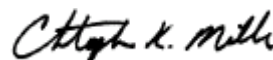



ROSEVILLE
REQUEST FOR COUNCIL ACTION

Date: 5/09/11
Item No.: 13 . d

Department Approval

Acting City Manager Approval



Item Description: Receive Report From the Lawful Gambling Tax Force

BACKGROUND

At the February 14, 2011 City Council meeting, the Council established a Lawful Gambling Task Force to evaluate whether changes were warranted for City Code Chapter 304, which governs lawful gambling activities in Roseville.

The Task Force consisted of Councilmembers Tammy Pust and Jeff Johnson, as well as Finance Director Chris Miller. The Council established a deadline of May 9, 2011 for the Task Force to report their findings and recommendations.

Prior to establishing the Task Force, the Council held a brief dialogue on the merits of allowing Roseville-based organizations to conduct lawful-gambling activities at more than one location – a practice prohibited under the current Code. The Council also discussed possible revisions to some sections of the Code that could be outdated.

City Staff recently sent a letter to existing lawful gambling organizations inquiring whether they would be interested in expanding to an additional location(s). The City received responses from two organizations that indicated their support for a change in City Code that would allow it. It is believed that other community-based organizations made similar inquiries to various non-profit groups. To date, we have not heard from any other eligible organization indicating their desire to conduct lawful gambling activities.

The City also received correspondence from the Roseville Citizens League indicating their support for amending the City Code. A copy of the letter is attached.

Finally, Councilmember Pust has taken the lead in working with the North Suburban Community Foundation/Roseville Community Fund regarding some of the governing documents between the City and the Foundation/Fund. Councilmember Pust's submittals are included in Attachment D.

POLICY OBJECTIVE

Not applicable.

FINANCIAL IMPACTS

Not applicable.

31 **STAFF RECOMMENDATION**

32 Not applicable.

33 **REQUESTED COUNCIL ACTION**

34 For informatin purposes only. No formal action is requested.

35

Prepared by: Chris Miller, Finance Director

Attachments: A: City Code Chapter 304

B: Sample Letter to existing Lawful Gambling Organizations

C: Letter dated April 19, 2011 from the Roseville Citizens League

D: Suggested Revisions submitted by Councilmember Pust

36

CHAPTER 304 LAWFUL GAMBLING

SECTION:

- 41 304.01: Lawful Gambling Permitted
- 42 304.02: Number of Licenses and Permits
- 43 304.03: Approval of Licenses
- 44 304.04: Contributions
- 45 304.05: Law Enforcement and Administrative Costs
- 46 304.06: Gambling Exempt from State Licensing Requirements
- 47 304.07: Video Games of Chance

304.01: LAWFUL GAMBLING PERMITTED:

49 Lawful gambling as regulated in Minnesota statutes chapter 349 is permitted in the City if the
50 organization conducting such activities meets the following criteria:

- 51 A. Is licensed by the Minnesota Gambling Control Board.
- 52 B. Is a tax exempt organization pursuant to 501(c) of the Internal Revenue Code or has a 501(c)
53 application pending with the Internal Revenue Service.
- 54 C. Maintains an address within the City.
- 55 D. Has been in existence at least three consecutive years prior to the date it begins its gambling
56 operations.
- 57 E. Complies with all of the provisions of this Chapter. (Ord. 1114, 8-24-1992)

304.02: NUMBER OF LICENSES AND PERMITS:

- 59 A. No organization licensed pursuant to Minnesota statutes section 349.16 may conduct lawful
60 gambling at more than one location within the city, except any organization that does not conduct
61 bingo and has prior to April 1, 1992, operated lawfully at more than one location, may continue to
62 operate at the locations licensed as of that date. (Ord. 1138, 4-25-1994)
- 63 B. The maximum number of bingo hall licenses and locations issued pursuant to Minnesota statutes
64 section 349.164 within the City shall be one. Once the bingo hall license is issued by the City, it
65 shall be limited to the location and to the owner specified on the license. Any change of location or
66 ownership without the approval of the City shall result in the termination of the license. (Ord.
67 1244, 12-18-2000)
- 68 C. The maximum number of licensees conducting gambling at the bingo hall license location
69 described in subsection B of this section shall be five.
- 70 D. The maximum number of premises permits issued pursuant to Minnesota statutes section 349.165
71 in addition to one bingo hall license described in subsection A of this section shall be eight. The
72 gambling allowed at those eight locations shall be those allowed under class B licenses as referred
73 to in Minnesota statutes section 349.16, subdivision 6, except as provided in subsection E of this
74 section.

75 E. An organization in existence and qualified under section 501(c)7 or section 501(c)19 of the internal
76 revenue code and which had its principal place of business or place of conducting meetings in the
77 City prior to and continuing since 1980 may be granted a class A premises permit.
78 Such organizations are not eligible for a bingo hall license as provided in Minnesota statutes
79 section 349.164 and may conduct gambling activities or bingo only on their own property. (Ord.
80 1138, 4-25-1994)

