AGENDA
SAN BRUNO CITY COUNCIL
SPECIAL MEETING
February 19, 2019
5:30 p.m.

Meeting Location: San Bruno City Hall, 567 El Camino Real, Conference Room 115
San Bruno, CA

City Council meetings are conducted in accordance with Roberts Rules of Order Newly Revised and City Council Rules of Procedure. All regular Council meetings are recorded and televised on CATV Channel 1 and replayed the following Thursday, at 2:00 pm. Recordings of the City Council meetings are available for listening at the City Clerk's Office and video of the City Council meetings may be viewed at www.sanbruno.ca.gov. Audio CDs with recordings of City Council meetings may be purchased at the City Clerk’s office, or may be listened to at the San Bruno Library. In compliance with the Americans with Disabilities Act, individuals requiring reasonable accommodations or appropriate alternative formats for notices, agendas and records for this meeting should notify us 48 hours prior to meeting. Please call the City Clerk’s Office 650-616-7061, or email your request to Melissa Thurman, City Clerk at mthurman@sanbruno.ca.gov.

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT ON ITEMS NOT ON AGENDA
   Individuals allowed three minutes, groups in attendance, five minutes. It is the Council's policy to refer matters raised in this forum to staff for investigation and/or action where appropriate. The Brown Act prohibits the Council from discussing or acting upon any matter not agendized pursuant to State Law.

4. a. Appeal From Denial of Application of Cardroom Work Permit
   b. Receive Presentation on Various Revenue Enhancements, Current Revenue Initiatives and a Community Priority Survey

5. ADJOURNMENT:
   The next Regular City Council Meeting will be held on February 26, 2019 at 7:00 p.m. at the Senior Center, 1555 Crystal Springs Road, San Bruno.

Posted Pursuant to Law 02/15/19
DATE: February 19, 2019  
TO: Honorable Mayor and Members of the City Council  
FROM: Lance Bayer, Special Counsel  
PREPARED BY: Lance Bayer, Special Counsel  
SUBJECT: Appeal From Denial of Application of Cardroom Work Permit

BACKGROUND:

Anh Espinosa originally was granted a cardroom work permit as a dealer for Artichoke Joe's Casino in June of 2011. Her work permit was renewed in 2013 and 2015. In April of 2017, Ms. Espinosa again applied for renewal of her work permit. Ms. Espinosa was arrested in April of 2018, but the San Bruno Police Department did not become aware of the arrest until November of 2018, when she was arrested on a warrant stemming from that arrest.

The San Bruno Police Department investigated and reviewed Ms. Espinosa’s conduct resulting in the April of 2018 arrest and has determined that her conduct constituted the commission of a felony and involved acts of dishonesty and moral turpitude.

On December 10, 2018, San Bruno Police Chief Ed Barberini notified Ms. Espinosa in writing of the denial of renewal of her cardroom work permit. (Attachment 1) On December 18, 2018, Ms. Espinosa, through her husband, submitted an email appeal of Chief Barberini’s decision. (Attachment 2)

DISCUSSION:

Anh Espinosa is a dealer at Artichoke Joe’s Casino and has been employed for approximately seven years. On April 13, 2017, Ms. Espinosa applied for a renewal of her cardroom work permit as a dealer. (Attachment 3) The expiration date on the application is July 28, 2021. Although the City did not issue the renewal or act on her application, Ms. Espinosa continued to work as a dealer.

On October 21, 2018, Artichoke Joe’s Security Manager Anup Kumar informed Commander Geoff Caldwell of the San Bruno Police Department that an employee of Artichoke Joe's, Anh Espinosa, had been arrested at the casino on that date by the Daly
City Police Department. According to Daly City Police Department report #18007559, Ms. Espinosa had an outstanding warrant for her arrest stemming from a California Highway Patrol investigation. The warrant was for violations of Penal Code section 529 - False Impersonation of Another, California Vehicle Code sections 23152(a & b) - Driving Under the Influence, and California Vehicle Code section 12500(a) - Unlicensed Driver.

California Highway Patrol incident report #F131-340-01800 states that, on April 13, 2018, at 11:30 p.m., a highway patrol officer conducted a traffic stop on a vehicle that Ms. Espinosa was driving. Based on observations of her driving and her poor performances on the field sobriety tests, Ms. Espinosa was arrested for driving under the influence of an alcoholic beverage. On the night of the incident, Ms. Espinosa did not possess a valid California driver’s license and she did not identify herself with her true name. Instead, she identified herself to the officer as Ngoc Phi Nguyen with a date of birth of August 4, 1980 and California Driver License number B8871818. She provided the officer with the license number from memory. In fact, Ms. Espinosa provided the officer with the name, date of birth, and license number of her sister.

According to the incident report, on April 20, 2018 at 2030 hours, the arresting officer returned a phone call from Gene Espinosa, Ms. Espinosa’s husband, who was the passenger in the car the night of her DUI arrest. Mr. Espinosa informed the officer that the name, date of birth, and California driver’s license number that his wife had provided the night of her arrest actually belonged to her sister. He provided his Ms. Espinosa’s real name and date of birth. Later that evening, the officer spoke with Ms. Espinosa and she confirmed that she lied about her identity when she was arrested. She told the officer the reason she had done this was because she was "drunk and afraid".

Commander Caldwell spoke with Ms. Espinosa at Artichoke Joe’s on November 15, 2018. Ms. Espinosa told Commander Caldwell that she had lied to the officer and provided the officer with her sister's name and date of birth. She said she called the officer and spoke with the officer approximately one week later and told him that she had lied to him about her identity at the time of her arrest. [According to the CHP incident report, Ms. Espinosa’s husband actually contacted the CHP officer.] Ms. Espinosa told Commander Caldwell that she didn't know she was supposed to inform the San Bruno Police Department about her arrest for DUI. She said she was sorry and that she understood the consequences of her actions.

San Bruno Municipal Code section 4.36.110 - Work permits - Denial of application, states, in part, as follows:

B. The chief of police may deny the application for a work permit if he or she makes any of the following determinations:

1. That the applicant has within ten years immediately preceding the filing of the application been convicted in a court of competent
jurisdiction of an offense enumerated in Section 4.36.065, or has engaged in conduct constituting any such offense.

San Bruno Municipal Code section 4.36.065 Application - Discretionary denial states, in part, as follows:

The chief of police may deny the application for a gambling club license if he or she makes any of the following determinations:

C. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant within ten years immediately preceding the filing of the application has engaged in conduct constituting, or has been convicted of, any of the following offenses:

5. Any offense involving theft, embezzlement, or moral turpitude,

D. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant has done any act involving dishonesty, moral turpitude, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another;

Because Ms. Espinosa had applied for and was previously issued a cardroom work permit that was renewed, Chief Barberini’s denial of the application also falls within the denial of renewal provisions of the San Bruno Municipal Code.

San Bruno Municipal Code section 4.36.140 Revocation and suspension of licenses and work permits states as follows:

C. Licenses and work permits are subject to revocation or suspension upon a determination by the chief of police that grounds exist which would justify the denial of an application for such license or work permit if such application were then pending, or that the licensee or a person that has a financial interest in the licensee has:

3. Been convicted of, or has engaged in conduct constituting an offense enumerated in SBMC Section 4.36.060

San Bruno Municipal Code 4.36.060 Application-Mandatory denial, states as follows:

The chief of police shall deny the application for a gambling club license if he or she makes any of the following determinations:

B. That the applicant has been convicted for any crime punishable as a felony.
C. That the applicant has been convicted for any misdemeanor involving dishonesty or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code

Ms. Espinosa’s conduct as detailed in the CHP report constitutes an offense described in SBMC 4.36.060 and comes within the provisions of section 4.36.065. A violation of Penal Code section 529 is a felony and is also a crime of dishonesty and moral turpitude. Significantly, the offense as alleged against Ms. Espinosa in the incident report involves deceptive behavior which, unless corrected, potentially placed Ms. Espinosa’s sister in danger of being arrested for an offense which she did not commit. This conduct constitutes grounds for both denial of application and revocation of Ms. Espinosa’s work permit.

