amendment to its Development Plan and Conditional Use Permit in order to expand the number of tables at its establishment. The Planning Commission would consider any such amendments.

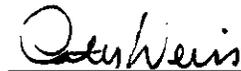
**RECOMMENDATION**

Staff recommends that the City Council introduce and adopt the attached ordinance amending various provisions of Chapter 8 of the Oceanside City Code to: (1) specify that the ordinance does not impose wagering limits, (2) increase the maximum number of tables per licensee, (3) require unaudited monthly gross revenue statements and annual audited statements, (4) delete restrictions on playing of certain games (pai gow and super pan nine), (5) delete the requirement of prior city manager approval of all tournaments or special promotions, and (6) clarify the circumstances under which a dealer is considered to be on duty.

**PREPARED BY:**

  
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**SUBMITTED BY:**

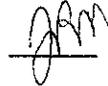
  
\_\_\_\_\_  
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**REVIEWED BY:**

Michelle Skaggs Lawrence, Deputy City Manager

  
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MSL

John P. Mullen, City Attorney

  
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JPM

**ATTACHMENTS**

- A. Redlined version of Chapter 8 of the Oceanside City Code, showing proposed changes
- B. Proposed Ordinance

Chapter 8 CARDROOMS\*

\***Editor's note:** Ord. No. 93-24, § 1, adopted Dec. 1, 1993, repealed Ch. 8, in its entirety, which pertained to cardrooms. Section 2 of said ordinance enacted provisions designated as a new Ch. 8, to read as herein set out. See the Code Comparative Table.

**Cross references:** Gambling generally, §§ 20.6--20.8.

Sec. 8.1. Definitions.

For the purpose of this chapter, the words and phrases set forth in this section shall have the following meanings ascribed to them unless the context clearly requires to the contrary:

*Cardroom* means a business or enterprise licensed under the provisions of this chapter for the playing of card games.

*Casino games* mean any games played within a cardroom or casino.

*Commence* means and includes commence, begin, initiate, start, open and establish.

*Conduct* means and includes conduct, transact, maintain, prosecute, practice, manage, operate and carry on.

*Employee* means every person who is an agent of a cardroom licensee or who acts under the direction of an owner or other employee of a cardroom licensee or of a business conducted on the premises of a cardroom.

*Financially interested person* shall include 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.

*License* means a license for operating a cardroom.

*Owner* means every person, firm, association, partnership, corporation, or other entity having any interest, legal or equitable, in any cardroom or cardroom license.

*Person* means and includes a natural person, or any other legal entity.

*Playing cards* or *card games* means the playing of any card or similar game not prohibited under state law.

*Proposition player(s)* means a person employed, or paid, by the cardroom licensee for the purpose of starting and/or maintaining a sufficient number of players in a card game.

*Purport to commence* and *purport to conduct* mean and include any showing, representation, indication or action which:

- (1) By means of sign, advertisement or advertising matter, whether in, upon or about any premises or otherwise; or
- (2) By the appearance or arrangement of any premises; or
- (3) By acts or statements of any person, or by the agents, servants or employees of any person, indicates, suggests, holds out or represents that any person is, would be, or appears to be conducting or in a position to conduct any business referred to in this chapter within the city.

*Wagering limit* has the same meaning as that term is used in Business & Professions Code §§ 19801 & 19860.

**EXHIBIT A**

*Work permits* mean the permits issued by the city to any and all persons wishing to be employed by a cardroom or casino in any capacity whatsoever.  
(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 99-05, § 1, 3-17-99)

Sec. 8.2. License--Required.

A. It shall be unlawful for any person to commence or conduct, or purport to commence or purport to conduct, within the city, any business, activity, enterprise, undertaking or place, where tables are used directly or indirectly for playing cards or card games and for the use of which a fee, commission, or compensation is directly or indirectly charged, accepted, or received from players or participants in any such playing of games until such person shall have first obtained a license to do so under and in compliance with the provisions of this chapter.

B. The provisions set forth in paragraph (a) shall not apply to any society, club or other organization operated exclusively for nonprofit, charitable purposes so long as any profits generated directly or indirectly for the playing of cards or card games are used solely and exclusively for the nonprofit, charitable purposes of the organization.

C. No application form for a license for the conduct of a cardroom shall be furnished by the city manager as provided in section 8.3 of this chapter, nor shall any application for any license be received and filed by the city manager, nor shall the city manager be required to process any such application, nor shall a public hearing on such application be conducted unless there is compliance with this section. In no event shall more than two licenses be issued within the city. An individual, corporation, partnership or business entity may hold both cardroom licenses as approved by the city council. Where both licenses are solely held in such a manner, the licenses shall be consolidated and deemed to be one cardroom license for all intents and purposes. Where such a consolidation occurs, no further cardroom licenses shall be issued by the city and the city shall be solely limited to one cardroom and one cardroom license.

D. No application for a conditional use permit to operate a cardroom shall be submitted to the city planner unless the applicant would be eligible for the issuance of a license pursuant to paragraph (c).

