


STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: MARTIN D. KOCZANOWICZ, CITY ATTORNEY
JIM COPSEY, CHIEF OF POLICE/ASSISTANT CITY MANAGER 

SUBJECT: INTRODUCTION AND FIRST READING OF A PROPOSED ORDINANCE TO AMEND GROVER BEACH MUNICIPAL CODE ARTICLE X, CHAPTER 4, IDENTIFYING THE HOURS OF OPERATION FOR CARD TABLE LICENSES

BACKGROUND

On June 17, 2013, the City Council amended Grover Beach Municipal Code Article X, Chapter 4 deleting Section 10407 specifying the hours of operation in order to allow card table establishments to be operated 24 hours per day, 7 days per week. Staff has been subsequently advised by the Bureau of Gambling Control that the City Ordinance must also contain provisions that specify hours of operation, even if the hours are unrestricted.

DISCUSSION

The California State Business and Professions Code Section 19860 (A)(1) requires that our Municipal Ordinance contain provisions for the hours of operation. Even if our City allows card room establishments to operate 24 hours a day, 7 days a week, the ordinance needs to specify those hours that are authorized in the Code. If the hours of operation are not listed in the ordinance, the State Gaming Commission shall deny a gambling license with respect to any gambling establishment that is located in the city. In accordance with state law, the Municipal Code would need to be amended to specifically indicate that the licensee may operate the card room twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year.

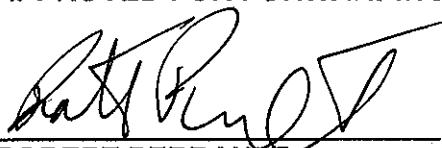
Article X, Chapter 4, Card Table Licenses and Regulations, would require amendment to reflect the inclusion of the 24 hour provision. A red-lined copy of said Chapter 4 is included as Attachment 2 and reflects what amendments are being made. Draft Ordinance No. 14-XX is also attached adopting those amendments.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Consider public testimony, introduce and conduct first reading of the Ordinance, by title

APPROVED FOR FORWARDING


ROBERT PERRAULT
CITY MANAGER

Please Review for the Possibility of a Potential Conflict of Interest:

- | | |
|--|-----------------------------------|
| <input checked="" type="checkbox"/> None Identified by Staff | <input type="checkbox"/> Bright |
| <input type="checkbox"/> Peterson | <input type="checkbox"/> Marshall |
| <input type="checkbox"/> Lee | <input type="checkbox"/> Nicolls |

only, and schedule second reading and adoption for the next regularly scheduled meeting.

2. Take no action and allow the existing Card Table Licenses and Regulations to remain.
3. Provide direction to staff.

RECOMMENDED ACTION

It is recommended that the City Council consider public testimony, conduct the first reading of the Ordinance, by title only, and schedule the second reading and adoption for the next regular Council meeting.

FISCAL IMPACT

None

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. Existing card table license holder of Central Coast Casino and Tom Rehder, owner of Mongos, were sent a copy of this staff report and agenda

Attachments

1. Draft Ordinance No. 14-XX
2. Grover Beach Municipal Code Article X, Chapter 4 reflecting the amendments to the current Municipal Code for Card Tables and Licenses, added text is double underlined.

ORDINANCE NO. 14-__

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
GROVER BEACH, CALIFORNIA, AMENDING ARTICLE X, CHAPTER 4 OF
THE GROVER BEACH MUNICIPAL CODE PERTAINING TO CARD TABLE
LICENSES AND REGULATIONS**

WHEREAS, the City Council of the City of Grover Beach received requests for an increase in the number of tables to be allowed within the City, a removal of the limitation of four tables per operator or business location, the removal of the requirement that a card table room be operated in an establishment holding a Department of Alcohol and Beverage Control ("ABC") liquor license, and the removal of limits on hours of operation; and

WHEREAS, City staff has submitted to the Bureau of Gambling Control proposed changes to ensure compliance with applicable State laws and the Bureau; and in a letter dated January 28, 2013, opined that the proposed changes would not violate the Gambling Control Act and did not need voter approval; and

WHEREAS, City staff has subsequently been advised by Bureau of Gambling Control that City Ordinance must contain provisions that specify hours of operation, even if the hours are unrestricted, as they became by adoption of the revisions of the Ordinance in June of 2013; and

WHEREAS, the City Council of the City of Grover Beach, having received and considered the staff report and following a public hearing on this issue finds that there are no adverse effects on public health and welfare from the proposed changes.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Grover Beach as follows:

PART 1. Sec. 10407. Hours of Operation shall be added to read as follows:

Sec. 10407. Hours of Operation. Subject to conditions of a Conditional Use permit, the licensee may operate the card room twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year. The actual hours of operation shall be posted in a manner sufficient to give patrons adequate notice of the hours during which the card room will remain open for business.

NOW, THEREFORE, BE IT FURTHER RESOLVED that all other sections, with the exceptions or amendments adopted in this Ordinance of Article X, Chapter 4, shall remain unchanged.

PART 2: If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this Ordinance or any part thereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

Ordinance No. 14-
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PART 3: This Ordinance shall become effective thirty (30) days after the date of its adoption, and within fifteen (15) days after its adoption, it shall be published once, together with the names of the Council Members voting thereon, in a newspaper of general circulation within the City.