RECOMMENDATION:

Staff recommends that Anh Espinosa’s 2017 work permit application for Artichoke Joe’s Casino be denied and revoked immediately per SBMC 4.36.140.

RECOMMENDED FINDINGS OF FACT:


RECOMMENDED DETERMINATIONS:

1. Anh Espinosa’s 2017 work permit application for Artichoke Joe’s Casino be denied and revoked immediately per SBMC 4.36.140 based on the findings of fact.
2. Anh Espinosa’s appeal is denied.

ATTACHMENTS:

1: December 10, 2018 Letter to Anh Espinosa denying the application for her cardroom work permit.
2: December 18, 2018 Email appeal by Anh Espinosa
3: April 13, 2017 Renewal application of Anh Espinosa for cardroom work permit as dealer.
4: Copy of San Bruno Municipal Code Chapter 4.36

LEGAL NOTICE:

1. December 10, 2018 Letter to Anh Espinosa denying the application for her cardroom work permit. (Attachment 1)
December 10, 2018

Espinosa, Anh Nguyen
369 East Moltke St
Daly City, CA 94014

Dear Ms. Espinosa:

I have received your renewal application for a Gambling Club Work Permit from Artichoke Joe’s Casino. Upon reviewing the background investigation for the permit, it was discovered that you failed to disclose an incident where you were investigated by the police. This incident occurred in March of 2010 where you were listed as a suspect in a San Jose Police Department investigation centered on alcohol violations. Additionally, after your last renewal paperwork was signed in 2017, you were placed under arrest in April of 2018 due to suspected driving while under the influence. After arrested you knowingly identified yourself to the arresting officer as another person.

The aforementioned incidents were investigated by the San Bruno Police Department. Your actions as detailed in these reports is overwhelming evidence, which is compelling enough to deny your card room application at this time.

**SBMC 4.36.110 Work permits—Denial of application.**

B. The chief of police may deny the application for a work permit if he or she makes any of the following determinations:

1. That the applicant has within ten years immediately preceding the filing of the application been convicted in a court of competent jurisdiction of an offense enumerated in Section 4.36.065, or has engaged in conduct constituting any such offense (4.36.065 D That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant has done any act involving dishonesty, moral turpitude, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another.)

4. That the applicant has knowingly made one or more false statements in the application or during the application background process;

Pursuant to San Bruno Municipal Code Section 4.36.110, there is sufficient grounds to deny your card room application. This denial will become effective immediately.
Under Municipal Code Section 4.36.150, you have the right to appeal this denial of application action to the San Bruno City Council by filing a notice of appeal with the City Clerk no later than ten city working days from the date of this letter. You should be aware that this decision is based on California State law, which the San Bruno City Council does not have the authority to act upon.

If you have any questions regarding this matter, you can contact my office at (650) 616-7110.

Sincerely,

[Signature]

Ed Barberini
Chief of Police

C: Jovan Grogan, City Manager
   Marc Zafferano, City Attorney
   Melissa Thurman, City Clerk
   Division of Gambling Control
   A. Kumar, Artichoke Joes Casino
Dated: 12/18/18
Attention Melissa Thurman and Chief Ed Barberini:

This correspondence is being written by Gene Espinosa (husband) on behalf of my wife Anh Nguyen Espinosa due to a language barrier.

Anh Nguyen Espinosa would like to formally appeal the decision by Chief Barberini, dated December 10th, 2018, regarding her Gambling Club Work Permit renewal denial.

She would like to appeal this denial of application action to the San Bruno City Council.

Sincerely,
Appellant: Anh Nguyen Espinosa (Artichoke Joe's Casino)

On Monday, December 17, 2018, 2:59:14 PM PST, Melissa Thurman <MThurman@sanbruno.ca.gov> wrote:

Hello Gene,

As we discussed on the phone, you may submit a letter stating your wish to appeal the decision by Chief Barberini, regarding your wife’s Gambling Club Work Permit denial, in writing to me by this Friday, December 18, 2018.

You may submit the letter to me via email and my office, or the Chief’s office, will be in touch with you regarding when your item will be heard by the City Council.

If you have any other questions, feel free to contact me at the number listed below. Thank you.
Melissa Thurman, CMC
City Clerk
City of San Bruno
567 El Camino Real
San Bruno, CA 94066
(650) 616-7070
mthurman@sanbruno.ca.gov
SAN BRUNO POLICE DEPARTMENT

CARDROOM WORK PERMIT

RENEWAL APPLICATION FOR: Dealer

Name: Espinosa Anh Nguyen

Last First Middle

Alias Name(s): Espinosa Anh Nguyen

Last First Middle

Height: 5'2" Weight: 162 Hair Color: Bro Eye Color: Bro Male Female X

Date of Birth: ____________________________ Social Security #: ____________________________

Current Address: _______________________________________________________________________

Address / City / State / Zip Dates at location

If you have lived at your present address less than five (5) years, list ALL of the address(es) you have lived at within the past five (5) years:

_____________________________________________________________________________________

Date at location

Address / City / State / Zip

Home Phone # ____________________________ Cell Phone #: ____________________________

Driver License: ____________________________ State CA Expiration Date: 07/28/2021

Have you ever been arrested, questioned, and/or investigated as a possible suspect for any crime by any law enforcement agency since the last application? Failure to disclose information and/or deliberate misstatements may be grounds for the denial of a renewal of the work permit. List all arrests even if the arrest did not result in a conviction.

Yes: ____________ No: X I do not understand the question: ____________________________

Offense Date Location (City, State) Disposition

Offense Date Location (City, State) Disposition

Revised 07/13
RE: AUTHORIZATION OF DISCLOSURE OF INFORMATION ON CARDROOM WORK PERMIT APPLICANT

Applicant Name: Anh Espinosa

Applicant’s Date of Birth: [redacted]

Applicant’s Driver License Number: [redacted]

I am an applicant for a Cardroom Work Permit to be issued by the City of San Bruno. The San Bruno Police Department will inquire into all areas of my background which may affect my suitability to qualify for this permit, and they have reason to believe that you may have information relevant to that purpose which pertains to me.

I hereby authorize you, your organization, and/or persons in your employ to release any and all information which you may have about me, including information which may be of a confidential, privileged, and/or derogatory nature. I release and hold you, your organization, its officers, agents, or assigns harmless for any liability or damages, whether in law or in equity, for furnishing information requested by the bearer of this authorization/waiver form.

I hereby waive all rights and privileges under Labor Code Section 1054, which reads, "... In addition to and apart from the criminal penalty provided any person or agent or officer thereof, who violates any provision of section 1050 to 1052, inclusive, is liable to the partyaggrieved in a civil action, for treble damages. Such civil action may be brought by such aggrieved person or his assigns, or successors in interest, without first establishing any criminal liability under this article."  

I have specifically and permanently waived my right to review or inspect any and all information developed in this background investigation, so your response will be completely confidential. You may retain a copy of this original form for your files. I hereby authorize a facsimile copy of the authorization to be treated as valid as the original. The waiver is valid for 12 months from the below noted date.

I have read and understand the conditions of this release. My signature is verification of my understanding and waiver as specified above.

Applicant’s Signature: Anh Nguyen Espinosa

Date Release Signed: 04/13/17

Applicant’s Printed or Typed Name

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California
County of San Mateo

On 04/13/17 before me, Karen Ono, Notary Public, personally appeared Anh Espinosa who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Netary Signature: [signature]

(Seal)

Karen Ono
Comm. #2152706
Notary Public, California
San Mateo County
Comm. Expires May 12, 2020
AUTHORIZATION OF DISCLOSURE OF INFORMATION ON CARDROOM WORK PERMIT APPLICANT; (TRANSLATOR INFORMATION)

I completed the Authorization Form without the need, or the assistance of a translator (check the appropriate response):

[ ] Yes
[ ] No

[Signature]
Applicant Signature

[4-13-17]
Date Signed

If you required assistance and/or a translator to complete this Authorization Form, provide the following information:

The below section must be completed and signed by a translator, if one was used:

I, __________________________ certify that I translated all information in this Authorization Form for the applicant;

I accurately explained all the information contained in this Authorization Form and the applicant thoroughly understood all of the details of the form prior to signing the form.

