

**DRAFT**

ORDINANCE NO.

**AN ORDINANCE OF THE CITY OF SAN JOSE AMENDING VARIOUS SECTIONS OF TITLE 16 OF THE SAN JOSE MUNICIPAL CODE RELATING TO GAMING CONTROL TO MODIFY THE PROCESS FOR THE PROMULGATION REGULATIONS; IMPLEMENT A MONTHLY NOTICING REQUIREMENT FOR INVESTIGATIONS LONGER THAN 180 DAYS; ELIMINATE THE ANNUAL REPORTING REQUIREMENTS; REPEAL OBSOLETE SECTIONS; MODIFY INTERNAL CONTROLS REQUIREMENTS; REVISE AND ADD DEFINITIONS; AND MAKE OTHER TECHNICAL, NON-SUBSTANTIVE, OR FORMATTING CHANGES**

**WHEREAS**, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970, together with related State CEQA Guidelines and Title 21 of the San José Municipal Code (collectively, "CEQA"), the Director of Planning, Building and Code Enforcement has determined that the provisions of this Ordinance do not constitute a project, under File No. PP17-008 (General Procedure & Policy Making resulting in no changes to the physical environment); and

**WHEREAS**, the City Council of the City of San José ("Council") is the decision-making body for this Ordinance; and

**WHEREAS**, this Council has reviewed and considered the "not a project" determination under CEQA prior to taking any approval actions on this Ordinance,

**NOW, THEREFORE**, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSE:

**SECTION 1.** Section 16.02.020 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 ~~any action authorized by this Title~~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 ~~A~~administrator shall have the discretion to take ~~any action authorized by this Title~~enforcement action, against the ~~Cardroom~~pPermittee, the Key Employee, or both.

**SECTION 2.** Section 16.02.240 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **16.02.240 Automatic Teller Machine**

**A.** “Automatic Teller Machine” means:

**1A.** 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

**2B.** Any electronic information processing device located in California which accepts or dispenses cash in connection with a credit, deposit, or convenience account.

**BC.** Devices used solely to facilitate check guarantees or check authorizations, or which are used in connection with the acceptance of or dispensing of cash on a person-to-person basis are not Automatic Teller Machines.

**SECTION 3.** Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

### **16.02.251 Bureau**

**"Bureau" means the California Department of Justice, Bureau of Gambling Control.**

**SECTION 4.** Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

### **16.02.255 Business Day**

“Business Day” means a calendar day excluding Saturdays, Sundays, holidays observed by the City, and any other days in which the City is officially closed for the normal transaction of business.

**SECTION 5.** Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

**16.02.292 Commission**

“Commission” means the California Gambling Control Commission.

**SECTION 6.** Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

**16.02.295 Complete Application**

“Complete Application” means an application deemed by the Administrator to be timely received, accompanied by all applicable fees and with all information and documentation required by this Title, any Regulations promulgated by the Administrator and any instructions prescribed by the Administrator in connection with the application process.

**SECTION 7.** Section 16.02.320 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.02.320 Employee**

“Employee” means any natural 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.

**SECTION 8.** Section 16.02.340 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

"Funded Player" means any natural 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.

**SECTION 9.** Section 16.02.355 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.02.355 Funding Source Employee**

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

**SECTION 10.** Section 16.02.356 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.02.356 Funding Source Owner**

"Funding Source Owner" means any natural person or entity who owns an interest in a Funding Source or Funding Source Licensee.

**SECTION 11.** Section 16.02.370 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **16.02.370 Gambling Enterprise Employee**

“Gambling Enterprise Employee” means any natural 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.

**SECTION 12.** Section 16.02.375 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **16.02.375 Gambling Equipment**

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

**SECTION 13.** Section 16.02.410 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **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, collection fees are collected, and the winner of the Pot is determined and paid in accordance with the approved rules of the Permissible Game.

**SECTION 14.** Section 16.02.420 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.02.420 Key Employee**

“Key Employee” means any natural 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 or who functions in a manager, director or department head capacity, regardless of title, 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.~~

A. General manager and any supervisors in a direct reporting line to the general manager.

B. Managers of the cashiers’ cage, table operations, security and surveillance departments, or the functional equivalents of those departments, and any supervisors in a direct reporting line to those managers.