E. Unless otherwise provided in paragraph (f), all cardrooms shall be closed at 2:00 a.m. and shall remain closed until 10:00 a.m. of every day, except that on Sunday such cardrooms shall remain closed until 12:00 noon.

F. A cardroom, located outside any city redevelopment project area, may operate on a twenty-four-hour basis with a conditional use permit approved by the city planning commission. Any conditional use permit allowing twenty-four-hour operation shall contain a provision requiring biannual review."

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 95-019, § 1, 11-20-95; Ord. No. 02-OR675-1, § 1, 10-9-02)

Sec. 8.3. Same--Applications.

Any person desiring or proposing to commence or conduct any business, activity, enterprise, undertaking or place named, designated, specified or referred to in this chapter for the playing of cards or card games shall file with the city manager a written application for a license to do so as required by the provisions of this chapter. Concurrent with the filing of the application, each person identified therein shall be fingerprinted by

the city manager or his designee and no application shall be deemed filed until the fingerprinting is completed. Each such application shall contain and clearly and truthfully, under oath or affirmation, set forth and show, in addition to such other information as the city manager shall require, the following information:

- A. The date of the application;
- B. The true name of the applicant, and any other names by which the applicant has been known;
- C. The status of the applicant as being an individual, firm, association, partnership, joint venture or corporation;
- D. If the applicant is an individual, the residence and business address of such applicant;
- E. If the applicant is other than an individual the true name, residence and business address of each partner and each officer of the applicant as well as any other names by which said partners and officers have been known;
- F. A full and complete financial statement of the applicant, whether it is an individual, corporation, partnership, or other entity and a full and complete financial statement of each partner and officer of the applicant. Any such financial statements shall be deemed confidential in character and shall not be open to public inspection but shall be available to those city officials having jurisdiction over the provisions of this chapter, to those state officials having jurisdiction over cardrooms pursuant to the Gaming Registration Act of the state and to any court of competent jurisdiction where any matter relating thereto may be actually pending;
- G. The type and nature of the card games proposed to be played;
- H. The number of tables to be placed, employed or used;
- I. A copy of the proposed players' house rules;
- J. The proposed location of the business for which the license is sought, and evidence of ownership or control of said proposed location;
- K. A description of any other business conducted or proposed to be conducted at the same location;
- L. A description of the building proposed for such usage;
- M. A statement that such building will conform to all laws of the state and the city for occupancies of the nature proposed;
- N. A statement that no intoxicating liquors or beverages are to be sold, given away, dispensed, consumed or otherwise permitted in the cardroom.
- O. A statement identifying a felony or misdemeanor criminal convictions of each individual applicant.
- P. A statement that the applicant understands that the application shall be considered by the city council only after a full investigation and report have been made by the city manager and chief of police;
- Q. A statement that the applicant understands and agrees that any business or activity conducted or operated under any license issued under such application shall be operated in full conformity with all the laws of the state and the laws and regulations of the city applicable thereto, and that any violation of any such laws or regulations in such place of business, or in connection therewith, shall render any license therefor subject to immediate suspension or revocation;
- R. A statement that the applicant has read and understands the provisions of this chapter;

S. Proof of valid registration from the Attorney General pursuant to The Gaming Registration Act as to each applicant and other financially interested person.  
(Ord. No. 93-24, § 2, 12-1-93)

Sec. 8.4. Authority for imposition of fees.

For the purpose of clarification, the fees set forth in this chapter are for both regulation and revenue purposes and are levied pursuant to the authority of applicable laws.  
(Ord. No. 93-24, § 2, 12-1-93)

Sec. 8.5 Annual and gross revenue fees.

For the privilege of holding a cardroom license, the license holder shall pay to the city an annual fee in the amount of two thousand dollars (\$2,000.00) per table. This annual fee shall be due and payable in monthly installments to be received no later than the fifteenth day of each month. There shall be no prorating of the fee.

In addition to the annual table fee, the license holder shall pay to the city a ~~monthly~~ fee based on the total sum equal to four (4) percent of the license holder's gross revenues, which shall include revenue received by the license holder from per hand money collected, seat rental fees, tournament fees and any and all other revenues generated from card play, except fees charged to players that are returned to the players as tournament or jackpot bonuses. Each license holder shall file with the city's business license inspector no later than the fifteenth day of each ~~month~~ a statement showing the true and correct amount of gross revenue derived from the card game business held by such licensee for the preceding ~~month~~. Such statement shall be accompanied by the payment of the correct amount of gross revenue fee due and owing in accordance with the provisions herein.

Such payment of fees shall be accepted by the city, subject however, to the right of the city to audit the matters referred to in the statement and to determine the correctness of the figures set forth in such statement and the amount payable to the city pursuant to the provisions herein. In addition to the foregoing statement, a certification or declaration signed under penalty of perjury by the licensee or the licensee's management shall be attached to the statement, or included therein, which certification or declaration shall declare that the information provided is true and correct. In addition to the ~~monthly~~ statements the license holder is required to provide to the city pursuant to this section, the license holder shall file with the city's business license inspector no later than April 30th of each year a statement executed by a certified public accountant showing the true and correct amount of gross revenue derived from the card game business held by such licensee for the preceding year.