______________________________
Translator’s Signature (if used)

______________________________
Date Translated

______________________________
Translator’s Printed Name

______________________________
Translator’s Title

______________________________
Translator’s Work Phone

______________________________
Language and Dialect Translated
Chapter 4.36 GAMBLING CLUBS

4.36.010 Definitions and constructions.

As used in this chapter, the following words, phrases, and terms shall have the following meanings:

A. “Applicant” means the individual, sole proprietorship, partnership, business, corporation, limited liability company, trust or officer, partner or director thereof applying for or otherwise seeking to operate a gambling club pursuant to this chapter.

B. “Board” means the California Gambling Control Board.

C. “Chief of police” means the chief of police of the city of San Bruno or his or her designee, who shall be a peace officer pursuant to California Penal Code Section 830 et seq.

D. “City” means the city of San Bruno, California.

E. “Commission” means the California Gambling Control Commission.

F. “Conducted” shall include the terms “operated,” “engaged in,” “allowed,” “permitted” and “suffered” within its meaning.

G. “Conviction” means a plea or verdict of guilty or a conviction following a plea of nolo contendere. The record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the chief of police may inquire into the circumstances surrounding the commission of the crime for purposes of applying the provisions of this chapter.

H. “Designated responsible employee” means an employee who shall have the responsibility for the operation of the gambling club in the absence of a manager or the licensee himself or herself except that no employee other than a manager shall have the power to perform, or shall actually perform, the four specific duties set forth in subsection T of Section 4.36.010.

I. “Division” means the Division of Gambling Control of the Department of Justice of the State of California.

J. “Employee” means any natural person employed in the operation of a gaming club including, without limitation, dealers, floormen, security employees, account room personnel, cage personnel, collection personnel, surveillance personnel, data processing personnel, appropriate maintenance personnel, waiters and waitresses, and secretaries or any other natural person whose employment duties require or authorize access to restricted gaming establishment areas.

L. “Financial interest” means any direct or indirect interest in the management, operation, ownership, profits or revenue (gross or net) of a gambling club. A “direct financial interest” means a monetary investment in a gambling club or the premises and business enterprises directly related to it. An “indirect financial interest” means owning one percent or more of any entity, i.e., any business, corporation, limited liability company, partnership or trust, that in turn has a direct financial interest in a gambling club. The following are examples of indirect financial interests:

1. The stock or other securities of a corporation that owns a gambling club;
2. A partnership interest in a partnership that owns a gambling club;
3. A membership interest in a limited liability company that owns a gambling club;
4. The interests of either or both the income beneficiaries or remaindermen of a revocable or irrevocable trust that owns a gambling club or holds a financial interest in one;

5. Any lease or other rental agreement with a gambling club as a lessee or renter, the rental for which is based in any part on the profits or revenue (gross or net) of the gambling club;

6. Any loan made by a private lender to a gambling club;

7. Any other interest in the management, operation, profit, revenue (gross or net) of a gambling club.

M. “Gambling club” means any establishment where legal gambling or gaming is conducted or licensed and regulated pursuant to this chapter, specifically including any business or other enterprise that conducts or operates legal gambling or gaming. “Gambling club” does not include any facility operated by a bona fide exempt organization as defined by this chapter.

N. “House player” means an employee engaged, financed, or paid by the licensee for the purpose of starting and/or maintaining a sufficient number of players in a card game.

O. “Independent agent” means any person other than an employee who does either of the following:

1. Approves or grants the extension of gambling credit on behalf of a gambling licensee or collects debt evidenced by a credit instrument;

2. Contracts with an owner licensee, or an affiliate thereof, to provide services consisting of arranging transportation or lodging for guests at a gambling establishment.

P. “Interested person” means any member, stockholder, officer, director, partner, principal, associate, individual, trustee, or combination thereof holding any financial interest in a licensee, or who has the power to exercise influence over the operation of a gambling club or a licensee.

Q. “Legal gambling” means any card or other game except for bingo, played for currency, check, credit or any other thing of value which is not prohibited and made unlawful by Chapter 9 (commencing with Section 319) or Chapter 10 (commencing with Section 330) of Title 9 of Part 1 of the Penal Code, or otherwise prohibited by any ordinance of the city of San Bruno.

R. “License” means the authorization pursuant to this chapter to operate a gambling club.

S. “Licensee” means the individual or entity that owns a gambling club and to whom a license to operate a gambling club has been issued by the city.

T. “Manager” means anyone who represents the interest of the licensee in the operation of a gambling club, whose duties include but may not be limited to:

1. The making or changing of policy;

2. Approving credit;

3. Hiring or firing of employees; or

4. Generally exercising independent judgment in the operation of the gambling club. A manager need not have a financial interest in the gambling club.

A manager must be an employee of the licensee, or if not an employee, then a person having a financial interest as a partner, a shareholder, member or trustee of the gambling club (but not otherwise).

U. “Moral turpitude” means an act that grossly violates moral sentiment or accepted moral standards of the community.

V. “Organized crime” means a structured criminal syndicate composed of professional criminals who primarily rely on unlawful activity as a way of life.
W. “Permitted transferee of a license” shall be any one or more of a group consisting of a licensee and the spouse on July 1, 1987, child or any descendant (either natural or adopted while a minor), brother, sister, or parent of any licensee or qualified transferor. A “permitted transferee of a license” shall also include:

1. Any custodian under the California Uniform Gift to Minors Act, executor, administrator (an administrator with the will annexed), conservator or guardian of a licensee or of a permitted transferee of a license; and

2. Any trustee of a living or testamentary trust, revocable or irrevocable, established at any time by a licensee or qualified transferor for the exclusive benefit of a licensee and or any one or more of any permitted transferees as above. Any acting custodian or fiduciary shall be a permitted transferee, subject to approval by the chief of police.

X. “Private lender” means any person other than a state or federally regulated bank or savings and loan association, a credit union, any other recognized financial institution doing business with the public, that has loaned or advanced, or is obligated to loan or advance money to a gambling club if either the payment of interest or principal of such loan is based in any part on the profits or revenue (gross or net) of the gambling club, or by virtue of the loan, such person has the power to exercise influence over the operation of a gambling club.

Y. “Qualified transferor” shall mean:

1. A person, partnership limited liability company or corporation holding a gambling club license;

2. A person holding stock in a corporate licensee; and/or

3. A person having a partnership interest in a partnership license;

4. A person holding a membership interest in a limited liability company.

Z. “Regist rant” is any person who has filed an application under the Gaming Registration Act of California (California Business and Professions Code Section 19800 et seq.), hereafter “Gaming Registration Act.”

AA. “Transfer of a financial interest” shall mean the assignment, bequest, conveyance, demise, devise, gift, grant, lease, loan, sublease or transfer of a financial interest in a gambling club.

AB. “Transfer of a license” shall mean the assignment, bequest, conveyance, demise, devise, gift, grant, lease, loan, sublease or transfer of a gambling club license.

References within this chapter to specific California statutory provisions shall be construed to mean those statutory provisions in effect at the time of adoption of this chapter, those statutory provisions as amended from time to time, or successor provisions to those statutory provisions. (Ord. 1689 § 1, 2004; Ord. 1598 § 2, 1998)

4.36.015 Conformance with state law.

A. It is the stated purpose of this chapter to regulate gambling clubs in the city of San Bruno concurrently with the state of California, and to impose local controls and conditions upon gambling clubs as permitted in the “Gambling Control Act” as codified in Division 8, Chapter 5 of the California Business and Professions Code. All such references in this chapter to the Gambling Control Act are to Division 8, Chapter 5 of the California Business and Professions Code, and any such amendments to that chapter.

B. The licensing of any corporation, individual, limited liability company, partnership or other entity under the Gambling Control Act does not entitle such state licensee to any license or entitlement under this chapter without complying with licensing requirements of this chapter. (Ord. 1598 § 2, 1998)
4.36.020 License—Required.

