



City Council Memorandum

To: Mayor Fasbender & City Councilmembers
From: Emily King, Deputy City Clerk
Date: February 5, 2024
Item: 2nd Reading: Ordinance Amendment – Chapters 110.17 and 34.03 – Lawful Gambling

Council Action Requested:

Consider Second Reading and Adoption of the amendments to Hastings City Code Chapters 110.17 and 34.03 regarding Lawful Gambling.

Background Information:

City staff is proposing to repeal and replace the language in City Code related to Lawful Gambling that better clarifies current statutory guidance and City requirements. A full repeal assisted in the clarity of the language, rather than relying on line-by-line editing. Primarily, the amendment establishes a process for organizations seeking Premises Permits with the City to register each year. Fees were proposed for renewal registrations and increased for initial registration. Existing organizations would be considered renewals upon implementation.

As requested at the January 16 meeting, Council is provided two versions of the proposed ordinance. Option A reflects the first reading with a minor edit to the renewal language; this is the version recommended by staff. Option B includes the request to allow State and Federal taxes to be accepted toward meeting the 50% Local Trade Area Requirement. One organization proposed instituting the up to 3% local tax as an alternate to the investigation fee. Staff are not recommending that proposal.

Financial Impact:

Increase in Lawful Gambling revenue, offsetting staff time.

Advisory Commission Discussion:

N/A

Council Committee Discussion:

Administration Committee of Council held a meeting on November 13th to discuss the specific changes to the proposed ordinance amendments. The Administration Committee discussed the cost of staff hours in relation to the proposed registration fees. The Administration Committee supported proposed recommendations be taken to the full Council.

Attachments:

- Second Reading Ordinance Amendment – Lawful Gambling Option A
- Second Reading Ordinance Amendment – Lawful Gambling Option B
- Second Reading Ordinance Amendment - Fees

**CITY OF HASTINGS
DAKOTA COUNTY, MINNESOTA**

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, REPEALING AND REPLACING HASTINGS CITY CODE CHAPTER 110.17, LAWFUL GAMBLING

The City Council of the City of Hastings, Dakota County, Minnesota, does hereby ordain as follows:

SECTION 1. REPEAL. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 110.17, lawful gambling shall be repealed in its entirety and replaced as follows:

110.17 Lawful Gambling

- A. *Purpose.* The purpose of this section is to regulate and control the conduct of lawful gambling (gambling) in the City of Hastings and to ensure that charitable gambling in the City is conducted by organizations licensed or exempt from licensing under Minnesota Statutes and that the proceeds from such gambling are used primarily for the betterment of the residents and businesses of the community.
- B. *Definitions.* In addition to the definitions contained in the M.S. §349.12, as it may be amended from time to time, the following terms are defined for purposes of this chapter:

Board. The State of Minnesota Gambling Control Board

Lawful Gambling. The operation, conduct, or sale of bingo, electronic gambling equipment, raffles, paddlewheels, tipboards, and pull-tabs. These are the only forms of gambling (other than horse racing, private social bets, and the State lottery) which may be conducted in the City. "Lawful Gambling" does not include casino nights, razzle dazzle games, or other games such as slot machine, roulette wheels, and crap games.

Net Profit. The gross receipts from the operation of gambling equipment and the conduct of raffles, less reasonable sums expended for allowable expenses.

Organization. Any fraternal, religious, veterans' or other nonprofit group which has at least fifteen (15) active members and has been in existence for the most recent three (3) years preceding the permit request as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code. In addition, the organization must not be in existence solely for the purpose of conducting gambling.

Premises Permit. A permit issued to a licensed organization for the purpose of lawful gambling at a specific site within the City of Hastings.

Trade Area. Pursuant to M.S. § 349.213, the city's trade area is defined to be all areas within the city's corporate boundaries and the boundaries of all cities and townships contiguous to the city at

Option A

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the time of expenditure. The City of Hastings and Townships of Denmark, Marshan, Nininger, and Ravenna constitute the Trade Area.

C. *Prohibition Of Gambling.* No person shall conduct gambling within the city except those organizations which have obtained a premises permit from the Gambling Control Board of Minnesota and have complied with this section.