Any failure or refusal of any such licensee to timely make and file any statements as required within the time required, or to timely pay any fee in accordance with the provisions of this chapter, or to permit such inspection of such books, records and accounts of such licensee shall be and constitute full and sufficient grounds for suspension and revocation of the license of any such licensee. Any such unpaid fee shall be a continuing debt owed to the city until paid.

The city council shall review and may adjust cardroom gross revenue and table fees annually when the budget is adopted.

Each licensee shall fully cooperate in any audit which the city may choose to conduct of the licensee's books, records and accounts for the purpose of verifying the completeness

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and accuracy of any statement, certification or declaration required by this section. Such audits shall be conducted annually and at such other times and using such persons as authorized by the city manager.  
(Ord. No. 93-24, § 2, 12-1-93)

Sec. 8.6 Investigations and reports.

A. *Investigations required.* Whenever an application has been filed with the city manager for a license pursuant to the provisions of this chapter, the city manager, in cooperation with the chief of police, shall make an investigation as follows:

1. A full and complete investigation of the applicant, including the applicant's partners and officers;
  2. A full and complete investigation of the building and location where the applicant proposes to conduct such business or activity; and
  3. A full and complete review as to the type of tables or in connection with, the proposed business and the rules for and type of games proposed to be played, which review shall also include the proposed locations of the tables within or about the proposed place of business;
  4. A determination that the applicant and persons financially interested have obtained valid registration from the Attorney General pursuant to The Gaming Registration Act.
- B. *Reports required.* The city manager and chief of police shall make such investigation with reasonable promptness and shall report to the city council with reference thereto in due time, and shall make investigations with reasonable promptness as to all matters within the city manager's jurisdiction concerning the public health, welfare and safety as may be concerned with such application.

(Ord. No. 93-24, § 2, 12-1-93)

Sec. 8.7. Granting and denial of application.

A. *Consideration by city council.* An application for a license shall be presented to the city council.

B. *Decision of city council.* The city council may, in its discretion, either approve the application and grant the license applied for or deny the application and refuse to grant the license applied for. No license shall be granted for the operation of more than ~~fifty-six~~ (56) tables.

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C. *License conditions.* Any such license granted by the city council shall be deemed conditioned so as to require compliance with all of the terms, conditions, and provisions of this chapter, shall further be conditioned upon the applicant agreeing, unless he surrenders his license, to hold the city harmless, including payment of all court costs and legal fees, with respect to any and all claims and actions prosecuted against the city concerning the validating or legality of the license or any other provisions of this chapter, and may additionally contain any other conditions the city council may impose as express conditions of approval.

D. *Decision of city council final.* The decision of the city council to approve any such application and grant the license applied for therein, or to deny any such application and refuse to grant the license applied for therein, shall be final and conclusive.

E. *Applicant's acceptance of city council's decision.* The applicant shall agree that the sole and exclusive discretion as to the granting or denial of any such license shall be vested in the city council.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 95-019, § 2, 11-20-95)

#### Sec. 8.8. Denial of application.

A. The city council shall deny issuance of any license under the provisions of this chapter in any of the following cases:

1. If the proposed business or activity to be operated is in violation of any state or city law;
2. If the game for which a license is applied for is unlawful;
3. If the building and premises will not conform to the building and zoning laws of the city;
4. If issuance of the license is sought in respect to a new gambling establishment, or the expansion of an existing gambling establishment, that is to be located or is located near an existing school, church or building used primarily as a place of worship, playground or other area of juvenile congregation, hospital, convalescence facility, or near another similarly unsuitable area.

B. Pursuant to section 8.7, the city council, in its sole discretion, may deny issuance of a license for any other reason, with or without specification of cause.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 98-19, § 1, 5-6-98)

#### Sec. 8.9. Issuance of licenses.

The city manager shall notify the applicant in writing as to the granting of any license pursuant to this chapter. A cardroom license constitutes a privilege to operate a cardroom within and shall not constitute property of the owner. Such a privilege or license is subject to revocation or suspension by the city where violations of this chapter occur.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 02-OR675-1, § 2, 10-9-02)

#### Sec. 8.10. Reassessment and expiration of licenses.

A. Within sixty (60) days of any anniversary of the issuance of a license, the owner may apply to the city council for reassessment and amendment to the number of tables, authorized for operation pursuant to the license. The city council, in its discretion, may approve or deny any such application. No reassessment or amendment approved by the city council shall permit the operation of more than ~~fifty-six (56)~~ tables.

B. Every license issued pursuant to the provisions of this chapter shall be dated as of the day it is issued and unless sooner revoked, shall stay in effect until the license is either surrendered, suspended or revoked. A license, and all rights of the licensee thereunder, shall expire and be revoked by operation of law if the licensee fails to commence operation of a cardroom within one year of the date of issuance of the license. The time period for commencement of operations may be extended by up to one additional year for good cause upon timely application to the city manager and upon approval by the city council. Any such application must be filed prior to the expiration of the original one-year time period for commencement of operations and must be supported by facts demonstrating that the delay in commencement of operations was beyond the licensee's control or ability.

