

*City Council Memorandum*

To: Mayor Fasbender & City Councilmembers
From: Emily King, Deputy City Clerk
Date: April 17, 2023
Item: 1st Reading: Ordinance Amendment – Chapters 110.17 - Lawful Gambling and Chapter 34.03 - Fee Schedule

Council Action Requested:

Consider 1st Reading of the amendments to Hastings City Code Chapters 110.17 and 34.03, regarding lawful gambling and related licensing fees.

Background Information:

The proposed amendments focus on keeping more of the lawful gambling net profits in the City by increasing the Trade Area requirement and initiating a Charitable Contribution Fund. Proposed amendments also increase the initial investigation fee and implement an annual renewal fee for Lawful Gambling Premise Permits. Additional edits to this ordinance are in an effort to reflect statutory changes.

The Administrative Committee of the Council met on Monday, April 10th to review proposed amendments to the lawful gambling ordinance and licensing fees. The Administrative Committee supported increasing the Trade Area requirement from 50% to 75%. Of that, 10% will be met by a quarterly contribution to the Charitable Contribution Fund that would be administered by the City in accordance with State regulations. Recommendations were also made to increase the initial investigation fee from \$150.00 to \$250.00 and implement an annual renewal fee of \$150.00. The proposed ordinance amendment includes recommendations for an implementation date of July 1, 2023 for the Trade Area requirement change and Charitable Contribution fund. License renewal and associated fees will be implemented January 1, 2024 with licenses for lawful gambling premise permits effective for a one year period and terminate on December 31 of each year.

Financial Impact:

Licensing revenue will increase and funds derived from the Charitable Contribution Fund can be used in accordance with State regulations.

Advisory Commission Discussion:

N/A

Council Committee Discussion:

The Administrative Committee of Council met on April 10th to discuss the proposed ordinance amendments.

Attachments:

- Ordinance Amendment
- Fee Schedule

CITY OF HASTINGS
DAKOTA COUNTY, MINNESOTA

ORDINANCE NO. _____

AN ORDINANCE FOR THE CITY OF HASTINGS, MINNESOTA, AMENDING
HASTINGS CITY CODE CHAPTER 110.17 REGARDING LAWFUL GAMBLING

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 110.17, regarding lawful gambling shall be amended 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. profits derived therefrom in the City of Hastings (City) are devoted to worthy public and private projects which benefit the community.

B. *Definitions.*

In addition to the definitions contained in the Minnesota Statutes §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 license application 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 the time of expenditure. The City of Hastings and Townships of Denmark, Marshan, Nininger, and Ravenna constitute the Trade Area.

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

~~C.D.~~ *Lawful Gambling Permitted.*

1. Lawful gambling is permitted in the city if the organization conducting the gambling meets the following criteria:
 1. Is licensed by the Minnesota Gambling Control Board;
 2. 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
 3. 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.
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. Non-local organizations that are conducting lawful gambling in the city on the effective date of this section, may continue to do so. Once a non-local organization, however, stops conducting lawful gambling in the city, it must thereafter, comply with the requirements of this section.

~~D.E.~~ *Approval Of Premises Permit. Initial Application and Local Approval of Premises Permit.*

1. Any organization applying to the City Council for a premises permit, renewal of a premises permit, bingo hall license or renewal of a bingo hall license shall file the following information with the City Clerk at the time of the application:
 - ~~1.~~ A duplicate copy of the application submitted to the Minnesota Gambling Control Board, along with all supporting documents;
 - ~~1.2.~~ City of Hastings Lawful Gambling Premises Permit Application, along with all supporting documents;
 - ~~2.3.~~ A copy of the articles of incorporation and bylaws of the organization;
 - ~~3.4.~~ The names and addresses of all officers and directors of the organization and the gambling manager;
 - ~~4.5.~~ A copy of the organization's written procedures and/or criteria for distribution of funds derived from lawful gambling, its standardized application form, and its written fiscal control procedures;
 - ~~5.6.~~ A copy of the Internal Revenue Service's tax-exempt letter;
 - ~~6.7.~~ The applicant's federal and state employer identification numbers; and
 - ~~8.~~ Other information the city deems necessary to carry out the purposes of this section.
2. Renewal Applications. All licenses issued shall be for a one (1) year period and terminate on December 31 of each year, regardless of when the license was issued. Applications for the renewal of an existing license shall be made in a timely fashion and shall be made on the forms required by the City and the Minnesota Gambling Control Board, and shall state whether everything in the prior, original, master application remains true and correct, except as otherwise indicated. If, in the judgement of the City Council, good and sufficient cause is shown by any applicant for its failure to file for a renewal

within the time provided, the Council may, if the other provisions of this chapter are complied with, accept the application.

- 3. Upon receipt of the materials required by division (D)(1)(a) above, city staff shall investigate the applicant and make a recommendation for approval or denial of the application. The City Council shall approve or disapprove an application for a premise permit or bingo hall license by resolution. ~~Copies of any other reports or documents which are required to be subsequently filed by the organization with the Gambling Control Board, including monthly financial statements, shall be filed simultaneously with the City Clerk.~~

~~3.4.~~ Notification of Material Changes to Application. 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 division (D)(1) above.

5. 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 to show to law enforcement officers upon request.