C. Managers of the compliance, finance, and information technology departments or the functional equivalents of those departments.

D. Any natural person holding a position or performing a function designated as a Key Employee under State Gambling Law.

E. Any natural person holding a position or performing a function designated as a Key Employee by the Administrator for reasons consistent with the public interest and the policies of this Title.

**SECTION 15.** Section 16.02.450 of Chapter 16.02 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.02.450 Non-Gambling Enterprise Employee**

“Non-Gambling Enterprise Employee” means:

A. Any natural 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 natural 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.

**SECTION 16.** Section 16.04.050 of Chapter 16.04 of Title 16 of the San José Municipal Code is hereby repealed.

**~~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.~~

**SECTION 17.** Section 16.06.030 of Chapter 16.06 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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. Subject to review and approval processes enumerated within this Title, 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.

**SECTION 18.** Section 16.06.060 of Chapter 16.06 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 submit a draft of a proposed Regulation to the Chief of Police and obtain the Chief's approval to propose the Regulation.
24. The Administrator shall make each proposed regulation approved by the Chief of Police available for inspection and copying by the public at the office of the Administrator during normal business hours.
32. 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.
43. 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.

54. The Administrator shall provide a thirty (30) working Business eDay 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. The finalized Regulation and the Administrator's written statement shall be submitted to the Chief of Police for review.
- C. After review and approval by the Chief of Police of the finalized Regulation and the Administrator's written statement, the proposed Regulation shall become final upon service by the Administrator of both documents on the Cardroom Permittees and such other persons subject to the Regulation.
- D. The Administrator may amend a final rRegulations by following the procedure for promulgating rRegulations.

**SECTION 19.** Section 16.06.070 of Chapter 16.06 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) workingBusiness dDays 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.

**SECTION 20.** Section 16.08.020 of Chapter 16.08 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) workingBusiness dDays 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) workingBusiness dDays after receipt of the document.
- C. The Cardroom Permittee shall, within thirty (30) workingBusiness dDays 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.
- D. A Cardroom Permittee shall comply with all provisions contained in the written system of internal controls document approved by the Administrator for that Cardroom.

**SECTION 21.** Section 16.12.020 of Chapter 16.12 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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.

**SECTION 22.** Section 16.14.030 of Chapter 16.14 of Title 16 of the San José Municipal Code is hereby repealed.

~~**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.~~

**SECTION 23.** Section 16.18.110 of Chapter 16.18 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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.



**SECTION 24.** Section 16.20.020 of Chapter 16.20 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.20.020 Outsourcing Restrictions**

- A. A Cardroom Permittee shall only use persons who are employees to perform work related to its Gaming Operation or to supervise Employees performing, ~~including without limitation, functions in its cashiers' cage, compliance, finance, information technology, security, surveillance, personnel, casino cage personnel, compliance personnel, and table operations departments including~~ dealers, floor persons, game attendants, and 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, upon receipt of a written request of a Cardroom Permittee, supported by a job compendium with proposed compensation or fees and other documentation requested by the Administrator, the Administrator shall allow a natural person who is otherwise qualified who wishes to work for atthe Cardroom Permittee as an Independent Contractor in a position identified in Subsection A related to the gaming operation to apply for and hold such a position as an Independent Contractor rather than as an Employee upon a finding by, unless the Administrator ~~finds~~ that granting such an exception is 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 upon a finding that granting such an exception is as the administrator finds consistent with the efficient administration of the Division, the policies and requirements of this Title, and the public interest.
- D. Any exception granted by the Administrator pursuant to Subsections B and C shall be expressly conditioned upon the Independent Contractor holding a valid City issued Key Employee License, work permit or work registration as appropriate.

**SECTION 25.** Section 16.21.010 of Chapter 16.21 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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.~~

**SECTION 26.** Section 16.28.010 of Chapter 16.28 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.28.010 Identification Card Display**

- A. No natural 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.

**SECTION 27.** Section 16.28.020 of Chapter 16.28 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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)-workingBusiness-dDay period in the event a work permittee loses his or 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) workingBusiness dDays 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.

**SECTION 28.** Section 16.28.030 of Chapter 16.28 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **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.