A. No person shall own or operate a gambling club without first obtaining a valid, unexpired, and unrevoked gambling club license issued pursuant to the provisions of this chapter.

B. A business establishment open to the public which has no gambling license shall not operate a gambling club, or conduct legal gambling, or permit legal gambling to be conducted in its establishment, whether or not a fee or other charge is made to the players.

C. An applicant for a gambling club license may be an individual, a corporation, a limited liability company, an exempt organization, a joint venture, a partnership, a trust (revocable or irrevocable) or other legal entity. A licensee shall have the only direct financial interest in the license and in the gambling club that the licensee operates, although persons other than the applicant may have indirect financial interests in a licensee.

D. The provisions of this chapter shall not be applicable to any bingo game which is conducted in the city pursuant to Section 326.5 of the Penal Code.

E. A gambling club license shall only be issued to a gambling club applicant which holds a gambling club license issued under the Gambling Control Act. (Ord. 1598 § 2, 1998)

4.36.030 License—Application.

A. An applicant for a gambling club license to be issued under this chapter shall submit a completed application, under penalty of perjury, to the chief of police on a form provided by the city.

B. Each applicant shall provide such other information as the chief of police may deem necessary and appropriate.

C. Each applicant shall pay a nonrefundable fee, in an amount established by resolution of the city council, to defray the costs of investigation of the applicant. (Ord. 1598 § 2, 1998)

4.36.040 License restrictions.

A. The city council finds and declares as follows:

1. There is presently one gambling club licensed to operate within the city.

2. Due to social problems inherent in legal gambling activities, the number of gambling clubs should be limited for the welfare of the community.

3. Sixty gambling tables are authorized to operate within the city.

4. The provisions of this chapter comport with the requirements of the Gambling Control Act, and specifically, Business and Professions Code Section 19960.

B. There shall be one licensed gambling club permitted to operate in the city. The maximum number of gambling tables allowed to operate in that club shall be sixty, provided that upon application to and approval by the chief of police, the gambling club may be permitted to operate additional tables on a temporary basis for tournaments, if permissible under state law and city business license taxes are paid to the city on a pro rata basis.

C. No application for a gambling club license shall be accepted for filing when the maximum number of licenses authorized pursuant to subsection B has been issued and is in effect. There shall be no waiting lists or priorities for persons desiring to file such applications under such circumstances.
D. Any person interested in obtaining a gambling club license at such time as one is available may file a written request with the city clerk for written notice as to when the applications will be accepted for filing. Such written requests shall be valid and in force for a period of one year from the date of their filing, and they may be refilled.

E. Whenever the number of gambling club licenses issued and in effect is less than the number authorized by subsection B, the city clerk shall so advise the city council. Upon authorization from the city council, the city clerk shall cause to be published in a newspaper of general circulation in the city a statement that the city is accepting declarations of intent to apply for a gambling club license for a period of sixty calendar days from the date of publication of the statement. The statement shall indicate that such declarations of intent must include the name, address, and telephone number of the declarant, the last day for filing declarations, and the place at which declarations may be filed. The city clerk shall cause such statement to be mailed by first class mail to all persons with currently valid written requests for the same pursuant to subsection D.

F. No application for a gambling club license shall be considered unless the applicant shall have filed a declaration of intent to apply for a gambling club license within sixty calendar days of the publication of the statement pursuant to subsection E. No such application shall be received or considered except pursuant to subsection E.

G. When the period for filing declarations of intent to apply for a gambling license has expired, and the number of declarations on file with the city clerk exceeds the number of gambling club licenses authorized to be granted, the city clerk shall select by lot one of the declarations and shall notify the declarant by telephone and by first-class mail of such selection. The city clerk shall also notify the chief of police of the declarant selected. If the declarant does not file an application for a gambling club license within fifteen city business days of the date of mailed notice the declarant shall have waived his or her right to file such application, and the city clerk shall select by lot another declaration, and the above-mentioned process shall again be undertaken.

H. If an application for a gambling club license is duly filed, processed, and granted by the chief of police, and the granting thereof results in the maximum number of licenses authorized having been issued, no further declarations or applications shall be processed. If the application is denied, or if the application is granted and the granting thereof does not result in the maximum number of licenses authorized having been issued, the city clerk shall select another declaration for processing by lot, and any further processing of declarations or applications shall depend upon whether any additional authorized licenses still exist. (Ord. 1712 § 1, 2006; Ord. 1598 § 2, 1998)

4.36.050 Application—Review.

A. The chief of police shall review each application to determine whether it contains all of the required information.

B. If the application does not contain all of the information required, the chief of police shall either return it to the applicant for completion or withdrawal or reasonably extend the time for completion.

C. The chief of police shall investigate the applicant, all present and proposed managers and designated responsible employees of the applicant; each person who has a financial interest in the proposed applicant, gambling club, or premises to be used; and the manner in which the gambling club is proposed to be operated. (Ord. 1598 § 2, 1998)

4.36.060 Application—Mandatory denial.
The chief of police shall deny the application for a gambling club license if he or she makes any of the following determinations:

A. That the applicant is under the age of twenty-one years, but only if failure to attain such age constitutes a ground for denial of an application for a license under the Gambling Control Act;

B. That the applicant has been convicted for any crime punishable as a felony;

C. That the applicant has been convicted for any misdemeanor involving dishonesty or moral turpitude within the ten-year period immediately preceding the submission of the application, unless the applicant has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the Penal Code;

D. That the applicant associates with criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code;

E. That the applicant has engaged in contumacious defiance of any legislative investigatory body, or other official investigatory body of any state or of the United States, when that body is engaged in the investigation of crimes relating to gambling; official corruption related to gambling activities; or criminal profiteering activity or organized crime, as defined by Section 186.2 of the Penal Code;

F. That the applicant has any financial or other interest in any business or organization outside the state of California which is engaged in any form of gambling or gaming not authorized by the laws of this state.

(Ord. 1598 § 2, 1998)

4.36.065 Application—Discretionary denial.

The chief of police may deny the application for a gambling club license if he or she makes any of the following determinations:

A. That the establishment of a gambling club in the proposed premises would violate the zoning, fire, building, or other regulations of the city, or other applicable laws or regulations;

B. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant:

1. Made a false statement of a material matter in an application for a gambling license filed under the Gambling Control Act or in any application made to obtain a license hereunder,

2. Has engaged in bookmaking or other illegal gambling activities, any offense involving gambling specified in Sections 319—337.9 of the California Penal Code, or has been convicted of an offense involving such activities,

3. Lacks the financial stability, or capability, or business experience to operate a gambling club in a manner which would adequately protect to operate or sustain a cardroom which will meet specified city standards,

4. Fails to satisfy the chief of police as to the source of funds to be invested in the proposed venture,

5. Has engaged in unlawful activity in relation to, or has a history of disturbances constituting a nuisance stemming from operation of a nightclub, bar, gambling club, lounge, or other similar entertainment establishment,

6. Fails to produce sufficient evidence of adequate financing available to pay current and potential obligations and, in addition, to finance opening of the proposed gambling club,

7. Provides an inadequate security plan,

8. Proposes a location for the proposed card club in an area not authorized by this chapter, the city’s zoning ordinance or by the city’s community and economic development director, or
9. Has been convicted of a crime punishable as a felony and reduced to a misdemeanor pursuant to Section 17 of the California Penal Code or comparable statutory provision of another state or country; or has been granted relief pursuant to Section 1203.4, 1203.4a, or 1203.45 of the California Penal Code or comparable statutory provision of another state or country;

C. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant within ten years immediately preceding the filing of the application has engaged in conduct constituting, or has been convicted of, any of the following offenses:

1. Any offense specified in Sections 266(i), 315, 316, 318, or subdivision (b) of Section 647 of the California Penal Code,

2. Any offense which requires registration as a sex offender under Section 290 of the California Penal Code,

3. Any offense in another state or country, which, if committed in this state, would have been punishable as one or more of the foregoing offenses,

