Revisions highlighted in yellow

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 13-____

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE TO ADOPT SUBCHAPTER AUTHORIZING SOCIAL GAMING, SUBJECT TO SPECIFIED CONDITIONS.

WHEREAS, currently the Tigard Municipal Code does not contain provisions relating to the regulation of "social gaming"; and

WHEREAS, ORS 167.121 allows cities to authorize the playing or conducting of a social game in a private business, private club, or place of public accommodation; and

WHEREAS, the Tigard Police Department requests clarification from the City Council on whether they wish to authorize social games in Tigard; and

WHEREAS, the City Council finds that it is in the public interest to amend the Tigard Municipal Code to include a new chapter to set forth terms, rules, regulations, and responsibilities of involved parties, authorizing social games.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1. The Tigard Municipal Code is hereby amended to include and incorporate a new Chapter 5.22 Social Games, attached hereto as Exhibit A.

SECTION 2. This ordinance shall be effective from and after thirty (30) days following its passage and approval by the Mayor.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2013.

_____
Catherine Wheatley, City Recorder

APPROVED: Approved by Tigard City Council this _____ day of _____, 2013.

_____
John L. Cook, Mayor

Approved as to form:

_____
City Attorney

_____
Date

Revisions highlighted in yellow

EXHIBIT "A"

Chapter 5.22 - SOCIAL GAMES

Sections:

5.22.010 Definitions
5.22.020 Social Games – Authorization and Conditions
5.22.030 Responsibilities of Owner and Person in Charge
5.22.040 Inspection of Social Games Premises
5.22.050 Notice of Social Games Required
5.22.060 License; License Fee; Civil Penalties
5.22.070 Appeal Process for License Denial
5.22.080 Appeal Process for Assessment of Fine

5.22.010 Definitions

As used in this chapter,

A. *CHIEF OF POLICE* or *CHIEF* means the chief of the Tigard police department or designee.

B. *SOCIAL GAME* means a game, other than a lottery, between players in a private business, private club or place of public accommodation (such business, club or place of public accommodation collectively referred to herein as, "Business") where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

5.22.020 Social Games – Authorization and Conditions

Social games as defined in Section 5.22.010 of this chapter are allowed only when each of the following conditions is met:

A. The owner of the business where social games are being played holds a current, valid license to play social games issued by the City;
B. No house player, house bank, or house odds exist;
C. There is no house income from the operation of a social game;
D. A Business may not charge an entrance or access fee of any kind, including but not limited to a cover charge or door fee, on days when social games are being played in the Business.
E. The social game cannot be observed from a public right of way;
F. Persons under 21 years of age are not permitted in the room or enclosure where the social game takes place;
G. The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation;
H. No owner or "principal managing employee", as described in more detail below, shall participate in any social game on the premises;

I. A charge for consumer goods sold on the premises to an individual playing a social game must not be higher or lower than the price charged to a non-participant in the social game;
J. No owner or principal managing employee may accept any payment, fee, service or gratuity from a social game participant as consideration for participation in the social game on the premises;
K. No owner or principal managing employee may charge a rental or lease fee for the use of the social game;
L. At no point in time may a social game be conducted without an owner or principal managing employee present;
M. No membership fee or cover fee may be charged for participation in the social game; and
N. All social gaming activities and the business where social gaming is permitted must comply with applicable federal, state and local laws and regulations.

5.22.030 Responsibilities of Owner and Person in Charge

An owner or person in charge of a business where social gaming is permitted shall:

A. Clearly designate the areas set aside for social gaming.
B. Designate an agent or employee to act as person in charge of a social gaming premise whenever social games are being played. An owner shall be strictly liable for any violation of this chapter which occurs when no person in charge is present at the social gaming premises.
C. Be strictly liable for any violation of the provisions of this chapter by a person in charge, agent, employee or designate.
D. Limit hours of operation of social gaming activities on the premises to those hours during which the primary business is open.
E. Limit social gaming activities to no more than 50% (Fifty percent) of the floor area of the premises. Social gaming may occur 7 days per week. For purposes of this provision, "floor area" means gross floor area excluding areas such as kitchen, storage, restrooms, hallways, mechanical spaces, elevators, stairwells and loading docks.

5.22.040 Inspection of Social Games Premises

All persons who authorize social games on premises owned or managed pursuant to this Chapter shall permit entry to premises to any member of the Police Department, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with Tigard Municipal Code.

5.22.050 Notice of Social Games Required

Where social games are conducted, each owner or person in charge of the premises shall continuously and conspicuously post notice that is clearly readable and in letters at least one inch high that such games must be conducted in accordance with the conditions set forth in Section 5.22.020 which shall be listed in their entirety. The form and content of the notice required pursuant to this section shall be as approved by the chief to assure uniformity of notices in establishments allowing social gaming.

