

**ORDINANCE NO. 28517**

**AN ORDINANCE OF THE CITY OF SAN JOSE  
AMENDING TITLE 16 OF THE SAN JOSE MUNICIPAL  
CODE, GAMING CONTROL REGULATORY PROGRAM,  
TO CLARIFY AND ENHANCE THE SCOPE, TERMS,  
CONDITIONS, AND PROCEDURES OF REGULATION OF  
CARDROOMS AND FUNDING SOURCES, AND TO MAKE  
TECHNICAL CHANGES TO THE TITLE**

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

Title 16 of the San José Municipal Code is amended to be numbered, entitled and to read as follows:

**TITLE 16  
GAMING CONTROL**

**CHAPTER 16.02**

**GAMING CONTROL REGULATORY PROGRAM**

**Part 1**

**General Provisions**

**16.02.010 Purpose**

- A. Effective and comprehensive regulation of the practices, activities, persons and places associated with or involved in gaming in San José is essential for the protection of the public health, safety and welfare.
- B. The purpose of this Title and the Gaming Control Regulatory Program authorized by this Title is to maintain public confidence:

1. In the integrity of Cardroom operations by requiring strict regulatory controls and enforcement practices to carefully monitor gaming activity at Cardrooms, and
  2. In the integrity of Nonprofit Organization Fundraisers held either in permitted San José Cardrooms or elsewhere in the City of San José by Eligible Nonprofit Organizations by requiring regulatory controls and enforcement practices pursuant to the requirements of State Gambling Law, The Gaming Control Regulatory Program and Title 16.
- C. The Gaming Control Regulatory Program is further designed to regulate the persons, locations and practices of permitted San José Cardrooms and Funding Sources.
- D. In enacting this Gaming Control Regulatory Program, the City Council does not intend to allow more than the number of Card Tables currently authorized by the San José Municipal Code or to increase the number of Card Tables available.
- E. It is the intent of the City Council to regulate Cardrooms and Nonprofit Organization Fundraisers in this City concurrently with the State of California, to the extent authorized by, and as required by, the Gambling Control Act codified under the California Business and Professions Code and the regulations of the State of California Department of Justice and the California Gambling Control Commission.
- F. The provisions of this Title shall be broadly construed for the purpose of authorizing strict regulatory controls and oversight of the Cardrooms and Funding Sources.
- G. Any license, permit, approval or registration issued pursuant to the provisions of this Title is a revocable privilege and no holder acquires any right in the license, permit, approval or registration other than the procedural rights granted under this Title or as required by the United States or California Constitution.

**16.02.020 Responsibility of Cardroom Permittee**

- A. The Cardroom Permittee shall be responsible for every violation of the requirements of this Title committed by the Permittee, any Employee, Independent Contractor, Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee that the Administrator determines is a Minor Violation under San José Municipal Code Section 16.33.010.
- B. In the case of a violation of a requirement of this Title, other than a Minor Violation, by an Employee or Independent Contractor, Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee, the Administrator shall have the discretion to take enforcement action against the person who committed the violation, as well as the Cardroom Permittee, the Employee of the Permittee, any Key Employee who is responsible for the supervision or management of the person who committed the violation, or against any combination of them, who knew or should have known of the violation.
- C. In the case of a violation of a requirement of this Title, other than a Minor Violation, by a Key Employee, the Administrator shall have the discretion to take enforcement action, against the Permittee, the Key Employee, or both.

**16.02.025 Responsibility of Funding Source**

The Funding Source shall be responsible for every violation of the requirements of this Title committed by any Funded Player, Funding Source Employee or independent contractor of the Funding Source.

**16.02.030 Cumulative Remedies**

This Title provides for administrative enforcement of its provisions, which are in addition to all other legal and equitable remedies, administrative, criminal or civil, that may be pursued by the City to address any violation of this Title.

**16.02.040 Fees Deemed Debt to City**

The amount of any fee, cost, or charge imposed by this Title shall be deemed to be a debt to the City that is recoverable in any court of competent jurisdiction.

**16.02.050 Time Provisions**

Consistent with Chapter 1.04 of this Code, the failure to comply with the provisions of this Title setting forth time limits for action by the Chief of Police, the Administrator, other officers or employees of the City of San José, or a hearing officer shall not result in any automatic decision, determination, or regulatory action in favor of a person subject to regulation under this Title.

**Part 2**

**Definitions**

**16.02.200 Definitions**

The definitions set forth in this Part shall govern the application and interpretation of this Title.

**16.02.210 Administrator**

“Administrator” means the Administrator of Gaming Control or his or her designee.

**16.02.220 Ante**

“Ante” means a predetermined amount of approved gaming chips that each player must post individually in accordance with submitted and approved game rules in the pot prior to being dealt a hand at a permissible American poker game.

**16.02.230 Applicant**

“Applicant” means any person who applies for:

- A. The renewal or amendment of a Cardroom Permit; or
- B. A License or the renewal or amendment of a License; or
- C. A work permit or the renewal of a work permit; or
- D. Registration or renewal of registration pursuant to Chapter 16.50 of this Title.

**16.02.240 Automatic Teller Machine**

“Automatic Teller Machine” means:

- A. Any electronic information processing device used by a financial institution and its customers for the primary purpose of executing transactions solely between the financial institution and its customers; and/or
- B. Any electronic information processing device located in California which accepts or dispenses cash in connection with a credit, deposit, or convenience account.
- C. Devices used solely to facilitate check guarantees or check authorizations, or which are used in connection with the acceptance of dispensing cash on a person-to-person basis are not Automatic Teller Machines.

**16.02.250 Backline Betting**

“Backline Betting” means either or both of the following types of bet or wager:

- A. Any bet or wager made by a person who is not seated at the Card Table at any Player-Position, including that of a Player-Dealer; or
- B. Any bet or wager made by a person seated at the table at another’s Player-Position, including that of a Player-Dealer.

**16.02.260 Card Table**

- A. “Card Table” means any table or any other surface upon which any Controlled Game is played, dealt, operated, carried on, conducted, maintained, or exposed

for play.

- B. Any table or any other surface upon which a Controlled Game is played, dealt, operated, carried on, conducted, maintained, or exposed for play for the purpose of raising funds for an eligible nonprofit organization at a Nonprofit Organization Fundraiser held in compliance with the requirements of Chapter 16.50 of this Title and State Gambling Law, is not a Card Table for purposes of this Title, unless the Nonprofit Organization Fundraiser is held on the Cardroom Premises of a Cardroom Permittee.

**16.02.270 Cardroom**

- A. "Cardroom" means any building or place where, in return for any fee, charge, compensation, consideration, credit, reward, representation of value or thing of value, a Controlled Game is played, dealt, operated, carried on, conducted, maintained, or exposed for play.
- B. Any building or place where a Nonprofit Organization Fundraiser is held in compliance with the requirements of Chapter 16.50 of this Title and State Gambling Law is not a Cardroom for purposes of this Title, unless the Nonprofit Organization Fundraiser is held on the Cardroom Premises of a Cardroom Permittee.

**16.02.275 Cardroom Permittee**

"Cardroom Permittee" means a person, firm or entity that holds a Cardroom Permit issued in accordance with the provisions of this Title 16.

**16.02.280 Cardroom Premises**

"Cardroom Premises" means any building or place where, in return for any fee, charge or other compensation, any person or persons are permitted to play a Controlled Game. Cardroom Premises include, but are not limited to, all portions of the building in which Controlled Games are permitted to be played, all back of the house space, restaurants,

lounges, banquet halls, meeting rooms, parking facilities, office space, auxiliary structures and all on or off-site property warehouse, storage and/or depository structures associated with the operation of the Cardroom, even if the Controlled Games are not actually conducted in or on that space.

**16.02.290 Charitable Organizations**

“Charitable Organizations” means organizations exempted from the payment of the bank and corporation tax by Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701h of the California Revenue and Taxation Code.

**16.02.300 Controlled Gambling**

“Controlled Gambling” means to deal, operate, carry on, conduct, maintain, or expose for play any Controlled Game.

**16.02.310 Controlled Game**

“Controlled Game” means any Controlled Game as defined under State Gambling Law.

**16.02.315 Eligible Nonprofit Organization**

“Eligible Nonprofit Organization” means a nonprofit organization that is qualified to conduct business in California; has been in existence for at least three (3) years; and is exempt from taxation under California Revenue and Taxation Code Sections 23701a, 23701b, 23701d, 23701e, 23701f, 23701g, 23701k, 23701h or 23701w.

**16.02.320 Employee**

“Employee” means any person who is employed, with or without compensation, by the Cardroom Permittee and who performs work in a Key Employee position, a Gambling Enterprise Employee position, or a Non-Gambling Enterprise Employee position who is subject to work registration.

**16.02.330 Financial Source**

“Financial Source” means any person who offers or provides a loan, credit, or any other form of financing to a Cardroom Permittee or holds evidence of indebtedness in a Cardroom Permittee. Financial Source shall not be construed to include any person with whom the Cardroom Permittee has an agreement for the lease of equipment or other personal property.

**16.02.340 Funded Player**

“Funded Player” means any person or player who plays Permissible Games at a permitted Cardroom with financing provided by a third-party provider of proposition player services, also known as a “Funding Source” as defined in Section 16.02.350. For the purpose of this Title, “Funded Player” also means a third party “proposition player” or “player” as defined under Title 4 of the California Code of Regulations, Division 18.

**16.02.350 Funding Source**

“Funding Source” means any person that provides the financing, including but not limited to loans, credit, currency, negotiable instrument, chips or any other representation or thing of value to a Funded Player for use in the playing of a Permissible Game at a permitted Cardroom. For the purpose of this Title, “Funding Source” also means “third-party proposition player services” or “proposition player services” as defined under Title 4 of the California Code of Regulations, Division 18 or “third-party provider of proposition player services” as used in California Business and Professions Code Section 19984.

**16.02.355 Funding Source Employee**

“Funding Source Employee” means any person who is employed, with or without compensation, by the Funding Source.

**16.02.356 Funding Source Owner**

“Funding Source Owner” means any person who owns an interest in a Funding Source or Funding Source Licensee.

**16.02.360 Gambling**

“Gambling” means to deal, operate, carry on, conduct, maintain, expose for play, or play any Controlled Game.

**16.02.370 Gambling Enterprise Employee**

“Gambling Enterprise Employee” means any person employed in the operation of a permitted Cardroom whose employment duties require or authorize access to restricted areas of the Cardroom Premises or to public areas where gambling occurs.

**16.02.375 Gambling Equipment**

“Gambling Equipment” or “Gaming Equipment” means any equipment, including but not limited to, playing cards, shuffler machines, dice, dice cups, tiles, gaming chips, gaming plaques, card-dispensing shoes, table layouts, mechanical or electromechanical or electronic device, component or machine and other device used remotely or directly in connection with Gaming at a permitted Cardroom.

**16.02.380 Game**

“Game” means any Controlled Game.

**16.02.390 Gaming**

“Gaming” means to deal, operate, carry on, conduct, maintain, expose for play, or play any Controlled Game. For purposes of this Title, the terms “Gambling” and “Gaming” are synonymous.

**16.02.395 Gaming Chips and Gaming Plaques**

“Gaming Chips” and “Gaming Plaques” means a non-metal or partly metal representative of value issued by a Cardroom Permittee for use only as a wager or as a tip while playing Permissible Games in a permitted Cardroom.

**16.02.400 Gaming Day**

“Gaming Day” means the normal business cycle in a 24-hour period, regardless of actual operating hours, designated by a Cardroom Permittee by which the Cardroom keeps its books and records for business, accounting, and tax purposes. For purposes of this Title, each Cardroom Permittee may have only one (1) Gaming Day, common to all of its operations.

**16.02.410 Hand**

“Hand” means:

- A. In any Permissible Game featuring a rotating Player-Dealer, the process by which wagers are placed, cards or tiles are dealt, collection fees are collected and bets are reconciled in accordance with the approved rules of the Permissible Game.
- B. In any Permissible Game of an American poker game, the process by which hands are dealt, wagers are placed, and the winner of the Pot is determined and paid in accordance with the approved rules of the Permissible Game.

**16.02.415 Independent Contractor**

“Independent Contractor” means any person or entity who is not an employee of the Cardroom Permittee that performs work on the premises of a permitted Cardroom or provides goods or services related to the operation of the Cardroom Premises under contract or agreement with the Cardroom Permittee or its Owners. Independent Contractor shall include all employees of the Independent Contractor, all subcontractors of the Independent Contractor, and all employees of said subcontractors who perform

work on the premises of a permitted Cardroom or provide goods or services related to the operation of the Cardroom Premises under contract or agreement with the Cardroom Permittee or its owners.

**16.02.420 Key Employee**

“Key Employee” means any person employed in the operation of a Cardroom in a supervisory capacity who is authorized or empowered to make discretionary decisions with regard to Gambling operations, including, without limitation, shift managers, credit executives, cashier operations supervisors, Gambling operation managers and assistants, managers or supervisors of security personnel, surveillance managers or supervisors, or any other person designated as a Key Employee by the Administrator because the Administrator believes the person has the power to exercise a significant influence over the gaming operation of the Cardroom Permittee or for other reasons consistent with the public interest, and the policies of this Title.

**16.02.430 Landowner**

“Landowner” means any person who owns any interest in the premises of a permitted Cardroom or in the real property used by a permitted Cardroom.

**16.02.435 License**

“License” means a license issued pursuant to the provisions of this Title 16.

**16.02.440 Licensee**

“Licensee” means any person holding a valid License under the provisions of this Title.

**16.02.450 Non-Gambling Enterprise Employee**

“Non-Gambling Enterprise Employee” means:

- A. Any person employed in the operation of a permitted Cardroom whose employment duties do not require or authorize access to restricted areas of the Cardroom or to public areas where gambling occurs; and

- B. Any person employed in the operation of a permitted Cardroom whose employment duties the Administrator determines do not require a work permit for reasons consistent with the public interest and the policies of this Title.

**16.02.455 Nonprofit Organization Fundraiser**

“Nonprofit Organization Fundraiser” means a fundraiser using Controlled Games held by an eligible nonprofit organization pursuant to the requirements of State Gambling Law.

**16.02.460 Owner**

“Owner” means every person who owns an interest in any Cardroom or Cardroom Permittee.

**16.02.465 Patron**

“Patron” means any person, except an Employee or Independent Contractor performing work on the Cardroom Premises, who frequents, plays any Permissible Game, or purchases any goods or services on the Cardroom Premises of a Cardroom Permittee.

**16.02.470 Permissible Games**

“Permissible Games” are Controlled Games listed in Resolution Number 63771, passed by the City Council on June 9, 1992 and modified by the substitution of any Controlled Game that the Administrator authorizes a Cardroom Permittee to play through the substitution procedure set out in Chapter 16.18.

**16.02.475 Person or Entity**

“Person or Entity” shall have the meaning stated in Subdivision (b) of California Business and Professions Code Section 19987 when this term is used in Chapter 16.50 of this Title. Otherwise, the word “person” shall have the meaning set out in Chapter 1.04 of Title 1 of this Code.

**16.02.480 Player-Dealer**

“Player-Dealer” means the player who acts as the banker in California games such as Pai Gow, Double Hand Poker, Super Pan 9, and California Aces (22), against whom all other players must compare their hands. The Player-Dealer may win, lose or draw up to the amount he or she wagers on a hand as permitted under the rules of the game. When the Player-Dealer’s wager is depleted, the hand is over, even if some players have not had a chance to participate.

**16.02.490 Pot**

“Pot” means the total amount of money that is staked by all the players in one hand of an American poker game.

**16.02.500 Proposition Player**

“Proposition Player” means an Employee who, as part of his or her job duties, plays any Permissible Game with his or her own money.

**16.02.505 Registrant**

“Registrant” shall mean an Eligible Nonprofit Organization or Person or Entity that has been granted a valid Registration by the Administrator pursuant to Chapter 16.50 of this Title.

**16.02.510 Regulation**

“Regulation” means any Regulation promulgated by the Administrator pursuant to Title 16 of this Code. Unless the specific section indicates otherwise, Regulation includes provisional and final regulations.

**16.02.520 Regulatory Action**

“Regulatory Action” means any or all of the following actions against either a Cardroom Permittee or a Licensee: revocation, suspension for a period of time, monetary penalties, divestiture of stock, addition of restrictive terms, conditions and limitations on

the Cardroom Permit or License, restitution to victims and payment of the City's costs of investigation and enforcement, issuance of a letter of reprimand or other disciplinary penalty.

**16.02.530 Reportable Condition**

“Reportable Condition” means:

- A. Matters coming to the attention of the Cardroom Permittee's auditor or Certified Public Accountant that are communicated to the Cardroom Permittee because they represent material deficiencies in internal control that could adversely affect the Cardroom Permittee's ability to record, process, summarize, and report financial data; or
- B. Matters coming to the attention of the Cardroom Permittee's auditor or Certified Public Accountant that are communicated to the Cardroom Permittee that are defined as a Reportable Condition by the applicable American Institute of Certified Public Accountants standards or by applicable state or federal law.

**16.02.540 State Gambling Law**

- A. “State Gambling Law” means The Gambling Control Act, California Business and Professions Code Section 19800 et seq., the regulations promulgated thereunder either by the California Department of Justice or by the California Gambling Control Commission, and the actions, orders and decisions of the California Department of Justice and the California Gambling Control Commission, and the provisions of Chapter 10, Title IX, Part 1 of the California Penal Code beginning at Penal Code Section 330 et seq., pertaining to Gaming.
- B. Any reference to California statutory law and regulations promulgated thereunder, including, but not limited to The Gambling Control Act, is deemed to include any successor or amended version of the referenced statutory or regulatory provision.

**16.02.550 Title**

“Title” means Title 16 of this Code and any Regulations promulgated hereunder, including, but not limited to internal control requirements.

**16.02.560 Vendor**

“Vendor” means any person or entity that lends, lets, leases, sells, furnishes, or licenses any Controlled Game or Gambling Equipment to a Cardroom Permittee under any agreement or arrangement.

**CHAPTER 16.04  
VOTER REQUIREMENT**

**16.04.010 Policy**

There shall be no expansion of Cardroom Gambling in the City without first obtaining the majority approval of the voters of the City.

**16.04.020 Cardroom and Card Table Limitation**

- A. The maximum number of Card Tables permitted in the City shall be eighty (80) tables, unless and until otherwise authorized by a vote of the people.
- B. The maximum number of Cardrooms permitted in the City shall be two (2), unless and until otherwise authorized by a vote of the people.
- C. The maximum number of Card Tables at any one (1) Cardroom shall be forty (40), unless and until otherwise authorized by a vote of the people.

**16.04.030 Expansion of Gambling**

- A. The City Council shall not take any action to expand the amount of Cardroom Gambling in the City unless and until otherwise authorized by a vote of the people.