4. Any offense involving the use of force or violence upon the person of another,

5. Any offense involving theft, embezzlement, or moral turpitude,

6. Any offense which relates directly to the operation of a gambling club;

D. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant has done any act involving dishonesty, moral turpitude, fraud, or deceit with the intent to substantially benefit himself or herself or another, or substantially injure another;

E. That the applicant has failed to comply with one or more provisions of this chapter, or of this code, or other laws or regulations applicable to the premises, equipment, ownership or operation of the proposed gambling club of the applicant;

F. That the applicant has knowingly made one or more false statements in his or her application;

G. That the issuance of the proposed license would violate an applicable provision of this chapter;

H. That the applicant, or any present or proposed manager or designated responsible employee of the applicant, or any person who has a financial interest in the applicant is engaged in organized crime, or has substantial, regular or continuous personal, professional or financial associations with one or more persons engaged in organized crime;

I. In conducting any review of an application hereunder, the chief of police shall gather all evidence relevant to the review and may issue subpoenas for the appearance of witnesses and the production of documents and other evidence. If an applicant or a person having a financial interest in the gambling club of the applicant or proposed manager or designated responsible employee shall not respond to a subpoena directed to such person for a personal appearance or the production of documents, prima facie grounds shall exist for the denial of the application. The determinations of the chief of police shall be valid if supported by a preponderance of the evidence;

J. The applicant refuses to provide consent to allow use of information contained in investigations where consideration of an offense was deferred pursuant to California Penal Code Section 1000.4 or comparable statutory provision of another state or country. (Ord. 1598 § 2, 1998)

4.36.070 Payment of business license tax.
Prior to commencement of any gambling club business, and prior to its continuation beyond the calendar quarter in which it is operating, the applicable business license tax for gambling clubs shall be paid pursuant to Title 3 of this code. (Ord. 1598 § 2, 1998)

4.36.080 Transfer of gambling club license and financial interests.

A. Except as otherwise provided in this section, no transfer or assignment of any gambling club license issued by the city, nor stock in any licensed corporation, nor interest in any licensed partnership or limited liability company, nor beneficial or remainder interest in any licensed trust nor any direct or indirect financial interest in a gambling club, will be permitted for any reason.

The precluded transfers of a gambling club license include the sale, assignment, transfer or conveyance of any interest in a license or of any corporate licensee, or any right or interest therein or thereunder, nor is transfer or assignment permitted to occur by operation of law, testamentary or intestate succession, trust relationship, bankruptcy proceedings, contractual relationship, reclamation or repossession.

B. A qualified transferor may transfer a gambling club license, the stock of a corporate licensee, a membership interest in a limited liability company licensee, a partnership interest in a partnership license to a permitted transferee of a license, and only to a permitted transferee of a license, provided that such permitted transferee of a license is registered with the chief of police pursuant to subsections C and D below.

C. Each licensee shall maintain with the chief of police a listing of all eligible permitted transferees of a gambling club license who are not holders of such license, or any partial interest in such license. Such listing shall include the name, relationship, Social Security number, and supporting documentation attesting to and/or verifying the relationship of the individual to the licensee, as well as such other information that the chief of police deems necessary.

D. To obtain permission for a transfer hereunder, the transferor and transferee shall file an application for transfer, similar to the application for a license, with the chief of police, paying a nonrefundable transfer fee, in an amount established by resolution of the city council, and shall obtain the approval of the chief of police to the transfer. The chief of police shall deny the application if he or she determines that the proposed transferee is unqualified under Section 4.36.060. The chief of police may deny the application if he or she determines that the proposed transferee has:

1. Engaged in conduct constituting or has been convicted of any of the offenses, crimes, activities prescribed in Section 4.36.065;

2. Failed to file with the application a complete copy of the application for license (and exhibits) filed by the transferee under the Gambling Control Act, and a copy of the current license issued to the transferee pursuant to the Gambling Control Act, each of which shall be declared by the applicant under penalty of perjury to be a complete copy;

3. Has failed to comply with one or more provisions of this chapter, or this code, or other laws or regulations applicable to the premises, equipment, or operation of the gambling club for which the transfer of license or financial interest therein is requested;

4. Has knowingly made one or more false statements in the application.

All determinations of the chief of police made pursuant to this subsection shall be valid if supported by a preponderance of the evidence.

E. In the case of an interfamily transfer only, a qualified transferor may transfer a gambling club license, the stock of a corporate licensee, a membership interest in a limited liability company, and a partnership interest in a partnership license to a permitted transferee of a license, and only to a permitted transferee of license. (Ord. 1598 § 2, 1998)
4.36.085 Location, change in location.

The location of a gambling club in existence as of July 13, 1998 is deemed approved for purposes of this chapter. Any subsequent change in location of a gambling club shall be approved by the chief of police, and shall comply with the Zoning Ordinance of the city of San Bruno and meet the requirements of this chapter. (Ord. 1598 § 2, 1998)

4.36.090 Operations regulations.

The chief of police may from time to time enact rules and regulations to effectuate the purposes of this chapter. A party aggrieved by a rule or regulation promulgated by the chief of police may appeal such action to the city council in accordance with the provisions of Section 4.36.150 of this chapter.

It is unlawful to operate a gambling club in violation of any of the following regulations:

A. Physical Arrangements.

1. Not more than one gambling club shall be located at one address.

2. No establishment licensed as a gambling club shall use, operate, maintain, or permit the use or operation of more gambling tables than those authorized by the city for a licensee to operate and for which the prescribed license fee has been paid to the city. All gambling activity shall be restricted to the areas of a gambling club which have been authorized in the conditions of the license issued by the chief of police. Any change in conditions as to the physical location of any gambling activity within any gambling club must be approved by the chief of police.

3. The physical arrangements of the gambling area and parking lots of a gambling club shall meet the requirements and specifications determined necessary by the chief of police for the security and safety of citizens, patrons, and police officers.

4. During all hours of operation the outside doors to the gambling club and the main doors to the gambling rooms must be unlocked and accessible to the general public.

5. Licensees may conduct operations up to twenty-four hours a day, seven days a week.

6. No legal games may be conducted in the same building or on the same premises where any bingo game is conducted, whether the bingo games are for profit or not.

7. The legal gambling areas of the gambling club shall be separated from other activities on the premises.

8. Any part and all of the gambling club shall be open to police inspection during all hours of operation.

9. Unless otherwise authorized by the chief of police based upon a finding of necessity because of the rules relating to a particular game, a maximum of ten hands may be dealt at any one table. The maximum number of persons who may participate in play at a table may be limited by the licensee consistent with the provisions of this chapter, provided that in any event, the number of persons present in any gambling room shall not exceed the occupant load as otherwise prescribed by law.

B. Operations Procedures. No licensee, agent, or employee of a licensee, or a person to whom a work permit has been issued or for whom one is required shall:

1. Allow or permit money to be used as ante or bet in any legal game in any gambling club. Anteing or betting shall be done by using tokens, chips, or other representatives of money;

2. Offer or give or permit to be offered or given any alcoholic beverages to encourage play;
3. Loan money, chips, tokens, or anything of value, either real or promised, to any person, including other employees, for which a loan fee, interest, or other consideration is imposed, while on gambling club property for the purpose of allowing that person to participate in any gambling activity;

4. Act in the capacity of, or employ any person to act in the capacity of a house player, unless such person wears in a conspicuous place attached to the clothing an identification card or badge identifying such person as a house player;

5. Knowingly permit any person who is in a state of intoxication in any area of the premises used for legal games;

6. Permit any person under the age of twenty-one years to participate in any legal game within, or to be present within, any gambling club; provided, however, that a licensee may establish a higher minimum age of admission if not otherwise prohibited by law; provided, further, that this provision shall not be construed to authorize the admission to any gambling club of any persons under the age of twenty-one years where such admission is prohibited by any law or regulation governing the sale of alcoholic beverages;

7. Fail, neglect, or refuse to exhibit their licenses or work permits on the demand of any law enforcement officer, or, in the case of a work permit issued to a dealer, manager, or designated responsible employee, or a person who performs any function directly connected with the operation of legal gambling in a gambling club, fail, neglect, or refuse to wear such permit as identification in a conspicuous place attached to the clothing, while performing his or her duties for the licensee;

8. Permit or allow the contracting or farming out, assigning, lending, renting, or subletting of any games or card tables on the gambling club premises;

9. Permit more than four participants to wager on the same hand in designated games, unless otherwise authorized by the chief of police for a particular game. Such authorization may be revoked in writing by the chief of police. In no event shall the total number of wagering participants within the gambling club exceed four multiplied by ten (the maximum number of hands per table) multiplied by the number of tables for which the then current quarterly business license tax has been paid;

10. Permit someone other than the primary seated participant to be in control of the play for the hand, unless otherwise permitted under licensee’s house rules which have received prior approval by the chief of police;

11. Permit cards or tiles to be removed out of the sight of the dealer or the floor manager at the table;

12. Knowingly permit any unlawful activity to take place upon the premises of the gambling club or to fail to take reasonable steps to prevent such activities from taking place;

13. Play in, or permit the playing of, any game at any place licensed pursuant to this chapter which is not allowed by state or municipal law.

