

RESOLUTION NO. 2023-182

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CHULA VISTA APPROVING AMENDMENTS TO THE
CHULA VISTA GAMING PLAN TO AUTHORIZE LICENSEES
TO HOLD MORE THAN TWO CITY LICENSES, SUBJECT TO
THE MAXIMUM NUMBER OF CITY LICENSES ALLOWED
BY LAW

WHEREAS, licensed cardrooms in the City are subject to the requirements of the Chula Vista Gaming Plan, adopted by resolution; and

WHEREAS, section 2.6.3 of the Chula Vista Gaming Plan currently provides that a cardroom licensee may hold no more than two licenses, which are deemed consolidated; and

WHEREAS, the City Council desires to amend the Gaming Plan to allow licensees to hold additional licenses, up to the maximum allowed under section 5.30.030 of the Chula Vista Municipal Code; and

WHEREAS, the Police Department has no other material concerns with security issues that might arise from the proposed changes to the Gaming Plan; and

WHEREAS, as required by Chula Vista Municipal Code Section 5.20.001 and Gaming Plan Section 5.3, before City Council action on the proposed Gaming Plan amendment, a public hearing was properly noticed and held, and the City Council considered the proposed amendment and all testimony presented with respect thereto; and

WHEREAS, the Development Services Director has reviewed the proposed project for compliance with the California Environmental Quality Act (CEQA) and has determined that the proposed amendment qualifies for a Class 1 Categorical Exemption pursuant to 15301 (Use of Existing Facilities) of the State CEQA Guidelines. The proposed amendment consists of negligible or no expansion of an existing use. In addition, the Development Services Director has determined that there is no possibility that the activity may have a significant effect on the environment; therefore, pursuant to Section 15061(b)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Chula Vista as follows:

1. The proposed amendments to the Chula Vista Gaming Plan attached hereto as Exhibit A to this Resolution, with changes presented in underline strikeout format, are hereby adopted, with such minor changes as may be required or approved by the City Attorney, a copy of which shall be kept on file with the City Clerk.
2. Licensee rights under the Gaming Plan are contingent upon receiving any and all required approvals from the California Department of Justice Division of Gambling Control.

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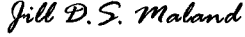
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Presented by

Approved as to form by

DocuSigned by:

 2FC55998BD74C4...
 Eric C. Crockett
 Deputy City Manager/Director of Economic
 Development

DocuSigned by:

 EFB949DC9B5747E...
 Jill D.S. Maland
 Lounsbury Ferguson Altona & Peak
 Acting City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 14th day of November 2023 by the following vote:

AYES: Councilmembers: Chavez, Gonzalez, Preciado, and McCann
 NAYS: Councilmembers: None
 ABSENT: Councilmembers: Cardenas

DocuSigned by:

 7804EC23B90B473...
 John McCann, Mayor

ATTEST:

DocuSigned by:

 3074D104FAE342E...
 Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO)
 CITY OF CHULA VISTA)

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Resolution No. 2023-182 was duly passed, approved, and adopted by the City Council at a regular meeting of the Chula Vista City Council held on the 14th day of November 2023.

Executed this 14th day of November 2023.

DocuSigned by:

 3074D104FAE342E...
 Kerry K. Bigelow, MMC, City Clerk

Exhibit A

CHULA VISTA GAMING PLAN
[Adopted November 14, 2023]

In accordance with Chapter 5.20 of the Chula Vista Municipal Code (the "Gaming Code"), this document shall serve as the gaming plan for the operation of Cardrooms within the City of Chula Vista (the "Gaming Plan"). This Gaming Plan was originally adopted on February 13, 1996, after a public hearing, pursuant to city council Resolution No. 18212. The Gaming Plan has been amended as follows: (1) on January 13, 1998 pursuant to Resolution No. 18862; (2) on November 10, 1998 pursuant to Resolution No. 19251; (3) on September 26, 2000, pursuant to Resolution No. 2000-332; (4) on October 6, 2009, pursuant to Resolution No. 2009-238; (5) on March 14, 2012, pursuant to Resolution No. 2012-047; (6) on March 3, 2015, pursuant to Resolution No. 2015-056; (7) on April 11, 2017, pursuant to Resolution No. 2017-0128, and (8) on July 23, 2019, pursuant to Resolution No. 2019-143. The modifications contained in such amendments shall be deemed effective as of the dates of their adoption.

Effective upon its adoption, this Gaming Plan implements, in its entirety, Subchapter 2 of the Gaming Code relating to Cardrooms. Pursuant to Subchapter 1, Section 5.20.004, of the Gaming Code any inconsistency between the Gaming Code and the Gaming Plan shall be governed by the provisions of the Gaming Plan. Except to the extent that this Gaming Plan expressly modifies or is otherwise inconsistent with the Gaming Code, the Gaming Code shall remain in full force and effect.

This Gaming Plan is intended to deal only with the subject of Cardrooms. No other types of gaming permitted by the Gaming Code, shall be governed hereby. To be permitted, such other types of gaming must be the subject of further action by resolution of the City Council to amend or add to this Gaming Plan.

This version of the Gaming Plan is adopted and effective as of November 14, 2023 pursuant to City Council Resolution No. _____.

CARDROOMS

1. Cardroom Defined.

For the purpose of this Gaming Plan, a "cardroom" is defined to be any space, room, or enclosure furnished or equipped with a table or tables used or intended to be used, either exclusively or in conjunction with another business or activity, as a card table for the playing of cards and similar games, and the use of which is available to the public.

