

ORDINANCE NO. 779

AN ORDINANCE DEFINING AND REGULATING SOCIAL GAMES IN THE CITY OF SCAPPOOSE, PROVIDING FOR LICENSING AND FEES AND PROVIDING PENALTIES FOR THE VIOLATION THEREOF

The City of Scappoose ordains as follows:

Section 1. Definitions. The following definitions shall apply in this ordinance:

1. “Gambling” means that 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.

“Gambling” does not include:

- (a) Bona fide business transactions valid under the law 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.

- (b) Engaging in contests of chance under the following conditions:

The contest is played for some token other than money; an individual contestant may not purchase more than \$100 worth of tokens for use in the contest during any 24-hour period; the tokens may be exchanged only for property other than money; except when the tokens are exchanged for a beverage or merchandise to be consumed on the premises, the tokens are not redeemable on the premises where the contest is conducted or within 50 miles thereof; and except for charitable, fraternal or religious organizations, no person who conducts the contest as owner, agent or employee profits in any manner from operation of the contest.

- (c) Social games.

- (d) Bingo, lotto or raffle games or Monte Carlo events operated in compliance with ORS 167.118, by a charitable, fraternal or religious organization licensed pursuant to ORS 167.118, 464.250 to 464.380, 646.420 to 464.530 and Section 9.12.020 of this Code.

2. “Social games” means: (a) A game, other than a lottery, between players in a private home where no house player, house bank or house odds exist and there is no house income from the operation of the social game; and (b) If authorized pursuant to ORS 167.121, a game, other than a lottery, as authorized in this ordinance, between players in a 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 of the social game.

3. “Gambling device” means any device, machine, instrument, paraphernalia, equipment or other property that is used or usable in the playing phases of unlawful gambling, whether it consists of gambling between persons or gambling by a person involving the playing of a machine. Lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices within this definition. Amusement devices other than gray machines, that do not return to the operator or player thereof anything but free additional games or plays, shall not be considered to be gambling devices.
4. “Player” means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein is a person who does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in bookmaking is not a player.

Section 2. Gambling Prohibited. No person shall participate in, operate or assist in operating any gambling game or activity, except as otherwise expressly provided in this chapter. No person shall have in his or her possession any gambling device. Any such gambling device is a nuisance and may be summarily seized by a police officer. Property so seized shall be placed in the custody of the Chief of Police of the City of Scappoose. Upon conviction of the person owning or controlling a gambling device for a violation of this section, the Municipal Judge shall order such property confiscated and destroyed.

Section 3. Social Games Licensed. Any person who owns, manages or operates a private business, private club or place of public accommodation, may allow a social game between players at such place but only if they first apply for and receive a license for such purpose from the City Manager.

Section 4. Social Game License.

1. The City Manager will prepare and make available applications for a social game license.
2. The Chief of Police, or someone he designates, shall investigate and determine if the applicant satisfies the requirements for issuance of a license.
3. The Chief of Police will submit to the City Manager a written report containing his findings and making a recommendation that the license be issued or denied.

4. An applicant must submit, with the application, a non-refundable \$50 application fee. This fee may be amended by resolution of the City Council.
5. An application will not be granted if:
 - a. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of a felony, within the last ten (10) years; or
 - b. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of five misdemeanors in the last five years; or
 - c. Any person who has a financial interest in a private business, private club or public place of accommodation has been convicted of any crime involving gambling, within the last five (5) years or has forfeited bail for any crime involving gambling; or
 - d. The application contains false or misleading information.
6. A license shall be issued only upon payment of a license fee of one hundred dollars (\$100.00) annually for the first table and fifty dollars (\$50.00) annually for each additional table. This fee may be amended by resolution of the City Council.
7. Each license expires on July 1st next following its issuance. License fees for licenses obtained midyear are to be prorated according to time remaining on the license.
8. There shall be no right to automatic renewal of a license issued under this chapter. A person seeking a license renewal must submit a new application each year.

Section 5. Social Game Regulations.

