

TO: JAMES L. APP, CITY MANAGER
FROM: ED GALLAGHER, COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: CARD ROOM CODE AMENDMENT
DATE: JULY 1, 2014

Needs: For the City Council to consider amending the Cardroom Regulations in Chapter 5.08 of the Municipal Code.

Facts:

1. At its meeting of January 7, 2014, the City Council considered a request from Paso Robles Central Coast Casino (PRCCC) to amend several provisions in the Municipal Code regarding Card and Billiards Rooms (In Chapter 5.08).
2. Council directed that the following amendments to the cardroom regulations set forth in Chapter 5.08 of the Municipal Code be drafted for review by the State Department of Justice (DOJ) for consistency with state regulations:
 - a. Increase the maximum number of card tables permitted in a card room from 4 tables to 12 tables (Council consensus was 3-2 on this item).
 - b. Increase wagering limits from \$200 to \$500 (Council consensus was 4-1 on this item).
 - c. Allow bets by owners, operators, or employees while on duty in certain situations (Council consensus was 5-0 on this item).
 - d. Expand the definition of allowable "card games" to include all forms of card games, including electronic equivalents (Council consensus was 5-0 on this item).
3. The existing cardroom ordinance allows up to 3 cardrooms to be established in the City. However, the State presently maintains a moratorium on establishment of new cardrooms; the moratorium is scheduled to expire in 2020.
4. The DOJ reviewed the draft ordinance and, per Business and Professions Code 19961.06(b), limited the number of tables per cardroom to 6 rather than the 12 proposed. (Please see the attached letter from the DOJ dated May 30, 2014.)
5. The draft ordinance implements the comments of the DOJ by limiting the number of tables per cardroom to 6 and by specifying that no more than 18 tables may be established in the City.

Analysis and**Conclusion:**

This Code Amendment incorporates the changes directed by the City Council on January 7 with the subsequent limits on numbers of tables per cardroom specified by the DOJ.

Reference: Municipal Code Chapter 5.08; Business and Professions Code 19961.06(b)

Fiscal Impact: There are no fiscal impacts associated with the proposed amendments.

Options:

After opening the public hearing and taking public testimony, that the City Council take one of the actions listed below:

- a. Introduce for first reading Ordinance No. 14-XXX Amending Chapter 5.08 of the Municipal Code to Amend the Regulations for Cardrooms, and set July 15, 2014 as the date for adoption of said Ordinance.
- b. Amend, modify, or reject the foregoing option.

Attachments:

1. Ordinance Amending Chapter 5.08
2. Letter from Department of Justice Dated May 30, 2014
3. Don Ezell's email of June 23, 2014

ORDINANCE NO. XXX N.S.

AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
REVISING SECTIONS WITHIN CHAPTER 5.08 OF THE MUNICIPAL CODE
REGARDING CARD AND BILLIARD ROOMS

WHEREAS, subject to the limitations imposed by the United States and California Constitutions, the City of El Paso de Robles has the authority to regulate card room operations; and

WHEREAS, the Municipal Code currently allows a maximum of three (3) card rooms to be licensed within the City, with a maximum of four (4) card tables per business; and

WHEREAS, Business and Professions Code section 19961.06(b) allows a city to amend an ordinance to increase by two (2) the number of gambling tables that may be operated in a gambling establishment in the city, above the number of tables authorized in the ordinance that was in effect on January 1, 2013; and

WHEREAS, the number of gambling tables per gambling establishment authorized as of January 1, 2013 was four (4); and

WHEREAS, state law regulates the ability of local government to expand gambling within a city without voter approval; and

WHEREAS, the State of California has imposed a moratorium on the issuance of new licenses for card room businesses; and

WHEREAS, the owner and operator of the Paso Robles Casino card room, the only card room currently operating in the City, has requested that the Council approve an increase in the number of card table permitted in a card room establishment;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Recitals. The above recitals are incorporated as though set forth in this section.