2. Licensing.

2.1 License Required to Operate Cardroom - Individual Licensees Must be 21 Years or Older.

A license from the City issued pursuant to this Gaming Plan, is required for any person, group of persons, partnership, corporation, or any other entity or organization (each a "Person"

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hereinafter] to engage in or carry on, or to maintain or conduct, or cause to be engaged in, carried on, maintained or conducted, any cardroom in the City. Any such activity conducted without such a license, or otherwise in non-compliance with the terms of this Gaming Plan, the Gaming Code, or any and all other applicable federal, state and local laws and regulations shall be unlawful. No license shall be issued to any individual Person under the age of twenty-one years.

2.2 Number of Licenses Permitted - Existing Licenses.

The number of licenses authorized to be issued or held, in the aggregate, under the provisions of this Gaming Plan shall be limited, based upon the population of the City according to the certified determination thereof by the state department of finance. All such licenses shall be issued and held in accordance with the provisions of this Gaming Plan; provided, however, any Person holding a license or licenses to conduct cardroom operation upon the effective date of this Gaming Plan may continue to hold such license or licenses subject to the terms and conditions set forth herein. For purposes of determining the number of licenses which are authorized to be issued by the City hereunder, any two licenses which are "consolidated" pursuant to Section 2.6 hereof shall still be treated as being two separate licenses counted against the total number authorized under state law, and shall be entitled to all rights, benefits, and restrictions as if the licenses were held separately, both under state law and the terms of this Gaming Plan.

2.3 Two Types of Gaming Classifications.

2.3.1 **In General.** There shall be two types of cardroom licenses: Category I and Category II. The characteristics, rights, obligations and limitations attributable, respectively, to a Category I or Category II licenses are set forth throughout this Gaming Plan. Subject to all such provisions, in general,

(a) a Category I license shall permit the playing of all games available for licensure through the Office of the Attorney General, except games involving "back-line" betting; and

(b) a Category II license shall permit the playing of all games permitted under a Category I license and shall also permit games involving back- line betting. "Back-line" betting card games are card games which allow a player not seated at a cardroom table, but standing adjacent to the table, to bet on a hand being played by a player seated at that table. Subject to state and local law, multiple "back-line" betters may be allowed to participate in any one game.

2.3.2 All licenses issued by the City shall initially be Category I licenses. In order to obtain a Category II license, the applicant (a) must have continuously operated a cardroom that plays Category I games for a period of three (3) years; and (b) must apply with the City and receive prior approval from the City for such conversion in accordance with the application procedures set forth in Section 2.4 hereof, below.

2.4 Application/Issuance Procedure.

2.4.1 **In General.** Any Person desiring a cardroom license must submit an application to the chief of police. The application shall be on a form issued by, or otherwise

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approved in advance by, the chief of police. Such application shall include, in addition to any other information required by the chief of police, (a) the true names and addresses of any and all Persons currently, or contemplated to have a "financial interest" in the cardroom operation proposed to be licensed; (b) the past criminal record, if any, of any and all such Persons; (c) the fingerprints of any and all such Persons; (d) the proposed location of the cardroom; and (e) a non-refundable fee, as presently designated, or as may in the future be amended, in the Master Fee Schedule, to cover the cost of processing the application and of any required investigation of the applicant. Upon the issuance of a cardroom license, the chief of police may authorize the refund of the investigation portion of the application fee to any Persons who were not subject to investigations.

2.4.2 Approval Required. Any and all proposed cardroom licensees must receive (a) prior written approval of the chief of police, which approval may be withheld in the sole discretion of the chief of police, (b) approval by the State of California Division of Gambling Control; and (c) the ratification of the City Council, which ratification may be withheld in the sole discretion of the City Council. Such approval and/or ratification may be conditioned as the acting parties deem appropriate, and may be based, but is not required to be based, entirely or in part on the assessment by the chief of police or, as applicable, the City Council, of the character of the proposed licensee, or on the opinion of the approving or ratifying entity, that there appears to be good cause why such Person should or should not operate a cardroom. Notwithstanding the foregoing in the event of a transfer directly caused by the death or divorce of a Person holding a financial interest in a license, the "prior approval" requirement, above, shall be amended to require that approval of the resulting transferee be obtained by no later than sixty (60) days following the death or divorce causing such transfer. The time limit may be extended provided the resulting transferee has submitted its application and such additional information as may have been requested with the licensing authorities in a timely fashion.

2.4.3 For purposes of this Section 2.4 and the Gaming Plan, the term "financial interest" shall mean any and all direct or indirect ownership, creditor or other interests, in a cardroom license, the cardroom business operated thereunder, the assets thereof, or the revenues generated thereby.

2.4.3.1 Such an interest shall include, without limitation, any and all interests held by building owners, landlords, tenants, equipment or fixtures owners, lessors or lessees, creditors, lenders or guarantors related in any way to the ownership, financing or operation of the cardroom; and (b) a parent, spouse, sibling or child of an individual Person holding a direct, majority or controlling ownership interest in a license or cardroom shall also be deemed the holder of a "financial interest" for purposes of this Section and this Gaming Plan.

2.4.3.2 The City shall decide, in its sole discretion, whether a particular circumstance or transaction falls within the scope of the definition of a "financial interest" that requires submission of an application to the chief of police and approval by the Council for separate licensure.

