



AGENDA

CANBY CITY COUNCIL REGULAR MEETING

February 15, 2012

7:30 PM

Council Chambers

155 NW 2nd Avenue

Mayor Randy Carson

Council President Walt Daniels

Councilor Richard Ares

Councilor Tim Dale

Councilor Traci Hensley

Councilor Brian Hodson

Councilor Greg Parker

WORK SESSION

City Hall Conference Room

182 N Holly

5:30 PM – The Council will discuss the Management Letter comments regarding the annual audit. Pg. 1

6:00 PM – The Council will discuss proposed language for a social gaming ordinance.

CITY COUNCIL REGULAR MEETING

1. CALL TO ORDER

A. Pledge of Allegiance and Moment of Silence

B. Iwo Jima Remembrance Day Proclamation Pg. 9

C. Presentation by ODOT Regarding Improvements on 99E for Summer 2012 in the Canemah/S. End Road Area, and Information Regarding the Highway 212 Interchange Closure

2. COMMUNICATIONS

3. CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS

(This is an opportunity for visitors to address the City Council on items not on the agenda. It is also the time to address items that are on the agenda but not scheduled for a public hearing. Each citizen will be given 3 minutes to give testimony. Citizens are first required to fill out a testimony/comment card prior to speaking and hand it to the City Recorder. These forms are available by the sign-in podium. Staff and the City Council will make every effort to respond to questions raised during citizens input before tonight's meeting ends or as quickly as possible thereafter.)

4. MAYOR'S BUSINESS

5. COUNCILOR COMMENTS & LIAISON REPORTS

6. CONSENT AGENDA

(This section allows the City Council to consider routine items that require no discussion and can be approved in one comprehensive motion. An item may be discussed if it is pulled from the consent agenda to New Business.)

- A. Approval of Minutes of the January 25, 2012 City Council Special Meeting
- B. Approval of Minutes of the February 1, 2012 City Council Work Session & Regular Meeting
- C. New Outlet Liquor License Application for The Place to Be Café LLC Pg. 10
- D. Appointment to Transit Advisory Committee Pg. 12
- E. Reappointment to Transit Advisory Committee Pg. 13
- F. Appointment to Planning Commission Pg. 14
- G. Appointment to Canby Utility Board Pg. 15

7. RESOLUTIONS & ORDINANCES

8. NEW BUSINESS

9. CITY ADMINISTRATOR'S BUSINESS & STAFF REPORTS

10. CITIZEN INPUT

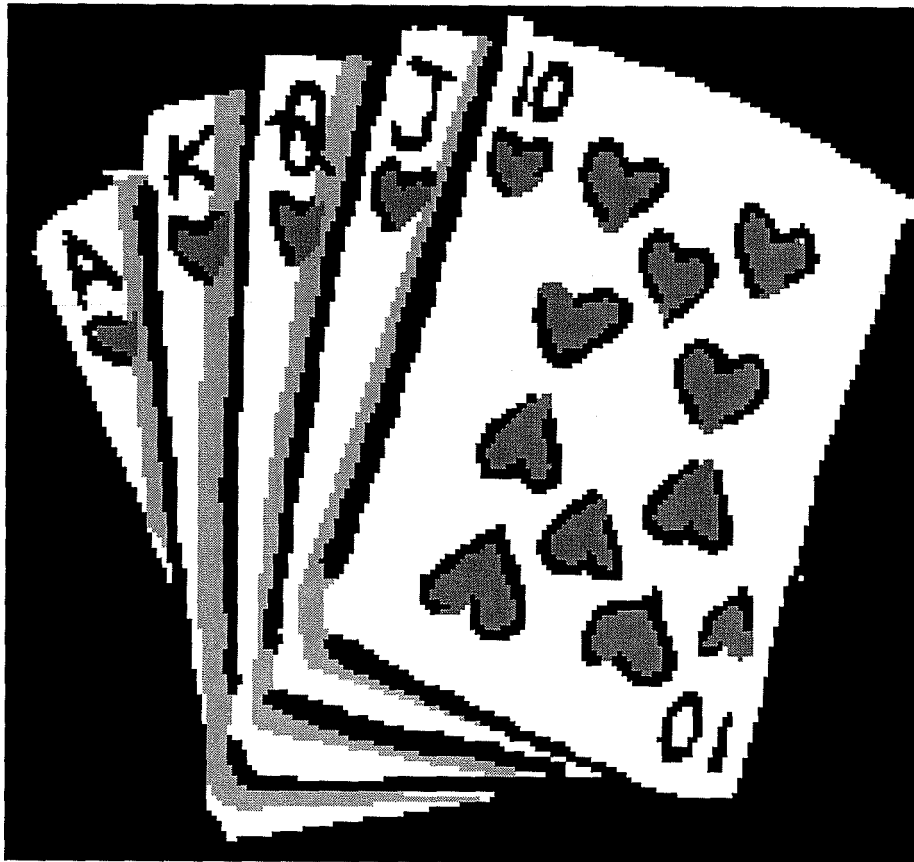
11. ACTION REVIEW

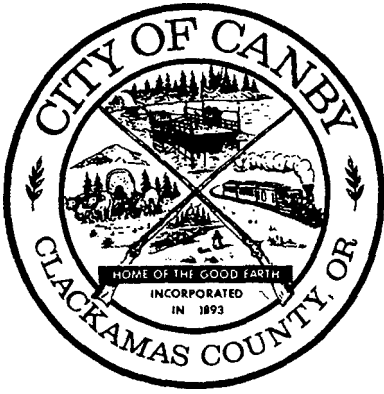
12. EXECUTIVE SESSION: ORS 192.660(2)(h) Pending Litigation

13. ADJOURN

*The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Kim Scheafer, MMC, City Recorder, at 503.266.4021 ext. 233. A copy of this Agenda can be found on the City's web page at www.ci.canby.or.us. City Council and Planning Commission Meetings are broadcast live and can be viewed on OCTS Channel 5. For a schedule of the playback times, please call 503.263.6287.

Social Gaming





City of Canby

Office of the City Attorney

January 10, 2012

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney 

Re: Request for Social Gaming Ordinance

Following a workshop with Donald Smith of the Cribbage Club last May, the Council decided it wanted a future workshop with an opportunity to look into social gaming further. I have collected several local ordinances from around the state where social gaming has been authorized. If you remember, Oregon law prohibits, or severely restricts gambling unless the local jurisdiction has adopted an ordinance under ORS 167.121 allowing "social gaming" as it is defined in ORS 167.117.

Currently, under Oregon law, private gambling is generally prohibited by statute. However, "social gaming" is an exception under the definition of "gambling". (See ORS 167.117(7) (c).

ORS 167.117(21) further defines a "social game" as:

"(a) A game, other than a lottery, between players **in a private residence** where no house player, house bank or house odds exist and there is no house income from the operation of the social game"; and

"(b) **If authorized pursuant to ORS 167.121**, a game, other than lottery, between players **in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.**"

This section means that the local Saturday night poker party at the Mayor's house is

legal, but if the City wishes to authorize social gaming in private businesses, clubs or hotels/motels in Canby, it must first pass an ordinance pursuant to ORS 167.121.

ORS 167.121 provides that:

"Cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation."

It also provides that the city may regulate and license such "social gaming". This would authorize social games played for money in local bars, taverns and restaurants, private clubs, such as the WVCC and probably the Legion (not sure if that is considered a "private club" but I think it would probably fit under that definition). Remember Without the authorizing ordinance in place, however, social gaming in places other than private residences is illegal.

I have included with this memo a copy of the gambling statutes, several municipal ordinances authorizing social gaming and copies of previous memos to the council when this issue has come up over the past years in case you didn't keep the previous workshop material or have misplaced it. Please review the appropriate statutory references, ORS 167.117(7), 167.117(21) and 167.121. Read through the various ordinances. You will find some only one page in length, some with more detail and some with several pages setting up extensive licensing requirements and monitoring provisions.

Please note what you like and dislike so if you wish me to bring back an ordinance for approval in the future, I will know what to put in it. Obviously, the simplest for me would be for you to identify a particular ordinance that addresses your issues. However, if one ordinance does not appeal to all, we can discuss a more custom statutory scheme.

Any questions, please feel free to call me.

GAMBLING OFFENSES

167.108 Definitions for ORS 167.109 and 167.112. As used in ORS 167.109 and 167.112:

(1) "Credit" and "credit card" have the meaning given those terms under the federal Consumer Credit Protection Act (P.L. 90-321, 82 Stat. 146, 15 U.S.C. 1601).

(2) "Electronic funds transfer" has the meaning given that term in ORS 293.525.

(3) "Financial institution" has the meaning given that term in ORS 706.008.

(4) "Money transmission" has the meaning given that term in ORS 717.200. [2001 c.502 §4]

167.109 Internet gambling. (1) A person engaged in an Internet gambling business may not knowingly accept, in connection with the participation of another person in unlawful gambling using the Internet:

(a) Credit, or the proceeds of credit, extended to or on behalf of such other person, including credit extended through the use of a credit card;

(b) An electronic funds transfer or funds transmitted by or through a money transmission business, or the proceeds of an electronic funds transfer or money transmission service, from or on behalf of the other person;

(c) Any check, draft or similar instrument that is drawn by or on behalf of the other person and is drawn on or payable at or through any financial institution; or

(d) The proceeds of any other form of financial transaction that involves a financial institution as a payor or financial intermediary on behalf of or for the benefit of the other person.

(2) Violation of subsection (1) of this section is a Class C felony. [2001 c.502 §2]

167.110 [Repealed by 1971 c.743 §432]

167.112 Liability of certain entities engaged in certain financial transactions. Notwithstanding any other provision of law, a creditor, credit card issuer, financial institution, operator of a terminal at which an electronic funds transfer may be initiated, money transmission business or any national, regional or local network utilized to effect a credit transaction, electronic funds transfer or money transmission service that is not liable under ORS 167.109:

(1) May collect on any debt arising out of activities that are illegal under ORS 167.109;

(2) Shall not be deemed to be participating in any activities that are illegal under ORS 167.109 by reason of their processing transactions arising out of such activities or

collecting debts arising out of such activities; and

(3) Shall not be liable under any provision of ORS 166.715 to 166.735 or 646.605 to 646.652 by reason of their processing transactions arising out of activities that are illegal under ORS 167.109 or collecting debts arising out of such activities. [2001 c.502 §3]

167.114 Application of ORS 167.109 and 167.112 to Oregon Racing Commission. ORS 167.109 and 167.112 do not apply to activities licensed and regulated by the Oregon Racing Commission under ORS chapter 462. [2001 c.502 §5]

167.115 [Repealed by 1971 c.743 §432]

167.116 Rulemaking. (1) The Oregon State Lottery Commission shall adopt rules to carry out the provisions of ORS 167.117 (9)(c)(E) and (20)(b).

(2) Devices authorized by the Oregon State Lottery Commission for the purposes described in ORS 167.117 (9)(c)(E) and (20)(b) are exempted from the provisions of 15 U.S.C. 1172. [1999 c.193 §2; 2001 c.502 §6]

Note: 167.116 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.117 Definitions for ORS 167.108 to 167.164 and 464.270 to 464.530. As used in ORS 167.108 to 167.164 and 464.270 to 464.530, unless the context requires otherwise:

(1) "Bingo or lotto" means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

(2) "Bookmaker" means a person who unlawfully accepts a bet from a member of the public upon the outcome of a future contingent event and who charges or accepts a percentage, fee or vigorish on the wager.

(3) "Bookmaking" means promoting gambling by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events.

(4) "Casino game" means any of the traditional gambling-based games commonly known as dice, faro, monte, roulette, fan-tan, twenty-one, blackjack, Texas hold-'em, seven-and-a-half, big injun, klondike, craps, poker, chuck-a-luck, Chinese chuck-a-luck (dai shu), wheel of fortune, chemin de fer, baccarat, pai gow, beat the banker, panquinqui, red dog, acey-deucey, or any other gambling-based game similar in form or content.

✓ (5)(a) "Charitable, fraternal or religious organization" means any person that is:

(A) Organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, educational, civic, fraternal or other non-profit purposes; and

(B) Exempt from payment of federal income taxes because of its charitable, fraternal or religious purposes.

(b) The fact that contributions to an organization profiting from a contest of chance do not qualify for a charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable, fraternal or religious organization.

(6) "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein.

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(7) "Gambling" means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

(a) Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance.

(b) Engaging in contests of chance under the following conditions:

(A) The contest is played for some token other than money;

(B) An individual contestant may not purchase more than \$100 worth of tokens for use in the contest during any 24-hour period;

(C) The tokens may be exchanged only for property other than money;

(D) Except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and

(E) Except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or

employee profits in any manner from operation of the contest.

(c) Social games.

(d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530 to operate such games.

(8) "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.

(9)(a) "Gray machine" means any electrical or electromechanical device, whether or not it is in working order or some act of manipulation, repair, adjustment or modification is required to render it operational, that:

(A) Awards credits or contains or is readily adaptable to contain, a circuit, meter or switch capable of removing or recording the removal of credits earned by a player, other than removal during the course of continuous play; or

(B) Plays, emulates or simulates a casino game, bingo or keno.

(b) A device is no less a gray machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on the basis other than chance.

(c) "Gray machine" does not include:

(A) Any device commonly known as a personal computer, including any device designed and marketed solely for home entertainment, when used privately and not for a fee and not used to facilitate any form of gambling;

(B) Any device operated under the authority of the Oregon State Lottery;

(C) Any device manufactured or serviced but not operated in Oregon by a manufacturer who has been approved under rules adopted by the Oregon State Lottery Commission;

(D) A slot machine;

(E) Any device authorized by the Oregon State Lottery Commission for:

(i) Display and demonstration purposes only at trade shows; or

(ii) Training and testing purposes by the Department of State Police; or

(F) Any device used to operate bingo in compliance with ORS 167.118 by a charitable, fraternal or religious organization licensed to operate bingo pursuant to ORS 167.118, 464.250 to 464.380 and 464.420 to 464.530.

(10) "Handle" means the total amount of money and other things of value bet on the bingo, lotto or raffle games, the value of raffle chances sold or the total amount collected from the sale of imitation money during Monte Carlo events.

(11) "Internet" means an interactive computer service or system or an information service, system or access software provider that provides or enables computer access by multiple users to a computer server and includes, but is not limited to, an information service, system or access software provider that provides access to a network system commonly known as the Internet, or any comparable system or service and also includes, but is not limited to a World Wide Web page, newsgroup, message board, mailing list or chat area on any interactive computer service or system or other online service.

(12) "Lottery" or "policy" means an unlawful gambling scheme in which:

(a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other medium, one or more of which chances are to be designated the winning ones;

(b) The winning chances are to be determined by a drawing or by some other method; and

(c) The holders of the winning chances are to receive something of value.

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(13) "Monte Carlo event" means a gambling event at which wagers are placed with imitation money upon contests of chance in which players compete against other players or against the house. As used in this subsection, "imitation money" includes imitation currency, chips or tokens.

(14) "Numbers scheme or enterprise" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome of a future contingent event otherwise unrelated to the particular scheme.

(15) "Operating expenses" means those expenses incurred in the operation of a bingo, lotto or raffle game, including only the following:

(a) Salaries, employee benefits, workers' compensation coverage and state and federal employee taxes;

(b) Security services;

(c) Legal and accounting services;

(d) Supplies and inventory;

(e) Rent, repairs, utilities, water, sewer and garbage;

(f) Insurance;

(g) Equipment;

(h) Printing and promotions;

(i) Postage and shipping;

(j) Janitorial services and supplies; and

(k) Leasehold improvements.

(16) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

(17) "Profits from unlawful gambling" means that a person, acting other than solely as a player, accepts or receives money or other property pursuant to an agreement or understanding with another person whereby the person participates or is to participate in the proceeds of unlawful gambling.

(18) "Promotes unlawful gambling" means that a person, acting other than solely as a player, engages in conduct that materially aids any form of unlawful gambling. Conduct of this nature includes, but is not limited to, conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person promotes unlawful gambling if, having control or right of control over premises being used with the knowledge of the person

for purposes of unlawful gambling, the person permits the unlawful gambling to occur or continue or makes no effort to prevent its occurrence or continuation.

(19) "Raffle" means a lottery operated by a charitable, fraternal or religious organization wherein the players pay something of value for chances, represented by numbers or combinations thereof or by some other medium, one or more of which chances are to be designated the winning ones or determined by a drawing and the player holding the winning chance is to receive something of value.

(20)(a) "Slot machine" means a gambling device that as a result of the insertion of a coin or other object operates, either completely automatically, or with the aid of some physical act by the player, in such a manner that, depending upon elements of chance, it may eject something of value or otherwise entitle the player to something of value. A device so constructed or readily adaptable or convertible to such use is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because apart from its use or adaptability as such it may also sell or deliver something of value on the basis other than chance.

(b) "Slot machine" does not include any device authorized by the Oregon State Lottery Commission for:

(A) Display and demonstration purposes only at trade shows; or

(B) Training and testing purposes by the Department of State Police.

(21) "Social game" means:

(a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

(b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

(22) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein.

(23) "Trade show" means an exhibit of products and services that is:

(a) Not open to the public; and

(b) Of limited duration.

(24) "Unlawful" means not specifically authorized by law. [1971 c.669 §3a; 1971 c.743 §263; 1973 c.788 §1; 1974 c.7 §1; 1975 c.421 §1; 1977 c.850 §1; 1983 c.813 §1; 1987 c.914 §1; 1991 c.962 §7; 1995 c.577 §2; 1997 c.867 §1; 1999 c.193 §1; 2001 c.228 §1; 2001 c.502 §7; 2005 c.57 §1; 2005 c.355 §2]

167.118 Bingo, lotto or raffle games or Monte Carlo events conducted by charitable, fraternal or religious organizations; rules. (1) When a charitable, fraternal or religious organization is licensed by the Department of Justice to conduct bingo, lotto or raffle games or Monte Carlo events, only the organization itself or an employee thereof authorized by the department shall receive money or property or otherwise directly profit from the operation of the games, except that:

(a) The organization operating the games may present a prize of money or other property to any player not involved in the administration or management of the games.

(b) An organization licensed to conduct Monte Carlo events may contract with a licensed supplier of Monte Carlo event equipment to operate the event, including the provision of equipment, supplies and personnel, provided that the licensed supplier is paid a fixed fee to conduct the event and the imitation money is sold to players by employees or volunteers of the licensed charitable, fraternal or religious organization.

(c) A person may sell, rent or lease equipment, including electronic equipment, proprietary computer software and real property to a licensed charitable, fraternal or religious organization. Rent or lease payments must be made in compliance with the provisions of ORS 464.510.

(d) An organization licensed by the department may act as an escrow agent to receive money or property to be awarded as prizes.

