

## ARTICLE 3

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## ARTICLE 3

### CARD CLUB REGULATIONS

SEC. 4-3.00 PURPOSE AND INTENT. The City Council finds that the existence of card clubs within the City of Hayward has the potential to increase the Police Department's investigation of and response to criminal activity occurring in and around such establishments. Furthermore, the City Council finds that card clubs may encourage compulsive gambling and aggravate criminal behavior where such establishments exist. The purpose of this Article is to maintain the integrity of card club operations by requiring strict regulatory controls and enforcement practices to carefully monitor gaming activity at licensed card clubs within the City of Hayward. In order to mitigate the deleterious effects that card clubs may have on the safety and welfare of the residents of the City, the City Council finds that it is necessary to enact regulations governing the establishment, operation, management and continued existence of card clubs in the City. This Article is designed to regulate the persons, locations and practices permitted at card clubs and their funding sources. It is the intent of the City Council to regulate card clubs to the full extent authorized by the California Gambling Control Act, and the regulations implementing said Act. The provisions of this Article shall be broadly construed for the purpose of authorizing strict regulatory controls and oversight of card clubs located in the City.

SEC. 4-3.01 DEFINITIONS. For the purpose of this Article, certain words are defined and shall be construed as herein set out unless it is apparent from their context that a different meaning is intended.

- a. "Applicant" is any individual person, partnership, corporation, limited liability company, or business entity of any kind seeking to establish, operate, manage, or maintain a card club.
- b. "Card club" is any building or structure, or any portion of a building or structure, wherein any person or persons are permitted to play a card game in return for a fee, charge, or other compensation.
- c. "Card game" is any game played with cards, including the Chinese tile game Pai Gow, for money or any other thing of value, or for checks, credits, or any other representation of value, the playing of which is allowed by the laws of the State of California, and approved by the Chief of Police following the receipt of written notification from the applicant of the intent to conduct a State-sanctioned game.
- d. "Card table" is any table or other surface upon which a card game is played and at which no more than ten players may be seated in any such card game being played, exclusive of dealers and bankers.
- e. "Employee" is any person who, as employee, agent, or otherwise, is under the direction of the owner or operator of a card club, excluding Third Party Providers as defined below.

- f. "Owner" is any person, persons, partnership, corporation, limited liability company, or other business entity, or any combination thereof, that has any interest, legal or equitable, in any card club permit.
- g. "Permittee" is any individual, individuals, partnership, corporation, limited liability company or other form of business entity to whom a permit or license to establish, operate, manage, and maintain a card club has been issued pursuant to the provisions herein.
- h. "Person" includes natural persons, partnerships, corporations, limited liability companies and any other legal unit or entity.
- i. "Revenue Division" is the Revenue Division of the Finance Department of the City of Hayward.
- j. "Third Party Providers" are providers of proposition player services in and to a card club under an agreement with the card club, which services include play as a participant in any controlled game that has a rotating player-dealer position as permitted by California Penal Code section 330.11 or any successor legislation. Prior to providing proposition player services for a permittee, the Third Party Provider and its owners and employees must register with the California Gambling Control Commission and submit a written contract and playing book forms for approval, in advance, by the Bureau of Gambling Control.

SEC. 4-3.10 CARD CLUB PERMIT REQUIRED.

- a. No applicant shall establish, operate, manage, or maintain any card club or suffer any card club to be established, operated, managed, or maintained within any building or structure, or any portion of a building or structure, owned, occupied, or controlled by such applicant unless a valid, unexpired permit for such establishment has been issued pursuant to the provisions of this Article and such permit is neither suspended nor revoked. The holder of any such permit shall be required to exercise personal control and direction over the operation of the card club, and shall be available at reasonable times, during regular business hours, to the Chief of Police or a designated representative thereof.
- b. A permit issued under this Article does not authorize the permittee to commence operations as a card club until the permittee has complied with all City business license, zoning and planning requirements, and all other federal, state and local laws and regulations.
- c. Prior to commencing operations pursuant to a card club permit, an applicant must also obtain a conditional use permit under the City's Zoning Ordinance.

SEC. 4-3.11 APPLICATION FOR NEW CARD CLUB PERMIT. An application for a new card club permit, as required herein, shall be completed and filed with the Revenue Division upon such forms as may be furnished by that division. The application shall set forth and include the following:

- a. The location of the card club for which the permit is requested, including a specific description of the building or structure, or portion of the building or structure, within which the card club is to be maintained;
- b. The true and complete name and address of each owner of the building or structure within which the card club is proposed to be maintained;
- c. The types of card games proposed to be played within the card club;
- d. The true and complete name, home and business address of the applicant. If the applicant is a corporation, limited liability company or other business entity, the true and complete name, home and business address of each manager, general and limited partner, officer, member, and all shareholders of the business entity, except that for publicly-traded corporations, the names of shareholders with five percent or greater financial interest in the applicant;
- e. The name and address of each third party provider, contract employee/company and person to be employed in the card club to the extent that such information is known at the time the application is filed;
- f. The name and address of each lender or any other person to whom a share or percentage of the income of the card club is to be paid;
- g. A photograph of the applicant(s) and a set of clearly identifiable fingerprints for which the applicant shall have paid to the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; as to publicly-traded corporations, all natural person shareholders with five percent or greater financial interest in the applicant shall be subject to the provisions of this subsection;
- h. A statement by the applicant indicating whether or not such applicant has at any time been convicted of any crimes other than minor traffic offenses and, if so, the nature of the crime for which the applicant was convicted and the date and jurisdiction of the conviction. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded corporations, all shareholders with a five person or greater financial interest in the applicant shall be subject to this requirement;
- i. A statement as to whether the applicant has had any permit or license to establish, operate, manage, or maintain a card club suspended, revoked or denied, the date and jurisdiction of such suspension, revocation or denial, and the reasons therefor. For partnerships, corporations, limited liability companies and other business entities, each general and limited partner, manager, member, officer and all shareholders of the business entity shall be subject to this requirement; for publicly-traded