2.4.4 Any new or revoked cardroom license otherwise qualified for issuance

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may be issued during the period of May 1 through June 30 following the availability or revocation date of such a license. After the expiration of this period no further licenses shall be issued until the following May 1 through June 30 period. In the event that there are applications in excess of the number of licenses available in accordance with the limitations set forth in Section 2.2 hereof, a license may be issued to the most qualified of such applicants in accordance with a procedure established by the City. Notwithstanding the foregoing, the City shall decide, in its sole discretion, as to whether to issue any cardroom license authorized hereunder, and whether or how to condition such an issuance; furthermore, the City reserves the right, for any reason whatsoever, to reject any and all applications for a cardroom license hereunder.

2.5 Transfers.

2.5.1 **In General.** Any license issued pursuant to this Gaming Plan, a cardroom operated thereunder, or any direct or indirect interest therein, may only be transferred in accordance with the terms and conditions of this Section 2.5. Transfers governed by this section shall include, without limitation, any and all sales, leases, conveyances, assignments, grants, pledges, gifts, devises, donations and/or similar transfers by a Person of any or all of such Persons, direct or indirect, ownership interest in a license or cardroom operated thereunder, or "financial interest" in a license or cardroom operated thereunder, as such concept is defined in Section 2.4.3 hereof.

2.5.1.1 Such transfers shall include, without limitation, (a) a transfer of all or any shares by a shareholder in a corporate licensee; (b) the transfer of all or any partnership interest by a partner in a partnership licensee; (c) the transfer of all or any portion of a controlling shareholder or partnership interest in an entity which itself holds a direct or indirect ownership or financial interest in a license or cardroom; and (d) a transfer of a substantial portion of the assets of a Person holding a license or a cardroom operated thereunder.

2.5.1.2 Such transfers shall not include (a) corporate structure reorganization where the individuals involved in the ownership and their respective percentage interests do not change; (b) transfer of ownership interest for estate planning purposes where the trustee is the same as the current licensed owner; or (c) such other situation that is similar to those described above that the City deems to be immaterial.

2.5.2 **Application Required.** Any applicant seeking a license transfer must comply with all of the application and approval requirements set forth in Section 2.4.

2.5.3 **Three Years Operation Required Before Transfer.** With the exception of those licenses which have been issued prior to September 1, 1992, no license may be transferred unless and until the holder thereof has been operating a cardroom governed by such license for three (3) years at a fixed location in the City. Licenses issued prior to September 1, 1992 may not be transferred unless and until the holder thereof has been operating a cardroom governed by such license for one (1) year at a fixed location within the City.

2.5.4 **Non-Complying Transfers.** In the event of a purported transfer of a license that does not comply with the terms of this Section, the purported transferor shall be subject to monetary penalties as provided in Section 4.2 hereof. The purported transferee shall

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have no rights to operate a cardroom in the City under the authority of such license. The license involved shall be subject to revocation by the City as provided in Section 4.3 hereof; and (d) the transfer may otherwise be declared null and void.

2.5.5 Special Rules for Transfers of Category II Licenses.

2.5.5.1 Except as otherwise provided herein, upon the transfer, either all at once or in a series of transfers, of a "material or controlling financial interest" (define below) in a Category II license, the Category II license, which is the subject of such transfer, shall immediately revert back to a Category I license. A Category II license so reverted may be converted back to a Category II license, but only in accordance with the provisions of Section 2.3.2 hereof.

2.5.5.2 Notwithstanding the foregoing, a material or controlling interest in a Category II license may be transferred without reversion of the subject Category II license to Category I status subject to the following terms and conditions:

(a) The transfer must be to a "pre-qualified transferee". For purposes of this Section, a "pre-qualified transferee" shall be defined as a Person on record with the chief of police as a Person holding a financial interest in the license, which, with the prior knowledge of the chief of police, acknowledged in writing thereby, has been substantially responsible for the management and operations of a licensed cardroom continuously for a period of three (3) years.

(b) In addition to the agreement required pursuant to Section 5.5 hereof, any pre-qualified transferee shall enter into a written agreement with the City whereby such Person, on behalf of itself, any successors or assigns thereof, and any and all parties with a financial interest in the license or the cardroom operated thereunder, agrees that (a) the Category II status of the license to be transferred thereto shall be temporary and subject to reversion to Category I status in accordance with this Section; and (b) any action taken by the City to revert the Category II license to a Category I license shall not constitute a taking of any property or other interest held by such Person(s); and (c) such Person(s) waive and agree not to pursue any and all claims or other action against the City in connection with a City decision to revert the Category II license to a Category I license.

(c) Until such time that Category II Games have been operated continuously by the pre-qualified transferee for a period of one (1) year following the effective date of the transfer of the Category II license, or such longer period as the Category II license, or such longer period as the chief of police may require (the "Temporary Category II Status Period"), the Category II status of the license shall be temporary, and therefore subject to reversion to a Category I license upon a determination by the chief of police, in his/her sole discretion, for any or no reason whatsoever, that the transferee should be required to first operate as a Category I licensee prior to being permitted to operate as a Category II licensee in accordance with the terms and conditions of Section 2.3.2 hereof. Such determination may be made at any time within thirty (30) days after the expiration of the Temporary Category II Status Period.

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(d) Pre-qualification of a potential transferee hereunder shall not constitute City approval of a transfer to such potential transferee and any such transfer shall remain subject to the provisions of Section 2.5 hereof.

2.5.5.3 For purposes of this Section, the City shall determine, in its sole discretion, what constitutes a "material or controlling financial interest" provided; however, in general, a transfer of a financial interest for purposes of pre-qualifying a Person under Section 2.5.6.2 shall not be considered the transfer of a "material or controlling financial interest".

