

ORDINANCE NO. 6140 (General)

AN ORDINANCE AMENDING SPRINGFIELD MUNICIPAL CODE (SMC) SECTION 5.254 TO REFERENCE THE SPRINGFIELD SOCIAL GAMING CODE 5.258 AND ADDING SPRINGFIELD SOCIAL GAMING/TEXAS HOLDEM POKER CARD TOURNAMENT TO THE SMC AS SECTION 5.258 AND DECLARING AN EMERGENCY.

The City Council of the City of Springfield finds as follows:

1. It is in the public interest for the City of Springfield to add Section 5.258, The Springfield Social Gaming Code, to the SMC in an effort to allow businesses to conduct Texas Holdem Poker Card Tournaments in a controlled, fair and lawful manner. The addition of Section 5.258 to the SMC will allow private businesses, private clubs or places of public accommodation to hold Texas Holdem Poker Card Tournaments and benefit from the revenues derived from the sale of food and beverage to patrons of such tournaments, while at the same time ensure that the holding of such tournaments will comply with Oregon law pursuant to ORS 167.121 and ORS 167.117.
2. It is in the public interest for the City of Springfield to adopt the "Springfield Social Gaming Code." The "Springfield Social Gaming Code allows Texas Holdem Poker Card Tournaments, provides for limits on game buy in fees, directs that the winnings from the player buy in fees be distributed to the game winners, prohibits a house take and fees to the Tournament Organizers.

NOW THEREFORE, based upon the foregoing findings, the City Council of the City of Springfield ordains as follows:

Section 1. Section 5.254, Social Games, of the SMC is hereby amended to read as follows:

"5.254 Social Games.

(1) Social Games Prohibited/Exception. Social games, as defined in ORS 167.117 are prohibited within the corporate limits of the city of Springfield except:

- A. Social games between players in private homes or social games conducted by charitable, fraternal, religious or nonprofit organizations where no house player, house bank or house odds exist and there is not house income; and,
- B. Pursuant to SMC Section 5.258, The Springfield Social Gaming Code/ Texas Holdem Poker Card Tournament.

(2) Nonprofit Organization Defined. For the purpose of Section 5.254, nonprofit organization means any person organized and existing for charitable, benevolent, eleemosynary, humane, philanthropic, educational, civic or other nonprofit purposes. The fact that an organization does qualify for charitable deduction for tax purposes or that the organization is otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, constitutes prima facie evidence that the organization is a nonprofit organization.

(3) "House" Defined. Includes owner of business, private club, or place of public accommodation, and owner's spouse, children of owner or spouse, owner's brothers, sisters, or parents, or a business in which one of the foregoing named individual is associated. A license for the House is required by Section 5.258(3).

(4) Tournament Organizer Defined. A person other than the House who organizes the tournament, including but not limited to provision of poker chips and playing cards. A license for the Tournament Organizer is required by Section 5.258(3).

Section 2. Section 5.258, "Springfield Social Gaming Code/Texas Holdem Poker Card Tournament," is hereby added to the Springfield Municipal Code to read as follows:

"Section 5.258, Springfield Social Gaming Code/Texas Holdem Poker Card Tournament."

(1) Title. The City of Springfield Social Gaming Code/Texas Holdem Poker Card Tournament . The purpose of this section is to allow businesses, private clubs or places of public accommodation to host "Texas Holdem Poker Card Tournaments."

(2) Social Games Permitted. Texas Holdem Poker Card Tournaments as defined below, other than lottery, between players in a private business, private club or in a place of public accommodation where no house player, house dealer, house bank or house odds exist, and there being no house take (meaning no house income from the operation of the social gaming), are hereby permitted as provided herein.

(A) Texas Holdem Poker Card Tournament Defined. Texas Holdem is a seven card poker card game. The players deal to each other and the deal passes between players. There may be a set betting on the first round of betting called "blinds". The players at each table are dealt two cards face down. After a round of betting three community cards are turned face up in the middle of the table.

This is called the Flop. Players may fold at any time. After the Flop is turned face up there is another round of betting. A fourth community card is turned up next to the Flop. This is known as the Turn. Another round of betting ensues. Finally a fifth community card is turned up next to the Turn. This is known as the River or Fifth Street. A round of betting follows. There is no limit on the amount a player can bet at any time. Therefore, a player can bet all of his chips or move "all in" any round of betting.