corporations, all shareholders with a five percent or greater financial interest in the applicant shall be subject to this requirement;

- j. A statement that the applicant understands and agrees that the card club established or maintained under any permit issued pursuant to the application filed shall be established, operated, managed, and maintained in full conformity with the regulations of the City and the laws of the State, and that any violation of such regulation or law in the card club shall render the permit therefor subject to suspension or revocation;
- k. A full and complete financial statement of the applicant on forms provided by the Revenue Division;
- l. A statement that the applicant understands and agrees that the Chief of Police or a designated representative thereof, or contracted investigation company, shall have access to the card club premises and to the business records of the applicant for the purpose of investigating compliance with the provisions of this Article and all other applicable laws and regulations, and the applicant consents to any such search and consequential seizure;
- m. A statement that the applicant understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary;
- n. A statement that the applicant understand and agrees to abide with an established set of Internal Control Standards established by the Chief of Police as set forth in section 4-3.30.1; and
- o. Such other information as the applicant considers pertinent.
- p. A shareholder of a publicly-traded corporation, which is an applicant for, or holds a license to own, operate or manage a card club, having a five percent or greater financial interest in the corporation, may be required to file an application for a card club permit consistent with the requirements of this Article.

SEC. 4-3.12 APPLICATION FEE. An application fee, as established by the City Council from time to time in the City's Master Fee Schedule, shall be paid to the Revenue Division for the cost of processing and investigating the information contained in the application. The application fee shall be paid before the application is accepted by the Revenue Division. The application fee is separate from the fees for any criminal background investigations, financial background investigations or periodic compliance checks that may be required under this Article. The application fee and the fees for any criminal background investigation and financial background investigation shall be retained by the City whether or not the application is approved.

SEC. 4-3.13 APPLICATION ACCEPTANCE, REFERRAL, INVESTIGATION, AND REPORT FOR NEW CARD CLUB PERMITS.

- a. The Revenue Division shall accept any application which contains all of the information required by section 4-3.11 herein and upon proof that the application fee

required by section 4-3.12 herein has been paid. Upon such acceptance, the application shall be referred to other City offices as provided in the following subsections.

- b. A copy of the application shall be forwarded to the Chief of Police, who shall investigate, or cause to be investigated, the contents of said application. The Chief of Police is hereby authorized to conduct a criminal background investigation and financial background investigation for each person named in the application for the purpose of determining whether any such person has been convicted of any crime involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping, or pandering.
- c. At a minimum, the applicant shall be required to submit documentation that details the following for criminal/financial background investigation purposes:
  - (1) Any applicant who wishes to obtain a permit shall be in good standing with the California Gambling Control Commission. The applicant must show proof of a pending application and/or approval of a gambling license issued by the California Gambling Control Commission at the time of application with the City.
  - (2) Any applicant, including each individual owner, operator, partner, manager, member, officer and/or shareholder of any applicant that is a business entity, who wishes to obtain a permit shall be subject to a criminal and financial background investigation. This background investigation shall be conducted by a reputable and licensed investigation company that specializes in criminal and forensic accounting backgrounds of gaming applicants. The investigation company shall be selected by the Chief of Police or his/her designee and all reasonable costs as determined at the sole discretion of the Chief of Police to conduct this investigation shall be paid for by the applicant(s), with the funds to be deposited into a fund maintained by the Revenue Division. An advance, non-refundable deposit for the investigation company to conduct said background may be required, as determined by the investigation company.
  - (3) Third Party Providers, including owners, partners, members, officers, managers and shareholders who will perform services under contract with the card club permittee, shall be subject to the same criminal and financial background investigation as applicants for a card club permit. The permittee shall inform the Chief of Police of the identity of all Third Party Providers. No Third Party Provider shall perform services at the card club prior to completion of the criminal and financial background investigation required by this Article.

Within 90 days after referral of a complete application, the Chief of Police shall send a written report to the Revenue Division containing a recommendation as to whether the requested permit should be granted, and shall give the reasons for the recommendation. Upon notification to the applicant, the Chief of Police can extend the background investigative process for any applicant for 30 days or longer, if necessary.

- d. A copy of the application shall be forwarded to the Planning Director. The Planning Director shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable zoning laws and regulations. Within 30 days after referral of a complete application, the Planning Director shall send a written report to the Revenue Division containing the results of such investigation.
- e. A copy of the application shall be forwarded to the Fire Chief. The Fire Chief shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable fire laws and regulations. Within 30 days after referral of a complete application, the Fire Chief shall send a written report to the Revenue Division containing the results of such investigation.
- f. A copy of the application shall be forwarded to the Building Official. The Building Official shall investigate the information set forth in the application and determine whether or not the proposed use conforms to all applicable building laws and regulations. Within 30 days after referral of a complete application, the Building Official shall send a written report to the Revenue Division containing the results of such investigation.