2.5.6. Except as otherwise provided herein, upon the transfer, either all at once or in a series of transfers, of a material or controlling financial interest in a license or the cardroom operated thereunder, the holder of the license, which is the subject of such transfer shall be considered to be new holder of such license subject to any and all provisions hereunder applicable thereto.

2.5.7. Full Cost Recovery for Administrative Costs Associated With Transfer. Any person submitting an application for transfer of a license shall be responsible for payment to the City of all actual administrative costs incurred by the City including the cost of staff time, at the City's full cost recovery rate, associated with the investigation of the application for a license transfer and review of transfer documents. The chief of police shall estimate the cost of City staff and other administrative costs in connection with an application and the Person shall deposit such amount at the time of submitting the application for license transfer to the chief of police. If actual costs incurred exceed the initial deposit the chief of police may require the applicant to make additional deposits to offset costs incurred or to be incurred by the City. If the amount estimated is in excess of the cost incurred, the difference will be refunded to the applicant at the end of the City's review.

2.6 Consolidation.

2.6.1 **In General.** Notwithstanding any other section of this Gaming Plan to the contrary, the holder of a Category I or Category II license may acquire additional Category I or Category II licenses, subject to the consolidation rules and procedures of this Section 2.6. A licensee is permitted to acquire as many licenses as are legally allowed in the City pursuant to Municipal Code section 5.20.030, taking into account licenses already held by others.

2.6.2 **Required Qualifications/Procedures.** In order to acquire an additional license, an existing license holder {a) must have continuously operated a cardroom under its existing license within the City for a period of three (3) years at a fixed location; and (b) must apply with the City and receive prior written approval from the City for such acquisition in accordance with the rules and procedures set forth in Section 2.4 hereof regarding the initial issuance of licenses. If the additional license is to be acquired from another existing license holder, such application shall also be made in accordance with the rules and procedures governing license transfers set forth in Section 2.5.3 hereof.

2.6.3 **Effect of Consolidation; Deemed Consolidation.** If an application for the acquisition of an additional license is granted to an applicant holding one license, the two licenses shall become "consolidated". In addition, two licenses shall be deemed to be "consolidated" in the event that the same Person holds, or comes to hold, a "financial interest"

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(as defined in Section 2.4.3 hereof) in both licenses. or the cardrooms operated thereunder. If an application for the acquisition of an additional license is granted to an applicant holding only one or more sets of consolidated licenses, the additional license shall not be consolidated. If an application for the acquisition of an additional license is granted to an applicant holding one or more sets of consolidated licenses and one unconsolidated license, the unconsolidated license held by the applicant shall be deemed to be consolidated with the new license. Under a consolidated license, the maximum number of tables permitted to be operated is twenty (20), subject to any additional or contrary terms and conditions set forth in Section 3.5 and/or other provisions of this Gaming Plan. All tables operated under a consolidated license must be operated in the same location.

2.6.4 Category I with Category II Consolidations. In the event that a Category I license is consolidated with a Category II license, the following rules shall apply: (a) if the previous owner of the Category II License retains majority ownership and control over the consolidated license, the full benefits and burdens hereunder of Category II status shall apply to all the card tables operated under such consolidated license (b) if the previous owners of the Category I License retains majority ownership and control over the consolidated license, the consolidated license shall retain Category I status and the requirements for conversion to a Category II License under Section 2.3.2 of this Gaming Plan shall continue to apply.

2.7 License Fee.

2.7.1 In General. There shall be a license fee on any licensed cardroom within the City in accordance with the terms of this Section 2.7. The license fee is for purposes of generating revenues to the general fund of the City and not for purposes of regulation. The fee shall be based upon the number of tables that are licensed by the City pursuant to the terms of this Gaming Plan that are also permitted to be operated by the City at the location where the license is being utilized pursuant to the City's land use laws and regulations. The fee shall be based upon the maximum number of tables so licensed and permitted based upon the category of license issued with respect thereto, regardless of the number of tables that may actually be operated on any given day or the category of game conducted thereon. Notwithstanding the foregoing, if the City approves new tables, but State approval is required before the operation of any such new tables, the license fee set forth below in sections 2.7.2 through 2.7.6, inclusive, with respect to such new tables, shall not go into effect until the date the required State approval is obtained.

2.7.2 Amount of Fee. The license fee to be assessed and collected on each licensed cardroom shall be the applicable "base rate" fee determined as follows:

2.7.2.1 Base Rate:

(a) **Category I:** Effective July 1, 2019 the base license fee for card tables licensed under a single, non-consolidated Category I license shall be \$3,750 per card table per quarter.

(b) **Category II:** Effective July 1, 2019 through June 30, 2020, the base license fee for each card table in a cardroom licensed to play Category II games under a Category II license shall be \$9,000 per table per annual quarter. Effective July 1, 2020 through June 30,

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2021, the base license fee for each card table in a cardroom licensed to play Category II games under a Category II license shall be \$9,540. This rate shall apply to the maximum number of tables licensed and approved to be operated at the cardroom location regardless of whether or not such tables are actively being used, and regardless of whether or not Category II games are actually being played at such tables.

(c) **Percentage Payment Structure** The base rate license fee for operation of any tables licensed by the City to the cardroom as set forth in this Gaming Plan may be converted to a license fee based upon a percentage of gross revenue generated by Licensee from the play of any game or gaming activity ("Percentage Payment Structure"). Unless otherwise specified in an amendment to the Gaming Plan, the timing of any conversion to and the specific terms of any Percentage Payment Structure shall be set forth the agreement between the parties required pursuant to Section 5.5 hereof.

