**Regulating Lawful Gambling, LMC Model Ordinance**

*League staff thoughtfully develops models for your city’s consideration. Models should be customized as appropriate for an individual city’s circumstances in consultation with the city’s attorney. Helpful background information on this model may be found in the Information Memo* [*“Lawful Gambling”*](https://www.lmc.org/resources/lawful-gambling/)*.*

**This icon marks places where the city must customize the model. They offer additional provisions, optional language, or comments for your consideration. The icon, and language you do not wish to include, should be deleted from this model before use. Make other changes, as needed, to customize the model for your city.**

**ORDINANCE NO.** **\_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND REGULATING THE CONDUCT OF LAWFUL GAMBLING WITHIN THE CITY OF\_\_\_\_\_, MINNESOTA**

**The City Council of \_\_\_\_\_, Minnesota ordains:**

**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 **\_\_\_\_\_**, 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 **\_\_\_\_\_**.

*COUNCIL*, as used in this ordinance, means the City Council of the City of **\_\_\_\_\_**.

*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 city must define the boundaries of its trade area by ordinance pursuant to Minn. Stat. § 349.213, subd. 1(g). The city’s trade area must include each city and township contiguous to the defining city.*

**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.

*The city should be aware of cross-reference problems in Minn. Stat. § 349.166 that make it a little unclear whether cities can regulate excluded lawful gambling. Cities should consult the city attorney for an opinion on this issue.*

**SECTION 6. LAWFUL GAMBLING PROHIBITED**

No person or organization shall conduct lawful gambling within the City of **\_\_\_\_\_**

*This section should be adopted* ***only*** *if the city wishes to completely prohibit lawful gambling. If the city adopts this section, it should also adopt Sections 19-21, and omit Sections 7-18.*

**SECTION 7. LAWFUL GAMBLING PERMITTED**

Lawful gambling is permitted within the city provided it is conducted inaccordance 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.

*Some cities do not have their own police services. Under these circumstances, the county sheriff may be willing to investigate for a fee. In that case, the ordinance should state that the clerk shall transmit the application to the county sheriff, as well as replace “chief of police” with “county sheriff” throughout the body of the ordinance.*

**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. 4.** Organizations applying for a state-issued premises permit shall pay the city a $**\_\_\_\_\_** investigation fee. This fee shall be refunded if the application is withdrawn before the investigation is commenced. If approved by the City Council and the Board, a licensed organization will be responsible for an annual investigative fee for conducting lawful gambling within the city.

*The fee may not exceed $100 for third and fourth class cities; $250 for cities of the second class; $500 for first class cities. Minn. Stat. § 349.16, subd. 8. A city may not charge an investigation fee if it levies a gambling tax. Minn. Stat. § 349.213, subd. 3.*

**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.

*Under Minn. Stat. § 349.213, subd. 2, the resolution must have been adopted within 90 days of the date of the application for the new or renewed permit to the Board. However, because the application for a state-issued premises permit includes an acknowledgement of local approval within its application materials, it is the responsibility of the applicant (and not the city) to meet those statutory requirements. The model ordinance requires Council action in 60 days to ensure that the resolution will be passed in a timely manner, but is not specifically required by law.*

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

*These are sample conditions that other cities have adopted. Cities may want to adopt more, fewer, or different conditions depending on their circumstances.*

1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
2. 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.
3. Lawful gambling would be conducted at premises other than those for which an on-sale liquor license has been issued.
4. Lawful gambling would be conducted at more than \_\_ premises within the city.

*Cities may use this provision to limit the number of premises where lawful gambling may be conducted.*

1. An organization would be permitted to conduct lawful gambling activities at more than one (1) premises in the city.
2. More than one licensed organization would be permitted to conduct lawful gambling activities at one (1) premises.
3. Failure of the applicant to pay the investigation fee provided by Subdivision 4 within the prescribed time limit.

*The city should* ***not*** *make this a condition if it does not charge an investigation fee.*

1. 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:

1. Name and address of the organization requesting the permit.
2. Name and address of the officers and person accounting for receipts, expenses, and profits for the event.
3. Dates of gambling occasion for which permit is requested.
4. Address of premises where event will occur.
5. Copy of rental or leasing arrangement, if any, connected with the event, including rent to be charged to the organization.
6. 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.

*The local permit fee is authorized by Minn. Stat. § 349.213. The fee for a permit may not exceed $100.*

**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:

*These are sample conditions that other cities have adopted. Cities may want to adopt more, fewer, or different conditions depending on their circumstances.*

1. Violation by the gambling organization of any state statute, state rule, or city ordinance relating to gambling within the last three (3) years.
2. Violation by the on-sale establishment, or organization leasing its premises for gambling, ofany 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.
3. The organization has not been in existence for at least three (3) consecutive years prior to the date of application.
4. The organization does not have at least thirteen (13) active and voting members.
5. Exempted or excluded lawful gambling will not take place at a premises the organization owns or rents.
6. Exempted or excluded lawful gambling will not be limited to a premises for which an on-sale liquor license has been issued.
7. Exempted or excluded lawful gambling will occur at more than \_\_\_\_ premises within the city.
8. An organization will have a permit to conduct exempted or excluded lawful gambling activities on more than one (1) premises in the city.
9. More than one licensed, qualified organization will be conducting exempted or excluded lawful gambling activities at any one (1) premises.
10. Failure of the applicant to pay the permit fee provided by subdivision 3 within the prescribed time limit.
11. 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 \_\_\_\_\_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.

*The tax may be imposed only in the amount necessary to cover the costs incurred by the city to regulate lawful gambling. Three percent (3%) is the maximum gambling tax a city may impose. A city may not charge an investigation fee if it levies a gambling tax. If a city imposes a lawful gambling tax it must file annually, by March 15, a report, with the Board showing (1) the amount of revenue produced by the tax during the preceding year, and (2) the use of proceeds of the tax. The report must be on a form prescribed by the Board. Minn. Stat. § 349.213, subd. 3.*

**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.

*Under Minn. Stat. § 349.213, cities may require organizations conducting lawful gambling within the city to contribute ten percent (10%) of their net profits derived from lawful gambling to a fund administered and regulated by the city. The city may disburse the funds for lawful purposes. Lawful purposes for which these funds may be expended are listed in Minn. Stat. § 349.12, subd. 25. Cities may also expend these funds for police, fire, and other emergency or public safety-related services, equipment, and training, excluding pension obligations. A city making expenditures authorized under this paragraph must by March 15 of each year file a report with the Board, on a form the Board prescribes, that lists all such revenues collected and expenditures for the previous calendar year. Minn. Stat. § 349.213, subd. 1(f)(2). Cities must also acknowledge the financial contributions of organizations conducting lawful gambling to the community and to the recipients of the funds when administering a fund under Minn. Stat. § 349.213.*

**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.

*A city may require that a licensed organization conducting lawful gambling within its jurisdiction expend all or a portion of its expenditures for lawful purposes conducted or located within the city’s trade area. The percentage that the city requires to be spent within the trade area must be specified in the ordinance defining the trade area. Minn. Stat. § 349.213, subd. 1(g).*

**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.

*Cities may regulate hours and days of operation pursuant to Minn. Stat. § 349.213. A city with a 2 a.m. closing time for on-sale liquor stores could use 2 a.m. instead of 1 a.m.*

**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.

Passed by the City Council of \_\_\_\_\_\_\_, Minnesota this \_\_\_\_\_ day of Month, Year.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mayor

Attested:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

City Clerk