(2) A charitable, fraternal or religious organization may not operate bingo, lotto or raffle games or Monte Carlo events except at such locations and upon such days and for such periods of time as the department authorizes pursuant to this section and ORS 464.250 to 464.380, 464.420 and 464.450 to 464.530.

(3)(a) An organization licensed by the department to operate bingo or lotto games may not award a prize exceeding \$2,500 in value in any one game. An organization licensed by the department to operate a Monte Carlo event may not present any prize of money, or a cash equivalent, to any player.

(b) Notwithstanding any provision of this chapter to the contrary, a bingo licensee may operate two games per year with a prize not

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to exceed \$10,000 per game and, if approved by the department, may also participate in a linked progressive game involving only Oregon licensees, without regard to the number of games or the size of the prize awarded.

(4) Each charitable, fraternal or religious organization that maintains, conducts or operates any bingo, lotto or raffle game or Monte Carlo event under license of the department must operate such games in accordance with rules adopted by the department.

(5) It is unlawful for a licensee to permit the operating expenses of the games to exceed 18 percent of the annual handle of its bingo, lotto and raffle operation.

(6) It is unlawful for a charitable, fraternal or religious organization licensed by the department to operate bingo, lotto or raffle games if:

(a) The handle of the games and events exceeds \$250,000 in a year; and

(b) The games and events do not generate for the organization's purposes, after the cost of prizes and operating expenses are deducted from the handle, an amount that equals or exceeds five percent of the handle. [1987 c.914 §3; 1991 c.274 §2; 1995 c.331 §1; 1997 c.867 §2; 1999 c.218 §1; 2001 c.228 §2; 2003 c.417 §1]

167.119 [1973 c.788 §3; repealed by 1974 c.7 §2]

167.120 [Amended by 1955 c.514 §1; 1969 c.404 §1; repealed by 1971 c.743 §432]

167.121 Local regulation of social games. Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized. [1974 c.7 §3]

Note: 167.121 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 167 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

167.122 Unlawful gambling in the second degree. (1) A person commits the crime of unlawful gambling in the second degree if the person knowingly:

(a) Places a bet with a bookmaker; or
(b) Participates or engages in unlawful gambling as a player.

(2) Unlawful gambling in the second degree is a Class A misdemeanor. [1971 c.743 §264; 1997 c.867 §21]

167.125 [Amended by 1969 c.404 §2; repealed by 1971 c.743 §432]

167.127 Unlawful gambling in the first degree. (1) A person commits the crime of unlawful gambling in the first degree if the person knowingly promotes or profits from unlawful gambling.

(2) Unlawful gambling in the first degree is a Class C felony. [1971 c.743 §265; 1997 c.867 §22]

167.130 [Repealed by 1971 c.743 §432]

167.132 Possession of gambling records in the second degree. (1) A person commits the crime of possession of gambling records in the second degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise.

(2) Possession of gambling records in the second degree is a Class A misdemeanor. [1971 c.743 §266]

167.135 [Repealed by 1971 c.743 §432]

167.137 Possession of gambling records in the first degree. (1) A person commits the crime of possession of gambling records in the first degree if, with knowledge of the contents thereof, the person possesses any writing, paper, instrument or article:

(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than \$500; or

(b) Of a kind commonly used in the operation, promotion or playing of a lottery or numbers scheme or enterprise, and constituting, reflecting or representing more than 500 plays or chances therein.

(2) Possession of gambling records in the first degree is a Class C felony. [1971 c.743 §267]

167.140 [Repealed by 1971 c.743 §432]

167.142 Defense to possession of gambling records. In any prosecution under ORS 167.132 or 167.137 it is a defense if the writing, paper, instrument or article possessed by the defendant is neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or numbers scheme or enterprise. [1971 c.743 §268]

167.145 [Repealed by 1971 c.743 §432]

167.147 Possession of a gambling device; defense. (1) A person commits the crime of possession of a gambling device if, with knowledge of the character thereof, the person manufactures, sells, transports, places or possesses, or conducts or negotiates a transaction affecting or designed to affect ownership, custody or use of:

(a) A slot machine; or

ORDINANCE NO. 2961

AN ORDINANCE DEFINING AND REGULATING GAMBLING IN THE CITY OF BAKER; PROVIDING FOR LICENSING AND FEES; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND, REPEALING SECTION 16, ORDINANCE NO. 2394, AND ALL OTHER ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH.

BE IT ORDAINED BY THE CITY OF BAKER, OREGON:

Section 1. Prohibition:

No person shall participate in, operate or assist in operating any gambling game or activity, including a lottery. No person shall have in his or her possession any property, instrument or device designed or adapted for use in any type of gambling activity. Any such property, instrument or device is a nuisance and may be summarily seized by a police officer. Property so seized shall be placed in the custody of the Chief of Police of the City of Baker. Upon conviction of the person owning or controlling such property for a violation of this section, the Justice of the Peace shall order such property confiscated and destroyed.

Section 2. Definitions:

1. The term Agambling@ means that a person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his or her control or influence, upon an agreement or understanding that he or she or someone else will receive something of value in the event of a certain outcome, however nothing in this section shall be deemed to prohibit the operation or playing of bingo, lotto or raffle by charitable, religious or fraternal organizations so long as said game is in conformance with all applicable city ordinances and state laws. AGambling@ does not include the following:

a) Bona fide business transactions valid under the laws of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guarantee, and life, health or accident insurance.

b) Engaging in contest of chance under the following conditions: The contest if played for some token other than money; an individual contestant may not purchase more than \$100.00 worth of tokens for use in the contest during any twenty-four (24) hour period; the tokens may be exchanged only for property other than money, except where the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is

conducted or within fifty (50) miles thereof; and, except for charitable organizations, no person who conducts a contest as owner, agent or employee profits in any manner from operation of the contest. A Charitable Organization means any person organized and existing for charitable, benevolent, eleemosynary, humane, patriotic, religious, philanthropic, recreational, social, education, civic, fraternal or other non-profit purposes. The fact that contributions to an organization profiting from the contest do not qualify for charitable deductions for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, constitutes prima facie evidence that the organization is not a bona fide charitable organization. Contests conducted under this section, also known as the Happy Canyon law, shall be subject to the same licensing procedures, requirements and fees as set forth for social games in Section 3 et seq.

2. Social Games. The terms A Social Games means:

a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and

b) A game, other than a lottery, between players in a private business, private club or place of accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game. The prohibition on house income shall not be deemed to prohibit the rental by the licensed holder of a seat at a table specifically set aside for the playing of social games. Such seats shall not be sublet.

Section 3. License Required for Social Games:

1. From and after this date, it shall be unlawful if any private business, private club or place of public accommodation to maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any social game in the City of Baker without having a valid license from said City. Licenses shall be granted only to persons of ascertained good moral character and upon approval of the City Council.

Section 4. Application for License:

1. Applications for license issued hereunder shall be made upon blank forms prepared and made available by the Chief of Police and shall state:

a) The full name, age, residence, present and previous occupations of all persons financially interested in the business. In the case of private clubs, the application shall contain

similar information for all officers and directors;

- b) The past criminal record, if any, of all persons who may have interest in the business;
- c) A specific description of the location of the principal place of business of the applicant and, if the applicant is a charitable, fraternal, or religious organization, the application shall include a copy of its certificate of exemption for federal income taxes.
- d) Such other information as the Chief of Police shall find reasonably necessary to effectuate the general purpose of this ordinance and to make a fair determination of whether the terms thereof have been complied with.
- e) All persons required to supply information in the application or supplemental application shall by oath swear to the validity of the information supplied in the application.

2. The application required shall be accompanied by a non-refundable application fee of \$50.00.

3. Within fifteen (15) days after receipt of any application as provided for herein, the Chief of Police shall cause an investigation to be made of the applicant and his or her proposed operation.

Section 5. Standards for Issuance of License:

- 1. The chief of Police shall investigate and determine if the character, competency and integrity of the applicant are such as to warrant the issuance of a social game=s license. In addition, the license shall not be granted if:
 - a) Any person financially interested in the business has been previously convicted of a felony within the last ten (10) years;
 - b) Any person financially interested in the business has been convicted of three (3) or more misdemeanors, the last of which was within the last five (5) years;
 - c) Any person financially interested in the business has been convicted of any offense involving gambling in the last five (5) years or any person who has any financial interest in the business has forfeited bail for any offense involving gambling within the last four (4) years;

- d) Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by this ordinance, where such gambling device has been ordered destroyed within the last four (4) years;
- e) Any false or misleading information is supplied in the application, or any information requested is omitted from the application;
- f) Any person financially interested in the business has had a license in his or her name revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five (5) years;
- g) Any person financially interested in the business or any employee has violated any provision of this ordinance or regulation issued thereunder;
- h) Any person financially interested in the business has committed any other conduct involving moral turpitude within the last five years.

Upon the determination of the above matters by the Chief of Police, he shall thereupon submit a written report of his finding to the City Manager of the City and recommend that the license be issued or denied.

2. The City Recorder shall only issue said licenses upon motions made and passed by the City Council. If the City Council authorizes and directs the issuance of said license, the applicant shall thereupon pay into the City the annual license fee, as hereinafter set forth.

Section 6. License Fee:

A license shall be issued to each successful applicant upon payment of a license fee of \$600.00 per year, except, however, a non-profit society, club or fraternal organization having adopted by-laws and duly elected directors and members may be granted a license for an annual fee of \$300.00 per year, when it appears that the social games are for the exclusive use of members of the society, club or fraternal organization and no charge is made for participation other than rental of a seat. The society, club or fraternal organization shall have been in continuous existence, actively conducting its affairs in the City of Baker for a period of two (2) years immediately preceding application for a license, and only if the conduct of the social games is not the primary reason for the existence of the society, club or fraternal

organization.

The above license fee shall authorize up to four (4) tables. Any table in addition to this shall be charged at the rate of \$60.00 per year, except that for non-profit societies, clubs or fraternal organizations, the rates for such tables shall be \$40.00 per year. No portion of any license fee shall be refundable or recoverable under any circumstances.

Limited term licenses shall be issued to non-profit societies, clubs or fraternal organizations only and shall be of 5-day duration. The fee shall be \$100.00 per limited term license, and there shall be no limit on the number of tables allowed thereunder. No more than two such licenses shall be issued to the same organization in any one calendar year.

Section 7. Conditions of Licensing:

1. Transferability. Licenses issued hereunder shall not be transferable.
2. Revocation and Suspension. Licenses issued hereunder shall be subject to revocation and suspension by the City Council for violation of any of the provisions of this ordinance or misconduct by the licensee or his or her employees, after ten (10) days written notice by first class mail and an opportunity to be heard have been given to licensee. The Chief of Police shall mail such notice. Said ten-day period shall commence with the mailing of such notice.
3. Renewal of Licenses. (As amended by Ord. No 2966 adopted 5-10-88)
There shall be no right to automatic renewal of a license issued pursuant to this ordinance. Each license may be issued for a maximum of one year, and each licensee shall be required to reapply for a new license upon expiration of its former license. Said re-application shall be accompanied by a fee of \$10.00.
4. Term of License. All licenses issued hereunder shall be for a period of one year.
5. Supervision. Each licensee shall have a person whose duty shall be to supervise the social games and see to it that they are played strictly in accordance with this ordinance and with the provisions of the Oregon Revised Statutes. Each licensee shall post in a conspicuous place the rules of the game that is being played, the fact that no charges may be made, nor any donations may be taken with the exception of the charge for the seat at the table and the normal cost of food and drink. A copy of this ordinance must also be posted along with the license granted hereunder in the area where social gaming takes place.
6. Time Periods. No licensee shall conduct social games between the hours of 2:00 a.m. and 10:00 a.m. of any day.
7. Police Inspection. Premises on which social games are operated shall be open

to police inspection during all hours of operation. Each licensee shall keep the room or enclosure where the social game takes place open to free and immediate access by the Police Department of the City, its authorized personnel or law enforcement officers. Doors leading into the room or enclosure shall remain unlocked during all hours of operation except that where the charitable, religious or fraternal organization normally restricts access by means of magnetic cards or devices, such cards or devices shall be provided to the City Police Department for use by its authorized personnel or law enforcement officers in fulfillment of access requirements of this subsection.

8. Participation by Licensee. No licensee shall participate in any social game nor procure players, back, farm out, assign or sublet any social game lawfully permitted under this ordinance on any premises in which said licensee has any interest or works.

9. Age Limits. No person under the age of 21 years shall be permitted to participate in any social game or to enter or remain in any room in which such game is being played.

10. Limits. In all social games except Blackjack (21), there shall be a limit bet of \$3.00, with no more than three (3) raises. For the purposes of Blackjack (21), the maximum bet shall be \$5.00. Also in the game of Blackjack (21), no person may be denied the right to deal. (As amended by Ord. No. 3204 adopted 02/11/2003)

Section 8. Regulations by Chief of Police:

The Chief of Police shall have the authority to enact and enforce reasonable rules and regulations for the operation of social games in the interest of public safety, morals and welfare and to effectuate the general purpose of this ordinance. These regulations shall be approved by the City Manager. A copy of these regulations shall also be posted in any area where social gaming takes place.

Section 9. Notice of Denial or Revocation:

The Chief of Police shall act upon the application for license within thirty (30) days after the filing thereof. If the Chief of Police disapproves the application, he shall mail to the applicant forthwith a notice of his action setting forth the reasons for his adverse recommendation to the City Manager. Any person aggrieved shall have the right to appeal the recommendation of the Chief of Police as to denial or revocation to the City Council. The appeal shall be taken within ten (10) days after receipt of notice, and shall be made by written notice to the Council that the aggrieved appeals the denial or revocation of said license. The City Council shall act upon the appeal within twenty (20) days after receipt of said notice of appeal, and its action shall be final.

Section 10. Revocation and Suspension:

The license required under this ordinance may be revoked, or temporarily suspended for up to thirty (30) days, by the City Council for any reason that would be grounds for denial of an application for a license, or any act in violation of this ordinance or any rules or regulations promulgated thereunder. Revocation or suspension shall become effective fifteen (15) days after the Chief of Police notifies the licensee in writing of the grounds for such revocation or suspension, unless the licensee shall give notice of appeal to the City Council prior to the effective date of the revocation or suspension. Upon proper notice of appeal, the revocation or suspension shall be stayed until final determination by the Council. All notice required in this section shall be given by first class mail.

Section 11. Penalties:

In addition to the suspension or revocation of any license issued hereunder, any person, firm or corporation who violates any provisions of this ordinance or any rule or regulation lawfully promulgated in accordance herewith shall, upon conviction, be punished by a fine of not less than \$300.00, nor more than \$2,500.00, or by imprisonment not to exceed one year, or by both such a fine and imprisonment.

Section 12. Savings Clause:

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by a Court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.

Section 13. Repeal of Conflicting Ordinances:

Section 16, Ordinance No. 2394, and all other ordinances or parts of ordinances that are in conflict herewith are hereby repealed.

PASSED by the City Council of the City of Baker, Oregon, and APPROVED by the Mayor of the City of Baker, Oregon, this 13th day of October, 1987.

John Kelley

From: Tamara Herdener [herdener@ci.cannon-beach.or.us]
Sent: Tuesday, July 05, 2011 2:28 PM
To: OCAA List
Subject: RE: [ocaa] social gaming ordinance

Bill,

Please see the Cannon Beach Social Gaming Ordinance below. The Council passed it over a year ago. There have been no complaints or complications with the ordinance to date.

Please let me know if I can be of further assistance.

Thanks,
Tammy

Cannon Beach

Tamara Herdener
City Attorney
Cannon Beach, Oregon
503.741.0683

herdener@ci.cannon-beach.or.us

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Chapter 5.14 SOCIAL GAMING

5.14.010 Title.

These regulations shall be known as the "City of Cannon Beach Social Gaming Ordinance" and may be cited as such. (Ord. 10-2 § 1)

5.14.020 Social games permitted.

It is lawful for any charitable, fraternal, or religious organization to conduct the playing of social games with a license issued by the city. (Ord. 10-2 § 2)

5.14.030 Definitions.

Unless the context requires otherwise, all terms set forth in this chapter shall have the same meaning as set forth in ORS 167.117. For the purpose of this chapter, the following definitions shall apply:

"House bank" means the operation of social games whereby a charitable, fraternal, or religious organization employs a person to supervise a single social game for the purpose of securing a portion of any monetary gain contributed directly by the individual players to that single game.

"House income" means any monetary net gain or advantage received by the house directly from the actual play of a single social game conducted by a charitable, fraternal, or religious organization.

“House odds” mean the operation of social games by a charitable, fraternal or religious organization whereby the probabilities of success of a single social game exist in favor of the operation.

“House player” means a principal or employee of a charitable, fraternal, or religious organization which conducts social games who participates on behalf of the organization for the purpose of altering the normal probabilities associated with social gaming.

“Social games” mean a game other than a lottery between players in a charitable, fraternal, or religious organization where no house player, house bank, or house odds exist; and there is no house income from the operation of the social game. (Ord. 10-2 § 3)

5.14.040 License required for social games.

Any charitable, fraternal, or religious organization desiring to conduct social games as defined in this chapter within the city of Cannon Beach shall acquire and maintain a valid license from the city. Licenses shall be granted only upon application to the city and upon approval by the city manager. (Ord. 10-2 § 4)

5.14.050 Application requirements.

Application may be made annually to the city. A nonrefundable fee of twenty-five dollars shall accompany the application for the license. No license shall be assigned or transferred. (Ord. 10-2 § 5)

5.14.060 Responsibilities of licensee.

It shall be the responsibility of the licensee to ensure that:

- A. No form of unlawful gambling is permitted upon the licensed premises.
- B. Social games are conducted consistent with the provisions of state law, city ordinances and this section.
- C. There shall be no house player, house bank or house odds, and there shall be no house income from the operation of the social game.
- D. All social games shall be open to public inspection during all hours of operation.
- E. No person under the age of twenty-one years shall be permitted to participate in a social game.
- F. The room or enclosure where the social games take place is open to free and immediate access by law enforcement officers. Doors leading into the room or enclosure remain unlocked during all hours of operation.
- G. No social game is conducted between the hours of two a.m. and ten a.m. (Ord. 10-2 § 6)

5.14.070 Revocation of license.

A license is subject to revocation at any time for violation of this chapter or any of the provisions of state law related to gambling. If at any time facts arise or become known to the city manager which are sufficient to show violation of this chapter or state law, the city manager shall notify the licensee in writing that the license is to be revoked and that all social gaming activities must cease within fifteen days. The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee’s ability to perform the licensed activity without danger to property or public health or safety. The notice of revocation shall state the reason for the revocation, set a period of no less than

thirty days before social gaming activities can recommence and inform the licensee of the procedures for filing an appeal. (Ord. 10-2 § 7)

5.14.080 Suspension of license.

Upon determining that a licensed activity presents an immediate danger to person or property, the city manager may suspend the license for the activity. The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the procedures for filing an appeal. The city manager may continue the suspension for as long as the reason for the suspension exists or until a decision by the appellate authority on an appeal regarding the suspension concludes the matter. (Ord. 10-2 § 8)

5.14.090 Penalties.

In addition to the suspension or revocation of any license hereunder, any licensee, firm, corporation, association, or person(s) associated with licensee who violates any provision of this chapter, may, upon conviction, be guilty of a misdemeanor and be fined in the amount not to exceed five hundred dollars for each violation. Each day that a violation is permitted to occur is considered a separate violation. (Ord. 10-2 § 9)

From: Bill Scheiderich [mailto:bscheiderich@beavertonoregon.gov]
Sent: Tuesday, July 05, 2011 1:11 PM
To: OCAA List
Subject: [ocaa] social gaming ordinance

Please tell me if your city allows social gaming by ordinance, and if so what regulations were enacted as to same and whether they have been a source of complaints. Thanks.