**SECTION 29.** Section 16.30.200 of Chapter 16.30 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **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, the single ground floor level where games are permitted to be played or other areas of a Permitted Cardroom where the playing of games is specifically authorized by the Chief of Police, and any other 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 to be a eComplete Application unless the Cardroom Permittee has paid the required fee.

E. Within a reasonable time period after receipt of a eCompleted aApplication, 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.

**SECTION 30.** Section 16.30.220 of Chapter 16.30 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.30.220 Public Hearing and Notice**

- A. After the report and recommendation on the application by the Administrator is complete and transmitted to the Applicant and the Chief of Police pursuant to Section 16.30.200 of this Chapter, 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 and recommendation of the Administrator, and any written objections and public testimony.

**SECTION 31.** Section 16.30.230 of Chapter 16.30 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

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

- A. Within a reasonable time periodamount 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~~ approve the amendment if the Chief 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, and also 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.~~

~~DC.~~ 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.

**SECTION 32.** Chapter 16.30 of Title 16 of the San José Municipal Code is hereby amended by adding a Section to be numbered and entitled and to read as follows:

**16.30.250 Decision Final**

- A. The decision of the Chief of Police on a eCardroom pPermit amendment shall be final upon service on the Applicant.
- B. The written statement of decision shall contain a notice setting out the provisions contained in Section 1.16.010 of this Code.

**SECTION 33.** Section 16.32.020 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.020 License Procedures**

- A. All licenses required by this Chapter shall be subject to the procedures of this Part.
- B. ~~All Complete aApplications for a licenses shall includebe accompanied by the~~ any applicable fees as set forth in the Schedule of Fees established by Resolution of the City Council.

- C. Notwithstanding any contrary provision of this Chapter regarding licensing procedures, ~~a persons~~ applying for ~~a key employee~~ positions with a Cardroom Permittee designated~~recognized~~ under State Gambling Law as requiring a Key Employee License shall be ~~investigated by the California Department of Justice and issued an interim Key Employee License or Key Employee License by the Commission as a condition precedent to filing an application for a City issued temporary Key Employee License or Key Employee License and the California gambling control commission. In the event that a person is required to have a key employee license pursuant to this title and the position or person is not recognized as a key employee under state gambling law, that person shall be subject to all the licensing procedures of this chapter.~~
- D. Notwithstanding any contrary provision of this Chapter regarding licensing procedures, within ten (10) Businessworking dDays after the Gaming Administrator receives written notice from the California Gambling Control Commission that the Commission has issued a state Key Employee License to an Applicant, the Gaming Administrator shall submit a final written report and recommendation to the Chief of Police recommending granting a City issued Key Employee License, with or without limitations and conditions. 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 on the Applicant unless the Applicant files a written request for a licensing hearing with the ~~Administrator~~ Chief of Police before the close of business on the twentieth day in order to contest the denial, or the limitations and conditions recommended by the Administrator which are not on the state Key Employee license issued by the ~~California gambling control c~~Commission. The Applicant shall have no right to contest with the City Commission imposed limitations and conditions ~~imposed by the California gambling control c~~Commission with the City on the state key employee license.

- E. Notwithstanding the ~~California gambling control~~ Commission's issuance of a state Key Employee License, the Chief of Police retains the authority to place limitations and conditions on the City ~~License~~ pursuant to Section 16.32.160 or to subsequently revoke the City License if the applicant does not meet the criteria for licensing under this Title.
- F. When the Chief of Police issues a ~~city~~ Key Employee License based upon the issuance of a state Key Employee License by the ~~California gambling control~~ Commission, the term of the City License shall be the same as the term of the ~~Commission state~~ license and any temporary Key Employee License issued pursuant to Section 16.32.620 of this Chapter shall automatically terminate as of the date the City issues the Key Employee License.

**SECTION 34.** Section 16.32.050 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.050 Applicant Not a Natural Person**

If an applicant for a License required by this Chapter 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 to hold a license, 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 to hold a license, consistent with the public interest and the policies of this Title.