C. General Requirements.

1. There shall be posted in a conspicuous place in the gambling club premises the following:
   a. The minimum buy-in, wagering limits, and any and all times charges or other fees assessed of all charged players at a table;
   b. A set of detailed house rules applicable to the games played, which shall be posted in the form of a printed rule book;
   c. A copy of the current valid city license and the licensee’s current gambling license issued under the Gambling Control Act;
   d. The hours during which the establishment will remain open for business.
2. The operation of a gambling club shall be the responsibility of the licensee personally (if an individual is the licensee) or a manager or designated responsible employee of the licensee at all times. The licensee shall designate the names of all such managers and designated responsible employees in the application and shall advise the chief of police in writing whenever any change is made.

3. The licensee personally (if an individual is the licensee), or a manager or a designated responsible employee shall be on the gambling club premises at all times during the conduct of its legal gambling operations.

4. Not later than July 1st of each calendar year the licensee shall execute under penalty of perjury and file with the chief of police a declaration stating the following:
   a. The minimum buy-in, table and wagering limits, and any and all time charges or other fees assessed of all players at a table;
   b. A set of the then current posted detailed house rules applicable to the games played;
   c. That payment of the most recently assured city business license tax for a gambling club has been paid.

The declaration shall be accompanied by a complete copy of all applications (and exhibits) filed since the prior July 1st with the division, the board or the commission, by the licensee and all persons having a financial interest in the licensee under the Gambling Control Act; provided that copies of current gambling license, key employee licenses as defined in Section 19805 of the Gambling Control Act, and work permits issued under the Gambling Control Act shall be filed forthwith after their receipt with the chief of police if not obtained by the time this declaration is filed, hereunder, and each of which copies shall be declared by the licensee under penalty of perjury to be a complete copy.

5. A licensee shall designate one or more persons who are regularly present on the premises of the licensee during regular business hours as agent(s) for the service of subpoenas ("agent") issued by the chief of police under this chapter.

By accepting, and as a continuing condition to the validity of, a license under this chapter, the licensee, each manager and each designated responsible employee of the licensee, and each person who has a financial interest in the licensee shall consent to having any such agent accept the service of subpoenas directed to them hereunder by the chief of police.

A licensee may change the designation of its agent at any time by filing a change in writing with the chief of police. The chief of police shall serve a subpoena upon a person either (1) by personal service on such person or (2) by personal service on an agent.

Each subpoena directed to a person by the chief of police shall set forth the subject matters that are to be the topics of inquiry and any request for specific information required by the chief of police. If all of the specific information sought from the person upon whom the subpoena is served may otherwise be supplied by the licensee, the licensee shall file a declaration under penalty of perjury with the chief of police that contains such specific information at the time directed, the effect of which declaration shall be to quash the subpoena; provided, however, that topics of inquiry or requests for specific information pertaining to the background or actions of the person to whom the subpoena has been directed may only be answered or otherwise responded to by such person.

No subpoena shall compel the attendance of any person before the chief of police or at any hearing conducted under this chapter in less than seventy-two hours after receipt of such service by the person(s) upon whom such service is to be made; reasonable requests for extension of time to appear shall be granted for up to an additional forty-eight hours by the chief of police upon a declaration that sets forth a reasonable ground for such extension, which declaration is executed under penalty of perjury (based on information and belief) by any person who would be subject to the service of a subpoena under this paragraph.
6. All financial information of a licensee, both corporate and personal, which may be legally required to be provided to the chief of police shall be held in strictest confidence and not disclosed, discussed, disseminated or published without the written permission of the person providing such information or as otherwise provided by state law.

7. No maximum wagering limit is imposed on games at the gambling club. The gambling club may conduct no limit games or may, in its discretion, set maximum wagering limits on a game-by-game basis and table-by-table basis, provided that such maximum wagering limits comply with all state and local laws, and are posted as required by Section 4.36.090 C(1)(a).

8. A licensee shall have in effect a security plan to address the security and safety of patrons in and around the cardroom. The plan, and any amendments thereto, must be filed with and approved by the chief of police. The licensee shall be liable for the security and safety of its patrons to the extent required by law. Any information about security measures that is provided to the city by a gambling club shall be confidential and not open to public inspection. (Ord. 1725 § 2, 2006; Ord. 1598 § 2, 1998)

### 4.36.100 Work permits—Required.

A. A person shall not be employed as an employee of a gambling club unless he or she first has been issued a valid, unexpired, and unrevoked work permit.

B. Each applicant for a work permit shall submit to the chief of police a completed, city-approved application, made under penalty of perjury, which shall contain the following information:

1. The true name, address, date of birth, physical description and telephone number of the applicant;
2. The past criminal record, if any, of the applicant;
3. Fingerprint taken by the San Bruno police department;
4. Two full face photographs of one inch by one inch exact size taken within sixty days immediately preceding the date of filing of the application;
5. A written statement directed from a licensee indicating a willingness and intent to employ the applicant if the latter is issued a work permit;
6. A complete copy of the application (if any) and exhibits filed by the applicant under the Gambling Control Act and a copy of any current key employee license (as defined in Section 19805 of the Gambling Control Act) issued to the applicant thereunder;
7. Such other information as may be requested by the chief of police.

C. The chief of police shall obtain a background check on the applicant to determine if the applicant is disqualified from holding a state gambling license.

D. The chief of police shall either grant or deny the application within sixty days of the filing thereof, unless a temporary work permit is granted pursuant to this section.

E. In determining whether or not to grant or deny the application for a work permit, the chief of police shall consider any and all objections to the issuance of the work permit made by the division or the commission.

F. In recognition of the delays which may be encountered in obtaining all information on each applicant under this section, the chief of police, or his or her designee, is authorized to issue temporary work permits which shall be valid for a period not to exceed sixty days. If additional time is required, subsequent temporary work permits may be
issued which will be valid for the same time period. Such temporary work permits shall include such terms and conditions as may be determined by the chief of police, or his/her designee. The chief of police has the right to refuse issuance of a temporary work permit if preliminary information exists to justify such refusal. (Ord. 1598 § 2, 1998)

4.36.110 Work permits—Denial of application.

A. The chief of police shall deny the application for a work permit if he or she makes any of the following determinations:

1. The applicant is under the age of twenty-one years.
2. The applicant would be disqualified from holding a state gambling license for reasons stated in paragraphs (2), (3), (6), inclusive, of subdivision (a) of Section 19850 of the Gambling Control Act.
3. The division or the commission objects to the issuance of the work permit, provided that if after review of such objection pursuant to the Gambling Control Act, the objection is withdrawn, the chief of police shall reconsider the application.