D. *Lawful Gambling Permitted.*

1. Lawful gambling is permitted in the city if the organization conducting the gambling meets the following criteria:
 - a. Is licensed by the Minnesota Gambling Control Board;
 - b. Is a tax-exempt organization pursuant to 501(c) of the Internal Revenue Code or has a 501(c) application pending with the Internal Revenue Service; and/or
 - c. Has been in continuous existence holding meetings as a non-profit corporation or as a 501(c) tax-exempt organization for at least 3 or more consecutive years prior to the approval of the license.
 - d. Has obtained local approval for a premises permit from the City.
2. The maximum number of locations where lawful gambling may be conducted within the city is 18. Council shall, by resolution, establish the maximum number of locations in the city where one organization can conduct lawful gambling.

E. *Local Approval of Premises Permit.*

1. *New Premises Permit.* All organizations who desire to conduct lawful gambling must request permission for a premises permit from the City and shall file the following information with the City Clerk at the time of the request:
 - a. A duplicate copy of all documents submitted to the Minnesota Gambling Control Board;
 - b. City of Hastings Lawful Gambling Premises Permit Investigation, and supporting documents;
 - c. A copy of the articles of incorporation and bylaws of the organization;
 - d. The names and addresses of all officers and directors of the organization and the gambling manager;
 - e. A copy of the organization's written procedures and/or criteria for distribution of funds derived from lawful gambling, its standardized form, and its written fiscal control procedures;
 - f. A copy of the Internal Revenue Service's tax-exempt letter;
 - g. The organization's federal and state employer identification numbers;
 - h. Other information the city deems necessary to carry out the purposes of this section.
2. *Renewal Premises Permits.* Permission for renewal of premises permits shall be submitted ~~by March 31~~ each year and may be on an abbreviated form provided by the City Clerk.
3. *Investigations.* The City Staff shall conduct an investigation upon receipt of a premises permit request. Investigations for a renewal of an existing premises permit shall state

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whether everything in the prior investigation remains true and correct, except as otherwise indicated. Organizations seeking a new or renewal permit to conduct lawful gambling shall pay an investigation fee as established by ordinance. This fee shall be paid at the time the request is submitted to the City Clerk.

4. *City Council Approval or Denial.* Upon receipt of the materials required by division (E)(1) above, and following an investigation, the City Clerk shall make a recommendation to the City Council for approval or denial of the premises permit. The City Council shall approve or deny the premises permit by resolution.
 5. *Term of Permit.* All permits shall be for one year, and shall terminate on March 31 of each year, regardless of when the permit was issued during the calendar year.
 6. *Notification of Material Changes.* An organization holding a Premises Permit must notify the City Clerk in writing within 10 days whenever any material change is made in the information required by M.S. §349.16, subd. 12.
 7. *License and Permit Display.* All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted and shown to law enforcement officers and other City personnel upon request.
 8. *Inspections.* All permitted organizations shall allow inspections of the licensed premises by the City during normal business hours when gambling activities are being conducted, or at such other times as agreed to by the gambling manager or organization.
- F. *Lawful Expenditure Requirement.* Pursuant to the authority granted by M.S. § 349.213, any organization conducting lawful gambling within the city must spend at least 50% of its expenditures for lawful purposes conducted or located within the city's trade area. For purposes of determining if the expenditures are expended within the city's trade area, the organization must show that the expenditures were ultimately received for a lawful purpose or activity and benefited by an organization or person that is specifically located within the trade area.
- G. *Exclusions and Exemptions.* Exclusions from licenses and permits for certain bingo games and raffles and exemptions for certain organizations are identified in M.S. §349.166.
- H. *Records and Reports.* Every organization permitted to conduct lawful gambling in the City shall file with the City Clerk copies of all records and reports required to be filed with the Minnesota Gambling Control Board pursuant to M.S. §297E.06, subd. 1. The records and reports shall be due at the same time they are due to the Board. The gambling manager of a licensed organization shall be exclusively responsible for the timely filing of all reports and other documents required by _____ this _____ chapter.
- I. *Video Games Of Chance.* Video games of chance as defined by M.S. §609.75, subd. 8 are prohibited in the city.
- J. *Violations.* The City Council may revoke a premises permit or bingo license for any violations of the city code, failure of payment of city fees, failure to comply with reporting requirements, or other good cause, following a hearing. Violations of this ordinance may be considered by the City Council reviewing renewals.

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SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on _____, 2024 amends the City Ordinance to allow the City to require initial and renewal permitting including fees associated with such permitting of any organization conducting lawful gambling within the City.

SECTION 3. EFFECTIVE DATE. The requirements imposed by this Section shall be effective for all expenditures for lawful purposes made after _____. The remainder of this ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this ____ day of _____, 2024.

