



REPORT TO COUNCIL

City of Sacramento

915 I Street, Sacramento, CA 95814-2604
www.CityofSacramento.org

CONSENT
December 8, 2009

**Honorable Mayor and
Members of the City Council**

**Title: (Pass For Publication) Ordinance Amendment: Cardroom License Transfers
and Tolling of Automatic Cardroom License Revocation**

Location/Council District: Citywide

Recommendation: 1) Review an ordinance amending Sections 5.32.110, 5.32.160, and 5.32.170 of Sacramento City Code Chapter 5.32 (Cardrooms) to align with the State of California's cardroom license change process, and to toll the period for automatic cardroom license revocation under extenuating circumstances; and 2) pass for publication the Ordinance title as required by Sacramento City Charter section 32(c), to be adopted on December 15, 2009.

Contact: Dafna Gauthier, Business Permit Manager, 916-808-7800

Presenters: Dafna Gauthier, Business Permit Manager, 916-808-7800

Department: Finance

Division: Revenue

Dept. ID: 06001211

Description/Analysis

Issue: In order for a cardroom to operate in the City of Sacramento it needs both a State license and a City license. The City Code has placed a limit of four (4) on the number of cardrooms that can operate in the City. The State of California has placed a moratorium until the year 2015 for a State cardroom license. Per City Code, current City of Sacramento cardroom owners can only pass on their City license to a spouse or their children. The State has an extensive application process to allow for a "successor in interest," which in effect allows ownership changes to a cardroom business. Staff recommends aligning the City Code with the State process to allow the limited number of cardrooms in Sacramento to continue operating.

City code also provides that a cardroom license is automatically revoked if the licensee fails to maintain and continuously operate a cardroom for a period of ninety (90) consecutive days. Staff recommends the ninety (90) days be tolled, up to a maximum of 180 additional days (or longer if a State transfer application

is pending), under extenuating circumstances.

Policy Considerations: The State has utilized a “successor in interest” process to change the ownership on the State license. The State conducts a thorough background and financial check on these applicants. This process allows owners to take on investors or sell the cardroom business. The State issues a new license, but sees this as a continuation of a business. The City could align its regulations regarding cardroom ownership to be consistent with the State’s process and allow a “successor in interest” for the City license.

Committee Action: On October 6, 2009, the Law and Legislative Committee unanimously approved sending the proposed Ordinance to the City Council for adoption.

Environmental Considerations: This report concerns administrative activities that will not have a significant effect on the environment (CEQA Guidelines section 15061(b)(3)), and does not constitute a “project” as defined by CEQA Guidelines section 15378(b)(2).

Rational for Recommendation: The State has an extensive application process to allow for a “successor in interest,” which in effect allows ownership changes to a cardroom business. The City should align with the State process to allow the limited number of cardrooms in Sacramento to continue operating. Further, licenses should not be automatically revoked if the cardroom licensee is diligently seeking to transfer the license, or if the cardroom’s operations are interrupted by catastrophic events beyond the control of the licensee.

Financial Considerations: At this time there is not a fiscal impact to the City.

Emerging Small Business Development (ESBD): No goods or services are being purchased under this report.

Respectfully Submitted by: *Brad Wasson*
for Brad Wasson, Revenue Manager

Approved by: *Leyne Milstein*
Leyne Milstein, Director of Finance

Recommendation Approved:

Ray Kerridge
for Ray Kerridge
City Manager

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Attachment 1**BACKGROUND**

A request has been made by Council Member McCarty to review the regulations that disallow cardrooms to sell or change ownership. Staff has reviewed City Code and discussed this issue with all four of the City's current cardroom license holders and the Police Department. The license is issued by the City and is not considered property that can be sold or transferred. However, the business should be an asset that the owners can dispose of as they see fit.

The State has utilized a process to change the ownership on the State license through a "successor in interest" process. The State conducts a thorough background and financial check on these applicants. This process allows owners to take on investors or sell the cardroom business. The State issues a new license, but sees this as a continuation of a business. The City could align its regulations regarding cardroom ownership to be consistent with the State's process and allow a "successor in interest" for the City license.

