

ORDINANCE NO. 965 N.S.
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES
AMENDING SECTION 5.08 OF THE MUNICIPAL CODE
(CODE AMENDMENT 09-004)

WHEREAS, Tom Taylor on behalf of David Stearns of Central Coast Casino, have initiated Code Amendment 09-004 to revise the regulations contained within Municipal Code Section 5.08, pertaining to Card and Billiards Rooms; and

WHEREAS, the proposed amendments consist of the following:

- Amend Chapter 5.08 to change the maximum number of card tables permitted in a card room from 2 tables to 4 tables;
- Amend Chapter 5.08 to reduce the number of card rooms that can be established within City limits from 5 to 2;

and;

WHEREAS, In conjunction with the proposed Code Amendment, the City has an opportunity to amend Chapter 5.08 to bring it into compliance with City or State codes, in this case, only minor corrections would be necessary; and

WHEREAS, at a meeting held on January 26, 2010, the Planning Commission took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Held a public hearing to obtain public testimony on the proposed ordinance;
- c. On a 7-0 vote recommended that the City Council approve the proposed ordinance; and

WHEREAS, based on information received at its meeting on February 16, 2010 the City Council took the following actions regarding this ordinance:

- a. Considered the facts and analysis, as presented in the staff report prepared for this project;
- b. Held a public hearing to obtain public testimony on the proposed ordinance;
- c. Considered the Planning Commission's recommendation from its January 26, 2010 public meeting;
- d. Introduced said ordinance for the first reading; and

WHEREAS, on March 2, 2010 the City Council held a second reading of said ordinance.

NOW, THEREFORE, BE IT KNOWN that the Paso Robles City Council, based upon the substantial evidence presented at the above referenced public hearing, including oral and written staff reports, finds as follows:

1. The above stated facts of this ordinance are true and correct.
2. This code amendment is consistent with the City's General Plan.

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

SECTION 1. Chapter 5.08, Card and Billiards Rooms, shall be amended as indicated by the attached Exhibit "A":
Note: changes are indicated by ~~striking through~~ the old language and new language is in **bold & highlighted**.

SECTION 2. Publication. The City Clerk shall cause this ordinance 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 Section 36933 of the Government Code.

SECTION 3. Severability. If any section, subsection, sentence, clause, or phrase of the Ordinance is, for any reason, found to be invalid or unconstitutional, such finding shall not affect the remaining portions of this Ordinance.

The City Council hereby declares that it would have passed this ordinance by section, subsection, sentence, clause, or phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases are declared unconstitutional.

SECTION 4. Inconsistency. To the extent that the terms of provisions of this Ordinance may be inconsistent or in conflict with the terms or conditions of any prior City ordinance(s), motion, resolution, rule, or regulation governing the same subject matter thereof and such inconsistent and conflicting provisions of prior ordinances, motions, resolutions, rules, and regulations are hereby repealed.

SECTION 5. Effective Date. This Ordinance shall go into effect and be in full force and effect at 12:01 a.m. on the 31st day after its passage.

Introduced at a regular meeting of the City Council held on February 16, 2010, and passed and adopted by the City Council of the City of El Paso de Robles on the 2nd day of March, 2010, by the following roll call vote, to wit:

AYES: Gilman, Steinbeck, Strong

NOES:

ABSENT: Hamon, Picanco

ABSTAIN:

Fred Strong, Mayor Pro tem

ATTEST:

LONNIE DOLAN, DEPUTY CITY CLERK

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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 pre-scribed.

5.08.011 Definitions.

A. 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.

B. 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.

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

D. 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.

E. Card Table. "Card table" as used in this chapter means a card 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.

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

G. 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.

H. 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 El Paso de Robles.

I. Licensee. "Licensee" shall mean the Person, as defined in this chapter, to whom a Card Room license has been issued pursuant to this chapter.

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

K. 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 El 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 **Division 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 ~~five~~ **three** such places are 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 ~~five~~ **three** Card Rooms shall be licensed to operate within the City under provisions of this chapter.
2. No one permittee shall be authorized to operate more than a total of two Card Rooms within city.
3. No more than ~~two~~ **four** Card Tables shall be operated and maintained within any single business premises within the city.
4. 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.
5. No Card Room license shall be transferable to another location or permittee without the approval of the City Council.
6. 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-application and denial.

A. Card Room employees must obtain a Card Room work permit from the Chief of Police or his/her designee of the City of Paso 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 ~~paragraphs (1) through (7), inclusive of subdivision (a) of section 19850A of the Act~~ **Business and Professions Code section 19859 (a) through (g)**, or regarding whom the **Division 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 (10) days after the notice of denial of the permit. Upon failure to file notice of appeal within the ten (10) 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 (1) 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 (10) days after notice of the revocation or suspension action. Upon failure to file notice of appeal within the ten (10) 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 license 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 (24) 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 2:00A.M. and 6:00A.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 and around a Card Room 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 proceeding 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 two hundred/xx dollars (\$200.00) in the same hand. No Card Room owner, operator, or employee shall permit any of the following:

1. A person making aggregate bets in excess of two hundred/xx dollars (\$200.00) 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.
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 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 (30) minutes notice to the patrons.

C. The wagering limit may be changed by Council resolution.

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 applicant to new and original applications shall apply.

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.