SEC. 4-3.14 PERMIT ISSUANCE. The Revenue Division shall issue the permit applied for unless it appears that one of the following facts exists:

- a. The total number of card tables that would be maintained within the City, should the application be approved, exceeds the number authorized by section 4-3.18;
- b. The report of the Planning Director, Fire Chief or Building Official indicates that the application would result in a violation of the laws or regulations such official administers; or
- c. The report of the Chief of Police indicates that:
  - (1) Approval of the application would aggravate the crime problems in the area where the card club is proposed, or otherwise be detrimental to the crime prevention efforts of the Police Department; or
  - (2) The applicant is unfit to be entrusted with the operation of a card club business because of prior criminal convictions, prior license or permit history, business and credit history, or that the application contains false statements knowingly made.

In the event an application is denied, the Revenue Division shall notify the applicant within 5 days of such denial and the reasons therefor.

SEC. 4-3.14.1 COMPLIANCE WITH STATE GAMBLING CONTROL ACT. A permit shall not be issued to any person who would be disqualified based on any of the applicable licensing criteria set forth in California Business and Professions Code section 19850, or has been objected to in writing by the Division of Gambling Control of the State Department of Justice. Such criteria include:

- a. Failure of the applicant to clearly establish eligibility and qualification.
- b. Failure of the applicant to provide information, documentation and assurances required.
- c. Conviction of a felony, including conviction by a federal court or a court in another state or jurisdiction for any crime that would constitute a felony in California.
- d. Conviction of the applicant for any misdemeanor involving dishonesty or moral turpitude within a 10-year period preceding submission of the application in any jurisdiction.
- e. Association with a criminal profiteering activity or organized crime.
- f. Contumacious defiance by the applicant of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling.
- g. The applicant is less than 21 years of age.

SEC. 4-3.15 EXPIRATION DATE. The Revenue Division shall indicate an expiration date on the face of each permit issued pursuant to section 4-3.14 herein. The expiration date so indicated shall not be more than one year from the date of such permit issuance or date of renewal.

SEC. 4-3.16 PERMITS NONASSIGNABLE.

- a. Except as otherwise provided hereinafter, no card club permit or any table operated under a card club permit may be sold, transferred, or assigned by the permittee or by operation of law, to any other person, persons, or legal entity, without the prior approval of the City Council, which approval shall be conditioned upon the proposed transferee's compliance with the provisions of this Article and the Gambling Control Act of the State of California. Any sale, transfer, or assignment, or attempted sale, transfer, or assignment, without such prior approval shall be deemed a voluntary surrender of the permit, which permit shall thereupon be terminated and void; provided, however, that if the permittee is a business entity and one or more of the owners dies, the surviving owner may acquire, by purchase or otherwise, the interest of the deceased owner without effecting a surrender or termination of the permit.
- b. A permittee may not incorporate after approval of the permit without the prior approval of the City Council, which approval shall be conditioned upon the proposed corporation's compliance with the provisions of this Article and the Gambling Control Act of the State of California.
- c. Notwithstanding subsection (b) of this section, Catherine (Cathy) Aganon and Pamela Roberts, the current owners of the Palace Poker Casino located at 22821 Mission Boulevard, Hayward, California, may create a corporation, limited liability company, or partnership to own and manage the Palace Poker Casino; provided,

however, that the ownership interest in such entity shall be limited to Catherine (Cathy) Aganon and Pamela Roberts only and shall be nontransferable, except as provided above.

SEC. 4-3.17 PERMIT RENEWALS AND RENEWAL APPLICATION FEES. A valid permit issued pursuant to the provisions of this Article or its predecessor, which has neither been surrendered or revoked, may be renewed for respective periods of not longer than one year upon the following terms and conditions:

- a. An application for renewal shall be completed and filed 30 days prior to the expiration of the existing permit upon forms provided by the Revenue Division with such division. Applicants shall be responsible for City's reasonable costs as determined at the sole discretion of the Chief of Police of investigation of the information submitted for review with the renewal application, should any new information be submitted;
- b. Applications for renewal shall contain the same information required by section 4-3.11 herein, and shall be accepted, referred, investigated, reported, issued, and dated as provided in sections 4-3.13 through 4-3.15 herein; provided, however, that if there is no change in the information previously submitted pursuant to the requirements of section 4-3.11 and no material event has occurred requiring a full background investigation, in the discretion of the Chief of Police, the applicant for permit renewal shall not be required to undergo the comprehensive criminal and financial background investigation contemplated by section 4-3.13; and
- c. If an application for renewal is not filed, or the application fee is not paid within the time specified by section 4-3.17(a) herein, the permit shall expire one year after the date of its issuance or last renewal.

SEC. 4-3.18 LIMITATIONS ON NUMBER OF CARD TABLES. At no time shall there be issued and in effect card club permits for more than 13 tables at more than one location; provided, however, that if and when any existing permit is surrendered, revoked, or not renewed as required by these provisions, the maximum number of card club permits shall be reduced by that extent.