B. The chief of police may deny the application for a work permit if he or she makes any of the following determinations:

1. That the applicant has within ten years immediately preceding the filing of the application been convicted in a court of competent jurisdiction of an offense enumerated in Section 4.36.065, or has engaged in conduct constituting any such offense;
2. That, without regard to date of conviction, the applicant has engaged in bookmaking or any offense involving gambling specified in Sections 319—337.9 of the California Penal Code;
3. That the applicant has failed to comply with one or more provisions of this chapter, or of this code, or other laws or regulations applicable to the operation of a gambling club;
4. That the applicant has knowingly made one or more false statements in the application or during the application background process;
5. The applicant’s refusal to provide consent to allow use of information contained in investigations where consideration of an offense was deferred pursuant to California Penal Code Section 1000.4 or comparable statutory provision of another state or country may result in a denial of the application.

The determinations of the chief of police shall be valid if supported by a preponderance of the evidence. (Ord. 1598 § 2, 1998)

4.36.120 Work permits—Expiration and renewal.

A work permit shall be valid for two years. It shall be renewable at the end of each second year upon filing a new application and a renewal fee, in an amount established by resolution of the city council. If an expired permit is not renewed within thirty days after the expiration date, the filing fee for an original application shall be applicable. (Ord. 1598 § 2, 1998)

4.36.130 Work permits—Possession at place of work.

Every dealer, manager, and designated responsible employee, and every person who performs any function directly connected with the operation of legal gambling in a gambling club shall keep in his or her immediate possession the valid work permit issued, and shall wear such permit as identification in a conspicuous place attached to the clothing but only while performing his or her duties for the licensee. No work permit shall be
worn off the gambling club premises. The work permit is issued to the applicant, but remains the property of the city of San Bruno. The work permit or provisional permit shall be returned to the San Bruno police department when the work permittee’s or provisional work permittee’s employment is severed with the licensee. The licensee shall immediately notify the chief of police, or his/her designee when the permittee’s employment is severed. (Ord. 1598 § 2, 1998)

4.36.140 Revocation and suspension of licenses and work permits.

A. A work permit shall be suspended by the chief of police if he or she receives an order from the division, the commission or the board directing that an individual’s work permit be summarily suspended.

B. A work permit shall be revoked by the chief of police if he or she receives an order from the division, the commission or the board of the state of California directing that an individual’s work permit be revoked.

C. Licenses and work permits are subject to revocation or suspension upon a determination by the chief of police that grounds exist which would justify the denial of an application for such license or work permit if such application were then pending, or that the licensee or a person that has a financial interest in the licensee has:

1. Violated one or more provisions of this chapter;
2. Violated any statute or ordinance relating directly to the operation of the gambling club;
3. Been convicted of, or has engaged in conduct constituting an offense enumerated in Section 4.36.060.
4. Done any of the following:
   a. Violated any federal, state or local statute, rule or ordinance regulating gambling;
   b. Engaged in false or misleading advertising in connection with gambling;
   c. Failed to take reasonable steps to prevent any dishonest acts or illegal activities occurring on the gambling premises committed by any patron or any other person;
   d. Failed to pay any monetary penalty levied pursuant to the Gambling Control Act;
   e. Denied the Attorney General or chief of police access to any place within a gambling club establishment or failed to promptly produce for inspection or audit any book, record, or document requested by the Attorney General or the chief of police;
   f. Failed to comply with any condition of the license or registration under the Gambling Control Act;
   g. Obtained a license by fraud, misrepresentation, concealment, or through inadvertence or mistake;
   h. Made a misrepresentation, or failed to disclose, a material fact on the application or as part of any subsequent investigation to the Attorney General or the chief of police.

D. Except when ordered by the state, the term of suspension of any license or permit shall be for the specific time determined by the chief of police but not more than sixty days.

E. In conducting an investigation, which the chief of police may initiate on his or her initiative or in response to complaint, or making a determination hereunder, the chief of police shall gather all evidence relevant to the investigation and may issue subpoenas for the appearance of witnesses and the production of documents and other evidence. If a licensee or a person having a financial interest in the gambling club of the licensee or a manager or designated responsible employee of the licensee (unless the manager or designated responsible employee are not longer employees of the licensee) shall not respond to a subpoena served upon and directed to such person for a personal appearance or the production of documents, prima facie grounds shall exist for the suspension of the gambling club license. The provisions of subsection (C)(5) of Section 4.36.090 shall be applicable to this subsection. The determinations of the chief of police shall be valid if supported by a preponderance of the evidence.
F. Upon determination that grounds for revocation or suspension exist, the chief of police shall notify the licensee or work permittee in writing either by personal delivery or by first class mail addressed to the licensee or work permittee at the address listed in the license or permit application, or any more recent address furnished to him or her by the licensee or work permittee. The notice shall state that the license or permit is revoked or suspended, as the case may be, the duration of any suspension, and the grounds for the action. Except when the revocation or suspension is ordered by the state, the notice shall further state that the action shall not become effective until the eleventh business day after the date of the notice, and that during such period the licensee or work permittee may file a notice of appeal to the city council with the city clerk pursuant to Section 4.36.150. The notice shall state that if the action is appealed to the city council, the action shall not become effective, if at all, until the council shall have heard and decided the appeal.

G. If the licensee or work permittee fails to file a notice of appeal with the city clerk within a period of ten city business days from the date of notice of suspension or revocation, the action of the chief of police shall become final and conclusive. If a notice of appeal is timely filed, accompanied by payment of an appeal fee in an amount established by resolution of the city council, the city clerk shall schedule the matter for hearing before the city council. The city clerk shall provide at least ten city business days written notice of the date, time, and place of the hearing to the licensee or work permittee and the chief of police. When such notice has been timely filed, the suspension or revocation shall not become effective until the appeal has been completed.

H. At the hearing before the city council the appellant and the chief of police shall have the following rights:

1. To call and examine witnesses under oath;
2. To introduce exhibits under oath;
3. To cross-examine opposing witnesses under oath on any matter relevant to the issues, even though that matter was not covered in the direct examination;
4. To impeach any witness, regardless of which party first called him or her to testify; and to rebut the evidence against him or her.

If the appellant does not testify in his or her own behalf he or she may be called as if under cross-examination.

I. The hearing need not be conducted according to technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing. Irrelevant and unduly repetitious evidence shall be excluded.

J. In revoking or suspending a license or work permit pursuant to this section, the chief of police shall have the power to suspend the effectiveness of such action upon reasonable conditions, and to direct that if the licensee or work permittee does not comply with such conditions, the original revocation or suspension will become effective. If the chief of police determines that any condition has been violated, the procedure for notice and hearing for revocations and suspensions shall be applicable.

K. In addition to the power to suspend a work permit pursuant to this section, if the chief of police determines that a work permittee has engaged in such conduct as to provide reasonable cause to believe that his or her continued work in a gambling club would constitute an immediate threat of continued violations of operations requirements, fraudulent or dishonest conduct, or sale or use of narcotics on the premises, he or she may immediately suspend the work permit by providing written notice to the work permittee and the licensee
of the action taken and the reason therefor. The chief of police shall conduct a hearing on the matter upon notice to the work permittee not later than five city business days from the date of the suspension. The hearing shall be in accordance with the provisions of this section. If at the conclusion of the hearing the chief of police determines that grounds exist for the suspension or revocation of the work permit, he or she may revoke or continue the suspension of the work permit. The work permittee may appeal such decision to the city council by filing a notice of appeal pursuant to Section 4.36.150; provided, however, that pending the action of the city council on appeal the revocation or suspension shall remain in full force and effect.

