

ORDINANCE NO. 104

AN ORDINANCE LICENSING AND REGULATING THE USE OF GAMBLING DEVICES AND PROVIDING A PENALTY FOR VIOLATION

The city Council of the City of Hokah ordains.

SECTION I. PURPOSE. The purpose of this Ordinance is to regulate and control the use of the gambling devices and to prohibit commercialization thereof, and to comply with Minnesota Statutes 325.54, 349.26, 609.75, and 609.761 which are incorporated herein by reference.

SECTION II. DEFINITIONS. Whenever the following terms appear in this Ordinance, they shall have the meanings assigned to them in this section.

SUBDIVISION 1. ACTIVE MEMBER. A member of the organization requesting a license whose dues are paid for the current membership period and who has been a member for at least six months.

SUBDIVISION 2. GAMBLING DEVICES mean those gambling devices known as paddlewheels or tipboards, or apparatus used in conducting raffles.

SUBDIVISION 3. PADDLEWHEEL means a wheel marked off into sections containing one or more numbers, and which, after being turned or spun, uses a pointer or marker to indicate winning chances.

SUBDIVISION 2. TIPBOARD means a board, placard or other device measuring at least 12 inches square, marked off in a grid or similar pattern, in which each section contains a hidden number or numbers, or other symbol, which determines the winning chances.

SUBDIVISION 5. PROFIT means the gross receipts from the operation of gambling devices and the conduct of raffles, less reasonable sums expended for prizes, local licensing fees, taxes and maintenance costs for the devices.

SUBDIVISION 6. ELIBIGLE ORGANIZATION. Any fraternal, religious, veterans, or other nonprofit organization which has been in existence for at least three years and has at least 30 active members.

SUBDIVISION 7. PROFIT. The gross receipts collected from operation of gambling devices less reasonable sums necessarily and actually expended for the devices and related equipment, prizes, rent, and utilities used during the operation of gambling devices and license fees.

SECTION III. LICENSE REQUIRED, SUBCIVISION 1. Subject to the provisions of Section 14, infra, no operation of gambling devices shall be conducted except by an eligible organization which has secured a license for that purpose, as provided in this Ordinance.

SUBDIVISION 2. A license shall be valid for one year from date of Ordinance.

SUBDIVISION 3. The annual license fee shall be 425.00 for initial license application and thereafter for renewals, \$15.00 per annum, and the Council may be Resolution, and in order to have the license year coordinated with other licenses, prorate license fees.

SUBDIVISION 4. A license application shall be acted upon by the council as soon as the council deems itself adequately informed with respect to the application, but no earlier than 30 days after application is filed, nor later than 180 days after date of application.

SUBDIVISION 5. Gambling device licenses issued are non-transferable as to licensee and location, without prior approval by the Council.

SECTION IV. LICENSE APPLICATIONS. Every application for a gambling device license shall be made through the city Clerk's office on forms supplied by the city, and containing such information as the council may require. Copies of each application shall be referred for recommendation to the City's Police Chief and Fire chief, and to such other City Officer(s) as may be determined by the city Council in its consideration of a pending application for license.

SECTION V. SUSPENSION OR REVOCATION. The Council may suspend for a period not exceeding 60 days, or revoke, any bingo license for violation of any provision of M.S. Ch. 349 of this Ordinance. The licensee shall be granted a hearing upon at least 10 days notice before revocation or suspension is ordered. The notice shall state the time and place of the hearing and the nature of charges against the licensee.