SEC. 4-3.19 ANNUAL PERMIT FEE. An annual permit fee shall be paid to the Revenue Division by each permittee. The fee shall be as established by the City Council from time to time in the City's Master Fee Schedule, which fee may be paid in full at the time of permit issuance or renewal, or on a quarterly basis, the first installment of which is payable at the time the permit is issued or renewed, and remaining installments in three-month intervals from the date of last such installment payment.

## OPERATING REGULATIONS

SEC. 4-3.30 NUMBER OF TABLES RESTRICTED. No permittee or any other person in charge or control of a card club at any time shall manage, maintain, use, operate, or have any interest in more tables than the number specified on the permit issued to such permittee. No card club shall have more tables in use or available for use than the number for which the operator has paid the appropriate table fee.

SEC. 4-3.30.1 INTERNAL CONTROL STANDARDS. Each permittee of a card club must abide by a set of internal control standards established, and as may be amended from time to time, by the Chief of Police. These internal control standards are needed to thwart criminal activity and prevent undue stress on public safety resources. The auditing of these internal control standards will be completed by compliance check(s) conducted by the Police Department. Random compliance checks may be conducted monthly; however, the frequency and scope of any compliance checks are at the discretion of the Chief of Police. Reasonable efforts will be made by the Police Department to ensure a minimal disruption or hardship upon the permittee to conduct business.

The internal controls standards shall include, but are not limited to the following:

- Organizational Standards
- Casino Cage Standards
- Table Games Standards
- Internal Audit Standards
- Accounting Standards
- Anti-money laundering controls
- IT (Information/Internet Technology) Standards
- Security/Surveillance Standards
- Vendor/Contractor Standards
- Food and Beverage Standards

SEC. 4-3.30.2 CHANGE OF CARD GAME AT A TABLE. A permittee may change the type of State-sanctioned card game played at a particular card table consistent with the rules of the State Gambling Commission, upon furnishing notification in writing to the Chief of Police of the intent to change the card game at that table.

SEC. 4-3.31 ALCOHOL, NARCOTICS, DRUGS PROHIBITED. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of such card club or to play any card game permitted by the provisions of this Article while such person is under the influence of any intoxicating beverage, narcotic, or drug, nor shall any alcoholic beverage, narcotic, or drug be sold, served, given, or delivered, or permitted to be sold, served, given, or delivered to any person within the card club.

SEC. 4-3.32 MINORS PROHIBITED. No permittee or other person in charge or control of any card club shall permit any person under the age of 21 to enter or remain in any card club, and no such person may participate, directly or indirectly, in any card game being played in the card club.

SEC. 4-3.33 REGISTRATION OF EMPLOYEES AND AGENTS; THIRD PARTY PROVIDERS.

- a. No permittee or other person in charge or control of any card club shall employ or allow any person to work in such card club or for such card club permittee without such person having first applied for registration with the Chief of Police, except nothing herein shall be construed to prohibit the employees or agents of permittees who are actually working in a card club or for a card club permittee on the effective date of this Article from continuing such work, and thereafter within a period of 30 days submit the required application for registration.
- b. Registration with the Chief of Police shall not be deemed complete until the prospective employee or agent has completed an application on forms provided by the Chief of Police setting forth:
  - (i) The true name of such person, including all other names by which such person is or has been known;
  - (ii) The address of such person;
  - (iii) The name of the card club and card club permittee in and for which such person intends to work;
  - (iv) A statement indicating whether or not such person has at any time been convicted of any crimes other than minor traffic offenses, and, if so, the nature of the crime for which such person was convicted and the date and jurisdiction of the conviction;
  - (v) A photograph of such person and a set of clearly identifiable fingerprints for which the prospective employee or agent shall have paid the Police Department the current fee set by the Department of Justice for receiving and processing the fingerprints so taken; and
  - (vi) A statement that such person understands and agrees to the inclusion in any report to the City Manager of any criminal conviction that the Chief of Police considers pertinent and necessary.
- c. The Chief of Police is hereby authorized to obtain criminal history information for such person and conduct such other investigation deemed necessary for the purpose of determining whether the application accurately sets forth the information requested.
- d. In the event the Chief of Police determines that the application contains false statements knowingly made, or that the applicant is unfit to be involved in the operation of a card club business because of prior criminal convictions involving gambling, larceny, usury, bribery, extortion, bookmaking, fraud, prostitution, pimping or pandering, or because of prior license or permit history, the Chief of Police shall notify the prospective employee within 5 days of such determination.

- e. In the event of approval of the application, the Chief of Police shall provide the prospective employee or agent with an identification card, which card shall be worn in sight at all times that such person is actually on the premises of the card club permittee.
- f. In addition to the registration requirements set forth above, all Third Party Providers, and their owners and managers, shall be subject to a criminal and financial background investigation prior to performing services at a permitted card club. Upon satisfactory completion of the criminal and financial background investigation, the Third Party Providers will be issued identification cards that shall be worn in sight at all times that the Third Party Providers are on the premises of the card club.