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(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 95-019, § 3, 11-20-95; Ord. No. 99-23, § 1, 10-20-99)

Sec. 8.11. Transfer and assignment of licenses.

Any transfer or assignment of any license shall be considered for all purposes in the same manner as a new application for a cardroom license in the city, and all the provisions of this chapter applicable to new and original applications shall apply. A transfer application may be denied by the city where any fees provided for in this chapter are delinquent or not current.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 02-OR675-1, § 3, 10-9-02)

Sec. 8.12. Suspension and revocation of licenses.

A. *General.* All licenses issued pursuant to the provisions of this chapter shall be subject to suspension or revocation in the time and manner set forth in this section.

B. *Grounds.* Any license issued pursuant to the provisions of this chapter shall be suspended or revoked if it is found, in the time and manner hereinafter described:

1. The attorney general of the state has suspended or revoked a licensee's registration under The Gaming Registration Act;
2. That a licensee or any agent or employee thereof, has violated, or permitted, allowed or caused the violation of any provision of this chapter, any regulation issued pursuant to this chapter, or any state law or regulation relating to the operation of a cardroom;
3. That a licensee has failed to pay, when due and payable, any of the fees provided for in this chapter;
4. That a licensee, or any agent or employee thereof, has permitted, allowed or caused any violation of any condition of approval imposed upon the issuance of such license or imposed by the city;
5. That a licensee has made any fraudulent statements as to a material fact on an application form, or as to any other information presented as part of the application process;
6. That the licensee has not continuously operated the cardroom or where the cardroom ceases operations in excess of ninety (90) days;

C. *Action of city manager.* Upon information that a violation constituting a ground for suspension or revocation has occurred, the city manager, in cooperation with the chief of police, shall conduct an investigation and may set the matter for consideration by the city council at its next most convenient meeting. The city manager shall give notice of the time and the place of the hearing before the city council to the licensee not less than five (5) days in advance of the date set by the manager for such hearing.

D. *Hearing.* At the time set for such hearing, the city council shall hear the evidence presented by the city manager and chief of police purporting to show that grounds exist for suspension or revocation; thereafter, the city council shall permit the licensee, and any other interested person, to present such evidence as may be relevant to dispute the existence of such facts. The city council may continue the hearing from time to time, and, if satisfied that probable cause for revocation exists and that continued operation of the cardroom jeopardizes, or threatens to jeopardize, the public welfare, may suspend the license pending the conclusion of the hearing.

E. *Decision of city council.* If based on the evidence presented, the city council finds that facts are presented which constitute grounds for suspension or revocation, it shall suspend or revoke the license. If it finds that such facts are not present, it shall dismiss the proceedings. The decision of the city council shall be final and conclusive.  
(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 02-OR675-1, § 4, 10-9-02)

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Sec. 8.13. Wagering limits.

This Chapter does not impose a wagering limit at cardrooms or limit the amount of wagers on games at cardrooms pursuant to Business & Professions Code § 19860. Cardrooms may establish wagering limits, provided that the wagering limits are posted in accordance with Rule No. 20. of this Chapter.

Sec. 8.14. Rules and regulations.

The following rules and regulations are established and promulgated by the city council with reference to card games for which licenses are issued under the provisions of this chapter. Licensees holding or obtaining licenses under the provisions of this chapter shall, in writing, agree to be bound by and observe each and all of the provisions of this chapter relating to such licenses.

*Rule No. 1:* Except as provided in section 8.14, no licensee shall use, operate or permit the use or operation of more tables than those for which such licensee holds a current and valid license to operate or use in the city.

*Rule No. 2 (i):* No licensee shall permit any person to play in any game licensed by the provisions of this chapter at any time while such person appears to be, or, in the opinion of the licensee or duly authorized agents or employees, is under the influence of intoxicating liquor or drugs and no person under, or who appears to be under, the influence of intoxicating liquor or drugs shall play in any such game.

*Rule No. 2 (ii):* No licensee shall permit any person to enter the premises while such person appears to be, or, in the opinion of the licensee or duly authorized agents or employees, is under the influence of intoxicating liquor or drugs.

*Rule No. 3:* Each licensee shall make available to any patron or potential patron of the cardroom, written players' house rules. Except in a duly authorized tournament, no licensee shall permit any person playing in any of the games licensed by this chapter to make any individual bet or wager in excess of the maximum bets set forth for the particular game as specified in the players' house rules.

*Rule No. 4:* No licensee shall operate or use any table or manage, conduct or carry on any business or activity licensed by this chapter after the time that such license issued by the city has been suspended or revoked pursuant to this chapter.

*Rule No. 5:* Each and all of the games conducted or operated in the city pursuant to the provisions of this chapter shall be conducted and operated in full conformity with, and subject to, all the provisions of the applicable laws.

