

**ORDINANCE NO. 646**

**AN ORDINANCE OF THE CITY OF WILSONVILLE AUTHORIZING AND REGULATING SOCIAL GAMES IN A PRIVATE BUSINESS, PRIVATE CLUB OR IN A PLACE OF PUBLIC ACCOMMODATION, AND AMENDING W.C. 6.000-6.020**

WHEREAS, state gambling laws exempt from prohibition or restriction certain "social games" authorized by local governments. ORS 167.117 (21) defines such "social games" as games, other than a lottery, 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; and,

WHEREAS, ORS 167.121 grants cities the authority to regulate such social games and, since 1984, Wilsonville has exercised this "local option" via the licensing requirements of W.C. 6.000- 6.020; and

WHEREAS, the current code, enacted in the context of functions such as the Boones Ferry Days, requires per-event licensing fees that, as a practical matter, preclude the reasonable conduct of social games on a more frequent basis; and,

WHEREAS, with the addition of licensing requirements that mitigate problematic aspects of social games, the city's licensing procedure may be modified to provide for a yearly license and license fee without forsaking public interest aspects of the regulation,

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

**Section 1.** W.C. 6.000 of the Wilsonville Code is amended to read as follows:

**SOCIAL GAMBLING GAMES**

**6.000 Application and License.**

(1) Social games for gambling purposes **conducted by a private business, private club or public accommodation** as defined by ORS 167.117 are permitted in the City, providing a City license ~~for each event~~ is first approved ~~by the City Council~~ and issued by the City Recorder **Manager or delegate**. An application for a license shall be filed with the City Recorder and shall contain the following information:

(a) Name, address and signature of the applicant, **and the identity of the owner(s), principal managing employees, and all employees who are involved in conducting the game activities.**

(b) The type of "social game(s)" ~~which~~ is planned to be operated.

(c) Time and place of the game(s) for which the license is required

(d) The estimated gross income from the operation of the game(s); and the estimated gross income of the private business, private club or public accommodation for which the application is filed.

**(e) Such other information deemed necessary by the Manager or delegate consistent with the regulations provided in this section.**

**Section 2.** W. C. 6.010 of the code is amended to read as follows:

6.010 Approval and Requirements

(1) Applications for a social gambling license as filed with the City Recorder shall be **approved or denied by the City Manager . Upon written appeal from the Manager's action, the matter shall be** referred to the City Council which shall consider the same at the next regular or special meeting of the Council; and the Council shall determine whether the license shall be issued or not. It may be denied for ~~any reason and with or without cause,~~ **such as the presence of fraudulent statements in the application, a pattern or practice of gambling law or licensing violations, or other considerations of the public health, safety or welfare.** If it is determined that a license shall be issued, ~~the Council shall specify~~ the following conditions which all apply and be a part of the license and set forth in it:

(a) Time limits for the event.

(b) **No house player, house bank, or house odds exist and there is no house income from the operation of the social game.**

(c) **The game cannot be observed from a public right of way.**

(d) **Persons under 18 years of age are not permitted in the room or enclosure where the game takes place.**

(e) **The room or enclosure where the social game takes place is open to free and immediate access by any police officer.**

**(f) The buy in or maximum amount a player can lose at any one social game shall not exceed \$100.00.**

**(b)(g) The license fee payable to the City not exceeding \$100 per day for each event or \$300.00 per calendar year.**

**(e) (h) Any other requirements or regulation which the Manager or Council in its sole discretion deems necessary or advisable.**

**Section 3.** That Wilsonville code section 6.020 is amended to read as follows:

6.020 Violations **and Revocation**

(1) Any violation of Section 6.100 to 6.010 shall be punishable ~~upon first conviction~~ as a violation pursuant to Section 1.012 ~~; and upon a subsequent conviction, as a Class C Misdemeanor pursuant to Section 1.011.~~