Bill Scheiderich
Acting City Attorney
City of Beaverton | PO Box 4755 | Beaverton OR 97076-4755
p: 503.526.2215 | f: 503.350.4033
e-mail: bscheiderich@beavertonoregon.gov



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ORDINANCE NO. 104**AN ORDINANCE DEFINING AND REGULATING SOCIAL GAMES IN THE CITY OF COOS BAY, PROVIDING FOR LICENSING AND FEES, PROVIDING PENALTIES FOR THE VIOLATION THEREOF; AND REPEALING ORDINANCE NO. 2; AS AMENDED BY ORDINANCE NO. 138 AND 142.**

The City of Coos Bay ordains as follows:

Section 1. Gambling Prohibited. No person shall participate in operate or assist in operating any gambling game or activity, including a lottery. No person shall have in his possession any property, instrument or device designated or adapted for use in any type of gambling, activity. Any such property, instrument or device is a nuisance and may be summarily seized by any police officer. Property so seized shall be placed in the custody of the Department of Public Safety of the city, Upon conviction of the person owning or controlling such property for a violation of this section, the Municipal Judge shall order such property confiscated and destroyed.

Section 2. Definitions. For purposes of this ordinance, the following mean:

Card room. Any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for the playing of cards only, and the use of which is available to the public; provided, however, that this definition shall not apply to any bona fide nonprofit society, club or fraternal organization as defined in section 13 of this ordinance.

Gambling. Any contest, game, gaming scheme, gaming device or machine in which the outcome depends in a material degree upon an element of chance, notwithstanding the skill of the contestants may also be a factor therein. Gambling does not include "social games" or bingo, lotto, or raffles operated in compliance with Oregon law by a charitable, religious or fraternal organization, or off-track wagering operated in compliance with Oregon law. [Section 2 definition of gambling amended by Ordinance No. 142, section 1, passed June 20, 1989.]

Player. A person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity.

Social games.

(a) A game involving the playing of cards between players only, which does not include lotteries or any game involving the use of any property, instrument, or device designed or adapted for the in any type of gambling activity, in a private home where no house player, house bank or house odds exist, and there is no house income from the operation of the game, and

(b) A game involving the playing of cards between players only, which does not include lotteries or any game involving the use of any property, instrument, or device designed or adapted for use in any type of gambling activity, in a private business, private club, or place of public accommodation where no house player, house bank or house odds exist

and there is no house income from the operation of the social game.

Section 3. Application for License. From and after this date, it shall be unlawful for any person, firm or corporation 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 having a valid license from the city. License shall be granted only to persons of ascertained good moral character and upon the approval of the Council.

Section 4. License Investigation. An applicant for a card room license shall submit his application to the City Recorder, 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 personal history and business experiences of such persons, the past criminal record, if any, of all persons who have any interest in the business and any other matters deemed by the Council to be of necessary inquiry. The application shall be accompanied by a non-refundable investigation fee of \$65. The term "person financially interested" shall include all persons who share in the profits of the business, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owner or owners of the building, fixtures" or equipment. The application shall also be accompanied by fingerprints and photographs of persons financially interested.

Section 5. Special Event License. A bona fide nonprofit society, club or fraternal organization as defined in section 13 shall submit its application for a card room license to the Recorder on the application form provided which shall include, among others, the name of the organization, the date and place for the proposed event, and whether or not the general public will be allowed to attend. No investigation fee shall be required.

Section 6. Granting and Denial of Application. The Council shall either approve the application and grant the license applied for or deny the application and refuse to grant the license. The license shall not be granted if:

- (1) Any person who has any interest in the business has been previously convicted of a felony within the last ten (10) years;
- (2) Any person who has any interest in the business has been convicted of five misdemeanors or major traffic offenses, or any combination of misdemeanors and major traffic offenses totaling five, the last of which was within five years of the date of the application;
- (3) Any person who has any interest in the business has been convicted of any crime involving gambling within the last five (5) years or any person who has any interest in the business has forfeited bail after November 1, 1971, for any crime involving gambling;
- (4) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in the Oregon Revised Statutes where such gambling device has been ordered destroyed within the last five (5) years;
- (5) Any false or misleading information is supplied in the application or any information requested is omitted from the application;
- (6) Any person who has any interest in the business has had a license which was in his name revoked or suspended three times by the Oregon Liquor Control Commission, the last of which

was in the last five years;

(7) Any person who has any interest in the business has any employee who violates any section of this ordinance; and

(8) Any other conduct involving moral turpitude on the part of any person who has any interest in the business.

Section 7. Responsibility of Licensee. Each card room shall have assigned to it a person whose duty shall be to supervise the games and see to it that they are played strictly in accordance with this ordinance and within the provisions of the Oregon Revised Statutes. No licensee shall permit any person to engage in unlawful gambling in or upon any licensed premises. The licensee shall be vicariously liable for any conduct of any employee in regard to any gambling activity or social game conducted in or upon licensed premises.

Section 8. Employee Work Permits. Employees in card rooms and employees supervising card room activities shall obtain a work permit from the city. Applications for such work permits may be obtained from the Recorder and shall contain such information as may be deemed necessary to allow a police background investigation. The City Manager may deny a permit based upon recommendations from the Public Safety Department when it is documented that such employment should not be permitted. No work permit shall be issued to any person who has not been a resident of Coos County, Oregon, for at least six (6) months preceding the issuance of such permit, and/or who has been involved in any of the conduct described in section 6 which would lead to the refusal to grant a license. Each application for a work permit shall be accompanied by a fee of \$25, renewable annually from date of application. A temporary work permit may be approved by the City Manager pending applicant's background check.

Section 9. License Not Transferable. No card room license shall be assignable or transferable. Change of persons having financial interest in a licensed business shall be reported immediately to the City Manager, who shall order an investigation by the public safety department. The change shall be approved or denied by the Council. Applications for a change of financial ownership shall be accompanied by a non-refundable investigation fee of \$65.

Section 10. Suspension and Revocation of License.

(1) The City Manager shall temporarily suspend any card room license or work permit issued hereunder if;

- (a) Any person who has any interest in the business is convicted of a felony;
- (b) Any person who has any interest in the business is convicted of five misdemeanors;
- (c) Any person who has any interest in the business is convicted of or forfeited bail for any crime involving gambling;
- (d) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device as defined in the Oregon Revised Statutes where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;

- (e) Any false or misleading information is supplied in the application or any information requested is omitted from the application;
 - (f) Any person who has any interest in the business has had a license which was in his name revoked or suspended three times by the Oregon Liquor Control commission;
 - (g) Any person who has any interest in the business or any employee violates any section of this ordinance;
 - (h) Any person who has any interest in the business engages in any other conduct involving moral turpitude; and
 - (i) Any licensee shall permit any person to engage in unlawful gambling in or upon any licensed premises.
- (2) Any action taken by the City Manager under section 10(l) shall be subject to the right of appeal to the Council when meeting in regular Council session. Notice of appeal shall be filed with the Recorder within twenty (20) days or such action shall be deemed final and conclusive. A temporary suspension shall be for thirty (30) days.
- (3) Permanent revocation may be made only by the Council and such revocation shall only take place at a Council meeting in regular Council session upon application of the City Manager and only after the licensee has been served with notice at least twenty (20) days prior to the Council meeting. Such notice shall include the time and date of the council meeting and the grounds upon which the permanent revocation is sought. Notice shall be deemed to have been received by the licensee or permittee if the City Manager mails notice to the address listed by the licensee or permittee on his application for a license or permit.

Section 11. Regulations. It shall be unlawful to operate a card room in violation of any of the following regulations and rules:

- (1) With respect to the social games set forth in section 2, and except for organizations defined under section 13, there shall be a limit on any bet of \$20 and a 3 (three) raise limit.
- (2) Licensees and permittees holding or obtaining licenses and permits under the provisions of this ordinance shall thereby automatically agree to be bound by and observe each and all of the regulations and rules established thereby.
- (3) Each and all other games conducted or operated in the city pursuant to the provisions of this ordinance shall be conducted and operated in full conformity with and subject to all provisions of the laws of the state of Oregon and the city of Coos Bay.
- (4) All card rooms shall be open to police inspection during all hours of operation. Card room licenses and work permits shall be available for inspection during all hours of operation.
- (5) No licensee or permittee shall participate in any card game nor procure players, back, farm out, assign or sublet any card games lawfully permitted under this ordinance on the premises in which said licensee or permittee has any interest or works.

(6) The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the card room must remain unlocked during all hours of operation.

(7) No person under the age of 21 shall be permitted to participate in any card game or to enter or remain upon such premises.

(8) No charge shall be collected from any player for the privilege of participating in any game.

Section 12. License Fees. There shall be collected for each card room licensed hereunder, the sum of \$50 per table per month, payable quarterly in advance.

Section 13. Bona Fide Non-Profit Society, Club or Fraternal Organization License.

(1) A non-profit society, club or fraternal organization having adopted by-laws and duly elected directors and members may be granted a license at an annual fee of \$120 per table, when it appears that the tables are for the exclusive use of members of the society, club or fraternal organization and no charge is made for participation. The society, club or fraternal organization shall have been in continuous existence conducting its affairs in the city for a period of two years immediately preceding application for a license, and only if the conduct of a card room is not the primary reason for existence of the society, club or fraternal organization.

(2) A non-profit society, club or fraternal organization having adopted by-laws and duly elected directors and having been in existence for at least two years preceding application may apply for a license to allow social games at a special event sponsored by such organization. The license fee shall be \$25 per event, There shall be no charge per table.

Section 14. Penalty. Violation of, or failure to comply with, any provision of this ordinance is punishable upon conviction by a fine not to exceed \$1000.

Section 15. Severability. The sections of this ordinance are severable. The invalidity of a section shall not affect the validity of the remaining sections.

Section 16. Repeal. Ordinance No. 2, as amended by Ordinance No. 44, passed December 29, 1983, is repealed.

Passed by the Council and approved by the Mayor July 13, 1987.

Chapter 8.11**Social Gaming****Sections:**

8.11.000	Title.
8.11.010	Social games permitted.
8.11.020	Definitions.
8.11.030	License required for social games.
8.11.040	Application for license and investigation.
8.11.041	Application requirements.
8.11.042	Application renewal.
8.11.050	License fee.
8.11.060	Standards for issuance of license.
8.11.070	License not transferable.
8.11.080	Responsibilities of licensee.
8.11.081	Tournament format required.
8.11.090	Terms of license.
8.11.100	Revocation of license.
8.11.110	Suspension of license.
8.11.120	Penalties.
8.11.130	Savings clause.
8.11.140	Periodic review date.

Section 8.11.000 Title.

These regulations shall be known as the "City of Corvallis Social Gaming Code" and may be cited as such.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.010 Social games permitted.

Social games, other than a lottery, between players in a private business, private club or in a place of public accommodation where no house player, house bank or house odds exist and there is no house take (meaning no house income from the operation of the social game), are hereby permitted as provided herein.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.020 Definitions.

Unless the context requires otherwise, all terms set forth in this Ordinance shall have the same meaning as set forth in ORS 167.117.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.030 License required for social games.

Any person(s), business, private club, non-profit organization or place of public accommodation desiring to permit patrons or invitees to engage in any social game within the City of Corvallis shall acquire and maintain a valid license from the City. Licenses shall be granted only upon application to the City and upon approval by the City Manager.

Corvallis Municipal Code

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.040 Application for license and investigation.

Section 8.11.041 Application requirements.

Before a license for social gaming may be granted by the City Manager, an applicant must submit an application for a license to the City Manager with the following information and allow an investigation to be made thereon. A completed application form must include the true names, dates of birth, social security numbers and addresses of all persons financially interested in the business and/or all persons who are either on the board of directors of or hold offices in the entity or organization. The term "persons financially interested in the business" shall include all persons who share in the profits of the business where the social gaming activity is located, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owners of the building, fixtures or equipment used in the social game. The application shall also include the names, dates of birth, social security numbers and addresses of all tournament sponsors if different from persons financially interested in the business.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.042 Application renewal.

The grantee of a social gaming license must notify the City Manager within 10 days of any change in persons financially interested in the business or in the names of any persons who are either on the board of directors of or hold offices in the entity or organization and request a renewal of its license. At the time of such request, the applicant shall submit the information required by Section 8.11.041.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.050 License fee.

For each business or other entity or organization licensed, an annual \$50.00 fee shall be required. The City Council may modify this fee at any time.

(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.060 Standards for issuance of license.

The City Manager shall either approve the application and grant the license applied for, or deny the application and refuse to grant the license. The license shall not be granted, or it shall be temporarily revoked or suspended, if any applicant or any person(s) financially interested in the business, entity or organization have:

- 1) Supplied any false or misleading information in the application or omitted any requested information from the application;
- 2) Pledged no contest to or been convicted of any felony within the last ten (10) years;
- 3) Had a license in his/her name which was revoked or suspended three (3) times by the Oregon Liquor Control Commission, either of which was in the last (5) years;
- 4) Been convicted and is currently on parole for any crime involving or related to gambling;
- 5) Had two (2) or more convictions within five (5) years for gambling-related activities; or
- 6) Violated any provision of this Ordinance.

(Ord. 2005-05 §1, 04/04/2005)

Corvallis Municipal Code

Section 8.11.070 License not transferable.

No license shall be assigned or transferred; any such attempt shall void the license.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.080 Responsibilities of licensee.

It shall be the responsibility of the licensee to ensure that:

- 1) No form of unlawful gambling is permitted upon the licensed premises.
 - 2) Social games are conducted consistent with the provisions of state law, city ordinances and this section.
 - 3) There shall be no house player, house bank or house odds, and there shall be no house income from the operation of the social game.
 - 4) All social games shall be open to public inspection during all hours of operation.
 - 5) There are no off-premises signs advertising gambling, card playing, or social games.
 - 6) The playing of all social games shall be so arranged as to provide equal access and visibility to any interested party.
 - 7) No person under the age of eighteen (18) years shall be permitted to participate in a social game.
 - 8) No charge, other than an entry fee, shall be collected from a player for the privilege of participating in a game.
 - 9) No participant in a social game shall be charged a price for any consumer goods which is higher or lower than the price charged non-participants.
 - 10) This Chapter 8.11, the rules for the social games, and the social gaming licenses are posted in a conspicuous place near the area where the games are being played.
 - 11) The room or enclosure where the social games take place is open to free and immediate access by law enforcement officers. Doors leading into the room or enclosure remain unlocked during all hours of operation.
 - 12) No social game is conducted between the hours of 2:00 am and 10:00 am.
- (Ord. 2005-05 §1, 04/04/2005)

Section 8.11.081 Tournament format required.

All social games shall utilize a tournament format. A tournament format shall include:

- 1) A set entry fee.
 - 2) Players in card games shall receive in-game currency represented by chips (poker type) which shall be non-redeemable.
 - 3) Participants shall compete for awards corresponding to a participant's relative standing at the conclusion of the tournament.
 - 4) All entry fees and monies taken in for the tournament shall be paid back to the contestants at the conclusion of the tournament.
- (Ord. 2005-05 §1, 04/04/2005)

Section 8.11.090 Terms of license.

All licenses issued hereunder shall be for a period of one (1) year and shall be renewed on the first business day of January of each year. Licenses are nontransferable and must be reapplied for at least

Corvallis Municipal Code

thirty (30) days prior to the renewal date each year accompanied by the appropriate fee. All persons securing a license after first business day of January each year shall be required to pay the total annual fee of \$50.00. All renewals shall be approved by the City Manager.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.100 Revocation of license.

A license is subject to revocation at any time for violation of this Ordinance or any of the provisions of state law related to gambling. If at any time facts arise or become known to the City Manager which are sufficient to show violation of this ordinance or state law, the City Manager shall notify the licensee in writing that the license is to be revoked and that all social gaming activities must cease within fifteen (15) days. The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee's ability to perform the licensed activity without danger to property or public health or safety. The notice of revocation shall state the reason for the revocation, set a period of no less than 30 days before social gaming activities can recommence and inform the licensee of the procedures for filing an appeal.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.110 Suspension of license.

Upon determining that a licensed activity presents an immediate danger to person or property, the City Manager may suspend the license for the activity. The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the procedures for filing an appeal. The City Manager may continue the suspension for as long as the reason for the suspension exists or until a decision by the appellate authority on an appeal regarding the suspension concludes the matter.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.120 Penalties.

In addition to the suspension or revocation of any license hereunder, any licensee, firm, corporation, association or person(s) associated with licensee who violates any provision of this ordinance, may, upon conviction, be fined in the amount not to exceed Five Hundred and no/100 Dollars (\$500.00) for each violation. Each day that a violation is permitted to occur is considered a separate violation.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.130 Savings clause.

If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.
(Ord. 2005-05 §1, 04/04/2005)

Section 8.11.140 Periodic review date.

Corvallis Municipal Code

This ordinance shall be reviewed by the City Council on or about one year from the date this ordinance takes effect.
(Ord. 2005-05 §1, 04/04/2005)

Fairview

Chapter 5.10 SOCIAL GAMES

Sections:

- 5.10.010 Social games allowed.
- 5.10.020 License required.
- 5.10.030 Application.
- 5.10.040 License fees.

5.10.010 Social games allowed.

Pursuant to ORS 167.121, the city authorizes the playing or conducting of social games by charitable, fraternal and religious organizations. (Ord. 13-1999 § 3; Ord. 6-1987 § 4.A. Formerly 5.20.010)

5.10.020 License required.

No person shall conduct the playing of social games without having a license issued by the city. (Ord. 13-1999 § 3; Ord. 6-1987 § 4.B. Formerly 5.20.020)

5.10.030 Application.

Application for a social games license shall be made annually to the city. (Ord. 13-1999 § 3; Ord. 6-1987 § 4.C. Formerly 5.20.030)

5.10.040 License fees.

\$ 50⁰⁰ annually - as of June, 2011
A nonrefundable annual fee established by council resolution shall accompany the application.