**SECTION 35.** Section 16.32.110 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.110 License Application**

- A. Each Applicant shall file an Complete aApplication with the Administrator on forms prescribed by the Administrator.
- B. Within a reasonable time after the filing of an completed application ~~and any supplemental information the administrator may require together with the deposit of any fee required under this chapter,~~ the Administrator shall review the application to determine whether it is a Complete Application. If the Administrator determines the application is not a Complete Application, the Administrator shall notify the applicant that it is incomplete. If the Administrator determines the application is a Complete Application, then the Administrator shall commence an investigation and conduct any proceedings it deems necessary.
- C. To the extent practicable, the Administrator shall act on all Complete aApplications within one hundred and eighty (180) calendar days of the date of

receipt of a ~~eCompleted a~~Application ~~and applicable fees except as extended pursuant to Subsection D. hereof.~~

- D. If an investigation cannot be concluded and a report and recommendation issued within one hundred eighty (180) days after the date of receipt of a ~~eCompleted a~~Application ~~and applicable fees~~, the Administrator shall inform the Applicant in writing of the status of the investigation and the reasons for delay in completing the investigation, and shall also provide the Applicant with an estimated date on which the investigation may reasonably be expected to be concluded. Thereafter, at two- month intervals, the administrator shall provide the Applicant with a written status update until the license has been granted, withdrawn or denied.

**SECTION 36.** Section 16.32.120 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

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

- A. After completion of the investigation, the Administrator shall prepare a report and 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. If the Administrator's recommendation is to deny an application, or approve with limitations and conditions, ~~T~~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 on the Applicant unless the applicant files a written request for a licensing hearing with the Aadministrator before the close of business on the twentieth day. If the Administrator's recommendation is to issue the license without limitations and conditions, the recommendation shall become a final decision when it is approved by the Chief of Police and served on the Applicant.

**SECTION 37.** Section 16.32.130 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 the Administrator's ~~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-granted~~ by the Administrator. The exercise of the Administrator's discretion shall be consistent with ~~guided by~~ the efficient administration of the Division, policies of this title and the public interest, and the policies and requirements of this Title ~~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.

**SECTION 38.** Section 16.32.160 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businessworking d~~Days of the close of the hearing.

**SECTION 39.** Section 16.32.190 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.190 License Renewal**



- A. All licenses, except landowner's licenses, financial source licenses, and Key Employee licenses issued by the City based upon the issuance of a state Key Employee License by the ~~California gambling control c~~Commission, 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 a City issued~~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 ~~shall~~will provide the Licensee with a renewal application, which Application shall require disclosure by the Applicant as to the status of any Commission issued license the Applicant is required to rely upon for purposes of this Title. If, after submission of an Application for renewal, the Administrator determines that further investigation is needed, based upon the public interest and consistent with the requirements and policies of this Title, the Administrator shall notify the Applicant in writing that further investigation is needed.
- 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 City issued license, unless the time for filing is extended by the Administrator. An untimely application may be rejected by the Administrator. ~~If thean~~ application for renewal is ~~timely filed as required by this section~~accepted by the Administrator, 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) ~~Businessworking~~ dDays 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.

**SECTION 40.** Section 16.32.300 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby repealed.

**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.~~

**SECTION 41.** Section 16.32.400 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby repealed.

**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 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 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 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 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.~~

**SECTION 42.** Section 16.32.600 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby repealed.

**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 working days after a date determined by the administrator that is within one 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 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.~~

**SECTION 43.** Section 16.32.610 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **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 or a temporary Key Employee License under the provisions of this Chapter.
- B. Every Key Employee shall ~~hold~~apply for and obtain a temporary Key Employee License or a Key Employee License issued by the City prior to beginning employment as a Key Employee for a Cardroom Permittee.
- C. A Cardroom Permittee shall be obligated to implement and comply with a system of internal controls that reasonably ensures compliance with Key Employee license, work permit and work registration requirements of this Title.
- ~~DG.~~ Licenses issued to Key Employees shall be for specified positions only. The position specified on a Key Employee License may be amended only through the procedure set forth in Section 16.32.640.
- ~~ED.~~ 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) Businessworking dDays 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.

FE. No person may be issued a Key Employee License unless the person would qualify for a stock ownership license.

**SECTION 44.** Section 16.32.615 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.615 Key Employee Responsibilities and Duties**

A. Only a Key Employee shall perform the following functions:

1A. Hire or terminate a Gambling Enterprise Employee;

2B. Exercise final authority on any shift to enforce management policy relating to Gaming Operations;

3C. Exercise final authority on any shift to settle a dispute ~~on~~ arising at a Card Table;

4D. Approve or change a patron's check cashing limits; ~~or~~

5E. Authorize the reduction of debts owed to the Cardroom Permittee; ~~and~~

6. Direct the cashiers' cage, compliance, finance, information technology, security, surveillance, or table operations departments or the functional equivalents of those departments.