2.7.3 Procedures for Payment of Fee.

2.7.3.1 **Advance Payment.** The license fee provided hereunder shall be payable quarterly in advance by no later than the day falling fifteen {15} days prior to the first day of each calendar quarter.

2.7.4 **Audit rights.** The City shall have the right to conduct an independent audit of licensee's accounting records at any time upon three (3) days prior written notice to licensee. The audit shall be performed by a party designated by the City, subject to the reasonable approval of licensee. If the City elects to conduct such an audit, the licensee shall be responsible for reimbursing City costs incurred in connection therewith. The licensee's reimbursement obligation under this Section shall not exceed \$10,000.00 per any twelve (12) month period.

2.7.5 **Fee Receipt.** The finance director shall issue a receipt for each licensed cardroom and such receipt shall be displayed on the premises during the full term for which such receipt was issued.

2.7.6 **Annual Increase in Base License Fee Rate.** The base rate license fee amounts set forth in Section 2.7 shall be increased by three percent (3%) per year. The first increase shall take effect on July 1, 2021 and each subsequent increase shall take effect on each July 1 thereafter. This annual base rate increase shall apply to all tables licensed and approved in the previous year regardless of whether or not such tables were put into service that year. Notwithstanding the above, if the Percentage Payment Structure becomes the basis to calculate the base rate license fee, then the terms of increase in such fee shall be governed by the agreement entered into pursuant to Section 5.5 hereof.

3. Operating Limitations and Conditions.

3.1 City Land Use Regulations Shall Control.

All cardrooms and card table operations shall be subject to the City's land use regulations. Notwithstanding any provision in this Gaming Plan to the contrary, no cardroom

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operations shall be permitted without the prior acquisition of any and all necessary approvals and permits from the City in connection therewith, and any cardroom operation with such approvals and permits shall operate in strict compliance with any and all terms and conditions thereof. For example, in no event shall the cardroom exceed the number of players it is restricted to in its conditional use permit based on parking limits or other imposed conditions.

3.2 Games Permitted.

3.2.1 Category I License: Subject to the terms and conditions of this Gaming Plan and the Gaming Code, the holder of a Category I cardroom license shall be permitted to operate a cardroom that conducts all card games that have been determined by the Office of the Attorney General of the State of California ("Attorney General") to be within the permissible subject of local licensing by California cities, excluding those games involving "backline betting." The games permitted under this section shall be referred to herein from time to time as "Category I Games."

3.2.2 Category II License: Subject to the terms and conditions of this Gaming Plan and the Gaming Code, the holder of a Category II cardroom license shall be permitted to operate a cardroom which conducts all card games permitted by a Category I license (as described in Section 3.2.1, above), plus those card games which involve backline betting. Such games shall be referred to herein from time to time as "Category II Games." For purposes of this Gaming Plan, back-line betting may be conducted, as that term is understood pursuant to Business and Professions Code Section 19843. If the Office of the Attorney General authorizes a new game that would fall within Category I but has not previously been played in the City, then the Licensee will simultaneously send the chief of police a copy of the application request for game approval submitted to the Office of the Attorney General. The chief of police shall provide notice within 30 days whether it would like to further review the game before it is played at the cardroom. The chief of police shall have the right to approve or disapprove any proposed new games in his/her sole discretion, and such decision shall be final. If no notice is provided, it is assumed that the game is approved to be played in the City.

3.3 Game Rules.

Except as specifically provided in this Gaming Plan, all rules for games played at a cardroom shall be governed by State law and the California Bureau of Gambling Control (the "CBGC"), the California Gambling Control Commission (the "CGCC"), or their successor entities (collectively "State Agencies"). Rules for every game allowed shall be made readily available to players and prospective players as follows: (1) in one or more binders within the cardroom; (2) on the cardroom's official website (if any); and (3) in printed fliers. In addition, each table shall identify the game currently being played using a prominently placed sign at said table. A generic game name is permissible for the table sign (i.e., California Blackjack, Pai Gow Poker, Ultimate Texas Hold'Em, etc.).

3.4 Hours and Days of Operation.

Licensed cardrooms may operate seven days per week, twenty-four hours per

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day subject to any and all land use conditions imposed by the City with respect to a specific site of operation.

3.5 Maximum Number of Tables.

Subject to such limitations as may be imposed by local land use conditions, to a specific site of operation, the maximum number of tables that may be operated under a cardroom license are as follows:

3.5.1 **Category I - Non-Consolidated.** The maximum number of tables that may be operated under a single, non-consolidated Category I license shall be sixteen (16).

3.5.2 **Category I - Consolidated.** The maximum number of tables permitted under a consolidated Category I license shall be twenty (20) during gaming operations.

3.5.3 **Category II - Non-Consolidated.** The maximum number of tables that may be operated under a non-consolidated Category II license shall be sixteen (16).

3.5.4 **Category II - Consolidated.** The maximum number of tables that may be operated under a consolidated Category II license shall be twenty (20). In no event shall more than fifteen (15) of such twenty (20) tables be operated with "backline" betting games at one time.

3.6 Maximum Number of Players Per Table.

Subject to such limitations as may be imposed by local land use conditions, to a specific site of operation, the maximum number of players permitted at any one cardroom table are as follows

3.6.1 **Category I Tables.** No more than ten (10) players shall be permitted at any one card table conducting Category I games. Only persons seated at the card table as players shall be permitted to bet.