- (B) "Buy In," Defined. In tournament style Texas Holdem all players who play in the tournament pay the same exact "buy in" fee. The tournament winners split up the "buy" in fee as the winnings pursuant to terms agreed upon before the tournament begins. No other winnings or compensation to the players is permitted other than the "buy in" fees. No more than two "buy in" fees are permitted, one during the initial "buy in" for participation in the tournament, and a second "buy in" optional with the Tournament Organizer for players during the tournament. The buy in fee is limited as set forth in Section 5.258(9)(1).
- (C) In addition to the buy in fee described in Section 5.258(2)(B) the Tournament Organizer (not the House) may charge a fee of not to exceed \$5 per player for each tournament.
- (D) Springfield Social Gaming Code, other Definitions. Unless the context requires otherwise, all terms set forth in this Ordinance shall have the same meaning as set forth in ORS 167.117.

(3) License Required for Social Games. Any person(s), business, private club, non-profit organization or place of public accommodation desiring to permit patrons or invitees to engage in a Texas Holdem Poker Card Tournaments within the City of Springfield and any Tournament Organizer shall acquire and maintain a valid license from the City. Licenses shall be granted only upon application to the City and upon approval of the City Manager's office. Licenses shall be renewed annually not later than July 1 of each year; provided further, that there shall be no prorating of any license fee for license applications made at other times throughout the year.

(4) Application for License and Investigation (Application Requirements). Before License for a Texas Holdem Poker Card Tournaments may be granted by the City Manager's office, applicant must submit an application for license to the City Manager's office with the following information and allow investigation to be made there upon. A completed applicant form must include the true names, dates of birth, social security numbers and addresses of all persons financially interested in the business and/or all persons who are either on the Board of

Directors of or hold offices in the entity or organization. The term "persons financially interested in the business" shall include all persons who share in the profits of the business or in social gaming activities located, on the basis of gross or net revenue, including landlords, lessors, lessees, any owners of the building, fixtures or equipment used in the social game. The application shall also include names, dates of birth, social security numbers and addresses of all tournament sponsors if different from person financially interested in the business.

(5) Application Renewal. The grantee of the Social Gaming License must notify the City Manager's office within 10 days of any change in persons financially interested in the business, or in the names of any persons who are either on the Board of Directors of or hold offices in the entity or organization and request a renewal of its license. At the time of such request, the applicant shall submit the information required by Section 4 regarding Application Requirements.

(6) License Fee. For each business or other entity or organization license (including Tournament Organizer), an annual \$100 fee shall be required. The City Council of the City of Springfield may modify this fee at any time.

(7) Standards for Issuance of License. The City Manager's office shall either approve the application and grant the license applied for, or deny the application and refuse to grant the license. The license shall not be granted, or if so be temporarily revoked or suspended, if any applicant or any person(s) financial interest in the business, entity or organization have:

- (a) Supplied any false or misleading information in the application or omitted any request of information from the application;
- (b) Pled no contest or have been convicted of any felony within the last 10 years;
- (c) Had a license in her/his name revoked or suspended three times by the Oregon Liquor Control Commission (OLCC), either of which was in the last five years;
- (d) Been convicted and is currently on parole for any crime involving or related to gambling;
- (e) Had two or more convictions within five years for gambling-related activities; or
- (f) Violated any provision of this Ordinance.

(8) License not Transferrable. No license shall be assigned or transferred; any such attempt shall void the license.

(9) Responsibilities of Licensee. It shall be the responsibility of the Licensee to insure that:

- (a) No form of unlawful gambling is permitted upon the licensed

- premises;
- (b) Texas Holdem Poker Card Tournaments are conducted consistent with the provisions of state law, city ordinances and this section including the limit section below;
 - (c) Limitations: there shall be no house player, house bank, house dealer, house odds, and there shall be no house income from the operation or (buy in fees) of the Texas Holdem Poker Card Tournaments.
 - (d) There are to be no off premises signs advertising gambling, card playing or social games. Advertisement in print or air wave media is authorized;
 - (e) The playing of social games shall be so arranged as to provide equal access and visibility to any interested party. The buy in fee for each player must be the same amount per tournament;
 - (f) No person under 18 years of age shall be permitted to participate in the social game;
 - (g) No charge, other than a "buy in" fee shall be collected from a player for the privilege of participating in a game;
 - (h) No player shall be charged a price for any consumer goods which is higher or lower than the price charged to non-participants, or that is normally charged;
 - (i) A copy of this chapter, SMC Section 5.258, "The Springfield Social Gaming Code/Texas Holdem Poker Card Tournament," and the Social Gaming License of the license holder shall be posted in a conspicuous place near the area where the games are to be played;
 - (j) The room or enclosure where the tournaments take place is open to free and immediate access by law enforcement officers. Doors leading into the room or enclosure remain unlocked during all hours of operation;
 - (k) Tournaments are to be conducted in the normal operating hours of any private business, private club or in a place of public accommodation. Furthermore, no social game is to be conducted between the hours of 2:00 a.m. and 10:00 a.m. on any day;
 - (l) Buy in Limitation. No tournament may charge a player a total "buy in" fee, greater than \$100 in a 24-hour period. No other winnings or compensation to the players is permitted other than the "buy in" fee.
 - (m) In a Texas Holdem Poker Card Tournament no more than two "buy in" fees are permitted per player, per tournament, one during the initial buy in for participation and the tournament, and a second "buy in" optional with the Tournament Organizer for players during the tournament. The total sum of one or two "buy ins" may not be greater than \$100 for any single player in a 24-hour period.