SECTION 2. Amendment. Chapter 5.08 of the Paso Robles Municipal Code is hereby amended to read in full as set forth in the attached Exhibit A, incorporated by this reference.

SECTION 3. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable.

SECTION 4. Effective Date. This Ordinance shall take effect thirty (30) days after adoption as provided by Government Code section 36937.

SECTION 5. Publication. The City Clerk will certify to the passage of this Ordinance by the City Council of the City of El Paso de Robles, California and cause the same to be published once within fifteen (15) days after its passage in a newspaper of general circulation, printed, published and circulated in the City in accordance with Government Code section 36933.

Introduced at a regular meeting of the City Council held on July 1, 2014, and passed and adopted by the City Council of the City of El Paso de Robles on the 15th day of July 2014 by the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

Duane Picanco, Mayor

ATTEST:

Caryn Jackson, Deputy City Clerk

Exhibit A

Chapter 5.08

CARD AND BILLIARD ROOMS

Sections:

- 5.08.010 Permit—License—Required to operate.
- 5.08.011 Definitions.
- 5.08.020 License—Application—Bond.
- 5.08.030 License—Issuance—Fees.
- 5.08.040 Number of establishments and tables limited—Standards for issuance of licenses.
- 5.08.045 Card room work permit.
- 5.08.046 Permit revocation or suspension.
- 5.08.050 Revocation of licenses.
- 5.08.055 Hours of operation.
- 5.08.060 Access to premises.
- 5.08.065 Attendance by minors.
- 5.08.070 Gross receipts license.
- 5.08.075 Patron security and safety in establishment.
- 5.08.080 Penalties for violations.
- 5.08.085 Wagering limits in gambling establishment.
- 5.08.090 Transfer and assignment.
- 5.08.095 Severability.

5.08.010 Permit—License—Required to operate.

It is unlawful for any person to engage in or carry on, in the city, any billiard parlor, pool room or card room, without first securing a permit and procuring a license as herein prescribed.

5.08.011 Definitions.

Applicant. "Applicant" shall mean every person who applies for a license to operate a card room and every individual who requests a permit as provided for by this chapter.

Billiard Parlor. For the purpose of this chapter, a "billiard parlor" or "pool room" includes a fixed place of business of any kind where billiards, pool, snooker or eight-ball or other similar games tables are maintained on the premises, whether or not coin operated.

Card Games. "Card games" as used in this chapter means all forms of card games authorized by the State of California.

Card Room. "Card room" as used in this chapter means any building or structure, or any portion of a building or structure, or any premises or place where any person or persons are allowed to play a card game as defined in this section.

Card Table. "Card table" as used in this chapter means a table within a business premises where there is carried on any card game for compensation which game is not unlawful under the provisions of California Penal Code Section 330, or any other provision of law.

Chief of Police. "Chief of police" shall mean the chief of police and his/her designee.

Employee. "Employee" shall mean every individual, employed either as an agent, employee, or otherwise, of the licensee, as defined in this section, or under the direction and control of the licensee of any card room, with or without compensation. Anyone who is required to routinely enter into the card playing area during the course of his or her duties is considered an employee. The term "employee" does not include a bartender, culinary worker or other person not directly connected with the card room operation.

License. "License" as used in this chapter shall mean a grant from the city council authorizing a person as defined in this section to operate a card room within the city of E1 Paso de Robles.

Licensee. "Licensee" shall mean the person, as defined in this chapter, to whom a card room license has been issued pursuant to this chapter.

Person. "Person" shall mean and include any individual, partnership, corporation or combination, business entity or combination thereof.

Work Permit. "Work permit" shall mean a grant of permission from the chief of police to an individual allowed by this chapter to work as an employee in a card room within the City of E1 Paso de Robles.