3.6.2 **Category II Tables.** No more than eight (8) seated players with no more than two additional standing players per seat participating in "backline" betting behind the seated player (for a total number of twenty (24) players (standing and sitting) per table) shall be permitted at any one card table conducting Category II games.

3.7 Maximum Limits and Bets.

3.7.1 **In General.** Maximum limits and wagers shall be based on the approvals from the State Agencies. Maximum limit and wager approvals will be provided to the Chief of Police prior to implementation.

3.7.2 **Adequate Financing on Hand/Payment Policy.** At all times, licensee must have sufficient proceeds to reimburse any and all demands made upon said licensee for the payment of all monies that patrons have on deposit with that cardroom. In the alternative, and subject to notification to the Chief of Police, said licensee may have a written policy for full payment of all monies that patrons have on deposit with that cardroom to a cardroom patron

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clearly posted in a place visible to cardroom patrons.

3.8 Maximum House Charges Per Hand -- Posting Required.

3.8.1. **Approval.** All house collection rates will be approved by the State Agencies and notification will be given to the Chief of Police prior to being imposed.

3.8.2 **Posting Required.** A copy of all collection rate schedules shall be provided to the Chief of Police. The collection rate in use shall be clearly posted at the table.

3.9 Work Permits and Identification Badges Required For Employees.

3.9.1 **Work Permit Required.** Unless other provided herein, prior to commencing work at a cardroom, each proposed employee of a cardroom, if such Person is other than the Person or Persons whose names appear on the application for the cardroom license, must obtain a work permit from the Chief of Police. Additionally, any employee of any ancillary business (Third Party Providers of Proposition Player Services, massage therapists, etc.) that is operating at the cardroom location must also obtain a work permit.

3.9.2 **Temporary Probationary Work Permit.** Temporary probationary work permits may be summarily issued upon payment of the requisite application fee for food and beverage servers, janitorial staff, and kitchen workers pending the issuance of a regular annual work permit. Such temporary probationary work permits may be subject to immediate summary revocation with or without cause by the chief of police and shall not be valid for more than thirty (30) days and shall automatically expire upon issuance of the regular annual work permit or upon denial of the regular annual work permit application by the chief of police. The fee for temporary probationary work permit shall be non-refundable and in addition to the fee for the regular annual work permit application.

3.9.3 **Application Process.** Each proposed employee shall submit an application for the required work permit to the Chief of Police. Such application shall be on a form issued by, or otherwise approved in advance by, the Chief of Police. Such application shall include, in addition to any other information required by the chief of police, (a) the past criminal record, if any, of such Person; (b) the fingerprints of such Person; and (c) a non-refundable fee, as presently designated, or as may in the future be amended, in the Master Fee Schedule for cardroom applications, to cover the cost of processing the application and of any required investigation of the applicant including a criminal background check to be performed by the police department at the applicant's expense. The work permit, when issued, shall be valid for one (1) year. Any renewal must also be approved by the chief of police and will be subject to a criminal background check to be performed by the chief of police at the applicant's expense. The chief of police may deny the initial approval or renewal of a work permit if, in the chief of police's opinion, (1) in the case of a proposed key employee the applicant therefore should not be permitted to act as key employee or employee in lieu of management by the licensee of the cardroom; and (2) in the case of a proposed employee the applicant therefore should not be permitted to be employed in a cardroom.

3.9.4 **Identification badges to be worn.** Every employee shall, at all times when present in such cardrooms, wear an identification badge containing such Person's

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photograph, first name and the police department issued employee identification number. The identification badges shall be worn at chest level.

3.9.5 Limitation of Discretion to Issue Work Permit. In addition to any other restrictions provided by law, no work permit shall be issued to anyone who is disqualified from holding a state gambling license, for any of the reasons specified in California Business and Professions Code Section 19850.

3.9.6 Denial of an application for a Work Permit. Any application for a work permit shall be subject to objection by the State of California Bureau of Gambling Control (hereafter Bureau). If the Bureau objects to the issuance of a work permit it shall be denied. Such a denial may be reviewed in accordance with the Gambling Control Act (Business and Professions Code Section 19801 et seq.).

3.9.7 Proposition Players.

3.9.7.1 A licensee shall use only employees or properly licensed independent contractors as proposition players.

3.9.7.2 A licensee shall not allow, permit, or suffer more than four (4) proposition players to play at a card table at any given time, subject to modification by the chief of police in his/her sole discretion.

3.9.7.3 The licensee shall not provide any compensation, reward, credit, chips, or any other thing of value or representation of value to an employee who acts as a proposition player other than drop reimbursement, salary or wages earned for the time the employee works as a proposition player. This prohibition does not prohibit a proposition player from receiving the same employment benefits as apply to all other employees of the licensee; provided that no employee or independent contractor shall be paid in chips.

3.9.7.4 A proposition player shall prominently display an identification badge pursuant to Section 3.9.3 at all times while present on the cardroom premises.

3.10 Intoxicating Beverages.

3.10.1 Intoxicating Beverages Permitted. Upon application to and approval by the chief of police, in his/her sole discretion and control and pursuant to a procedure to be implemented and administered by the chief, alcoholic beverages may be served and consumed in a cardroom from the hours of 6:00 AM. to 2:00 AM. At all times that alcoholic beverages are served, food must also be made available and the cardroom shall comply with its ABC On-Site General Sale (Type 47) Eating Place license, where 50 percent or more of all sales must be food. The chief of police's decision concerning the consumption and service of intoxicating beverages shall be final. Additionally, licensee shall comply with all applicable state and local laws, rules and regulations, including the City's land use regulations, pertaining to the sale and service of intoxicating beverages. All servers are required to have a valid Responsible Beverage Service ("RBS") certification from an ABC accredited RBS training provider.

