

# ATTACHMENT 1

## ORDINANCE O2020-\_\_

ORDINANCE OF THE CITY COUNCIL OF THE CITY OF NAPA, STATE OF CALIFORNIA, AMENDING NAPA MUNICIPAL CODE CHAPTERS 5.16, 17.10, AND 17.52 TO AUTHORIZE A CARD ROOM AS A CONDITIONALLY PERMITTED USE IN THE COMMUNITY COMMERCIAL DISTRICT, TO INCREASE THE NUMBER OF CARD TABLES PERMITTED IN THE CITY FROM FIVE TO NINE, TO INCREASE THE ALLOWABLE NUMBER OF PATRONS AT A CARD TABLE FROM 10 TO 15 AND TO ALLOW ALCOHOL TO BE CONSUMED IN A CARD ROOM AND DETERMINING THAT THE ACTIONS AUTHORIZED BY THIS ORDINANCE ARE EXEMPT FROM CEQA

WHEREAS, on December 28, 2018, Polvora Inc. ("Applicant") submitted an application (PL18-0135) to operate a card room at 505 Lincoln Avenue in Napa, which was subsequently amended. The amended application requests amendments to Napa Municipal Code (NMC) Chapter 5.16 (Card Rooms) to increase the maximum number of card tables from 5 to 9, to increase the allowable number of patrons for each table from 10 to 15, and to authorize the consumption of alcohol in a card room. In addition, the application requests approval of zoning text amendments to NMC Chapters 17.10 (Commercial District Regulations) and 17.52 (Site and Use Regulations) to add "card rooms" as a conditionally allowable use within the Community Commercial Zoning District; and

WHEREAS, in accordance with California Business and Professions Code Section 19961.1, City Staff has submitted the proposed amendments to NMC Chapters 5.16, 17.10 and 17.52 ("Card Room Ordinance Amendments") to the California Department of Justice, Bureau of Gambling Control (the "Bureau") for review and comment and the Bureau indicated in a letter dated June 4, 2020, that the proposed amendments appear permissible; and

WHEREAS, on September 19, 2019, the Planning Commission held a noticed public hearing on the revised application in accordance with NMC Section 17.66.090 and recommended approval of the proposed Card Room Ordinance Amendments to the City Council; and

WHEREAS, the City Council has considered all information related to this matter, as presented at the public meeting of the City Council identified herein, including any supporting reports by City Staff, and any information provided during public meetings.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Napa as follows:

**SECTION 1.** The City Council hereby determines that the Project is exempt from

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the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines (Categorical Exemptions; Class 1), which exempts operations of existing private structures involving no or negligible expansion of existing or former use; and in accordance with Section 15303 of the CEQA Guidelines which exempts the conversion of existing small structures from one use to another where only minor modifications are made to the exterior of the structure..

The proposed use would operate within an existing facility which formerly housed a similar use that exhibited a similar level of intensity and function. No expansion of the building footprint is proposed. In addition, the ordinance amendments proposed by the Applicant would merely clarify that a card room is a conditionally allowed use within the Community Commercial District and slightly expand operational characteristics consistent with the maximum number of card tables permitted under State Law. Under the ordinance, the number of card rooms allowed within the City would continue to be limited to one and no additional card room permits would be issued beyond the existing permit which would be transferred to the Applicant.

The exceptions to categorical exemptions identified in CEQA Guidelines Section 15300.2 are inapplicable because the land is in an urbanized area with no environmentally sensitive habitats or species of concern on the property, there has been no successive effort to intensify land uses in the area, and no unusual circumstances exist that would pose a reasonable possibility of having a significant effect on the environment, and the project does not involve or affect historic resources. Based on this analysis, no significant environmental effects would result from this project and the use of categorical exemptions is appropriate.

**SECTION 2.** The City Council hereby makes the following findings pursuant to NMC Section 17.66.080:

1. The proposed amendment is consistent in principle with the General Plan.

The proposed text zoning text amendments to NMC Chapters 17.10 and 17.52 and operation of one card room within the Community Commercial land use district complies with the General Plan and aligns with the mix of uses envisioned for the Community Commercial Land Use District. More specifically, the proposed amendments would meet General Plan Goal LU-5 in that, the amendments would allow a card room use which would strengthen and diversify recreational and entertainment opportunities for residents and visitors through the creation of a modern restaurant/lounge/card room. The text amendments would likewise be consistent with LU-5.1 in that they would allow for a use that would enhance the commercial viability of the property which has previously struggled to maintain consistent revenue streams. The text amendments would facilitate a project that would be appropriately located near a major arterial able to handle traffic generated by the use and thereby is consistent with GP Goal LU- 5.6. The amendments would encourage a revenue-generating use and therefore be consistent with Goal ED-1 and would provide the opportunity to capture visitor dollars that are not currently finding their way to Napa and thereby further encouraging local dollars to stay within the City.

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2. The public health, safety and general welfare are served by the adoption of the proposed amendment.

The public health, safety, and general welfare of the community are served by the proposed text amendments in that the proposed amendments would strengthen and diversify recreational and entertainment opportunities for residents and visitors through the creation of a restaurant/lounge/card room with minimal impacts. The text amendments will not be detrimental to the public health, safety, or general welfare due to the fact that the use would be substantially similar to the previous uses located at the subject site and which have not caused issues and that the use would be appropriately regulated by Code limitations, conditions of approval and oversight by the Chief of Police, the Bureau of Gambling Control, and the California Gambling Control Commission.

3. If a rezoning to a district with a larger minimum lot size is proposed, effectively reducing the planned residential density, the City shall also find that the remaining sites in the Housing Element are adequate to accommodate the jurisdiction's share of the regional housing need pursuant to California Government Code section 65584; or if not, that it has identified sufficient additional, adequate and available sites with an equal or greater residential density in the jurisdiction so that there is no net loss of residential unit capacity.