1. Pursuant to a social games license, a private business, private club or public place of accommodation (“Licensed Business”) may only allow card games to be played.
2. While participating in social games, no more than seven players may sit at each table at any one time.
3. Social games may only be played during legal liquor dispensing hours.
4. While playing social games, there shall be a \$5.00 limit on any bet and a three (3) raise limit.
5. Licensees may not allow patrons to engage in disorderly conduct.
6. Licensees shall agree, as a condition of the license, to be bound by and observe each and all of the regulations set forth in this section and all the provisions of the laws and regulations of the State of Oregon and the City of Scappoose.

7. A Licensed Business shall be open to police inspection during all hours of operation. Licenses shall be available for inspection during all hours of operation.
8. No person under the age of 21 shall be allowed to participate in any social game or to enter or remain upon such licensed premises.
9. Each licensee shall assign a person whose duty shall be to supervise the games and see to it that they are played strictly in accordance with this ordinance, other applicable City of Scappoose ordinances and regulations and Oregon law. The Licensed Business shall be vicariously liable for any conduct of any employee in regard to any gambling activity or social game conducted in or upon the licensed premises.

Section 6. Social Games License Revocation.

1. The City Manger may temporarily suspend any social game license and/or may permanently revoke such license if:
 - a. Any person who has an interest in the Licensed Business is convicted of a felony; or
 - b. Any person who has a financial interest in the Licensed Business has been convicted of five misdemeanors in the last five years; or
 - c. Any person who has a financial interest in the Licensed Business has been convicted of any crime involving gambling, within the last five (5) years or has forfeited bail for any crime involving gambling; or
 - d. The City discovers that the application contains any false or misleading information or any information requested is omitted from the application; or
 - e. Any licensee, any person who has any financial interest in the Licensed Business or any employee of the Licensed Business violates any provision of this chapter; or
 - f. Any licensee allows any person to engage in unlawful gambling in or upon any licensed premises.
2. A temporary suspension shall become effective fifteen (15) days after the Chief of Police notifies the licensee in writing of the grounds for such suspension and possible revocation, unless the licensee shall file a notice of appeal with the City Recorder prior to the effective date of the suspension. To be timely filed, the notice of appeal must be received by the City Recorder on or before the effective date of the suspension. Upon proper notice of appeal, the suspension shall be stayed until final determination by the City Council. All notices required in this section shall be given in person or by first class mail. Notice to the licensee will be deemed to have been received if the notification is mailed to the address listed on the license application. A temporary suspension shall remain in effect for thirty (30) days.

3. Upon receiving a notice of appeal of a suspension or prior to permanent revocation of a license, a hearing shall be held by the City Council at a meeting after the licensee has been served notice at least ten days before the meeting. Such notice shall include the time and date of the hearing and the grounds upon which the Council seeks to suspend or permanently revoke the license. The licensee shall be deemed to have received service if the city recorder mails such notice to the address the license holder listed on his application for a license.

Section 7. License not Transferable. A social game license shall not be transferable or assignable. If any change of persons having any financial interest in a Licensed Business occurs, the license holder must submit a new license application to the City Manager within ten (10) days of the change, along with a non-refundable application fee of \$50.

Section 8. Violation. In addition to the suspension or revocation of any license issued hereunder, violation of this section is punishable by a fine of not more than five hundred dollars (\$500.00).

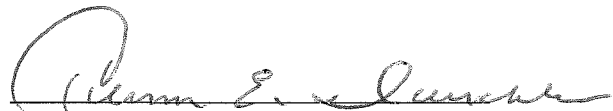
Section 9. Codification. This ordinance shall be codified as Section 9.12.015 of the Scappoose Municipal Code.

Section 10. Repeal. Subsections D and E of Section 9.12.020 of the Scappoose Municipal Code are repealed.


Adopted this 17th day of July, 2006.

First Reading: June 5, 2006

Second Reading: July 17, 2006


Glenn Dorschler, Mayor

Attest:


Susan Pentecost, City Recorder