5.22.060 License; License Fee; Civil Penalties

Application for an annual social gaming license shall be made to the Police Chief. The Chief may assess a license fee of One Hundred ($100) dollars per year. The social gaming license fee is due in full every January 1st. If a business applies for a social gaming license at any time on or after July 1st, the fee for such license shall be equal to one-half the license fee.

The Chief may assess a fine for operating without a license of Five Hundred ($500) dollars for the first violation for each year, and a subsequent violation will result in a fine of One Thousand ($1,000) dollars.

Violations for all other offenses of this subchapter are One Hundred ($100) for the first offense each calendar year; Two Hundred Fifty ($250) for the second offense; Five Hundred ($500) for the third offense and One Thousand ($1,000) for all additional violations during the same calendar year.

5.22.070 Appeal Process for License Denial

In the event the Chief of Police denies an applicant a social gaming license, the Chief of Police shall first notify the applicant in writing of his intent to deny the license within three (3) working days of receipt of the application. The notification shall include the reason(s) for the denial and a date and time within the next five (5) working days to hear the applicant's appeal, if any. The applicant shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the Chief of Police for a denial. The hearing shall be administrative in nature and held before the Chief of Police. Rules of evidence shall not apply. Upon completion of the hearing, the Chief of Police shall make finding and shall mail the final decision to the applicant within three (3) working days of the hearing date.

5.22.080 Appeal Process for Assessment of Fine

In the event the Chief of Police assesses a business owner with a fine, the Chief of Police shall notify the business owner in writing of the fine assessment. The notification shall include the reason(s) for the fine assessment and a date and time within the next five (5) working days to hear the business owner's appeal, if any. The business owner shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the Chief of Police for a denial. The hearing shall be administrative in nature and held before the Chief of Police. Rules of evidence shall not apply. Upon completion of the hearing, the Chief of Police shall make finding and shall mail the final decision to the business owner within three (3) working days of the hearing date.

Revisions highlighted in yellow

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 13-____

AN ORDINANCE AMENDING TIGARD MUNICIPAL CODE TO ADOPT SUBCHAPTER AUTHORIZING SOCIAL GAMING, SUBJECT TO SPECIFIED CONDITIONS.

WHEREAS, currently the Tigard Municipal Code does not contain provisions relating to the regulation of "social gaming"; and

WHEREAS, ORS 167.121 allows cities to authorize the playing or conducting of a social game in a private business, private club, or place of public accommodation; and

WHEREAS, the Tigard Police Department requests clarification from the City Council on whether they wish to authorize social games in Tigard; and

WHEREAS, the City Council finds that it is in the public interest to amend the Tigard Municipal Code to include a new chapter to set forth terms, rules, regulations, and responsibilities of involved parties, authorizing social games.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1. The Tigard Municipal Code is hereby amended to include and incorporate a new Chapter 5.22 Social Games, attached hereto as Exhibit A.

SECTION 2. This ordinance shall be effective from and after thirty (30) days following its passage and approval by the Mayor.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2013.

_____
Catherine Wheatley, City Recorder

APPROVED: Approved by Tigard City Council this _____ day of _____, 2013.

_____
John L. Cook, Mayor

Approved as to form:

_____
City Attorney

_____
Date

Revisions highlighted in yellow

EXHIBIT "A"

Chapter 5.22 - SOCIAL GAMES

Sections:

5.22.010 Definitions
5.22.020 Social Games – Authorization and Conditions
5.22.030 Responsibilities of Owner and Person in Charge
5.22.040 Inspection of Social Games Premises
5.22.050 Notice of Social Games Required
5.22.060 License; License Fee; Civil Penalties
5.22.070 Appeal Process for License Denial
5.22.080 Appeal Process for Assessment of Fine

5.22.010 Definitions

As used in this chapter,

A. *CHIEF OF POLICE* or *CHIEF* means the chief of the Tigard police department or designee.

B. *SOCIAL GAME* means a game, other than a lottery, between players in a private business, private club or place of public accommodation (such business, club or place of public accommodation collectively referred to herein as, "Business") where no house player, house bank or house odds exist and there is no house income from the operation of the social game.