This finding is not applicable to the proposed amendments because the amendments do not rezone land, include any proposal to increase a minimum lot size, nor do they eliminate any site designated in the Housing Element from future use as a housing site.

**SECTION 3.**      Amendment. NMC Section 5.16.050 " Number of Tables" is hereby amended by deleting the current text in its entirety and replacing it with: " Any person conducting, carrying on or managing a card room, shall not have more card tables in active operation in any room or combination of rooms than allowed under its use permit. Any card table not in active operation shall be covered or prominently labeled as being non-operational. The cover and sign shall be approved in advance in writing by the Chief of Police."

**SECTION 4.**      Amendment. NMC Section 5.16.060 " Intoxicant Prohibited" is hereby amended by deleting the current text in its entirety and replacing it with: "Intoxicated Persons Prohibited. It is unlawful for any owner, tenant, operator or other such person in charge or control of any such card room, enclosure, game or tables, to permit any person to enter into a card room or play at any card table while such person is obviously intoxicated by alcoholic beverages, narcotics, or other drugs."

**SECTION 5.**      Amendment. NMC Section 5.16.070 " Minors Prohibited" is hereby amended by deleting the current text in its entirety and replacing it with: "No proprietor or person having charge of any card room shall permit or allow any person under the age of 21 years to be within a card room or enclosure at any time; provided, however, that persons under the age of 21 years may be allowed in the restaurant section of a

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gambling establishment if the restaurant is accessible from the outside without requiring passage through a card room or enclosure, and the restaurant and such access are visually separate from the card room or enclosure.

**SECTION 6.** Amendment. NMC Section 5.16.140 “ Limitations on Authorized Tables” is hereby amended by deleting the current text in its entirety and replacing it with: “No more than nine card tables shall be permitted to be in operation at any one time in a card room. No more than nine card tables shall be permitted to be in operation at any one time in the City of Napa. Any card tables in excess of the maximum prescribed in this Section 5.16.140 shall be prominently labeled as being non-operational. The total number of card tables permitted on the premises shall be as approved by a use permit. No card table shall accommodate in excess of 15 patrons at one time.

**SECTION 7.** Amendment. The Land Use Regulations Table set forth in NMC Subsection 17.10.020 A.8. “ Recreation facilities, Commercial” is hereby amended to add “ Card Room” in the appropriate alphabetical location within the table; with “conditionally permitted” or “C” under the column labeled “CC” and in the line corresponding to “Card Room” as depicted below and by adding “See standards Section 17.52.070 and Chapter 5.16 (card rooms)” in the column labeled “Added use regulations”:

17.10.020 Land use regulations.

Zoning Districts	CL	CT	CC	Added Use Regulations
<b>A. Commercial Uses</b>				
[A1 – A7 omitted]				
<b>8. Recreation facilities, commercial</b>				
Billiard/pool parlors*	CS	CS	CS	*See standards Section 17.52.070  **C if open after 10 p.m. or if > 5,000 sf ***C if retail sales not adjacent to front windows or door **** See standards Section 17.52.070 and Chapter 5.16 (card rooms)
Bowling alleys, skating rinks*			CS	
Campgrounds and RV parks		C		
Game arcades; video arcades*	CS	CS	CS	
Health clubs/gyms	C	C	C	
Health spas	P**	P	P	
Miniature golf		C	C	
<b>Card Room****</b>			<b>C</b>	
Other commercial recreation not listed herein	C	C	C	

**SECTION 8.** Amendment. NMC Section 17.52.070(A) “Cocktail lounges, bars and commercial recreation facilities” is hereby amended to add the words “card rooms” between “bars” and “and commercial recreation facilities” so that Section 17.52.070(A) (as amended) will read as follows: “Purpose. To assure that cocktail lounges, bars, card

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rooms and commercial recreation facilities are appropriately sited and will be designed to operate with minimal impacts on the surrounding neighborhood.”

**SECTION 9. Amendment.** NMC Subsection 17.52.070 (B) “Cocktail lounges, bars and commercial recreation facilities” is hereby amended to add the words “card rooms” between “video arcades” and “or any similar commercial place of entertainment” so that Section 17.52.070(B) (as amended) will read as follows: “Use Permit Review Criteria”. The following items shall be taken into consideration in evaluating a use permit application for cocktail lounges, bars, nightclubs, billiard parlors, pool halls, video arcades, card rooms or any similar commercial place of entertainment.

1. Comments from the Napa Police Department;
2. Appropriate hours of operation;
3. Potential for loitering;
4. Adequate lighting for security purposes;
5. Distance to public/private schools;
6. Distance to areas used and zoned for residential use;
7. Potential for serving alcoholic beverages;
8. Potential need for annual review of use permit;
9. Other information deemed necessary on a case-by-case basis”.

**SECTION 10. Severability.** If any section, sub-section, subdivision, paragraph, clause or phrase in this Ordinance, or any part thereof, is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections or portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, sub-section, subdivision, paragraph, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more sections, sub-sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

**SECTION 11. Effective Date.** This Ordinance shall become effective thirty (30) days following adoption.

City of Napa, a municipal corporation

MAYOR: \_\_\_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK OF THE CITY OF NAPA

STATE OF CALIFORNIA }  
COUNTY OF NAPA } SS:  
CITY OF NAPA }

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I, Tiffany Carranza, City Clerk of the City of Napa, do hereby certify that the foregoing Ordinance had its first reading and was introduced during the regular meeting of the City Council on the 16<sup>th</sup> day of June, 2020, and had its second reading and was adopted and passed during the regular meeting of the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: \_\_\_\_\_  
Tiffany Carranza  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Michael W. Barrett  
City Attorney