- B. For purposes of this Section, expansion shall mean:
1. Any increase in the number of Cardrooms or Card Tables as specified in Section 16.04.020 above;
  2. Any increase in bet limits as specified in this Title;
  3. The use of slot machines or devices, or gambling devices as defined by State Gambling Law;
  4. Any form of Gambling which was not allowed under this Code on or before June 30, 1996, or which is prohibited under State Gambling Law on or before June 30, 1996; or
  5. Any increase in the total number of Games beyond the twenty-one (21) authorized pursuant to Resolution Number 63771, adopted June 9, 1992.
- C. Nothing herein shall limit the authority of the Administrator to substitute Games on a one-for-one basis or to modify the rules of a Permissible Game consistent with the provisions of this Title.

**16.04.040 Reduction Allowed**

Nothing in this Chapter shall preclude the reduction of the number of Card Tables or reducing the amount of Cardroom Gambling allowed pursuant to this Chapter.

**16.04.050 Annual Report**

- A. The Chief of Police shall prepare an annual report evaluating the impact of Cardroom Gambling on crime in the San José metropolitan area. The annual report shall also evaluate any regulatory issues that the Chief of Police may wish to bring to the attention of the City Council.
- B. The report shall be presented to the City Council and made available to the public.

**CHAPTER 16.06**  
**ADMINISTRATION**

**16.06.010 Division of Gaming Control**

The Division of Gaming Control is hereby created within the Police Department.

**16.06.020 Division of Gaming Control Administrator**

- A. The Administrator of Gaming Control shall head the Division of Gaming Control.
- B. The Administrator shall be a civilian.
- C. The Administrator shall be appointed by the City Manager and shall report directly to the Chief of Police.

**16.06.030 Functions, Powers, and Duties**

- A. The Administrator shall:
  - 1. Manage and supervise the operation of the Division of Gaming Control.
  - 2. Investigate the qualifications of Applicants and prescribe all forms to be used for the investigation of the qualifications of Applicants.
  - 3. Conduct investigations to:
    - a. Determine whether there has been any violation of this Title or of State Gambling Law.
    - b. Determine any facts, conditions, practices, or matters that he or she may deem necessary or proper to the enforcement of this Title.
    - c. Aid in promulgating Regulations.
  - 4. Conduct audits and reviews of Cardroom operations to assure compliance

with the requirements of this Title and conduct financial audits and reviews to assure that revenues are accurately recorded.

5. Investigate and take any actions authorized under this Title regarding all work permit cases affecting the granting, renewal, suspension, revocation, and addition of limitations and conditions to any work permit.
  6. Investigate and take any actions authorized under this Title concerning Regulatory Action against Cardroom Permittees and Licensees.
  7. Make recommendations to the Chief of Police on Cardroom Permit amendment applications and on License applications.
  8. Collect all fees imposed by this Title.
  9. Promulgate Regulations necessary to fulfill the requirements and policies of this Title.
  10. Perform such other functions and duties and hold such powers as are specifically conferred elsewhere in this Title.
  11. Issue administrative subpoenas.
  12. Perform such other functions related to the Division of Gaming Control and the administration of this Title that the City Council, the City Manager, or the Chief of Police may, from time to time, authorize or request.
- B. Notwithstanding the provisions of Subsection A, the Administrator is not authorized to conduct criminal investigations. Criminal investigations shall be conducted separately by the Police Department and not by the Administrator of the Division of Gaming Control.

#### **16.06.040 Regulations**

- A. The Administrator is authorized to promulgate all Regulations necessary to implement the requirements and fulfill the policies of this Title, including, but not

limited to the following subjects:

1. Prescribe Cardroom Permit, License, and work permit application and renewal application forms and the scope of information required for licensing and permitting, including, but not limited to fingerprints, photographs, releases for criminal arrest, conviction, and other criminal history information, releases for financial, credit, business, and employment history, and certification of Applicant responses under penalty of perjury.
2. Procedures for investigating all applicants for Licenses and work permits.
3. Procedures for Cardrooms to accept negotiable instruments from Patrons.
4. Procedures for Regulatory Action on Cardroom Permits and Licenses, and for suspension, revocation, renewal and setting of limitations and conditions on work permits.
5. Minimum security and surveillance controls by Cardrooms.
6. Minimum internal controls for the effective control of internal Cardroom fiscal and operational matters including, but not limited to the safeguarding of assets and revenues and maintenance of reliable records, accounts, and operations.
7. Periodic financial and compliance reporting to the Administrator, including, but not limited to an annual audit prepared by an Independent Certified Public Accountant or Firm, attesting to the financial condition of the Cardroom Permittee, to the compliance of the Cardroom Permittee with the requirements of this Title, and to the compliance of the Cardroom Permittee with the requirements of the Cardroom Tax under Chapter 4.77 of Title 4 of this Code and its ability to accurately record and calculate the Cardroom Tax.

8. Methods to assess and collect fees, late penalties, and interest.
  9. Criteria and procedures for reporting criminal or potential illegal activity on Cardroom premises or connected with the operation of a Cardroom to the Police Department.
  10. Define and limit areas of operation of the Cardroom and the rules of the Controlled Games that Cardrooms are permitted to play under this Title.
- B. All the Regulations promulgated by the Administrator, provisional or final, shall have the force and effect of law.

**16.06.050 Provisional Rule-Making Procedure**

- A. The Administrator shall be authorized to issue provisional Regulations to implement the requirements and fulfill the policies of this Title without recourse to the advance notice and comment requirements for final Regulations on an emergency basis for the following reasons:
1. When changes are made in State Gambling Law that the Administrator deems to require conforming changes in this Title; or
  2. In order to control practices or conduct at Cardroom Premises or by Cardroom Permittees, Licensees, Registrants, or Applicants that the Administrator reasonably believes constitute an imminent danger to the public health, safety, or welfare; or
  3. In order to control practices or conduct at Cardroom Premises or by Cardroom Permittees, work permittees, Registrants, Licensees or Applicants that the Administrator reasonably believes constitute an imminent danger to the Administrator's ability to effectively administer and enforce the requirements and policies of this Title.
- B. Provisional Regulations shall take effect upon service on the Cardroom Permittees and any other person who would be subject to the provisional

Regulation.

- C. All provisional Regulations promulgated by the Administrator shall sunset one (1) year after they take effect if the Administrator has not acted to promulgate the provisional Regulation as a final Regulation pursuant to the procedures set out in this Chapter.

**16.06.060 Final Regulations**

- A. No Regulation shall be adopted by the Administrator as a final Regulation prior to meeting all of the following requirements:
1. The Administrator shall make each proposed Regulation available for inspection and copying by the public at the Office of the Administrator during normal business hours.
  2. The Administrator shall mail a copy of each proposed Regulation to each Cardroom Permittee and any other person who would be subject to the proposed Regulation.
  3. The Administrator shall make a copy of each proposed Regulation available for inspection and copying by each person who has provided written notice to the Administrator that he or she wishes to be notified of the proposal of new Regulations.
  4. The Administrator shall provide a thirty (30) working day public comment period starting from the date of service on the Cardroom Permittees. During this period, any person, including Cardroom Permittees and any other persons who would be subject to the proposed Regulation, may submit written comments to the Administrator.
- B. At the close of the public comment period, the Administrator shall consider all the public comments on the proposed Regulation and shall then finalize the Regulation. The finalized Regulation shall be accompanied by a brief written

statement from the Administrator that references all the reasonable written comments on the proposed Regulation and explains why the comments were accepted, rejected, or modified by the Administrator.

- C. The proposed Regulation shall become final upon service by the Administrator on the Cardroom Permittees and such other persons subject to the Regulation.
- D. The Administrator may amend final Regulations by following the procedure for promulgating Regulations.

**16.06.070 Administrative Inspections**

- A. The Administrator shall be authorized to:
  - 1. Inspect all Cardroom Premises, including, but not limited to, Cardroom security and surveillance equipment, and Gaming equipment without notice or warrant at any time.
  - 2. Inspect, examine, remove and impound all documents, records, books, supplies, Gaming Equipment, cash box, computers, and other equipment on the Cardroom Premises, other than those documents protected by the attorney client privilege or work product doctrine. The Cardroom must provide a privilege log that identifies with date, author, recipient, subject and other information sufficient to determine the applicability of the claimed protection. The privilege log must be provided to the Administrator as soon as practical, but no more than ten (10) working days after the inspection.
  - 3. Visit, investigate, and place expert accountants, technicians, and any other persons, as the Administrator may deem necessary, in all areas of the Cardroom Premises for the purpose of determining compliance with the requirements of this Title and State Gambling Law.
- B. The Administrator shall provide copies to the Cardroom Permittee of any seized

documents and a description of other seized items as soon as practicable under the circumstances, taking into account the volume of records seized and the need to safeguard the integrity of the investigation.

- C. When practicable under the circumstances, taking into account the volume of records seized and the need to safeguard the integrity of the investigation, the Administrator may copy the seized documents prior to removing them from the premises. Each Cardroom shall make available to the Administrator appropriate equipment and other personnel or immediate assistance needed in order to copy seized documents on the Cardroom Premises.
- D. For purposes of this Section, documents and records shall include, but not be limited to, any writing containing information. The writing may be handwritten, typewritten, printed, a photo static copy, a photograph, all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched, cards, discs, diskettes, drums, or other electronic means of storing information, including computer stored information, and every other means of recording information. The information may be in any form of communication or representation, including letters, words, pictures, sounds, or symbols, numbers, or combination thereof.
- E. When the Administrator visits or inspects the Cardroom Premises, the Cardroom Permittee shall provide the Administrator with immediate, unhindered access to all areas of the Cardroom Premises, including surveillance rooms.
- F. Subsection A shall not be construed to limit warrantless inspections and seizures except as required by the California Constitution or the United States Constitution.

## CHAPTER 16.08

### ACCOUNTING, AUDITING AND INTERNAL CONTROLS

#### 16.08.010 Content of Internal Controls

- A. The Administrator shall develop and promulgate Regulations establishing minimum internal controls over all areas of Cardroom operations, including, but not limited to, all of the following areas:
1. Card Table funds;
  2. Collection of fees;
  3. Drop box transportation and storage;
  4. Counting of fees;
  5. Cashiers cage operations;
  6. Table of organization and Jobs Compendium;
  7. Internal audit function;
  8. Security and surveillance monitoring systems, including closed circuit television systems;
  9. Records retention;
  10. Financial reports;
  11. Tips;
  12. Signatures;
  13. Documentation of amounts written off;

14. Patron deposit accounts and patron check cashing procedures; and
  15. Goods and services contractors.
- B. Cardroom Permittees shall apply, at a minimum, internal controls, accounting and auditing procedures and standards that the Administrator adopts by Regulation.
- C. Each Cardroom Permittee shall, at its own expense, provide the Administrator with the use of a dual closed circuit television monitoring station in the surveillance room of the Cardroom. In addition, each Cardroom Permittee shall, at its own expense, provide the Administrator with such other off-site or remote closed circuit television monitoring station or system for surveillance purposes as the Administrator may require by Regulation.

**16.08.020 Approval by the Administrator**

- A. As a condition for operation, each Cardroom Permittee shall submit a written System of Internal Controls Document to the Administrator for review and approval within ninety (90) working days after the Administrator issues his or her minimum internal control Regulations.
- B. The Administrator shall review the Document submitted by the Permittee and shall serve upon the Permittee either a Statement of Acceptance approving the Document or a Statement of Deficiency outlining the areas in which the Document fails to meet the Administrator's Minimum Internal Control Regulations, within ninety (90) working days after receipt of the document.
- C. The Cardroom Permittee shall, within thirty (30) working days from the service of the Statement of Deficiency, submit to the Administrator a corrected System of Internal Controls Document that shall correct all areas of deficiency found in the Statement of Deficiency to the satisfaction of the Administrator.

**16.08.030 Financial Statement Audits and Internal Control Reports**

- A. Each Cardroom Permittee shall submit to the Administrator an annual financial statement audit.
- B. The financial statement audit shall be conducted by an independent Certified Public Accountant licensed to practice in the State of California and acceptable to the Administrator.
- C. In addition to the financial statement audit required under Subsection A, above, each Cardroom Permittee shall, at its own expense, have its independent Certified Public Accountant render and submit to the Administrator on an annual basis a report, prepared in conformity with generally accepted accounting principles, on the Cardroom's internal control structure, which shall include a report of all exceptions noted, regardless of materiality. In addition, the report shall include a disclosure of any Reportable Condition discovered in the course of preparing the internal control report.
- D. If the internal control report discloses a Reportable Condition, the Cardroom Permittee shall prepare a written response to the independent Certified Public Accountant and submit a copy of the written response to the Administrator within ninety (90) calendar days from the receipt of the independent Certified Public Accountant's report.
- E. The Cardroom Permittee's written response shall indicate the corrective action undertaken by the Permittee.
- F. The corrective action undertaken by the Permittee shall be to the satisfaction of the Administrator.

**16.08.040 Financial and Compliance Review and Oversight by the Administrator**

- A. The Administrator may perform such financial and compliance reviews and oversight of each Cardroom Permittee as the Administrator considers necessary

- in order to assure that each Permittee is in full compliance with the requirements of this Title.
- B. The Administrator is authorized to contract for Certified Public Accountants and other professional services that the Administrator considers necessary in order to conduct any independent financial audit or review or any compliance audit or review of a permitted Cardroom.
  - C. The Cardroom Permittee that is the subject of the audit or review shall reimburse the City for the full costs of any Certified Public Accountant and other professional services that the Administrator considers necessary in order to conduct an independent financial audit or review or compliance audit or review.
  - D. The costs and charges of the Certified Public Accountant and other professional services shall be set forth in the Schedule of Fees established by resolution of the City Council. The Cardroom Permittee that is the subject of the audit or review shall be liable for payment of all costs and charges as they come due to the City. The Administrator shall provide written notice of each invoice to the Cardroom Permittee as the invoices come due to the City.

## **CHAPTER 16.10**

### **PATRON DEPOSIT ACCOUNTS AND CREDIT**

#### **16.10.010 Blank Personal Checks Prohibited**

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall hold or cash any personal check or other negotiable instrument that does not state the amount on the face of the check or other negotiable instrument or hold a personal check for a Patron for more than twenty-four (24) hours and then redeem it for cash, chips or any other thing of value.

- B. No Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee shall hold or cash any personal check or other negotiable instrument for or on behalf of a Patron.

**16.10.020 Credit Prohibited**

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall provide loans or credit of currency, checks or any other thing of value or any representation of value to or for the benefit of any Patron.
- B. No Cardroom Permittee, Owner, Licensee, or Employee shall operate, maintain or purport to maintain any credit system whereby any Patron may obtain loans or credit of currency, checks or other negotiable instruments, or any other thing of value or any representation of value.
- C. No Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee shall provide loans or credit of currency, checks or any other thing of value or any representation of value to or for the benefit of any Patron.
- D. No Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee shall operate, maintain or purport to maintain any credit system whereby any Patron may obtain loans or credit of currency, checks or other negotiable instruments, or any other thing of value or any representation of value.

**16.10.030 Prohibition on Credit and Loans on Premises**

- A. It shall be unlawful for any person or entity to seek, obtain, provide, or offer any loan or credit of: (i) currency, (ii) checks or other negotiable instruments, or (iii) any other thing of value or any representation of value, including Gaming Chips, on the Cardroom Premises for use in gambling at the Cardroom, except as provided in Subsection B.

- B. Subject to approval by the Administrator, Cardroom Permittees may have Automatic Teller Machines for use by Patrons and Employees on the Cardroom Premises.

**16.10.040 Patron Deposit Accounts**

- A. Subject to the approval of the Administrator, Cardroom Permittees shall be allowed to establish Patron deposit accounts for the purpose of providing safekeeping of Patron money provided that all of the following conditions are met:
  - 1. The accounts shall be used solely for:
    - a. The safekeeping of currency and checks to be used exclusively for use on services provided by the Permittee and for playing Permissible Games on the Cardroom Premises at which the deposit is made; and
    - b. The safekeeping of currency resulting from the cashing out of Gaming Chips used by the Patron depositor for the playing of Permissible Games on the Cardroom Premises.
  - 2. The Cardroom Permittee shall maintain the accounts in accordance with all State and Federal reporting requirements.
- B. The Cardroom Permittee shall be allowed to provide chips or other representations of value paid for in advance by the Patron in cash or by personal check.
- C. The Cardroom Permittee shall be allowed to accept a Patron's Gaming Chips or other winnings and provide the Patron with a check drawn on the Permittee's account for the amount of the Patron's chips or other winnings.

- D. The dollar equivalent of any such chips or other representations of value shall be posted in the same manner as this Title requires for the posting of Permissible Game rules.

**16.10.050 Patron Deposit Accounts Prohibited for Funding Sources**

Funding Sources, Funding Source Owners, Funded Players, and Funding Source Employees shall not establish or have any Patron deposit account.

**CHAPTER 16.12**

**PATRON SAFETY AND SECURITY**

**16.12.010 Patron Safety and Security**

Cardroom Permittees shall create a plan for the security and safety of Patrons and other persons who are lawfully on the premises.

**16.12.020 Patron Safety and Security Plans Required**

- A. Each Cardroom Permittee shall submit a written Patron Safety and Security Plan, designed to protect Patrons and other persons who are lawfully on the premises of the permitted Cardroom, to the Administrator by February 1, 2000.
- B. The Administrator shall have the right to require amendments to the Plan that are, in his or her judgment, reasonably necessary to protect the public peace, health, safety, and welfare.

## CHAPTER 16.14

### REPORTING OF CRIMINAL ACTIVITY AND 911 CALLS

#### 16.14.010 Crime Reporting Requirement

- A. No Cardroom Permittee, Owner, Licensee or Employee shall fail to make a report to the San José Police Department, immediately upon discovery of any conduct which raises a reasonable suspicion that a misdemeanor or felony crime has been committed on the Cardroom Premises. In addition, no Cardroom Permittee, Owner, Licensee or Employee shall fail to report any conduct which raises a reasonable suspicion of a violation of this Title to the Division of Gaming Control within four (4) hours of its discovery.
- B. Each Cardroom Permittee shall maintain a chronological criminal activity log and such other reports as the Administrator may determine are needed in order to effectively assist the San José Police Department to carry out its law enforcement function and protect the public health, safety and welfare.

#### 16.14.020 Administrator's Authority: Reporting of Criminal Activity

The Administrator is authorized to adopt such Regulations as he or she may determine are necessary for each Cardroom Permittee to fulfill the crime reporting requirement, including, but not limited to Regulations prescribing:

- A. The content of the chronological criminal activity log and required crime reports;
- B. The criteria and procedures for reporting criminal or suspected illegal activity on Cardroom premises or connected with the operation of a permitted Cardroom to the San José Police Department;
- C. The type or categories of crime to be reported to the San José Police Department;

- D. The time frame for reporting of crimes to the San José Police Department; and
- E. The job classifications of Cardroom Permittee Employees who shall be required to make reports.

**16.14.030 911 and 311 Calls**

- A. It shall be unlawful for a Cardroom Permittee, Owner, or Employee to disable any 911 or 311 access on any public telephone on the Cardroom Premises.
- B. The Administrator shall develop a monitoring system to enforce 911 and 311 access on all public telephones on the Cardroom Premises.

**CHAPTER 16.16**

**HOURS OF OPERATION**

**16.16.010 Hours of Operation**

Cardrooms shall be permitted to operate twenty-four (24) --hours per day, every day of the year.