5.08.020 License—Application—Bond.

To apply for a card room license, a person shall take the following steps:

- A. Every applicant for a license shall first obtain a state gambling license as required by the Gambling Control Act (Business and Professions Code section 19800 et seq.) and the implementing regulations (California Code of Regulations, Title 11, Division 3, Chapter 1, Article 1, Section 2000 et seq.). Every applicant shall fully comply with the Gambling Control Act ("Act") and the implementing regulations including, but not limited to, Section 2050 that requires an owner of key employee, as defined by the Act, to be on the premises, at all times that the establishment is open to the public unless the Bureau of Gambling Control authorizes availability by telephone. Key employees must obtain a key employee license as required by the Act.

- B. File with the city clerk a written application, signed by the applicant, setting forth the nature of the business that he or she wishes to engage in and the place where he or she proposes to establish such business, including the particular building, and room or rooms.
- C. The true and correct name and address of each applicant of the building or structure within which the card room is proposed to be maintained shall be included with the license application. Written consent from the owner of the building or structure is required on the application.
- D. Submit a bond by an authorized surety company to be approved by the city council in the penal sum of five hundred dollars payable to said city. The following condition shall be added to a card room license regarding the bond, when approved by the city:

Neither the applicant nor any one in his/her employ in such business will violate any ordinance of this city or any law of this state, or of the United States of America, or any political subdivision or agency thereof, during the time for which said license is granted. That upon a violation of the condition of said bond the same shall be and become due and payable to said city and the penalty thereof may be recovered in a civil action. The conviction of, or plea of guilty by, the person to whom such license is issued, or any one in his employ in such business for the violation of any such ordinance or law, shall ipso facto work a forfeiture of said bond, and any such conviction or plea of guilty shall be conclusive evidence of such forfeiture, and in the event of such conviction or plea of guilty the license shall be canceled.

- E. That the applicant verify with the planning division, that the subject property zoning would permit the proposed card room use.
- F. A statement that the applicant understands and agrees that the application shall be considered by the city council after a full investigation and reports, including any available criminal and arrest and conviction offender information, have been made by the chief of police, other city officials or their authorized representatives. A statement that the applicant authorizes the city or its authorized agents to update the investigation and background information on an annual basis if the application is approved.

5.08.030 License—Issuance—Fees.

The city council may, if satisfied with the form of application and bond, and that the applicant is a citizen of the United States, over the age of twenty-one years and of good moral character, order issued to the applicant the license applied for upon the payment of fees as established by city council resolution.

5.08.040 Number of establishments and tables limited—Standards for issuance of licenses.

- A. Number of Establishments and Tables Limited. No license shall be granted to any applicant to conduct card games if three (3) such places are already licensed or being operated within the city limits and no license shall be granted for more than three pool, snooker, eight-ball or similar

tables in a place of business where liquor is sold for consumption on the premises pursuant to an on-sale general alcoholic beverage license.

B. Standards for Issuance.

1. No more than a total of three (3) card rooms shall be licensed to operate within the city under provisions of this chapter.
2. No more than six (6) card tables shall be operated and maintained within any single business premises within the city, for a total table limit within the city of eighteen (18) tables.
3. No card table license shall be issued unless the location for the card room(s) is in compliance with all applicable zoning and building regulations of the city.
4. No card room license shall be transferable to another location or to another person or entity without the prior approval of the city council.
5. No card room license shall be issued to any person who has been convicted of any felony, nor to any association, partnership or corporation of which any owner thereof has been convicted of a felony.

5.08.045 Card room work permit.

- A. Card room employees must obtain a card room work permit from the chief of police or his/her designee of the City of El Paso de Robles. For the purposes of this chapter, "card room employees" are defined to include dealers, overseers and others directly connected with the operation and supervision of card tables, and excludes waitresses, waiters, bartenders, culinary workers and others not connected with such operation and supervision. Applications for card room work permits shall be submitted under oath and contain the past criminal record, if any, of the applicant, and such information as may be deemed necessary by the chief to determine whether the applicant is a proper person to be issued a card room work permit. The application also shall be accompanied by fingerprints, a recent photograph of the applicant and an amount equal to any fingerprint processing fee required by the city.
- B. A card room work permit shall not be issued to any person who would be disqualified from holding a state gambling license for the reasons specified in Business and Professions Code section 19859 (a) through (g), or regarding whom the Bureau of Gambling Control of the State of California has filed an objection to the city.
- C. The chief of police or his/her designee may deny issuance of card room work permit for any further cause deemed reasonable by the chief. The action of the chief denying a card room work permit on the basis of this section shall be subject to appeal to the city council. Notice of such appeal shall be filed with the city clerk within ten days after the notice of denial of the permit.

