

**CITY OF RANCHO CORDOVA
MEASURE L**

L CARDROOM TAX MEASURE. Shall an ordinance be adopted requiring each cardroom within the City to pay the City a tax of 2% of annual gross gaming revenues commencing on January 1, 2014; then in each year thereafter, a tax of 3% of annual gross gaming revenues up to \$5,000,000, and a tax of 4% of annual gross gaming revenues over \$5,000,000, to fund general municipal services such as public safety, street maintenance, and neighborhood improvements?

IMPARTIAL ANALYSIS OF MEASURE L
(Cal. Elections Code § 9280)
CITY OF RANCHO CORDOVA MEASURE L

Measure L is a City Council proposed measure which, if approved by a majority of the voters, will impose a tax on persons engaged in the business of operating a cardroom in the City of Rancho Cordova. The tax, also referred to as the "Cardroom Tax," will consist of a tax on the annual gross gaming revenues received by the cardroom.

Specifically, Measure L will require persons engaged in the operation of a cardroom to pay the City a tax of 2% of annual gross gaming revenues beginning on January 1, 2014. Then, starting January 1, 2014, and in each year thereafter, cardroom operators will be required to pay a higher rate of 3% of annual gross gaming revenues up to \$5,000,000, and a tax of 4% of annual gross gaming revenues over \$5,000,000.

Measure L is a tax on annual gross gaming revenues. The Measure defines gross gaming revenues in the same manner that the term "gross revenues" is defined in the Gambling Control Act. Section 19805(r) of the Gambling Control Act defines "gross revenues" as "the total of all compensation received for conducting any controlled game, and includes interest received in payment for credit extended by an owner licensee to a patron for purposes of gambling, except as provided by regulation." The term "controlled game" is defined by Section 337j(k) of the California Penal Code in part as "any poker or Pai Gow game, and any other game played with cards or tiles, or both, approved by the Department of Justice" and local ordinance.

The City currently has two (2) cardrooms. Measure L will impose the same tax on both cardrooms.

The number of cardrooms the City can have is subject to State law and the City's Municipal Code. Currently, section 4.22.020 of the City's Municipal Code and State law only allow two (2) cardrooms within the City. This Measure will not increase the number of cardrooms allowed in the City.

The Cardroom Tax imposed by Measure L is a general tax, which means that revenues from it are deposited in the City's general fund to be used for any municipal services and general government purposes. Measure L identifies potential municipal services that it would fund as including "public safety, street maintenance and neighborhood improvements." These are examples of, not limitations on, the many different potential City uses of the tax revenues that will be generated by Measure L.

Measure L will not become effective unless the Measure is approved by at least a majority of those voting on the Measure.

DATED: July 23, 2012

s/Adam U. Lindgren
City Attorney

FULL TEXT OF MEASURE L

**THE PEOPLE OF THE CITY OF RANCHO CORDOVA DO
ORDAIN AS FOLLOWS:**

SECTION 1: Chapter 3.90, titled "Cardroom Tax," is hereby added to the Rancho Cordova Municipal Code to read as follows:

**CHAPTER 3.60
CARDROOM TAX**

- 3.90.010 Short Title.
- 3.90.020 Purpose and Intent.
- 3.90.030 Definitions.
- 3.90.040 Payment of Tax.
- 3.90.050 Statement of Revenue.
- 3.90.060 Payment – Timing.
- 3.90.070 Audit of Gross Gaming Revenue Reports and Payment.
- 3.90.080 Notice Not Required by City.
- 3.90.090 Tax Deemed Debt to City.
- 3.90.100 Deficiency Determinations.
- 3.90.110 Tax Assessment; Nonpayment; Fraud.
- 3.90.120 Tax Assessment; Notice Requirements.
- 3.90.130 Tax Assessment; Hearing.
- 3.90.140 Conviction for Chapter Violation; Taxes Not Waived.
- 3.90.150 Amendment of Tax

3.90.010 Short Title.

This chapter shall be known as the Rancho Cordova Cardroom Tax Ordinance.