**CHAPTER 16.18**

**RESTRICTIONS ON GAMBLING**

**16.18.010 Games' Conduct to Comply with Laws**

- A. Each Permissible Game conducted or operated in the City pursuant to the provisions of this Chapter shall be conducted and operated in full conformity with, and be subject to, all the provisions of State Gambling Law and the provisions of this Title.

- B. It shall be illegal for a Cardroom Permittee, Owner, or Employee to permit, allow, or suffer the playing of any Controlled Game except Permissible Games.

**16.18.020 Subletting to Persons without Permits Prohibited**

No Cardroom Permittee, Owner or Employee shall permit the farming out, assigning, leasing, renting or subletting of any Games, Card Tables, or gambling equipment that are lawfully on premises of a permitted Cardroom.

**16.18.030 Games to be Played on Single Level**

The playing of all Games shall be confined to a single level of each permitted Cardroom or to such other areas of a permitted Cardroom as may be approved by the Administrator. No playing of Games shall be permitted at any other location.

**16.18.040 Permissible Games**

- A. The only controlled games that shall be played on the premises of a permitted Cardroom are Permissible Games.
- B. No Game shall be played at any permitted Cardroom unless:
1. It is listed as a Permissible Game or a substitution is authorized by the Administrator pursuant to this Chapter, and
  2. It is a Controlled Game pursuant to State Gambling Law.
- C. The Cardroom Permittee shall file with the Administrator the rules on the manner in which each Permissible Game is played and such other reports regarding the rules of Controlled Games as are required to be filed pursuant to State Gambling Law.
- D. The Cardroom Permittee and Stock Ownership Licensees shall allow the playing of Permissible Games only in strict conformity with the rules approved by the Administrator.

**16.18.050 Substitution of Permissible Games and Modification of Rules of Permissible Games**

- A. The Administrator is authorized to substitute Permissible Games on a one-for-one basis and to permit a modification of the rules of a Permissible Game.
- B. A Cardroom Permittee may request authorization in writing to the Administrator a substitution of one (1) proposed Permissible Game for one (1) that is already on the list of Permissible Games.
- C. A Cardroom Permittee may request authorization in writing to the Administrator to substitute a proposed Permissible Game not already on the list of Permissible Games for one that is currently on the list, or to propose a modification of the rules of a Permissible Game.
- D. The Cardroom Permittee's written request shall include the following:
  - 1. The rules of the proposed Permissible Game or modification of the Rules of a Permissible Game and the name of the Permissible Game that the Permittee will no longer play, if applicable;
  - 2. Evidence that the proposed Permissible Game is a Controlled Game authorized under State Law, including, but not limited to specific written authorization by the California Department of Justice or the California Gambling Control Commission; and
  - 3. Such other information as the Administrator may require in order to be assured that the Game for which substitution is requested will be played in strict conformity with State Gambling Law and the provisions of this Title.
- E. The Administrator shall begin a review of the written request and an investigation into whether or not the proposed Permissible Game is a Controlled Game authorized under State Gambling Law after receiving the written request and all information the Administrator requests from the Cardroom Permittee.

- F. The Administrator shall authorize the substitution or rule modification only if he or she makes all of the following findings:
1. The proposed Permissible Game is a Controlled Game under State Gambling Law including either written authorization from the California Department of Justice or the California Gambling Control Commission or a final court determination.
  2. The playing of the proposed Permissible Game or playing the Permissible Game under the proposed rule modification will not increase the difficulty of enforcement or tend to undermine the effective regulation and control of Cardrooms.
  3. The playing of the proposed Permissible Game or playing the Permissible Game under the proposed rule modification does not create or enhance the dangers of unsuitable, unfair, or illegal methods or activities in the conduct of Controlled Gambling.
  4. The playing of the proposed Permissible Game or playing the Permissible Game under the proposed rule modification does not conflict with Federal or State law or this Title.
  5. The playing of the proposed Permissible Game or playing the Permissible Game under the proposed rule modification is consistent with the public interest and the policies of this Title.
  6. The playing of the proposed Permissible Game or under the rule modification is available to all Cardroom Permittees.
  7. The Playing of the Permissible Game under the proposed rule modification does not alter the fundamental or essential characteristics of the Permissible Game.

- G. The Administrator is authorized to apply such terms, conditions, and limitations upon the play of any proposed Permissible Game as the Administrator deems necessary in order to make the findings required under Subparagraph F.
- H. The Administrator's decision authorizing the substitution of the proposed Permissible Game for one already on the list of Permissible Games or rule modification shall be in writing and shall be served upon the Cardroom Permittee.
- I. No proposed Permissible Game or a Permissible Game played under modified rules shall be played by any Cardroom Permittee until after the Administrator serves upon the Cardroom Permittee the authorization placing the proposed Permissible Game onto the list of Permissible Games or modifying the rules of the Permissible Game.

**16.18.060 Game Rules**

- A. The rules describing how each Permissible Game is to be played shall be posted on the Cardroom Premises in a conspicuous place. Printed copies of the rules shall also be available to the public upon request.
- B. The rules, which are posted and made available to the public, shall be identical to the rules provided to the Administrator pursuant to requirements of this Chapter.
- C. The rules shall be made available in English, Spanish, Vietnamese, Korean, and Mandarin and/or Cantonese-Chinese, or such other language as the Administrator may require.

**16.18.070 Limitations on Bets**

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit, or suffer any person to make any single bet or wager in excess of Two Hundred Dollars (\$200) on any single betting square for any single hand for a California Game.

- B. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit or suffer any person playing in any Game to make an Ante, single bet, or raise in excess of Two Hundred Dollars (\$200) per wager in any American poker game.
- C. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit, or suffer any person to make a Backline Bet on any California Game played on the Cardroom Premises unless all of the following conditions exist:
  - 1. It is made on a Card Table with a layout designed for Backline Betting that is approved by the Administrator; and
  - 2. No backline bet can be placed on a top of a bet that is already on the table.
- D. No Cardroom Permittee, Owner, Licensee, or Employee, shall allow, permit, or suffer:
  - 1. Any Card Table on the Cardroom premises to have more than ten (10) betting squares per Player-Position.
  - 2. Any player at a Card Table to place a bet on more than ten (10) betting squares for any single hand of any California Permissible Game.
  - 3. Any player, other than a Player-Dealer, to place a bet in excess of Two Hundred Dollars (\$200) on any single betting square for any single hand of any California Game.
- E. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit, or suffer any person to make a wager of anything other than approved Gaming Chips and Plaques.

**16.18.075 Limitations on Continuous Presence at Cardroom Premises**

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit, or suffer any Patron to be on the Cardroom Premises for more than twenty (20)

continuous hours without requiring that Patron to have at least a four (4) hour absence from the Cardroom Premises. For the purposes of this Section, the twenty (20) hours shall be deemed continuous unless the Patron is absent from the Cardroom Premises for more than four (4) hours.

- B. No Cardroom Permittee, Owner, Licensee, or Employee shall allow, permit, or suffer any Patron to be on the Cardroom Premises that they know or should know has left from another Cardroom Permittee's Premises after twenty (20) continuous hours until four (4) hours have lapsed from the time the Patron left the other Cardroom Premises.

**16.18.080 Tournament Play**

- A. Cardroom Permittees shall be allowed to conduct "no limit" tournament play four (4) times per year, provided that twenty-five percent (25%) of the tournament entry fees and/or sitting fees received for such play shall be contributed to a Charitable Organization to be used for charitable purposes.
- B. The Cardroom Permittee shall provide the Administrator with thirty (30) days advance notice of its intention to conduct "no limit" tournament play.
- C. The Cardroom Permittee shall provide the Administrator with documentation satisfactory to the Administrator of the entry and/or sitting fees collected for each play and the amount actually contributed to charity.
- D. The Cardroom Permittee shall also provide the Administrator with documentation on the Charitable Organization(s) chosen by the Permittee including, but not limited to:
  - 1. Proof of nonprofit and charitable status with the state and federal government;
  - 2. The name, address, telephone number of the Charitable Organization;

3. The purposes for which the money collected will be used by the Charitable Organization.

**16.18.090 Stimulation of Play Prohibited**

- A. No Cardroom Permittee, Owner, Employee, Funding Source Funding Source Owner, Funded Player, or Funding Source Employee shall engage or persuade any person to play cards for the purpose of stimulating play where such person is to receive any reward, whether financial or otherwise, present or promised; or where such reward is to be diverted to the Cardroom Permittee or Owner except that the Cardroom Permittee may use Proposition Players in strict conformity with the provisions of this Chapter. Reward shall not include employment compensation provided by a Funding Source to its Funded Players or employment compensation provided by a Cardroom Permittee to its Proposition Players.
- B. No Cardroom Permittee, Owner, or Employee, Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee shall engage in the lending or giving of money, chips, tokens or anything of value, either real or promised, to any person, other than a Funded Player, for the purpose of allowing that person to eat or drink or to play Permissible Games.
- C. No Cardroom Permittee, Owner, Employee, Funding Source, Funding Source Owner, Funded Player, or Funding Source Employee shall provide any money or services or anything of value to Patrons.
- D. This Section shall not prohibit a Cardroom Permittee from reimbursing a Patron for damage to clothing caused by a Cardroom Permittee or its Employee if receipts are maintained to the satisfaction of the Gaming Administrator.
- E. This Section shall not prohibit distribution of promotional items containing or imprinted with the Cardroom Permittee's name or logo with a value of less than

twenty-five dollars (\$25.00) so long as the promotional item is available to any person on the Cardroom premises whether or not the person is a Patron.

- F. This Section shall not prohibit the Cardroom Permittee from providing reasonable cab or public transportation fare to transport a Patron from the Cardroom Premises. Upon request, the Cardroom Permittee shall provide the Administrator with documentation of the date, name and destination of the Patron and the amount of the fare that was reimbursed.

**16.18.100 Proposition Players**

- A. A Cardroom Permittee shall use only Employees, and not Independent Contractors as Proposition Players.
- B. The Cardroom Permittee shall not provide any compensation, reward, credit, chips, or any other thing of value or representation of value to an Employee who acts as a Proposition Player other than salary or wages earned for the time the Employee works as a Proposition Player. This prohibition does not prohibit a Proposition Player from receiving reimbursement of table fees or the same employment benefits that apply to all other Employees of the Cardroom Permittee.
- C. A Proposition Player shall prominently display an identification card provided by the Administrator identifying the player as a Proposition Player of the Permittee at all times the player is present on the Cardroom premises of the employing Permittee.
- D. A Proposition Player who plays only with his or her own personal funds shall apply for and receive a work permit as a Proposition Player.
- E. A Proposition Player shall not hold multiple endorsements on the work permit authorizing the Proposition Player to be employed in job classifications other than as a Proposition Player or to be employed in more than one (1) job classification in any Gaming Day.

- F. A Proposition Player shall receive no funding from a Funding Source.

**16.18.110 Funded Players**

- A. Funded Players who receive any funding from a Funding Source shall be required to apply for and receive a work permit unless required by the Administrator to apply for and receive a Funded Source Employee License.
- B. A Cardroom Permittee shall not allow, permit, or suffer more than one (1) Funded Player to play at a Card Table at any given time.
- C. A Funded Player shall prominently display an identification card issued or authorized by the Administrator identifying the player as a Funded Player of the Funding Source at all times the player is present on the Cardroom Premises.

**16.18.120 Minors on Premises Prohibited**

No Cardroom Permittee, owner or Employee shall knowingly allow, permit, or suffer any person under the age of twenty-one (21) years at any time to be in or upon the part of the Cardroom Premises where Gambling takes place.

**16.18.130 Permitting Intoxicated Persons to Play in Games Prohibited**

No Cardroom Permittee, Owner or Employee shall knowingly permit any person to play in any Game at any time while such person is obviously under the influence of any alcoholic beverage, drug, or controlled substance.

**16.18.140 Permitting Intoxicated Person on Premises Prohibited**

No Cardroom Permittee, Owner or Employee shall knowingly permit any person to enter into or remain on the part of the Cardroom Premises where Gambling takes place while such person appears to be obviously under the influence of alcoholic beverage, drug, or controlled substance.

**CHAPTER 16.20**  
**INDEPENDENT CONTRACTORS**

**16.20.010 Requirements for Independent Contractors**

- A. Each and every Independent Contractor who performs work in a Key Employee position, a Gambling Enterprise Employee position, or a Non-Gambling Enterprise Employee position who is subject to work registration, shall be subject to all the provisions of this Title that apply to Employees of a Cardroom Permittee.
  
- B. Each and every independent contractor who performs work for a Funding Source at a Cardroom Premises shall be subject to all the provisions of this Title that apply to Funded Players and Funding Source Employees.

**16.20.020 Outsourcing Restrictions**

- A. A Cardroom Permittee shall only use persons who are Employees to perform work related to its Gaming operation, including without limitation, surveillance personnel, casino cage personnel, compliance personnel, dealers, floor persons, game attendants, chip runners, internal security, internal accounting, any person supervising those individuals, and any Key Employee. These services shall not be performed by consultants, Independent Contractors or other third-persons. For purposes of this section only, those non-Employees with applications pending before the Gaming Administrator before January 1, 2008 may hold such positions only until the expiration of the original term of a License granted, if any.
  
- B. Notwithstanding Subsection A, the Administrator shall allow a natural person who is otherwise qualified who wishes to work for the Cardroom Permittee as an Independent Contractor in a position related to the Gaming operation to apply for and hold such a position as an Independent Contractor rather than as an Employee, unless the Administrator finds that granting such an exception would

be inconsistent with the efficient administration of the Division, the public interest, and the policies and requirements of this Title.

- C. Notwithstanding Subsection A, the Administrator, in the exercise of his or her sole discretion, may allow such other exceptions to the restrictions in Subsection A as the Administrator finds consistent with the efficient administration of the Division, the policies and requirements of this Title, and the public interest.

## **CHAPTER 16.21**

### **VENDOR APPROVAL**

#### **16.21.010 Vendor Approval**

- A. No person shall be or act as a Vendor at any Cardroom Premises without the prior approval of the Administrator.
- B. Any person seeking to become or act as a Vendor at any Cardroom Premises shall first apply to the Administrator for a Vendor Approval and must be granted a Vendor approval prior to acting as a Vendor.
- C. The Administrator is authorized to promulgate such Regulations as he or she deems necessary to implement the requirements of this Part.
- D. The Vendor Approval requirement in this Section shall not apply to any Vendor for the unexpired term of its lease, license, contract or agreement to lend, let, lease, sell, furnish, or license any Controlled Game or Gambling Equipment to a Cardroom Permittee in effect on March 24, 2009.

## CHAPTER 16.22

### RESTRICTIONS ON EMPLOYEE AND OWNER GAMBLING

#### 16.22.010 Employee Gambling

- A. No Employee of a Cardroom Permittee, with the exception of a Proposition Player, shall play any Permissible Game during the Employee's work hours in a Gaming Day, including any paid or unpaid breaks in the Employee's work hours during a Gaming Day.
- B. No Cardroom Permittee or Licensee shall allow, permit, or suffer any Employee of the Permittee, with the exception of Proposition Player, to play any Permissible Game during the Employee's work hours in a Gaming Day, including any paid or unpaid breaks in the Employee's work hours during a Gaming Day.

#### 16.22.020 Coercion of Employee to Gamble

No Cardroom Permittee, Owner, or Employee shall coerce, threaten, intimidate, or take any action adversely affecting the terms and conditions of employment of any Employee who does not play Permissible Games at the Cardroom of the employing Cardroom Permittee during his or her non-work hours.

#### 16.22.030 Owner and Key Employee Gambling Prohibited

No Cardroom Permittee, Owner, or Key Employee shall play any Permissible Game on the Cardroom Premises at which they are the Permittee, Owner or Key Employee, except during major tournaments held at the Cardroom Premises upon prior written notice and approval by the Administrator.

## CHAPTER 16.24

### JOB BUYING, SELLING AND FAVORITISM

#### 16.24.010 Job Buying and Selling Prohibited

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall solicit or receive any consideration in the form of currency, credit, check or other negotiable instrument, any other thing of value, or any representation of value from any person applying for employment with a Cardroom Permittee.
- B. No Cardroom Permittee or Owner shall allow, permit, or suffer any Employee to solicit or receive any consideration in the form of currency, credit, check or other negotiable instrument, any other thing of value, or any representation of value from any person applying for employment with a Cardroom Permittee.
- C. No person applying for employment with a Cardroom Permittee shall offer or give any consideration in the form of currency, credit, check or other negotiable instrument, any other thing of value, or any representation of value to a Cardroom Permittee, Owner, Licensee, or Employee in exchange for employment.
- D. No person shall offer to give any consideration in the form of currency, credit, check or other negotiable interest, or anything of value or any representation of value to a Cardroom Permittee, Owner, Licensee, or Employee in exchange for an agreement to act as a Funding Source at the Cardroom or in exchange for any services to the Cardroom as an independent contractor.
- E. The Administrator is authorized to develop appropriate Regulations to implement and enforce the requirements of this Chapter.

**16.24.020 Preferential Treatment or Favoritism Prohibited**

- A. No Cardroom Permittee, Owner, Licensee, or Employee shall solicit or receive any consideration in the form of currency, credit, check or other negotiable instrument, any other thing of value, or any representation of value from any person in exchange for preferential treatment in employment, including, but not limited to, a preferred shift.
- B. No Cardroom Permittee, Owner, or Licensee shall allow, permit, or suffer any Employee to solicit or receive any consideration in the form of currency, credit, check or other negotiable instrument, any other thing of value, or any representation of value from any person in exchange for preferential treatment in employment, including but not limited to, a preferred shift.
- C. No person shall offer to give any consideration in the form of currency, credit, check or other negotiable interest, or anything of value or any representation of value to a Cardroom Permittee, Owner, Licensee, or Employee in exchange for preferential treatment in employment, including but not limited to, a preferred shift.

**CHAPTER 16.26**

**OBLIGATION TO COOPERATE**

**16.26.010 Continuing Obligation to Cooperate**

- A. All Applicants, Cardroom Permittees, Owners, Licensees, Employees, work permittees, Funding Sources, Funded Players, Funding Source Owners, Funding Source Employees, and Registrants shall have a continuing obligation:

1. To provide any assistance, information, records or documentation required by the Administrator in the performance of his or her duties under this Title without delay, hindrance or conditions; and
  2. To cooperate fully and without delay, hindrance or conditions in any inquiry or investigation conducted by the Administrator.
- B. The duty to cooperate hereunder shall include a duty not to interfere with any other person's duty to cooperate under this Title.

## **CHAPTER 16.28**

### **IDENTIFICATION CARD REQUIREMENTS**

#### **16.28.010 Identification Card Display**

- A. No person who holds a License or work permit for a permitted Cardroom or Funding Source shall be physically present at any time upon that Cardroom Premises without prominently displaying his or her own personal identification card issued by the Administrator identifying such person with that Cardroom or Funding Source.
- B. The identification card shall be prominently displayed on the outermost garment at approximately chest height. Such identification card shall at all times be in good and readable condition.

