

ORDINANCE NO. 111.9

ORDINANCE AMENDING CITY CODE CHAPTER 111: BUSINESSES REGULATED

CHISHOLM CITY CODE CHAPTER 111: BUSINESSES REGULATED, SECTION 111.09
GAMBLING IS AMENDED AS FOLLOWS:

SECTION 1. ADOPTION OF STATE LAW BY REFERENCE

The provisions of Minn. Stat. ch. 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 Minn. Stat. ch. 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 Minn. Stat. § 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 Minn. Stat. ch. 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 Chisholm, to prevent its commercialization, to ensure 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 Minn. Stat. § 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 Chisholm, Minnesota.

COUNCIL, as used in this ordinance, means the City Council of the City of Chisholm, Minnesota.

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 all of that area contained within the City of Chisholm, the City of Hibbing, the City of Buhl, and Balkan Township as each of those municipalities is legally defined.

SECTION 5. APPLICABILITY

This ordinance shall be construed to regulate all forms of lawful gambling within the city except 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, only members of the organization, residents of the nursing home or housing project, and their guests, 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.

SECTION 7. LAWFUL GAMBLING PERMITTED

Lawful gambling is permitted within the city provided it is conducted in accordance with Minn. Stat. §§ 609.75-.763, inclusive, as they may be amended from time to time; Minn. Stat. §§ 349.11-.23, inclusive, as they may be amended from time to time; and this ordinance.

SECTION 8. COUNCIL APPROVAL

Lawful gambling authorized by Minn. Stat. §§ 349.11-.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 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.

Subd. 2. Upon receipt of an application for issuance of a premises permit, the city clerk shall transmit the application to the chief of police for review and recommendation.

Subd. 3. The chief of police 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. 5. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

Subd. 6. The Council shall receive the police chief's report and consider the application within 45 days of the date the application was submitted to the city clerk.

Subd. 7. The Council shall by resolution approve or disapprove the application within 60 days of receipt of the application.

Subd. 8. The Council shall 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 (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 alcoholic beverages, gambling, controlled substances, suppression of vice, and protection of public safety within the last three (3) years.
- (iii) Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
- (iv) 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 Minn. Stat. § 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 rent to be charged to the 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. This fee shall be refunded if the application is withdrawn before the investigation is commenced.

Subd. 4. Upon receipt of an application for issuance or renewal of a local permit, the city clerk shall transmit the notification to the chief of police for review and recommendation.

Subd. 5. The chief of police 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. 6. The applicant shall be notified in writing of the date on which the Council will consider the recommendation.

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 shall 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 (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 (3) years.
- (iii) The organization has not been in existence for at least three (3) consecutive years prior to the date of application.
- (iv) The organization does not have at least thirteen (13) active and voting 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) Failure of the applicant to pay the permit fee provided by subdivision 3 within the prescribed time limit.

(viii) 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 (1) 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 written notice and an opportunity for a hearing have first been given to the permitted person. The notice shall be personally served or sent by certified or registered mail. If the person refuses to accept notice, notice of the violation shall be served by posting it on the premises. Notice shall state the provision reasonably believed to be violated and 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 ten (10) days in writing whenever any material change is made in the information submitted on the application.

SECTION 14. LOCAL GAMBLING TAX

Subd. 1. A local gambling tax of three percent per year is imposed on the gross receipts of a licensed organization from all lawful gambling less prizes actually paid out by the organization.

Subd. 2. The tax shall be paid by the organization on a monthly basis and shall be reported on a copy of the monthly gambling activity summary and tax return filed with the Minnesota Department of Revenue. The report shall be an exact duplicate of the report filed with the Department, without deletions or additions, and must contain the signatures of organization officials as required on the report form.

Subd. 3. The tax return and payment of the tax due must be postmarked, or, if hand-delivered, received in the office of the city clerk, on or before the last business day of the month following the month for which the report is made.

Subd. 4. An incomplete tax return will not be considered timely filed unless corrected and returned by the due date for filing.

Subd. 5. Interest shall be charged at a rate of eight percent (8%) on all overdue taxes owed by the organization under this Section.

SECTION 15. CONTRIBUTION OF NET PROFITS TO FUND ADMINISTERED BY CITY

Subd. 1. Each organization licensed to conduct lawful gambling within the city pursuant to Minn. Stat. § 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. The city shall disburse the funds for charitable contributions as defined by Minn. Stat. § 349.12, subd. 7a, as it may be amended from time to time.

Subd. 2. Payment under this section shall be made on the last day of each month.

Subd. 3. 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 16. DESIGNATED TRADE AREA

Subd. 1. Each organization licensed to conduct gambling within the city shall expend one hundred percent (100%) of its lawful purpose expenditures on lawful purposes conducted within the city's trade area.

Subd. 2. This section applies only to lawful purpose expenditures of gross profits derived from gambling conducted at a premises within the city's jurisdiction.

SECTION 17. 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 Minn. Stat. ch. 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.

SECTION 18. HOURS OF OPERATION

Lawful gambling shall not be conducted between 1 a.m. and 8 a.m. on any day of the week.

SECTION 19. PENALTY

Any person who violates any provision of this ordinance; Minn. Stat. §§ 609.75-609.763, inclusive, as they may be amended from time to time; or Minn. Stat. §§ 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 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 20. 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 21. 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 Minn. Stat. § 412.191, subd. 4, as it may be amended from time to time, which meets the requirements of Minn. Stat. § 331A.01, subd. 10, as it may be amended from time to time.

All other provisions of Chisholm City Code Chapter 111: BUSINESSES REGULATED shall remain as currently in existence and not amended except as specifically added herein and said amendment shall be effective immediately upon its passage.

Moved by Fountain and seconded by Vake that the foregoing ordinance be adopted.

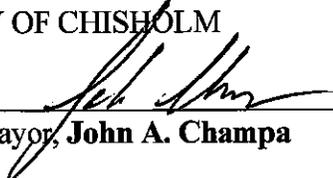
Voting Aye: Councilors Campbell, Fountain, Lantz, Vake, Varda and Mayor Champa

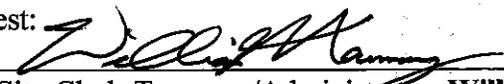
Voting No: None

Absent: None

Ordinance declared adopted this 26th day of November, 2019.

CITY OF CHISHOLM

By: 
Its Mayor, **John A. Champa**

Attest: 
Its City Clerk-Treasurer/Administrator, **William Manney**

1st Reading: October 23, 2019
2nd Reading: November 13, 2019
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