3.90.020 Purpose and Intent.

This Cardroom Tax is a license tax on the privilege of operating a cardroom within the City of Rancho Cordova, and is enacted solely to raise revenue for municipal purposes and is not intended for regulation.

3.90.030 Definitions.

A. "Annual Gross Gaming Revenues" shall mean the Gross Gaming Revenues produced each calendar year between January 1st through December 31st. For new cardrooms, the first annual Gross Gaming Revenues shall begin on the date the certificate of the occupancy is issued for the cardroom and end on December 31st of that same year."

B. "Discontinued, dissolved or otherwise terminated" shall mean the date the cardroom is no longer in operation as described in the business license(s) issued to the cardroom by the City pursuant to Title 4 of this Code. The Finance Director, using all evidence, including evidence provided by the cardroom licensee, shall make the determination as to whether a cardroom has been discontinued, dissolved or otherwise terminated.

C. "Gross Gaming Revenues" shall be defined in accordance with the definition of "Gross Revenue" provided in California Business and Professions Code Section 19805(r) as may be amended from time to time.

D. "Licensee" means a person who has been issued a cardroom business license under Title 4 of this Code.

3.90.040 Payment of Tax.

In addition to any requirements imposed by Title 4 of this Code, each licensee operating a cardroom within the City shall pay the City a percentage of the cardroom's annual Gross Gaming Revenues received by the cardroom as follows: a tax of 2% of Annual Gross Gaming Revenues commencing on January 1,

2014; then in each year thereafter, a tax of 3% of Annual Gross Gaming Revenues up to \$5,000,000, and a tax of 4% on Annual Gross Gaming Revenues over \$5,000,000.

3.90.050 Statement of Revenue.

Before the 30th day following the end of each quarter, the licensee shall file with the City Finance Department a statement, under oath, showing the true and correct amount of Annual Gross Gaming Revenue for the preceding quarter. A signed declaration shall be attached to the statement included therein, which shall be in substantially the same form as: "I hereby declare under penalty of perjury that the foregoing is true and correct." Pursuant to Section 3.90.070 of this Chapter, the City shall have the right to audit the matters reported in the statement to determine the accuracy of the figures contained therein.

3.90.060 Payment – Timing.

A. All taxes imposed by this Chapter shall be made at the same time the licensee files the statement of revenue with the Finance Department. Payment of taxes imposed by this Chapter shall accompany the statement of revenue and shall be in the correct amount of taxes due and owing in accordance with Section 3.60.040 of this Chapter. Such sums correctly reflecting the quarterly fees payable for the preceding quarter shall be accepted by the City, subject, however, to the City's right to conduct an audit pursuant to Section 3.90.070 of this Chapter.

B. In the case of a cardroom which is discontinued, dissolved or otherwise terminated before the expiration of a tax period, the due date for any taxes accrued and owing to the City under the provisions of this Chapter shall be the date of the discontinuance, dissolution or termination of the cardroom business.

C. Payments not received within 30 days of the end of the quarter will be subject to a late fee of one and one-half percent (1.5%) per month of the amount past due, plus all reasonable collection fees and costs.

3.90.070 Audit of Gross Gaming Revenue Reports and Payment.

A. The City shall have the right to audit the matters referred to in the statement of revenue, and to determine the correctness of the figures set forth in such statement and the amount payable to the City pursuant to the provisions of Section 3.90.040.

B. The books, records and accounts of any licensee may be inspected and audited by the City.

C. Such an inspection and audit may be performed by the Finance Director, a qualified accountant or City official who shall be selected by the Finance Director.

D. To facilitate such audits, the licensee shall keep complete records of all transactions related to the receipt or disbursement of funds arising out of or related to cardroom operations during the preceding three-year period. All such records shall be made available to the City for audit at the licensee's place of doing business after reasonable prior notice.