SEC. 4-3.34 CERTAIN ACTS PROHIBITED. No permittee or any other person in charge or control of any card club shall allow or permit to be allowed, any employee, third party provider or agent of such permittee or person to:

- a. Loan any money, check, or anything of value, or any representation of value, to any person who is playing, or intends to play, any card game;
- b. Extend credit to any person who is playing, or intends to play, any card game;
- c. Purchase, or agree to purchase, any real or personal property from any person who is playing, or intends to play, any card game;
- d. Charge any fee to cash a check of any person who is playing, or intends to play, any card game;
- e. Engage in, or permit any other person on the premises to engage in, any act that violates the laws of the State of California;
- f. Communicate in any way, whether verbally or nonverbally, to any other person, whether playing a card game or not, any information concerning the cards held, or the card game being played, by any person in the card club; or
- g. Play any games other than permitted games. Permitted games must meet the following criteria:
  - (i) The permittee may only facilitate the playing of games allowed by California State Law. All games the permittee wishes to play must be approved in advance by the Chief of Police. The permittee must notify the Chief of Police in writing of the intent to commence playing a new card game.
  - (ii) All games conducted, dealt or carried on with dice, dominos, or devices other than cards, tiles, or for money, checks, credit, or other representations of value where chance is any determining factor in the outcome of the game are prohibited.

- (iii) All approved games must have the rules and game play conspicuously displayed where all players and employees can observe them at all times.
- (iv) The permittee must also display in a conspicuously location, the following house rules governing disputes in play:
  - “Players are Responsible for their Hands”
  - “The Floor Person/Supervisor’s Decisions Are Final”
  - "Free Gaming Instructions Offered"

SEC. 4-3.35 OBLIGATION TO INFORM OF CERTAIN CHANGES CONCERNING PERMITTEES, THIRD PARTY PROVIDERS, AGENTS AND EMPLOYEES.

- a. The permittee shall notify the Revenue Division in writing and within 14 days of any change in the information required in an application for permit issuance or renewal as provided in section 4-3.11 herein, except that no such change need be reported if such change occurs within the 60 days immediately preceding the expiration of such permit.
- b. Each person registered as a card club employee or agent shall notify the Revenue Division in writing and within 14 days of any change in the information such employee or agent provided in the registration application required by section 4-3.33 herein.
- c. The Revenue Division shall promptly inform the Chief of Police of any notification received pursuant to the provisions of subsections (a) and (b) herein.
- d. The permittee shall inform Chief of Police immediately of any changes in ownership of any Third Party Provider or contract company (i.e., security, janitorial services). The permittee shall also show proof to the Chief of Police that any new Third Party Provider has been notified by the permittee of the criminal and financial background investigation requirements for any new Third Party Provider. Any new persons shall be subject to licensing and qualification.
- e. Third Party Providers shall not engage in any gaming activity at permittee’s card club until granted approval by the Chief of Police.

SEC. 4-3.36 HOURS OF OPERATION.

- a. No permittee or any other person in charge or control of any card club shall permit any person to enter or remain on the premises of any such card club, or to play any card game permitted by the provisions of this Article, between the hours of 2 a.m. and 9 a.m. of any day other than Saturday during the year.
- b. Notwithstanding the provisions of the preceding subsection, the Chief of Police shall approve the application of a card club to operate 24 hours a day on Sundays through Fridays if the Chief finds that the following conditions are met:

- (1) The card club is not located in a building that is proximate to property that is zoned and used for residential purposes. For purposes of this subsection, the Palace Poker Casino card club, located at 22821 Mission Boulevard, is not considered proximate to residential property; and
- (2) The card club operator provides security personnel, screened and approved by the Chief of Police, during all hours of operation.

Continued compliance with both conditions shall be required for continued reliance upon the approval granted hereunder and if either condition is not met for any period of time, the card club permit shall be subject to suspension or revocation as set forth in section 4-3.40 hereof.

SEC. 4-3.37 POSTING OPERATING REGULATIONS. A set of operating regulations in a form approved by the Chief of Police and containing the provisions of Sections 4-3.30, 4-3.31, 4-3.32, 4-3.34 and 4-3.36 of this Article shall be prominently posted in a conspicuous location within the card club.

SEC. 4-3.40 SUSPENSION AND REVOCATION OF PERMITS; APPEALS.

- a. Any card club permit issued under the provisions of this Article shall be subject to suspension or revocation by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for failure of such permittee, or any employee or agent of such permittee, to comply with any of the provisions of this Article, or for any grounds that would require denial of an application for issuance or renewal of such permit if such application were then pending, or for violation by such permittee, or any employee or agent of such permittee, of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of the card club authorized by such permit. The costs of any hearing conducted under Article 1, Chapter 6, of this Code will be borne by the affected party. Notice of revocation or suspension of a permit will be given to the affected party in writing no later than ten business days after conclusion of the hearing.
- b. A decision by the City Manager, or his or her designee, to suspend or revoke a permit issued under the provisions of this Article may be appealed to the City Council. Such appeal must be filed with the City Manager within 14 days after notice of revocation or suspension has been sent to the permittee, employee or agent of the permittee. The appeal must be in writing, set forth the specific grounds for such appeal and be accompanied by the appropriate fee. The fee for the appeal shall be established by the City Council by resolution. The appeal shall be heard by the City Council, which may affirm, reverse or amend the decision of the City Manager.

