

ORDINANCE NO. 557

AN ORDINANCE DEFINING AND REGULATING GAMBLING, LICENSING
CARDROOMS, PROVIDING FOR PERSONS UNDER 18, PRESCRIBING
PENALTIES, REPEALING ORDINANCE NO. 418, 426, 528 AND SECTION
58 OF ORD. 450 AND DECLARING AN EMERGENCY

The City of Willamina, Oregon, ordains as follows:

Section 1. Definitions.

As used in this ordinance, the following shall mean:

- (a) Gambling. A person stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under the control or influence of the person, upon an agreement or understanding that the person or someone else will receive something of value in the event of a certain outcome.

The term gambling shall not include bona fide business transactions valid under the laws of contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including but not limited to, contracts of indemnity or guaranty, and life, health or accident insurance.

The term gambling shall not include social games or bingo, lotto or raffles operated in compliance with ORS 167.118 by a charitable, fraternal or religious organization.

- (b) Social game. A game, other than a lottery, between players in a private home, private business, private club or place of public accommodation where no house player, house bank or house odds exist and there is no house income from the operation.
- (c) Card Room. Any space, room or enclosure furnished or equipped with a table used or intended to be used as card table for the playing of cards only, and the use of which is available to the public; provided, however, that this section shall not apply to any bona fide charitable, fraternal or religious organization as defined by statute.
- (d) Persons financially interested. All persons who share in the profits of the business, on the basis of gross or net revenue, including landlords, lessors, lessees and the owner or owners of the building, fixtures or equipment.

Section 2. Gambling prohibited.

No person shall participate in, operate or assist in operating any gambling game or activity in the City of Willamina. No person shall have in his possession any gambling device as defined by ORS 167.117. Any such device is hereby declared to be a nuisance and may be summarily seized by any police officer.

Property so seized shall be placed in the custody of the chief of police of the city of Willamina. Upon conviction of the person owning or controlling such property for a violation of this section, the municipal judge shall order such property confiscated and destroyed.

Section 3. Card Room Regulations

Pursuant to ORS 167.121 a card room shall be authorized upon the granting of a valid license issued by the city under the terms, conditions and provisions of this ordinance. License shall be granted only to persons of ascertained good moral character and upon the approval of the city council.

In addition, it shall be unlawful to operate a card room in violation of any of the following regulations and rules:

- (a) Each and all of the games conducted or operated in the City of Willamina pursuant to the provisions of this ordinance shall be conducted and operated in full conformity with, and subject to, all the provisions of the laws of the State of Oregon and the City of Willamina.
- (b) All card rooms shall be open to police inspection during all hours of operation. Card room license shall be available for inspection during all hours of operation.
- (c) No licensee shall farm out, assign or sublet any card games lawfully permitted under this ordinance on the premises in which said licensee has any interest or works.
- (d) The playing of all card games shall be so arranged as to provide free access and visibility to any interested party. Doors leading into the card room must remain unlocked during all hours of operation.
- (e) No person under the age of 21 shall be permitted to participate in any form of gambling.
- (f) No charge shall be collected from any player for the privilege of participating in any game.

Section 4. Card Room License application.

An applicant for a card room license shall submit his application to the city recorder. The application shall be under oath and shall include: The true names and addresses of all persons financially interested in the business, the personal history and business experiences of such persons, the past criminal record, if any, of all persons who have any interest in the business and any other matters deemed by the council to be of necessary inquiry.

The application shall be accompanied by a \$65.00 nonrefundable investigation fee and fingerprints and photographs of persons financially interested.

Section 5. Granting and Denial of Card Room Application.

The city council shall either approve the application and grant the license applied for or deny the application and refuse to grant the license. Reasons for denial are:

- (a) Any person who has any interest in the business has been previously convicted of a felony within the last 10 years;
- (b) Any person who has any interest in the business has been convicted of five misdemeanors other than minor traffic offenses within the last five years;
- (c) Any person who has any interest in the business has been convicted of or forfeited bail for any crime involving gambling within the last five years;
- (d) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by statute, where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed within the last five years;
- (e) Any false or misleading information is supplied in the application or any information requested is omitted from the application;
- (f) Any person who has any interest in the business has had a license which was in his name revoked or suspended three times by the Oregon Liquor Control Commission, the last of which was in the last five years.

Section 6. Card Room License not transferable.

No card room license shall be assignable or transferable. Change of persons having financial interest in a licensed business shall be reported immediately to the city council, who shall order an investigation by the police department and the change approved or denied by the city council.