**SECTION 45.** Section 16.32.620 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.620 Temporary Key Employee License**

- A. The Administrator may issue to an Applicant for a Key Employee License a temporary Key Employee License after the Applicant has ~~presented~~submitted a ~~Completed~~ a ~~Application to the administrator and the required fee or 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 ~~Business~~working ~~d~~Days after the Administrator receives a ~~Completed~~signed a ~~Application, payment of any required fee or deposit,~~ and the criminal history return from the California Department of Justice.
- B. Notwithstanding Subsection A., the Administrator shall issue an Applicant for a Key Employee License a temporary Key Employee License within five ~~(5)~~ Business~~working~~ dDays after an Applicant presents to the Administrator a Complete Application accompanied by documentation evidencing receiving written notice that the ~~California gambling control~~ c~~Commission~~ has issued an interim ~~state~~-key employee license to the Applicant.
- C. The Administrator may place such conditions and limitations on ~~a~~the temporary Key Employee 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 ~~a~~the temporary Key Employee License. The temporary Key Employee License shall automatically terminate ~~in~~when any of the following events occur:
1. that theAn application is withdrawn, either with or without prejudice;<sup>17</sup>

- ~~2. or if tThe interim state Key Employee License expires, is withdrawn or revoked;~~
- ~~3. or if tThe administrator recommends denial of the application to the chief of police, or if the Chief of Police denies the Application, whichever comes first.~~
- ~~4. The Applicant is issued a Key Employee License in accordance with this Chapter.~~

D. The temporary Key Employee License is a temporary privilege and creates no continuing right. The Chief of Police shall have the discretion to revoke the temporary Key Employee License at any time. If the Administrator recommends that the Chief of Police should revoke the temporary Key Employee License, the Administrator shall provide advance notice and an opportunity for an informal administrative review for the holder of the temporary Key Employee License as set out in Section 16.32.630, without any further right of administrative appeal as to the revocation of such temporary Key Employee License.

E. 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 and for the revocation of a temporary license. Any processes under this Section are voluntary and do not confer any legal rights or other legal interest to the holder of a temporary Key Employee License. Without such acknowledgment, the Administrator has no discretion to issue a temporary Key Employee License.

**SECTION 46.** Section 16.32.630 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.630 Notice and Opportunity for Administrative Review Hearing on Revocation of Temporary Key Employee License**

- A. In the event the Administrator ~~recommends to the Chief of Police~~~~determines to~~ revoke ke of a temporary Key Employee License, the Administrator shall serve upon the Licensee and the Cardroom Permittee a notice of revocation, stating the reasons for the revocation. The Employee shall be given five (5) Businessworking dDays from the date of mailing of the notice of revocation to request an informal administrative review hearing with a hearing officer designated by the Chief of Police in order to give the Licensee the opportunity to clear his or her name prior to imposition of the revocation. The Employee shall be deemed to have waived the administrative review proceeding if the Administrator does not receive the Employee's written request for an administrative review hearing within five (5) Businessworking dDays of the date of service of the notice of revocation. If the Administrator does not receive the Employee's written request for an administrative review hearing within five (5) Businessworking dDays of the date of service of the notice of revocation, the notice shall become the final decision of the Chief of Police and the License shall terminate automatically.
- B. The Administrator shall schedule the administrative review hearing within a reasonable period of time after receipt of the written request from the Employee. The hearing shall be conducted by the Chief of Police in accordance with the provisions of Chapter 16.36.

- C. At the administrative review hearing, the Employee may be represented by legal counsel and shall have a reasonable opportunity to respond to the charges in order to clear his or her name and to seek to have the revocation reversed or modified. Although the attorney representing the Employee may be present at the administrative review meeting, there shall be no right to discovery or to cross-examine witnesses.
- D. 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.
- E. The hearing officer shall have the authority to control the conduct of the proceeding, including the ability to limit testimony and the admissibility of evidence that is unduly repetitious and make any other rulings or place other limitations on the administrative hearing consistent with the informal nature of the proceeding.
- F. The written decision of the hearing officer upholding, reversing or modifying the revocation shall be served upon the Employee within a reasonable period of time after the close of the administrative review hearing.
- G. A modification of the termination decision may include any or all of the following: a suspension of the temporary Key Employee License for a period of time; the addition of restrictive limitations and conditions on the temporary Key Employee License; issuance of a letter of reprimand or other disciplinary penalty.