*Rule No. 6:* No licensee shall permit or allow any person under the age of twenty-one (21) years to play in any game licensed hereunder, or for any nonemployee under the age of twenty-one (21) years to be present at any time in any area of the cardroom in which card games are being played.

*Rule No. 7:* Any games not prohibited under state law shall be permitted in any cardroom.

*Rule No. 8:* Except as provided for special card game tournaments authorized under Section 8.14, the playing of all games provided for in this chapter shall be confined to the designated card room areas and no playing of any game provided for or permitted by this chapter shall be permitted at any other location of such premises.

*Rule No. 9:* No licensee, operator, agent, and/or employee of any duly licensed cardroom shall assign, arrange for, or in any other manner sublet, the conducting of card games, directly or indirectly with or without consideration, to any person not having a valid license to conduct such card game. Nor shall any person conduct card games as provided pursuant to the provisions of this chapter in a duly licensed cardroom not having a valid unrevoked license to conduct such game or games.

*Rule No. 10:* A cardroom shall be open for inspection during all hours to the city manager, or his duly authorized representative, without a search warrant.

*Rule No. 11:* [*Reserved.*]

*Rule No. 12:* Licensees holding valuables for safekeeping may do so only under the following conditions:

- A. Only cash may be held; no other valuable, including coins or paper money worth more than face value, may be held.
- B. Money deposited shall be secured by cash or other liquid assets or a security bond. Such security shall be sufficient to cover all money deposited.
- C. No person shall hold more than one account at any one cardroom.

*Rule No. 13:* [*Reserved.*]

*Rule No. 14:* All card games shall be supervised to insure that play is conducted in strict conformity with the house rules, the requirements of this chapter and applicable provisions of state law.

*Rule No. 15:* No signs or other insignia advertising or relative to cardrooms shall be permitted upon the exterior of any premises occupied as a cardroom, except as permitted under the Oceanside Zoning Ordinance.

*Rule No. 16:* Not less than two (2) signs with letters plainly legible from all tables shall be posted in each room where card games are played. The signs shall state that no games prohibited by state law shall be played and shall also state the charge exacted from each player for the privilege of playing. The sign may include a list of permitted games.

*Rule No. 17:* No licensee shall permit or allow any person to work in a cardroom without that person having fully complied with the requirements of paragraph H. of section

*Rule No. 18:* No licensee will operate more than fifty-six (56) tables pursuant to section 8.7.B of this chapter. The total number of tables allowed with the City of Oceanside will not exceed one hundred thirty-five (135) tables pursuant to the requirements of section 8.2.D of this chapter.

*Rule No. 19:* Each licensee will be responsible for, and provide, patron security and safety in and around the gambling establishment during the hours of operation. The city council further reserves the right to establish specific guidelines as to other hours that security shall be provided, and as to the method by which patron safety will be accomplished.

Each licensee shall be responsible for clearly posting any limitations on limits of liability. These limits of liability are subject to review by the city council.

**Deleted:**

**Deleted:** A cardroom shall not permit the playing of pai gow and super pan nine on more than five (5) tables at any one time, including, but not limited to days of authorized special card game tournaments.

**Deleted:**

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**Deleted:** forty-five (45)

*Rule No. 20:* Each licensee must post signs with lettering plainly legible from all tables specifying the wagering limits, if any, for each of the permitted games. The city council reserves the right to review those wagering limits at any time. The fee required for each player will also be posted at each table. The licensee may only collect fees based upon:

- A time rental fee for occupancy at the card table; or
- A predetermined fixed fee assessed to all players at the table,

This fee cannot be tied to the amount of a player's bet, the size of the pot, winnings that may be collected or money that changes hands between the players at the table.

*Rule No. 21:* Proposition players will not be required to display a work permit in a prominently visible place. A proposition player must have a work permit on their person at all times while working inside the cardroom or casino.

The proposition player shall be required to show a work permit upon request by any law enforcement officer or duly appointed representative of the city manager. Any player has the right to ask other participants in a game if they are a proposition player. If asked, proposition players must identify themselves as such.

*Rule No. 22:* All cardrooms or casinos shall post a sign that is legible to all customers as they enter the business that proposition players are utilized and must identify themselves during play upon request.

*Rule No. 23:* Proposition players shall play with their own money and are prohibited from using the money of the cardroom or casino to participate in California or casino games. It shall be unlawful for any licensee to advance or loan money to proposition players for the purpose of participating in any game.

*Rule No. 24:* All cardrooms and casinos shall make literature published by Gamblers Anonymous easily available in a visible location inside the business.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 98-19, § 2, 5-6-98; Ord. No. 98-21, § 1, 6-24-98; Ord. No. 99-05, § 2, 3-17-99)

Sec. 8.15. Special promotions or tournaments.

A. If the number of tables authorized for regular operation at a cardroom is less than fifty-six (56), the city manager may authorize special promotions or tournaments provided that the total number of regular tables and special promotion or tournament tables at a cardroom does not exceed fifty-six (56).

