



**CITY OF LODI
COUNCIL COMMUNICATION**

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AGENDA TITLE: Introduce Ordinance Repealing and Reenacting Lodi Municipal Code Title 5, Permits and Regulations, Chapter 5.12 Cardrooms, allowing Lodi Card Rooms to play Texas Hold'em.

MEETING DATE: May 17, 2006 City Council Meeting

PREPARED BY: City Attorney's Office

RECOMMENDED ACTION: Introduce the ordinance as presented.

BACKGROUND INFORMATION: Council directed the City Attorney's Office to propose revisions to the cardroom ordinance to allow for the playing of Texas Hold'em at the request of Jack Morgan, owner of Jacks Back Cardroom, Lodi's only current cardroom. Staff prepared a draft ordinance and submitted it to the California Department of Justice Department of Gambling Control for review, made their suggested revisions to make our current ordinance consistent with California Law Governing Card Rooms and is now submitting it for Council consideration.

The primary changes are as follows: 1) The game of Texas Hold'em has been added to the list of eligible games; 2) the card tables have been increased from six to seven and the players per table has been increased from 7 to 10; 3) the establishment will be allowed to have exterior signage consistent with our sign code; 4) the cardroom will pay nine percent of its gross receipts to cover the City's costs connected with the operation of the cardroom; and the rules for restricting denying and revoking licensure have been tightened to be consistent with the Business and Professions Code. A redlined draft will be attached in blue sheet at the council meeting reflecting the changes.

FISCAL IMPACT: Unknown revenue to the general fund.

Approved: 
FBR: Stephen Schwabauer, City Attorney
SPIC

Approved: 
Ruby Paiste, Interim Finance Director

APPROVED: 
Blair King, City Manager

K-6

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF Lodi AMENDING Lodi MUNICIPAL CODE TITLE 5 – PERMITS AND REGULATIONS, BY REPEALING AND REENACTING CHAPTER 5.12, “CARDROOMS” IN ITS ENTIRETY

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF Lodi AS FOLLOWS:

Section 1. Lodi Municipal Code Title 5 – Permits and Regulations is hereby amended by repealing and reenacting Chapter 5.12 “Cardrooms” in its entirety, and shall read as follows:

Chapter 5.12
Cardrooms

Sections:

- 5.12.010 Definitions.
- 5.12.015 No Vested Right.
- 5.12.020 Compliance with State Law.
- 5.12.030 License—Required.
- 5.12.040 License—Application.
- 5.12.050 License—Denial Grounds.
- 5.12.060 License—Appeal from Denial.
- 5.12.070 Work Permit—Required.
- 5.12.080 Work Permit—Denial Grounds.
- 5.12.090 Work Permit—Appeal from Denial.
- 5.12.100 Work Permit—Fee—Term—Identification Measures.
- 5.12.110 Work Permit—Renewal.
- 5.12.120 Work Permit—Failure to Renew.
- 5.12.130 Suspension or Revocation—Procedure.
- 5.12.140 Rules and Regulations.
- 5.12.150 State—Prohibited Games.
- 5.12.160 Business License Required.
- 5.12.170 Gross Revenue Permit Fees.

5.12.010 Definitions.

For the purpose of this chapter:

A. “Cardroom” means any space, room or enclosure, furnished or equipped with a table used or intended to be used as a cardtable 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 religious, nonprofit society, club, fraternal, labor or other organization as defined in subsection B of this section, where the use of the cardroom tables are for the exclusive use of its members, no charges are made for the use of the facilities, and the operation of the cardroom is incidental to the main purpose of the religious, society, club, fraternal, labor or other organization.~~

~~B. A nonprofit religious, society, club, fraternal, labor or other organization shall mean an entity which:~~

~~1. Has adopted bylaws, and duly elected directors and members; and~~

~~2. Has received a certificate from the California Franchise Tax board and the United States Internal Revenue Service recognizing its tax exempt status.~~

B. "Cardroom employee" means any natural person employed in the operation of a gambling enterprise, including, without limitation, dealers, floor personnel, security employees, countroom personnel, age personnel, collection personnel, surveillance personnel, data-processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries, or any other natural person whose employment duties require or authorize access to restricted gambling establishment areas.

C. "Gross Revenue" means and includes seat rental fees, membership fees, table revenues, rental fees and charges, and any and all other gaming revenues derived from activities conducted on or within the card room premises.

D. "Financial Interest" means any direct or indirect financial interest in the management, operation, ownership, profits or revenue (gross or net) of a card room. A direct financial interest means a monetary investment in a card room. An indirect financial interest means owning one percent (1%) or more of any entity, i.e., any business, corporation, joint venture partnership or trust that in turn has a direct financial interest in a card room.