81 **304.03: APPROVAL OF LICENSES:**

- 82 A. Required Documentation: Any organization applying to the Gambling Control Board for a
83 premises permit, bingo hall license or for the renewal of the same to conduct lawful gambling in
84 the city shall, within ten days of making such application, file the following with the City:
85 1. Application: A duplicate copy of the Gambling Control Board application along with all
86 supporting documents submitted to the Gambling Control Board.
87 2. Corporate Documents: A copy of the Articles of Incorporation and Bylaws of the organization.
88 3. Officers and Directors: The names and addresses of all officers and directors of the organization.
89 4. Written Procedures: A copy of the organization's written procedures and/or criteria for
90 distribution of funds derived from lawful gambling, its standardized application form and its
91 written fiscal control procedures.
92 5. IRS Exempt Letter: A copy of the Internal Revenue Service's tax exempt letter.
93 6. Felony Conviction: Confirmation that no employee or principal officer of the organization has
94 been convicted of a felony. No employee or organization whose principal officers or employees
95 have a felony conviction shall be employed or retained in a gambling-related activity by any
96 permitted organization.
97 7. Investigation Reports: A copy of all records, all testimony or other information submitted to the
98 State of Minnesota or Federal Government as part of any previous or current investigation or
99 inquiry on any matter related to gambling.
- 100 B. Investigation: Upon receipt of the materials required by subsection A of this section, and not later
101 than 60days from receipt of notice from the Gambling Control Board, City staff shall investigate
102 the applicant and based upon said investigation, the City Council shall act on the application.
- 103 C. Resolution: The action of the City Council to approve an application for a premises permit or bingo
104 hall license within the city shall be by resolution. Failure to receive a majority affirmative vote of
105 the City Council shall constitute a denial of the application.
- 106 D. Additional Documents: Copies of any other reports or documents which are required to be
107 subsequently filed by such organization with the Gambling Control Board, including monthly
108 financial statements, shall be filed with the City within ten days of filing such materials with the
109 Gambling Control Board.
- 110 E. Compliance: to assure compliance with this Chapter, the City may require a premises permit holder
111 or bingo hall licensee to provide copies of records as allowed under Minnesota Statutes. (Ord.
112 1327, 10-10-05)
- 113 F. Suspension: Approval of a premises permit issued by the City under any part of this Chapter may
114 be suspended by the City for violation of Chapter or revoked or any renewal delayed, for failure to
115 meet the qualifications set out in subsection A or a willful violation of any part of this Chapter or a
116 failure to comply, for any reason, with any provision, guarantee or claim made in an applicant's
117 original license application to either the City or the State of Minnesota.
- 118 G. Liability of City: No license or permit issued by the City grants the licensee a property right or
119 entitlement to the license or permit. The City may not issue, renew nor revoke the license or permit
120 for any reason and will not incur liability for any damages including, but not limited to, direct,

121 consequential or incidental damages, deprivation of property, loss of income, loss of profits or loss
122 of livelihood.

- 123 H. Employment of Certified Public Accountant: All Class A licensees and permittees in the City shall
124 use a certified public accounting firm for all accounting, bookkeeping and tax preparation services
125 related directly to lawful gambling and charged as an allowable expense of the gambling operation.
126 All agreements providing for such services shall be in writing and shall be submitted to the City as
127 part of the application for review by the City to determine compliance with local and State
128 regulations and laws. Any such agreements entered into or modified after issuance of a license or
129 permit shall be filed with the City prior to the new agreement or modification becoming effective.
130 The initial approval and the continuance of a license or permit are contingent upon such
131 agreements complying with this Chapter and State statutes and regulations.
- 132 I. Management: All licensees and permittees in the City will assure continuous and active
133 management of the gambling operation and will not delegate managerial responsibilities, will work
134 continuously to operate in the most efficient manner to increase the amount of available lawful
135 proceeds, will maintain the lowest possible costs and will encourage and use volunteers to the
136 fullest extent possible. (Ord. 1114, 9-24-92)

137 **304.04: CONTRIBUTIONS:**

- 138 A. Each organization conducting lawful gambling within the City shall contribute at least 10% of its
139 net profits derived from lawful gambling in the City to a fund administered and regulated by the
140 City. The City then shall make disbursements to the Roseville Community Foundation, a
141 Minnesota nonprofit corporation. This contribution shall be for the purposes defined in Minnesota
142 Statute 349.12, subdivision 25. The City's directive to the Roseville Community Foundation as to
143 the use of the funds shall be made at the time of the City's adoption of its annual budget or any
144 amendments thereto. (Ord. 1327, 10-10-05)
- 145 B. Each organization conducting lawful gambling shall expend or contribute a minimum of 75% of its
146 net profits from Roseville gambling sites by the end of each premises permit year. The remaining
147 percentage may be carried over to the subsequent permit or license year. The City Council may
148 grant a variance authorizing the organization to carry over more than 25% of all its net profits for
149 expenditure in the subsequent permit or license year.
- 150 C. In the event any organization contributes to the City any sum in excess of the 10% as required in
151 subsection A above, said funds will be deposited and allocated to the Roseville Community
152 Foundation. In the event the Roseville Community Foundation is in any way unable to receive the
153 allocated funds as set forth in subsection A above, the funds will be deposited in an interest bearing
154 escrow account in a bank located in the City and allocated to uses by further order of the City
155 Council. (Ord. 1114, 9-24-92)

156 **304.05: LAW ENFORCEMENT AND ADMINISTRATIVE COSTS:**

157 All organizations conducting lawful gambling within the City shall, within 30 days of the end of each
158 month, pay to the City an amount equal to 3% of the gross receipts from lawful gambling conducted in
159 the City in such month, less amounts actually paid for prizes, to cover the City's law enforcement and
160 administrative costs in regulating lawful gambling. (Ord. 1114, 9-24-92)