#### **16.28.020 Issuance of Identification Cards**

- A. The Administrator, upon the granting of a License or work permit will provide the Licensee or Cardroom Permittee with a permanent identification card that shall be displayed prominently on the outer garment of each such person at all times when such person is present on the Cardroom Premises.

- B. The Administrator is authorized to issue identification cards with such identifying colors, brands, marks, and shapes as the Administrator considers necessary to allow for ease of identification by members of the public who patronize the Cardroom and by the Administrator and City employees charged with the enforcement of this Title.
- C. The Administrator shall issue a temporary identification card to an Employee or Funding Source Employee at the same time the Administrator issues a temporary work permit, temporary Key Employee License, or temporary Funding Source Employee License.
- D. An interim identification card may be issued by the Administrator to the Cardroom Permittee or Funding Source for use by a work permittee for a seven (7) working-day period in the event a work permittee loses his/her identification card. The Cardroom Permittee or Funding Source shall notify the Administrator of the loss of the identification card within twenty-four (24) hours of the issuance of an interim card by the Cardroom Permittee or Funding Source. The Administrator shall issue a new permanent identification card to the Employee or Funding Source Employee within seven (7) working days of being notified of the loss.
- E. All identification cards and badges issued by the City of San José are the property of the City of San José and shall be immediately collected by the Cardroom Permittee and provided to the Administrator within twenty-four (24) hours of receipt expiration, revocation or termination of the license, permit, employment, or contract.

**16.28.030 Administrator's Authority to Regulate Identification Cards**

The Administrator is authorized to promulgate such Regulations as he or she deems necessary in order to implement the identification card requirements of this Chapter and to effectuate the policies and requirements of this Title.

**CHAPTER 16.30**  
**CARDROOM PERMITS**

**Part 1**

**Cardroom Permit Requirements**

**16.30.010 Cardroom Permit Required**

- A. No person shall establish, maintain, manage or operate any Cardroom unless the Cardroom is maintained and operated pursuant to a valid Cardroom Permit.
- B. No person shall permit, allow, or suffer any Cardroom to be established, maintained, managed or operated unless the Cardroom is maintained and operated pursuant to a valid Cardroom Permit.

**16.30.020 Existing Permits Continued**

- A. Each valid Cardroom Permit in effect on December 23, 1999 shall continue in existence and shall be subject to all provisions of this Title.
- B. All terms and conditions of each Cardroom Permit in effect on December 23, 1999 shall continue in effect unless modified pursuant to the provisions of this Title 16.

**16.30.030 Permits Nonassignable**

- A. A Cardroom Permit shall not be sold, transferred or assigned by the Cardroom Permittee, or by operation of law, to any other person or persons. Any such sale, transfer or assignment, or attempted sale, transfer or assignment, of the Cardroom Permit shall be deemed to constitute a voluntary surrender of such Permit, which shall thereafter be deemed terminated and void.

- B. Stock Ownership in a Cardroom Permittee shall be subject to sale, assignment, or transfer only in strict accordance with the Stock Ownership License provisions of this Title.

**16.30.040 Ownership Limit within Santa Clara County**

No person who is an owner of a Cardroom in the City of San José shall, at any time, have any interest, legal or equitable, in more than one (1) Cardroom in the City of San José or elsewhere in the County of Santa Clara.

**16.30.050 Premises Relocation**

- A. A Cardroom Permit is valid only for the location provided in the Permit. Relocation of a Cardroom is permitted only upon an amendment to the Cardroom Permit as provided in this Chapter.
- B. Relocation of a permitted Cardroom to a location different from that described in the Cardroom Permit is expressly permitted where governmental acquisition of an existing permitted Cardroom Premises is under threat of eminent domain or an actual exercise of the power of eminent domain would result in the closing of the permitted Cardroom.
- C. If the Cardroom Permittee desires to apply for a new location on which to conduct the Cardroom business, the Cardroom Permittee must comply with both of the following procedures:
  - 1. The Cardroom Permit Amendment procedure set out in this Chapter; and
  - 2. The procedures set out in Title 20 of this Code.
- D. In the event that the government takes possession of the property subject to a Cardroom Permit under threat or actual exercise of the power of eminent domain, the Permit for the Cardroom shall be deemed to be valid and remain in effect for

not less than a period of twenty-four (24) months from the date of closing of the Cardroom in order to allow a relocation.

- E. Any Cardroom, other than a legal nonconforming use, shall only be located and operated in conformity with Title 20.

**16.30.060 Cardroom Permit Fees and Table Fees**

- A. The Cardroom Permit Fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid to the City of San José by the Cardroom Permittee on an annual basis.
- B. A Card Table Fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid to the City of San José by the Cardroom Permittee in quarterly installments.
- C. In the event of denial, surrender, suspension, revocation or expiration of a Cardroom Permit, no portion of any Permit renewal or amendment fee or Card Table Fee shall be refunded.

**Part 2**

**Permit Amendment Procedure**

**16.30.200 Cardroom Permit Amendment Application**

- A. The terms and conditions of a Cardroom Permit shall not be amended or otherwise changed except through the Cardroom Permit amendment procedure.
- B. As used in this Title, “terms and conditions” of a permit include, but are not limited to, any conditions placed on the Cardroom Permit pursuant to this Title or pursuant to the predecessor of this Title, Chapter 6.22 of the Code, by the City Council, or the Chief of Police.

- C. A Permittee who seeks to amend the Cardroom Permit shall file an application with the Administrator stating the specific terms and conditions that the Permittee desires to change and the reasons therefor.
- D. A Cardroom Permit amendment fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid to the Administrator by the Cardroom Permittee at the time the application is filed. The amendment application shall not be deemed complete unless the Cardroom Permittee has paid the required fee.
- E. Within a reasonable time period after receipt of a completed application, the Administrator shall file a public report with the following:
1. Recommendations to the Chief of Police as to whether the requested amendments should be granted; and
  2. The reasons for the recommendations including, but not limited to, whether the proposed permit amendment will:
    - a. Have an adverse effect on public health, safety, or welfare; or
    - b. Have an adverse effect on the ability of the Administrator and the Chief of Police to effectively administer and enforce the requirements and policies of this Title; or
    - c. Result in the violation of any City, State, or Federal law; or
    - d. Be consistent with the policies, purposes and provisions of this Title and the public interest.
  3. All recommended conditions, limitations, restrictions and mitigations to which the requested Permit amendment, if granted, should be made subject, in addition to those which operate as a matter of law; and

4. Such other information and recommendations as the Administrator deems relevant to the consideration of the amendment application by the Chief of Police.

**16.30.210 Permittee Cooperation**

Each Cardroom Permittee seeking an amendment to a permit under this Chapter shall fully cooperate with the Administrator and shall provide all information required by the Administrator.

**16.30.220 Public Hearing and Notice**

- A. After the report on the application by the Administrator is complete, the Chief of Police shall set a day, time, and place for a public hearing on the application. The hearing shall be set within a reasonable period of time after the filing of the report by the Administrator.
- B. At the day, time and place set for hearing of an application for a Cardroom Permit amendment, the Chief of Police shall consider the application, the report of the Administrator, and any written objections and public testimony.

**16.30.230 Chief of Police: Findings and Determination**

- A. Within a reasonable amount of time after the close of the hearing, the Chief of Police shall either approve or disapprove the requested Cardroom Permit amendment. The Chief of Police may also attach such conditions, limitations and restrictions on the permit as the Chief deems reasonably necessary to protect the public peace, health, safety and welfare. If the Applicant does not consent to the new conditions, limitations or restrictions on the Cardroom Permit, the Applicant may withdraw the application without prejudice and retain the permit in its original form. In the event of such a withdrawal, the Cardroom Permittee shall pay all of the City's reasonable costs associated with the investigation and application hearing, including investigative costs and attorneys' fees. The Administrator

shall provide an itemization of costs associated with the investigation and application hearing, including investigative costs and attorney's fees.

- B. The Chief of Police shall permit the amendment if the Chief determines and finds that the proposed amendment will not:
1. Have an adverse effect on public health, safety, or welfare; or
  2. Have an adverse effect on the ability of the Administrator and the Chief of Police to effectively administer and enforce the requirements and policies of this Title; or
  3. Result in the violation of any City, State, or Federal law; or
  4. Be inconsistent with the policies, purposes and provisions of this Title or be contrary to the public interest.
- C. In addition to making the above findings, the Chief of Police may allow the amendment only if the Chief of Police determines and finds that the Cardroom Permittee and all the persons holding Stockholder Ownership Licenses in the Cardroom Permittee have fully cooperated with the Administrator and the Chief of Police and have provided all information required by the Administrator and the Chief of Police.
- D. The Chief of Police shall not approve an amendment changing the location of a Cardroom except in accordance with the requirements of this Title and Title 20.

**16.30.240 Card Table Limit**

No Cardroom shall be issued a permit or permit amendment that is contrary to the requirements of Chapter 16.04.

**CHAPTER 16.32**  
**CARDROOM LICENSES**

**Part 1**

**License Procedures**

**16.32.010 Licensing Policy**

- A. An effective and comprehensive licensing procedure is essential for the preservation of the integrity of Cardroom and Funding Source operations in the City.
- B. Licensing of all persons who are required to be licensed pursuant to the provisions of this Chapter is essential to assure the preservation of the integrity of Cardroom and Funding Source operations in the City.
- C. Licensing shall be conducted in accordance with the requirements and procedures set forth in this Chapter and the Regulations promulgated by the Administrator to fulfill the requirements and policies of this Chapter and Title.

**16.32.020 License Procedures**

- A. All Licenses required by this Chapter shall be subject to the procedures of this Part.
- B. All applications for Licenses shall be accompanied by the applicable fees as set forth in the Schedule of Fees established by resolution of the City Council.

**16.32.030 Burden of Proving Qualifications**

It shall be the affirmative responsibility of each Applicant to establish by clear and convincing evidence his/her individual qualifications for a License under this Chapter.

**16.32.040 Applicant Cooperation**

Each Applicant seeking a License under this Title and each Licensee shall fully cooperate with the Administrator and shall provide all information required by the Administrator.

**16.32.050 Applicant Not a Natural Person**

If an Applicant is not a natural person, such as a business organization, corporation, partnership, trust, or other entity, the Administrator may require licensing of the entity as well as the individual licensing of any person associated with the entity:

- A. Who owns an interest in the entity; or
- B. Who directly or indirectly manages or controls activities on the Cardroom Premises, either individually or on behalf of the entity; or
- C. Who directly or indirectly receives income from the activities on the Cardroom Premises that the Administrator deems necessary, consistent with the public interest and the policies of this Title, except attorney and certified public accountants or the firms for which they work with respect to the provision of professional services for the entity; or
- D. Whom the Administrator otherwise deems necessary, consistent with the public interest and the policies of this Title.

**16.32.060 Affirmative Criteria for License**

No License shall be issued unless, based on all of the information and documents submitted, the Administrator is satisfied that the Applicant is all of the following:

- A. A person of good character, honesty, and integrity.
- B. A person whose current and prior activities, criminal record, if any, reputation, habits, and associations do not:

1. Pose a threat to the public interest of the City and State; or
  2. Pose a threat to the effective regulation and control of Cardrooms in the City; or
  3. Create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of Controlled Gambling or in the carrying on of the business and financial arrangements incidental thereto.
- C. A person who has, in the judgment of the Administrator, the appropriate business ability and experience for the position to which the person is applying.
- D. A person who is in all other respects, qualified to be licensed as provided in this Chapter.

**16.32.070 Disqualification Criteria for License**

The Administrator may deny a License to any Applicant who is disqualified for any of the following reasons:

- A. Failure of the Applicant to establish eligibility and qualifications by clear and convincing evidence.
- B. Failure to provide information, documentation, and assurances required for qualification or failure to reveal any material fact relating to qualification, or to otherwise fail or refuse to fully cooperate with the Administrator's licensing investigation.
- C. The supplying of information which is untrue or misleading.
- D. A felony conviction, including by a plea of nolo contendere, or a conviction by any federal court or a court in another state for a crime that would constitute a felony in California.
- E. A misdemeanor conviction, including by a plea of nolo contendere, or a conviction by any federal court or a court in another state for a crime that would

constitute a misdemeanor in California, involving dishonesty, moral turpitude, prostitution, sale or possession for sale of a controlled substance, gambling, or any other crime substantially related to the qualifications, functions, or duties of the Cardroom business or gambling business, within a ten-year (10) period immediately preceding the submission of the application; provided, however, that the granting of relief pursuant to California Penal Code Sections 1203.4, 1203.4a, or 1203.45, shall not constitute a limitation on the discretion of the Administrator under the affirmative criteria set out in this Chapter or affect the Applicant's burden as set forth in this Chapter.

- F. Association of the Applicant with criminal profiteering activity or organized crime as defined in the California Penal Code Section 186.2 of the California Control of Profits of Organized Crime Act, Penal Code Sections 186 et seq.
- G. Contumacious defiance by the Applicant relating to any legislative investigative body or any other investigative body in any state of the United States.
- H. The Applicant is a partner, officer, director or shareholder or has any financial interest in any business organization that engaged in any form of prohibited gambling pursuant to the California Penal Code whether within or outside of the State.
- I. Denial of an application for, or revocation or suspension of, a License or work permit under this Title or a license, work permit, registration or approval under State Gambling Law or the denial of an application for, or revocation or suspension of, a regulatory license, work permit, registration or approval for gambling in any other state.
- J. The Applicant is less than twenty-one (21) years of age.

**16.32.080 Information Disclosure by Applicant**

An Applicant for licensing and every Licensee shall make full and true disclosure of all information the Administrator requires in order to carry out the requirements and policies of this Title.

**16.32.090 Criminal History Information**

The Administrator shall have the authority to obtain such criminal history information for each Applicant and person named in the application as shall be required in order to make a determination of the person's eligibility and qualifications for a License.

**16.32.100 Deposit; Costs and Charges of Investigation and Hearing Refund, Accounting**

- A. An application for a License shall be accompanied by the deposit of a sum of money that, in the judgment of the Administrator, will be adequate to pay the anticipated costs and charges incurred in the investigation, processing of the application and, at such time as a licensing hearing is requested by the Applicant, a further deposit adequate to pay the anticipated costs of the licensing hearing.
- B. The Administrator shall propose a schedule of costs and charges of investigation for use as guidelines in fixing the amount of any required deposit under this Section. The costs and charges of the investigation and licensing hearing shall be as set forth in the Schedule of Fees adopted by resolution of the City Council.
- C. The Administrator will not process any application or conduct an investigation regarding the License application unless and until:
  - 1. For each Applicant applying for a licensed position with the Cardroom Permittee, the Cardroom Permittee pays the required deposit following service upon the Permittee of the Administrator's written notice of the deposit amount; or

2. For each Applicant applying for a Funding Source Employee License and for the Funding Source License itself, the Funding Source pays the required deposit following service upon the Funding Source of the Administrator's written notice of the deposit amount.
- D. The Cardroom Permittee to whom the License application relates shall be liable for payment of all costs and charges incurred for each application for a licensed position with the Cardroom Permittee. The Funding Source to whom the Funding Source Employee License application relates shall be liable for payment of all costs and charges incurred for each application for a licensed position with the Funding Source.
- E. During an investigation, the Administrator may require the Cardroom Permittee or Funding Source to whom the Funding Source Employee License application relates to deposit any additional sums allowed under the Schedule of Fees as are required by the Administrator to pay final costs and charges of the investigation and licensing hearing.
- F. Any money received from a Cardroom Permittee or Funding Source in excess of the costs and charges incurred in the investigation, the processing of the application, and the Licensing Hearing shall be refunded by the Administrator after the completion of the Hearing.
- G. At the conclusion of the licensing hearing, the Administrator shall provide the Cardroom Permittee or the Funding Source to whom the License application relates with a written accounting of the costs and charges thereby incurred.
- H. Failure of the Cardroom Permittee or the Funding Source to whom the License application relates to make a payment of the required deposit shall be deemed a waiver of the application for a License, which shall result in the denial of the License application.

**16.32.110 License Application**

- A. Each Applicant shall file an application with the Administrator on forms prescribed by the Administrator.
- B. Within a reasonable time after the filing of a completed application and any supplemental information the Administrator may require together with the deposit of any fee required under this Chapter, the Administrator shall commence an investigation and conduct any proceedings it deems necessary.
- C. To the extent practicable, the Administrator shall act on all applications within one hundred and eighty (180) calendar days of the date of receipt of a completed application and applicable fees except as extended pursuant to Subsection D hereof.
- D. If an investigation cannot be concluded within one hundred eighty (180) days after the date of receipt of a completed application and applicable fees, the Administrator shall inform the applicant in writing of the status of the investigation and shall also provide the Applicant with the date on which the investigation may reasonably be expected to be concluded.

**16.32.120 Administrator's Recommendation on License Application**

- A. After completion of the investigation, the Administrator shall make a recommendation to the Chief of Police regarding the licensing application.
- B. The Administrator may recommend denial, approval, or approval with limitations and conditions.
- C. The Administrator shall prepare and submit to the Chief of Police the written reasons upon which the recommendation is based.
- D. Prior to filing a recommendation that the Chief of Police deny an application or approve with limitations and conditions, the Administrator shall meet with the Applicant, or the Applicant's authorized representative, and inform him or her

generally of the basis for any proposed recommendation that the application be denied, restricted, or conditioned.

- E. The Administrator shall serve upon the Applicant, or the Applicant's authorized representative, a copy of the Administrator's Final Report and Recommendation.
- F. The Administrator's Final Report and Recommendation shall become a final decision effective twenty-one (21) calendar days after the service of the Final Report and Recommendation unless the Applicant files a written request for a licensing hearing with the Administrator before the close of business on the twentieth (20<sup>th</sup>) day.

**16.32.130 Request for Withdrawal of Application**

- A. A request for withdrawal of an application may be made in writing at any time prior to the Administrator's submission of his or her Final Report and Recommendation to the Chief of Police.
- B. The Administrator shall not grant the request unless the Applicant has established that withdrawal of the application is consistent with the public interest and the policies of this Title.
- C. If a request for withdrawal is denied, the Administrator may go forward with the investigation and may act upon the application as if no request for withdrawal had been made.
- D. If a request for withdrawal is granted with prejudice, the Applicant thereafter shall be ineligible to renew its application until the expiration of seven (7) years from the date of the withdrawal. If a request for withdrawal is granted without prejudice, the Applicant shall be eligible to renew the application immediately after the Administrator serves the Applicant with notice that the request to withdraw has been granted without prejudice, unless the Administrator, in his sole discretion, determines that the Applicant shall be ineligible to reapply for a period of up to two (2) years from the date the request for withdrawal is accepted

by the Administrator. The exercise of the Administrator's discretion shall be guided by the policies of this Title and the public interest, including, but not limited to the efficient functioning of the Division.

- E. Unless the Administrator otherwise directs, no fee or other payment relating to the application is refundable by reason of withdrawal of an application.
- F. The Administrator can deem an application withdrawn if it is abandoned by the Applicant. Before deeming an application withdrawn as abandoned, the Administrator shall give the Applicant fourteen (14) calendar days notice of this intention. The notice shall be mailed to the Applicant's last known address.