E. Any failure or refusal of any licensee to make and file a statement of revenue as required within the time required, or to pay such sums by way of taxes when the same are due and payable in accordance with the provisions of this Chapter, or to permit such inspection of such books, records and accounts of such licensee shall be and constitute full and sufficient grounds for suspension or revocation of any cardroom business license issued to the licensee pursuant to Title 4 of this Code.

3.90.080 Notice Not Required by City.

The City is not required to send a delinquency or other notice or bill to any person subject to the provisions of this Chapter, and failure to send such notice or bill shall not affect the validity of any tax, interest or penalty due under the provisions of this Chapter.

3.90.090 Tax Deemed Debt to City.

The amount of any tax, penalties and interest imposed by the provisions of this Chapter shall be deemed a debt to the City, and any licensee carrying on any business without having paid the tax under this Chapter to the City shall be liable to an action in the name of the City in any court of competent jurisdiction for the amount of the tax, and penalties and interest imposed on such business.

3.90.100 Deficiency Determinations.

A. If the Finance Director is not satisfied that a statement of revenue filed, as required under the provisions of this Chapter, is correct, or that the amount of tax is correctly computed, the Finance Director may compute and determine the amount to be paid and make a deficiency determination upon the basis of the facts contained in the statement of revenue or upon the basis of any information in the City's possession or that may come into the City's possession.

B. The City may make more than one deficiency determination of the amount of tax due for a period or periods.

C. In the case of a cardroom which is discontinued, dissolved or otherwise terminated, a deficiency determination may be made at any time within three years thereafter as to any liability arising from engaging in such business whether or not a deficiency determination is issued prior to the date the tax would otherwise be due.

D. Whenever a deficiency determination is made, the City shall provide a notice to the person concerned in the same manner as notices of assessment are given under Section 3.90.120.

3.90.110 Tax Assessment; Nonpayment; Fraud.

A. Under any of the following circumstances, the Finance Director may make and give notice of an assessment of the amount of tax owed by a person under this Chapter:

1. If the person has not filed any statements of revenue required under the provisions of this Chapter;

2. If the person has not paid any tax due under the provisions of this Chapter;

3. If the person has not, after demand by the Finance Director, filed a corrected statement of revenue or furnished to the Finance Director adequate substantiation of the information contained in a statement of revenue already filed, or paid any additional amount of tax due under the provisions of this Chapter.

B. The notice of assessment shall separately set forth the amount of any tax known or estimated by the Finance Director to be due, after full consideration of all information within his or her knowledge concerning the cardroom business and activities of the person assessed and shall include the amount of any penalties, costs or interest accrued on each amount to the date of the notice of assessment.

3.90.120 Tax Assessment; Notice Requirements.

The notice of assessment shall be served upon the licensee either by personally serving it to the licensee, or by a deposit of the notice in the United States mail, postage prepaid thereon, addressed to the licensee at the address of the location of the business appearing on the face of the business license(s) issued under Title 4 to the licensee, or to such other address as he or she shall register with the Finance Director for the purpose of receiving notices provided under this Chapter. For the purposes of this Section, a service by mail is complete at the time of deposit in the United States mail.

3.90.130 Tax Assessment; Hearing.

A. Within ten (10) days after the date of service of a notice under Section 3.60.120 of this Chapter, the licensee may apply in writing to the Finance Director for a hearing on the assessment.

B. If application for a hearing before the Finance Director is not made within the time herein prescribed, the tax assessed by the

Finance Director shall become final and conclusive.

C. Within thirty (30) days of the receipt of any such application for hearing, the Finance Director shall cause the matter to be set for hearing before him or her not later than thirty (30) days after the date of application, unless a later date is agreed to by the Finance Director and the licensee requesting the hearing.