161 **304.06: GAMBLING EXEMPT FROM STATE LICENSING REQUIREMENTS:**

- 162 A. Organizations which conduct lawful gambling which is exempt from State gambling licensing
163 requirements may conduct such gambling within the City upon receipt of a permit from the City,

- 164 except this requirement does not apply to door prizes or raffles and bingo where total prizes are
165 less than \$1,500 in a calendar year. (Ord. 1327, 10-10-05)
- 166 B. An application for such a permit, along with a fee as prescribed by the Fee Schedule, shall be made
167 at least 30 days prior to the date such gambling is to be conducted. The application shall contain
168 the following:
- 169 1. The name of the organization.
 - 170 2. The address of the organization.
 - 171 3. The place where such gambling will occur.
 - 172 4. The total prizes to be awarded.
- 173 (Ord. 1327, 10-10-05)
- 174 C. Within 30 days of filing any reports with the Gambling Control Board, the organization shall file a
175 copy of such reports with the City.
- 176 D. The provisions relating to law enforcement and administrative costs set forth in Section 304.05
177 shall not apply to gambling permitted pursuant to this Section. All other provisions of this Chapter
178 apply to such organizations. (Ord. 1114, 9-24-92)

179 **304.07: VIDEO GAMES OF CHANCE:**

180 "Video games of chance", as defined by Minnesota Statutes, are prohibited in the City. (Ord. 1114, 9-
181 24-92)

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February 28, 2011

B-Dale Club
Attn: Lawful Gambling Manager
2100 Dale Street North
Roseville, MN 55113

Dear Lawful Gambling Manager,

As you may know, City Code Chapter 304 prohibits licensed organizations from conducting lawful gambling activities in more than one location within city limits. The Roseville City Council recently formed a Task Force to review this restriction (and perhaps others), to determine whether it should remain in place.

As part of that determination, we are interested in knowing whether your organization would consider expanding to one or more additional locations if it were permitted. The City Council intends to hold a public hearing in late April or early May to consider this change. If your organization would like to have the opportunity to conduct activities at more than one location, please contact me at: chris.miller@ci.roseville.mn.us, or by phone at: 651-792-7031 by April 15, 2011 so that I may relay that information to the City Council.

If you have any questions regarding this potential change in City Code or have any other related questions or concerns, please feel free to contact me.

Thanks.

Christopher K. Miller
Finance Director

Dan Roe, Jeff Johnson, Tam McGehee, Tammy Pust, Bob Willmus, 04:59 PM 4/19/2011, Roseville charita

To: Dan Roe, Jeff Johnson, Tam McGehee, Tammy Pust, Bob Willmus
From: Dick Lambert <rlambert@rclambert.com>
Subject: Roseville charitable gambling ordinance
Cc: Bill Malinen
Bcc: RCL Board
Attached:

To: Dan Roe, Jeff Johnson, Tam McGehee, Tammy Pust, Bob Willmus
From: Dick Lambert <rlambert@rclambert.com>
Subject: Roseville charitable gambling ordinance
Cc: Bill Malinen
Bcc: RCL Board
Attached:

I understand that the committee studying the Roseville charitable gambling ordinance will be recommending a minor change that would allow a charity to sponsor gambling in more than one physical location in Roseville.

The executive committee of the Roseville Citizens League voted unanimously to endorse this change.

Dick Lambert
Chairman
Roseville Citizens League
800 Brenner Avenue
Roseville, MN 55113
(651) 483-1492 (office)
(651) 483-9871 (home)

Agreement

Establishing the Roseville Community Fund

This agreement made this 4 day of OCTOBER, 1991, by and between the City of Roseville (the Donor) and the North Suburban Community Foundation, a Minnesota nonprofit corporation (the Trustee), effective as of October 4, 1991.

Whereas, the Donor desires to establish, and the Trustee is willing to hold and administer, a charitable fund to be known as the Roseville Community Fund (the Fund), it is agreed as follows:

1. The Trustee will hold and administer all property which the Donor or any other person or organization contributes to the Fund in accordance with the provisions of this Agreement and the charitable purposes of the Trustee contained in its Articles of Incorporation, all of which provisions and amendments are hereby incorporated by reference.

2. One half of the proceeds from lawful gambling received from the Donor shall be held and maintained by the Trustee as a permanent endowment.

Subject to paragraphs 3, 4, and 5, the Trustee shall make available one half of the proceeds from lawful gambling received from the Donor and the income from the endowment for allocation.

3. Unless amended or changed by the Donor, a Donor Advisory Board (the D.A.B) shall be established to represent the Community of Roseville on behalf of the City Council and it shall operate under the legal auspices of the Trustee. The D.A.B. shall evaluate and recommend the distribution of monies from the fund for the benefit of the Community of Roseville.

A. The D.A.B. shall be made up of the following membership and shall be governed under by-laws and rules as set out by resolution passed by the Trustee:

Youth Athletic organizations	2
Schools	1
Chamber of Commerce	1
Non-athletic 501 (c) 3 organizations	2
Roseville City Manager or designee	1
Clergy	1
North Suburban Community Foundation	3
Fraternal organizations	1
Service Clubs	1

B. As further required by the City Council of the City of Roseville, at least 5 members of the D.A.B must be female.

C. The Trustee shall follow the recommendation of the D.A.B. to the extent possible and appropriate, so long as the charitable

8. All records of the Fund shall be open for public inspection during reasonable hours.

9. This agreement may be terminated by either party upon a 180 day written notice. All unallocated assets, including the endowment fund, shall be distributed to a community foundation with similar purposes as the Trustee.