Since the State conducts such an extensive financial background check, the City's process should defer to the State to investigate fiscal relationships and responsibility. However, the City should continue to conduct its own criminal, land use, and neighborhood background check on potential owners. It should be noted that the City is responsible for zoning and nuisance issues regarding individual cardrooms. It should also be noted that the State respects local jurisdictions management of cardrooms. Therefore, the City should establish a process that would give tentative approval to a "successor in interest" pending State approval.

City Code requires cardroom licensees to continuously operate a cardroom while holding a valid cardroom license. If a licensee fails to continuously operate for a period of ninety (90) consecutive days, their license will automatically be revoked. Staff recommends the ninety (90) days be tolled, up to a maximum of 180 additional days (and longer if a State application is pending), under extenuating circumstances as described in the proposed changes to Section 5.32.110.

City staff has met with all four current card room owners and they all support the recommended code change for a successor in interest.

State law requires that any amendment to the City's cardroom ordinance be submitted to the Department of Justice, Bureau of Gambling Control for review and comment, before the ordinance is adopted by the City. The City sent a letter to the Bureau of Gambling Control after the Law and Legislation Committee's October 6, 2009 meeting. On November 6, 2009, the Bureau of Gambling Control responded by letter to the City, confirming that the proposed amendment does not violate the Gambling Control Act.

ATTACHMENT 2

ORDINANCE NO.

Adopted by the Sacramento City Council

Date Adopted

AN ORDINANCE AMENDING SECTIONS 5.32.110, 5.32.160 AND 5.32.170 OF CHAPTER 5.32 OF THE SACRAMENTO CITY CODE RELATING TO TRANSFER OF CARDROOM LICENSES

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.32.110 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.110 Suspension and revocation of cardroom license or work permit

A. The city manager shall have the right for cause to revoke or suspend any cardroom license issued under this chapter, and the chief of police shall have the right for cause to revoke or suspend any cardroom work permit issued under this chapter. Any of the grounds upon which the city manager and the chief of police may refuse to grant a cardroom license application or cardroom work permit application shall also constitute grounds for revocation or suspension. The failure of a cardroom licensee or cardroom work permit holder to comply with the provisions of this title also shall constitute grounds for revocation or suspension of the license or work permit.

B. Cardroom licensees shall continuously operate a cardroom while holding a valid cardroom license. Except as provided in subsection (C) of this section, if any person licensed under this chapter fails to maintain and continuously operate a cardroom for a period of ninety (90) consecutive days or more in accordance with the provisions of this title, the license shall be deemed automatically revoked. A licensee may appeal any automatic revocation to the city council by filing a written notice of appeal with the city clerk not later than ten (10) days after the date of revocation in the manner set forth in Section 5.32.100(B) of this chapter. Upon failure to file a notice of appeal within the ten (10) day period, the automatic revocation shall be final and conclusive.

C. The ninety (90) day period forth in subsection (B) of this section shall be tolled, up to a maximum of 180 additional days, under the following circumstances:

1. A complete application for license transfer under Section 5.32.170 is pending before the city manager.

2. A license transfer under Section 5.32.170 has been approved by the city manager and the applicant is awaiting a state gambling license.

3. A catastrophic event has caused the failure to continuously operate the cardroom. For purposes of this subsection, "catastrophic event" shall mean an event beyond the control of the licensee that destroys the cardroom, either partially or completely, by fire, flood, wind, earthquake or other calamity, or by the public enemy.

SECTION 2.