(10) Tournament Format Required. All Texas Holdem Poker Card Tournament social games shall utilize a tournament format. A tournament format shall include the following:

- (a) A fee to the Tournament Organizer not to exceed \$5 per person;
- (b) A set "buy in" fee;
- (c) Players and card game shall receive in-game currency represented by chips (poker-type) which shall be non-redeemable;
- (d) Participants shall compete for awards corresponding to a participant's relative standing at the conclusion of the tournament;
- (e) All fees and monies taken in for the tournament shall be paid back to the contestants at the conclusion of the tournament; and, therefore the "house" licensee, private business owner, manager, Tournament Organizer, etc., shall take no part of the "buy in" from the tournament players as profit or expenses, etc.

(11) Terms of the License. All licenses issued hereunder shall be for a period of one year and shall be renewed on the first business day of January of each year thereafter. Licenses are not transferrable and must be reapplied for at least 30 days prior to the renewal date each year, accompanied by the appropriate fee. All persons securing a license after the first business day of January each year shall be required to pay an annual fee of \$100. All renewals shall be approved by the City Manager's office.

(12) Revocation of License. A license is subject to revocation at any time for violation of this Ordinance or any provisions of state law related to gambling. If at any time facts arise or become known to the City Manager's office which are sufficient to show the violation of this Ordinance or state law, the City Manager's office shall notify the licensee in writing that the license is to be revoked and that all social gaming activities must cease within 10 days. The violations need not lead to a conviction, but must establish a reasonable doubt about the "licensee's ability to perform the license activity without danger to property or public health or safety or violation of this Ordinance." The Notice of Revocation shall state the reasons for the revocation, set a period of not less than 30 days before social gaming activities can recommence and inform the licensee of the procedures for filing an appeal.

(13) Suspension of License. Upon determining that a licensed activity presents an immediate danger to persons or property, or that a license holder is in violation of any provisions of state law related to gambling or violation of this Ordinance, the City Manager may suspend the license for the Social Gaming activity. The suspension shall take effect immediately upon notice being receiving by the licensee, or being delivered to the licensee's business address as stated on the licensee's application for the license that is being suspended. The

notice shall be mailed to the licensee and state the reason for the suspension and inform the licensee of the procedures for filing an appeal. The City Manager may continue the suspension for as long as the reason for the suspension exists, or until a decision is made by the appellate authority on appeal regarding the suspension concludes the matter.

(14) Appeals. Appeals of Revocation or Suspension shall be made to the City Manager of the City of Springfield. Upon decision by the City Manager a final appeal regarding suspension or revocation of the license will be to the Springfield City Council. The person whose license is being suspended or revoked will have the opportunity to present her/his side to the Springfield City Council for final decision at an open public Council Meeting.

(15) Penalty. In addition to the suspension or revocation by the City Manager of any license hereunder, any licensee, firm, corporation, business, association or person(s) associated with the licensee who violates any provision of this Ordinance, may upon conviction, be fined in the amount not to exceed \$500 for each violation. Upon conviction a license may be revoked by the Springfield Municipal Court. Each day that a violation is permitted to occur may be considered a separate violation and a separate penalty may be applied."

Section 3. Savings Clause.

If any section, subsection, provision, clause or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance, and it is hereby expressly declared that every other section, subsection, provision, clause or paragraph of this Ordinance enacted, irrespective of the enactment or validity of the portion hereof declared to be unconstitutional or invalid, is valid.

Section 4. Periodic Review.

This Ordinance shall be reviewed by the City Council on or about six months from the date this Ordinance takes effect.

Section 5. Emergency.

It is hereby found and determined that matters relating to the conduct of Texas Holdem Poker Card Tournaments in a controlled, fair and lawful manner is a matter affecting the public health, safety and welfare and that an emergency exists and therefore this Ordinance shall take effect upon adoption by the Council and approval by the Mayor.

Adopted by the Common Council of the City of Springfield this ____ day of _____, 2005, by a vote of _____ in favor _____ against.

Approved by the Mayor of the City of Springfield this ____ day of _____, 2005.

Mayor, Sid Leiken

ATTEST:

City Recorder, Amy Sowa

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