5.12.015. No Vested Right.

This article does not create any vested or other property right of any kind in any permittee, pointholder, key management employee, or other person. The city reserves the right to, at any time, amend, modify or repeal the provisions of this article and to otherwise regulate or prohibit any privilege exercised hereunder. This reservation includes but is not limited to the right of the city to amend, from time to time, a permit issued pursuant to the terms of this article by resolution of the City Council.

5.12.020 Compliance with state law.

Any person or persons wishing to apply for any license or permit authorized in this chapter must comply with not only this chapter, but with Sections 330 through 337 of the California Penal Code. In each case where a license is issued, it shall be nontransferable.

It is the stated purpose of this article to regulate card rooms in the City of Lodi concurrently with the State of California, and to impose local controls and regulations upon card rooms as codified in the "Gambling Control Act" as codified in Division 8, Chapter 5 of the California Business and Professions Code (commencing with Section 19800). All such references to the Gambling Control Act are to Division 8, Chapter 5 of the California Business and Professions Code, as may be amended.

5.12.030 License--Required.

It is unlawful for any person to engage in or carry on, or to maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any card room in the city without first

having secured a license to do so, or without complying with each regulation contained in this chapter pertaining to such cardroom.

5.12.040 License--Application.

A. Any applicant for a cardroom license shall submit his application to the chief of police, which 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 term "persons financially interested" includes all persons who share in the profits of the business, on the basis of gross or net revenue. The past criminal record, if any of the applicant and of all persons financially interested in the business shall be shown on such application. The application shall also be accompanied by fingerprints of the applicant and of persons financially interested in the business.

B. The applicant shall pay a fee to the finance department of the city to defray the cost of investigation in an amount as may be fixed and established from time to time by resolution of the city council.

5.12.050 License--Denial grounds.

The chief of police shall deny any applicant for a cardroom license, a license to operate such room if:

A. ~~The applicant has previously been convicted of a felony and a period of five years has not expired from date of termination of confinement, parole and/or probation; including a conviction by a federal court or a court in another state for a crime that would be a felony if committed in California; or~~

B. ~~The applicant has previously been convicted of one of the following a misdemeanor violations and a period of three years has not elapsed from the date of termination of confinement, parole and/or probation:~~

- ~~1. Any theft from a person;~~
- ~~2. Any theft involving cheating;~~
- ~~3. Any series of petty thefts;~~
- ~~4. Any crime involving pimping, pandering or prostitution;~~
- ~~5. Any crime involving bookmaking or gaming;~~
- ~~6. Any crime involving narcotics or dangerous drugs.~~

involving dishonesty, gambling, or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

C. The applicant fails to clearly establish eligibility and qualification under this Chapter and under Business and Professions Code Section 19800 et seq.

D. The applicant fails to provide information, documentation and assurances required by this Chapter, or failure to reveal any fact material to qualification, or supplying false information.

E. Association of the applicant with criminal profiteering activity or organized crime as defined by Section 186.2 of the Penal Code.

5.12.060 License--Appeal from denial.

The action of the chief of police in denying such a license shall be subject to an appeal to the city council. Notice of such appeal shall be filed with the city clerk within ten days after the denial of the license. Upon failure to file such notice within the ten-day period, the action of the chief of police in denying such license shall be final and conclusive.

5.12.070 Work permit--Required.

A. Each cardroom employee must obtain and possess a valid work permit issued by the chief of police. ~~“Cardroom employees” for the purpose set forth in this section, means dealers, overseers and others directly connected with the operation and supervision of the cardtables excluding waitresses, bartenders, culinary workers and others not connected with such operation and supervision.~~ Applications for such work permits shall be submitted under oath and contain the past criminal record, if any, of the applicant and such information as may be necessary to determine whether the applicant is a proper person to be employed in a cardroom. Fingerprints of the applicant shall accompany the application. A work permit shall be issued only to persons twenty-one years of age or older.

B. Any application for a work permit shall be subject to objection by the state division. If the division objects to the issuance of a work permit it shall be denied. Such a denial may be reviewed in accordance with the Gambling Control Act (Business and Professions Code Section 19801 et seq.).

5.12.080 Work permit--Denial grounds.

The chief of police shall deny ~~to such~~ any applicant ~~a work permit if:~~ for a cardroom license, a license to operate such room if:

A. The applicant has previously been convicted of a felony, ~~and a period of five years has not elapsed from the date of termination of confinement, parole and/or probation; or including a conviction by a federal court or a court in another state for a crime that would be a felony if committed in California; or~~

B. The applicant has previously been convicted of ~~one of the following~~ a misdemeanor violations ~~and a period of two years has not elapsed from the date of termination of confinement, parole and/or probation:~~

1. ~~Any theft from a person,~~
2. ~~Any theft involving cheating,~~
3. ~~Any series of petty thefts,~~
4. ~~Any crime involving pimping, pandering or prostitution,~~
5. ~~Any crime involving bookmaking or gaming,~~
6. ~~Any crime involving narcotics or dangerous drugs.~~

involving dishonesty, gambling, or moral turpitude within the 10-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code.