B. Each special promotion or tournament shall be operated at or within one thousand (1,000) feet of the location of an existing cardroom.

C. During each calendar year, each cardroom shall be limited to the following special promotions or tournaments:

1. Twenty-four (24), three-day promotions or tournaments; and
2. Four (4), two-week promotions or tournaments;

D. Application to conduct special promotions or tournaments shall be made to the city manager at least thirty (30) days prior to the proposed tournament and shall indicate the rules, terms, conditions, time and place of promotion or tournament. The city manager, in cooperation with the chief of police, shall review and investigate any such application.

E. For each additional table duly approved for the use during a special promotion or tournament, the cardroom shall pay a tournament fee to the city of fifty-five dollars (\$55.00) per table for each designated promotion or tournament day. Each cardroom shall

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C.

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pay to the city promotion/tournament fee for all approved tournament tables prior to the commencement of the promotion or tournament.

F. Promotion or tournament rules shall be made available to each player.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 95-019, § 4, 11-20-95; Ord. No. 99-16, § 1, 7-21-99)

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Sec. 8.16. Registration, fingerprinting, photographing and approving employees of licensed cardrooms.

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A. It is unlawful for any licensed cardroom in the city to employ any person who does not have a valid, unsuspended and unrevoked employment work permit issued by the chief of police or his designee.

B. Any person wishing to obtain an employment work permit shall file an application with the chief of police. The application shall be complete in all respects and shall include photographing and fingerprinting. Each application shall be accompanied by a nonrefundable processing fee and a fingerprinting fee at a cost set by the chief of police, or the chief of police's designee, and a processing fee set by the Department of Justice. The city reserves the right to increase the processing fee and fingerprinting fees as may be necessary to recover the cost associated with processing each application.

All applicants for employment work permits are subject to review by the department of gaming control. The department of gaming control, upon review, may object to the grant of a work permit on any number of state grounds. Any department of gaming control objections to issuance of a work permit will result in the denial or revocation of the permit by the city.

C. Each application shall contain, in addition to such other information as the chief of police shall require, the following current information under penalty of perjury:

1. Residence address during the past five (5) years;
2. Current occupation or employment;
3. Employment during the past five (5) years;
4. Physical characteristics, including age, date of birth, height, weight, and color of hair and eyes;
5. Driver's license and social security numbers;
6. A history of all arrests and convictions for any felony or misdemeanor offense, other than traffic violations, and of violations of any municipal codes or ordinances within the past ten (10) years; and
7. A current full face photo.

D. The chief of police shall process the application and may approve, conditionally approve, or deny such application. The chief of police shall deny an application for a work permit in the following cases:

1. If the applicant has been convicted of any crime punishable as a felony;
2. If the applicant has been convicted of an offense involving dishonesty;
3. If the applicant has engaged in bookmaking, loan sharking, or other illegal gambling activities or has been convicted of an offense involving such activities;
4. If the applicant is not a person of good character, integrity, and honesty; or
5. If the applicant has knowingly made a false statement of material fact in the application or as part of the application process.

E. An employment work permit may be suspended or revoked by the chief of police under the following circumstances:

1. The commission of any act which would have been grounds for the denial of a work permit pursuant to paragraph D. of this section; or
2. The violation of any condition imposed in issuing such work permit.

F. The information received by the city pursuant to the provisions of this section shall be treated as confidential and shall be accessible only to those city officials having jurisdiction over the provisions of this chapter, and to management personnel of the licensee.

G. A work permit issued pursuant to this section shall be valid for one year.

H. Each employee at all times while acting within the scope of the employee's employment on the cardroom premises or the area of an authorized special card game tournament shall wear a valid employee work permit in a prominently visible place upon the employee's person. Failure to comply with this requirement shall subject the employee to be summarily removed from the premises by the licensee upon the direction of any police officer.

I. All cardrooms and casinos shall maintain a file on each proposition player that demonstrates financial ability to be employed as a proposition player.

Included in the file must be relevant financial data or information which may include, but is not limited to, recent state and federal tax returns, banking statements, credit statements, and/or statements of debt. The purpose of such data shall be to demonstrate independent financial ability to be employed as a proposition player.

(Ord. No. 93-24, § 2, 12-1-93; Ord. No. 98-19, § 3, 5-6-98; Ord. No. 99-05, § 3, 3-17-99; Ord. No. 00-177-1, § 1, 3-15-00; Ord. No. 03-OR660-1, § 1, 11-5-03)

Sec. 8.17. Unlawful act.

A. *Unlawful locations.* It is unlawful for any person to play, or permit the playing, of any game regulated or referred to by the provisions of this chapter at any place within the city, except a place operated under a permit and licensed under licenses held or issued pursuant to the provisions of this chapter.

B. *Unlawful games.* It is unlawful for any person to play in, or permit the playing of, any game at any place licensed pursuant to this chapter which game is not permitted by the provisions of this chapter, or in any game played in violation of this chapter.

C. *City employees and officers.* It is unlawful to provide gratuities, goods or services in, upon or about the cardroom to city employees or officers at reduced or no cost.