SEC. 4-3.41 SUSPENSION AND REVOCATION OF EMPLOYEE OR AGENT REGISTRATION; APPEALS. Any person registered as a card club employee under the provisions of this Article shall be subject to having such registration suspended or revoked by the City Manager in the manner provided by Article 1, Chapter 6, of this Code for violation of any provision of this Article or for violation of any statute or any duly adopted regulation of the City of Hayward, which violation pertains or relates to the establishment, maintenance, operation, or management of a card club. A decision by the City Manager, or his or her designee, to suspend or revoke a permit under the provisions of this Article may be appealed as set forth in section 4-3.40.

SEC. 4-3.42 APPEAL OF DENIAL OF PERMIT. Any action of denial of a permit taken by the Revenue Division or the Chief of Police shall be subject to appeal to the City Manager in the manner provided by Article 1, Chapter 6, of this Code. A decision by the City Manager, or his or her designee, to deny a permit may be appealed as set forth in Section 4-3.40.

SEC. 4-3.43 INJUNCTIVE RELIEF. In addition to the legal remedies provided for in this Article, the operation of any card club in violation of the provisions of this Article or other applicable laws and regulations shall be deemed a public nuisance and the City of Hayward may bring an action in any court of competent jurisdiction to enjoin such violation.

SEC. 4-3.44 OPERATION OF GAMES. The rules of the games to be played in the card club pursuant to section 4-3.34g (ii) shall be prominently posted in a conspicuous location visible from each table. Each card table shall have posted the card game being played.

SEC. 4-3.45 PATRON SAFETY AND SECURITY. The Chief of Police may require, at his or her discretion, all permittees to implement reasonable security measures, as set forth in a security plan, to insure the safety of patrons including, but not limited to, hiring private uniformed security guards. If security guards are required, the Chief of Police shall determine the number and hours of coverage. All security personnel and the contracted security company must be licensed by the California Department of Consumer Affairs and be registered as card club "Contract Employees" with the Police Department.

SEC. 4-3.46 WAGERING LIMITS. There are no mandatory limits on the amount wagered in any permitted games. A card club permittee may impose wagering limits on any game, at his or her discretion. If wagering limits are established by the card club for games, the limits for each game must be clearly posted.

SEC. 4-3.47 LOCATION OF THE CARD CLUB.

- a. A card club permit is valid only for the location provided in the permit. Relocation of a card club to a site other than the one permitted is prohibited and results in automatic termination except as provided herein.
- b. Relocation of a card club to a location different from that described in the card club permit is permitted where governmental acquisition of an existing permitted card club premises under threat of eminent domain or an actual exercise of the powers of eminent domain would result in the closing of the card club. In such a case, the permittee may apply for a new location on which to conduct the card club subject to the requirements for issuance of a permit as well as approval by the City Council. For purposes of this subsection, the expansion of the Palace Poker Casino card club, located at 22821 Mission Blvd., onto an adjacent parcel is not considered relocation.
- c. In the event that the government takes possession of the property subject to a card club permit under threat or actual exercise of the power of eminent domain, the permit for the card club shall be deemed to be valid and remain in effect for a period of twelve months from the date of closing of the card club.

- d. A card club may relocate to another site in the City; provided, however, that the card club is an allowed use in the zoning district in which the card club is to be located, the permittee has obtained a conditional use permit for the proposed location and the permittee has complied with all other applicable laws and regulations. If the owner of the real property to which the card club proposes to relocate is someone other than the permittee, then owner of the real property shall be subject to the criminal and financial background investigations set forth in section 4-3.13(c).
  
- e. Prior approval of the Planning Commission is required for any physical expansion of the card club. A permittee must comply with all applicable laws and regulations for any physical expansion of the card club.

## BINGO GAMES FOR CHARITY

SEC. 4-3.50 AUTHORITY. The regulations following relating to bingo games for charity are enacted under Section 19 of Article IV of the State Constitution and the implementing provisions of Section 326.5 of the State Penal Code.

SEC. 4-3.51 DEFINITIONS. Whenever in these regulations the following terms are used they shall have the meanings respectively ascribed to them in this section.

"Bingo" is a game of chance in which prizes are awarded on the basis of designated numbers or symbols on a card which conform to numbers or symbols selected at random.

SEC. 4-3.52 ORGANIZATIONS ELIGIBLE FOR CITY PERMIT. Bingo may be conducted by organizations which have obtained an exemption from the payment of the bank and corporation tax by State Revenue Code Sections 23701(a), 23701(b), 23701(d), 23701(e), 23701(f), 23701(g), and 23701(1). Said organizations are of the following types:

Labor, agricultural, or horticultural

Fraternal beneficiary societies, orders, or associations operating under a lodge system

Religious, charitable, scientific, literary, educational and humanitarian

Business leagues, chambers of commerce, real estate boards, and boards of trade

Civic leagues, social welfare and employee organizations

Nonprofit pleasure and recreation clubs

Bingo may also be conducted by mobile home park associations and senior citizen organizations.

SEC. 4-3.55 APPLICATION FOR PERMIT. Eligible organizations desiring to obtain a permit to conduct bingo games in the City of Hayward shall file an application in writing therefor with the Division of Permits and Licenses upon forms to be provided by the Division. Applicants granted tax exempt status by the State Franchise Tax Board shall file with said Division a certificate that will show that the organization is currently exempted from the payment of the bank and corporation tax by reason of one or more of the State Revenue and Taxation Code sections mentioned in Section 4-3.52 hereof.

