

**CITY OF ST. AUGUSTA  
ORDINANCE#2007-16  
CHARITABLE GAMBLING**

**AN ORDINANCE AUTHORIZING AND REGULATING THE CONDUCT OF  
LAWFUL GAMBLING WITHIN THE CITY OF ST. AUGUSTA, MINNESOTA**

The City Council Of The City Of St. Augusta Does Hereby Ordain:

**Section 1. ADOPTION OF STATE LAW BY REFERENCE**

The provisions of Minnesota Statutes, Chapter 349, as they may be amended from time to time, with reference to the definition of terms, conditions of operation, provisions relating to sales, and all other matters pertaining to lawful gambling are hereby adopted by reference and are made a part of this ordinance as if set out in full. It is the intention of the Council that all future amendments of Minnesota Statutes, Chapter 349, are hereby adopted by reference or referenced as if they had been in existence at the time this ordinance was adopted.

**Section 2. CITY MAY BE MORE RESTRICTIVE THAN STATE LAW**

The Council is authorized by the provisions of Minnesota Statutes, Section 349.213, as it may be amended from time to time, to impose, and has imposed in this ordinance, additional restrictions on gambling within its limits beyond those contained in Minnesota Statutes, Chapter 349, as it may be amended from time to time.

**Section 3. PURPOSE**

The purpose of this ordinance is to regulate lawful gambling within the City of St. Augusta, to prevent its commercialization, to insure the integrity of operations, and to provide for the use of net profits only for lawful purposes.

**Section 4. DEFINITIONS**

In addition to the definitions contained in Minnesota Statutes, Section 349.12, as it may be amended from time to time, the following terms are defined for purposes of this ordinance:

*BOARD*, as used in this ordinance, means the State of Minnesota Gambling Control Board.

*CITY*, as used in this ordinance, means the City of St. Augusta.

*COUNCIL*, as used in this ordinance, means the City Council of the City of St. Augusta.

*LICENSED ORGANIZATION*, as used in this ordinance, means an organization licensed by the Board.

*LOCAL PERMIT*, as used in this ordinance, means a permit issued by the city.

*TRADE AREA*, as used in this ordinance, means the Cities of St. Augusta, St. Cloud, and Rockville, and the Townships of Lynden and Fairhaven.

## **Section 5. APPLICABILITY**

This ordinance shall be construed to regulate all forms of lawful gambling within the city except:

- (i) Bingo conducted within a nursing home or a senior citizen housing project or by a senior citizen organization if the prizes for a single bingo game do not exceed \$10, total prizes awarded at a single bingo occasion do not exceed \$200, no more than two bingo occasions are held by the organization or at the facility each week, only members of the organization or residents of the nursing home or housing project are allowed to play in a bingo game, no compensation is paid for any persons who conduct the bingo, and a manager is appointed to supervise the bingo.
- (ii) Raffles if the value of all prizes awarded by the organization in a calendar year does not exceed \$1,500.
- (iii) Lawful gambling which qualifies as excluded or exempt lawful gambling under Minn. Stat. 349.166, Subd. 1 or Subd. 2.

## **Section 6. LAWFUL GAMBLING PERMITTED**

Lawful gambling is permitted within the city provided it is conducted in accordance with Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time; Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time; and this ordinance.

## **Section 8. COUNCIL APPROVAL**

Lawful gambling authorized by Minnesota Statutes, Sections 349.11-349.23, inclusive, as they may be amended from time to time, shall not be conducted unless approved by the Council, subject to the provisions of this ordinance and state law.

## **Section 9. APPLICATION AND LOCAL APPROVAL OF PREMISES PERMITS**

**Subd. 1.** Any organization seeking to obtain a premises permit or renewal of a premises permit from the Board shall file with the city clerk an executed, complete duplicate application, together with all exhibits and documents accompanying the application as

will be filed with the Board, less any documents the Board requires which must be issued by the City.

**Subd. 2.** Upon receipt of an application for issuance or renewal of a premises permit, the city clerk may transmit the application to the local law enforcement authority for review and recommendation.

**Subd. 3.** Upon submission, the local law enforcement authority shall investigate the matter and make the review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

**Subd. 4.** Organizations applying for a state issued premises permit shall pay the city a \$100.00 investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced or if no investigation is undertaken.

**Subd. 5.** The Council shall receive the local law enforcement authority's report and consider the application within 45 days of the date the application was submitted to the city clerk.

**Subd. 6.** The Council shall, by resolution, approve or disapprove the application within 60 days of receipt of the application. Failure of the Council to approve or disapprove the application within 60 days of receipt of the application shall be deemed a denial of the application.

**Subd. 8.** The Council may deny an application for issuance or renewal of a premises permit for any of the following reasons:

- (i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three years.
- (ii) Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three years.
- (iii) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
- (iv) An organization would be permitted to conduct lawful gambling activities at more than one premises in the city.
- (v) More than one licensed, organization would be permitted to conduct lawful gambling activities at one premises.

- (vi) Failure of the applicant to pay the investigation fee provided by Subdivision 4 within the prescribed time limit.
- (vii) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the Council shall pass a resolution approving the application.

## **Section 10. LOCAL PERMITS**

**Subd. 1.** No organization shall conduct lawful gambling excluded or exempted from state licensure requirements by Minnesota Statute, Section 349.166, as it may be amended from time to time, without a valid local permit. This section shall not apply to lawful gambling exempted from local regulation by Section 5 of this ordinance.

**Subd. 2.** Applications for issuance or renewal of a local permit shall be on a form prescribed by the city. The application shall contain the following information:

- (i) Name and address of the organization requesting the permit.
- (ii) Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
- (iii) Dates of gambling occasion for which permit is requested.
- (iv) Address of premises where event will occur.
- (v) Copy of rental or leasing arrangement, if any, connected with the event including rental to be charge to organization.
- (vi) Estimated value of prizes to be awarded.