4.6. Inspections. All licensed organizations are deemed to have consented to inspection of the licensed premises by the City.

F. Investigation Fees. Organizations applying for or renewing a license to conduct lawful gambling in the City of Hastings shall pay an investigation fee as established by ordinance. This fee shall be paid at the time the application is submitted to the City Clerk.

G. Contribution of Net Profits to Fund Administered by City.

- 1. Each organization licensed to conduct lawful gambling in the City pursuant to M.S. § 349.16, as it may be amended from time to time, shall contribute ten percent (10%) of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City without cost to the fund.
- 2. The required payment under this section shall be made quarterly no later than 30 days following the just ended quarter.
- 3. The funds must be disbursed by the City for (i) charitable contributions as defined in M.S. § 349.12, subd. 7a, or (ii) police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations.
- 4. The City's use of such funds shall be determined at the time of adoption of the City's annual budget or when the budget is amended.
- 5. An organization that chooses to expend its net profits on disaster relief pursuant to Minn. Stat. §349.15, Subd. 1a, is exempt from the requirements in Section G.1-4.

E.H. Lawful Expenditure Requirement.

- 1. Pursuant to the authority granted by M.S. § 349.213, as it may be amended from time to time, any organization conducting lawful gambling within the city must spend at least ~~50%~~ 75% of its expenditures for lawful purposes conducted or located within the city's trade area. ~~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 the time of expenditure.~~
- 2. The requirements imposed by this subdivision shall be effective for all expenditures for lawful purposes made after ~~3-1-2008~~ 07/01/2023.

F.I. Exclusions and Exemptions. Exclusions for certain bingo games and raffles and exemptions for certain organizations are governed by M.S. § 349.166, as it may be amended from time to time.

- ~~1. The following bingo and raffle activities are exempt from the lawful gambling requirements of this section:

 - ~~1. Bingo may be conducted without a premise permit if it is in connection with a civic celebration and if it is not conducted for more than four consecutive days in a calendar year. A civic celebration is an event that celebrates a recognized national holiday or occasion celebrating an event proclaimed by the Hastings City Council.~~
 - ~~2. Bingo may be conducted without a premise permit if it is conducted by an organization that conducts 4 or fewer bingo occasions in a calendar year.~~
 - ~~3. Bingo may be conducted without a premises permit within a nursing home, senior citizens home, or by a senior citizen organization if the prizes for a single game do not exceed \$10, total prizes awarded at a single occasion do not exceed \$200, no more than 2 occasions are held each week, only members or residents are allowed to play, no compensation is paid for persons conducting the bingo, and a manager is appointed who is registered with the Gambling Control Board.~~
 - ~~4. Raffle may be conducted without a premise permit if it is conducted by an organization and if the value of all raffle prizes awarded in a calendar year does not exceed \$750; or if the raffle is conducted by a tax-exempt health or social service organization under contract to the state or a political subdivision and the prizes awarded are real or personal property donated by an individual, firm, or other organization.~~
 - ~~5. Lawful gambling may be conducted within the city without a premise permit if the organization conducts a gambling on five or fewer days in a calendar year, does not award more than \$50,000 in prizes in a calendar year, receives prior City Council approval and receives an exemption from the Gambling Control Board.~~~~
- ~~2. An application for an exemption from the provisions of this section, together with a fee established by ordinance, shall be submitted to the City Clerk at least 30 days prior to the date that an exempt gambling activity is to be conducted. The application shall contain the following information:

 - ~~1. The name and address of the organization;~~
 - ~~2. The place where the gambling will occur;~~
 - ~~3. The total value of prizes to be awarded; and~~
 - ~~4.1. The dates the proposed exempt gambling will occur.~~~~

J. Within 30 days of filing any reports with the Gambling Control Board, the organization shall file a copy of the same reports with the City Clerk. *Records and Reports.*

1. 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 Minn. Stat. § 349. 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.
2. Licensed organizations shall file an annual report with the City proving compliance with the trade area spending requirements and charitable contribution fund imposed by sections G and H of this chapter. The report shall be submitted within sixty (60) days of December 31 and shall report proceeds received during the just ended calendar year.

K. Video Games Of Chance. Video games of chance as defined by M.S. § 609.75, subd. 8 Minnesota Statutes are prohibited in the city.

G.L. Violations.

a. The City Council may revoke the premises permit where the organization has failed to meet the reporting requirements.

a.b. Violation of this ordinance may impact future renewals.

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 _____, 2023 amends the City Ordinance to allow the City to require any organization conducting lawful gambling within the city to spend at least seventy-five percent (75%) of its net profits for lawful purposes within the city’s trade area, with ten percent (10%) of said net profits to be delegated to the City’s charitable contribution fund.

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

Passed this ____ day of _____, 2023.

Mary D. Fasbender, Mayor

Attest:

Kelly Murtaugh, City Clerk

Published in the Hastings Journal on _____, 2023.

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		
Investigation Fee	\$150.00 <u>\$250.00</u>	One-Time <u>Initial Application</u>
<u>Premise Permit Renewal</u>	<u>\$150.00</u>	<u>Annual</u>

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 renewal fee for Lawful Gambling Premise 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 _____, 2023 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 _____, 2023, as disclosed by the records of the City of Hastings on file and of record in the office.

Published in the Hastings Journal on _____.