H. The written decision of the hearing officer shall be final and shall contain a notice setting out the provisions contained in Section 1.16.010 of this Code.

**SECTION 47.** Section 16.32.640 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.32.640 License Amendment for Change in PositionRetroactivity Provision**

A Key Employee may apply to amend his or her City Key Employee License to hold a new or additional Key Employee position at the same Permitted Cardroom. The Administrator shall make a recommendation to the chief of police regarding the licensing application, including any additional or amended limitations and conditions. Upon approval, the license shall be amended to reflect the new or additional Key Employee position, including any additional or amended limitations and conditions, but otherwise continue with all other terms and conditions as originally issued. The licensing procedures set forth in Part 1 of Chapter 16.32 shall govern the application for, approval, denial, and appeal of any license amendment under this Section, except as specifically provided in this Section.

~~A. The Chief of Police shall issue a Key Employee License, with or without conditions, limitations, and restrictions, to each person to whom the California gambling control commission issued a state Key Employee License prior to the date that the ordinance with this provision takes effect.~~

~~B. The City Key Employee License of the persons referenced in Subsection A. above shall be retroactive to the effective date of the person's state key employee license.~~

**SECTION 48.** Part 6 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 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.~~

**AB.** 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.

**BC.** 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 ~~issue~~provide temporary licenses or work permits for Funded Players and Funding Source Employees under the same conditions and requirements as apply ~~to~~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 of Chapter 16.32 shall be issued a temporary license or work permit immediately upon filing a Complete a~~Application and payment of applicable fees and/or deposits~~provided they in addition provide proof satisfactory to the Administrator:
- ~~—1. The applicant provides proof that the his or her funding source has an executed agreement with the cardroom permittee that has been approved by the Commission 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 fee and/or deposit.~~

**SECTION 49.** Section 16.32.810 of Chapter 16.32 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 ~~to~~for issuance of a temporary Key Employee License under ~~Chapter~~Section 16.32.~~620~~ of this Title.

B. Notwithstanding Subsection A, a Funding Source that meets all of the ~~following~~ requirements shall be issued a temporary license immediately upon filing of a Complete Application ~~they in addition provide with proof satisfactory to the Administrator that the fFunding sSource has an executed agreement with the Cardroom Permittee that has been approved by the Commission pursuant to State Gambling Law.~~ 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 fee and/or deposit.~~

**SECTION 50.** Section 16.33.010 of Chapter 16.33 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 a 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 Subsection B. above, shall not exceed one hundred thousand dollars (\$100,000) per calendar year with respect to any one (1) 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. If the Cardroom Permittee files a request for a hearing pursuant to Subsection F., the Cardroom Permittee shall make an advance deposit of the monetary penalty with the Administrator within ten (10) calendar days of the notice of monetary penalty. If the Cardroom Permittee does not contest the notice of monetary penalty, the monetary penalty shall be paid to the City within thirty (30) calendar days from the date of the notice of minor violation.

- 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 a written request for hearing ~~with~~ the Administrator within ten (10) calendar days of the date of the notice of ~~monetary penalty~~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.
- G. 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. Discovery is not permitted; however, within a reasonable time prior to the hearing, the parties shall exchange any reports or documents that the party intends to rely upon at the hearing. 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. Technical rules relating to evidence and witnesses shall not apply, nor will cross-examination be authorized without express permission by the hearing officer. 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. The hearing will be scheduled by the hearing officer in a reasonable time period after written notice of request for hearing is filed with the Administrator. The hearing officer shall have the authority to control the conduct of the 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 consistent with the informal nature of the proceeding. 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 upon service on the Cardroom Permittee and shall contain a notice setting out the provisions contained in Section 1.16.010 of this Code.