A. Licenses issued are not transferable.

B. Licenses issued are valid for one year beginning July 1st.

C. A late charge equal to 50 percent of the original license fee shall be levied for each 60 days in which a license payment is delinquent. The unpaid license fee, including late payment charges, constitutes a debt to the city which the city may initiate legal action to collect. (Ord. 13-1999 § 3; Ord. 6-1987 § 4.D. Formerly 5.20.040)

This page of the Fairview Municipal Code is current through Ordinance 10-2009, passed November 4, 2009.

Disclaimer: The City Recorder's Office has the official version of the Fairview Municipal Code. Users should contact the City Recorder's Office for ordinances passed subsequent to the ordinance cited above.

City Website: <http://www.ci.fairview.or.us/>
(<http://www.ci.fairview.or.us/>)
City Telephone: (503) 674-6224
Code Publishing Company
(<http://www.codepublishing.com/>)

Garibaldi

SOCIAL GAMING

Sections:

- 5.25.010 Definitions.
- 5.25.020 License required.
- 5.25.030 License investigation.
- 5.25.040 License fee.
- 5.25.050 Annual fees for nonprofit organizations.
- 5.25.060 Criteria for grant or denial of an application.
- 5.25.070 License not transferable.
- 5.25.080 Responsibility of the licensee.
- 5.25.090 Regulations.
- 5.25.100 Suspension and revocation of license – Basis.
- 5.25.110 Advertising.
- 5.25.120 Revocation of license – Procedure.
- 5.25.130 Suspension of license – Procedure.
- 5.25.140 Appeal.

5.25.010 Definitions.

As used in GMC 5.25.020, except when the context indicates otherwise, the following mean:

A. "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree on an element of chance, notwithstanding that skill of the contestants also may be a factor.

B. "Gambling" means when a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event not under his/her control or influence or on an agreement or understanding that he/she or someone else will receive something of value in the event of a certain outcome. "Gambling" does not include:

1. Social games; or
2. Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guaranty and life, health or accident insurance.

C. "Gambling device" means any device, machine, paraphernalia or equipment that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Amusement devices which do not return to the operator or player anything but free additional games or play shall not be considered to be gambling devices.

D. "Player" means a person who engages in any form of gambling solely as a contestant or bettor without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

E. "Profits from gambling" means when a person, other than as a player, accepts or receives money or other property pursuant to an agreement or understanding with another person whereby the person participates or is to participate in the proceeds of gambling.

F. "Social game" means a game involving the playing of cards only, which does not include lotteries, between players in a private business, private club, or place of public business or public accommodation where no house player, house bank, or house odds exist, and there is no house income from the operation of the social game.

G. "Social gaming table" means any table used or intended to be used as a card table for the playing of social games only and the use of which is available to the public. This definition shall apply to any bona fide nonprofit society, club or fraternal organization as defined in GMC 5.25.050. [Ord. 198 § 1, 1992.]

5.25.020 License required.

No business or other entity or organization shall allow any social game on its premises without first applying for and obtaining a social gaming license from the council. The grant of a social gaming license by the council shall authorize the operation of only one social gaming table by a business, unless the council expressly authorizes the operation of additional tables. [Ord. 198 § 2, 1992.]

5.25.030 License investigation.

A. Before a license for social gaming may be granted by the council, an applicant must submit to the city recorder the following information and allow an investigation to be made thereon: the true names, dates of birth, social security numbers and addresses of all persons financially interested in the business and/or of all persons who are either on the board of directors of or hold offices in the other entity or organization.

B. As part of the application for a social gaming license, the applicant must pay to the city recorder a nonrefundable fee or the actual cost to the city of the investigation, whichever is greater; such fee to be established by resolution of the city council.

C. The grantee of a social gaming license must notify the city recorder within 10 days of any change in the persons financially interested in the business or in the names of any persons who are either on the board of directors of or hold offices in the other entity or organization and request a renewal of its license. At the time of such request,

the applicant shall submit the information required by subsection A of this section and investigation fees as required by subsection B of this section.

D. The term "persons financially interested in the business" shall include all persons who share in the profits of the business where the social gaming activity is located, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owners of the building, fixtures or equipment used in the social game. [Ord. 198 § 3, 1992.]

5.25.040 License fee.

For each business or other entity or organization licensed, except as provided for in GMC 5.25.050, an annual fee shall be required. This fee shall be required in addition to any investigation fees required by GMC 5.25.030, and shall be established by resolution of the council. [Ord. 198 § 4, 1992.]

5.25.050 Annual fees for nonprofit organizations.

A. A nonprofit society, club or fraternal organization, having adopted bylaws and having duly elected directors and members, may be granted a social game license at an annual fee to be established by resolution of the council, if:

1. The tables are for the exclusive use of members of the society, club or fraternal organization;
2. No charge is made for participation;
3. The conduct of a cardroom is not the primary reason for the existence of the society, club or fraternal organization; and
4. The society, club or fraternal organization has been in continuous existence, actively conducting its affairs in the city for a period of two years immediately preceding application for a license.

B. The annual fee is payable on or before July 1st of each year. The annual fee shall be prorated for new applicants for the period of January 1st to June 30th to one-half the annual fee. [Ord. 198 § 5, 1992.]

5.25.060 Criteria for grant or denial of an application.

A license shall not be granted to an applicant if:

- A. Any person financially interested in the business has been convicted of a felony within the last 10 years;
- B. Any person financially interested in the business has been convicted of five or more misdemeanors, the last of which was within the last five years;
- C. Any person financially interested in the business has been convicted of or has forfeited bail for any crime involving gambling within the last five years;
- D. Any person financially interested in the business has, within the last five years, been directly or indirectly involved in a forfeiture proceeding regarding a gambling

device, as defined by state law, where such gambling device has been ordered destroyed;

E. Any false or misleading information is supplied in the application or any information requested is omitted from the application;

F. Any person financially interested in the business has had a license in his/her name revoked or suspended three or more times by the Oregon Liquor Control Commission, the last of which was in the last five years;

G. Any person financially interested in the business or that person's employee has violated any provision of this chapter;

H. Any person financially interested in the business has committed any other conduct involving moral turpitude within the last five years. [Ord. 198 § 6, 1992.]

5.25.070 License not transferable.

No license shall be assignable or transferable. [Ord. 198 § 7, 1992.]

5.25.080 Responsibility of the licensee.

Where a social game is allowed, the license grantee shall have the duty to supervise the games and see that they are played strictly in accordance with this chapter and state law. [Ord. 198 § 8, 1992.]

5.25.090 Regulations.

No person shall operate a social game and no business shall allow the operation of a social game in violation of any of the following regulations and rules:

A. There shall be a limit of any bet of \$10.00 and a three-raise limit on any social game. No backup bets shall be allowed.

B. Social games conducted or operated in the city under the provisions of state law and code and ordinances of the city.

C. All rooms where a social game is permitted shall be open to police inspection during the hours of operation. Doors leading into the room must remain unlocked during the hours of operation. Social game licenses shall be available for inspection during the hours of operation.

D. No license grantee shall participate in a social game or procure players, back a social game, farm out a social game, assign or sublet a social game otherwise lawfully permitted on the premises in which the license grantee has an interest or works, other than to allow or designate a person to operate the social game activity as that term is defined in GMC 5.25.010.

E. Social games shall be arranged so they cannot be seen from the street or sidewalk.

F. No person under the age of 21 years shall be permitted to participate in a social game or to enter or remain upon the premises where a social game is being operated.

G. No charge shall be collected from a player for the privilege of participating in a game.

H. No participant in a social game shall be charged a price for any consumer goods that is higher or lower than the price charged nonparticipants.

I. No person shall extend credit to any participant in a social game.

J. In the game of 21 (blackjack), no person may be denied the right to deal. It shall be grounds for immediate suspension of a license. [Ord. 198 § 9, 1992.]

5.25.100 Suspension and revocation of license – Basis.

The city recorder shall temporarily suspend any social game license if:

A. Any person financially interested in the business has been previously convicted of a felony;

B. Any person financially interested in the business has been convicted of five or more misdemeanors;

C. Any person financially interested in the business has been convicted of or forfeited for any crime involving gambling;

D. Any person financially interested in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;

E. Any false or misleading information is supplied in the application or any information requested is omitted from the application;

F. Any person financially interested in the business has had a license in his/her name revoked or suspended three or more times by the Oregon Liquor Control Commission;

G. Any person financially interested in the business or any employee violates any provision of this chapter; or

H. Any person financially interested in the business commits any other conduct involving moral turpitude. [Ord. 198 § 10, 1992.]

5.25.110 Advertising.

Signs advertising gambling, the playing of cards, advertising forms of card playing, enticing participants or procuring players, are prohibited. [Ord. 198 § 11, 1992.]

5.25.120 Revocation of license – Procedure.

The city recorder, upon determining that a licensed activity, establishment or device is in violation of this chapter, other city ordinances or state or federal law, shall notify the licensee in writing that the license is to be revoked. The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee's ability to perform the licensed activity without danger to property or public health or safety. The notice shall be given at least 30 days. The city recorder may discontinue the

revocation proceedings. A notice of the revocation shall state the reason for the revocation and inform the licensee of the appeal provisions of GMC 5.25.140. [Ord. 198 § 12, 1992.]

5.25.130 Suspension of license – Procedure.

Upon determining that a licensed activity or device presents an immediate danger to persons or property, the city recorder may suspend the license for the activity or device. The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the provisions for appeal under GMC 5.25.140. The city recorder may continue suspension as long as the reason for the suspension exists or until a determination on appeal regarding the suspension is made under GMC 5.25.140. [Ord. 198 § 13, 1992.]

5.25.140 Appeal.

A. An applicant whose application to the city council for a license has been denied or a license grantee whose license has been denied renewal or has been suspended or is to be revoked may appeal in writing to the council within 30 days after the notice of denial, suspension or revocation is mailed. The appeal shall be filed with the city recorder and shall state:

1. The name and address of the appellant.
2. The nature of the determination being appealed.
3. The reason the determination should be reversed on appeal.

B. An appellant who fails to file such a statement within the time permitted waives his/her objections and the appeal shall be dismissed. If a notice of revocation does not take effect until final determination of the appeal, the council shall hear and determine the appeal on the basis of the written statement and such additional evidence as it considers appropriate. The appellant shall be provided at least 14 days' written notice of a hearing on the appeal.

C. At the hearing the appellant may present testimony and oral argument, personally or by counsel, and additional evidence. The rules of evidence as used by courts of law do not apply and the decision of the council after the hearing is final. [Ord. 198 § 14, 1992.]

John Kelley

From: Berman, Ashley [Ashley.Berman@greshamoregon.gov]
Sent: Friday, July 08, 2011 10:28 AM
To: 'bscheiderich@beavertonoregon.gov'; John Kelley
Subject: RE: social gaming ordinance
Attachments: Social Games Oregon and Gresham Law - Summary.pdf; Social Games Application - Updated June 2011.pdf

Bill and John:

Gresham

Gresham allows social games by ordinance. The licensing staff were having a hard time explaining what the rules for social games were, so we recently developed the attached handout for public distribution to interested parties. It lists the municipal code regulations on one side and the state law on the other. I also included Gresham's social games license application.

We had one problem a few years ago where a person applied for an obtained a social games license and the City did not verify whether the applicant was a 501(c)(3). Many people complained about the establishment and then there was a random shooting that occurred there that shined the spotlight really brightly.... Eventually we revoked the license when the establishment could not provide 501(c)(3) status and the Oregon State Police notified us that they were operating in violation of state law.

Our new process makes sure that such non profit status is verified upon application. Generally, the fraternal clubs are the organizations that apply for social games licenses. Several have been issued in Gresham. There have been no complaints that I am aware of related to the fraternal clubs operation of social games (e.g. Elks Club).

Ashley

*Assistant City Attorney
City of Gresham
1333 NW Eastman Parkway
Gresham, OR 97030
Phone: 503-618-2786
Email: ashley.berman@greshamoregon.gov*

From: Bill Scheiderich [mailto:bscheiderich@beavertonoregon.gov]
Sent: Tuesday, July 05, 2011 1:11 PM
To: OCAA List
Subject: [ocaa] social gaming ordinance

Please tell me if your city allows social gaming by ordinance, and if so what regulations were enacted as to same and whether they have been a source of complaints. Thanks.

Bill Scheiderich

Acting City Attorney
City of Beaverton | PO Box 4755 | Beaverton OR 97076-4755
p: 503.526.2215 | f: 503.350.4033
e-mail: bscheiderich@beavertonoregon.gov

**BINGO AND SOCIAL GAMES
OREGON LAW AND GRESHAM REVISED CODE**

GRESHAM REVISED CODE

9.35.010 Bingo and Social Games. The city authorizes the playing or conducting of bingo and social games in accordance with state law by non-profit charitable, fraternal and religious organizations that have received recognition by the Internal Revenue Service (IRS) of exempt status under sections 501(c)(3) or 501(c)(8) of the IRS Code.

9.35.020 License Required. (1) No person shall conduct the playing of bingo or social games without having a social games license issued by the manager. ***

9.35.030 Application. The application shall be made on a form provided by the manager and shall include payment of the required fee and proof of written determination by the IRS of exempt status.

For definitions of bingo and social games, see reverse definitions under State Law.

APPLYING FOR A GRESHAM SOCIAL GAMES LICENSE

To apply for a social games license, a person must submit:

- an application
- proof of written determination by the IRS of exempt status under 501(c)(3) or 501(c)(8) of the IRS Code, and
- payment of the social games license fee.

Licenses are valid for the term of the person's business license and must be renewed annually.

NOTE: All social games operations in Gresham must comply with Oregon law. Issuance of a social games license in no way signifies or represents that a person is operating its social game in compliance with Oregon law. Failure to comply with Oregon law will result in revocation of the social games license and any other enforcement or legal action permissible under the law.

Contact Gresham Business Licensing with questions: 503- 503-618-2370

SEE REVERSE FOR STATE OF OREGON REGULATIONS

BINGO AND SOCIAL GAMES OREGON LAW AND GRESHAM REVISED CODE

The City of Gresham authorizes the playing of bingo and social games if done in accordance with the Oregon Revised Statutes and the Gresham Revised Code.

OREGON LAW

ORS 167.117(1) Bingo or lotto (Definition) “Bingo or lotto” means a game, played with cards bearing lines of numbers, in which a player covers or uncovers a number selected from a container, and which is won by a player who is present during the game and who first covers or uncovers the selected numbers in a designated combination, sequence or pattern.

ORS 167.117(21) Social Games (Definition) “Social game” means: ***

(b) If authorized pursuant to ORS 167.121, a game, other than a lottery, between players in a private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

ORS 167.121 Local regulation of social games. Counties and cities may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation. Such ordinances may provide for regulation or licensing of the social games authorized.

ATTORNEY GENERAL’S OPINION SUMMARY CONCLUSION (01/22/2010)

Private businesses, private clubs or places of public accommodation that allow social games and their personnel may not: (a) derive any income from the game (including charging cover, usage or rental charges for the place or equipment), or extract any money directly from the participants other than for the sale of food and drink on the same terms as all other patrons (even if an establishment sells food and drink on the same terms to all patrons, if it charges inflated prices in relation to other similar establishments and its only patrons are social game players that may be evidence that the establishment is in fact making income from operation of social games); (b) compete or bet in the game; (c) act as “banker,” by being involved in the financial aspects of a social game, including selling, keeping and redeeming chips even if it makes no profit from doing so; or (d) have any advantage or set the ratio between the payout and bet amount;

- Anyone who attempts to operate a social game for profit – no matter where – will be deemed to be the “house” and subject to the same prohibitions;
- A person who invites friends in for a social game in the person’s home may bet in the game as long as the person is not operating the game for profit and may arrange the game and provide the necessary equipment as long as the person receives no fee or remuneration for doing so and plays on equal terms with the other players;
- Any social game players who deal in a game where the dealer has an inherent advantage, such as blackjack, must pass the deal and receive no fee or remuneration for dealing; and,
- All persons who bet in a social game must stand to gain only their own personal gambling winnings and no other profit from the game.

CALL ORE. STATE POLICE, GAMING DIV. WITH QUESTIONS: 503-378-6999

SEE REVERSE FOR CITY OF GRESHAM REGULATIONS



CITY OF GRESHAM

Finance Management Services
Business License Section
1333 NW Eastman Parkway
Gresham, OR 97030-3813

Bingo and Social Games

9.35.010 Bingo and Social Games. The city authorizes the playing or conducting of bingo and social games in accordance with state law by non-profit charitable, fraternal and religious organizations that have received recognition by the Internal Revenue Service (IRS) of exempt status under sections 501(c)(3) or 501(c)(8) of the IRS Code.

I. Fees:

Bingo and Social Games: \$25.00 per year

Late fee: \$5.00 per account for each 30 days in which the payment is delinquent, or, 10% per annum on the delinquent amount, whichever is greater.

Business Name: _____

Business Address _____

Business License # : _____

Type of Social Game: _____

			Fee	Total Fees Due
	Bingo and/or Social Games		X \$ 25.00	\$

Please submit payment to the **City of Gresham** for the Total amount due.

II. A copy of the applicant's written determination by the IRS of exempt status must be attached.

III. I certify the above information is accurate and truthful.

Signature (Owner or Contact Person):

Date:

--	--

APPLYING FOR A GRESHAM SOCIAL GAMES LICENSE

To apply for a social games license, a person must submit:

- an application
- proof of written determination by the IRS of exempt status under 501(c)(3) or 501(c)(8) of the IRS Code, and
- payment of the social games license fee.

Licenses are valid for the term of the person's business license.

NOTE: All social games operations in Gresham must comply with Oregon law. Issuance of a social games license in no way signifies or represents that a person is operating its social game in compliance with Oregon law. Failure to comply with Oregon law will result in revocation of the social games license and any other enforcement or legal action permissible under the law.

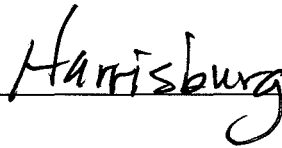
For further assistance please contact us at 503 618-2370.

For Office Use Only

Comments & Date:

	Business Licensing	<input type="checkbox"/> Application <input type="checkbox"/> Payment of Fee <input type="checkbox"/> Written Determination of IRS Exempt status Date _____

Other Notes/Comments:



**Chapter 5.15
SOCIAL GAMES**

Sections:

- 5.15.010 Gambling prohibited.
- 5.15.020 Definitions.
- 5.15.030 Social games.
- 5.15.040 Application for license.
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- 5.15.080 Granting and denial of application for premises license.
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5.15.010 Gambling prohibited.