SECTION VI. OPERATION OF GAMBLING DEVICES. SUBDIVISION 1. Each licensed organization shall appoint a single gambling manager to supervise the operation of gambling devices conducted by it. The gambling manager must be a member of the licensed organization, with dues paid for the current membership period, and must have been a member of the organization for at least two years. The gambling manager, unless the city council by action unanimously taken make specific waiver, shall give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of his or her duties. Terms of the bond shall provide that notice shall be given in writing to the City Council not less than 30 days prior to its cancellation. Each operation of a gambling device shall be conducted under the direct supervision of the gambling manager, who shall be responsible for the conduct of the operation of the gambling device in compliance with all applicable laws and ordinances. No person shall act as gambling manager for more than one organization. No person under the age of 16 years shall be permitted to participate in using gambling devices unless full admission is paid and such person is in the company of a parent or guardian. A person may act as both gambling manager and bingo manager for a single organization.

SUBDIVISION 2. the gambling manager shall record the gross receipts, profits and expenses and record the prizes awarded. The gambling manager shall verify all figures which he or she has recorded as accurate and correct to the best of his or her knowledge, on forms prescribed by the city Clerk.

SUBDIVISION 3. Additional persons may be engaged for other duties in connection with the operation of gambling devices as needed, but no person shall assist in the operation of gambling device who is not an active member of the licensed organization, or the spouse of an active member of the licensed organization, unless the assistance of other persons is regularized by the membership of the sponsoring organizations approving resolution recorded in the official minutes of such organization.

SUBDIVISION 4. No person shall receive compensation for any duties in connection with any operation of a gambling device.

SUBDIVISION 5. no more than 52 operations of a gambling device each year, or 3 operations of a gambling device per week shall be conducted by any licensed organization.

SUBDIVISION 6. Operation of the gambling device shall not continue for more than 12 consecutive hours.

SECTION VII. OPERATION OF GAMBLING DEVICES ON LEASED PREMISES. SUBDIVISION 1. any person, corporation, or eligible organization, which leases any premises that it owns to two or more eligible organizations for purposes, including the operation of a gambling device, shall not allow more than 4 operations of a gambling device to be conducted on the premises in any week.

SUBDIVISION 2. any eligible organization which leases any premises to one or more other eligible organizations for purposes including the operation of a gambling device shall use the proceeds of the rental, less reasonable sums for maintenance, furnishings, and other necessary expenses, only for the uses for which gambling device profits may be used, as set out in Section 13 of this Ordinance. Not less than once each year the lessor organization shall report to the City Council the disposition of all receipts which it has received during the reporting period from the rental of its facilities to other organizations for purposes including the operation of a gambling device.

SUBDIVISION 3. No eligible organization shall operate a gambling device on any leased premises without a written lease for a term at least equal to the remainder of the term of the license of the lessee organization. Lease payments shall be at a fixed monthly rate, or rate per operation of gambling device, not subject to change during the term of the lease. No such lease shall provide that rental payments be based on a percentage of receipts or profits from gambling devices. Tickets for raffles conducted in accordance with this ordinance may be sold off the premises.

SECTION VIII. PRIZES. SUBDIVISION 1. Total prizes from the operation of paddlewheels and tipboards awarded in any single day in which they are operated shall not exceed \$500.00. total prizes resulting from any single spin of a paddlewheel, or from any single tipboard, shall not exceed \$100.00. Total prizes awarded in any calendar year by any organization from the operation of paddlewheels and tipboards and the conduct of raffles shall not exceed \$15,000.00. Merchandise prizes shall be valued at fair market retail value.

SUBDIVISION 2. Each winner shall be determined and every prize shall be awarded and delivered the same day on which the operation of a gambling device is conducted.

SECTION IX. RECORDS. SUBDIVISION 1. Each licensed organization shall keep records of its gross receipts and profits for each operation of a gambling device. All deductions from gross receipts from a gambling device shall be documented with receipts or other records. The distribution of profits shall be itemized as to payee, amount and date of payment. Records required by this ordinance shall be preserved for three years, and organizations shall make available their records relating to operation of gambling devices and the conduct of raffles for public inspection at reasonable times and places.