Upon failure to file notice of appeal within the ten-day period, the action of the chief denying the permit shall be final and conclusive.

- D. Card room work permits shall be prominently displayed in the card rooms by any card room employees when they are working.
- E. Each application for a card room work permit shall be accompanied by a fee as established by city council resolution. The fee shall not be returned in the event that the permit is refused, revoked, or suspended, as provided in this chapter. The permit shall be valid for one year from the date of issue; however, it may be prorated quarterly. The date of expiration shall be prominently displayed on the face of the permit.
- F. The holder of a card room work permit shall not be restricted as to place of employment.
- G. A statement that the applicant understands and agrees that the application shall be considered by the city council after a full investigation and reports, including any available criminal and arrest and conviction offender information, have been made by the chief of police, other city officials or their authorized representatives. A statement that the applicant authorizes the city or its authorized agents to update the investigation and background information on an annual basis if the application is approved.

5.08.046 Permit revocation or suspension.

The chief may revoke or suspend, and take possession of any card room work permit issued under this chapter, upon any violation of the provisions of this chapter. The action of the chief shall be subject to appeal to the council. Notice of such appeal shall be filed with the city clerk within ten days after notice of the revocation or suspension action. Upon failure to file notice of appeal within the ten-day period, the revocation or suspension of the card room work permit shall be final and conclusive.

5.08.050 Revocation of licenses.

The city council shall have the right to revoke any card room license when the possessor thereof has violated, or permitted the violation of, any of the terms of this chapter. The city council may also revoke any card room license when the business being operated is not being conducted in accordance with the public health, safety or welfare or when, in the discretion of the city council, it is found that the continued operation of said business will create or is creating a policy problem to the city. Prior to revoking any card room license, the city council shall cause to be served on the applicant a notice of its intention to do so at least five days prior to the date upon which it intends to consider the matter of such revocation, and also stating the right of the licensee to appear before the city council and to show cause why such licensee should not be revoked. The decision of the city council with respect to such revocation shall be final.

5.08.055 Hours of operation.

All card rooms shall be permitted to operate twenty-four hours a day. If alcohol is served on the premises (with the proper licenses from the Department of Alcohol Beverage Control), all alcoholic beverages shall cease being served between the hours of 2:00 a.m. and 6:00 a.m. each day.

5.08.060 Access to premises.

The city council finds that it is necessary and in the public interest that law enforcement officers have access to any premises in which a card table is being operated under the terms of this chapter, in order to insure that the terms of this chapter are being complied with. Any premises for which a license has been issued under the provisions of this chapter shall be deemed to constitute a public place, and all police officers and peace officers shall at all times have access thereto during business hours.

5.08.065 Attendance by minors.

No person under the age of twenty-one shall be employed in or allowed to frequent, remain in or visit any room or, premises wherein is conducted or operated any card table licensed under the provisions of this chapter.