**Subd. 3.** The fee for a local permit shall be \$100. The fee shall be submitted with the application for a local permit.

**Subd. 4.** Upon receipt of an application for issuance or renewal of a local permit, the city clerk may transmit the notification to the local law enforcement authority for review and recommendation.

**Subd. 5.** Upon referral, the local law enforcement authority shall investigate the matter and make review and recommendation to the City Council as soon as possible, but in no event later than 45 days following receipt of the notification by the city.

**Subd. 7.** The Council shall receive the public safety department's report and consider the application within 45 days of the date the application was submitted to the city clerk.

**Subd. 8.** The Council may deny an application for issuance or renewal of a premises permit for any of the following reasons:

- (i) Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last 3 years.

- (ii) Violation by the on-sale establishment, or organization leasing its premises for gambling, of any state statute, state rule, or city ordinance relating to the operation of the establishment, including, but not limited to, laws relating to the operation of the establishment, laws relating to alcoholic beverages, gambling, controlled substances, suppression of vice and protection of public safety within the last three years.
- (iii) The organization has not been in existence in the city for at least three consecutive years prior to the date of application.
- (iv) The organization does not have at least 15 active members.
- (v) Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.
- (vi) Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.
- (vii) An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one premises in the city.
- (viii) More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one premises.
- (ix) Failure of the applicant to pay the permit fee provided by Subd. 3 within the prescribed time limit.
- (x) Operation of gambling at the site would be detrimental to health, safety, and welfare of the community.

Otherwise the Council shall approve the application.

**Subd. 9.** Local permits shall be valid for one year after the date of issuance unless suspended or revoked.

## **Section 11. REVOCATION AND SUSPENSION OF LOCAL PERMIT**

**Subd. 1.** A local permit may be revoked, or temporarily suspended for a violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling.

**Subd. 2.** A license shall not be revoked or suspended until notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served and shall state the provision reasonably believed to be violated. The notice shall also state that the permitted person may demand a hearing on the matter, in which case the permit will not be suspended until after the hearing is held. If the permitted person requests a hearing, the Council shall hold a hearing on the matter at least one week after

the date on which the request is made. If, as a result of the hearing, the Council finds that an ordinance violation exists, then the Council may suspend or revoke the permit.

### **Section 12. LICENSE AND PERMIT DISPLAY**

All permits issued under state law or this ordinance shall be prominently displayed during the permit year at the premises where gambling is conducted.

### **Section 13. NOTIFICATION OF MATERIAL CHANGES TO APPLICATION**

An organization holding a state issued premises permit or a local permit shall notify the city within 10 days in writing whenever any material change is made in the information submitted on the application.

### **Section 14. CONTRIBUTION OF NET PROFITS TO FUND ADMINISTERED BY CITY**

**Subd. 1.** Except as set forth in Section 14, Subd. 2 of this ordinance, each organization licensed to conduct lawful gambling within the city pursuant to Minnesota Statute, Section 349.16, as it may be amended from time to time, shall contribute 10 percent 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. The city shall disburse the funds for lawful purposes as defined by Minnesota Statutes Section 349.12, Subdivision 25, as it may be amended from time to time.

**Subd. 2.** An organization licensed to conduct lawful gambling within the city shall not be required to contribute 10 percent of its net profits derived from lawful gambling in the city to a fund administered and regulated by the city if it can demonstrate that during the year of licensure it spent 50 percent of its lawful purpose expenditures on lawful purposes conducted within the City of St. Augusta.

**Subd. 3.** Payment under this section shall be made on the last day of the license period.

**Subd. 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.

### **Section 15. RECORDS AND REPORTING**

**Subd. 1.** Organizations conducting lawful gambling shall file with the city clerk one copy of all records and reports required to be filed with the Board, pursuant to Minnesota Statutes, Chapter 349, as it may be amended from time to time, and rules adopted pursuant thereto, as they may be amended from time to time. The records and reports shall be filed on or before the day they are required to be filed with the Board.

**Subd. 2.** Organizations licensed by the Board shall file a report with the city proving compliance with the trade area spending requirements imposed by Section 16. Such

report shall be made on a form prescribed by the city and shall be submitted annually and in advance of application for renewal.

**Section 16. HOURS OF OPERATION**

Lawful gambling shall not be conducted between 2 a.m. and 8 a.m. on any day of the week.

**Section 17. PENALTY**

Any person who violates:

- (1) Any provision of this ordinance;
- (2) Minnesota Statutes, Sections 609.75-609.763, inclusive, as they may be amended from time to time; or
- (3) Minnesota Statutes, Sections 349.11-349.21, as they may be amended from time to time or any rules promulgated under those sections, as they may be amended from time to time

shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$1,000 or imprisonment for a term not to exceed 90 days, or both, plus in either case the costs of prosecution. In addition, violations shall be reported to the Board and recommendation shall be made for suspension, revocation, or cancellation of an organization's license.

**Section 18. SEVERABILITY**

If any provision of this ordinance is found to be invalid for any reason by a court of competent jurisdiction, the validity of the remaining provisions shall not be affected.

**Section 19. EFFECTIVE DATE**

This ordinance becomes effective on the date of its publication, or upon the publication of a summary of the ordinance as provided by Minnesota Statute, Section 412.191, Subdivision 4, as it may be amended from time to time, which meets the requirements of Minnesota Statute Section 331A.01, Subdivision. 10, as it may be amended from time to time.

Passed by the Council this 4<sup>th</sup> day of December, 2007.

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**B.J. Kroll, Mayor**

**Attested:**

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**William R. McCabe, Clerk**