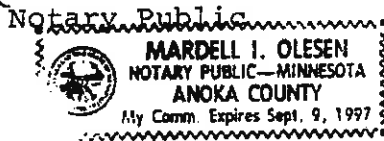
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

North Suburban Community Foundation

BY *Dale Shush*
Its *President*

Subscribed and sworn to before me this 4th day of October, 1991.

Mardell J. Olesen



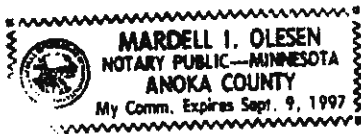
City of Roseville

BY *Steve J. Parkes*
Its *City Manager*

Subscribed and sworn to before me this 4th day of October, 1991.

Mardell J. Olesen

Notary Public



Amended Agreement

Establishing the Roseville Community Fund

This Amended Agreement made this 24 day of October, 1994, by and between the City of Roseville (the Donor) and the North Suburban Community Foundation, a Minnesota nonprofit corporation (the Trustee), effective as of 24 October 1994.

Whereas, the Donor desires to establish, and the Trustee is willing to hold and administer, a charitable fund to be known as the Roseville Community Fund (the Fund), it is agreed as follows:

1. The Trustee will hold and administer all property which the Donor or any other person or organization contributes to the Fund in accordance with the provisions of this Amended Agreement and the charitable purposes of the Trustee contained in its Articles of Incorporation, all of which provisions and amendments are hereby incorporated by reference.

2. One half of the proceeds from lawful gambling received from the Donor shall be held and maintained by the Trustee as a permanent endowment.

Subject to paragraphs 3, 4, and 5, the Trustee shall make available one half of the proceeds from lawful gambling received from the Donor and the income from the endowment for allocation.

3. Unless amended or changed by the Donor, a Donor Advisory Board (the D.A.B) shall be established to represent the Community of Roseville on behalf of the City Council. The D.A.B. shall evaluate and recommend to the Trustee the distribution of monies from the Fund for the benefit of the Community of Roseville.

A. The D.A.B. shall be made up of the following membership and shall be governed under by-laws and rules as set out by resolution passed by the Trustee:

Youth Athletic organizations	2
Schools	1
Chamber of Commerce	1
Non-athletic 501 (c) 3 organization's	2
Roseville City Manager or designee	1
Clergy	1
North Suburban Community Foundation	3
Fraternal organizations	1
Service Clubs	1

B. As further required by the City Council of the City of Roseville, at least 5 members of the D.A.B must be female.

C. The Trustee shall follow the recommendation of the D.A.B. to the extent possible and appropriate, so long as the charitable use is a qualified exempt purpose under the Internal Revenue Code, is of primary benefit to the Community of Roseville, and is in accordance with lawful purposes of Minnesota State Gambling Statutes.

4. Unless agreed to otherwise the Trustee shall

- continue to meet full IRS requirements for a tax-exempt foundation.

- provide administration including legally required reports, proper banking and investment, administrative controls and an annual independent audit.

- invest no less than 75% of the Roseville Community Fund's endowment and other available funds in investments as permitted under (M.S. 475.66)

- provide administrative oversight to the D.A.B.

- provide quarterly or other such reports to be made to the City Council including participating in an annual meeting with the Council.

5. If the D.A.B. does not recommend allocation of the monies from this Fund to the Trustee by the close of the Trustee's fiscal year, the Trustee reserves the right to distribute any unallocated funds. All eligible funds must be allocated by the Trustee within 120 days after the close of the Trustee fiscal year in accordance with Section 3 of this Amended Agreement.

6. The Trustee shall be paid an administrative fee in accordance with the policies adopted by the Trustee and amended from time to time.

A. Such fees not to exceed three percent (3%) per annum on the first \$500,000 of all Fund assets, 1% on all Fund assets over \$500,000.00, plus 1% of all grants paid from the Fund. Asset value shall be based on the average of the annual market value computed on a quarterly basis.

B. In addition, the Fund shall pay for a pro-rata share of the annual audit fee.

C. The Fund shall provide for any legal fees incurred as a result of any action filed against the Trustees acting in their capacity as Trustees, or against the members of the D.A.B. acting in their advisory role.

7. The Trustee may commingle the assets of the Fund with the assets of any other fund or funds which the Trustee holds and administers, provided that the separate identity of the new Fund,

and the distributions therefrom, are at all times maintained.

8. All records of the Fund shall be open for public inspection during reasonable hours.

9. This Amended Agreement may be terminated by either party upon a 180 day written notice. All unallocated assets, including the endowment fund, shall be distributed to a community foundation with similar purposes as the Trustee.

IN WITNESS WHEREOF, the parties hereto have executed this Amended Agreement as of the date written above.

North Suburban Community Foundation

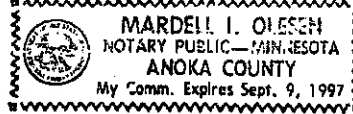
By Frances A. Brusler
Its President

City of Roseville

By David R. Long
Its City Manager

Subscribed and sworn to before me this
28th day of October, 1994.