C. The applicant fails to clearly establish eligibility and qualification under this Chapter and under Business and Professions Code Section 19800 et seq.

D. The applicant fails to provide information, documentation and assurances required by this Chapter, or failure to reveal any fact material to qualification, or supplying false information.

E. Association of the applicant with criminal profiteering activity or organized crime as defined by Section 186.2 of the Penal Code.

5.12.090 Work permit--Appeal from denial.

The action of the chief of police in denying such work permit shall be subject to an appeal to the city manager. Notice of such appeal shall be filed with the city clerk within ten days after the denial of the work permit. Upon failure to file such notice within the ten-day period, the action of the chief of police in denying such work permit shall be final and conclusive.

5.12.100 Work permit--Fee--Term--Identification measures.

A. Each application for a work permit shall be accompanied by an application fee, to be paid to the finance department, in an amount as may be fixed and established from time to time by resolution of the city council. The fee shall not be returned in the event that such work permit is refused, revoked or suspended as provided in this chapter.

B. The work permit shall be valid even though the holder of the permit may change his place of employment within the city. Upon approval of a work permit, the work permit shall be valid, unless suspended or revoked, for a period of one year from date of issuance.

C. In order that the chief of police may investigate the applicant's qualifications and fitness to receive a cardroom employee work permit, every applicant shall be photographed and fingerprinted.

5.12.110 Work permit--Renewal.

Any person who holds a valid cardroom employee work permit may obtain a new permit for the succeeding year by applying for the new permit during the month preceding the expiration date of the current permit. Cost for the new permit, which shall include the cost of a new identification card, shall be paid to the finance department, and shall be an amount as fixed and established from time to time by resolution of the city council.

5.12.120 Work permit--Failure to renew.

If the holder of a cardroom employee work permit fails to renew the permit, his permit shall cease to be valid and he must make application for a new permit, if desired, as provided in this chapter.

5.12.130 Suspension or revocation--Procedure.

A. The chief of police has the right for cause to revoke or suspend any cardroom license or card room work permit issued under this chapter and to take possession of such permits.

B. Any of the grounds upon which the chief of police is required to refuse to issue an initial cardroom license or cardroom work permit also constitutes grounds for such revocation or suspension. In addition, the failure of a holder of a cardroom license or cardroom work permit to comply with the provisions set forth in this chapter also constitutes grounds for revocation or suspension of such license or work permit.

C. Suspension or revocation of a cardroom work permit shall be made only after a hearing granted to the holder of such permit before the chief of police, after five days' notice to the permit holder, setting forth the grounds of the complaint against him and stating the time and place where such hearing will be held. The action of the chief of police in this respect is subject to an appeal to the city manager. Notice of such appeal shall be filed with the city clerk within ten days after the revocation or suspension. Upon failure to file such notice within the ten-day period, the action of the chief of police in revoking or suspending the license or work permit shall be final and conclusive.

5.12.140 Rules and regulations.

It is 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. No game except lowball, draw poker, without variations as defined by Hoyle, pinochle, pangini, rummy, Texas Hold 'Em and contract or auction bridge as those games are defined by the California Department of Justice, Division of Gaming Control shall be played in any cardroom.

C. Not more than six eight tables shall be permitted in any cardroom. No more than six eight tables shall be permitted to operate within the city.

D. Not more than seven ten players shall be permitted at any one cardtable.

E. Cardrooms shall be located on the ground floor, and so arranged that cardtables and the players at the tables shall be plainly visible from the front door opening when the door is opened. No wall, partition, screen or similar structure between the front door opening on the street and any cardtable located in the cardroom shall be permitted if it interferes with the visibility.

No gambling establishment may be located in any zone which has not been specifically approved for such a business. Additionally none may be located near any of the unsuitable areas, as specified in Business and Professions Code Section 19852 (a) (3).

F. No minor person under the age of 21 shall be permitted at any cardtable, nor shall any minor person under the age of 21 be permitted to participate in any game played thereat.

G. ~~All cardrooms shall be closed at two a.m. and shall remain closed until ten a.m. of the following day.~~ Cardrooms may be operated seven days a week and shall not open until the hour of ten a.m. Cardrooms shall close at two a.m. on the mornings of Monday, Tuesday, Wednesday, Thursday and Friday. Cardrooms may remain open until the hour of four a.m. on the mornings of Saturday and Sunday. A cardroom shall adopt a schedule of

hours of operation before it shall be allowed to operate. Such schedule of hours shall be approved by the City and ~~Such approved schedule of hours shall be~~ clearly posted at the cardroom in order to provide adequate notice of its hours of operation.