D. Notice of such hearing shall be given by the Finance Director to the licensee requesting such hearing not later than five (5) days prior to such hearing. At such hearing, said licensee may appear and offer evidence why the assessment as made by the Finance Director should not be confirmed and fixed as a tax.

E. After such hearing the Finance Director shall determine and reassess the proper tax to be charged and shall give written notice thereof to the licensee in the manner prescribed in Section 3.60.120 for giving notice of assessment.

3.90.140 Conviction for Chapter Violation; Taxes Not Waived.

A. The conviction and punishment of any person for failure to pay the required tax shall not excuse or exempt such person from any civil action for the tax debt unpaid at the time of such conviction.

B. No civil action shall prevent a criminal prosecution for any violation of the provisions of this Chapter or of any State Law requiring the payment of all taxes.

3.90.150. Amendment of Tax. Chapter 3.90 of the Municipal Code may be amended by the City Council without a vote of the people. However, as required by Chapter XIIIIC of the California Constitution, voter approval is required for any amendment provision that would increase the rate of any tax levied pursuant to this Ordinance. The People of the City of Rancho Cordova affirm that the following actions shall not constitute an increase of the rate of a tax:

1. The restoration of the rate of the tax to a rate that is no higher than that set by this Ordinance, if the City Council has adopted an ordinance to reduce the rate of the tax;

2. An action that interprets or clarifies the methodology of the tax, or any definition applicable to the tax, so long as interpretation or clarification (even if contrary to some prior interpretation or clarification) is not inconsistent with the language of this Ordinance.

3. The establishment of a class of person that is exempt or excepted from the tax or the discontinuation of any such exemption or exception (other than the discontinuation of an exemption or exception specifically set forth in this Ordinance); and

4. The collection of the tax imposed by this Ordinance, even if the City had, for some period of time, failed to collect the tax.

SECTION 2. Effective Date. This Chapter shall become effective immediately upon the date that this Ordinance is approved by the voters of the City of Rancho Cordova at the Election of November 6, 2012 as confirmed by the City Council's declaration of the vote.

SECTION 3. Severability. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Ordinance shall nonetheless remain in full force and effect. The people hereby declares that they would have adopted each section, subsection, sentence, clause, phrase, or portion of this Ordinance, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions of this Ordinance be declared invalid or unenforceable.

APPROVED by the following vote of the People of the City of Rancho Cordova on November 6, 2012.

ADOPTED by Declaration of the vote by the City Council of the City of Rancho Cordova on _____ 2012:

AYES:

NOES:

ABSENT:

ABSTAIN:

David Sander, Mayor

ATTEST:

Mindy Cuppy, City Clerk

APPROVED AS TO FORM:

Adam Lindgren, City Attorney

ARGUMENT IN FAVOR OF MEASURE L

Argument in Favor of Measure

Your Yes vote on Measure L supports vital community services and keeps Rancho Cordova's future strong. Our City of Rancho Cordova needs to maintain its successful history of balanced budgets to preserve our quality of life; Measure L can help our city provide the level of services we want and need.

This tax does not apply to the general public. This tax would only apply to the two legal gaming establishments in the City of Rancho Cordova.

The State of California, not the City of Rancho Cordova, provides the license that allows gaming facilities to operate. The State has permitted two State licensed cardrooms within the City boundaries.

A Yes on L means that all cardrooms will pay their fair share to keep our city's services strong for future generations.

A Yes on L will also mean that our City can continue to fund vital services such as public safety, maintenance and improvements to city streets and sidewalks, graffiti removal, and neighborhood enhancements among other general services.

Vote YES on Measure L.

s/Linda Budge
Vice Mayor, City of Rancho Cordova

s/Craig Osborn
Rancho Cordova Resident, Businessman

s/Ryan Lundquist
Community Activist

s/Josie Steelman
Retired Small Business Owner

s/Conrade C. Mayer
Realtor and Community Volunteer

NO ARGUMENT AGAINST MEASURE L WAS FILED