Mardell J. Olesen



SECOND AMENDED AGREEMENT
RELATED TO THE
ROSEVILLE COMMUNITY FUND

This Second Amended Agreement made this ___ day of May, 2011, by and between the City of Roseville (“City”) and the North Suburban Community Foundation (“NSCF”), a Minnesota nonprofit corporation, is effective as of the date above written.

WHEREAS, the City desires to establish, and NSCF is willing to hold and administer, a charitable fund to be known as the Roseville Community Fund (“Fund”).

THEREFORE, the parties agree as follows:

1. NSCF will hold and administer all property which the City or any other person or organization contributes to the Fund in accordance with the provisions of this Second Amended Agreement and the charitable purposes of the NSCF as described in its Articles of Incorporation and effective Bylaws, all of which provisions and amendments are hereby incorporated by reference.
2. One half of the proceeds from lawful gambling received from the City shall be held and maintained by NSCF as a permanent endowment. Subject to paragraphs 3, 4 and 5 of this Agreement, NSCF shall make available one half of the proceeds from lawful gambling received from the City and not more than 75% of the income from the endowment, as established annually by the NSCF, for allocation.
3. Unless amended or changed by the City, a Donor Advisory Board (“DAB”) shall be established to represent the community of Roseville on behalf of the City Council. The DAB shall evaluate and recommend to the NSCF the distribution of monies from the Fund for the benefit of the community of Roseville.
 - A. The DAB shall be made up of 13 members ~~the following membership~~ and shall be governed under bylaws and rules as set out by resolution passed by the Board of Directors of NSCF.

Youth Athletic organizations	2
Schools	1
Chamber of Commerce	1
Non-athletic 501(c)(3) organizations	2
Roseville City Manager or designee	1
Clergy Faith Communities	1
North Suburban Community Foundation	3
Fraternal organizations	1
Service clubs	1
 - B. As further required by the City Council of the City of Roseville, at least five (5) members of the DAB must be female.

- C. The NSCF shall follow the recommendation of the DAB to the extent possible and appropriate, so long as the charitable use is a qualified exempt purpose under the Internal Revenue Code, is of primary benefit to the community of Roseville, and is in accordance with lawful purposes of Minnesota State gambling statutes.
4. Unless agreed to otherwise, the NSCF shall
 - A. Continue to meet full IRS requirements for a tax-exempt foundation.
 - B. Provide administration including legally required reports, proper banking and investment, administrative controls and an annual independent audit.
 - C. Invest no less than 75% of the Fund's endowment and other available funds in investments as permitted under ~~M.S. 475.66~~ Minnesota law.
 - D. Provide administrative ~~oversite~~ oversight to the DAB.
 - E. Provide quarterly or other such reports to be made to the City Council, including participating in an annual meeting with the Council, upon request.
 5. If the DAB does not recommend allocation of the monies from this Fund to the NSCF by the close of the NSCF's fiscal year, the NSCF reserves the right to distribute any unallocated funds. All eligible funds must be allocated by the NSCF within 120 days after the close of the NSCF's fiscal year ~~in accordance with Section 3 of this Amended Agreement~~.
 6. The NSCF shall be paid an administrative fee in accordance with the policies adopted by the NSCF as amended from time to time.
 - A. Such fees shall ~~not to exceed~~ three percent (3%) per annum ~~on the first \$500,000.00 of all Fund assets, 1% on all Fund assets over \$500,000.00,~~ plus 1% of all grants paid from the Fund. Asset value shall be based on the average of the annual market value computed on a quarterly basis.
 - B. ~~In addition, the Fund shall pay for a pro-rata share of the annual audit fee.~~
 - C. The Fund shall provide for any legal fees incurred as a result of any action filed against the Directors acting in their capacity as Directors, or against the members of the DAB acting in their advisory role.
 7. The NSCF may commingle the assets of the Fund with the assets of any other fund or funds which the NSCF holds and administers, provided that the separate

identity of the new Fund, and the distributions therefrom, are at all times maintained.

8. All records of the Fund shall be open for public inspection during reasonable hours.
9. This Second Amended Agreement may be terminated by either party upon a 180 day written notice. Upon termination, all unallocated assets, including the endowment fund, shall be distributed to a community foundation with similar purposes as the NSCF.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amended Agreement as of the date written above.

Dated: May __, 2011

NORTH SUBURBAN COMMUNITY FOUNDATION

Tammy L. Pust
President

Subscribed to before me this
__ day of _____, 2011.

Notary Public

Dated: May __, 2011

CITY OF ROSEVILLE

Daniel Roe
Mayor

Subscribed to before me this
__ day of _____, 2011.

Notary Public

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**CHAPTER 304
LAWFUL GAMBLING**

3 SECTION:

- 4 304.01: Lawful Gambling Permitted
5 304.02: Number of Licenses and Permits
6 304.03: Approval of Licenses
7 304.04: Contributions
8 304.05: Law Enforcement and Administrative Costs
9 304.06: Gambling Exempt from State Licensing Requirements
10 304.07: Video Games of Chance

11 **304.01: LAWFUL GAMBLING PERMITTED:**

12 Lawful gambling as regulated in Minnesota statutes chapter 349 is permitted in the City if the
13 organization conducting such activities meets the following criteria:

- 14 A. Is licensed by the Minnesota Gambling Control Board.
15 B. Is a tax exempt organization pursuant to 501(c) of the Internal Revenue Code or has a 501(c)
16 application pending with the Internal Revenue Service.
17 C. Maintains an address within the City.
18 D. Has been in existence at least three consecutive years prior to the date it begins its gambling
19 operations.
20 E. Complies with all of the provisions of this Chapter. (Ord. 1114, 8-24-1992)