**16.32.140 Notice of Licensing Hearing**

- A. Upon a timely request for hearing, the Administrator shall serve the Applicant with written notice of the day, time, and place of the licensing hearing not less than thirty (30) calendar days prior to the date of the hearing.
- B. In cases where the Administrator recommends denial of an application or approval with limitations and conditions, the notice of licensing hearing shall state that the Applicant shall be given the opportunity to submit to the Chief of Police, at least ten (10) calendar days prior to the licensing hearing, written reasons, documents, and argument explaining why the application should be approved or why no limitations or conditions should be placed on the License.

**16.32.150 Conduct of Licensing Hearing**

The licensing hearing shall be conducted by the Chief of Police in accordance with the provisions of Chapter 16.36.

**16.32.160 Authority of the Chief of Police to Deny or Grant License**

- A. The Chief of Police, after considering the recommendation of the Administrator and such other testimony and written comments as may be presented at the

licensing hearing, or may be submitted in writing to the Chief of Police prior to the hearing, may either deny or grant the application for a License.

- B. When the Chief of Police grants an application for a License, the Chief of Police may place limitations and conditions on the License that the Chief of Police deems necessary, consistent with in the public interest and the policies of this Title, provided that, if the Applicant does not consent to any new limitations and conditions that were not identified in advance by the Administrator, the application may be withdrawn without prejudice.
- C. When an application is denied, the Chief of Police shall prepare and file a Statement of Decision giving the reasons for the denial and the findings of fact upon which the decision is based.
- D. The Statement of Decision shall be served upon the Applicant within forty-five (45) working days of the close of the hearing.

**16.32.170 Decision Final**

- A. The decision of the Chief of Police on a License application shall be final upon service on the Applicant.
- B. The written Statement of Decision shall contain a notice setting out Section 1.16.010 of this Code.

**16.32.180 License Issuance**

The Chief of Police shall issue to the Applicant a License containing an enumeration of any specific limitations and conditions on the License if both of the following conditions have been met:

- A. The Chief of Police is satisfied that the Applicant is eligible and qualified to receive the License and

- B. The License fee or renewal License fee set forth in the Schedule of Fees established by resolution of the Council has been paid with the original application or renewal application.

**16.32.190 License Renewal**

- A. All Licenses, except those set out in Section 16.32.400 (Landowner's Licenses) and 16.32.500 (Financial Source Licenses) shall expire three (3) years after the date of the issuance.
- B. Not less than one hundred twenty (120) calendar days prior to the expiration of the License, the Licensee shall provide written notice to the Division of Gaming Control of the Licensee's intent to apply for renewal. The Administrator will provide the Licensee with notice of the requirements for the renewal process. For purposes of renewal, the Applicant shall be subject to the same licensing requirements for the original License application, except that the Administrator shall have discretion to determine the nature and extent of the renewal application, investigation and examination based upon the public interest and consistent with the requirements and policies of this Title.
- C. No License shall be renewed except upon proper application for renewal and payment of applicable License application fees.
- D. An application for renewal of a License shall be filed and the applicable License application fees shall be deposited by the Licensee with the Administrator not later than eighty (80) calendar days prior to the expiration of the current License, unless the time for filing is extended by the Administrator. If the application for renewal is timely filed as required by this Section, then the License shall continue in effect unless revoked or suspended until such time as a decision is made to renew or deny the renewal application.
- E. Upon renewal of any License, the Administrator shall issue an appropriate renewal certificate, validating device or sticker, or identification card.

- F. Any Licensee who does not timely deposit the License fee shall be liable for the License fee and a late penalty set forth in the Schedule of Fees established by resolution of the City Council.
- G. If a Stock Ownership Licensee fails to apply for a renewal of the License within the time set out in this Section, the Administrator may order the immediate closure of the Cardroom Premises and a cessation of all Gaming activity therein until the Stock Ownership License Renewal Application is filed. The Administrator shall provide notice to the Stock Ownership Licensee not less than ten (10) working days prior to issuing an order for closure pursuant to this Section.
- H. Persons who are granted Licenses as Landowners pursuant to Section 16.32.400, and Financial Sources pursuant to Section 16.32.500 shall be automatically renewed unless called forward by the Administrator for a re-application process. Such notification shall be provided by the Administrator one hundred twenty (120) days before the expiration of the License.

**16.32.200 License Assignment or Transfer**

No License may be assigned or transferred either in whole or in part.

**Part 2**

**Stock Ownership Licenses**

**16.32.300 Pre-1999 Stock Ownership**

- A. Every person who was approved by the Chief of Police as the purchaser, transferee, or assignee of stock in a Cardroom Permittee pursuant to Chapter 6.22 prior to December 23, 1999 shall be granted a Stock Ownership License by the Administrator.

- B. The Stock Ownership License of such persons shall contain all the terms and conditions that were attached by the Chief of Police to the stock owner's stock transfer, purchase, or assignment approval pursuant to Chapter 6.22.
- C. The Stock Ownership License of such persons shall be deemed revoked if the person is denied a state gambling license, registration, or finding of suitability pursuant to State Gambling Law.

**16.32.310 Stock Ownership License**

- A. No person shall hold any interest in, or ownership of, stock in a Cardroom Permittee without a valid Stock Ownership License.
- B. No Cardroom Permittee shall transfer, sell or assign stock to a person who does not hold a valid Stock Ownership License.
- C. Any person seeking to have an ownership interest in the stock of a Cardroom Permittee, shall first apply to the Administrator for a Stock Ownership License. Any transfer of stock to a person who does not hold a valid Stock Ownership License shall be considered to be void and of no effect.

**Part 3**

**Landowner License**

**16.32.400 Landowner License for Pre-1999 Landowners**

- A. Every person who owned an interest in the Cardroom Premises or in the real property upon which the Cardroom Premises are located on December 23, 1999 shall be granted a Landowner License by the Administrator.

- B. The Landowner License of any such person shall be automatically revoked if the person is denied a State gambling license, registration, or finding of suitability pursuant to State Gambling Law after December 23, 1999.
  
- C. Any Landowner License issued to an existing landowner pursuant to Subsection A may be revoked in the event that:
  - 1. The Landowner Licensee acquires by amended lease, contract, or agreement after December 23, 1999 a percentage interest in the profits or gross receipts of the Gambling operations of the Cardroom Permittee, or
  
  - 2. The Landowner Licensee amends the lease, contract or agreement with the Cardroom Permittee existing on December 23, 1999 or enters into a new lease, contract, or agreement with the Cardroom Permittee after December 23, 1999 in which the fixed rent and other consideration, in the judgment of the Administrator, is greater than the fair market rental being paid for comparable space in similar buildings in San José, California, as of the date of the lease, contract, or agreement that sets the new fixed rent or other consideration.
  
- D. The Cardroom Permittee and the Landowner Licensee shall notify the Administrator in writing no later than one hundred eighty (180) calendar days prior to amending an existing lease, contract, or agreement or entering into a new lease, contract, or agreement.
  
- E. In the event that the Administrator determines that the proposed amendment to an existing lease, contract, or agreement or the proposed new lease, contract, or agreement will give the Landowner Licensee a percentage interest in the profits or gross receipts of the Gambling operations of the Cardroom Permittee, or give the Landowner Licensee fixed rent and other consideration which, in the judgment of the Administrator, is greater than the fair market rental being paid for comparable space in similar buildings in San José, California, as of the date of the lease, contract, or agreement that sets the new fixed rent or other

consideration, the Administrator shall serve a notice upon the Landowner Licensee and the Cardroom Permittee not less than thirty (30) calendar days prior to the effective date of the proposed amendment or proposed new lease informing them of the determination.

- F. The Landowner Licensee and the Cardroom Permittee, shall have thirty (30) calendar days after the date of service of the Administrator's determination to notify the Administrator in writing that they have changed the terms of the proposed amended or proposed new lease, contract, or agreement so that there will be a flat rent arrangement that does not cause revocation of the Landowner License pursuant to Subsection C.
- G. If the Administrator does not receive the required written notice provided for in Subsection F changing the terms of the amended or new lease, contract or agreement at the end of the thirtieth (30th) calendar day from the date of service of the Administrator's determination, then the Landowner Licensee shall submit to the licensing application procedure required for new Applicants under Section 16.32.410. The Landowner Licensee shall be allowed to maintain his or her current License pending the outcome of the licensing procedure.

**16.32.410 Landowner License**

- A. No person shall own an interest in the Cardroom Premises or in the real property upon which the Cardroom Premises are located without a valid Landowner License.
- B. No Cardroom Permittee shall enter into any lease as a tenant in the Cardroom Premises or in the real property upon which the Cardroom Premises are located unless the Administrator has granted the lessor a Landowner License.
- C. Any person seeking to have an ownership interest in the Cardroom Premises or in the real property upon which the Cardroom Premises are located, shall first apply to the Administrator for a Landowner License and must be granted a

Landowner License prior to the transfer of ownership in the premises or real property.

**Part 4**  
**Financial Source License**

**16.32.500 Financial Source License for Existing Financial Sources**

- A. Every person that is a Financial Source on December 23, 1999, shall be granted a Financial Source License by the Administrator.
- B. The Financial Source License of such person shall be automatically revoked if the person is denied a gambling license, registration, or finding of suitability in any State or local jurisdiction.

**16.32.510 Financial Source License**

- A. No person shall be or act as a Financial Source without a valid Financial Source License.
- B. No Cardroom Permittee shall enter into any loan, credit, or other financing agreement or relationship with any person unless the Administrator has granted the person a Financial Source License.
- C. Any person seeking to be or act as a Financial Source shall first apply to the Administrator for a Financial Source License and must be granted a Financial Source License prior to the transfer of any money, furnishing of any credit, or other provision of financing to the Cardroom Permittee, or the execution of a loan, credit, evidence of indebtedness, or other financing contract or agreement with the Cardroom Permittee.
- D. The Administrator shall have the discretion to deem that an Applicant meets the licensing criteria for a Financial Source License if the Applicant is a bank or other financial institution that is licensed by the State of California or by another state

or by the United States, when the Applicant presents the Administrator with evidence the Administrator deems sufficient to prove that the Applicant has the requisite certification or licensing by the appropriate governmental entity as a bank or other financial institution.

## **Part 5**

### **Key Employee License**

#### **16.32.600 Provisional Key Employee License**

- A. Every person who was approved by the Chief of Police for employee registration pursuant to Chapter 6.22 prior to December 23, 1999 who holds a position as a Key Employee shall be issued a Provisional Key Employee License by the Administrator.
- B. No later than thirty (30) working days after a date determined by the Administrator that is within one (1) year from the date of issuance of the Provisional License, the Provisional Licensee shall file an application for a Key Employee License with the Administrator. The Provisional Key Employee License shall continue in effect until such time as a decision is made by the Chief of Police on the application for a Key Employee License.
- C. Failure of a person holding a provisional License to file an application for a Key Employee License within thirty (30) days after the date determined by the Administrator shall result in automatic revocation of the Provisional License.
- D. Any person whose provisional License is automatically revoked shall be prohibited from working for any Cardroom Permittee, working in any permitted Cardroom, or in any way taking part in the management or operation of any permitted Cardroom until such time as that person applies for and is granted a Key Employee License.

- E. A Stock Ownership Licensee or Cardroom Permittee shall not employ or contract for the services of or permit, allow, or suffer any person to continue to work on the Cardroom Premises whose Provisional Key Employee License has been revoked pursuant to this Chapter or State Gambling Law.
- F. Any Provisional Key Employee License or Key Employee License issued by the Administrator shall be deemed revoked if the person is denied a State gambling license, key employee license, work permit, registration, or finding of suitability pursuant to State Gambling Law.

**16.32.610 Key Employee License**

- A. No person shall hold a Key Employee position in any permitted Cardroom without a valid Key Employee License, except for persons allowed to receive a Provisional Key Employee License under the provisions of this Chapter.
- B. Every Key Employee shall apply for and obtain a Key Employee License prior to beginning employment as a Key Employee for a Cardroom Permittee.
- C. Licenses issued to Key Employees shall be for specified positions only.
- D. A Key Employee Licensee may be employed in the identical position for which the License was issued at another permitted Cardroom, provided the Key Employee terminates employment with the permitted Cardroom for which the license issued before commencing employment with the other. Ten (10) working days prior to commencing employment with the new establishment, the Key Employee shall file a statement on a form prescribed by the Administrator with the Division of Gaming Control setting forth the last date of employment with the former employer and the anticipated commencement of employment with the new employer. The License shall continue with the terms and conditions as originally issued.
- E. No person may be issued a Key Employee License unless the person would qualify for a Stock Ownership License.

**16.32.615 Key Employee Responsibilities and Duties**

Only a Key Employee shall perform the following functions:

- A. Hire or terminate a Gambling Enterprise Employee;
- B. Exercise final authority on any shift to enforce management policy relating to gaming operations;
- C. Exercise final authority on any shift to settle a dispute on a Card Table;
- D. Approve or change a Patron's check cashing limits; or
- E. Authorize the reduction of debts owed to the Cardroom Permittee.

**16.32.620 Temporary Key Employee License**

- A. Notwithstanding any contrary provision of this Chapter regarding licensing procedure, the Administrator may issue to an Applicant for a Key Employee License a temporary Key Employee License after the Applicant has submitted a completed application to the Administrator and the required deposit has been paid. The Administrator shall provide an initial decision whether or not to issue a temporary Key Employee License no later than fifteen (15) working days after the Administrator receives a signed application, payment of any required fees or deposit, and the criminal history return from the California Department of Justice.
- B. The Administrator may place such conditions and limitations on the temporary License as the Administrator may deem necessary, consistent with the public interest and the policies of this Title, including but not limited to placing time limits on the term of the temporary License. The temporary License shall automatically terminate in the event that the application is withdrawn, either with or without prejudice, or if the Administrator recommends denial of the application to the Chief of Police, or if the Chief of Police denies the application.

- C. The temporary Key Employee License is a temporary privilege and creates no continuing right. The Administrator shall have the discretion to revoke the temporary License at any time without cause or advance notice, without any right of administrative or judicial appeal as to the revocation of such temporary License.
- D. Each recipient of a temporary Key Employee License shall provide a written acknowledgment on a form prescribed by the Administrator that no procedural or substantive rights or privileges are conferred by a temporary Key Employee License, without prejudice to his or her procedural rights under this Title for the denial of the application for the License. Without such acknowledgement, the Administrator has no discretion to issue a temporary Key Employee License.

## **Part 6**

### **Funded Player and Funding Source Employee License, Work Permit and Work Registration**

#### **16.32.700 License, Work Permit and Work Registration Requirements for Funded Players and Funding Source Employees**

- A. Every Funded Player and Funding Source Employee shall apply for a License, work permit, or work registration, as determined by the Administrator, within ninety (90) days after the effective date of this provision. Persons who already have the required License or work permit on the effective date of this provision shall not have to apply for a new License or work permit.
- B. Based upon public interest, and the requirements and policies of this Title, the Administrator shall determine which Funding Source Employees require a License, work permit, or work registration.

- C. Based upon public interest, and the requirements and policies of this Title, the Administrator may determine which Funding Source Employees do not require a License, work permit, or work registration.

**16.32.710 Temporary License or Work Permit for Funded Players and Funding Source Employees**

- A. The Administrator may provide temporary Licenses or work permits for Funded Players and Funding Source Employees under the same conditions and requirements as apply for issuance of a temporary Key Employee License under Section 16.32.620 or temporary work permit under Section 16.40.080.
- B. Notwithstanding Subsection A, Funded Players and Funding Source Employees who meet all of the following requirements shall be issued a temporary License or work permit immediately upon application and payment of applicable fees and/or deposits:
  - 1. The Applicant provides proof that his or her Funding Source has an executed agreement with the Cardroom Permittee that has been approved by the State of California pursuant to State Gambling Law;
  - 2. The Applicant provides the Administrator with proof that the Administrator deems sufficient that the Applicant has a valid, existing registration, work permit, license or other approval from the State of California issued pursuant to State Gambling law;
  - 3. The Administrator determines that the License or work permit application filed by the Applicant is facially complete for purposes of issuance of a temporary License or work permit; and
  - 4. The application is accompanied by payment of the required fees and/or deposits.

## **Part 7**

### **Funding Source License**

#### **16.32.800 Funding Source License**

- A. No person shall be or act as a Funding Source at any Cardroom Premises without a valid Funding Source License.
- B. Any person seeking to become or act as a Funding Source at any Cardroom Premises shall first apply to the Administrator for a Funding Source License and must be granted a Funding Source License prior to acting as a Funding Source.
- C. A Cardroom Permittee, Stock Ownership Licensee, or Key Employee shall not allow, permit or suffer any Funded Player to be present or play any Controlled Game on Cardroom Premises who is financed, employed, or provided by a Funding Source, or to enter into any agreement or relationship with any such Funding Source, unless the Funding Source has first been granted a Funding Source License.
- D. A Cardroom Permittee, Stock Ownership Licensee, or Key Employee shall not allow, permit or suffer any person requiring a Funding Source License to be present, to play, or direct or control any person playing any Controlled Game on the Cardroom Premises unless that person has first been granted a Funding Source License.
- E. The provisions of this Section shall become effective on July 1, 2000.

#### **16.32.810 Temporary Funding Source License**

- A. The Administrator may issue a temporary Funding Source License to a Funding Source under the same conditions and requirements as apply for issuance of a temporary Key Employee License under Section 16.32.620.

- B. Notwithstanding Subsection A, a Funding Source that meets all of the following requirements shall be issued a temporary License immediately upon application and payment of applicable fees and deposits:
1. The Applicant provides proof that it has an executed agreement with the Cardroom Permittee that has been approved by the State of California pursuant to State Gambling Law;
  2. The Applicant provides the Administrator with proof that the Administrator deems sufficient that the Applicant has a valid, existing registration, license or other approval from the State of California issued pursuant to State Gambling law;
  3. The Administrator determines that the License application filed by the Applicant is facially complete for purposes of issuance of a temporary License; and
  4. The application is accompanied by payment of the required fees and/or deposits.

