

MEASURE

GARIBALDI ORDINANCES

ORDINANCE NO. 198

AN ORDINANCE AUTHORIZING SOCIAL GAMING AND PROVIDING FOR ITS REGULATION AND LICENSING IN THE CITY OF GARIBALDI PURSUANT TO ORS 167.121.

THE CITY OF GARIBALDI ORDAINS AS FOLLOWS:

Section 1. Definition. As used in Section 2, except when the context indicates otherwise, the following mean:

1. Contest of Chance. 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.
2. Gambling. 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:
 - A. Social games; or
 - 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.
3. Gambling Device. 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.
4. 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. 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.

5. Profits from Gambling. 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.
6. Social Game. 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.
7. Social Gaming Table. 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 Section 5.

Section 2. 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 (1) social gaming table by a business, unless the council expressly authorizes the operation of additional tables.

Section 3. License Investigation.

1. 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.
2. As part of the application for a social gaming license, the applicant must pay to the City Recorder a non-refundable 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.

3. 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 Section 3.1 and investigation fees as required by Section 3.2.
4. 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.

Section 4. License Fee. For each business or other entity or organization licensed, except as provided for in Section 5, an annual fee shall be required. This fee shall be required in addition to any investigation fees required by Section 3, and shall be established by resolution of the Council.

Section 5. Annual Fees For Nonprofit Organizations.

1. A nonprofit society, club or fraternal organization, having adopted by-laws 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:
 - A. The tables are for the exclusive use of members of the society, club or fraternal organization.
 - B. No charge is made for participation;
 - C. The conduct of a cardroom is not the primary reason for the existence of the society, club or fraternal organization; and
 - D. The society, club or fraternal organization has been in continuous existence, actively conducting its affairs in the City for the period of two years immediately preceding application for a license.
2. The annual fee is payable on or before July 1, of each year. The annual fee shall be prorated for new applicants for the period of January 1 to June 31 to one-half the annual fee.

Section 6. Criteria for Grant or Denial of Application.

1. 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 ten 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 ordinance;
- H. Any person financially interested in the business has committed any other conduct involving moral turpitude within the last five years.

Section 7. License Not Transferable. No license shall be assignable or transferable.

Section 8. 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 ordinance and state law.

Section 9. Regulations.

- 1. 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 allow or designate a person to operate the social game activity as that term is defined in Section 3.5.
- 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 (black jack), no person may be denied the right to deal. It shall be grounds for immediate suspension of a license.

Section 10. Suspension and Revocation of License-Basis.

- 1. 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 ordinance; or
 - H. Any person financially interested in the business commits any other conduct involving moral turpitude.

Section 11. Advertising. Signs advertising gambling, the playing of cards, advertising forms of card playing, enticing participants or procuring players are prohibited.

Section 12. Revocation of License - Procedure. The City Recorder, upon determining that a licensed activity, establishment or device is in violation of this ordinance, 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 Section 14.

Section 13. Suspension of License - Procedures. Upon determining that a licensed activity or device presents an immediate danger to person 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 Section 14. 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 Section 14.

Section 14. Appeal.

1. 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:
 - A. The name and address of the appellant.
 - B. The nature of the determination being appealed.
 - C. The reason the determination should be reversed on appeal.
2. 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 as least 14 days' written notice of a hearing on the appeal.

3. 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.

Section 15. . . . Penalty. Violation of, or failure to comply with, any provision of this Ordinance is punishable upon conviction by a fine not to exceed one thousand (\$1,000.00), or imprisonment in jail not to exceed one (1) year, or both such fine and imprisonment.

Section 16. . . Effective Date. This ordinance shall take effect and be in force 30 days from and after its passage by the people of Garibaldi.

PASSED by the legal voters of the City of Garibaldi, November 3, 1992.