21 **304.02: NUMBER OF LICENSES AND PERMITS:**

- 22 A. No organization licensed pursuant to Minnesota statutes section 349.16 may conduct lawful
23 gambling at more than one location within the city, except any organization that does not
24 conduct bingo and has prior to April 1, 1992, operated lawfully at more than one location,
25 may continue to operate at the locations licensed as of that date. (Ord. 1138, 4-25-1994)
26 B. The maximum number of bingo hall licenses and locations issued pursuant to Minnesota
27 statutes section 349.164 within the City shall be one. Once the bingo hall license is issued by
28 the City, it shall be limited to the location and to the owner specified on the license. Any
29 change of location or ownership without the approval of the City shall result in the
30 termination of the license. (Ord. 1244, 12-18-2000)
31 C. The maximum number of licensees conducting gambling at the bingo hall license location
32 described in subsection B of this section shall be five.
33 D. The maximum number of premises permits issued pursuant to Minnesota statutes section
34 349.165 in addition to one bingo hall license described in subsection A of this section shall
35 be eight. The gambling allowed at those eight locations shall be those allowed under class B
36 licenses as referred to in Minnesota statutes section 349.16, subdivision 6, except as
37 provided in subsection E of this section.

- 38 E. An organization in existence and qualified under section 501(c)7 or section 501(c)19 of the
39 internal revenue code and which had its principal place of business or place of conducting
40 meetings in the City prior to and continuing since 1980 may be granted a class A premises
41 permit.
42 Such organizations are not eligible for a bingo hall license as provided in Minnesota statutes
43 section 349.164 and may conduct gambling activities or bingo only on their own property.
44 (Ord. 1138, 4-25-1994)

45 **304.03: APPROVAL OF LICENSES:**

- 46 A. Required Documentation: Any organization applying to the Gambling Control Board for a
47 premises permit, bingo hall license or for the renewal of the same to conduct lawful
48 gambling in the city shall, within ten days of making such application, file the following
49 with the City:
- 50 1. Application: A duplicate copy of the Gambling Control Board application along with all
51 supporting documents submitted to the Gambling Control Board.
 - 52 2. Corporate Documents: A copy of the Articles of Incorporation and Bylaws of the
53 organization.
 - 54 3. Officers and Directors: The names and addresses of all officers and directors of the
55 organization.
 - 56 4. Written Procedures: A copy of the organization's written procedures and/or criteria for
57 distribution of funds derived from lawful gambling, its standardized application form and its
58 written fiscal control procedures.
 - 59 5. IRS Exempt Letter: A copy of the Internal Revenue Service's tax exempt letter.
 - 60 6. Felony Conviction: Confirmation that no employee or principal officer of the organization
61 has been convicted of a felony. No employee or organization whose principal officers or
62 employees have a felony conviction shall be employed or retained in a gambling-related
63 activity by any permitted organization.
 - 64 7. Investigation Reports: A copy of all records, all testimony or other information submitted
65 to the
66 State of Minnesota or Federal Government as part of any previous or current investigation or
67 inquiry on any matter related to gambling.
- 68 B. Investigation: Upon receipt of the materials required by subsection A of this section, and not
69 later than 60 days from receipt of notice from the Gambling Control Board, City staff shall
70 investigate the applicant and based upon said investigation, the City Council shall act on the
71 application.
- 72 C. Resolution: The action of the City Council to approve an application for a premises permit
73 or bingo hall license within the city shall be by resolution. Failure to receive a majority
74 affirmative vote of the City Council shall constitute a denial of the application.
- 75 D. Additional Documents: Copies of any other reports or documents which are required to be
76 subsequently filed by such organization with the Gambling Control Board, including
77 monthly financial statements, shall be filed with the City within ten days of filing such
78 materials with the Gambling Control Board.
- 79 E. Compliance: to assure compliance with this Chapter, the City may require a premises permit
80 holder or bingo hall licensee to provide copies of records as allowed under Minnesota
81 Statutes. (Ord. 1327, 10-10-05)
- 82 F. Suspension: Approval of a premises permit issued by the City under any part of this Chapter

83 may be suspended by the City for violation of Chapter or revoked or any renewal delayed,
84 for failure to meet the qualifications set out in subsection A or a willful violation of any part
85 of this Chapter or a failure to comply, for any reason, with any provision, guarantee or claim
86 made in an applicant's original license application to either the City or the State of
87 Minnesota.

- 88 G. Liability of City: No license or permit issued by the City grants the licensee a property right
89 or entitlement to the license or permit. The City may not issue, renew nor revoke the license
90 or permit for any reason and will not incur liability for any damages including, but not
91 limited to, direct, consequential or incidental damages, deprivation of property, loss of
92 income, loss of profits or loss of livelihood.
- 93 H. Employment of Certified Public Accountant: All Class A licensees and permittees in the
94 City shall use a certified public accounting firm for all accounting, bookkeeping and tax
95 preparation services related directly to lawful gambling and charged as an allowable expense
96 of the gambling operation. All agreements providing for such services shall be in writing
97 and shall be submitted to the City as part of the application for review by the City to
98 determine compliance with local and State regulations and laws. Any such agreements
99 entered into or modified after issuance of a license or permit shall be filed with the City
100 prior to the new agreement or modification becoming effective. The initial approval and the
101 continuance of a license or permit are contingent upon such agreements complying with this
102 Chapter and State statutes and regulations.
- 103 I. Management: All licensees and permittees in the City will assure continuous and active
104 management of the gambling operation and will not delegate managerial responsibilities,
105 will work continuously to operate in the most efficient manner to increase the amount of
106 available lawful proceeds, will maintain the lowest possible costs and will encourage and
107 use volunteers to the fullest extent possible. (Ord. 1114, 9-24-92)