D. *Operation of card rooms.* It is unlawful for any operator of a card room permitted under this chapter or for any owner, principal employee or agent of a card room permitted under this chapter:

1. To allow to be wagered by any player any amount in excess of the posted wagering limit, if any, for the table at which the player is then playing, except as is specified in the players' house rules;

2. To knowingly permit any unlawful activity to take place upon the premises of the cardroom or to fail to take reasonable steps to prevent such activities from taking place, including, but not limited to, illegal gambling activities, prostitution and cheating. The licensee shall have the power to formulate reasonable policies and procedures to control

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such activities, and these policies and procedures may be published in the players' house rules;

3. To permit any employee on duty to play in any of the games authorized by this chapter other than pursuant to policies of the licensee that are disclosed in the players' house rules (For purposes of this subsection a dealer shall not be considered to be on duty until he or she is placed into the dealer rotation);

4. To derive revenues from games being played in the cardroom otherwise than from collection of a specified periodic or per hand fee. This prohibition does not apply to any owner, principal employee or agent who is participating in a card game as a player on his own account.

E. *Cheating.* It is unlawful for any person to attempt to gain any unfair advantage of any player in a licensed card game through a fraudulent technique or mechanical or electrical device. Prohibited cheating techniques include, but are not limited to, the following examples: It shall be unlawful for any person as a player or dealer to attempt to deal, draw, distribute or burn any playing cards other than the top card of a deck. It is unlawful for any person to attempt to prearrange or to shuffle any playing cards, other than in a random manner. It is unlawful for any person to attempt to alter in any way the shape, appearance, texture or number of cards in play, or to switch any card. It is unlawful for any person to attempt to use any apparatus to gain information not available to other players.

(Ord. No. 93-24, § 2, 12-1-93)

Sec. 8.18. Exclusion of persons from cardrooms.

A licensee may exclude or eject from the premises any person who has been engaged in or been convicted of bookmaking, loan sharking, the sale of controlled substances, illegal gambling activities, cheating, prostitution or whose presence in or about such cardroom would be inimical to the interests of legitimate gaming. No person shall be excluded or ejected on the grounds of race, color, creed or sex.

(Ord. No. 93-24, § 2, 12-1-93)

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Sec. 8.19. Presumptions.

The city council, in adopting the provisions of this chapter and establishing the regulation of the businesses operated or to be operated by a licensee who permits the playing of card games authorized by this chapter, declares that the playing of games not prohibited by statute is conducive to public morals when the same are played and conducted according to all the laws, rules, regulations and provisions as set forth in this chapter, and that in any proceedings to annul a license issued pursuant to the provisions of this chapter, or to abate the business conducted hereunder, or to prosecute the licensee or his employees for any acts authorized thereby, it shall be presumed that such acts are not unlawful and that such business is not a public or private nuisance.

(Ord. No. 93-24, § 2, 12-1-93)

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Sec. 8.20. Delegation of authority.

The duties and powers vested in the city manager by this chapter may be delegated to appropriate city employees or officers.

(Ord. No. 93-24, § 2, 12-1-93)

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Sec. 8.21. Nonseverability.

The provisions of this chapter providing for the payment of license fees, and the provisions allowing the licensing of card games are not severable one from the other. Should the requirements of this chapter relating to the payment of license fees, as herein set forth or as subsequently amended, be held to be invalid or unenforceable for any reason by the final judgment of a court of competent jurisdiction, then this chapter in its entirety shall thereupon become null and void, any licenses issued pursuant to this chapter shall likewise become null and void, and the playing of card games within the city shall thereupon become unlawful, to the same extent as such playing was unlawful prior to the adoption of this chapter. Except as provided above, if any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this chapter. The city council declares that it would have adopted this chapter and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, phrases or portions be declared invalid or unconstitutional.  
(Ord. No. 93-24, § 2, 12-1-93)

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Sec. 8.22. Amendments.

The city council reserves this right and power to amend any and all provisions of this chapter in its sound discretion, including, but not by way of limitation, the fee provisions hereof, so long as any such amendments are not violative of any provisions of state law or the final judgment of a court of competent jurisdiction. The issuance by the city council of any license or licenses hereunder shall not be deemed to be a waiver by the city council of such right and power to amend this chapter.  
(Ord. No. 93-24, § 2, 12-1-93)

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1 accompanied by the payment of the correct amount of gross revenue fee due and owing in  
2 accordance with the provisions herein. Such payment of fees shall be accepted by the city,  
3 subject, however, to the right of the city to audit the matters referred to in the statement and to  
4 determine the correctness of the figures set forth in such statement and the amount payable to  
5 the city pursuant to the provisions herein. In addition to the foregoing statement, a certification  
6 or declaration signed under penalty of perjury by the licensee or the licensee's management shall  
7 be attached to the statement, or included therein, which certification or declaration shall declare  
8 that the information provided is true and correct.