## **CHAPTER 16.33**

### **MINOR VIOLATIONS**

#### **16.33.010 Notice of Minor Violation; Imposition of Monetary Fines**

- A. Conduct, action, or failure to act by a Cardroom Permittee, Licensee or Employee may be treated as an Minor Violation if the Administrator determines that:
1. The conduct, act, or failure to act was not of a nature, quality, or extent that it affected the integrity of any Controlled Game conducted on the Cardroom Premises;
  2. The conduct, act, or failure to act was not willful or intentional; or

3. The conduct, act, or failure to act was not part of a continuing pattern or practice of the Cardroom Permittee or Licensee.
- B. For each Minor Violation, the Administrator may assess a monetary penalty against the Cardroom Permittee in an amount up to, but not to exceed, two thousand dollars (\$2,000) per incident.
- C. The aggregate of all monetary penalties assessed pursuant to sub-part B, above, shall not exceed one hundred thousand dollars (\$100,000) per calendar year with respect to any one Cardroom Permittee.
- D. A decision of the Administrator to impose a monetary penalty under this Section shall be final upon written notice to the Cardroom Permittee, and shall not be subject to challenge, appeal, or review save and except, and only to the extent that the decision is arbitrary or capricious.
- E. If the Administrator finds that a Minor Violation has occurred, and imposes monetary penalties under this Section, the facts and circumstances constituting the Minor Violation shall not be the subject of any other Regulatory Action, nor shall they be used or considered in connection with any future Regulatory Action, or enforcement proceedings against the Cardroom Permittee. A Minor Violation shall not constitute a violation of the terms of any permit or License held or enjoyed by a Cardroom Permittee and/or Licensee.
- F. If the Cardroom Permittee contends that the imposition of the Minor Violation is arbitrary or capricious or lacking in substantial evidentiary support, the Cardroom Permittee shall file written request for hearing to the Administrator within ten (10) calendar days of the Notice of Minor Violation. Upon a timely request for hearing, the Chief of Police shall designate a Hearing Officer, who will set a hearing for such determination. The Minor Violation shall be upheld if the Hearing Officer determines that the imposition of the Minor Violation was not arbitrary or capricious or lacking in substantial evidentiary support. The Notice of Minor Violation and any additional report submitted by the Administrator shall

constitute prima facie evidence of the respective facts contained in those documents. The Cardroom Permittee shall have the burden of proving its challenge. The hearing will be informal, with the Cardroom Permittee and the City having the opportunity to present evidence, documents and testimony regarding the Minor Violation. The hearing will be scheduled in a reasonable time period after written notice of request for hearing is filed with the Administrator. The written decision of the hearing officer shall be served upon the Cardroom Permittee within a reasonable period of time after the close of the hearing. The written decision of the hearing officer will be final and shall contain a notice setting out Section 1.16.010 of this Code.

## **CHAPTER 16.34**

### **UNIFORM REGULATORY ACTION AND HEARING PROCEDURES**

#### **Part 1**

#### **Regulatory Action Procedures**

##### **16.34.010 Application of Regulatory Action Procedures**

- A. The procedures set out in this Chapter shall apply to all Regulatory Actions that the Administrator is authorized to take against Cardroom Permittees and Licensees.
- B. For purposes of this Chapter, the person who is the Subject of the Regulation Action means the Cardroom Permittee or any Licensee that is charged with wrongdoing.

##### **16.34.020 Grounds for Regulatory Action on a Cardroom Permittee**

Any Cardroom Permit issued under the provisions of this Title shall be subject to Regulatory Action on any of the following grounds:

- A. The Cardroom Permittee or any Stock Ownership Licensee has violated any provision of this Title or any provision of Chapter 4.77 of Title 4 of this Code.
- B. The Cardroom Permittee or Stock Ownership Licensee failed to timely pay any fees due under this Title.
- C. The Cardroom Permittee or any Stock Ownership Licensee has violated any term or condition of either the Cardroom Permit or the Stock Ownership License.
- D. The Cardroom Permittee or any Stock Ownership Licensee has committed acts constituting a violation of:
  - 1. State Gambling Law; or
  - 2. Any Federal Law substantially related to the qualifications, functions, or duties of the Cardroom business or gambling business; or
  - 3. Any law of any other State or territory of the United States relating to the qualifications, functions, or duties of the Cardroom business or gambling business.
- E. The failure or refusal of any Cardroom Permittee or any Stock Ownership Licensee to make and file any statements as required by this Title within the time required or to timely pay any sums due under the tax provisions of Chapter 4.77 of Title 4 of this Code.
- F. The Cardroom Permittee or any Stock Ownership Licensee supplies information to the Administrator that is untrue or misleading.
- G. The Cardroom Permittee or any Stock Ownership Licensee has knowingly made false statements on any filing, registration or statement required under this Title.
- H. The Cardroom Permittee or any Stock Ownership Licensee has committed any acts involving dishonesty, fraud, or deceit with the intent to substantially benefit

the Cardroom Permittee or any Stock Ownership Licensee or another, or to substantially injure another.

- I. The operation of the Cardroom violates the City's Zoning, Fire, or Building Codes or other ordinances or regulations, or applicable State laws or regulations relating to the operation of the premises.
- J. The operation of the Cardroom substantially aggravates the crime problems in the area, makes law enforcement unduly difficult, or is otherwise detrimental to crime prevention or is detrimental to the public peace, health or safety in the area.

**16.34.030 Grounds for Regulatory Action on a Licensee**

All Licenses issued under the provisions of this Title shall be subject to appropriate Regulatory Action on any of the following grounds:

- A. The Licensee has violated any provision of this Title or any provision of Chapter 4.77 of Title 4 of this Code.
- B. The Licensee has failed to timely pay any fees due under this Title.
- C. The Licensee has violated any term or condition upon which the License was issued.
- D. The Licensee has committed acts constituting violation of:
  - 1. State Gambling Law; or
  - 2. Any Federal law substantially related to the qualifications, functions, or duties of the Cardroom business or gambling business; or
  - 3. Any law of any other State or territory of the United States relating to the qualifications, functions, or duties of the Cardroom business or gambling business.

- E. Failure of the Licensee to establish his or her continued eligibility and qualifications for licensing under the affirmative criteria for licensing set forth in Chapter 16.32.
- F. Failure to provide information, documentation, and assurances required by the Administrator to demonstrate the Licensee's continued qualification for licensing.
- G. Failure to reveal any material fact relating to the Licensee's continued qualification for licensing.
- H. The supplying of information which is untrue or misleading.
- I. A felony conviction, including by a plea of nolo contendere, or a conviction by any federal court or a court in another state for a crime that would constitute a felony in California.
- J. A misdemeanor conviction, including by a plea of nolo contendere, or a conviction by any federal court or a court in another state for a crime that would constitute a misdemeanor in California, involving dishonesty, moral turpitude, prostitution, sale or possession for sale of a controlled substance, gambling, or any other crime substantially related to the qualifications, functions, or duties of the Cardroom business or gambling business, within a ten-year (10) period immediately preceding the submission of the initial licensing application or renewal application.
- K. Association of the Licensee with criminal profiteering activity or organized crime as defined in the California Penal Code Section 186.2 of the California Control of Profits of Organized Crime Act, Penal Code Sections 186 et seq.
- L. Contumacious defiance by the Licensee relating to any legislative investigative body or any other investigative body in any state of the United States.
- M. The Licensee is a partner, officer, director or shareholder or has any financial interest in any business organization that engaged in any form of prohibited

gambling pursuant to the California Penal Code whether within or outside of the State.

- N. Denial, revocation, or suspension of a State gambling license, key employee license, work permit, registration, or finding of suitability pursuant to State Gambling Law or the denial, revocation, or suspension of a regulatory license for lawful gambling in any other state.
- O. The commission of acts involving dishonesty, fraud or deceit with the intent to substantially benefit him or herself or another, or substantially injure another.
- P. The Licensee is less than twenty-one (21) years of age.

**16.34.040 Investigations**

- A. The Administrator shall make appropriate investigations to determine whether grounds may exist for Regulatory Action.
- B. Prior to providing a Notice of Regulatory Action, the Administrator shall meet with the Cardroom Permittee or Licensee who is the subject of the investigation and inform him or her generally of the basis for the proposed action.
- C. If, after investigation, the Administrator is satisfied that grounds exist for a Regulatory Action hearing, the Administrator shall file a notice of Regulatory Action hearing and proceed in accordance with Section 16.34.060.

**16.34.050 Administrator's Discretion Regarding Regulatory Action**

- A. In determining the appropriate Regulatory Action to take against a person who is the subject of the Regulatory Action, the Administrator may consider, but is not limited to, the following mitigating and aggravating factors:
  - 1. The seriousness of any crimes constituting grounds for Regulatory Action for which the person who is the subject of the Regulatory Action has been convicted including, but not limited to:

- a. The fines, jail or prison sentence, other punishment, restitution, and fees imposed by the court;
  - b. How much of the sentence was completed;
  - c. Whether the person paid his or her fines and provided full restitution to the crime victims;
  - d. Whether the person paid any other costs imposed by the sentencing court.
2. The nature of the conduct constituting the grounds for Regulatory Action.
  3. The duration of the conduct constituting the grounds for Regulatory Action.
  4. The numbers of instances of conduct constituting the grounds for Regulatory Action and whether or not the conduct is part of a pattern of misconduct.
  5. Whether the conduct constituting the grounds for the Regulatory Action was deliberate or inadvertent.
  6. The degree of injury to any victim, including the City, either financial or physical, caused by the conduct giving rise to the grounds for Regulatory Action.
  7. The motivation of the person who is the subject of the Regulatory Action.
  8. Restitution provided to the victim.
  9. Whether the violations are continuing in nature.
  10. Prior regulatory violations of this Title, of Chapter 4.77 of Title 4 of this Code, or of State Gambling Law, and any Regulatory Action ordered pursuant to this Title or any regulatory or other enforcement action taken by the State pursuant to the State Gambling Law.

11. Voluntary corrective action taken to correct the grounds for Regulatory Action prior to the Regulatory Action Hearing.
  12. Any other mitigating or aggravating circumstances the Administrator may consider applicable.
- B. In addition to the considerations set forth in Subsection A, the Administrator may also consider the following additional mitigating and aggravating factors with regard to Cardroom Permittees that are subject to Regulatory Action:
1. Any criminal convictions of the Cardroom Permittee, or any Stock Ownership or Key Employee Licensee, involving any crimes that would constitute grounds under this Title for the denial, suspension, or revocation of a Stock Ownership or Key Employee License.
  2. The commission of any act by the Cardroom Permittee or any Stock Ownership or Key Employee Licensee, involving dishonesty, fraud or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.
  3. Whether the Cardroom Permittee or any Stock Ownership or Key Employee Licensee, has previously operated in this or another state under a gambling, gaming or similar license or permit that has been revoked or suspended, the reasons therefor, and the actions of such person thereafter.
  4. Whether the Cardroom Permittee or any Stock Ownership or Key Employee in this or another state has been denied a gambling, gaming or similar license or permit, the reasons therefor, and the actions of the person thereafter.
  5. The business and credit history of the Cardroom Permittee and Stock Ownership Licensees.

**16.34.060 Notice of Regulatory Action**

- A. If a Regulatory Action is imposed, the Administrator shall serve on the Cardroom Permittee or Licensee a notice of Regulatory Action. The notice shall state:
1. All the grounds for Regulatory Action in support of the grounds; and
  2. The Regulatory Action and a statement of the reasons for the Regulatory Action, including all the aggravating and mitigating factors that the Administrator considered relevant to his or her decision.
- B. The notice of Regulatory Action shall become a final decision effective twenty-one (21) calendar days after service of the notice of Regulatory Action upon the person who is the subject of the Regulatory Action unless the person who is the subject of the Regulatory Action files a written request for a Regulatory Action hearing with the Administrator before the close of business on the twentieth (20th) day.

**Part 2**

**Hearing Procedures**

**16.34.200 Request for Regulatory Action Hearing**

The person who is the subject of the Regulatory Action must file a Request for Regulatory Action hearing within the time provided in Section 16.34.060. The request for Regulatory Action hearing must set forth all of the specific grounds for the request for a Regulatory Action hearing and deny or admit each of the factual allegations in the notice of Regulatory Action. Any allegation of fact in the notice of Regulatory Action that is not specifically denied is deemed admitted.

**16.34.210 Appointment of Hearing Officer**

- A. Regulatory Action hearings against Licensees except Stock Ownership Licensees shall be conducted by a hearing officer appointed by the Chief of Police with the approval of the City Attorney having a rank of a Deputy Chief of Police or a civilian City employee with an equivalent civilian position.
- B. Regulatory Action hearings against Cardroom Permittees and Stock Ownership Licensees shall be conducted by a retired judge of the State of California selected by the City Attorney in accordance with the procedure set forth in Subsection C.
- C. The City Attorney shall nominate not less than three (3) retired judges of the State of California. The Cardroom Permittee or Stock Ownership Licensee shall thereafter select one of those nominees by filing a written notice with the City Attorney no more than five (5) working days after being notified by the City Attorney of the nominations.

**16.34.220 Time of Hearing**

Where a request for Regulatory Action hearing has been filed, a hearing shall be conducted as soon as reasonably possible.

**16.34.230 Notice of Regulatory Action Hearing**

- A. The City Attorney shall provide the Licensee or Permittee with written notice of the day, time, and place of the Regulatory Action hearing not less than twenty (20) working days prior to the date of the hearing.
- B. The hearing officer may grant deferrals of the opening of the Regulatory Action Hearing and such continuances of the hearing, once begun, for good cause. Deferrals and continuances shall also be granted upon agreement of the City Attorney and the Licensee or Permittee.

**16.34.240 Conduct of Regulatory Action Hearing**

The Regulatory Action hearing shall be conducted in accordance with the provisions of Chapter 16.36.

**16.34.250 Hearing Officer's Statement of Decision**

- A. After considering the Administrator's notice of Regulatory Action, the testimony and evidence presented at the Regulatory Action hearing, and any argument the City or the person who is subject to the Regulatory Action may provide orally or submit in writing, the Hearing Officer shall issue a written statement of decision.
- B. The City must prove at least one (1) of the reasons for Regulatory Action by a preponderance of the evidence presented at the Regulatory Action hearing in order for the Hearing Officer to confirm or modify the Regulatory Action.
- C. The Hearing Officer may modify the Regulatory Action by reducing or increasing the severity of the Regulatory Action if he or she finds that the Administrator's determination of the mitigating and aggravating factors was not based upon a preponderance of the evidence presented at the Regulatory Action hearing.
- D. The hearing officer shall serve a written statement of decision upon the person who is the subject of the Regulatory Action and the City within forty-five (45) working days of the close of the hearing.
- E. The statement of decision shall contain a notice setting out Section 1.16.010 of this Code.

**16.34.260 Decision Final**

- A. The decision of the hearing officer shall be final.
- B. A writ of mandate to challenge a hearing officer's decision may be sought by either the City or person who is subject to the Regulatory Action, and may include a challenge to the award of costs.

**16.34.270 Cost of Regulatory Action and Cease and Desist Hearings**

- A. If the grounds for the Regulatory Action is sustained or the cease and desist order is upheld, the hearing officer may order the person who is the subject to the Regulatory Action to pay the City's reasonable costs of investigation and prosecution of the case, including the attorneys' fees incurred by the City up to the date of the hearing.
- B. The City will file a bill itemizing the costs, including the attorneys' fees, within thirty (30) calendar days after the hearing officer issues the statement of decision.
- C. Within fourteen (14) days after the service of the City's costs bill, the person who is the subject of the hearing, may apply to the hearing officer for a reduction of the costs. In determining the costs, the hearing officer may take into consideration the person who is the subject of the hearing's good faith belief in his or her position; their ability to pay; and whether the City's investigation is proportionate to the misconduct charged. If there is no request for a reduction, the costs will be due and payable within fourteen (14) calendar days after the service of the bill.
- D. The costs shall be a civil debt of the Cardroom Permittee and the person who is the subject of the hearing where the Cardroom Permittee and/or its related Licensees are the subject of the hearing. The costs shall be a civil debt of the Funding Source and the person who is the subject of the hearing in the case of a hearing where the Funding Source Licensee and/or its related Licensees are the subject of the hearing.
- E. There shall be joint and several liability for payment of the debt:
  - 1. Between the Cardroom Permittee and the related Licensee who is the subject of the hearing, or

2. The Funding Source Licensee and the related Licensee who is the subject of the hearing.

### **Part 3**

#### **Cease and Desist Orders**

##### **16.34.300 Cease and Desist Orders**

- A. The Administrator may issue any cease and desist orders against a Cardroom Permittee or any Licensee that the Administrator deems reasonably necessary:
  1. For the immediate preservation of the public peace, health, safety, or general welfare; or
  2. To prevent a violation of the provisions of this Title; or
  3. To preserve the public policies of this Title.
- B. The cease and desist order shall set forth the grounds upon which it is based, including a statement of the facts constituting the imminent danger to the public peace, health, safety, or general welfare necessitating the order.
- C. The cease and desist order is effective immediately upon service on the Cardroom Permittee or the Licensee. The cease and desist order may suspend, limit, condition or take other action in relation to the Cardroom Permit or License. The cease and desist order shall remain in effect until further order of the Administrator or final disposition of any proceeding conducted pursuant to this Section.
- D. Within two (2) calendar days after service of a cease and desist order, the Administrator shall serve the Cardroom Permittee or the Licensee with a notice giving the name of the hearing officer.

- E. The notice served upon the Permittee or Licensee shall also notify the Permittee or the Licensee of his or her right to request a hearing before a hearing officer.
- F. The Cardroom Permittee or the Licensee is entitled to request that the hearing commence within ten (10) working days of the date of the request if the Gambling operation at the Cardroom is closed by the order, and in all other cases, within thirty (30) calendar days of the date of the request. Upon application of the Administrator, the Cardroom Permittee, or the Licensee for good cause shown, the hearing officer may extend the time within which a hearing is required to be commenced, upon those terms and conditions that the hearing officer deems equitable.
- G. Except as otherwise specified in this Section, the procedures set out in Chapter 16.36 for administrative hearings shall apply to cease and desist order proceedings.

**16.34.310 Appointment of Hearing Officer for Cease and Desist Order Hearings**

Cease and desist order hearings shall be conducted by a retired judge of the State of California selected by the City Attorney.

**CHAPTER 16.36**

**UNIFORM ADMINISTRATIVE HEARING PROCEDURES**

**16.36.010 Conduct of Administrative Hearings**

- A. The procedures set forth in this Chapter shall govern the conduct of the following administrative hearings:
  - 1. The licensing hearing held pursuant to Chapter 16.32;
  - 2. The Regulatory Action hearing and cease and desist order hearing held pursuant to Chapter 16.34.

- B. For purposes of this Chapter, the “Presiding Official” means the following persons:
1. The Chief of Police who presides at licensing hearings;
  2. The hearing officer who presides at Regulatory Action hearings and cease and desist order hearings.
- C. For purposes of this Chapter, the person who is the subject of the Administrative Hearing means the following persons:
1. A Cardroom Permittee for purposes of the Regulatory Action hearing held pursuant to Chapter 16.34;
  2. A Licensee for purposes of the Regulatory Action hearing held pursuant to Chapter 16.34;
  3. A Licensee or the Cardroom Permittee, depending on who is the subject of the cease and desist order, for cease and desist order hearings held pursuant to Chapter 16.34.

**16.36.020 Conduct of Administrative Hearing**

- A. The administrative hearing shall be conducted as follows:
1. Oral evidence shall be taken only on oath or affirmation.
  2. Both the City and the person who is the subject of the administrative hearing shall have the following rights:
    - a. The right to call and examine witnesses.
    - b. The right to introduce exhibits relevant to the issues of the case.