- H. All cardrooms shall be open to police inspection during all hours of operation.
- I. Only table stakes shall be permitted.
- J. The cashing of bank checks for players shall not be permitted in any cardroom.
- K. Each cardtable shall have assigned to it a person whose duty shall be to supervise the game to see to it that it is played strictly in accordance with the terms of this chapter, and with the provisions of the Penal Code of the state. This person may have more than one table under his supervision. He shall not, however, participate in the game.
- L. ~~No signs or other insignia advertising or relative to cardrooms shall be permitted upon the exterior of any premises occupied as a cardroom.~~ M. There shall be posted in every cardroom in letters plainly visible from all parts thereof, signs stating that no game except lowball, draw poker without variations as defined by Hoyle, pinochle, pangini, rummy, Texas Hold 'Em and contract or auction bridge as those games are defined by the California Department of Justice, Division of Gaming Control shall be played in the cardroom. These signs shall also contain such other information relating to the regulations contained in this chapter as the chief of police may require.
- M. No person who is in a state of intoxication shall be permitted in any cardroom.
- N. The sale, purchase, transfer, assignment or pledge of any property, or of any document evidencing title to the same, is prohibited in any cardroom.
- O. The operator or his employees shall not extend credit to a player, nor shall he accept IOU's or other notes, loan money to any person on any ring, watch or other article of personal property for the purpose of securing tokens, chips or other representatives of money as an ante.
- P. No skills shall engage in card games. This prohibition shall not apply to house players, provided they wear a badge in a conspicuous place, which badge identifies them as employees of the licensee.
- Q. Patron Security and Safety. Each cardroom license shall be responsible and liable for its patrons' safety and security in and around the cardroom establishment. Before it shall be allowed to operate, each cardroom shall adopt a plan, to be approved by the city, to provide for the safety and security of its patrons.

5.12.150 State-prohibited games.

The city council declares that it is not the intention of this chapter to permit the licensing of any cardroom for the playing of any game prohibited by the laws of the state, including but not limited to those games enumerated in Section 330 of the Penal Code of the state, which section includes banking and percentage games.

5.12.160 Business license required.

Operators of cardrooms shall be required to obtain a business license pursuant to Chapter 5.04 of this code.

5.12.170 Gross revenue permit fees.

(a) In addition to the permit fees previously prescribed each permittee permitted pursuant to the provisions of this article shall pay to the city a monthly fee equal to 9 % of the gross revenue of the permittee received from the cardroom operation. Such payment shall be made to the city not later than fifteen (15) days after the end of each month during which such gross revenues on which it was computed were received by the permittee.

(b) Each permittee shall file with the Finance Department before the 15th day following the end of each month a statement, under oath, showing the true and correct amount of gross revenue derived from the card game business permitted by the permit issued to the permittee for the preceding month. Such statement shall be accompanied by the payment of the correct amount of permit fee due and owing in accordance with the provisions of Subsection (a) of this section, and such sums correctly reflecting the monthly fees payable for the preceding month shall be accepted by the city, subject, however, to the right of the city to audit the matters reported in the statement to determine the accuracy of the figures contained therein and whether or not the correct amount payable to the city has been paid. A signed declaration shall be attached to the statement or included therein, which shall be in substantially the same form:

"I hereby declare under penalty of perjury that the foregoing is true and correct.

Section 2. No Mandatory Duty of Care. This ordinance is not intended to and shall not be construed or given effect in a manner which imposes upon the City, or any officer or employee thereof, a mandatory duty of care towards persons or property within the City or outside of the City so as to provide a basis of civil liability for damages, except as otherwise imposed by law.

Section 3. All ordinances and parts of ordinances in conflict herewith are repealed insofar as such conflict may exist.

Section 4. This ordinance shall be published one time in the "Lodi News Sentinel," a daily newspaper of general circulation printed and published in the City of Lodi, and shall be in force and take effect 30 days from and after its passage and approval.

Approved this ____ day of _____ 2006.

Attest:

SUSAN J. BLACKSTON
City Clerk

SUSAN HITCHCOCK
Mayor

State of California
County of San Joaquin, ss.

I, Susan J. Blackston, City Clerk of the City of Lodi, do hereby certify that Ordinance No. _____ was introduced at a regular meeting of the City Council of the City of Lodi held May 17, 2006, and was thereafter passed, adopted, and ordered to print at a regular meeting of said Council held _____, 2006, by the following vote:

AYES: COUNCIL MEMBERS –

NOES: COUNCIL MEMBERS –

ABSENT: COUNCIL MEMBERS –

ABSTAIN: COUNCIL MEMBERS –

I further certify that Ordinance No. _____ was approved and signed by the Mayor of the date of its passage and the same has been published pursuant to law.

SUSAN J. BLACKSTON
City Clerk

Approved as to Form:

D. STEPHEN SCHWABAUER
City Attorney