9 "In addition to the monthly statements the license holder is required to provide to the city  
10 pursuant to this section, the license holder shall file with the city's business license inspector no  
11 later than April 30th of each year a statement executed by a certified public accountant showing  
12 the true and correct amount of gross revenue derived from the card game business held by such  
13 licensee for the preceding year.

14 "Any failure or refusal of any such licensee to timely make and file any statements as  
15 required within the time required, or to timely pay any fee in accordance with the provisions of  
16 this chapter, or to permit such inspection of such books, records and accounts of such licensee  
17 shall be and constitute full and sufficient grounds for suspension and revocation of the license  
18 of any such licensee. Any such unpaid fee shall be a continuing debt owed to the city until paid.  
19 The city council shall review and may adjust cardroom gross revenue and table fees annually  
20 when the budget is adopted.

21 "Each licensee shall fully cooperate in any audit which the city may choose to conduct of  
22 the licensee's books, records and accounts for the purpose of verifying the completeness and  
23 accuracy of any statement, certification or declaration required by this section. Such audits shall  
24 be conducted annually and at such other times and using such persons as authorized by the city  
25 manager."

26 C. The last sentence of Subsection B ("Decision of City Council") of Section 8.7  
27 ("Granting and denial of application") is amended to substitute the words "fifty-six (56)" for the  
28 words "forty-five (45)."

1 D. The last sentence of Subsection A of Section 8.10 is amended to substitute the  
2 words “fifty-six (56)” for the words “forty-five (45).”

3 E. A new Section 8.13 is added (and the existing Section 8.13 and subsequent  
4 sections renumbered accordingly) as follows: “Sec. 8.13. Wagering limits. This Chapter does  
5 not impose a wagering limit at cardrooms or limit the amount of wagers on games at cardrooms  
6 pursuant to Business & Professions Code section 19860. Cardrooms may establish wagering  
7 limits, provided that the wagering limits are posted in accordance with Rule No. 20 of this  
8 Chapter.”

9 F. Sections 8.13 through 8.21, inclusive, are renumbered as Sections 8.14 through  
10 8.22, respectively.

11 G. Rule No. 11 of Section 8.13 (renumbered to Section 8.14) is amended to delete  
12 the following language: “A cardroom shall not permit the playing of pai gow and super pan  
13 nine on more than five (5) tables at any one time, including, but not limited to days of  
14 authorized special card game tournaments.”

15 H. Rule No. 18 of Section 8.13 (renumbered to Section 8.14) is amended to  
16 substitute the words “fifty-six (56)” for the words “forty-five (45).”

17 I. Rule No. 20 of Section 8.13 (renumbered to Section 8.14) is amended to delete  
18 the following language: “and collected prior to the playing of the hand.”

19 J. Subsection A of Section 8.14 (renumbered to Section 8.15) is amended to  
20 substitute the words “fifty-six (56)” for the words “forty-five (45).”

21 K. Subsection B of Section 8.14 (renumbered to Section 8.15) is amended to  
22 substitute the words “fifty-six (56)” for the words “forty-five (45).”

23 L. The language of Subsection C of Section 8.14 (renumbered to Section 8.15) is  
24 deleted, and Subsections D, E, F and G are relabeled Subsections C, D, E and F, respectively.

25 M. Subsection D.1 of Section 8.16 (renumbered to Subsection 8.17) is amended to  
26 add the words “if any,” as follows: “1. To allow to be wagered by any player any amount in  
27 excess of the posted wagering limit, if any, for the table at which the player is then playing,  
28 except as is specified in the players’ house rules;”

1 N. Subsection D.3 of Section 8.16 (renumbered to Subsection 8.17) is amended to  
2 add a second sentence, as follows: "(For purposes of this subsection a dealer shall not be  
3 considered to be on duty until he or she is placed into the dealer rotation.)"

4 SECTION 2. Severability.

5 If any section, sentence, clause or phrase of this Ordinance is for any reason held  
6 to be invalid or unconstitutional by a decision of any court of competent jurisdiction, such  
7 decision shall not affect the validity of the remaining portions of this Ordinance. The City  
8 Council hereby declares that it would have passed and adopted this Ordinance and each section,  
9 sentence, clause or phrase thereof, irrespective of the fact that any one or more sections,  
10 subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

11 SECTION 3. The City Clerk of the City of Oceanside is hereby directed to publish this  
12 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)  
13 days after its passage in the North County Times, a newspaper of general circulation published  
14 in the City of Oceanside.

15 SECTION 4. This ordinance shall take effect and be in force on the thirtieth (30<sup>th</sup>) day  
16 from and after its final passage.

17 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,  
18 California, held on the \_\_\_ day of \_\_\_\_\_, 2007, and, thereafter,

19 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
20 Oceanside California, held on the \_\_\_ day of \_\_\_\_\_, 2007, by the following vote:

21 AYES:

22 NAYS:

23 ABSENT:

24 ABSTAIN:

25 MAYOR OF THE CITY OF OCEANSIDE

26 ATTEST:

27 APPROVED AS TO FORM:

28 \_\_\_\_\_  
CITY CLERK

  
\_\_\_\_\_  
CITY ATTORNEY