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3.10.2 Key Employee/employee Consumption Prohibited. The drinking of any intoxicating beverage by any key employee, independent contractor or employee of a card room while on duty is prohibited. The licensee of a cardroom shall take all necessary and appropriate steps to assure compliance with this section.

3.10.3 Permitting Intoxicated Persons to Play in Games Prohibited. No licensee, key employee, independent contractor or employee shall permit any Person to play in any game or at any time which such Person is under the influence of an intoxicating beverage, narcotic, or drug.

3.10.4 Permitting Intoxicated Persons on Premises Prohibited. No licensee, key employee, independent contractor or employee shall permit any Person to enter a gambling establishment at any time when such Person appears to be under the influence of an intoxicating beverage, narcotic or drug.

3.11 Minors Prohibited from Patronage or Employment.

No person under twenty-one years of age shall be employed at a cardroom, allowed to play games at a cardroom, or permitted in a cardroom area where games are being played. Minors may be allowed in non-gaming areas of a cardroom (for example, in an associated restaurant) but only with the prior approval of the chief of police, of a written plan containing provisions that assure that no minor shall have no access to gaming areas or alcohol. Given the high level of concern with public safety, the Police Chief's approval of any plan allowing minor access to non-gaming areas shall be in his/her sole discretion and the Chief's decision shall be final.

3.12 Signs to be Posted.

Licensee shall comply at all times with the sign requirements set forth in this Gaming Plan including, without limitation, Sections 3.3, and 3.8.2 hereof, and any and all other signage or posting requirements contained in applicable federal, state or local laws, rules and regulations.

3.13 Licensee Responsible for Compliance and Supervision of Operations.

The licensee of a cardroom shall be responsible for assuring that any cardroom operated under such license is operated in strict compliance with the terms of this Gaming Plan, the provisions of the Penal Code of the State of California and any and all other applicable federal, state, and local laws, rules, regulations, or permits. All cardrooms and/or card tables shall be supervised by the operator or an employee of the operator of the cardroom, to assure such compliance. Any violation of the cardroom operating limitations and conditions in this Section 3, or elsewhere in the Gaming Plan, whether or not caused by the licensee or any employee thereof, shall be considered a violation by the licensee of the terms and conditions of its license, and therefore subject to the City's enforcement rights and policies set forth in Section 4 hereof.

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3.14 Patron Safety and Security.

3.14.1 Each licensee shall submit a written patron safety and security plan, designed to protect patrons and other persons who are lawfully on the premises of the permitted cardroom, to the chief of police for his/her approval prior to opening for operations.

3.14.2 The chief of police, in his/her sole discretion and control, shall have the right to require amendments to the patron safety and security plan that are, in his or her judgment, reasonably necessary to protect the public peace, health, safety, and general welfare.

3.14.3 Licensee shall be responsible for payment to the City of all actual administrative costs incurred by the City, including the cost of staff time, at the City's full cost recovery rate, associated with the oversight of the patron safety and security plans required by this section, including the administrative costs associated with the review and approval of a patron safety and security plan or any amendments thereto which may be mandated by the chief of police. The chief of police shall estimate the cost of City staff and other administrative costs in connection with oversight of the patron safety and security plans and the licensee shall deposit such amount at the time of submitting the patron safety and security plan to the chief of police. If actual costs incurred exceed the initial deposit the chief of police may require the applicant to make additional deposits to offset costs incurred or to be incurred by the City. If the amount estimated is in excess of the cost incurred, the difference will be refunded to the applicant at the end of the City's review.

3.15 Crime Reporting Requirement.

3.15.1 Every licensee, key employee, employee, or independent contractor of a cardroom shall immediately report to the Chula Vista Police Department any crime committed on the cardroom premises.

3.15.2 Each licensee shall maintain a chronological criminal activity log and such other reports as the chief of police may determine are needed in order to effectively assist the Chula Vista Police Department to carry out its law enforcement function and protect the public health, safety, and welfare.

3.15.3 It shall be unlawful for a licensee, manager, employee or independent contractor of a cardroom to disable any 911 access on any public telephone on the cardroom premises.

3.16 Licenses or Key Employee on Premises.

A cardroom shall have on the premises, at all times the cardroom is open to the public, the licensee or a key employee. A "key employee" for purposes of this section is defined as an employee who shall have access to all cardroom premises for purposes of inspection or for purposes of compliance with any provision of this Gaming Plan and who shall have the responsibility and authority to ensure immediate compliance with the Gaming Plan and all state laws and regulations pertaining to gaming. Further each cardroom licensee shall identify in

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writing the name, address, and telephone number of each key employee, and each key employee shall wear an identification badge designating the employee as a key employee.

4. Enforcement.

4.1 In General.

It is unlawful and a violation of this Gaming Plan to obtain, transfer or consolidate a cardroom license, or to operate a cardroom in violation of any of the regulations and rules set forth in the Gaming Code, this Gaming Plan, and any and all other applicable federal, state and local laws, rules, regulations or permits.

