



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Anthony Mata

**SUBJECT: ORDINANCE AMENDING
TITLE 16 (GAMING CONTROL)**

DATE: May 11, 2021

Approved

Date

5/12/2021

RECOMMENDATION

Approve an ordinance amending Title 16 of the San José Municipal Code, the Gaming Control Ordinance, to:

- (a) Repeal obsolete sections addressing pre-1999 stock ownership, licensing for pre-1999 landowners, provisional key employee licenses, and public telephone access for 911 and 311 calls;
- (b) Modify the process for the promulgation of gaming regulations;
- (c) Require that the Gaming Administrator issue a monthly notice, to the Chief of Police, with the expected date of completion of any investigations that are not concluded within 180 days;
- (d) Eliminate the requirement that the Chief of Police prepare two annual reports, one evaluating the impact of Cardroom Gambling on crime in the San Jose metropolitan area, and the other a compliance report addressing regulatory issues pertaining to cardroom gambling in San Jose;
- (e) Require the cardrooms to implement and comply with a system of internal controls for key employee licenses and work permits and require that the cardrooms comply with their approved internal controls document;
- (f) Update and add definitions for various terms; and
- (g) Make other technical, non-substantive, or formatting changes.

OUTCOME

Adoption of the ordinance amending Title 16 of the San José Municipal Code (Title 16) will cleanup outdated and unclear language in Title 16, ensure that the Gaming Administrator issues communications of expected completion dates to the Chief of Police regarding investigations, and it removes the annual reporting requirement by the Chief of Police of the two reports, one on the impact of crime in San Jose and the other a compliance report addressing regulatory issues in the cardrooms.

BACKGROUND

The Division of Gaming Control has the responsibility of providing comprehensive oversight of the two gambling establishments in the City of San Jose: Casino M8trix and Bay 101. Together, these generate annual gaming revenue exceeding \$120 million. The City and State have established regulatory controls over these gambling operations to protect the public's interest. The regulations include the following:

- A thorough vetting process of cardroom stock owners, landowners, funding sources, key, and gambling enterprise employees.
- On-going audits and financial reviews to assure that the cardrooms have sufficient cash on hand to satisfy its gaming chip float liabilities.
- The daily verification of cardroom revenues that are subject to the City's gross receipts taxes are properly recorded.
- Any potential violation of Title 16 of the San Jose Municipal Code, the State Gambling Control Act and other gaming laws and regulations are thoroughly investigated.
- Action taken against a cardroom, including its owners, licensees and/or work permittees who are the subject of regulatory violations to ensure that public health, safety, and welfare are protected.

ANALYSIS

Title 16 is in need of revisions to update, modify, and clarify language in several sections. The proposed ordinance includes changes in the following areas:

- (a) Repeal obsolete sections addressing pre-1999 stock ownership, licensing for pre-1999 landowners, provisional key employee licenses, and public telephone access for 911 and 311 calls.

Sections related to pre-1999 stock ownership, licensing for pre-1999 landowners, provisional key employee licenses are no longer needed as their purpose was to maintain the continuity of licensing at the time Title 16 was first codified. Anyone who owned stock in the cardrooms prior to 1999 was granted a stock owner's license under the newly adopted Title 16 provisions. Currently, all stock owners are licensed. Similar language was used for the licensing of landowners prior to 1999 and for key employees prior to 1999 through provisional licensing. As Title 16 has been operative for over 20 years these provisions grandfathering pre-existing licenses are no longer needed. The provision related to 911 or 311 calls on public telephones is no longer needed due to the prevalence of cellular telephones.

- (b) Modify the process for the promulgation of gaming regulations.

The Gaming Administrator will be required to report to the Chief of Police and obtain approval of any proposed changes to regulations. This change will allow for additional checks and balances on the gaming regulations that are promulgated under Title 16 and that ultimately the cardrooms must abide by.

- (c) Require that the Gaming Administrator issue a monthly notice, to the Chief of Police, with the expected date of completion of any investigations that are not concluded within 180 days.

The Gaming Administrator reporting to the Chief of Police concerning investigations that take longer than 180 days will enhance the investigative process for the Division of Gaming Control and ensure that investigations are completed in a timely matter unless there are unusual circumstances.

- (d) Eliminate the requirement that the Chief of Police prepare two annual reports, one evaluating the impact of Cardroom Gambling on crime in the San Jose metropolitan area, and the other a compliance report addressing regulatory issues pertaining to cardroom gambling in San Jose.

Since the adoption of Title 16 on November 23, 1999, the Chief of Police has been required to prepare an annual report evaluating the impact of cardroom gambling on crime (“Annual Crime Report”) in the San Jose metropolitan area. Title 16 was further amended on April 7, 2009 to provide the Chief of Police an opportunity to also report on regulatory issues pertaining to cardroom gambling in San Jose.

From 2009 through 2013, the Annual Crime Report focused on the impact of cardroom gambling on crime and was presented to the Public Safety, Finance, and Strategic Support (PSFSS) Committee. In 2014, the Chief of Police indicated that he had directed the Gaming Administrator to return to the PSFSS Committee with a separate report (“Cardroom Compliance with Title 16 of the San Jose Municipal Code Report” or “Compliance Report”) summarizing work permitting and licensing issues, compliance issues relating to each cardroom and other regulatory matters surrounding gaming operations in San Jose. The first Compliance Report was presented to the PSFSS Committee in February 2015.

The Annual Crime Report is inconclusive when evaluating the impact that cardrooms have on the City of San Jose. Crimes that occur in the City generally cannot be directly tied to the cardrooms or crimes occurring at the cardrooms. Any crimes that did occur within the cardrooms themselves tend to be minimal or close to none, and the cardrooms were usually the victim of these crimes (i.e. fraudulent notes, cheating, or underage gambling). They are properly dealt with through routine Police Department processes.

With respect to the Compliance Report, both cardrooms for the past several years were, in all material respects, in compliance with Title 16 and the regulations promulgated thereunder. The cardrooms are highly regulated and will remain highly regulated by the Division of Gaming. Should alarming regulatory or criminal gambling related concerns arise, the Division of Gaming will report them in timely manner to the Chief of Police, City Manager, and/or the City Council, as appropriate, so that action can be taken instead of reporting on them once a year in the compliance report.

- (e) Require the cardrooms to implement and comply with a system of internal controls for key employee licenses and work permits and require that the cardrooms comply with their approved internal controls document.

The cardrooms are currently required to have a system of internal controls document approved by the Gaming Administrator. These clarifying changes will ensure that existing regulations and internal controls are adhered to and will enhance the gaming regulatory program.

- (f) Update and add definitions for various terms.

There are also revisions to existing definitions as well as several new definitions included in the proposed ordinance. Revised definitions include: Automatic Teller Machine, Gambling Equipment, and Key Employee. New definitions include: Bureau, Business Day, Commission, and Complete Application.

- (g) Make other technical, non-substantive, or formatting changes.

Other changes have been made for clarity and to implement the newly added definitions throughout Title 16.

CONCLUSION

Adoption of an ordinance amending Title 16 will enhance the reporting requirements from the Gaming Administrator to the Chief of Police, it will clarify various definitions, make several formatting changes, and eliminate the reporting requirement from the Chief of Police to City Council.

CLIMATE SMART SAN JOSE

The recommendation in this memo has no effect on Climate Smart San José energy, water, or mobility goals.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the May 25, 2021 Council Meeting.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.



ANTHONY MATA
Chief of Police

For questions, please contact Kirill Yermanov, Gaming Administrator, at (408) 794-1474.