5.22.020 Social Games – Authorization and Conditions

Social games as defined in Section 5.22.010 of this chapter are allowed only when each of the following conditions is met:

A. The owner of the business where social games are being played holds a current, valid license to play social games issued by the City;
B. No house player, house bank, or house odds exist;
C. There is no house income from the operation of a social game;
D. A Business may not charge an entrance or access fee of any kind, including but not limited to a cover charge or door fee, on days when social games are being played in the Business.
E. The social game cannot be observed from a public right of way;
F. Persons under 21 years of age are not permitted in the room or enclosure where the social game takes place;
G. The room or enclosure where the social game takes place is open to free and immediate access by any police officer. Doors leading into the social game room must remain unlocked during all hours of operation;
H. No owner or "principal managing employee", as described in more detail below, shall participate in any social game on the premises;

I. A charge for consumer goods sold on the premises to an individual playing a social game must not be higher or lower than the price charged to a non-participant in the social game;
J. No owner or principal managing employee may accept any payment, fee, service or gratuity from a social game participant as consideration for participation in the social game on the premises;
K. No owner or principal managing employee may charge a rental or lease fee for the use of the social game;
L. At no point in time may a social game be conducted without an owner or principal managing employee present;
M. No membership fee or cover fee may be charged for participation in the social game; and
N. All social gaming activities and the business where social gaming is permitted must comply with applicable federal, state and local laws and regulations.

5.22.030 Responsibilities of Owner and Person in Charge

An owner or person in charge of a business where social gaming is permitted shall:

A. Clearly designate the areas set aside for social gaming.
B. Designate an agent or employee to act as person in charge of a social gaming premise whenever social games are being played. An owner shall be strictly liable for any violation of this chapter which occurs when no person in charge is present at the social gaming premises.
C. Be strictly liable for any violation of the provisions of this chapter by a person in charge, agent, employee or designate.
D. Limit hours of operation of social gaming activities on the premises to those hours during which the primary business is open.
E. Limit social gaming activities to no more than 50% (Fifty percent) of the floor area of the premises. Social gaming may occur 7 days per week. For purposes of this provision, "floor area" means gross floor area excluding areas such as kitchen, storage, restrooms, hallways, mechanical spaces, elevators, stairwells and loading docks.

5.22.040 Inspection of Social Games Premises

All persons who authorize social games on premises owned or managed pursuant to this Chapter shall permit entry to premises to any member of the Police Department, upon presentation of official identification, for the limited purpose of inspecting the premises and any activities, records, or devices involved in such games to ensure compliance with Tigard Municipal Code.

5.22.050 Notice of Social Games Required

Where social games are conducted, each owner or person in charge of the premises shall continuously and conspicuously post notice that is clearly readable and in letters at least one inch high that such games must be conducted in accordance with the conditions set forth in Section 5.22.020 which shall be listed in their entirety. The form and content of the notice required pursuant to this section shall be as approved by the chief to assure uniformity of notices in establishments allowing social gaming.

5.22.060 License; License Fee; Civil Penalties

Application for an annual social gaming license shall be made to the Police Chief. The Chief may assess a license fee of One Hundred ($100) dollars per year. The social gaming license fee is due in full every January 1st. If a business applies for a social gaming license at any time on or after July 1st, the fee for such license shall be equal to one-half the license fee.

The Chief may assess a fine for operating without a license of Five Hundred ($500) dollars for the first violation for each year, and a subsequent violation will result in a fine of One Thousand ($1,000) dollars.

Violations for all other offenses of this subchapter are One Hundred ($100) for the first offense each calendar year; Two Hundred Fifty ($250) for the second offense; Five Hundred ($500) for the third offense and One Thousand ($1,000) for all additional violations during the same calendar year.

5.22.070 Appeal Process for License Denial

In the event the Chief of Police denies an applicant a social gaming license, the Chief of Police shall first notify the applicant in writing of his intent to deny the license within three (3) working days of receipt of the application. The notification shall include the reason(s) for the denial and a date and time within the next five (5) working days to hear the applicant's appeal, if any. The applicant shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the Chief of Police for a denial. The hearing shall be administrative in nature and held before the Chief of Police. Rules of evidence shall not apply. Upon completion of the hearing, the Chief of Police shall make finding and shall mail the final decision to the applicant within three (3) working days of the hearing date.

5.22.080 Appeal Process for Assessment of Fine

In the event the Chief of Police assesses a business owner with a fine, the Chief of Police shall notify the business owner in writing of the fine assessment. The notification shall include the reason(s) for the fine assessment and a date and time within the next five (5) working days to hear the business owner's appeal, if any. The business owner shall have the right to be heard and to present witnesses and evidence purporting to refute the reasons given by the Chief of Police for a denial. The hearing shall be administrative in nature and held before the Chief of Police. Rules of evidence shall not apply. Upon completion of the hearing, the Chief of Police shall make finding and shall mail the final decision to the business owner within three (3) working days of the hearing date.