No person shall participate in, operate, or assist in operating a gambling game or activity, including a lottery, except for the estate lottery operated under the provisions of the Oregon Constitution. No person shall possess any property, instrument or device designated or adapted for use in any such gambling activity. Such property, instrument, or device is a nuisance and may be summarily seized by a police officer. Seized property shall be placed in the custody of the Linn County Sheriff's Department. On conviction of a person owning or controlling such property for a violation of this section, the municipal judge shall order the property confiscated and destroyed. [Ord. 831 § 1, 2005.]

5.15.020 Definitions.

As used in this chapter, except when the context indicates otherwise, the following mean:

"Card room" means any space, room or enclosure furnished or equipped with a table used or intended to be used as a card table for playing a social game and the use of which is available to the public. This definition shall not apply to a bona fide nonprofit society, club, or fraternal, religious, civic or educational organization as defined in HMC 5.15.070.

"Gambling" means when a person stakes or risks something of value on the outcome of a contest of chance or a future contingent event not under the person's control or influence on an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome. Gambling does not include:

- a. Social games;
- b. Bona fide business transactions valid under the law of contracts for the purchase or sale at a future date of securities or commodities and agreements to compensate for loss caused by the happening of chance, including but not limited to contracts of indemnity or guaranty and life, health or accident insurance; or
- c. Bingo or lotto operated by a charitable, fraternal or religious organization when no person other than the organization or a player profits in any manner from the operation of the lottery and when the organization has complied with the provisions of ORS 167.118 and City ordinances and regulations.

"House income" means the receipt of anything of value derived from, but not limited to, any of the following:

- a. Renting space, chips, equipment or other paraphernalia;
- b. Raised or excessive charges for services, refreshments or any other item sold or rented in a place where a social game is licensed to be conducted or sold or rented to any player of a social game;
- c. Placing a specific charge on a social game or on a player of a social game;
- d. Use of any technique or device that inures to the benefit of a person, private business, private club, place of public accommodation, organization, corporation, partnership, joint venture, or any combination of individuals having a collective capacity.

"Social game" means:

- a. A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from operation of the game; and
- b. A game, other than a lottery, between players in a private business, private club, or place of public accommodation when no house player, house bank or house odds exist and there is no income from operation of the game.

"Table" means a device or thing on which one social gambling game is conducted. One or more social gambling games may be conducted on the same table, but not simultaneously, in whole or in part.

"Tournament" means a game, or series of games, in which a group of three or more players pay a one-time amount into a fund which will be given to the winner or divided among the top players of the tournament upon the completion of the game or games.
[Ord. 831 § 2, 2005.]

5.15.030 Social games.

Social games are authorized to be played by those who have attained the age of majority and may be conducted in a private business, private club, or in a place of public accommodation, subject to the provisions of State and local law. [Ord. 831 § 3, 2005.]

5.15.040 Application for license.

From and after this date, it shall be unlawful for any person, firm or corporation 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 having a valid license from the City. License shall be granted only to persons of ascertained good moral character and upon the approval of the Council. [Ord. 831 § 4, 2005.]

5.15.050 License investigation.

An applicant for a cardroom license shall submit an application under oath of the City Recorder. The application shall include the true names and addresses, personal histories and business experiences, fingerprints, photographs and past criminal records of all persons who are financially interested in the business and any other matters the City Administrator considers necessary. The term "person financially interested" includes all persons who share in the profits of the business. A \$25.00 nonrefundable investigation fee also shall accompany the application. [Ord. 831 § 5, 2005.]

5.15.060 Special event license.

A bona fide nonprofit society, club or fraternal organization as defined in HMC 5.15.070 shall submit its application for a card room license to the recorder on the application form provided which shall include, among others, the name of the organization, the date and place for the proper event, and whether or not the general public will be allowed to attend. No investigation fee shall be required. [Ord. 831 § 6, 2005.]

5.15.070 Exceptions to license.

A nonprofit society, club or fraternal, religious, civic or educational organization having adopted bylaws and duly elected directors and members may be granted a cardroom license at an annual fee of \$10.00 when the tables are for the exclusive use of members of the organization and no charge is made for participation. A license, as provided by this section, may be granted only if the organization has been in continuous existence and actively conducting its affairs in the City for a period of two years immediately preceding application for a license and only if the conduct of the cardroom is not the primary reason for existence of the organization. [Ord. 831 § 7, 2005.]

5.15.080 Granting and denial of application for premises license.

When reviewing an application for a premises license, the City Council shall consider:

1. Applicant's criminal record, if applicable;
2. Completeness, authenticity, and accuracy of the application;
3. Prior gaming violation; and
4. Evidence of good character. [Ord. 831 § 8, 2005.]

5.15.090 Suspension and revocation of premises license.

A premises license shall be temporarily suspended if there are reasonable grounds to suspect that the holder of the premises license has violated any provision of this chapter or has committed any act that would have denied him or her from receiving the initial license under HMC 5.15.080. [Ord. 831 § 9, 2005.]

5.15.100 Hearing on revocation of premises license.

Any premises licensee who has been temporarily suspended pursuant to HMC 5.15.090 shall be entitled to a hearing to be held by the City Council. [Ord. 831 § 10, 2005.]

5.15.110 Regulations.

It shall be unlawful to operate a card room in violation of any of the following regulations and rules:

1. All rules and regulations of the State of Oregon, including the Oregon Liquor Control Commission and the Oregon State Lottery Commission, shall be complied with.
2. With respect to the social games set forth in HMC 5.15.030, and except for organizations defined under HMC 5.15.070, there shall be a limit on any bet of \$25.00 and a \$5.00 raise limit. The maximum amount to be paid to participate in a tournament shall be \$50.00, including a participation fee of not more than \$10.00.
3. Licensees and permittees holding or obtaining licenses and permits under the provisions of this chapter shall thereby automatically agree to be bound by and observe each and all of the regulations and rules established thereby.
4. Each and all other 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 provisions of the laws of the State of Oregon and the City of Harrisburg.
5. All card rooms shall be open to police inspection during all hours of operation. Card room licenses and work permits shall be available for inspection during all hours of operation.
6. No licensee or permittee shall participate in any card game nor procure players, back, farm out, assign or sublet any card games lawfully permitted under this chapter on the premises in which said licensee or permittee has any interest or works.
7. The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the card room must remain unlocked during all hours of operations.
8. No person under the age of 21 shall be permitted to participate in any card game or to enter or remain upon such premises.
9. No charge shall be collected from any player for the privilege of participating in any game, except that a player can be charged a fee not to exceed \$10.00 to participate in a tournament.

10. No premises licensee shall permit persons who are visibly intoxicated to participate in gaming activities. The licensee shall supply the police department with the hours of operation of the establishment. These hours must be displayed in public view in the premises at all times.

11. No alcoholic drinks or beverages shall be purchased for or furnished at no cost to the players by a premises owner, manager, employee or supervisor.

12. No guns or firearms of any kind will be allowed on anyone's person at the gaming table, except as carried by official law enforcement officers.

13. A player shall not participate in more than two tournaments at a cardroom per day. [Ord. 831 § 11, 2005.]

5.15.120 Expiration of table license.

All table licenses and applications for table licenses shall expire at midnight December 31st each year. [Ord. 831 § 12, 2005.]

5.15.130 Payment of license fees.

License fees for table licenses shall, when not issued in January of the license year, be prorated on a calendar year basis for the months and part of month remaining in the license year. All licenses shall be effective when issued. [Ord. 831 § 13, 2005.]

5.15.140 License fees.

1. The City Recorder shall collect license fees contained in subsection (2) of this section before he shall issue any license.

2. License fees shall be as follows:

Card rooms, for each table: \$12.00 per year.

Future license fees may be set by Council resolution. [Ord. 831 § 14, 2005.]

5.15.150 Names of employees.

On request from a law enforcement officer, a cardroom licensee shall make available the full name and address of any cardroom employee or former employee. [Ord. 831 § 15, 2005.]

5.15.160 Issuance of licenses and permits.

The recorder may issue the licenses and permits provided by this chapter on proper application, approval, and fee payment. [Ord. 831 § 16, 2005.]

5.15.170 Penalty.

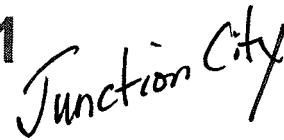
Violation of, or failure to comply with, any provision of this chapter is punishable upon conviction by a fine not to exceed \$1,000. [Ord. 831 § 17, 2005.]

5.15.180 Severability.

The sections of this chapter are severable. The invalidity of a section shall not affect the validity of the remaining sections. [Ord. 831 § 18, 2005.]

ORDINANCE No. 1161

Allowing Social Games



AN ORDINANCE DEFINING AND REGULATING SOCIAL GAMES IN THE CITY OF JUNCTION CITY, PROVIDING FOR LICENSING AND FEES; PROVIDING PENALTIES FOR THE VIOLATION THEREOF; REPEALING ORDINANCES NO. 645 AND NO. 870; AND DECLARING AN EMERGENCY.

The City of Junction City does ordain as follows:

Section 1. Social Games Permitted. Social Games as defined and authorized under ORS 167.117, other than lotteries, between players in a private business, in a private club, or in a place of public accommodation where no house player, house bank, or house odds exist and there is no house income from the operation of the social games, are hereby authorized.

Section 2. Definitions:

(A) **House.** The owner or owners of a business, private club, or place of public accommodation where one or more social games occur.

(B) **Non-Profit Organization.** Non-profit organization means any persons or entities organized and existing for charitable, benevolent, eleemosynary, humane, philanthropic, educational, civic, or other non-profit purposes. The fact that an organization does not qualify for charitable deduction for tax purposes or that the organization is not otherwise exempt from payment of federal income taxes, pursuant to the Internal Revenue Code of 1986, as amended, constitutes prima facie evidence that the organization is not a non-profit organization.

(C) **Player.** A person who engages in any form of gambling solely as a contestant or better, without receiving or becoming entitled to receive any profit therefrom, other than personal gambling winnings, and without otherwise rendering any material assistance to the House, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants is a person who does not otherwise render material assistance to the establishment, conduct, or operation thereof by performing, with or without fee remuneration, acts directed toward the arrangement or facilitation of the game, permitting the use of premises therefore and supplying cards or other equipment used therein.

(D) **Residential Establishments.** Residential establishments include retirement centers, nursing homes, or other residential dwellings or facilities.

(E) **Social Gaming Organizer.** A person who organizes the social games or Texas Holdem Tournaments who is not the House and is not an employee, representative, agent, director, officer, shareholder, partner, or member of the House.

Section 3. License Required for Social Games.

(A) A social gaming license shall not be required for social games conducted in residential establishments or by non-profit organizations.

(B) Except as provided in Section 3(A), the House and the Social Gaming Organizer, if any, shall each be required to obtain a social gaming license, prior to organizing, conducting, or hosting social games.

Section 4. Application Requirements. Before a social gaming license may be granted, an applicant must submit an application for a license to the City Recorder and sign a written consent for an investigation to be made thereon. A completed application form must include the true names, dates of birth, social security numbers and addresses of all of the owner(s) of the House and, if the owner of the House is a corporation or limited liability company, all shareholders or members who own more than a twenty percent (20%) interest therein, all managers, directors, and partners or officers, as well as the local manager of the House. The same information shall be provided for any Social Gaming Organizer.

Section 5. Licenses Granted. The social gaming license shall be granted if:

(A) The applicant has not:

- (1) Been previously convicted of a felony involving moral turpitude, including, but not limited to fraud, forgery, theft, burglary, illegal drugs, and crimes against persons, such as robbery, sex offenses or assaults; or
- (2) Been convicted of five misdemeanors in the last five years; or one misdemeanor for any of the offenses identified in subsection (1) above, if they were prosecuted or settled as a misdemeanor offense; or
- (3) Been convicted of or forfeited bail for any crime involving gambling.

(B) The application for the license contains no false or misleading information; and

(C) The applicant pays to the City the annual license fee provided in Section 6.

Section 6. License Fee and Renewal. The annual social gaming license fee shall be set by resolution and the license shall be renewed annually not later than July 1 of each year.

Section 7. License Not Transferable. No license shall be assigned or transferred.

Section 8. Responsibility of Licensee.

(A) It shall be the responsibility of the licensee to ensure that:

- (1) No form of unlawful gambling is permitted upon the licensed premises.
- (2) Social games are conducted consistent with the provisions of state and federal laws, City ordinances, and this section.
- (3) There shall not be a House bank, House odds, or House income from the operation of a social game.
- (4) Only Players who gamble at a social game of chance on equal terms with the other participants shall be permitted to play.
- (5) All social games shall be open to public inspection during all hours of operation.
- (6) The playing of all social games shall be so arranged as to provide equal access and visibility to any interested party.
- (7) No person under the age of eighteen (18) years shall be permitted to participate in a social game.
- (8) No participant in a social game shall be charged a price for any consumer goods, which is higher or lower than the price charged non-participants.
- (9) The room or enclosure where the social games take place shall be open to free and immediate access by law enforcement officers at all times social games are being conducted. Doors leading into the room or enclosure shall remain unlocked during all hours of operation.
- (10) No tournament may charge a Player a total "buy in" fee greater than \$50 in a 24-hour period. No other winnings or compensation to the Players is permitted, other than the "buy in" fee.

Section 9. Texas Holdem Tournament Fee. A Social Gaming Organizer who organizes a Texas Holdem Tournament and is a separate person or entity from the House, may charge a fee of not to exceed \$5.00 per player for each Texas Holdem Tournament, provided that no portion of such fee is paid, directly or indirectly to the House.

Section 10. License Suspension.

(A) A social gaming license may temporarily be suspended if the House or Social Gaming Organizer licensee:

- (1) Is convicted of a disqualifying offense; or
- (2) Violates any provision of this ordinance.

Section 11. Appeals. Appeals from the temporary suspension may be made by the license holder to the City Council, if the notice of appeal is filed with the City Recorder within 10 days of notice of temporary suspension. If no appeal is filed, the suspension shall remain in affect. A temporary suspension shall continue until it is either reversed or made permanent by the City Council.

Section 12. Revocation. Permanent revocation may be made only by the City Council, and such revocation shall take place at a City Council meeting only after the licensee has been served notice at least 10 days prior to the meeting. Such notice shall include the time and date of the meeting, the grounds upon which the permanent revocation is sought, and it shall inform the licensee that the licensee shall have the right to appear at a public hearing, introduce evidence, be represented by legal counsel at licensee's expense, and cross exam evidence against the licensee. Notice shall be deemed to have been received by the licensee if the City Recorder mails such notice to the address listed by the licensee on his application for the license.

Section 13. Penalties. Violation of or failure to comply with any provision of this ordinance is punishable, upon conviction, by a fine not to exceed \$500.00, or imprisonment in jail not to exceed 180 days, or both such fine and imprisonment. Each game conducted in violation of this ordinance shall constitute a separate violation.

Section 14. Non-Profit Organizations. Non-profit organizations, as defined in ORS 167.117 (4)(d), may operate social games, in accordance with all state statutes and are not required to obtain a social gaming license from the City. The regulation of non-profit gaming for fundraising is the responsibility of the Department of Justice, and those organizations which desire to utilize bingo, raffle, and/or Monte Carlo gaming as fundraisers shall obtain a charitable gaming license from the Department of Justice.

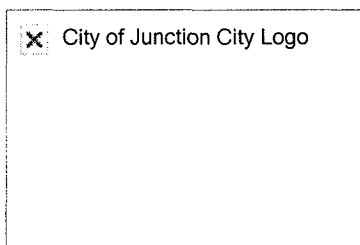
Section 15. Emergency Clause. Whereas the provisions set forth in this ordinance are necessary to provide for the health, safety, and welfare of the citizens of the City of Junction City, therefore, an emergency is hereby declared to exist, and this ordinance shall be in full force and effect upon its passage by the Council and its approval by the Mayor.

Passed by the Council this 14th day of November 2006.

Approved by the Mayor this 14th day of November 2006.

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**CITY OF MYRTLE CREEK
ORDINANCE NO. _____**

AN ORDINANCE REGARDING SOCIAL GAMING

The City of Myrtle Creek ordains as follows:

Section 1. Social games permitted. Social games, other than a lottery, between players in a private business, private club or in a place of public accommodation where no house player, house bank or house odds exist and there is no house take (meaning no house income from the operation of the social game), are hereby permitted as provided herein.

Section 2. Definitions. Unless the context requires otherwise, all terms set forth in this Ordinance shall have the same meaning as set forth in ORS 167.117.

Section 3. License required for social games. Any person(s), business, private club, non-profit organization or place of public accommodation desiring to permit members, patrons or invitees to engage in any social game within the City of Myrtle Creek shall acquire and maintain a valid license from the City. Licenses shall be granted only upon application to the City and upon approval by the City Administrator.

Section 4. Application for license and investigation. Before a license for social gaming may be granted by the City Administrator, an applicant must submit an application for a license to the City Administrator with the following information and allow an investigation to be made thereon. A completed application form must include the true names, dates of birth, and addresses of all persons financially interested in the business and all persons who are on the board of directors of or hold offices in the entity or organization. The term "persons financially interested in the business" shall include all persons who share in the profits of the business where the social gaming activity is located, on the basis of gross or net revenue, including landlords, lessors, lessees, and the owners of the building, fixtures or equipment used in the social game. The application shall also include all names, dates of birth, and addresses of any tournament sponsors if different from persons financially interested in the business.

Section 5. Application renewal. The grantee of a social gaming license must notify the City Administrator within 10 days of any change in persons financially interested in the business or in the names of any persons who are either on the board of directors of or hold offices in the entity or organization and request a renewal of its license. At the time of such request, the applicant shall submit the information required by Section 4.

Section 6. License fee. For each business or other entity or organization licensed, a \$100.00 fee shall be required upon each application for issuance of a license and each license renewal. The City Council may modify this fee at any time.

Section 7. **Standards for issuance of license.** The City Administrator shall either approve the application and grant the license applied for, or deny the application and refuse to grant the license. The license shall not be granted, or it shall be temporarily revoked or suspended, if any applicant or any person(s) financially interested in the business, entity or organization have:

- 1) Supplied any false or misleading information in the application or omitted any requested information from the application;
- 2) Pleaded no contest to or been convicted of any felony within the last ten (10) years;
- 3) Had a license in his/her name which was revoked or suspended three (3) times by the Oregon Liquor Control Commission, either of which was in the last (5) years;
- 4) Been convicted and is currently on parole for any crime involving or related to gambling;
- 5) Had two (2) or more convictions within five (5) years for gambling-related activities; or
- 6) Violated any provision of this Ordinance.

Section 8. **License not transferable.** No license shall be assigned or transferred; any such attempt shall void the license.