- c. The right to cross-examine opposing witnesses on matters relevant to the issues, even though the matter was not covered on direct examination.
  - d. The right to impeach any witness, regardless of which party first called the witness to testify.
  - e. The right to offer rebuttal evidence.
- B. Technical rules relating to evidence and witnesses shall not apply. Any relevant evidence which is not unduly repetitious, including hearsay evidence, may be admitted into the record and considered, and is sufficient in itself to support a finding, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of that evidence over objection in a civil action.
- C. Judicial notice may be taken of any generally accepted information or technical or scientific matter in the field of gambling, and any other fact which may be judicially noticed by the Courts of the State of California.
- D. Not less than ten (10) days prior to the administrative hearing, the City and the person who is the subject of the administrative hearing shall:
  - 1. Exchange documents, reports, videotapes, witness lists, and any other evidence that will be relied upon in the administrative hearing;
  - 2. Provide the Presiding Official with a copy of the evidence that has been exchanged; and
  - 3. Exchange and file with the Presiding Official hearing briefs and such additional materials as the Presiding Official may require.
- E. The Presiding Official shall rule on all evidentiary issues.

- F. There shall be no discovery except for that authorized in Subsection D.
- G. The person who is the subject of the administrative hearing is entitled to be represented at the administrative hearing by any person. The representative need not be an attorney.
- H. The parties are authorized to rely upon transcripts of testimony, documentary, and other evidence accepted into evidence in the administrative hearing to the extent deemed appropriate by the Presiding Official.
- I. The Presiding Official shall have the authority to control the conduct of the Administrative Proceeding, including the ability to limit testimony and the admissibility of evidence that is unduly repetitious or make any other rulings or place other limitations on the administrative hearing that he or she deems to be in the interests of judicial economy.

**16.36.030 Record of Administrative Hearing**

A record of the administrative hearing consisting of a tape, digital recording or stenographic record of all oral evidence, arguments and rulings, along with all exhibits offered and/or admitted into evidence and any written comments, arguments, reports, documents, or other written materials presented to or relied upon by the Presiding Official and the written decision of the Presiding Official shall be maintained by the Administrator until all administrative and judicial appeals have been concluded.

**16.36.040 Failure to Appear**

The failure of the person who is the subject of a properly noticed administrative hearing or the person's representative to appear at the Administrative Hearing without good cause shall be deemed a waiver of the hearing. The person who failed to appear has the burden of demonstrating good cause for his absence. The Presiding Official shall determine whether good cause exists for the failure to appear. If no good cause exists for the absence, the Presiding Official shall issue a decision against the person who is the subject of the administrative hearing, which decision shall become final and take

effect immediately upon service on the person who is the subject of the administrative hearing.

## CHAPTER 16.38

### RESTRICTIONS ON CONTRACTING, EMPLOYMENT, INTERESTS IN BUSINESS, LICENSING, AND FINDER'S FEES

#### **16.38.010 Restrictions on Contracting with or Employment of Specified Persons**

- A. As used in this Chapter, the term contract or agreement refers to any contract or agreement for goods or services of any kind or nature whatsoever.
- B. A Cardroom Permittee, Stock Owner Licensee, or Employee shall not enter into any contract or agreement with a person whose License has been denied, suspended or revoked or with any business enterprise under the control of that person.
- C. A Cardroom Permittee, Licensee or Employee shall not employ or enter into any contract or agreement with a person whose License or permit has not yet been issued unless that contract has a condition precedent that any performance by either party under the contract of any activity for which a License or permit is required under this Title cannot commence unless and until the License or permit is issued.
- D. A Cardroom Permittee, Stock Owner Licensee, or Key Employee shall not employ or contract with any person in any capacity for which he or she is required to be licensed if the person has been denied a License or work permit, or if his or her License or work permit has been suspended or revoked.
- E. A Cardroom Permittee, Stock Owner Licensee, or Key Employee shall not enter into any contract or agreement with any person whose application for a License has been withdrawn with or without prejudice, or with any business enterprise

under the control of that person, for the period of time during which the person is prohibited from filing a new application for licensure.

- F. If an Employee who is required to be licensed pursuant to this Title fails to apply for a License within the time specified by this Title, is denied a License, or has his or her License revoked, the Employee shall not be employed or used in any capacity in which he or she is required to be licensed and he or she shall not be permitted to exercise any influence over the operation of the permitted Cardroom or the Gambling operation taking place at the permitted Cardroom, or any part thereof.
- G. If an Employee who is required to be licensed or permitted pursuant to this Title has his or her License or work permit suspended, the Employee shall not be allowed to perform any services in any capacity in which he or she is required to be licensed or permitted and shall not be permitted to exercise any influence over the operation of the permitted Cardroom or the Gambling operation taking place at the permitted Cardroom, or any part thereof, during the period of suspension.
- H. If the Cardroom Permittee or Stock Owner Licensee designates another Employee to replace the Employee whose employment has been terminated pursuant to this Section, the Cardroom Permittee or Stock Owner Licensee shall require the newly designated Employee to apply for a License.
- I. A Cardroom Permittee or Stock Owner Licensee shall not pay to a person whose employment or services have been terminated pursuant to this Title any remuneration for any service performed in any capacity in which the person is required to be licensed or permitted, except for amounts due for services rendered before the date of service of the Statement of Decision or before the date that a Notice of Regulatory Action becomes a final decision.
- J. A Cardroom Permittee or Stock Owner Licensee shall not pay a person whose License or work permit has been suspended any remuneration for any service performed during the period of suspension in any capacity in which the person is

- required to be licensed, except for amounts due for services rendered before the date of service of the Statement of Decision to suspend the License or before the date that a Notice of Regulatory Action to suspend the License becomes a final decision.
- K. Except as provided in this Section, a contract or agreement for the provision of goods or services to a Cardroom Permittee or for the conduct of any activity at a permitted Cardroom, which is to be performed by a person required by this Title to be licensed or permitted, shall be terminated upon service of the Statement of Decision suspending or revoking that person's License or work permit or upon the date the Notice of Regulatory Action suspending or revoking that person's License or work permit becomes final.
- L. In any case in which a contract or agreement for the provision of goods or services to a Cardroom Permittee, or for the conduct of any activity at a permitted Cardroom, is to be performed by a person required by this Title to be licensed or permitted, the contract or agreement shall be deemed to include a provision for its termination without liability on the part of the Cardroom Permittee or Stock Owner Licensee upon service of the Statement of Decision suspending or revoking that person's License or work permit or upon the date the Notice of Regulatory Action suspending or revoking that person's License or work permit becomes final.
- M. In any regulatory action brought under this Title or in any judicial action brought by the City of San José to terminate a contract pursuant to this Section, it shall not be a defense that the contract or agreement does not expressly include a termination provision described in this Section, and the lack of express inclusion of the provision in the agreement shall not be a basis for enforcement of the contract or agreement by a party thereto.
- N. In the case of an Applicant for a License or work permit, the prohibitions in this Section are effective immediately. Except as otherwise provided in a Cease and Desist Order under Section 16.34.200, *et seq.*, in the case of a suspension or

revocation of a work permit or Licensee, these prohibitions are effective upon the Service of the Cardroom Permittee of the Statement of Decision to suspend or revoke the License or work permit, or upon the date that a Notice of Regulatory Action to suspend the License becomes a final decision.

- O. The restrictions in Subsections B and E shall not apply to personal contracts or agreements unrelated to the Cardroom and/or Cardroom operations if the Cardroom Permittee, Stock Ownership Licensee, Employee or Key Employee provides the Administrator with a copy of the executed contract or agreement ten (10) working days prior to the earliest date performance is due under the executed contract or agreement for the purpose of determining whether the contract or agreement meets the requirements of this Section.

**16.38.020 License Application Denial and Revocation; Interest in Business**

- A. With regard to any person who has had his or her License application denied or his or her License under this Title revoked, all of the following shall apply:
  - 1. Except as provided in this Section, the person shall not be entitled to profit from his or her investment in any business that has applied for or been granted a License or that holds a Cardroom Permit under this Title.
  - 2. The person shall not retain his or her interest in a business that has applied for or been granted a License or that holds a Cardroom Permit under this Title beyond a period to be prescribed by the Administrator.
  - 3. The person shall not accept more for his or her interest in a business that has applied for or been granted a License or that holds a Cardroom Permit under this Title than he or she paid for it, or the market value on the date of service of the Statement of Decision to revoke the License or upon the date the Notice of Regulatory Action to revoke the License becomes final, whichever is higher.

- B. Nothing in this Section shall be construed as a restriction or limitation on the powers of the Administrator or Chief of Police as specified elsewhere in this Title.

**16.38.030 Restrictions on Licensing**

Any person whose License has been denied or revoked pursuant to this Title or whose application for a License has been withdrawn with prejudice shall be disqualified from reapplying for any License or work permit for a period of seven (7) years from the date of the final administrative decision denying or revoking the License or withdrawing the application for a License with prejudice or from the final judicial adjudication thereof, whichever is later.

**16.38.040 Restrictions on Finder's Fees**

- A. The term "finder's fee" means any compensation in money in excess of the sum of five thousand dollars (\$5,000.00), or real or personal property or anything of value that is valued in excess of the sum of five thousand dollars (\$5,000.00) which is paid or transferred or agreed to be paid or transferred to any person in consideration for the arranging or negotiation of an agreement for any of the following purposes:

1. The acquisition of an interest in a Cardroom, gaming establishment or registered company; or
2. To finance the gaming operations of a Cardroom or licensed gaming establishment; or
3. To provide goods or services to the Cardroom Permittee; or
4. To secure the services of a Key Employee.

- B. The term "finder's fee" shall not include:

1. Compensation to a Financial Source.

2. Normal and customary compensation to Employees of the Cardroom Permittee for negotiating or arranging financing for the Cardroom Permittee if negotiating and arranging financing is part of their normal duties.
  3. Normal and customary payments for bona fide professional services rendered by lawyers, accountants, engineers, appraisers, or other licensed professionals.
  4. Underwriting discounts paid to a member of the National Association of Securities Dealers, Inc.
  5. Normal and customary payments for bona fide services rendered by human resource and executive search firms.
- C. No Cardroom Permittee, Licensee, Employee, Funding Source, Funding Source Owner, Funded Player or Funding Source Employee shall allow, permit or suffer the payment of any finder's fee without the prior approval of the Chief of Police, acting upon a recommendation of the Administrator based upon an application on forms prescribed by the Administrator. An application for approval of payment of a finder's fee shall make a full disclosure of all material facts. The Chief of Police may deny any such application if the person to whom the finder's fee is proposed to be paid does not demonstrate that he or she is suitable to hold a License under this Title or if payment of the fee is otherwise inconsistent with the public interest and the policies of this Title.

## CHAPTER 16.40

### WORK PERMITS

#### 16.40.010 Work Permit

- A. Every Employee of the Cardroom Permittee who is a Gambling Enterprise Employee and is not a Key Employee shall apply for and obtain a work permit prior to beginning employment as an Employee for a Cardroom Permittee.
- B. Except for persons required to have either a Funding Source License pursuant to Part 7 of Chapter 16.32 or a License pursuant to Part 6 of Chapter 16.32, every Funded Player shall apply for and obtain a work permit prior to beginning employment as a Funded Player with a Funding Source at a Cardroom Permittee.
- C. Except for Funding Source Employees required to obtain a License by the Administrator, every Funding Source Employee who has any supervisory responsibility over a Funded Player or other Funding Source Employee or has authority, on behalf of a Funding Source, to provide or direct the distribution of currency, Gaming Chips and Gaming Plaques to Funded Players shall apply for and receive a work permit prior to performing any of these functions in a Cardroom Permittee.
- D. Work permits issued to Employees, Funded Players and Funding Source Employees shall be for not more than two (2) specified employment classifications only, at the discretion of the Administrator.
- E. Work permittees may be employed in the identical position for which the permit was issued at another permitted Cardroom, provided the work permittee terminates employment with permitted Cardroom before commencing employment with the other. Thirty (30) calendar days prior to commencing employment with the new establishment, the work permittee shall file a statement on a form proscribed by the Administrator with the Division setting forth the last

date of employment with the former employer and the anticipated commencement of employment with the new employer. The work permit shall continue with the terms and conditions as originally issued.

**16.40.020 Work Permit Application Procedures**

- A. Each Applicant shall present himself or herself to the Administrator during normal business hours, at least three (3) working days prior to commencement of employment with a Cardroom Permittee and complete an application for a work permit.
- B. Each Applicant shall:
  - 1. Complete an application provided by the Administrator;
  - 2. Be fingerprinted;
  - 3. Be photographed;
  - 4. Provide any other information that the Administrator may require; and
  - 5. Certify the contents of the application under penalty of perjury.
- C. The Administrator is authorized to obtain criminal history information for each Applicant seeking a work permit.
- D. A work permit fee or renewal fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid together with the work permit or renewal application.
- E. Within twenty (20) working days after receipt of the application containing the above information and the required fees, the Administrator shall serve a written decision to the Applicant either granting or denying a work permit, or granting a work permit with limitations and conditions, and explaining the reasons for denial. The work permit shall take effect on the date of service of the written decision by the Administrator.

- F. Each work permittee shall apply for renewal of his or her permit with the Administrator sixty (60) working days prior to the fourth anniversary of the date of the Administrator's initial approval of the work permit application and every four (4)-year anniversary thereafter. New identification cards will be issued as the Administrator deems appropriate.
- G. No work permit or renewal permit shall issue unless the work permit fee or renewal fee accompanies the application or renewal application.
- H. The Administrator shall deny an application for renewal of a work permit or place limitations or conditions upon the renewal of a work permit if the Administrator determines that there exist any grounds for denial, revocation, or suspension of the work permit.
- I. The renewal of a work permit shall take effect from the date of service of the initial written decision granting the work permit.

**16.40.030 Notice to Administrator of Change in Employment**

- A. The Cardroom Permittee and Funding Source shall inform the Administrator of any change in employment of a person holding a work permit as follows:
  - 1. On the first day of the month for any change in employment that became effective any time from the fifteenth day of the preceding month to the last day of the preceding month; or
  - 2. On the fifteenth day of the month for any change in employment that became effective any time from the first day of the month to the fourteenth day of the month.
- B. A change in employment shall include termination of employment, leave of absence, or any promotion or other change in employment classification, job title, or change in job function or duties as determined by the Administrator.

**16.40.040 Authority of the Administrator to Set Conditions on Work Permit**

When the Administrator grants a provisional work permit or a temporary work permit, a work permit, or renewal of a work permit, the Administrator may place such limitations and conditions thereon as the Administrator may deem necessary, consistent with the public interest and the policies of this Title.

**16.40.050 Work Permit Show Cause Hearing Procedures**

- A. If it appears at any time that good cause may exist for the Administrator to deny, suspend, revoke, or add limitations and conditions to a work permit, the Administrator shall provide the Employee and the employing Cardroom Permittee with notice and the opportunity for a hearing before the Chief of Police to show cause why the application should not be denied, why the work permit should not be suspended or revoked, or why limitations and conditions should not be added to the work permit.
- B. In the case of denial, suspension, revocation, or addition of limitations and conditions, the Employee shall be given ten (10) working days from the date of mailing of the notice of denial, suspension or revocation to request a show cause hearing before the Chief of Police. The Employee shall be deemed to have waived the right to a Show Cause Hearing if the Administrator does not receive the Employee's written request for a hearing within ten (10) working days of the date of service of the notice. In case of a waiver, the Administrator shall serve a statement of decision upholding the suspension, revocation, or placement of limitations and conditions on the work permit.
- C. The Administrator shall schedule the hearing within forty-five (45) working days after receipt of the request for a show cause hearing. The Administrator shall mail notice of the day, time, and place of the hearing to the Applicant or work permittee and the employing Cardroom Permittee or employing Funding Source within fourteen (14) working days after receipt of the request for hearing.

- D. The hearing shall be held in accordance with the procedures and rules set out in San José Municipal Code Sections 16.36.020 – 16.36.040, with the Chief of Police acting as the Presiding Official.
- E. If the Chief of Police, on the basis of substantial evidence presented at the show cause hearing, finds good cause, the Administrator may deny, suspend, revoke, or add limitations and conditions to the work permit.
- F. When the Chief of Police denies, suspends, revokes, or adds limitations and conditions to a work permit, the Chief of Police shall issue a statement of decision giving the reasons for the decision and the findings of fact upon which the decision is based.
- G. The statement of decision shall be served upon the person within forty-five (45) working days of the close of the hearing.

**16.40.060 Decision Final**

- A. The decision to deny, suspend, revoke, or add limitations and conditions to a work permit shall be final.
- B. The written statement of decision shall contain a notice setting out Section 1.16.010 of this Code.

**16.40.070 Grounds for Denial, Revocation or Suspension of Work Permit**

The Administrator may deny, suspend, revoke, or add limitations and conditions to a work permit on any of the following grounds:

- A. The permittee has violated any provision of this Title.
- B. The permittee has failed to timely pay any fees due under this Title.
- C. The permittee has violated any work permit limitation or condition.

- D. Failure to cooperate with the Administrator or to provide information, documentation, and assurances required for qualification or failure to reveal any material fact relating to qualification.
- E. Supplying information to the Administrator that is untrue or misleading.
- F. Conviction, including a plea of nolo contendere, of any crime punishable as a felony; including a conviction by any federal court or a court in another state for a crime that would constitute a felony in California.
- G. Conviction, including a plea of nolo contendere, of any crime punishable as a misdemeanor, including conviction by any federal court or a court in another state for a crime that would constitute a misdemeanor in California, involving dishonesty, moral turpitude, prostitution, sale or possession for sale of a controlled substance, gambling, or any other crime substantially related to the qualifications, functions, or duties of the Cardroom business or gambling business, within a ten (10) year period immediately preceding the submission of the application.
- H. Association of the Applicant or work permittee with criminal profiteering activity or organized crime as defined in the California Penal Code Section 186.2 of the California Control of Profits of Organized Crime Act, Penal Code Sections 186 et seq.
- I. Contumacious defiance by the Applicant or work permittee relating to any legislative investigative body or any other investigative body in any state of the United States.
- J. The Applicant or work permittee is a partner, officer, director or shareholder or has any financial interest in any business organization that engaged in any form of prohibited gambling pursuant to the California Penal Code whether within or outside of the State.

- K. Denial, revocation, or suspension of a State gambling license, key employee license, work permit, registration, or finding of suitability pursuant to State Gambling Law, or the denial, revocation, suspension of a permit or license regulating legal gambling in any other state.
- L. The Applicant or work permittee has committed any act involving dishonesty, fraud or deceit with the intent to substantially benefit the Applicant or work permittee, or benefit another, or substantially injure another.
- M. Objection to the issuance of a work permit, or an order denying an application for a work permit, by the California Department of Justice, pursuant to State Gambling Law.
- N. The Applicant or work permittee has violated any provision of this Title, the law of any state or local government, or any Federal law relating to gambling or the operation of a permitted Cardroom.
- O. The Applicant is less than twenty-one (21) years of age.

**16.40.080 Temporary Work Permit**

- A. Notwithstanding any contrary provision of this Chapter regarding work permit application procedure, the Administrator may issue to an applicant for a work permit a temporary work permit after the applicant has submitted a completed application to the Administrator and the required fee has been paid.
- B. The Administrator may place such conditions and limitations on the temporary work permit as the Administrator may deem necessary, consistent with the public interest and the policies of this Title, including but not limited to placing time limits on the term of the temporary work permit. The temporary work permit shall automatically terminate in the event that the application is withdrawn or the Administrator denies the application.