Mary D. Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the Hastings Journal on _____.

**CITY OF HASTINGS
DAKOTA COUNTY, MINNESOTA**

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Organization. Any fraternal, religious, veterans' or other nonprofit group which has at least fifteen (15) active members and has been in existence for the most recent three (3) years preceding the permit request as a registered Minnesota nonprofit corporation or as an organization designated as exempt from the payment of income taxes by the Internal Revenue Code. In addition, the organization must not be in existence solely for the purpose of conducting gambling.

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 - c. Has been in continuous existence holding meetings as a non-profit corporation or as a 501(c) tax-exempt organization for at least 3 or more consecutive years prior to the approval of the license.
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 - c. A copy of the articles of incorporation and bylaws of the organization;
 - d. The names and addresses of all officers and directors of the organization and the gambling manager;
 - e. A copy of the organization's written procedures and/or criteria for distribution of funds derived from lawful gambling, its standardized form, and its written fiscal control procedures;
 - f. A copy of the Internal Revenue Service's tax-exempt letter;
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indicated. Organizations seeking a new or renewal permit to conduct lawful gambling shall pay an investigation fee as established by ordinance. This fee shall be paid at the time the request is submitted to the City Clerk.

4. *City Council Approval or Denial.* Upon receipt of the materials required by division (E)(1) above, and following an investigation, the City Clerk shall make a recommendation to the City Council for approval or denial of the premises permit. The City Council shall approve or deny the premises permit by resolution.
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 7. *License and Permit Display.* All permits issued under state law or this chapter shall be prominently displayed during the permit year at the premises where gambling is conducted and shown to law enforcement officers and other City personnel upon request.
 8. *Inspections.* All permitted organizations shall allow inspections of the licensed premises by the City during normal business hours when gambling activities are being conducted, or at such other times as agreed to by the gambling manager or organization.
- F. *Lawful Expenditure Requirement.* Pursuant to the authority granted by M.S. § 349.213, any organization conducting lawful gambling within the city must spend at least 50% of its expenditures for lawful purposes conducted or located within the city's trade area. For purposes of determining if the expenditures are expended within the city's trade area, the organization must show that the expenditures were ultimately received for a lawful purpose or activity and benefited by an organization or person that is specifically located within the trade area. Organizations are permitted to claim State and Federal taxes paid as part of their 50% local trade area expenditures.
- G. *Exclusions and Exemptions.* Exclusions from licenses and permits for certain bingo games and raffles and exemptions for certain organizations are identified in M.S. §349.166.
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SECTION 3. EFFECTIVE DATE. The requirements imposed by this Section shall be effective for all expenditures for lawful purposes made after _____. The remainder of this ordinance shall be in full force and effect from and after its passage and publication according to law.

Passed this ____ day of _____, 2024.

Mary D. Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the Hastings Journal on _____.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF HASTINGS, MINNESOTA
AMENDING HASTINGS CITY CODE CHAPTER 34.03 – FEE SCHEDULE**

The City Council of the City of Hastings, Dakota County, Minnesota does hereby ordain as follows:

SECTION 1. AMENDMENT. The Code of the City of Hastings, County of Dakota, State of Minnesota, Chapter 34.03 Fee Schedule – City Clerk

34.03 City Clerk

Gambling		
Initial Investigation Fee	\$250.00	Initial Investigation
Renewal Investigation Fee	\$150.00	Annual (calendar year)

SECTION 2. SUMMARY PUBLICATION. Pursuant to Minnesota Statutes Section 412.191, in the case of a lengthy ordinance, a summary may be published. While a copy of the entire ordinance is available without cost at the office of the City Clerk, the following summary is approved by the City Council and shall be published in lieu of publishing the entire ordinance.

The text amendment adopted by the Hastings City Council on _____, _____ modifies Section 34.03 - Fee Schedule of the City Code regarding the amendment of initial investigation fees and adoption of an annual investigation fee for renewals of Lawful Gambling Premises Permits.

SECTION 3. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage and publication according to law.

Adopted by the Hastings City Council on this _____ day of _____, 2024 by the following vote:

Ayes:

Nays:

Absent:

Mary D. Fasbender, Mayor

ATTEST:

Kelly Murtaugh, City Clerk

I hereby certify that the above is a true and correct copy of the Ordinance passed to and adopted by the City of Hastings, County of Dakota, Minnesota, on the _____ day of _____, 2024, as disclosed by the records of the City of Hastings on file and of record in the office.

Published in the Hastings Journal on _____.