108 **304.04: CONTRIBUTIONS:**

- 109 A. Each organization conducting lawful gambling within the City shall contribute at least 10%
110 of its net profits derived from lawful gambling in the City to a fund administered and
111 regulated by the City. The City then shall make disbursements to the Roseville Community
112 Fund, administered by the North Suburban Community Foundation, a Minnesota nonprofit
113 corporation. This contribution shall be for the purposes defined in Minnesota Statute 349.12,
114 subdivision 25. The City's directive to the Roseville Community Fund, administered by the
115 North Suburban Community Foundation, as to the use of the funds shall be made at the time
116 of the City's adoption of its annual budget or any amendments thereto. (Ord. 1327, 10-10-
117 05)
- 118 B. Each organization conducting lawful gambling shall expend or contribute a minimum of
119 75% of its net profits from Roseville gambling sites by the end of each premises permit year.
120 The remaining percentage may be carried over to the subsequent permit or license year. The
121 City Council may grant a variance authorizing the organization to carry over more than 25%
122 of all its net profits for expenditure in the subsequent permit or license year.
- 123 C. In the event any organization contributes to the City any sum in excess of the 10% as
124 required in subsection A above, said funds will be deposited and allocated to the Roseville
125 Community Fund, administered by the North Suburban Community Foundation. In the event
126 the Roseville Community Fund, administered by the North Suburban Community
127 Foundation is in any way unable to receive the allocated funds as set forth in subsection A

128 above, the funds will be deposited in an interest bearing escrow account in a bank located in
129 the City and allocated to uses by further order of the City Council. (Ord. 1114, 9-24-92)

130 **304.05: LAW ENFORCEMENT AND ADMINISTRATIVE COSTS:**

131 All organizations conducting lawful gambling within the City shall, within 30days of the end of
132 each month, pay to the City an amount equal to 3% of the gross receipts from lawful gambling
133 conducted in the City in such month, less amounts actually paid for prizes, to cover the City's
134 law enforcement and administrative costs in regulating lawful gambling. (Ord. 1114, 9-24-92)

135 **304.06: GAMBLING EXEMPT FROM STATE LICENSING**
136 **REQUIREMENTS:**

- 137 A. Organizations which conduct lawful gambling which is exempt from State gambling
138 licensing requirements may conduct such gambling within the City upon receipt of a permit
139 from the City, except this requirement does not apply to door prizes or raffles and bingo
140 where total prizes are less than \$1,500 in a calendar year. (Ord. 1327, 10-10-05)
- 141 B. An application for such a permit, along with a fee as prescribed by the Fee Schedule, shall
142 be made at least 30 days prior to the date such gambling is to be conducted. The application
143 shall contain the following:
- 144 1. The name of the organization.
 - 145 2. The address of the organization.
 - 146 3. The place where such gambling will occur.
 - 147 4. The total prizes to be awarded.
- 148 (Ord. 1327, 10-10-05)
- 149 C. Within 30 days of filing any reports with the Gambling Control Board, the organization shall
150 file a copy of such reports with the City.
- 151 D. The provisions relating to law enforcement and administrative costs set forth in Section
152 304.05 shall not apply to gambling permitted pursuant to this Section. All other provisions
153 of this Chapter apply to such organizations. (Ord. 1114, 9-24-92)

154 **304.07: VIDEO GAMES OF CHANCE:**

155 "Video games of chance", as defined by Minnesota Statutes, are prohibited in the City. (Ord.
156 1114, 9-24-92)
157

Minn. Stat. 349.12, Subd. 25

Subd. 25. Lawful purpose.

(a) "Lawful purpose" means one or more of the following:

(1) any expenditure by or contribution to a 501(c)(3) or festival organization, as defined in subdivision 15a, provided that the organization and expenditure or contribution are in conformity with standards prescribed by the board under section 349.154, which standards must apply to both types of organizations in the same manner and to the same extent;

(2) a contribution to or expenditure for goods and services for an individual or family suffering from poverty, homelessness, or disability, which is used to relieve the effects of that suffering;

(3) a contribution to a program recognized by the Minnesota Department of Human Services for the education, prevention, or treatment of problem gambling;

(4) a contribution to or expenditure on a public or private nonprofit educational institution registered with or accredited by this state or any other state;

(5) a contribution to an individual, public or private nonprofit educational institution registered with or accredited by this state or any other state, or to a scholarship fund of a nonprofit organization whose primary mission is to award scholarships, for defraying the cost of education to individuals where the funds are awarded through an open and fair selection process;

(6) activities by an organization or a government entity which recognize military service to the United States, the state of Minnesota, or a community, subject to rules of the board, provided that the rules must not include mileage reimbursements in the computation of the per diem reimbursement limit and must impose no aggregate annual limit on the amount of reasonable and necessary expenditures made to support:

(i) members of a military marching or color guard unit for activities conducted within the state;