- C. The temporary work permit is a temporary privilege and creates no continuing right. The Administrator shall have the discretion to revoke the temporary work permit at any time without cause or advance notice, and without any right of administrative or judicial appeal as to the revocation of such temporary work permit.
- D. Each recipient of a temporary work permit shall provide a written acknowledgment on a form prescribed by the Administrator that no procedural or substantive rights or privileges are conferred by a temporary work permit, without prejudice to his or her procedural rights under this Title for the denial of the application for the work permit. Without such acknowledgement, the Administrator has no discretion to issue a temporary work permit.

## **CHAPTER 16.42**

### **WORK REGISTRATION**

#### **NON-GAMBLING ENTERPRISE EMPLOYEES**

##### **16.42.010 Work Register**

- A. The Cardroom Permittee shall provide the Administrator with a register listing each and all of the Permittee's Non-Gambling Enterprise Employees. The list shall provide the name, residence address, and date of birth of each Non-Gambling Enterprise Employee and such other information as the Administrator may require.
- B. The Administrator shall establish criteria for determining which Funding Source Employees, if any, are eligible to be listed on the work register of the Funding Source. After the Administrator provides written notice to the Funding Source of these criteria, the Funding Source shall provide the Administrator with a register

listing each and all of the Funding Source Employees who are eligible to be listed on the work register.

**16.42.020 Notice to Administrator of Change in Employment**

- A. The Cardroom Permittee shall inform the Administrator of any change in employment of an Employee holding a work permit as follows:
  - 1. On the first day of the month for any change in employment that became effective any time from the fifteenth day of the preceding month to the last day of the preceding month; or
  - 2. On the fifteenth day of the month for any change in employment that became effective any time from the first day of the month to the fourteenth day of the month.
- B. A change in employment shall include termination of employment, leave of absence, or any promotion or other change in employment classification, job title, or change in job function or duties as determined by the Administrator.
- C. Each Funding Source shall have the same duties under this Section with respect to its Funded Players and Funding Source Employees and Funded Players as the Cardroom Permittee has with respect to its Employees.

**CHAPTER 16.44**

**NOTIFICATION TO THE STATE**

**16.44.010 Notification to the State**

- A. The Administrator shall notify the California Department of Justice regarding:

1. The filing and issuance or denial of all Licenses, work permits, and registrations.
  2. Any Regulatory Action taken against any Licensee or Cardroom Permittee.
  3. Any revocation, suspension, or addition of or change in the limitations and conditions on a work permit or registration.
- B. The Administrator may make such other notifications to the State or other public agencies as the Administrator deems necessary, to the effective operation of Division, consistent with the public interest and the policies of this Title.

## **CHAPTER 16.46**

### **CODE OF ETHICS**

#### **16.46.010 Code of Ethics**

No City employee directly involved in the regulation of Cardrooms or the enforcement of any of the provisions of this Title shall knowingly engage in any of the following conduct:

- A. Accept any gift, favor, complimentary service or other item of value from any Cardroom Permittee, Funding Source, Funded Player Licensee, or work permittee.
- B. Participate directly or indirectly in any Gaming activity on the premises of a permitted Cardroom, or obtain any service from any restaurant, club, or other business located on the premises of a permitted Cardroom except in the course of his or her official duties as a City employee.
- C. Pursue any outside business or employment on an off-duty basis that would conflict with his or her official duties as a City employee respecting the regulation of Cardrooms.

- D. Have any interest, financial or otherwise, direct or indirect, or engage in any business or professional activity which is in substantial conflict with the discharge or his or her official duties as a City employee respecting the regulation of Cardrooms.

## **CHAPTER 16.48**

### **RESPONSIBLE GAMING PROGRAM**

#### **16.48.010 Responsible Gaming Program for Employees**

- A. Each Cardroom Permittee shall provide to its Employees a Responsible Gaming Program that will include, at a minimum, the following elements:
1. An Employee assistance program;
  2. Mandatory referral of Employees who appear to be at risk for compulsive gambling; and
  3. Provision of literature to Employees on problem gambling and a list of referrals to agencies in the San Francisco Bay Area with programs for problem gamblers.
- B. Each Cardroom Permittee shall provide the Administrator with an annual plan for a Responsible Gaming Program that includes the program elements listed in this Section.
- C. Cardrooms are encouraged to undertake further efforts beyond the minimum Responsible Gaming Program required by this Chapter.

#### **16.48.020 Literature on Compulsive Gambling Treatment Programs**

- A. Each Cardroom Permittee shall make literature on problem or compulsive gambling easily available in locations visible to patrons in the Cardroom.

- B. If literature on problem or compulsive gambling is reasonably available in English, Spanish, Vietnamese, Mandarin and/or Cantonese-Chinese, then the Cardroom Permittee shall be required to make such literature easily available.

**16.48.030 Responsible Gaming Program for Patrons**

- A. The Administrator is authorized to develop and implement a Responsible Gaming Program to identify and treat Patrons of the Cardrooms who have compulsive gambling problems and to promote the prevention of compulsive gambling.
- B. The part of the Responsible Gaming Program that promotes the prevention of compulsive gambling shall include an advertising campaign to educate the public on the personal and social costs of compulsive gambling.
- C. The Administrator shall be authorized to promulgate Regulations to implement the Responsible Gaming Program.

**CHAPTER 16.50**

**NONPROFIT ORGANIZATION FUNDRAISERS**

**16.50.010 Registration Policy**

- A. Regulation of persons subject to registration pursuant to the provisions of this Chapter is essential to the preservation of the integrity of gaming regulation in the City of San José.
- B. Eligible Nonprofit organizations may conduct Nonprofit Organization Fundraisers at any place or building located within the City of San José in conformity with the requirements of State Gambling Law and this Title.
- C. Eligible Nonprofit Organizations may also conduct Nonprofit Organization Fundraisers on Cardroom Premises in conformity with the requirements of State Gambling Law and this Title, including, but not limited to the existing limitations

and restrictions in this Title on the number of Card Tables that a Cardroom Permittee may have.

- D. It remains the policy of the City that this Title authorizes Cardroom Permittees to conduct charitable fundraising on Cardroom Premises in conformity with the requirements of Title 16 and State Gambling Law.

**16.50.020 Nonprofit Organization Fundraiser Registration Required**

- A. No person shall hold, establish, maintain, manage, conduct or operate, or assist in holding, establishing, maintaining, managing, conducting or operating a Nonprofit Organization Fundraiser without having first obtained and thereafter maintaining in effect a valid Nonprofit Organization Fundraiser registration.
- B. No person shall permit, allow, or suffer any Nonprofit Organization Fundraiser to be held, established, maintained, managed, conducted or operated unless the Nonprofit Organization Fundraiser is held, maintained, conducted and operated with a valid Nonprofit Organization Fundraiser registration.

**16.50.030 Conduct of Nonprofit Organization Fundraiser**

- A. An Eligible Nonprofit Organization that conducts a Nonprofit Organization Fundraiser shall comply with the requirements of this Chapter, other applicable requirements of this Title and the requirements of State Gambling Law.
- B. A Person or Entity shall comply with the requirements of this Chapter, other applicable requirements of this Title, and the requirements of State Gambling Law.
- C. Permissible Games shall be the only controlled games allowed at a Nonprofit Organization Fundraiser.
- D. Controlled Games shall be conducted at a Nonprofit Organization Fundraiser in compliance with the requirements of State Gambling Law and this Chapter,

including but not limited to any limitations, restrictions, terms, and conditions required by State Gambling Law or this Chapter.

- E. The use of slot machines or devices, or gambling devices as defined by State Gambling Law at a Nonprofit Organization Fundraiser is prohibited. The determination of the Administrator as to what constitutes a slot machine or device or gambling device that is prohibited under this Title shall be conclusive, regardless of any contrary opinion, decision, or regulation promulgated by the California Department of Justice or the California Gambling Control Commission.
- F. Cardroom Permittees that allow Nonprofit Organization Fundraisers to be held on Cardroom Premises shall be subject to all the requirements of Title 16 applicable to Cardrooms.

**16.50.040 Nonprofit Organization Fundraiser Registration**

- A. An Eligible Nonprofit Organization that desires to conduct a Nonprofit Organization Fundraiser shall apply for and obtain a Nonprofit Organization Fundraiser registration from the Administrator in accordance with the requirements of this Chapter prior to conducting the fundraiser.
- B. Only an Eligible Nonprofit Organization that has a current, valid registration with the California Department of Justice pursuant to the requirements of Article 17 of the Gambling Control Act may apply for and obtain a Nonprofit Organization Fundraiser registration from the Administrator.
- C. Any Person or Entity that conducts, or is engaged to conduct or desires to conduct a fundraiser on behalf of an Eligible Nonprofit Organization shall apply for and obtain a Person or Entity registration from the Administrator in accordance with the requirements of this Chapter prior to conducting the fundraiser.

**16.50.050 Fundraiser Registration Application Procedures**

- A. Each Eligible Nonprofit Organization shall apply for a Nonprofit Fundraiser registration with the Administrator at least fourteen (14) working days prior to the day the fundraiser is to be held.
- B. The Eligible Nonprofit Organization, by a responsible fiduciary of the organization or other natural person deemed by the Administrator to be a lawfully authorized representative of the organization, shall:
  - 1. Complete an application provided by the Administrator which shall include a signed permission authorizing the Administrator or his or her authorized representative to have immediate access to enter upon and inspect the premises upon which the Nonprofit Organization Fundraiser is to be held and any equipment and supplies to be used in the playing of Controlled Games at the Fundraiser, and to inspect and copy any records or documents required to be maintained under this Title or State Gambling Law;
  - 2. Provide proof of current, valid registration with the California Department of Justice;
  - 3. Provide any other information, records, or documentation that the Administrator may require; and
  - 4. Certify the contents of the application under penalty of perjury.
- C. A registration fee or renewal fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid together with the registration application.
- D. A registration application shall be deemed incomplete and shall not be acted upon by the Administrator if:
  - 1. The application form submitted by the nonprofit organization is incomplete;

2. The nonprofit organization does not have a current, valid registration with the California Department of Justice;
  3. The registration fee or renewal fee has not been paid; or
  4. The nonprofit organization has refused, failed or neglected to provide such other information as the Administrator may require.
- E. Registration shall be valid for a period of one (1) year from the date of issuance.
- F. Registration may be renewed annually.

**16.50.060 Person or Entity Registration Application Procedures**

- A. Any Person or Entity that desires to conduct or assist in the conduct of a Nonprofit Organization Fundraiser for or on behalf of an Eligible Nonprofit Organization shall apply for a Person or Entity registration at least fourteen (14) working days prior to the day the fundraiser is to be held.
- B. The Person or Entity, if a natural person, or if not, by a natural person deemed by the Administrator to be an authorized representative of such Person or Entity, shall:
1. Complete an application provided by the Administrator which shall include a signed permission authorizing the Administrator or his or her authorized representative immediate access to enter upon and inspect the premises upon which the Nonprofit Organization Fundraiser is to be held and any equipment and supplies to be used in the playing of Controlled Games at the Fundraiser, and to inspect and copy any records or documents required to be maintained under this Title or State Gambling Law;
  2. Provide proof of current, valid State registration if such registration is required pursuant to State Gambling Law;

3. Provide any other information, records, or documentation that the Administrator may require to assure compliance with the requirements of State Gambling Law and this Title; and
  4. Certify the contents of the application under penalty of perjury.
- C. A registration fee or renewal fee as set forth in the Schedule of Fees established by resolution of the City Council shall be paid together with the registration application.
- D. A registration application shall be deemed incomplete and shall not be acted upon by the Administrator if:
1. The application form submitted by the Applicant is incomplete;
  2. The Person or Entity does not have a current, valid registration with the California Department of Justice if such registration is required pursuant to State Gambling Law;
  3. The registration fee or renewal fee has not been paid; or
  4. The Person or Entity has refused, failed or neglected to provide such other information as the Administrator may require.
- E. Registration shall be valid for a period of one (1) year from the date of issuance.
- F. Registration may be renewed annually.

**16.50.070 Authority of the Administrator to Set Conditions on Registration**

When the Administrator grants Nonprofit Fundraiser registration or Person or Entity registration or renewal of either form of registration, the Administrator may place such limitations and conditions thereon as the Administrator may deem necessary, consistent with the public interest and the policies of this Title.

**16.50.080 Grounds for Denial, Revocation or Suspension of Registration**

The Administrator may deny, suspend, revoke, or add limitations and conditions to a Nonprofit Fundraiser registration or Person or Entity registration on any of the following grounds:

- A. Failure to comply with the requirements of State Gambling Law or of this Title for Registration.
- B. Denial, revocation, or suspension of a State Nonprofit Fundraiser Registration, State Person or Entity Registration, gambling license, key employee license, work permit, registration, or finding of suitability pursuant to State Gambling Law, or the denial, revocation, suspension of a permit, license or registration or finding of suitability regulating legal gambling in any other state.
- C. Objection to the granting of registration, or an order or decision denying an application for registration, by the California Department of Justice or California Gambling Control Commission.
- D. The Registrant or Applicant has violated:
  - 1. Any provision of this Chapter, including any regulation promulgated thereunder, or any other applicable provision of this Title;
  - 2. Any provision of State Gambling Law;
  - 3. Any provision of State law relating to nonprofit organizations; or
  - 4. Any provision of the law of any other state or of Federal law relating to gambling or nonprofit organizations.
- E. The Registrant or Applicant has failed to timely pay any fees due under this Title.
- F. The Registrant or Applicant has violated any limitation or condition on the registration.

- G. Failure to cooperate with the Administrator as required pursuant to Section 16.26.010, or failure to provide information, documentation, and assurances required for qualification or failure to reveal any material fact relating to qualification for registration.
- H. Supplying information to the Administrator that is untrue or misleading.
- I. Conviction, including a plea of nolo contendere, of any crime punishable as a felony; including a conviction by any federal court or a court in another state for a crime that would constitute a felony in California.
- J. Conviction, including a plea of nolo contendere, of any crime punishable as a misdemeanor, including conviction by any federal court or a court in another state for a crime that would constitute a misdemeanor in California, involving dishonesty, moral turpitude, prostitution, sale or possession for sale of a controlled substance, gambling, or any other crime substantially related to the qualifications, functions, or duties of regulated gambling or a gambling business, within a ten-year (10) period immediately preceding the submission of the application.
- K. Association of the Registrant or Applicant with criminal profiteering activity or organized crime as defined in the California Penal Code Section 186.2 of the California Control of Profits of Organized Crime Act, Penal Code Sections 186 et seq.
- L. Contumacious defiance by the Registrant or Applicant relating to any legislative investigative body or any other investigative body in any state of the United States.
- M. The Registrant or Applicant is a partner, officer, director or shareholder or has any financial interest in any business organization that engaged in any form of prohibited gambling pursuant to the California Penal Code whether within or outside of the State.

- N. The Registrant or Applicant has committed any act involving dishonesty, fraud or deceit with the intent to substantially benefit the Applicant Registrant, or benefit another, or substantially injure another.
- O. The Registrant or Applicant is less than twenty-one (21) years of age.

**16.50.090 Registration Show Cause Hearing Procedures**

- A. If it appears at any time that good cause may exist for the Administrator to deny, suspend, revoke, or add limitations and conditions to a Nonprofit Fundraiser registration or Person or Entity registration, the Administrator shall provide the Applicant or Registrant with notice and the opportunity for a hearing before the Chief of Police to show cause why the application should not be denied, why the registration should not be suspended or revoked, or why limitations and conditions should not be added to the registration.
- B. In the case of denial, suspension, revocation, or addition of limitations and conditions, the Applicant or Registrant shall be given ten (10) working days from the date of mailing of the notice of denial, suspension or revocation to request a show cause hearing before the Chief of Police. The Applicant or Registrant shall be deemed to have waived the right to a show cause hearing if the Administrator does not receive the Applicant or Registrant's request for a hearing within ten (10) working days of the date of service of the notice. In case of a waiver, the Administrator shall serve a statement of decision upholding the suspension, revocation, or placement of limitations and conditions on the registration.
- C. The Administrator shall schedule the hearing within thirty (30) working days after receipt of the request for a Show Cause Hearing. The Administrator shall mail notice of the day, time, and place of the hearing to the Applicant or Registrant within ten (10) working days after receipt of the request for hearing.

- D. The hearing shall be held in accordance with the procedures and rules set out in San José Municipal Code Sections 16.36.020 – 16.36.040, with the Chief of Police acting as the Presiding Official.
- E. If the Chief of Police, on the basis of substantial evidence presented at the Show Cause Hearing, finds good cause, the Chief of Police may deny, suspend, revoke, or add limitations and conditions to the registration.
- F. When the Chief of Police denies, suspends, revokes, or adds limitations and conditions to a registration, the Chief of Police shall issue a Statement of Decision giving the reasons for the decision and the findings of fact upon which the decision is based.
- G. The Statement of Decision shall be served upon the person within forty-five (45) days of the close of the hearing.

**16.50.100 Decision Final**

- A. The decision to deny, suspend, revoke, or add limitations and conditions to a registration shall be final.
- B. The written statement of decision shall contain a notice setting out Section 1.16.010 of this Code.

**16.50.110 Administrative Inspections**

- A. The Administrator shall be authorized to:
  - 1. Inspect the premises occupied or under the control of a Registrant where the Nonprofit Organization Fundraiser is to be held and any equipment or supplies to determine compliance with the requirements of this Title and State Gambling Law. Inspections shall be conducted during normal business hours with or without notice and may be conducted before, during and after the Fundraiser is held.

2. Inspect, examine, remove, and impound:
  - a. Any documents, records, books, or computers containing any documents or records required to be created, maintained or kept pursuant to this Title or State Gambling Law; and
  - b. Any supplies or equipment used in conducting controlled games either by the Nonprofit Organization or by any "Person or Entity" used, engaged by, or contracting with the Registrant for purpose of conducting the fundraiser for the Nonprofit Organization pursuant to Subdivision (d) of California Business and Professions Code Section 19986.
- B. The Administrator shall provide copies or return the originals to the Registrant or any Person or Entity used, engaged by, or contracting with the Registrant for the purpose of conducting a fundraiser for the Nonprofit Organization as soon as is practical under the circumstances, taking into account the volume of records seized and the need to safeguard the integrity of the investigation.
- C. Documents and records shall have the meaning stated in Subsection D of Section 16.06.070 of this Title.
- D. When the Administrator visits or inspects the premises on which the fundraiser is to be held, or any premises occupied by or under the control of a Registrant, the Registrant shall provide the Administrator with immediate, unhindered access to all areas of the premises to be used for the fundraiser or upon which records, documents, supplies or equipment are held or stored.

**16.50.120 Administrator's Authority to Regulate**

The Administrator is authorized to promulgate such Regulations as he or she deems necessary in order to implement the requirements of this Chapter and to fulfill the purposes and policies of this Chapter.

PASSED FOR PUBLICATION of title this 24<sup>Th</sup> day of March, 2009, by the following vote:

AYES: CAMPOS, CHU, CONSTANT, HERRERA, KALRA,  
LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: CHIRCO.

DISQUALIFIED: NONE.

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CHUCK REED  
Mayor

ATTEST:

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LEE PRICE, MMC  
City Clerk