Section 9. **Responsibilities of licensee.** It shall be the responsibility of the licensee to ensure that:

- 1) No form of unlawful gambling is permitted upon the licensed premises.
- 2) Social games are conducted consistent with the provisions of state law, city ordinances and this section.
- 3) There shall be no house player, house bank or house odds, and there shall be no house income from the operation of the social game.
- 4) There are no off-premises signs advertising gambling, card playing, or social games.
- 5) No person under the age of eighteen (18) years shall be permitted to participate in a social game.
- 6) No charge shall be collected from a player for the privilege of participating in a game.
- 7) No participant in a social game shall be charged a price for any consumer goods which is higher or lower than the price charged non-participants.
- 8) The rules for the social games, and the social gaming licenses are posted in a conspicuous place near the area where the games are being played.

9) The room or enclosure where the social games take place is open to free and immediate access by law enforcement officers. Doors leading into the room or enclosure remain unlocked during all hours of operation.

10) No social game is conducted between the hours of 2:00 am and 10:00 am.

Section 10. **Terms of license.** All licenses issued hereunder shall be for a period of up to one (1) year and shall be renewed on the first business day of January of each year \$100.00. Licenses are nontransferable and must be reapplied for at least thirty (30) days prior to the renewal date each year accompanied by the appropriate fee. All persons securing a license after first business day of January each year shall be required to pay the total annual fee of \$100.00. All renewals shall be approved by the City Administrator.

Section 11. **Revocation of license.** A license is subject to revocation at any time for violation of this Ordinance or any of the provisions of state law related to gambling. If at any time facts arise or become known to the City Administrator which are sufficient to show violation of this ordinance or state law, the City Administrator shall notify the licensee in writing that the license is to be revoked and that all social gaming activities must cease within fifteen (15) days. The violations need not lead to a conviction, but must establish a reasonable doubt about the licensee's ability to perform the licensed activity without danger to property or public health or safety. The notice of revocation shall state the reason for the revocation, set a period of no less than 30 days before social gaming activities can recommence and inform the licensee of the procedures for filing an appeal.

Section 12. **Suspension of license.** Upon determining that a licensed activity presents an immediate danger to person or property, the City Administrator may suspend the license for the activity. The suspension shall take effect immediately on notice being received by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the procedures for filing an appeal. The City Administrator may continue the suspension for as long as the reason for the suspension exists or until a decision by the appellate authority on an appeal regarding the suspension concludes the matter.

Section 13. **Penalties.** In addition to the suspension or revocation of any license hereunder, any licensee, firm, corporation, association or person(s) associated with licensee who violates any provision of this ordinance, may, upon conviction, be fined in the amount not to exceed Five Hundred and no/100 Dollars (\$500.00) for each violation. Each day that a violation is permitted to occur is considered a separate violation.

Section 14. **Savings clause.** If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this ordinance; it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.

Section 15. **Periodic review date.** This ordinance shall be reviewed by the City Council on or about one year from the date this ordinance takes effect.

PASSED BY THE COUNCIL THIS _____ DAY OF _____, 2006.

APPROVED BY THE COUNCIL THIS _____ DAY OF _____, 2006.

Mayor

ATTEST:

City Recorder

Oregon City

ORDINANCE NO. 10-1006

AN ORDINANCE AMENDING CHAPTER 5.24 OF THE OREGON CITY MUNICIPAL CODE RELATED TO SOCIAL GAMES, BINGO AND LOTTO

WHEREAS, Oregon City Municipal Code Chapter 5.24 currently regulates social games, bingo and lotto by allowing only certain entities hold such games in specified locations, and

WHEREAS, Oregon State law allows local governments, such as Oregon City, to regulate social games, but limits the ability of those same governments to regulate bingo and lotto; in particular, local governments may prohibit bingo and lotto, but if the city allows such games, the City cannot require licensing or otherwise regulate such games, and

WHEREAS, the current code requires organizations that wish to hold Bingo or Lotto games to obtain licenses, which is not authorized under current state statutes and, therefore, should be amended, and

WHEREAS, OCMC Chapter 5.24 currently limits the organizations holding social games to "charitable, fraternal and religious organizations" and, moreover, limits the locations of such games to the real property owned by such organization, and

WHEREAS, the City wishes to allow social games to continue to be operated solely by "charitable, fraternal and religious organizations," but wishes to allow such organizations to hold such games at other locations, such as private homes, restaurants and other facilities,

NOW THEREFORE, THE CITY OF OREGON CITY ORDAINS AS FOLLOWS

Section 1. OCMC Chapter 5.24 is hereby amended to provide as follows:

Chapter 5.24 - SOCIAL GAMES

5.24.010 - License—Fees—Regulations.

Social games, as defined below, shall be permitted to be operated only under the following conditions and regulations:

A. Social games means a game, other than a lottery, bingo or Monte Carlo events, between players where no house player, house bank or house odds exist and there is no house or operator income from the operation of the social game.

B. Licensing. Social games may only be conducted by charitable, fraternal or religious organizations. Before conducting any social games, any of the foregoing organizations shall first apply for and secure a license from the city:

1. To be eligible for a license, the organization must have maintained its operations at an established location in the city for a period of at least one year immediately prior to the date of application.
2. Any conviction for violation of the gambling laws of the United States or any state within two years of the date of application arising out of operations of the organization shall render the organization ineligible to receive a license.
3. Licenses shall be issued on an annual basis commencing on January 1.
4. The annual license fees shall be one hundred dollars.

The license fees are designed to cover costs of license application, investigations and monitoring of compliance with this chapter.

C. Rules of Operation.

1. A licensee may conduct social games only during its period of operation, which shall be limited to no more than two consecutive calendar days, during identical eight hour periods per week. The requested period of operation shall be designated by the applicant and included as a condition of the license.
2. In addition to the designated period of operation, a licensee may conduct no more than three additional special events on an annual basis which shall not exceed eight hours in duration per session. The licensee must furnish at least seven days' prior written notice to the chief of police of such special event.
3. No bet, wager or ante or raise thereof shall exceed the sum of two dollars, and no bet or wager may be raised more than three times per hand or game.
4. Blackjack or twenty-one shall be dealt utilizing three decks of cards from a shoe or other device requiring dispensing of the cards from the top of the deck, and all dice games shall utilize a cup for throwing dice.

5.24.020 - License-Revocation-Penalties.

A. Any conviction for violation of the gambling laws of the United States or of the state or for violation of this chapter during the licensing period shall be grounds for immediate suspension or revocation of the license.

B. When any alleged cause for revocation or suspension of license occurs, the chief of police shall notify the licensee of the alleged violation and the matter shall be heard by the city commission upon not less than three days' written notice.

C. The hearing shall be conducted in an informal manner without resort to the rules of evidence of courts of law, but the licensee shall be afforded full opportunity to respond to the charges, to cross-examine witnesses, and to present evidence in its own behalf. If the city commission concludes by a preponderance of the evidence that a violation has occurred, the license may be suspended for a definite period or revoked. All fees shall be forfeited and there shall be no appeal from the commission's decision.

D. It is unlawful for any person to hold a social game in the City without a license from the City.

Read for the first time at a regular meeting of the City Commission held on the 4th day of August 2010, and the foregoing ordinance was finally enacted by the City Commission this 18th day of August 2010.

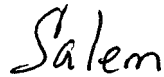

Doug Neeley, Commission President

Attested to this 18th day of August 2010


Nancy Ide, City Recorder

Approved as to legal sufficiency:


City Attorney



CHAPTER 92 GAMBLING

- 92.005. Adoption of State Law
- 92.007. Social Games Permitted
- 92.015. Coin-in-the-Slot Device Defined
- 92.017. Promoting Gambling at a Coin-in-the-Slot Device
- 92.025. Coin-in-the-Slot Devices Declared Public Nuisances; Possession and Use Unlawful
- 92.035. Coin-in-the-Slot Devices, Seizure and Destruction
- 92.045. Exceptions to Nuisance
- 92.990. Violations

92.005. Adoption of State Law.

- (a) ORS 167.117 (1995), 167.122 (1971), 167.132 (1971), 167.142 (1971), 167.147 (1995), and 167.153 (1971), are hereby adopted by reference and made a part of this chapter.
- (b) All acts which are made unlawful by the above-mentioned sections of ORS shall be considered as offenses against the city when committed within its boundaries and shall be punished as provided in ORS 161.615(1) (1971) and 161.635(1)(a) (1993).
- (c) Money found in any gambling device or used in gambling or other prohibited conduct under this chapter shall be confiscated and disposed of as provided in SRC 2.566. (Ord No. 80-73; Ord No. 66-88; Ord No. 46-94; Ord No. 30-97)

92.007. Social Games Permitted. Social games as defined in ORS 167.117 are hereby totally prohibited in the City of Salem except that private homes, charitable, fraternal, and religious organizations may engage in social games where no house player, house bank, or house odds exist and there is no house income from the operation of the social game. (Ord No. 62-74)

92.015. Coin-In-The-Slot Device Defined. As used in this chapter the term coin-in-the-slot device means any mechanically or electrically operated game or device actuated by deposit of coin, currency, or some token for which some consideration is given, the play or use of which involves either an element of skill or an element of chance or both; provided, however, that such definition shall not be deemed to include any of the following specified devices:

- (a) Devices which dispense or vend music or some commodity or service for a fixed price per unit; which involve no element of contest, chance, or skill; and which accord no profit, prize, or bonus to the user;
- (b) Amusement devices, other than those devices commonly known as "pinball," "digger," or "grabber" games, if:
 - (1) The play or use of such amusement device returns nothing of any value to the player other than extended play or replay of the device;
 - (2) No prize, profit, or bonus other than extended play or replay of the device is awarded for successful play of the device;
 - (3) The device is so designed and constructed that any extended play or replay of the device awarded for successful play cannot be readily cleared from the device except by further play of the device; and
 - (4) The device is so designed and constructed that insertion of additional coins can in no way alter the odds or chance of successful play. (Ord No. 80-73; Ord No. 177-73)

92.017. Promoting Gambling at a Coin-In-The-Slot Device. It shall be unlawful for any person to award or offer or advertise the award of any kind of value, other than extended play or replay, for successful play at a coin-in-the-slot device. (Ord No. 177-73)

92.025. Coin-In-The-Slot Devices Declared Public Nuisances; Possession and Use Unlawful. The council hereby finds, determines, and declares that gambling devices and coin-in-the-slot devices are a public nuisance. Notwithstanding any other provision of this chapter, including any provision of ORS as adopted by SRC 92.005, it shall be unlawful for any person to knowingly:

- (a) Own or have in his possession any device declared to be a public nuisance pursuant to this section;
- (b) Keep, store, or display any device declared to be a public nuisance pursuant to this section in any place or premises of which he is the owner or person entitled to possession;
- (c) Permit any other person to keep, store, or display any device declared to be a public nuisance pursuant to this section in any place or premises of which he is the owner or person entitled to possession;
- (d) Solicit, entice, or permit any person to play at or use any device declared to be a public nuisance pursuant to this section which is located at any place or premises within the city whether acting as owner, person entitled to possession, or employee or agent of the owner or person entitled to possession of such place or premises;
- (e) Manufacture, sell, lease, rent, give, repair, transport, or store, whether for himself or for another, any device declared to be a public nuisance pursuant to this section. (Ord No. 80-73; Ord No. 51-96)

92.035. Coin-In-The-Slot Devices, Seizure, and Destruction.

- (a) Except as provided in SRC 92.045, it shall be the duty of the chief of police to summarily seize any device declared to be a nuisance pursuant to SRC 92.025 and hold the same subject to the order of the municipal court.
- (b) Whenever it shall appear to the municipal judge that any device seized pursuant to subsection (a) of this section was kept or used in connection with a violation of SRC 92.025 which has resulted in a judgment or conviction therefore, he may include in his judgment an order forfeiting such device and commanding its destruction by the chief of police, which order may be in addition to any other sentence imposed by him pursuant to this Code.
- (c) The chief of police, upon receipt of a certified true copy of a judgment ordering forfeiture and destruction pursuant to subsection (b) of this section, shall hold the device subject of such order for a period of 60 days from the entry of the judgment; and shall, unless otherwise ordered by a court of competent jurisdiction, as soon as is possible thereafter destroy the device in any manner which will render it permanently unusable for the purposes for which it was intended. Upon completion of such destruction, he shall then make return to the municipal court certifying that he has complied with the court's order. (Ord No. 80-73)

92.045. Exceptions to Nuisance.

- (a) Notwithstanding the provisions of SRC 92.025 and 92.035, the manufacture, sale, lease, rental, gift, repair, transportation, storage, ownership, or possession of coin-in-the-slot devices shall not be unlawful and such devices shall not be subject to forfeiture and destruction where such devices are:
 - (1) Designed and manufactured for amusement purposes only;
 - (2) Licensed by the State of Oregon; and
 - (3) Used only outside the corporate limits of the city, and are not displayed publicly within the city.
- (b) Exception under this subsection shall be an affirmative defense to any prosecution brought under SRC 92.025, and shall not relieve the chief of police of the responsibility to seize any such machines where he has reasonable grounds to believe that they were being kept or used in connection with a violation of SRC 92.025. (Ord No. 80-73)

92.990. Violations. Violation of any of the provisions of this chapter is a misdemeanor. (Ord No. 193-79)

**Chapter 9.12 - SOCIAL GAMBLING*****Sections:**9.12.010 - Title.9.12.020 - Person defined.9.12.030 - Social gambling license—License required.9.12.040 - Social gambling license—Application.9.12.050 - Social gambling license—Consideration by council—Issuance conditions.**9.12.010 - Title.**

The provisions set out in this chapter are enacted pursuant to Oregon Revised Statutes Section 167.121 and shall be known and may be cited as "The City of Troutdale Social Gambling Ordinance."

(Ord. 754 § 4 Att. D (part), 2004)

9.12.020 - Person defined.

As used in this chapter, "person" means any individual, firm, partnership, corporation, association, club or other organization.

(Ord. 754 § 4 Att. D (part), 2004)

9.12.030 - Social gambling license—License required.

No person shall conduct or allow the playing of "social games," as defined in Oregon Revised Statutes Section 167.117 in a private business, private club or place of public accommodation unless the person first obtains a social gambling license in accordance with Sections 9.12.040 and 9.12.050 of this chapter for each event where social games are played or conducted.

(Ord. 754 § 4 Att. D (part), 2004)

9.12.040 - Social gambling license—Application.

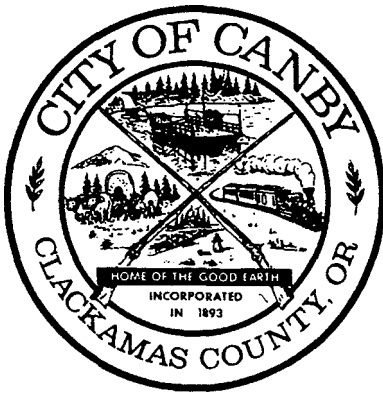
An application for a social gambling license shall be filed with the city recorder and shall contain the following information:

- A. The name, address and signature of the applicant;
- B. The type of game permitted by Oregon Revised Statutes Section 167.117 for which the license is sought;
- C. The time and place of the game for which the license is required;
- D. The estimated gross income from the operation of the game; and the estimated gross income of the private business, private club or public accommodation for which the application for license is filed.

(Ord. 754 § 4 Att. D (part), 2004)

9.12.050 - Social gambling license—Consideration by council—Issuance conditions.

Applications for a social gambling license as filed with the city recorder shall be processed in the same manner as business licenses, following the provisions in Sections 5.04.060, 5.04.150 and 5.04.160 of the Troutdale Municipal Code.



City of Canby

Office of the City Attorney

May 23, 2011

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney

Re: Request for Social Gaming Ordinance

Donald Smith has sent in another letter to the City Council requesting that the City adopt an Ordinance pursuant to ORS 167.121 authoring social gaming at public places in Canby. He specifically is asking for authorization for social gaming at the American Legion, Senior Center or restaurants on behalf of his group, a local Cribbage Club. A copy of his letter is attached. A similar request from Mr. Smith was directed to the Council in November of 2008. The Council reviewed his request and held a workshop session in April of 2009 wherein it declined to authorize a social gaming ordinance. There is a substantial history of social gaming in Canby and at one time many years ago, the City did have an ordinance authorizing gaming. I have included in this packet documentation of the history of "social gaming" in Canby, as well as my previous memos and letters to Mr. Smith, letters from Mr. Smith and a highlighted version of ORS 167.108-167.121.

Currently, under Oregon law, private gambling is generally prohibited by statute. However, "social gaming" is an exception under the definition of "gambling". See ORS 167.117(7) (c). ORS 167.117(21) defines a social game as:

"(a) A game, other than a lottery, between players **in a private residence** where no house player, house bank or house odds exist and there is no house income from the operation of the social game"; and

"(b) **If authorized pursuant to ORS 167.121**, a game, other than lottery, between players **in a private business, private club or place of public**

Page 1 of 2

accommodation where no house player, house bank or house odds exist and there is no house income from the operation of the social game.”

This section means that the local Saturday night poker party at the Mayor’s house is legal, but if the City wishes to authorize social gaming in private businesses, clubs or hotels/motels, it must first pass an ordinance pursuant to ORS 167.121.

ORS 167.121 provides that cities “may, by ordinance, authorize the playing or conducting of a social game in a private business, private club or in a place of public accommodation” and provides that the city may regulate and license such social gaming. This would authorize social games played for money in local bars, taverns and restaurants, private clubs, such as the WVCC and possibly the Legion (not sure if that is considered a “private club” but I think it would probably fit under that definition). Without the authorizing ordinance in place, however, social gaming in places other than private residences is illegal.

You should note that although Mr. Smith indicates that the Adult Center bingo and “Monte Carlo” nights are illegal without an authorizing ordinance, that is not accurate. Bingo and Monte Carlo nights are governed under a separate section of the gambling statutes and are allowed if properly permitted through the DOJ.

We have scheduled this as a work shop session to discuss the issues raised in Mr. Smith’s letter. I have not included material from other jurisdictions that currently have social gaming ordinances in place at this time. My recommendation is that if the Council wants to consider establishing an ordinance that authorizes social gaming in Canby, I will prepare a packet of information with various examples from cities that do allow it (approximately 15 cities in Oregon) and we can further discuss how you want your ordinance to look.

John Kelley

From: John Kelley
Sent: Thursday, November 04, 2010 4:09 PM
To: Greg Ellis
Subject: RE: Social gambling

Greg:

The state law, ORS 167.108-167-167, governs all aspects of gambling or gaming. It generally prohibits gambling (games of chance) for the most part, but carves out an exception for "social games" which is defined as "a game, other than a lottery, between players **in a private home** where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and if authorized pursuant to **ORS 167.121**, a game, other than a lottery, between players **in a private business, private club or place of public accommodation** where no house player, house bank or house odds exist and there is no house income from the operation of the social game. **ORS 167.121** provides that cities may, by ordinance, authorize the playing or conduction of a social game in a private business, private club or in a place of public accommodation. Such ordinance may provide for regulation or licensing of the social games authorized.