INTRODUCED at a regular meeting of the City Council held on _____, 2014, and **PASSED, APPROVED, and ADOPTED** by the City Council on _____ on the following roll call vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN:

DRAFT

DEBBIE PETERSON, MAYOR

ATTEST:

DONNA L. McMAHON, CITY CLERK

APPROVED AS TO FORM:

MARTIN D. KOCZANOWICZ, CITY ATTORNEY

CHAPTER 4 -- CARD TABLE LICENSES AND REGULATIONS

Sec. 10400. Card Table Defined. The term "card table," as used in this Chapter, shall mean a card table within a business premises where there is carried on any card game for hire or for compensation, which game is not unlawful under the provisions of California Penal Code §330, or any other provision of law. (Ord. 19; Amd. Ord. 79-6)

Sec. 10401. Card Table Licenses. It is unlawful for any person, firm, association, corporation or partnership to engage in or carry on the business of conducting or operating one or more card tables unless there is in effect a card table license covering each such card table, issued pursuant to the provisions of this Chapter. (Ord. 19; Amd. Ord. 79-6)

Sec. 10402. Standards for Issuance of Card Table Licenses. (A) No more than a total of nine (9) card tables shall be licensed to operate within the City under the provisions of this chapter.

(B) No one permittee shall be authorized to operate more than a total of six (6) card tables within the City.

(C) No more than six (6) card tables shall be operated or maintained within any single business premises within the City.

(D) No card table license shall be transferrable to another location or permittee.

(E) No card table license shall be issued to any person who has been convicted of any felony, nor to any association, partnership, or corporation of which any owner thereof has been convicted of a felony. (Amd. Ord. 06-13)

Sec. 10403. Applications for Licenses. Any person desiring to obtain a card table license shall apply to the City Clerk and shall furnish such information as is requested by the City Clerk which pertains to the identification and background of the applicant and the owners thereof, and to the nature and location of the proposed business for which the application is made. The City Clerk shall deliver such application to the Chief of Police for his investigation and for a report to the City Council thereon. The Chief of Police shall have the power to require the applicant and/or any of the owners thereof to submit to fingerprinting and to furnish such additional information as he deems necessary to assist in such investigation. Upon receipt of the report of the Chief of Police the City Council shall grant a card table license or licenses to the applicant if the City Council determines the following:

(A) That the applicant and its members are of good moral character and otherwise qualified to carry on such business under the terms of this Chapter;

(B) That the carrying on of a card table at the location proposed is in compliance with all applicable zoning and building ordinances and regulations of the City;

(C) That the issuance of the permit is not contrary to the public health, safety or welfare. (Ord. 19; Amd. 79-6)

Sec. 10404. Revocation of Licenses. The City Council shall have the right to revoke any card table license when the possessor thereof has violated, or permitted the violation of, any of the terms of this chapter. The City Council may also revoke any card table license when the business being operated is not implementing the approved Security Plan for the protection of its patrons, or is not being conducted in accordance with the public health, safety or welfare or when, in the discretion of the City Council, it is found that the continued operation of said business will create or is creating a policing problem to the City. Prior to revoking any card table license, the City Council shall cause to be served on the applicant a notice of its intention to do so at least five (5) days prior to the date upon which it intends to consider the matter of such revocation, and also stating the right of the licensee to appear before the City Council and to show cause why such license should not be revoked. The decision of the City Council with respect to the revocation shall be final. (Ord. 19; Am. Ord. 79-6; Am. Ord. 04-05)

Sec. 10405. Card License Fee. There shall be an annual fee in the amount set forth in the Master Fee Schedule for each card table licensed pursuant to the terms of this Chapter. (Ord. 19; Amd. Ord. 79-6; Amd. Ord. 06-13)

Sec. 10406. Access to Premises. The City Council finds that it is necessary and in the public interest that law enforcement officers have access to any premises in which a card table is being operated under the terms of this Chapter, in order to insure that the terms of this Chapter are being complied with. Any premises for which a license has been issued under the provisions of this Chapter shall be deemed to constitute a public place, and all police officers and peace officers shall at all times have access thereto during business hours. (Ord. 19; Amd. Ord. 79-6)

Sec. 10407. Hours of Operation. Subject to conditions of a Conditional Use permit, the licensee may operate the card room twenty-four (24) hours per day, seven (7) days per week, and three hundred sixty-five (365) days per year. The actual hours of operation shall be posted in a manner sufficient to give patrons adequate notice of the hours during which the card room will remain open for business.

Sec. 10408. Attendance by Minors. No person under the age of twenty-one (21) shall be employed in or allowed to frequent, remain in or visit any room or premises wherein is conducted or operated any card table licensed under the provisions of this chapter. (Ord. 19; Amd. Ord. 79-6)

Sec. 10409. Conflict with Other Laws and Savings Clause. The City Council expressly finds and declares that it is not the intent of the Ordinance codified in this Chapter to authorize or permit any form of gaming which is contrary to any provisions of state law, and in the event of any such conflict state law shall control. The provisions of this Chapter shall control all matters pertaining to the licensing, control, and regulation of card games and card tables, regardless of the provisions of any other law of the City, and in the case of direct conflict shall supersede any other such law. If any section, subsection, clause, or portion of this Chapter is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Chapter. (Ord. 19; Amd. Ord. 79-6)

Sec. 10410. Wagering Limits. No card table permittee, owner, or employee may allow any player to make a single wager exceeding Five Hundred Dollars (\$500) or allow any player to wager more than One Thousand Dollars (\$1,000) on any single hand played within the licensed premises. (Ord. 99-7)

Sec. 10411. Patron Security and Safety. Any holder of a card table licenses shall submit a Security Plan for the premise where a card table or tables are operated. Said Security Plan must be reviewed and approved by the Chief of Police prior to issuance or renewal of a Business Tax Certificate. The holder of a card table license must pay a full cost recovery fee for the review and approval of a Security Plan as may be established by the City Council in the Master Fee Schedule. (Ord. 04-05)