4.2 Monetary Fines.

4.2.1 **Amounts of Fines.** For any violation of the terms of this Gaming Plan, the City shall have the right to impose a penalty of up to \$1,000 per day for each day the licensee is in violation. In the event that a licensee is cited for a violation (not necessarily the same violation) more than three (3) times within a six-month period, upon the fourth such citation, and with respect to any occurrence thereafter, the City shall have the right to impose a penalty of up to \$5,000 per day the licensee is in violation.

4.2.2 **Imposition of Fine Not Election of Remedies.** The pursuit of monetary fines against a licensee or the receipt of payment therefore shall not constitute an election of remedies on the part of the City and thus shall not preclude any other course of action such as may be available including, without limitation, the revocation of the cardroom license held or issued hereunder, the revocation of any and all permits or approvals permitting the operating of the cardroom, and any and all other remedies available to the City at law or in equity.

4.3 Revocation and Suspension.

4.3.1 **City Right to Revoke or Suspend.** Any cardroom license issued or held hereunder may be revoked or suspended by the City, after a public hearing, upon the determination by the City council and the chief of police that with respect to the license and/or cardroom operated thereunder, there has been a material violation, or repeated violations of this Gaming Plan or any or all other applicable federal, state or local laws, rules, regulations or permits.

4.3.2 **Material Violation.** The City shall determine, in its sole discretion, what shall constitute a material violation for purposes of revocation or suspension under this Section 4.3. Material violations may include, without limitation, the following:

(a) A misrepresentation or exclusion on any application for approval, report or statement of revenues required to be submitted under this Gaming Plan or under any other applicable federal, state or local law, rule, regulation or permit.

(b) A non-complying purported transfer of a cardroom license held or issued hereunder.

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(c) Allowing persons other than those named in the application on file with the City, or otherwise previously approved by the City, to hold a financial interest in, or have direct management authority over, a cardroom.

(d) Maintaining a greater number of tables than the number permitted by the license.

(e) Failure to strictly comply with any and all federal, state, and local laws, rules, regulations, and permits applicable to the holding of a license or the operation of a cardroom hereunder, including, without limitation local land use and other code provisions.

(f) Failure to pay, when due, the amount of license fee owed pursuant to Section 2.7 hereof.

(g) Citation of five (5) or more minor violations of this Gaming Plan within any twelve (12) consecutive months.

(h) The conduct of criminal or dangerous activities at or attributable to the licensed cardroom.

(i) Failure to pay, when due, the amount of any monetary fine imposed pursuant to Section 4.2.1 hereof.

(j) Refusal to permit City access to a cardroom for purposes of auditing or inspecting same.

4.4 Inspection Rights.

The City shall have the right, at any time, without notice, to enter into any cardroom operating within the City and to conduct a reasonable inspection of all areas of such cardroom, and/or any or all fixtures, equipment, accounting materials or documents contained therein, in order to determine whether or not such cardroom is being operated in accordance with this Gaming Plan. This inspection right is in addition to the audit rights enumerated in Section 2.7.4 herein.

5. General Provisions.

5.1 Definitions.

Except as otherwise expressly defined herein, capitalized terms, and terms otherwise requiring definitions for proper interpretation, shall have the meanings ascribed thereto by the Gaming Code.

5.2 Section Headings.

Section headings contained herein are for reference purposes only and shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent

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of the provisions of any section hereof.

5.3 Gaming Plan Amendments.

5.3.1 **City Council Approval Required.** This Gaming Plan may be revoked or amended, in whole or in part, at any time, after a public hearing, by approval of the City Council, provided, however, different terms of operation may be provided in the agreement required by Section 5.5 hereof, below.

5.3.2 **Full Cost Recovery for Administrative Costs Associated with modifications to Gaming Plan.** Any Person requesting any modification to the Gaming Plan shall be responsible for payment to the City of all actual administrative costs incurred by the City including the cost of staff time, at the City's full cost recovery rate, associated with the request for modification of the Gaming Plan. The chief of police shall estimate the cost of City staff and other administrative costs in connection with the requested modification and the Person shall deposit such amount at the time of submitting his/her request for modification to the Gaming Plan. If actual costs incurred exceed the initial deposit the chief of police may require the applicant to make additional deposits to offset costs incurred or to be incurred by the City. If the amount estimated is in excess of the cost incurred, the difference will be refunded to the applicant at the end of the City's review.

5.4 Integrated Plan.

All provisions of this Gaming Plan are intended to be integral parts of a comprehensive regulatory scheme. In the event that any material provision hereof is finally determined to be invalid, then, as of the date of such determination (a) the entire Gaming Plan shall, AB initio, become void and of no effect, and (b) the Gaming Code provisions otherwise implemented or superseded hereby shall become effective.

5.5 Agreement of Licensee to Accept Validity and Abide by all Provisions.

Each licensee which holds or is issued a license hereunder, in order to legally operate a cardroom within the City must first enter into a written agreement with the City whereby, for the term specified therein, such licensee agrees, on behalf of itself, any successors or assigns thereof, and any and all parties with a financial interest in the license or the cardroom operated thereunder, that such Persons (a) shall abide by any and all provisions of the Gaming Plan; (b) acknowledge that all provisions of the Gaming Plan are valid and enforceable by the City against such Persons; and (c) waive and agree not to pursue any and all claims or other action against the City that any or all provisions of the Gaming Plan were not legally adopted, valid or enforceable with respect thereto. In consideration for licensee's commitments thereunder, such agreement may also provide for a specified time period for card room operations without being subject to City imposed changes to the Gaming Plan, all as more specifically provided therein.