In other words, state law prohibits gambling generally, and only allows limited gaming if you can meet the qualifications of the definition of "social games" and if its outside of a private home, only if there is an authorizing ordinance in place. Canby does not have such an ordinance authorizing "social gaming". The Council visited this issue last in April of 2009 and decided against an enabling ordinance...following a previous request from Mr. Smith. I have a very extensive file that I can share with you if you want to review the history.

Regarding Kathy's question, I do not believe Texas Hold'em is allowed with actual money exchanged between the players without an authorizing ordinance in place. Under ORS 167.118, Monte Carlo type games, including Texas Hold'em, (no actual money on the table) would be allowable without an ordinance. However, that is licensed directly by the DOJ for charitable, fraternal or religious organizations. I believe that is the provision under the law that authorizes the Adult Center to offer bingo.

Hope this helps. JHK

John H. Kelley
Canby City Attorney
P. O. Box 930
Canby, OR 97013
(503) 266-4021
(503) 266-8635 fax
kelleyj@ci.canby.or.us

From: Greg Ellis
Sent: Tuesday, November 02, 2010 4:02 PM
To: John Kelley
Subject: FW: Social gambling

Hi John:

Another inquiry about 'social gaming' from Kathy Robinson. I've attached the most recent letter from Mr. Smith who wants to play cribbage at the American Legion building(?). I believe Mr. Smith contacted members of the City Council and Robert Bitter (?) or Rich Ares (?), I can't remember who, suggested that maybe it should come back to the Council for them to look at again.

In regards to Kathy's question, if a local ordinance doesn't specifically prohibit social gaming, wouldn't it be allowed? Do we have a specific ordinance that does not allow social gaming (or gambling)?

Thanks,
Greg

From: Kathy Robinson [mailto:cacdir@canby.com]
Sent: Tuesday, November 02, 2010 2:18 PM
To: Greg Ellis
Subject: Social gambling

Hi Greg,

I have a light question for you: We've had a request to host weekly Texas Hold 'em here at the center. The players would like to include a \$5 pay in every week, which would qualify this as social gambling. We would only provide the venue for the games, we wouldn't collect any \$\$.

The document I have from the State of Oregon Department of Justice refers me to local ordinances to determine whether this is allowable or not.

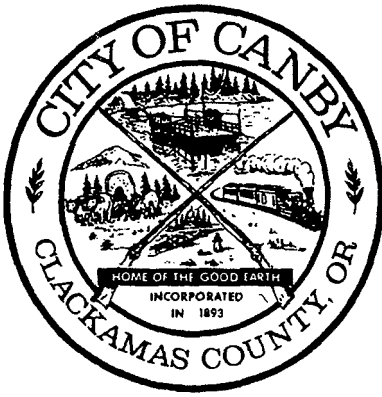
Do Canby's ordinances allow for this type of gambling or no?

Thank you –

Kathy Robinson
Director, Canby Adult Center

PUBLIC RECORDS LAW DISCLOSURE

This email is a public record of the City of Canby and is subject to public disclosure unless exempt from disclosure under Oregon Public Records Law. This email is subject to the State Retention Schedule.



City of Canby

Office of the City Attorney

April 6, 2009

Donald D. Smith
15092 S. Brunner Road
Oregon City, OR 97045

Re: Request for social gaming ordinance in Canby

Dear Mr. Smith:

I am writing to advise that following a workshop conducted by the Canby City Council on April 1, 2009, it was the consensus of the Council not to go forward with a social gaming ordinance to authorize gambling in Canby.

For your information, there is substantial history surrounding this issue beginning in 1975 when an ordinance was passed by the Council to authorize social gambling in Canby. In 1981, that ordinance was repealed following discussion and public testimony in three Council meetings prior to its repeal in February, 1981.

The matter was brought up again at the request of the Canby American Legion in 1992. After a workshop conducted by the Council in March of 1992, it was determined not to approve an ordinance authorizing social gambling in Canby.

Obviously, the Council's reluctance to authorize social gambling in Canby is not directed at Cribbage Club 191 or at cribbage players in general, but with an ordinance authorizing gaming in place, other types of gambling could become a regulation and enforcement issue that the City does not have the desire to deal with.

I did note that during my investigation of other jurisdictions authorizing gaming, Oregon City and Wilsonville, along with Salem and Portland do have ordinances in effect. Hopefully, you will be able to find some accommodation in one of those cities for your club members.

Very truly yours,

John H. Kelley
Canby City Attorney

JHK/me
Cc: Mayor and Council

**CANBY CITY COUNCIL
WORK SESSION MINUTES
April 1, 2009**

Presiding: Mayor Melody Thompson.

Council Present: John Henri, Walt Daniels, Robert Bitter, and Tony Helbling. Councilors Wayne Oliver and Jason Padden were absent.

Staff Present: Mark Adcock, City Administrator; John Kelley, City Attorney; and Kim Scheafer, City Recorder Pro-Tem.

Others Present: None.

Mayor Thompson called the Work Session to order at 6:30 p.m. in the City Hall Conference Room. The Council met to receive information regarding social gaming.

John Kelley, City Attorney, said the Council had received a request from Donald Smith who was in a cribbage club. The club had been playing at the American Legion but was told by the Legion they could not continue to play there until the City passed a social gaming ordinance.

Mr. Kelley reviewed ordinance language from several cities that had social gaming ordinances. The jurisdictions that had a gaming ordinance in the past but no longer had one said the reason was it was too difficult to enforce and too hard to police.

Council thought there was not a strong community desire for this and they should hold off until such time that there was.

Council consensus was to not go forward with a social gaming ordinance at this time.

Mayor Thompson adjourned the Work Session at 7:28 p.m.

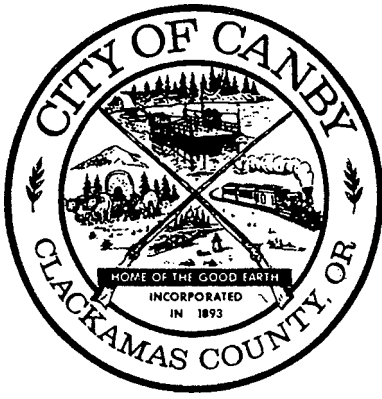
**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
April 1, 2009**

Presiding: Mayor Melody Thompson.

Council Present: John Henri, Walt Daniels, Robert Bitter, and Tony Helbling. Councilors Wayne Oliver and Jason Padden were absent.

Staff Present: John Kelley, City Attorney; Catherine Comer, Economic Development Manager; Dwayne Barnes, Public Works Director; Matilda Deas, Project Planner; and Kim Scheafer, City Recorder Pro-Tem.

Others Present: Robin Adcock, Bob Cornelius, Curt McLeod, and Randy Carson.



City of Canby

Office of the City Attorney

March 24, 2009

Memo to: Mayor/City Council

From: John H. Kelley, City Attorney

Re: Social Gaming Ordinance

Back in November of 2008, the City Council received a letter from Donald Smith, Director of Club 191, a Cribbage Club that was playing cribbage at the American Legion hall in Canby. Apparently, an issue arose as to the legality of the club being hosted by the Legion under the state's gambling laws and the Legion therefore, asked them not to play there until the City authorized "social gaming" in Canby with an Ordinance as required by law. Mr. Smith's letter (included with the material) requested the City to authorize "social gaming" by passing such an ordinance. The Council directed me to look into this matter and therefore, we have scheduled this workshop to discuss it in more detail.

Basically, ORS 167.108-167.167 governs gambling in the state of Oregon. It prohibits gambling generally, but ORS 167.121 does allow local regulation of social games in a private business, private club or in a place of public accommodation if the local jurisdiction approves it by ordinance.

As I was preparing the information for this workshop, I remembered we had discussed this issue before and went back to an old file I had from 1992. We had a similar request from the American Legion to implement an authorizing ordinance at that time. I am including my memo to the Council dated March 10, 1992 and a copy of Canby Ordinance #591 which allowed social gaming in Canby in June of 1975, the minutes of three council meetings in January and February, 1981 and copy of Canby Ordinance #692 which repealed social gaming allowed by Ord #591. I'm including this information to give you some history of the issue that many of you might not remember.

With respect to current "social gaming" ordinances throughout the state, there are several cities that allow various types of gambling. Baker City, Coos Bay, Corvallis, Port Orford, Portland, Redmond and Troutdale are some jurisdictions that authorize and

license social gaming to include **private** businesses, clubs or places of public accommodation. These jurisdictions also authorize social games in private residences where the house does not take a cut (which, by the way, the state also allows so long as the house does not take a cut),

Cities such as Florence and Sandy only authorize bingo/lotto.

Lincoln City, Oregon City, Salem and Springfield allow gaming in private homes, **but not in private** clubs, businesses or places of public accommodation **unless** they are non-profit, charitable, fraternal or religious groups.

Most jurisdictions that allow social gaming also license and collect fees ranging from \$50.00 to \$600, while a few do not license at all and charge no fees.

If, after discussion at the workshop, the Council wishes to go forward with an Ordinance authorizing gaming for Canby, we can discuss the details of the type of issues you want addressed and I can bring something back for review at some time in the future.

**CANBY CITY COUNCIL
REGULAR MEETING MINUTES
November 19, 2008**

Presiding: Mayor Melody Thompson.

Council Present: Paul Carlson, Teresa Blackwell, Wayne Oliver, Walt Daniels, Randy Carson and Tony Helbling.

Staff Present: Mark Adcock, City Administrator; John Kelley, City Attorney; Jorge Tro, Acting Police Chief; and Kim Scheafer, City Recorder Pro-Tem.

Others Present: Jason Padden, John Henri, Bob Cornelius, John Baker, Ray Hughey, Leonard Walker, Greg Perez, Bob Backstrom, Bev Doolittle, Clint Coleman, Mark & Dawn Depner, Mary Depner, Eric & Kaye Baldwin, Rick & Melissa Reid, and Ron & Gail Gamble.

CALL TO ORDER: Mayor Thompson called the Regular Meeting to order at 7:30 p.m. followed by the opening ceremonies.

COMMUNICATIONS: None.

MAYOR'S BUSINESS: Mayor Thompson read a statement regarding an *Oregonian* article that alleged criminal violations and misconduct of two members of the Canby Police Department. There were two separate allegations. One was the alleged criminal activities of a former Canby Police Officer that was being investigated by the FBI. The other was the alleged misconduct of Chief Kroeplin. If citizens had information regarding the on-going FBI investigation they should contact the FBI. The Council could and should not comment on an on-going Federal investigation. The City Attorney had been directed to obtain an independent investigator who was unaffiliated with the Canby Police Department or City Administrative staff to conduct the investigation into the misconduct allegations against Chief Kroeplin. A thorough and expeditious investigation was their goal. The facts were not always as they appeared in the newspaper. The Canby Police Department had enough information about the alleged activity of the former police officer in question that on February 21, 2008, Chief Kroeplin contacted the FBI. This fact was reported to the *Oregonian* prior to their article on Sunday. She did not know why this information was not reported. It was inappropriate for them to comment any further on the other allegations that were made regarding Chief Kroeplin and they needed to let the City investigation take its course. If and when, now or in the future, they discovered malfeasance or corruption it would be dealt with under the law accordingly.

CITIZEN INPUT & COMMUNITY ANNOUNCEMENTS: Dawn Depner said she was Bill Traverso's neighbor. She read a statement on behalf of the residents on N. Vine Street. When they called 911 they expected a police officer to come to their neighborhood. They were requesting a meeting with all City Council members so they could discuss their concerns.

Mayor Thompson asked for them to provide information ahead of time so they could have the appropriate people at the meeting to answer questions. A staff person would contact Ms. Depner with a date.

Greg Perez handed Council a map. He said that sidewalks needed to be completed from the new Cutsforth parking lot to the Fairgrounds. There were several people who visited the Fairgrounds throughout the year, and it needed to be a priority because it was a major part of the infrastructure of Canby.

Mr. Adcock said that he would meet with Mr. Barnes and Mr. Perez to discuss the issue.

COUNCILOR COMMENTS & LIAISON REPORTS: Councilor Carlson said the Canby Adult Center was sending out letters for contributions and he hoped people would consider it.

Councilor Blackwell thanked citizens for supporting the library levy and the OSU Extension Agency which provided several children's programs.

Councilor Daniels said the Historical Society was selling calendars highlighting then and now pictures of Canby. They were continuing to work on the transit routes.

Councilor Helbling said the Planning Commission was still working on the Sign Ordinance and they would have a commission opening at the beginning of January.

Mayor Thompson read an email from Pat Johnson, the Principal at Canby High School, regarding homeless youth and Operation Snuggle. The annual Planning and Building Customer Survey would be on the City's website tomorrow.

Dawn Depner said that \$1,150 had been raised for Operation Snuggle. One hundred eighty six students in the Canby School District were homeless.

CONSENT AGENDA: **Councilor Daniels moved to approve the minutes of the November 5, 2008 City Council Regular Meeting; reappointment of Jan Milne to the Planning Commission for a term to expire on December 31, 2011; and appointment of Cathleen Whiting to the Library Board for a term to expire on June 30, 2012. Motion was seconded by Councilor Carson and passed 6-0.

RESOLUTIONS & ORDINANCES: Ordinance 1298 –

****Councilor Carson moved to approve Ordinance 1298, AN ORDINANCE AUTHORIZING THE MAYOR AND/OR CITY ADMINISTRATOR TO EXECUTE A CONTRACT WITH EAGLE MAILING SERVICES OF SALEM OREGON TO PROVIDE SEWER AND STREET MAINTENANCE FEE PRINTING AND MAILING SERVICES; AND DECLARING AN EMERGENCY to come up for second reading on December 3, 2008. Motion was seconded by Councilor Daniels and passed 6-0 on first reading.**

NEW BUSINESS: Request for Social Gaming Ordinance – Mr. Adcock said the Council had received a letter from Donald Smith requesting the ordinance.

John Kelley, City Attorney, named several cities that had such an ordinance. The definition of social gaming was a game other than the lottery between players in private businesses, private clubs, or place of public accommodation where no house player, bank, or odds exist and there

was no house income from the operation of the game. He said that Mr. Smith was asking to be able to play at the Legion Hall.

Councilor Helbling said he would like to see other city ordinances and what limits could be placed on this kind of gaming.

Jorge Tro, Acting Police Chief, said that the State Police did not monitor social gaming so it would mean more time for the local law enforcement to make sure the ordinance was being followed.

Councilor Oliver said he would like information about licensing and limiting the types of games.

Bob Cornelius asked what happened if the City didn't have an ordinance and people did it anyway.

Mr. Kelley said citizens could still have games in private homes but not in private businesses. Other than that it was illegal.

Community Mini Grants Program – Mr. Adcock said staff had prepared an application and criteria for the mini grant program.

Councilor Helbling thought it made sense and was fair. His only concern was once they opened it up, the applicants would come in quickly and people who came in later would not get it.

Ms. Kim Scheafer, City Recorder Pro-Tem, said half of the grant funds would be awarded in each cycle, half in November and half in April. Those who received the funds would have to report back about how they used it. The Council would approve each application. The first applications would be due in March and be awarded in April 2009.

Councilor Carson brought up purchasing Historical Society calendars.

Mayor Thompson thought they bought those to be gifts not necessarily as part of a grant.

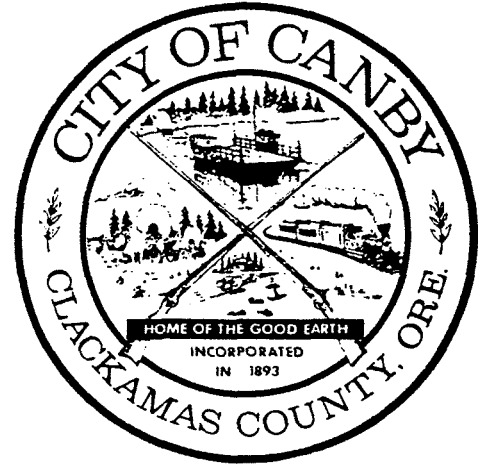
****Councilor Carson asked to have \$500 taken from the Contingency Fund to purchase Canby Historical Society calendars. Motion was seconded by Councilor Daniels and passed 6-0.**

Mr. Adcock said he would bring back a transfer resolution at the time they did the supplemental budget.

Councilor Blackwell said the Council needed to think about giving the Historical Society money in next year's budget.

Councilor Carson said they could apply for mini grant money for specific projects.

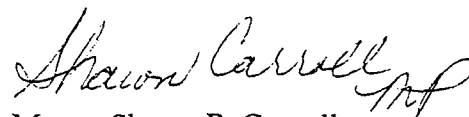
****Councilor Helbling moved to adopt the mini grant program as submitted by staff. Motion was seconded by Councilor Blackwell and passed 6-0.**



N O T I C E

The Canby City Council will hold a workshop session on **WEDNESDAY, MARCH 18, 1992, 7:00 P.M.**

The purpose of the session is to discuss a request to implement an ordinance to allow "social gaming" in the City of Canby.


Mayor Shawn P. Carroll

Posted in 3 places
Canby Herald
Oregonian
ST. Patrick's Church ✓
Chamber of Commerce
Cougar Booster Club
Canby Kids ✓
Adult Center ✓
American Legion ✓

MEMO TO: Honorable Mayor Carroll & City Council
FROM: John H. Kelley, City Attorney
SUBJECT: Social Gaming Ordinance
DATE: March 10, 1992

Since the request from the American Legion to implement a "social gaming" ordinance, I have looked at several municipal ordinances provided us by the League of Oregon Cities as examples from other jurisdictions. I am including copies of them for your information.

As you can see, there are two categories of examples provided. The first category allows card rooms open to the public, as well as "social" gambling. Examples of this type are from Coos Bay and Prineville. The second category of ordinances allows only "social" gambling or gaming and includes examples from Oregon City, Estacada and Lincoln City.

I have spoken with the City Attorney from Oregon City, as well as their City Recorder, and they both indicated they have had no problems with their ordinance as it's written.

The Ordinance from Lincoln City is pretty "bare bones" and straight forward, no licensing required. The City Attorney indicated no problems with the ordinance there.

Estacada's ordinance contains the most detail, but as you may know, it has been repealed. Their City Attorney indicated that problems with illegal activity and lack of enforcement capabilities led to the repeal.

I have spoken with Dennis Miller, Chief Deputy District Attorney for Clackamas County, responsible for dealing with the gambling sting operation in Estacada. He expressed concerns regarding social gambling ordinances in general, and indicated he would like to personally address the Council to answer questions concerning the issues involved based upon his years of experience. Unfortunately, he will be out of town March 18th. He would be available for the next Council meeting on April 1st. My suggestion, if you wish to hear from Mr. Miller, is to hold the workshop as scheduled on March 18th, but continue it through April 1st to give him an opportunity to speak.