Mobile home park associations and senior citizen organizations which have not been granted tax exempt status by the State Franchise Tax Board shall file with said Division documentation that will show that such organization is eligible to conduct bingo games.

The permit issued shall be for a term of one year from the date of issuance, subject to renewal and annual fee.

SEC. 4-3.57 CONTENTS OF APPLICATION. Said application for a permit shall contain the following:

- (1) The name of the applicant organization and a statement that applicant is an eligible organization as described in Section 4-3.52.
- (2) The name and signature of at least two (2) officers, including the presiding officer, of the organization.
- (3) A list of all members of the organization who will operate the bingo games, including full names and date of birth.
- (4) The particular property, within the City of Hayward, including the street number, owned or leased by the applicant, used by such applicant for the performance of the purposes for which the applicant is organized on which property bingo games will be conducted, together with the occupancy capacity of such place.
- (5) Proposed days of week and hours of day for conduct of bingo games.
- (6) That the applicant agrees to conduct bingo games in strict accordance with the provisions of Section 326.5 of the State Penal Code and these regulations, as they may be amended from time to time, and agrees that the permit to conduct bingo games may be summarily suspended by the Chief of Police and/or revoked by the City Manager upon violation of any of such provisions.
- (7) Said application shall be signed by the applicant under penalty of perjury.
- (8) The annual permit fee established by resolution of the City Council, whether for the initial permit or renewal, shall accompany the application. If an application for a permit is denied, one-half of any fee paid shall be refunded to the organization.

SEC. 4-3.58 INVESTIGATION OF APPLICANT. Upon receipt of the completed application and the fee, the Division shall refer the same to interested departments of the City, including but not limited to, the City Manager, City Attorney, Building Inspection Division, Police Department, Planning Department, and the Fire Department, for investigation as to whether or not all the statements in the application are true and whether or not the property of the applicant qualifies and the extent to which it qualifies, as property on which bingo games may lawfully be conducted, as to fire, occupancy, and other applicable restrictions.

SEC. 4-3.59 CONTENTS OF PERMIT. Upon being satisfied that the applicant is fully qualified, under the law, to conduct bingo games in the City, the Permit and License Division shall issue a permit to said applicant, which shall contain the following information:

- (1) The name and nature of the organization to whom the permit is issued.
- (2) The address where bingo games are authorized to be conducted.

- (3) The occupancy capacity of the room in which bingo games are to be conducted.
- (4) The date of the expiration of such permit.
- (5) Such other information as may be necessary or desirable for the enforcement of the provisions of these regulations.

SEC. 4-3.60 INSPECTION. Any peace officer of the City shall have free access to any bingo game authorized under these regulations. The permittee shall have the bingo permit, the list of approved staff, and proof of ownership of the bingo equipment available for inspection at all times during any bingo game. It shall be unlawful for any person to interfere, block doorways, or otherwise impede the efforts of a peace officer to make such inspections.

SEC. 4-3.65 EQUIPMENT. The permittee must own the gaming equipment necessary to conduct the bingo games. No gaming equipment may be rented, leased, or shall any fee be paid to anyone for such gaming equipment used in bingo games. Proof of ownership shall be displayed to any peace officer of the City upon request.

SEC. 4-3.66 MAXIMUM AMOUNT OF PRIZE. The total value of prizes awarded during the conduct of any bingo games shall not exceed two hundred fifty dollars (\$250.00) in cash or kind, or both, for each separate game which is held.

SEC. 4-3.67 PROFITS - SEPARATE FUND OR ACCOUNT. The proceeds of bingo games shall be used only for charitable purposes.

With respect to organizations granted tax exempt status under the provisions of State Revenue Code Section 23701(d) all profits derived from a bingo game shall be kept in a special fund or account and shall not be commingled with any other fund or account.

With respect to other organizations authorized to conduct bingo games, all proceeds shall be kept in a special fund or account and shall not be commingled with any other fund or account. Such proceeds, however, may be used for prizes. A portion of such proceeds not to exceed 10% after the deduction for prizes, or five hundred dollars (\$500) per month, whichever is less, may also be used for rental of property, overhead and administrative expenses.

The permittee shall keep full and accurate records of the income and expenses received and disbursed in connection with its operation, conduct, promotion, supervision and any other phase of bingo games which are authorized by these regulations. The City, by and through its authorized officers, shall have the right to examine and audit such records at any reasonable time and permittee shall fully cooperate with the City by making such records available. (As amended by Ordinance No. 77-039 C.S., adopted August 23, 1977.)

SEC. 4-3.68 FINANCIAL INTEREST - PERMITTEE ONLY. No individual, corporation, partnership, or other legal entity except the permittee shall hold a financial interest in the conduct of such bingo game.

SEC. 4-3.69 EXCLUSIVE OPERATION BY PERMITTEE. A bingo game shall be operated and staffed only by members of the permittee organization. Such members shall not receive a profit, wage, or salary from any bingo game. Only the permittee shall operate such game, or participate in the promotion, supervision or any other phase of such game.

SEC. 4-3.70 BINGO GAMES OPEN TO PUBLIC. All bingo games shall be open to the public, not just to members of the permittee organization.