**SECTION 51.** Section 16.34.040 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.34.040 Investigations**

- A. The Administrator shall make appropriate investigations to determine whether grounds may exist for regulatory action. If an investigation cannot be concluded and a notice of Regulatory Action served in accordance with Section 16.34.060 of this Chapter within one hundred and eighty (180) Business Days after the date of discovery by the Administrator of the incident and/or circumstances that precipitated the investigation, the Administrator shall inform the Chief of Police in writing of the focus of the investigation and an estimated date for completion of

the investigation. Thereafter, the Administrator shall provide the Chief of Police with a written status update on a monthly basis until the investigation concludes.

- B. Prior to ~~servicing~~~~providing~~ a notice of regulatory action, the Administrator shall ~~provide~~ ~~meet with~~ the Cardroom Permittee or Licensee who is the subject of the investigation with the opportunity to meet with the Administrator in order for the Administrator to ~~and~~ inform ~~him or her~~ the Cardroom Permittee or Licensee 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.

**SECTION 52.** Section 16.34.060 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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-; and
  3. The name of each person who committed the alleged violation, if known.

- 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 Aadministrator before the close of business on the twentieth day.

**SECTION 53.** Section 16.34.210 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 (1) of those nominees by filing a written notice with the City Attorney no more than five (5) Businessworking dDays after being notified by the City Attorney of the nominations.

**SECTION 54.** Section 16.34.230 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **16.34.230 Notice of Regulatory Action Hearing**

- A. The ~~City Attorney~~ hearing officer shall provide the licensee or Cardroom ~~p~~Permittee with written notice of the day, time, and place of the regulatory action hearing not less than twenty Businessworking d~~D~~ays 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.

**SECTION 55.** Section 16.34.250 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

### **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 or aggravating factors, as applicable, was not based upon supported by a preponderance of the evidence presented at the regulatory action hearing.

- D. The hearing officer shall serve or cause to be served a written statement of decision upon the person who is the subject of the regulatory action and the City within forty-five (45) Businessworking dDays of the close of the hearing.
- E. The statement of decision shall contain a notice setting out the provisions contained in Section 1.16.010 of this Code.

**SECTION 56.** Section 16.34.300 of Chapter 16.34 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businesscalendar d~~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 Cardroom pPermittee or licensee shall also notify the Cardroom pPermittee 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) Businessworking d~~Days of the date of the request for hearing 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.



**SECTION 57.** Section 16.38.010 of Chapter 16.38 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 under this Title 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 under this Title 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 under this Title 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 under this Title 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 under this Title 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 16.34.300, 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) Businessworking dDays 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.

**SECTION 58.** Section 16.40.010 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 a 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.

**SECTION 59.** Section 16.40.020 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businessworking d~~Days prior to commencement of employment with a Cardroom Permittee and complete an application for a work permit.
- B. Each Applicant shall:
1. ~~Submit a Complete Application in such form as shall be specified an application provided~~ by the ~~a~~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; ~~and~~
  6. Identify a maximum of two (2) non-conflicting employment classifications for which the Applicant is seeking employment.
- 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 by the Applicant at the time of filing of a together with the work permit or renewal application.
- E. Within twenty (20) Businessworking dDays after receipt of a the Complete aApplication ~~containing the above information and the required fees required~~, the Administrator shall serve a written decision onte the Applicant either granting or denying a work permit, or granting a work permit with limitations and conditions, and explaining the reasons for denial. If the decision is to grant a work permit, ~~T~~the work permit shall be construed as a final decision by the Administrator and shall take effect on the date of service of the written decision by the Aadministrator on the Applicant and a work permit credential shall be issued to the Applicant. If the decision is to deny, suspend, revoke, or add limitations and conditions to a work permit, the procedures pursuant to Section 16.40.050 shall be followed.
- F. Any temporary work permit issued pursuant to Section 16.40.080 shall automatically terminate as of the date the City issues a work permit to an Applicant under this Chapter.
- GF. Each work permittee shall apply for renewal of his or her permit with the Administrator sixty (60) Businessworking dDays prior to the fourth anniversary of the date of the Administrator's initial approval of the work permit application and every four-year anniversary thereafter. New identification cards will be issued at the time of renewal and at any other timesas the Aadministrator deems appropriate.
- HG. No work permit or renewal permit shall issue unless the work permit fee or renewal fee accompanies the application or renewal application.