Finally, I'm including a copy of Ordinance # 591, which allowed social gaming in Canby dated June 2, 1975; the minutes of three Council meetings in January and February, 1981; and a copy of Ordinance # 692, an ordinance repealing Ordinance # 591.

If, after the workshop sessions, the Council wishes a new ordinance allowing social gaming, I will put a draft together to review.

ORDINANCE NO. 591

AN ORDINANCE TO PERMIT SOCIAL GAMBLING GAMES.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: Social games for gambling purposes as defined by Oregon Revised Statutes 167.117 are permitted in the City of Canby.

Passed on first reading of the Canby City Council at a regular meeting thereof held on the 5th day of May, 1975; ordered posted in three (3) public and conspicuous places in the City of Canby for a period of two full calendar weeks as required by the Canby City Charter; and to come up for final reading and action of the Council at a regular meeting thereof to be held on the 2nd day of June, 1975, at the hour of 8:00 o'clock P.M. at the Canby City Hall.



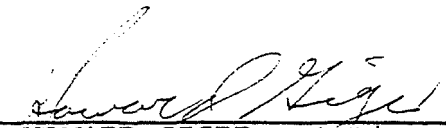
PAUL N. ROTH - Mayor

ATTEST:




HAROLD A. WYMAN, Acting City Recorder

Passed on final reading at a regular meeting of the Canby City Council this 2nd day of June, 1975 by the following vote:
Yeas 4 . Nays 0 .



HOWARD GIGER - Acting Mayor

ATTEST:



HAROLD A. WYMAN, Acting City Recorder

OTHER REPORTS AS REQUIRED OR NEEDED: Administrator Wyman informed the Council that the budget would go to the printers on Friday, January 9, and we should have them back by January 16th. It was decided to hold the first Budget Meeting on Monday, January 26th.

Mr. Wyman informed the Council that Lucile Pepper, former City Librarian, had passed away in mid-December and felt the City should do something in her memory. **Councilman Pulver moved that the Council donate \$50.00 to The Friends of the Library in Memory of Lucile Pepper. Seconded by Councilman Knight. Attorney Bettis also suggested that we also donate a "memory plaque" in Mrs. Pepper's honor as she was a very dedicated Librarian. Mr. Bettis' idea was amended to the motion and the motion passed unanimously.

At this point in the meeting, Mayor Swayze congratulated Deputy City Attorney Roger Reif on the birth of his first child, a daughter.

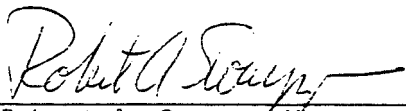
Discussion of Ordinance No. 591 came before the Council. Mayor Swayze noted that this Ordinance was initially introduced to protect the "local men's club, church bingo, etc., however, due to problems some communities in the area have had with gambling they suggested we reconsider this Ordinance. Attorney Bettis commented briefly on the ORS on Social Gambling, noting that the City does permit it, however, in a recent communication from the State Attorney General he noted that the ORS law is difficult to understand and enforce. Mr. Bettis suggested repealing our present Ordinance and preparing a new one which would permit limited type of social gambling such as church bingo, bunco groups, men's clubs, etc and this would prevent social gambling in public establishments. **Councilman Knight moved that the City Attorney prepare an Ordinance to repeal Ordinance No. 591, An Ordinance to Permit Social Gambling Games, and also the Attorney prepare a new Ordinance to reflect the Council consensus of limited social gambling for private organizations such as church bingo's. Seconded by Councilman Pulver and approved 6-0.

Council discussed Ordinance No. 594, which defines the salaries of the Mayor and Council. Salaries for the Mayor and Council was raised on July 1, 1980. The salary of the Mayor was raised from \$100.00 per month to \$200.00 per month and each Councilperson salary was raised from \$7.50 per meeting to \$15.00 per meeting. Attorney Bettis will prepare the proper Ordinance for this matter.

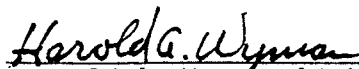
**Councilman Pulver moved to go into Executive Session under ORS 192.660, Subsection 1, b, to consider dismissal or disciplining of a city employee. Seconded by Councilwoman Brown and carried 6-0 by roll call vote.

Mayor Swayze recessed the Regular Meeting at 9:10 p.m. to go into Executive Session. The Regular Meeting was reconvened at 9:29 p.m. Councilman Knight commented on the success of the procedure of Mayor Swayze's first meeting as Mayor. Mayor Swayze also was pleased with the willingness of the Council, especially new members, and felt a good working relationship would be forthcoming.

Mayor Swayze adjourned the meeting at 9:30 p.m.



Robert A. Swayze, Mayor



Harold A. Wyman, Administrator/Recorder

CANBY CITY COUNCIL

SPECIAL MEETING

JANUARY 14, 1981

Mayor Robert A. Swayze presiding. Councilmembers present: Beryl Brown, Lee Funrue, Michael Gabrion, Beauford Knight, William Pulver and Gary Sowles.

Also present: Administrator Harold Wyman, City Attorney Wade Bettis, Chief of Police Richard Seigler, Secretary Marilyn Perrett, Oregonian Reporter Pat Jeffries, Canby Herald Editor Steve Fredrick, Phil Colbaugh, Miriam E. Bettis, Frances Amundson, Jack Howay, Howard Barlow, Kenneth Stuart, Carl Plesants, David Bury, Mr. and Mrs. Gordon Christiansen, Mr. and Mrs. Richard Flower, David Lowe, John Beckham, William Garmire, Carl Menkel, James Renner, Annette Tatone, Jean Pierce, Maggie Hubbard, Bev Williams, George and Leona Julian, Sharon Imholt, George and Opal Ray, Ted Ellingboe, Antonio Seco, Marine Garmire, Lyle and Joyce Read, Curt Johnson, David Gustafson, Vern and Deborah Walker, Ron Chase, Burnell Vernon and Others.

Mayor Swayze called the Special Meeting to order at 7:32 p.m., followed by the flag salute and roll call of Council.

Mayor Swayze asked the City Attorney to explain the necessary action for Special Meetings to the audience. Attorney Bettis read Chapter 3, Section 7, of the City Charter and also pointed out certain state laws on notice requirements for public meetings. Attorney Bettis asked Mr. Wyman who called the meeting and what notices were given. Administrator Wyman replied that Mayor Swayze called the meeting and Mr. Wyman hand delivered the notices to the Councilmembers on Monday, morning, January 12th and also posted notices of the meeting at the Post Office, City Hall outside and inside bulletin boards and also notified the local newspaper on Monday morning, January 12th. Attorney Bettis noted that we did meet the requirements for the Special Meeting.

Mayor Swayze explained to the audience that the reason for the meeting was that in surrounding communities there is a large group of people involved in gambling and the movement is trying to come to Canby and he felt it was up to the Council to decide if the citizens wanted this type of "store-front gambling" in the community. Mayor Swayze noted that he was willing to hear anyone who wanted to address the Council, however, if the meeting became disorderly he would close it. Citizens wishing to address the Council were instructed to first state their name and address for the records. Mayor Swayze noted that there were two options: do nothing, and leave Ordinance No. 591 in affect; or appeal Ordinance No. 591 and prepare a new Ordinance to better define gambling in the City of Canby. At this time citizens were asked to address the Council.

LYLE READ, 580 N. Juniper, Canby - Mr. Read spoke in support of changing the Ordinance, to not allow "store-front gambling". He is an owner of a business, 334 N.W. 1st Avenue, located half a block away from the proposed area and felt this would cause traffic problems and bring in undesirable people to the community. As a businessman he was concerned about the welfare of downtown Canby and as a citizen, of over 20 years, he was also in favor of changing the Ordinance.

CARL PLESANTS, 7227 Comer Creek, Molalla - Representing the Canby Christian Church, and noting about 30 members of the congregation were present, spoke in favor of appealing the Ordinance to abolish gambling.

January 14, 1981

GORDON CHRISTIANSEN, 2165 Country Club Drive, Canby - A citizen for about six years and member of Canby Christian Church, seconded what Mr. Read and Mr. Pleasants said.

TED ELLINGBOE, 1245 N. Lupine Court, Canby - Speaking as Pastor of the Christo Fellowship, and noting that he met with 8 or 10 fellow Pastor's on Tuesday, and they were in support of an Ordinance to abolish gambling.

BURNELL VERNON, 20718 S. End Road, Canby - Asked to have the Ordinance clarified.

Mayor Swayze said the Council could take no action at all on the present Ordinance or on first reading of the proposed Ordinance, instructed the Attorney to prepare a new one. Mr. Vernon then inquired if gambling could take place if no action was taken on the present Ordinance. Attorney Bettis explained that Ordinance No. 591 briefly defines that social gambling is permitted in the City of Canby in accordance with ORS 167.117. Mr. Bettis explained that the state law is, "difficult to read, difficult to understand, difficult to interpret, and almost impossible to enforce." Under the Ordinance we now have, it is a question of defining social games. Mr. Bettis read an advertisement from ElGazebo Saloon, downtown Canby, promoting "Black Jack" with "Reno Rules". Attorney Bettis recommended appealing Ordinance No. 591 and if the Council would like to redefine "social gambling" with smaller confines and a greater limit, then they could start over with a new Ordinance.

KENNETH STUART, 603 N.W. 13th Ave., Canby - He pointed out that he had heard negative attitudes in surrounding communities and as a businessman and citizen was recommending support of changing the present Ordinance.

Lyle Read questioned that if the old Ordinance is appealed tonight, does this allow gambling to move in until another Ordinance is passed? Mayor Swayze commented, "I am not convinced that even with the Ordinance we have, that it will allow store-front gambling such as we see in the neighboring cities around us, and that's a personal opinion." Attorney Bettis said, "The Mayor's comment is a correct interpretation and evaluation of the Ordinance." "The type of gambling that we hear, know about, and have seen is not permitted in Canby under our Ordinance that now exists, no way!" Mr. Bettis felt we should eliminate the possible court challenge on social gaming and appeal the Ordinance. Attorney Bettis pointed out that it would be February 4, 1981, before the final passage of the proposed Ordinance, due to posting provisions of the City Charter. Mr. Read questioned if we anticipate a two or three week move-in to try and get it going? Mr. Bettis replied, "No, I don't anticipate that." Councilman Knight questioned that if we repeal Ordinance No. 591 and replace it with an Ordinance that "spells-out" what we want in Canby, this would be the action to take. Mr. Bettis noted that he was correct.

At this point, someone in the audience asked, "What happens to the rights of a person to decide whether he gambles or not?" Mayor Swayze asked the gentleman to state his name and address, the unidentified person refrained.

RON CHASE, 20606 Butteville, N.E., Hubbard - Mr. Chase is the Chairman of the Elders at the Canby Christian Church and on their behalf spoke out as being totally against the gambling.

At this point, the same unidentified gentleman again tried to address the Council. Mayor Swayze again asked the citizen to please state his name and address which he refused to do and therefore was not acknowledged.

January 14, 1981

Mayor Swayze then instructed the City Attorney to read Ordinance No. 692 in full for first reading for the Council action. Attorney Bettis read in full Ordinance No. 692. **Councilman Pulver moved that Ordinance No. 692 AN ORDINANCE REPEALING SOCIAL GAMBLING ORDINANCE NO. 591 AND DECLARING AN EMERGENCY be properly posted and second and final reading be on February 4, 1981, after 7:30 p.m. in the Council Chambers. Seconded by Councilwoman Funrue and roll call vote was 6 yeas and zero nays.

At this point Attorney Bettis read a "Press Release" (a copy is attached to the minutes of this meeting), which gave notice that all who would-be-participants in the activity of gambling will be arrested, citations will be issued and violators will be prosecuted and the City Police Department has been alerted to the fact of the action that may occur.

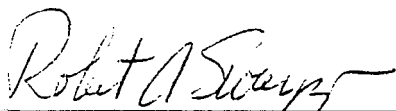
Mayor Swayze then requested Attorney Bettis to prepare an Ordinance that will define what exactly will be allowed in the City of Canby under social gambling.

The unidentified gentleman (who twice spoke before) asked when this would be effective. Mayor Swayze replied, noting that the gentleman was to embarrassed to state his name, that the Ordinance No. 692 would become effective February 4, 1981, on final reading. The unidentified person then stated, "then it can go on until that meeting?" He was told, "No." Mayor Swayze reminded him of the "Press Release" that Attorney Bettis read, and it was the Attorney's opinion that it is an illegal activity.

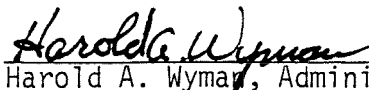
Approval For other business, Mayor Swayze noted that former Councilman Westcott had in the past been overseeing the transactions on the water bond and signing his signature to the bonds. ^{of} Due to fact Mr. Westcott is most knowledgeable on this issue, Mayor Swayze suggested he be appointed to continue, noting that he had discussed this with the City Attorney. **Councilman Pulver moved that the Council appoint Mr. Robert Westcott as a committee of one, to handle the transactions of water bonds for the City of Canby and that he report to the Mayor on these bonds. Seconded by Councilwoman Brown and approved unanimously.

Mayor Swayze thanked the audience for coming to the meeting and invited them back at anytime, including the February 4th meeting.

Mayor Swayze adjourned the Special Meeting at 8:00 p.m.



Robert A. Swayze, Mayor



Harold A. Wyma, Administrator/Recorder

January 14, 1981

WADE P. BETTIS
RAYMOND R. REIF
R. ROGER REIF
MICHAEL J. CLANCY

BETTIS & REIF
ATTORNEYS AT LAW
160 N.W. THIRD AVENUE
CANBY, OREGON 97013

TELEPHONE
266-1113
AREA CODE 503

January 14, 1981

From what I have seen, heard and read I am of the opinion there is a plan to introduce gambling into the City of Canby, which is not permitted by our "Social Gambling" Ordinance No. 591 (now planned for repeal) and which would clearly constitute "gambling offenses" as defined in ORS 167.117 et seq.

If such gambling should occur I give notice now to all would-be-participants in that activity that arrests will be made, citations will be issued and violations will be prosecuted vigorously and to the fullest extent of the law for imposition of maximum penalties. Furthermore, civil suits or actions will be commenced as may be required to enjoin such illegal activities, and wherever they may occur within the City. This matter has been discussed with our Police Chief Richard Seigler and Deputy City Attorney and Chief Prosecutor Michael J. Clancy, and all of us are alert to the threatened violations and potential problems and we are ready to act promptly as the situation may require.

Wade P. Bettis
WADE P. BETTIS
City Attorney for City of Canby

at this time I wish each of you would join me in honoring our departed Councilman Beauford Knight.

Beauford was a native son who spent the last four years as a valued member of the Canby City Council.

Even though Beauford did not always agree with the majority, his actions and advice were without a doubt in Canby's best interests.

His expertise, guidance, and hard work will be missed by all who knew him.

The Council knew Beauford as a dedicated individual who strived for perfection - yet his humor could lighten the heaviest of burdens.

Our departed Councilman will be long remembered and sincerely missed.

Please join me in silent tribute to - WILLIAM BEAUFORD KNIGHT."

Following Mayor Swayze's eulogy, **Councilwoman Funrue moved to donate \$250.00 to the Oregon Lung Association in Memory of Councilman Beauford Knight. Seconded by Councilwoman Brown and approved unanimously.

**Councilwoman Brown moved to approve as distributed the minutes of the REgular Meeting of January 21, 1981. Seconded by Counbilman Gabrion and approved 4-0.

CITIZENS INPUT ON NON-AGENDA ITEMS: None was voiced.

ORIDINANCES & RESOLUTIONS: Attorney Bettis read in full Resolution No. 290.

**Councilwoman Funrue moved to approve Resolution No. 290, A RESOLUTION APPROVING ANNEXATION TO CITY OF CANBY, CLACKAMAS COUNTY, OREGON (APPLICATION OF F. MARION GARMIRE FOR A PARCEL OF LAND IN TRACT 60, CANBY GARDENS). Seconded by Councilwoman Brown and approved 4-0 by roll call vote.

Attorney Bettis read by title only for second reading Ordinance No. 692 and City Administrator Wyman presented the affidavit of posting. **Councilwoman Brown moved that Ordinance No. 692, AN ORDINANCE REPEALING SOCIAL GAMBLING ORDINANCE NO. 591 AND DECLARING AN EMERGENCY be approved and become part of the laws of the City of Canby. Seconded by Councilman Gabrion and approved 4-0 by roll call vote.

February 4, 1981

George Anderson, from the audience, questioned if this allowed gambling. Mayor Swayze explained that this did not allow gambling in Canby.

COMMUNICATIONS: Administrator Wyman read a staff report from City Planner Stephan Lashbrook regarding a proposed water line extension on the southeastern edge of the city. Mr. Lashbrook pointed out that this project would have to be approved by the Portland Metropolitan Boundary Commission because of the chance of increased development in the unincorporated area. Fred Egger, Utility Board Manager, indicated on a map the area for the proposed water line, down S. Pine to S.W. 13th Avenue. He noted that on Township they now have an 8 inch line and this would essentially be looping the city with a 12 inch line. Mr. Lashbrook noted that all property involved was in the UGB "priority A" area and the proposed water line would be in the best interest as far as future growth needs, fire protection and for the schools in the area. He also expressed that it shouldn't induce premature development. City staff met last week with many of the property owners, their main concern was the construction affect regarding crops. The Council consensus was for approval on this issue and Mayor Swayze directed staff to be sure and contact all property owners and the City Attorney to prepare the proper Resolution or Ordinance for the matter to be sent on to the Portland Boundary Commission.

NEW BUSINESS: **Councilwoman Funrue moved to approve payment of accounts payable in the amount of \$37,274.11. Seconded by Councilman Gabrion and approved 4-0.

ORDINANCE NO. 692

AN ORDINANCE REPEALING SOCIAL GAMBLING ORDINANCE NO. 591 AND DECLARING AN EMERGENCY.

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1: Ordinance No. 591 entitled "AN ORDINANCE TO PERMIT SOCIAL GAMBLING GAMES" enacted June 2, 1975, is hereby repealed; and such repeal shall be effective immediately upon final reading and enactment of this ordinance; and in view of an emergency which is hereby declared to exist, this ordinance shall take effect immediately upon its enactment after final reading.

Submitted to the Council and read the first time at a special meeting thereof on Wednesday, January 14, 1981; ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the City Council at a regular meeting thereof to be held on February 4, 1981, at the hour of 7:30 o'clock P.M., at the Council Meeting Chambers at the Canby City Hall in Canby, Oregon.

Harold A. Wyman
Harold A. Wyman, City Recorder

ENACTED by the Canby City Council at a regular meeting thereof on the 4th day of February, 1981, by the following vote: YEAS 4 NAYS 0

Robert A. Swayze
Robert A. Swayze, Mayor

ATTEST:

Harold A. Wyman
Harold A. Wyman, City Recorder