SEC. 4-3.71 ATTENDANCE LIMITED TO OCCUPANCY CAPACITY. Notwithstanding that bingo games are open to the public, attendance at any bingo game shall be limited to the occupancy capacity of the room in which such game is conducted as determined by the Fire Department and Building Inspection Division of the City in accordance with applicable laws and regulations. Permittee shall not reserve seats or space for any person.

SEC. 4-3.72 BINGO GAMES CONDUCTED ON PROPERTY UTILIZED BY PERMITTEE FOR ITS ORGANIZED PURPOSES. A permittee shall conduct a bingo game only on property owned or leased by it, and which property is used by such organization for an office or for the performance of the purposes for which the organization is organized. The permit issued hereunder shall authorized the holder thereof to conduct bingo games only on such property, the address of which is stated in the application. In the event the described property ceases to be used as a place for the performance of the purposes for which the permittee is organized, the permit shall have no further force or effect. A new permit may be obtained by an eligible organization, upon application under these regulations, when it again owns or leases property used by it for the performance of the purposes for which the organization is organized.

Nothing in this section shall be construed to require that the property owned or leased by the organization be used or leased exclusively by such organization.

SEC. 4-3.73 MINORS NOT TO PARTICIPATE. No person under the age of eighteen (18) years of age shall enter or remain or be permitted to enter or remain in any place while bingo games are being played, nor shall such person participate or be permitted to participate directly or indirectly in any bingo game conducted or being played in any place where bingo games are authorized.

SEC. 4-3.74 ALCOHOLIC BEVERAGES. No alcoholic beverages shall be consumed, sold, or given away, served or delivered to any person within the place where any bingo games are being conducted.

SEC. 4-3.75 HOURS OF OPERATION. No permittee shall conduct any bingo game more than four hours out of any twenty-four hour period. No bingo game shall be conducted before 10.00 a.m. nor after 12:00 midnight of any day.

SEC. 4-3.76 PARTICIPANT MUST BE PRESENT. No person shall be allowed to participate in a bingo game unless the person is physically present at the time and place in which the bingo game is being conducted.

SEC. 4-3.80 RECEIPT OF PROFIT BY A PERSON A MISDEMEANOR UNDER STATE LAW. It is a misdemeanor under Section 326.5(b) of the State Penal Code for any person to receive a profit, wage, or salary from any bingo game authorized hereunder, a violation of which is punishable by a fine not to exceed ten thousand dollars (\$10,000), which fine shall be deposited in the general fund of the City of Hayward.

SEC. 4-3.81 SUMMARY SUSPENSION OF PERMIT.

- (a) Whenever it appears to the Chief of Police or his representative that the permittee is conducting a bingo game in violation of any of these provisions, said Chief of Police or his representative shall have the authority to summarily suspend the permit for the day in question and order the permittee to immediately cease and desist any further operation of any bingo game on said day.
- (b) Any person who continues to conduct a bingo game after any summary suspension thereof under subsection (a) shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punishable by a fine not exceeding \$500 or by imprisonment in the County jail for a period not exceeding six months, or by both such fine and imprisonment.

SEC. 4-3.82 REVOCATION OF PERMIT - HEARING. Whenever it appears to the City Manager that the permittee has been or is conducting bingo games in violation of State Penal Code Section 326.5 or any of these provisions, or that the permit was obtained by fraudulent representation, the permit may be revoked.

No permit shall be revoked unless written notice shall have first been given at least ten (10) days before the hearing thereof by depositing in the United States mail a notice directed to the permittee at the address given in the application. The notice shall set forth a summary of the ground(s) advanced as the basis of the revocation.

At the hearing before the City Manager or a Hearing Officer in the manner provided by Section 6-1.30 of this Code the permittee or its authorized representative shall have the right to present evidence and a written or oral argument, or both, in response.

The City Manager or the Hearing Officer shall not be bound in the conduct of such hearing by the common law or statutory rules of evidence and procedure, but inquiry shall be made in such a manner to ascertain the substantial rights of the public and the permittee.

No decision shall be invalidated because of the admission into the record and the use as any proof of any fact in dispute of any evidence not admissible under the common law or statutory rules of evidence.

Within twenty (20) days after close of hearing the City Manager shall enter his decision based upon the record presented, and notify in writing, the permittee of such decision. The decision of the City Manager shall be final.

SEC. 4-3.85 CITY MAY ENJOIN VIOLATION. The City of Hayward may bring an action in a court of competent jurisdiction to enjoin a violation of Section 326.5 of the State Penal Code or of these regulations.

SEC. 4-3.90 GAMING. Except as provided under Section 4-3.00 through Section 4-3.85 of this article:

- (a) It shall be unlawful for any retail or commercial establishment or any other place open to the public, to keep, conduct or maintain such establishment or place in whole or part as a gambling house or place where any game is played, conducted, dealt or carried on with cards, dice, dominos, or other devices for money, checks, credit or other representations of value, as the result of which game chance is any determining factor.
- (b) It shall be unlawful for any person for a fee, charge, or other compensation, to keep, conduct, or maintain, any house, room, apartment, or place, used in whole or part as a gambling house or place where any game is played, conducted, dealt, or carried on with cards, dice, dominos, or other devices, for money, checks, credit or other representations of value, as the result of which game chance is any determining factor.
- (c) This section shall not apply to the games of draw poker, panguingue, and bingo, regulated elsewhere in this article, or to any other game prohibited or expressly permitted by the laws of the State of California.