**I.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.

**J.I.** If an application for renewal is accepted by the Administrator, then the work permit shall continue in effect unless revoked or suspended until such time as a decision is made to renew or deny the renewal application.~~The renewal of a work permit shall take effect from the date of service of the initial written decision granting the work permit.~~

**SECTION 60.** Section 16.40.040 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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.

**SECTION 61.** Section 16.40.050 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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. Notice of the intended action shall also be provided to the employing Cardroom Permittee or employing Funding Source.

- B. In the case of denial, suspension, revocation, or addition of limitations and conditions, the Employee shall be given ten (10) Businessworking dDays 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) Businessworking dDays 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. Notice of the status of the work permit shall also be provided to the employing Cardroom Permittee or employing Funding Source.
- C. The Administrator shall schedule the hearing within forty-five (45) Businessworking dDays 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) Businessworking dDays 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 through 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) Businessworking dDays of the close of the hearing. Notice of the status of the work permit shall also be provided to the employing Cardroom Permittee or employing Funding Source.

**SECTION 62.** Section 16.40.070 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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 reasonable 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-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., as the same may be amended from time to time.
- I. ~~Contumacious defiance~~Refusal by the applicant or work permittee ~~relating to~~ obey an order to appear before 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 by the Bureau, or an order denying an application for a work permit, by the ~~Commission~~California Department of Justice, pursuant to state gambling law.
- N. The applicant or work permittee has violated any provision of this Title, State Gambling Law, the applicable 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.

**SECTION 63.** Section 16.40.080 of Chapter 16.40 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.40.080 Temporary Work Permit**

- A. ~~Notwithstanding any contrary provision of this chapter regarding work permit application procedure, t~~The Administrator may issue to an Applicant for a work permit a temporary work permit after the Applicant has presented to the Administrator submitted a eCompleted aApplication ~~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 when any of the following events occur:
- 1 An in the event that the application is withdrawn, either with or without prejudice;
  2. The or the aAdministrator denies the application; or
  3. The Applicant is issued a work permit in accordance with the Chapter.
- 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 for reasons consistent with the efficient administration of the Division, the public interest, and the policies and requirements of this Title and the holder shall have no, 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 acknowledgment, the Administrator has no discretion to issue a temporary work permit.

**SECTION 64.** Section 16.42.080 of Chapter 16.42 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.42.010 Work Register**

- A. The Cardroom Permittee shall provide the Administrator with a register listing each and all of the Cardroom 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 based on duties and responsibilities 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.

**SECTION 65.** Section 16.46.010 of Chapter 16.46 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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. However, nothing herein prohibits the purchase of food or beverage products offered at a Permitted Cardroom by City employees at the same prices available to the public.
- 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.

**SECTION 66.** Section 16.48.030 of Chapter 16.48 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**16.48.030 Responsible Gaming Program for Patrons**

- A. The Administrator is authorized to develop and implement a responsible gaming program ~~to aimed at~~ identifying ~~and treat~~ patrons of the Cardrooms who have

compulsive gambling problems and the treatment options available to them.  
Such programs should also 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.

**SECTION 67.** Section 16.50.050 of Chapter 16.50 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businessworking dDays 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 authorized to sign on behalf of and legally bind 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~~ is subject to annual renewal. ~~annually.~~

**SECTION 68.** Section 16.50.060 of Chapter 16.50 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businessworking ~~d~~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 authorized to sign on behalf of and legally bind ~~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~~ is subject to annual renewal.

**SECTION 69.** Section 16.50.090 of Chapter 16.50 of Title 16 of the San José Municipal Code is hereby amended to read as follows:

**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) Businessworking~~ ~~d~~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) Businessworking~~ ~~d~~Days of the date of service of the notice. In case of a waiver, the ~~A~~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) Businessworking~~ ~~d~~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) Businessworking~~ ~~d~~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 through 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 who requested the show cause hearing within forty-five (45) days of the close of the hearing.

PASSED FOR PUBLICATION of title this \_\_\_\_\_ day of \_\_\_\_\_, 2021, by the following vote:

AYES:

NOES:

ABSENT:

DISQUALIFIED:

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SAM LICCARDO  
Mayor

ATTEST:

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TONI J. TABER, CMC  
City Clerk