L. In addition to the power to suspend a license pursuant to this section, if the chief of police determines that such conduct exists in the gambling club as to provide reasonable cause to believe that the continued operation of the gambling club would constitute an immediate threat of continued violations of the operations requirements hereunder, or the continuation of fraudulent or dishonest conduct on the premises, or the termination of the sale or use of narcotics on the premises, he or she may immediately suspend the license by providing written notice to the licensee (if an individual is the licensee) or upon any manager or designated responsible employee, which written notice shall specify the action taken and the reason therefor. The chief of police shall lift the suspension within forty-eight hours of its imposition and at such specific time within such period if he or she determines that the conditions giving rise to the suspension have been removed, failing in which the suspension shall continue without further action and he or she shall conduct a hearing on the matter upon notice to the licensee not later than five city business days from the date of the suspension. The hearing shall be in accordance with the provisions of this section. If, at the conclusion of the hearing, the chief of police determines that such conditions still have not been removed, he or she may revoke or continue the suspension of the license as otherwise provided in section. The licensee may appeal pursuant to Section 4.36.150; provided, however, that pending the action of the city council on appeal, the revocation or suspension shall remain in full force and effect. (Ord. 1598 § 2, 1998)

4.36.150 Appeals.

A. Whenever the chief of police shall deny an application for a gambling room license or work permit, he or she shall notify the applicant or work permittee in writing by either personal delivery or by first class mail addressed to the applicant or work permittee at the address listed in the respective application, or at any more recent address furnished to him or her by the applicant or work permittee. The notice shall state that the application has been denied or that the licensee or work permittee has been suspended or revoked and the grounds for the action. The notice shall further state that the applicant or work permittee shall have the right to appeal the action to the city council by filing a notice of appeal with the city clerk no later than ten city working days from the date of the notice of denial.

B. A notice of any appeal shall be filed with the city clerk not later than ten city business days from the date of notice of denial, suspension or revocation of the application, San Bruno license or work permit, failing in which the action of the chief of police shall become final and conclusive. If a notice of appeal is timely filed, accompanied by payment of an appeal fee in an amount established by resolution of the city council, the city clerk shall schedule the matter for hearing before the city council. The city clerk shall provide at least ten city business days notice of the date, time, and place of the hearing to the party appealing and the chief of police. (Ord. 1598 § 2, 1998)

4.36.160 Abandonment of gambling club license.

A. A gambling club license shall be deemed to be abandoned and null and void under the following conditions:
1. The operation of the gambling club has not commenced within one year after the issuance of the gambling club license.

2. The gambling club has failed to conduct legal gambling for a period of six months.

B. If the chief of police determines that a gambling club license has been abandoned pursuant to this section, he or she shall notify the licensee in writing either by personal delivery or by first class mail addressed to the licensee at the address listed in the license application, or any more recent address furnished to him or her by the licensee. The notice shall state that the chief of police has determined that the license has been abandoned and is null and void; and the reasons for such determination. The notice shall further state that the licensee may file a notice of appeal of such decision to the city council by filing such notice with the city clerk within ten city business days of the date of the notice by the chief of police.

C. If the licensee fails to file a notice of appeal with the city clerk not later than ten city business days from the date of notice by the chief of police, the termination by the chief of police shall become final and conclusive. If a notice of appeal is timely filed, accompanied by payment of an appeal fee, in an amount established by resolution of the city council, the city clerk shall schedule the matter for hearing before the city council. The city clerk shall provide at least ten city business days' notice of the date, time, and place of the hearing to the licensee and to the chief of police.

D. The hearing on the appeal shall be conducted in accordance with the provisions of subsections H and I of Section 4.36.140. (Ord. 1598 § 2, 1998)

4.36.170 Decision of city council after hearing.

A. Upon the conclusion of an appeal hearing conducted by the city council pursuant to Sections 4.36.140, 4.36.150 and 4.36.160, the city council shall make findings of fact and conclusions of law, which shall be transmitted in writing to the appellant.

B. The city council on appeal may, based upon the evidence presented, affirm or reverse the decision of the chief of police. In the case of a revocation or suspension of a permit, it shall have the power to modify the penalty to any lesser one provided in Section 4.36.140.

C. The decision of the city council on appeal shall be final and conclusive. (Ord. 1598 § 2, 1998)

4.36.180 Application to existing gambling clubs and work permittees.

A. Any gambling club licensee validly operating a gambling club under a license issued pursuant to this chapter prior to the adoption of this chapter in the form set forth herein shall not be required to obtain a new license, and the license of such licensee shall continue to be in effect; provided, however, that the operations of any such licensed gambling clubs shall be governed by Sections 4.36.070, 4.36.080, 4.36.090, 4.36.140, 4.36.160, and 4.36.170.

B. Any work permit validly in force and effect at the time of adoption of this chapter in the form set forth herein shall continue to be valid until its scheduled expiration date; provided, however, that all persons who have been issued such work permits shall be governed by the provisions of Sections 4.36.090, 4.36.130, 4.36.140 and 4.36.170. (Ord. 1598 § 2, 1998)

4.36.190 Minimum age of players.

No person under the age of twenty-one years shall enter, remain, or be present in any gambling club. (Ord. 1598 § 2, 1998)
4.36.200 State law violation.

The city council declares that it is not the intention of this chapter to permit the licensing of any gambling club for the playing of any game prohibited by state law, including but not limited to those games enumerated in Section 330 of the Penal Code, which section includes banking and percentage games. (Ord. 1598 § 2, 1998)

4.36.210 Exclusion of persons from gambling clubs.

A. A licensee shall exclude or eject from the gambling club all persons required to be excluded by the division pursuant to Section 19835 of the Gambling Control Act.

B. A licensee may exclude or eject from the premises any person who satisfies any of the criteria set forth in Section 19835.5 of the Gambling Control Act or any person who has been engaged in or been convicted of bookmaking, loan sharking, the sale of controlled substances or illegal gambling activities, or whose presence in or about the gambling club would be inimical to the interests of legal gambling. No person shall be excluded or ejected on the grounds of race, national origin, color, creed, or sex.

C. Any person excluded or ejected by a licensee under subsection B of this section may appeal to the chief of police as to whether the conditions for exclusion or ejection set forth in subsection A of this section are applicable. Such person shall file an appeal to the chief of police through the office of the city clerk and shall pay a fee for such appeal in an amount fixed, from time to time, by the city council. The chief of police shall appoint a hearing officer who shall conduct a hearing to be held within thirty days after receipt of the application or at such other time as the applicant and the chief of police may agree.

D. At the hearing, both the person excluded and the licensee may present evidence under oath. The decision of the hearing officer shall be final. The licensee and the applicant shall reimburse the city for the cost of holding such hearing in amounts determined by the hearing officer. (Ord. 1598 § 2, 1998)

* Editor’s Note: Section 4.36.210 previously Section 4.36.300, was renumbered in the December, 2005 supplement.

View the mobile version.
DATE: February 19, 2019

TO: Honorable Mayor and Members of the City Council

FROM: Jovan D. Grogan, City Manager

PREPARED BY: Keith DeMartini, Finance Director

SUBJECT: Receive Presentation on Various Revenue Enhancements, Current Revenue Initiatives and a Community Priority Survey

DISCUSSION:

Staff has prepared this report as a prelude to the presentation to City Council at a Special Meeting to discuss various revenue enhancements. Staff will present an update on revenue initiatives already in process, those planned, and a proposal to move forward with a Community Priority Survey to prepare for potential revenue measures on the November 2019, March 2020 and/or November 2020 ballots. The presentation will be made in six parts covering the following:

- **Budget Overview** – Staff will present a high-level overview of revenues and expenditures for Fiscal Year 2018-19. With increasing operating costs, there is future need for on-going resources to maintain and expand operations to serve the citizens of San Bruno.

- **Revenue Initiatives Underway** – Staff will present an overview of revenue initiatives that are currently underway, including: Development Impact Fee Program; Cost Allocation Plan and User Fee Study; Utility Billing and Business License Services; and, Property Tax, Business License Tax and Transient Occupancy Tax (TOT) Audits.

- **Revenue Initiatives Planned** – Staff will discuss potential future initiatives to pursue.

- **Community Priority Survey** – Staff will introduce the option of a *Community Priority Survey*, which would include an official poll to assist in developing a strategy that is best aligned with community interest.

- **Planning for a Revenue Measure on the Ballot** – Staff will present planning options for a variety of revenue measures on the November 2019, March 2020
and/or November 2020 ballots. This discussion will include timeframes to help guide planning interests.

- **Council Feedback** – This section will allow time for the City Council to provide staff feedback on strategy and initiatives to incorporate into the City’s immediate and future work plan.

**DISTRIBUTION:**

None

**ATTACHMENTS:**

None

**DATE PREPARED:**

February 11, 2019