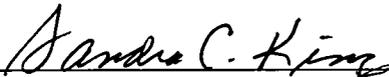
**(2) The social games permit shall be denied or revoked if conditions of the license are violated, or the applicant, any of the applicant's officers or principal managing employees has 1) falsified any statement in the application for permit, or 2) been convicted of any offense in violation of federal or State law or this code relating to gambling on the licensed premises.**

SUBMITTED to the Wilsonville City Council and read for the first time at a regular meeting thereof on the 7th day of April, 2008, at the hour of 7:00 p.m. at the Wilsonville City Hall 29799 SW Town Center Loop East, Wilsonville, Oregon, and scheduled for second reading on the 21st day of April, 2008, commencing at the hour of 7:00 p.m. at the Wilsonville City Hall.

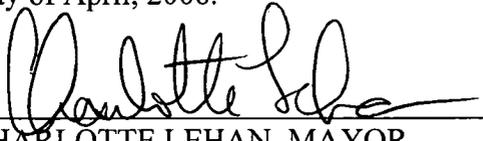
  
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Sandra C. King, MMC, City Recorder

ENACTED by the City Council on the 21<sup>st</sup> day of April, 2008, by the following votes:

YEAS: -4-      NAYS: -0-

  
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Sandra C. King, MMC, City Recorder

DATED and signed by the Mayor this 23<sup>rd</sup> day of April, 2008.

  
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CHARLOTTE LEHAN, MAYOR

SUMMARY OF VOTES:

Mayor Lehan	Yes
Councilor Kirk	Yes
Councilor Nunez	Excused
Councilor Knapp	Yes
Councilor Ripple	Yes

## MEMORANDUM

To: Honorable Mayor and City Council

From: Paul A. Lee, Assistant City Attorney

Date: April 7, 2008

Re: Social Games Ordinance 646

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State gambling law exempts certain "social games" from the definition of gambling. A "social game" includes "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." ORS 167.117 (21)(a). Social gaming may also be conducted by private businesses, clubs or places of accommodation and is also exempt if regulated or licensed by a local government. ORS 167.117 (21) (b), ORS 167.121.

Wilsonville has exercised this "local option" to license social gaming by private clubs, business and places of accommodation in W.C. 6.000 – 6.020. The current code calls for a \$100.00 license fee per event. This approach was adopted in the early eighties when such social gaming was infrequent and reserved for special events. Since that time, social games have increased in popularity. While some local governments enacted ordinances similar to Wilsonville's, most have gone from per-event licensing to a yearly license.

The city has received a request to modify the social gaming ordinance to allow for such licensing. In responding to the request, staff recognized practical and administrative efficiencies, but also saw an opportunity to strengthen city regulation of social games and make other improvements to the ordinance.

Draft Ordinance 646 modifies the existing code by 1) providing for a yearly license in addition to a per-event license, 2) providing for approval (or referral to the City Council) by the City Manager, 3) providing a basis for application rejection, 4) expanding the basis for application revocation, and 5) adding license conditions in the public interest.

Addressing these changes in turn: 1) the yearly license fee is proposed to be \$300.00, an amount estimated by the Records Office and the city's law enforcement to be an average cost to administer and enforce the regulations, 2) the addition of the City Manager as license approver can relieve the council of required attention to routine applications, 3) the specification of a basis for application rejection (e.g. a pattern of violating previous license conditions) serves to legitimize and focus otherwise unbridled discretion to deny a license, 4) the addition of restrictions on access by minors, no visibility from a public right of way, free access by police,

and a reasonable limit on losses serve the public health, safety and welfare, have been accepted as reasonable by at least one private club (Moose Lodge) and appear in many similar ordinances in the metro area, and 5) the addition of grounds for revocation, like the specification of considerations in application acceptance, similarly focuses regulatory discretion and puts the licensee on notice of the basis for license revocation.

The council has the policy choice to approve any of the proposed modifications. Absent public testimony warranting further modifications, staff recommends passage of Ordinance 646.