SUBDIVISION 2. Gross receipts shall be compared to the gambling manager's records for the gambling devices by a person who did not participate in the operation of the gambling device. If a discrepancy exceeding \$25 is found between the amount of gross receipts as determined by the gambling manager's records, and the amount of gross receipts as determined by totaling the cash receipts, the discrepancy shall be reported to and investigated by the Council.

SUBDIVISION 3. Gambling device gross receipts shall be segregated from other revenues of an organization and placed in a separate account. Each organization shall maintain separate records of its gambling device operations. The person who accounts for gambling device gross receipts and profits shall not be the same person who accounts for other revenues of the licensed organization.

SECTION X. REPORTS. SUBDIVISION 1. Each licensed organization shall report monthly to its membership its gross receipts from gambling devices, its profits therefrom and the distribution of these profits itemized as required by Sec. 9, Subd. 1.

SUBDIVISION 2. At the time of making its first license application under this ordinance, and on any annual basis thereafter, each licensed organization shall file with the council copies of the following:

a. The most recently filed Department of Treasury, Internal Revenue Service, "Return of Organization Exempt from Income Tax," Form 990, or a comparable form if the organization is required to file the form with the Department of the Treasury.

b. the most recently filed Department of the Treasury, Internal Revenue service "Exempt Organization Business Income Tax," for 990-T, or a comparable form if the organization is required to file the form with the Department of the Treasury.

c. the most recently filed annual report required by charitable organizations by M.S. 309.53, provided that an organization which is licensed to operate gambling devices but is exempt from submitting this report to the Department of commerce under Sec. 309.53, Subd. 1a, shall nevertheless submit such a report under this subdivision.

d. Any lease agreements required by this act, executed by the organization in regard to premises leased for the operation of a gambling device.

SECTION XI. INSPECTION AND INVESTIGATION. SUBDIVISION 1. Any city official or employee, having a duty to perform with reference to a gambling device license, and any police officer may inspect and examine the gambling device records of any licensed organization under 24 hours notice.

SECTION XII. USE OF BINGO RECEIPTS. No expense shall be incurred or amounts paid in connection with the operation of a gambling device, except those reasonably expended for gambling device supplies and equipment, prizes, rent, or utilities used during the operation of a gambling device and license fees.

SECTION XIII. USE OF GAMBLING DEVICE PROFITS. Profits from any operation of a gambling device shall be expended only as authorized by a resolution recorded in the official minutes at a regular meeting of the licensed organization and only for one or more of the following purposes:

a. Benefiting persons by enhancing their opportunity for religious or education advancement, by relieving or protecting them from disease, suffering, or distress, by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded.

v. Initiating, performing or fostering public works or enabling or furthering the erection or maintenance of public structures.

c. Lessening the burdens borne by government or voluntarily supporting, augmenting or supplementing services which government would normally render to he people.

d. The improving, expending, maintaining or repairing of real property owned or leased by the licensed organization.

Profits from the operation of a gambling device shall not be expended for the erection or acquisition of any real property, unless the City Council specifically authorizes the expenditures after finding that the property will be used exclusively for one or more of the purposes specified in this section.

SECTION XIV. PENALTIES. Violation of any provision of this ordinance shall be a misdemeanor. A person convicted of violating any provision of this ordinance shall be subject to a fine of not more than \$500 or imprisonment for a term not to exceed 90 days or both, plus in either case the costs of prosecution.

SECTION XV. SEVERABILITY. Should any provision of this ordinance be nullified by the judgment of a Court or competent jurisdiction or by operation of the law, all other provisions thereof shall nevertheless remain in full force and effect.

SECTION XVI. Any ordinance or ordinances inconsistent with the provisions of this ordinance is hereby repealed.

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SECTION XVII. EFFECTIVE DATE. This ordinance becomes effective upon its passage and publication according to law.

Passed and enacted by the City Council this 5th day of September, 1978.

Approved:

Harvey Kuhlmann
Mayor

Attest:

Ernest Sloan
City Clerk Administrator

Filed September 9, 1978