Section 5.32.160 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.160 Restrictions on transfers or attempted transfers of licenses and work permits

http://www.qcode.us/codes/sacramento/view.php?topic=5-5_32-5_32_160&frames=on-startContent#startContent

Except as provided in Section 5.32.170, no person shall transfer or attempt to transfer any interest in a license or permit issued under this chapter, nor shall any person transfer or attempt to transfer any interest in a license or permit issued under this chapter in violation of state law. The privilege conferred by the licenses and permits issued under this chapter shall not be transferable, except as expressly provided in this section, and each license and permit shall so provide on its face. A cardroom license is not property and shall have no value. Any attempt to transfer, directly or indirectly, a cardroom license in violation of the provisions of this chapter shall be unlawful and void, and shall automatically revoke the license. Any cardroom licensee whose license is automatically revoked under this section may appeal the revocation by filing a written notice of appeal with the city clerk not later than ten (10) days after the date of revocation in the manner set forth in Section 5.32.100(B) of this chapter. Upon failure to file a notice of appeal within the ten (10) day period, the automatic revocation shall be final and conclusive.

SECTION 3.

Section 5.32.170 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.170 Cardroom license transfer

A license transfer application may be made to the city manager in the following situations:

A. A change of location not involving any change in identity of the licensee;

B. A change in business organization (for example, incorporation of a sole proprietorship or partnership) where there is no change in the identity of the principals holding the license, except where the transfer is made pursuant to subsection C of this section;

C. An application by a spouse or children of a licensee with the licensee’s consent while the licensee is still living to add the spouse or children to the license to form any type of business entity legally available, or on the death of a licensee where the application is made on behalf of the deceased licensee’s surviving business associates operating the same business, or spouse or children of the deceased licensee, provided that the spouse or children first obtain a state gambling license.

D. An application by a successor in interest to a licensee for the issuance of a license in the successor in interest’s name(s), for purposes of operating the same business.

An application for the transfer of a cardroom license made under this section shall be made to the city manager considered and acted upon in the same manner as an application for an original license. An application approved by the city manager under this section shall become effective upon issuance of the applicant’s state gambling license. If the state gambling license is not issued within 180 days of the city manager’s approval and the state application is not pending, the approval shall be deemed rescinded and the license shall be subject to revocation as provided in this chapter.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:

Published:

Effective:

ORDINANCE NO.

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BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Section 5.32.110 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.110 Suspension and revocation of cardroom license or work permit

A. The city manager shall have the right for cause to revoke or suspend any cardroom license issued hereunder this chapter, and the chief of police shall have the right for cause to revoke or suspend any cardroom work permit issued hereunder this chapter. Any of the grounds upon which the city manager and the chief of police may refuse to grant a cardroom license application or cardroom work permit application shall also constitute grounds for such revocation or suspension. In addition, the failure of a cardroom licensee or cardroom work permit holder to comply with the provisions of this title also shall also constitute grounds for revocation or suspension of the license or work permit.

B. Cardroom licensees shall continuously operate a cardroom while holding a valid cardroom license. Except as provided in subsection (C) of this section, if any person licensed hereunder this chapter fails to maintain and continuously operate a cardroom for a period of ninety (90) consecutive days or more in accordance with the provisions of this title, the license shall be deemed automatically be revoked. A licensee may appeal any automatic revocation to the city council by filing a written notice of appeal with the city clerk not later than ten (10) days after the date of revocation within the time and in the manner set forth in Section 5.32.100(B) of this chapter. Upon failure to file a notice of appeal within the ten (10) day period, the automatic revocation shall be final and conclusive.

C. The ninety (90) day period forth in subsection (B) of this section shall be tolled, up to a maximum of 180 additional days, under the following circumstances:

1. A complete application for license transfer under Section 5.32.170 is pending before the city manager.

2. A license transfer under Section 5.32.170 has been approved by the city manager and the applicant is awaiting a state gambling license.

3. A catastrophic event has caused the failure to continuously operate the cardroom. For purposes of this subsection, "catastrophic event" shall mean an event beyond the control of the licensee that destroys the cardroom, either partially or completely, by fire, flood, wind, earthquake or other calamity, or by the public enemy.

SECTION 2.