5.08.070 Gross receipts license.

Any business licensed under this chapter that retails merchandise shall also obtain a gross receipts license as provided under Chapter 5.04 of this code (Ord. 226 N.S. § 3, 1959) subsection, sentence, clause, or phrase thereof,

5.08.075 Patron security and safety in establishment.

- A. Each applicant for a card room license, at the time of application, and annually thereafter, at the time of card room license renewal, shall present a plan for security and safety of patrons of the card room in and around the card room establishment. The plan shall set forth such provisions as are necessary to ensure the safety and security of patrons, including measures taken or instituted to avoid follow home robberies. The holder of a card room license shall be liable for the safety and security of patrons to the fullest extent under the law. Any effort on the part of a card room licensee to limit such liability shall be clearly posted in such a manner as to give adequate notice to patrons. The plan shall include a detailed summary of all known incidents involving or affecting patron security and safety in and around the card room establishment for the preceding year.
- B. The chief or his/her designee may require, in his or her discretion, all card room licensees to implement reasonable security measures to insure the safety of patrons including, but not limited to, hiring private uniformed security guards. If security guards are required, the chief shall determine the number and hours of coverage.

- C. During all hours of operation, doors at the card room establishment shall be unlocked and accessible to the general public and open to police inspection. Card rooms shall be located and so arranged that card tables and the players at the tables are plainly visible from the door opening of the card room when the door is opened. No wall, partition, screen, or similar structure between the front door opening and any card table located in the card room shall be permitted if it interferes with such visibility.

5.08.080 Penalties for violations.

Any violation of this chapter shall constitute a misdemeanor, and any person found guilty thereof shall, upon conviction or plea of guilty, be punished by a fine pursuant to Chapter 1.02 of the Municipal Code or by imprisonment in the jail of said city, or in the jail of the County of San Luis Obispo, for not more than three months, or by both such fine and imprisonment, and when a fine is imposed the judgment may direct that the defendant be imprisoned in said county jail till such fine is satisfied at the rate established by the county.

5.08.085 Wagering limits in gambling establishment.

- A. The wagering limit shall be five hundred dollars (\$500) per hand. No card room owner, operator, or employee shall permit any of the following:
 - 1. A person making aggregate bets in excess of five hundred dollars (\$500) in the same hand.
 - 2. Simultaneous hands or betting squares by the same player.
 - 3. Bets made by any owner, operator, or employee while on duty. Employees who are off-duty may participate in a game subject to the following conditions: (i) any bets placed must solely be from their own personal money; and (ii) any participation is limited solely to initiate or maintain a minimum number of eligible participants at a table.
 - 4. Bets made by a shill or dummy player.
- B. Wagering at any table shall be limited to table stakes. No side bets shall be permitted. Table limits and game rules shall be posted in a location observable from the table. The card room shall set individual table stake limits, not to exceed the wagering limit. Table limits may be changed with not less than thirty minutes notice to the patrons.

5.08.090 Transfer and assignment.

Any transfer or assignment of any license shall be considered for all purposes in the same manner as a new application for a card room license in the city, and all the provisions of this chapter applicable to new and original applications shall apply. Pursuant to Section 21.16.200, card rooms are required to obtain a conditional use permit, which permit may be revoked if a transfer or assignment of any license under this Chapter 5.08 is transferred to another person or entity without the prior approval of the city council.

5.08.095 Severability.

If any section, subsection, sentence, clause or phrase of this chapter is for any reason held to be unconstitutional such decision shall not affect the validity of the remaining portions of this chapter. The city council hereby declares that it would have passed this chapter and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional.



BUREAU OF GAMBLING CONTROL
P. O. Box 168024
Sacramento, CA 95816-8024
Public: (916) 227-2314
Fax: (916) 227-1812

May 30, 2014

Ms. Iris P. Yang
City Attorney
City of Paso Robles
500 Capitol Mall, Suite 1700
Sacramento, California 95814

Re: City of Paso Robles' Gambling Ordinance – Proposed Table Increase

Dear Ms. Yang:

On May 20, 2014, the Bureau of Gambling Control (Bureau) received the proposed amendments to the City of Paso Robles' (City) Municipal Code relating to cardrooms, in accordance with Business and Professions (B&P) Code section 19961.1.