Applications for change of financial ownership shall be accompanied by a \$65.00 nonrefundable investigation fee.

Section 7. Suspension and Revocation of Card Room License.

The City Council shall temporarily suspend for 30 days any card room license issue hereunder if:

- (a) Any person who has an interest in the business has been convicted of a felony;
- (b) Any person who has any interest in the business has been convicted of five misdemeanors other than minor traffic offenses within the last five years;
- (c) Any person who has any interest in the business has been convicted of or forfeited bail for any crime involving gambling;
- (d) Any person who has any interest in the business has been directly or indirectly involved in a forfeiture proceeding regarding a gambling device, as defined by statute, where such gambling device has been ordered destroyed or a bond has been forfeited in lieu of the gambling device being destroyed;
- (e) Any false or misleading information is supplied in the application or any information requested is omitted from the application;
- (f) Any person who has any interest in the business has had a license which was in his name revoked or suspended three times by the Oregon Liquor Control Commission;
- (g) Any person who has any interest in the business or any employee thereof violates any section of this ordinance.

Suspension shall be subject to the right of appeal to the city council in regular council session. Notice of such appeal shall be filed with the city recorder within 10 days of suspension or the action shall be deemed final and conclusive.

Permanent revocation may be made only by the city council and shall take place in regular council session and only after the licensee has been served with notice at least 20 days prior to the city council meeting.

Such notice shall state the time and date of the meeting and the grounds upon which the permanent revocation is sought. Notice shall be sent by certified mail by the city recorder to the address listed by the licensee on his application for a license, and shall be deemed to have been received by the licensee the day after such notice is mailed.

Section 8. Signs.

Signs advertising gambling, playing of cards, advertising specific forms of card playing, enticing participants, or procuring players are prohibited.

Section 9. Card Room License Fees.

There shall be collected for each card room license hereunder, the sum of \$17.00 per table per month, payable quarterly, in advance.

Section 10. Exceptions.

A charitable, fraternal or religious organization may be granted a permit for social games when it appears that the social games are for the exclusive use of members of the organization, club, service group or fraternal organization and no charge is made for participation.

The Oregon State Lottery as authorized by statute shall be exempt from the provisions of this ordinance.

Section 11. Persons Under 18.

No person under 18 years of age shall enter or remain in or about a public cardroom, poolroom or billiard parlor.

(a) This section shall not apply to the playing of billiards, pool, or video games in a recreational facility. As used in this section, a "recreational facility" means an area enclosure or room in which to play billiards or pool for amusement only, and;

(1) Which is clean, adequately lighted and ventilated and in which an adult supervisor is present at all times.

(2) In which no alcoholic liquor is sold or consumed; and

(3) Access to which does not require passing through a room where alcoholic liquor is sold or consumed.

(b) Minors over the age of 10 years may be permitted to play Bingo at events sponsored by charitable, fraternal or religious organizations if said minor is in the company of an adult, providing the criteria of Subsection (b) (1), (2) and (3) are met.

Section 12. Penalty.

Violation of, or failure to comply with, any provision of this ordinance is punishable, upon conviction, by a fine not to exceed \$300.00.

Each day's operation in violation of any provision of this ordinance shall constitute a separate offense.

Section 13. Severability.

Any ordinance or part of any ordinance in conflict herewith is hereby repealed and in the event any part or section of this ordinance shall be declared unconstitutional, it shall not effect any other portion or part hereof.

Section 14. Repealer.

Ordinance No. 418 passed by the Council and approved by the Mayor March 11, 1976, Ordinance No. 426 passed by the Council and approved by the mayor July 29, 1976, Ordinance No. 528 passed by the Council and approved by the Mayor May 9, 1985 and Section 58 of Ordinance No. 450 passed by the Council and approved by the Mayor July 27, 1978 are hereby repealed.

Section 15. Emergency.

The council desires and deems it necessary for the preservation of the health, peace and safety of the City of Willamina that this ordinance take effect at once; and therefore an emergency is hereby declared to exist and this ordinance shall be in full force and effect from and after its passage and approval.

Passed by the Council this 28th day of May,
1992.

AYES: Councilors Alger, Eddy, Greb, Horne

NAYS: None

ABSENT: Councilors Branson, Tandecki

Submitted to and approved by the Mayor on the 28th day
of May, 1992.

Julia D'Amico
Mayor

ATTEST:

L. Charles Brown
City Recorder