Section 5.32.160 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.160 Restrictions on transfers or attempted transfers of licenses and work permits

~~A. Notwithstanding any other provision of this chapter, including this section, Except as provided in Section 5.32.170, no person shall transfer or attempt to transfer any interest in a license or permit issued under this chapter, nor shall any person transfer or attempt to transfer any interest, whether as an individual, partner, stockholder or otherwise, in any license or permit issued under this chapter shall be transferred in violation of state law, or transferred so as to result in a violation of state law. The privilege conferred by the licenses and permits issued under this chapter shall not be transferable, except as expressly provided in this section, and each license and permit shall so provide on its face. A cardroom license is not property and shall have no value. Any attempt to transfer, directly or indirectly, a cardroom license in violation of the provisions of this chapter shall be unlawful and void, and shall automatically revoke the license. Any cardroom licensee whose license is automatically revoked under this section may appeal the revocation by filing a written notice of appeal with the city clerk not later than ten (10) days after the date of revocation within the time prescribed and in the manner set forth in Section 5.32.120100(B) of this chapter. Upon failure to file a notice of appeal within the ten (10) day period, the automatic revocation shall be final and conclusive.~~

~~B. For purposes of this chapter, a prohibited transfer of a cardroom license shall include, but not be limited to, the following:~~

~~1. An attempted transfer of a cardroom license, except for a transfer to a spouse or children;~~

~~2. An attempted assignment or transfer of a license from a partnership to one or more of the individual partners, except for a transfer to a spouse or children;~~

~~3. Where the cardroom license has been granted to a corporation, an attempted issuance or transfer of any shares of stock to any person, entity or group not listed as having an interest in the cardroom license when it was granted, except for the transfer of shares or issuance of new shares in an existing corporation to a spouse or children of a licensee;~~

~~4. The sale, lease or other transfer of a business which includes a cardroom where the cardroom is considered part of the business sold and the cardroom license is intended to pass with the sale, with or without consideration, even though the sale,~~

~~lease or transfer may be conditioned upon the successful transfer of the license to the buyer, except a sale, lease or transfer to the spouse or children of the licensee;~~

5. Entering into any arrangement or agreement whereby the license or any interest therein or the transfer of the license is attempted to be pledged as security for a loan or the fulfillment of an obligation or agreement.

SECTION 3.

Section 5.32.170 of Chapter 5.32 of the Sacramento City Code is amended to read as follows:

5.32.170 Application for cCardroom license under certain circumstancestransfer

~~— Notwithstanding the prohibitions contained in this chapter against the issuance or transfer of a cardroom license, an application by a spouse or child of the licensee with the licensee's consent to form any type business entity legally available, an application by a cardroom licensee for a change of location or an application by a successor in interest to a licensee for the issuance of a license in his or her own name for purposes of operating the same business~~ A license transfer application may be made to the city manager in the following situations:

A. A change of location not involving any change in identity of the licensee;

~~— B. — A change in business organization (for example, incorporation of a sole proprietorship or partnership) where there is no change in the identity of the principals holding the license, except where the transfer is made to a spouse or children of the licensee with the consent of the licensee to form any type of business entity legally available pursuant to subsection C of this section;~~

C. An application by a spouse or children of a licensee with the licensee's consent while the licensee is still living to add the spouse or children to the license to form any type of business entity legally available, or on the death of a licensee where the application is made on behalf of the deceased licensee's surviving business associates operating the same business, or spouse or children of the deceased licensee, provided that the spouse or children first obtain a state gambling license.

D. An application by a successor in interest to a licensee for the issuance of a license in his or her own~~the successor in interest's name(s), but with a new type of business entity for purposes of operating the same business.~~

An application for the transfer of a cardroom license made under this section shall be made to the city manager considered and acted upon and considered in the same manner as an application for an original license. An application approved by the city manager under this section shall become effective upon issuance of the applicant's state gambling license. If the state gambling license is not issued within 180 days of the city manager's approval and the state application is not pending, the approval shall be

deemed rescinded and the license shall be subject to revocation as provided in this chapter.

Adopted by the City of Sacramento City Council on _____ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

MAYOR

Attest:

City Clerk

Passed for Publication:
Published:

Effective:

Attachment 4