The Bureau offers the following comments relating to the proposed increase from four (4) to six (6) in the number of card tables that a licensed cardroom may operate and maintain within the City, as authorized under B&P Code section 19961.06(b):

B&P Code section 19961.06(b) allows for a city, county, or city and county to "...amend an ordinance to increase by two the number of gambling tables that may be operated in a gambling establishment in the city, county, or city and county, above the number of tables authorized in the ordinance that was in effect on January 1, 2013."

On January 1, 2013, the City allowed a maximum of four (4) tables for each cardroom. Pursuant to B&P Code section 19961.06(b), the City is allowed to increase from four (4) to six (6) tables in each cardroom.

In addition, the Bureau suggests that you consider specifying the maximum number of tables allowed in the jurisdiction. This would more closely conform to B&P Code section 19860, which requires that local ordinances govern, among other things, "...The number of gambling tables in each gambling establishment and in the jurisdiction." The Bureau recognizes that the proposed wording enables a determination of the jurisdiction's table limit (18) by specifying the number of cardrooms allowed in the jurisdiction (3) and the number of tables allowed per cardroom (6).

Iris Yang
May 30, 2014
Page 2

The removal of all references to electronic gaming devices complies with applicable provisions of the Gambling Control Act (Act).

Other portions of the proposed amendments appear to comply with applicable provisions of the Act.

Upon approval and adoption of the proposed amendments, please provide the Bureau with a signed certified copy of the amendments and a complete copy of the City's Municipal Code, Chapter 5.08 pertaining to cardrooms. If you have any questions, please contact Analyst Brenda Weygandt of my staff at (916) 227-5681 or at Brenda.Weygandt@doj.ca.gov.

Sincerely,



STACEY LUNA-BAXTER
Assistant Bureau Chief
Bureau of Gambling Control

For KAMALA D. HARRIS
Attorney General

From: [Don Ezzell](#)
 To: [Ed Gallagher](#); [Iris Yang](#)
 Cc: rob@pasoroblespoker.com; amy@pasoroblespoker.com
 Subject: Final draft Paso Robles Municipal Code 5.08.040
 Date: Monday, June 23, 2014 9:12:05 AM

Dear Ed and Iris,

After several conversations with City Councilman Fred Strong, we are advised the city is ready to act and we are now ready to request final action on the municipal code amendment. Basically, we have come full circle, everyone understands the limitations, and this final change is quite similar to that previously addressed at hearing. As such, for efficiency, can we place this item on the July 1, 2014 agenda right behind our pending agenda item (zoning approval)?

Please advise.

Thanks, Don Ezzell 760-485-1004

Here is the final text of the ordinance amendment with changes underlined:

5.08.040 Number of establishments and tables limited—Standards for issuance of licenses.

A. Number of Establishments and Tables Limited. No license shall be granted to any applicant to conduct card games if two such places are already licensed or being operated within the city limits and no license shall be granted for more than three pool, snooker, eight-ball or similar tables in a place of business where liquor is sold for consumption on the premises pursuant to an on-sale general alcoholic beverage license.

B. Standards for Issuance.

1. No more than a total of two (2) card rooms shall be licensed to operate within the city under provisions of this chapter.

2. No more than twelve (12) card tables shall be operated and maintained within the city.

5.08.085 Wagering limits in gambling establishment.

A. The wagering limit shall be five hundred dollars (\$500) per bet; provided that traditional "no limit" poker may be played without limit. No card room owner, operator, or employee shall permit any of the following:

1. A person making aggregate bets in excess of five hundred dollars (\$500) in the same betting hand (except no limit poker as above).

2. Simultaneous hands or betting squares by the same player.

3. Bets made by any owner, operator, or employee while on duty. Employees who are off-duty may participate in a game subject to the following conditions: (i) any bets placed must solely be from their own personal money; and (ii) any participation is limited solely to initiate or maintain a minimum number of eligible participants at a

table.

Donald G. Ezzell, Esq.
Managing Partner
THE GENERAL COUNSEL GROUP, P.C.
73700 El Paseo
Palm Desert, CA 92260
(760) 346-0735
Don.Ezzell@gencounselgroup.com