(ii) members of an organization solely for services performed by the members at funeral services;

(iii) members of military marching, color guard, or honor guard units may be reimbursed for participating in color guard, honor guard, or marching unit events within the state or states contiguous to Minnesota at a per participant rate of up to \$35 per diem; or

(iv) active military personnel and their immediate family members in need of support services;

(7) recreational, community, and athletic facilities and activities intended primarily for persons under age 21, provided that such facilities and activities do not discriminate on the basis of gender and the organization complies with section 349.154, subdivision 3a;

(8) payment of local taxes authorized under this chapter, taxes imposed by the United States on receipts from lawful gambling, the taxes imposed by section 297E.02, subdivisions 1, 4, 5, and 6, and the tax imposed on unrelated business income by section 290.05, subdivision 3;

(9) payment of real estate taxes and assessments on permitted gambling premises owned by the licensed organization paying the taxes, or wholly leased by a licensed veterans organization under a national charter recognized under section 501(c)(19) of the Internal Revenue Code;

(10) a contribution to the United States, this state or any of its political subdivisions, or any agency or instrumentality thereof other than a direct contribution to a law enforcement or prosecutorial agency;

(11) a contribution to or expenditure by a nonprofit organization which is a church or body of communicants gathered in common membership for mutual support and edification in piety, worship, or religious observances;

(12) an expenditure for citizen monitoring of surface water quality by individuals or nongovernmental organizations that is consistent with section 115.06, subdivision 4, and Minnesota Pollution Control Agency guidance on monitoring procedures, quality assurance protocols, and data management, provided that the resulting data is submitted to the Minnesota Pollution Control Agency for review and inclusion in the state water quality database;

(13) a contribution to or expenditure on projects or activities approved by the commissioner of natural resources for:

(i) wildlife management projects that benefit the public at large;

(ii) grant-in-aid trail maintenance and grooming established under sections 84.83 and 84.927, and other trails open to public use, including purchase or lease of equipment for this purpose; and

(iii) supplies and materials for safety training and educational programs coordinated by the Department of Natural Resources, including the Enforcement Division;

(14) conducting nutritional programs, food shelves, and congregate dining programs primarily for persons who are age 62 or older or disabled;

(15) a contribution to a community arts organization, or an expenditure to sponsor arts programs in the community, including but not limited to visual, literary, performing, or musical arts;

(16) an expenditure by a licensed fraternal organization or a licensed veterans organization for payment of water, fuel for heating, electricity, and sewer costs for:

(i) up to 100 percent for a building wholly owned or wholly leased by and used as the primary headquarters of the licensed veteran or fraternal organization; or

(ii) a proportional amount subject to approval by the director and based on the portion of a building used as the primary headquarters of the licensed veteran or fraternal organization;

(17) expenditure by a licensed veterans organization of up to \$5,000 in a calendar year in net costs to the organization for meals and other membership events, limited to members and spouses, held in recognition of military service. No more than \$5,000 can be expended in total per calendar year under this clause by all licensed veterans organizations sharing the same veterans post home;

(18) payment of fees authorized under this chapter imposed by the state of Minnesota to conduct lawful gambling in Minnesota;

(19) a contribution or expenditure to honor an individual's humanitarian service as demonstrated through philanthropy or volunteerism to the United States, this state, or local community;

(20) a contribution by a licensed organization to another licensed organization with prior board approval, with the contribution designated to be used for one or more of the following lawful purposes under this section: clauses (1) to (7), (11) to (15), (19), and (25);

(21) an expenditure that is a contribution to a parent organization, if the parent organization: (i) has not provided to the contributing organization within one year of the contribution any money, grants, property, or other thing of value, and (ii) has received prior board approval for the contribution that will be used for a program that meets one or more of the lawful purposes under subdivision 7a;

(22) an expenditure for the repair, maintenance, or improvement of real property and capital assets owned by an organization, or for the replacement of a capital asset that can no longer be repaired, with a fiscal year limit of five percent of gross profits from the previous fiscal year, with no carryforward of unused allowances. The fiscal year is July 1 through June 30. Total expenditures for the fiscal year may not exceed the limit unless the board has specifically approved the expenditures that exceed the limit due to extenuating circumstances beyond the organization's control. An expansion of a building or bar-related expenditures are not allowed under this provision.

(i) The expenditure must be related to the portion of the real property or capital asset that must be made available for use free of any charge to other nonprofit organizations, community groups, or service groups, or is used for the organization's primary mission or headquarters.

(ii) An expenditure may be made to bring an existing building that the organization owns into compliance with the Americans with Disabilities Act.

(iii) An organization may apply the amount that is allowed under item (ii) to the erection or acquisition of a replacement building that is in compliance with the Americans with Disabilities Act if the board has specifically approved the amount. The cost of the erection or acquisition of a replacement building may not be made from gambling proceeds, except for the portion allowed under this item;

(23) an expenditure for the acquisition or improvement of a capital asset with a cost greater than \$2,000, excluding real property, that will be used exclusively for lawful purposes under this section if the board has specifically approved the amount;

(24) an expenditure for the acquisition, erection, improvement, or expansion of real property, if the board has first specifically authorized the expenditure after finding that the real property will be used exclusively for lawful purpose under this section; or

(25) an expenditure, including a mortgage payment or other debt service payment, for the erection or acquisition of a comparable building to replace an organization-owned building that was destroyed or made uninhabitable by fire or catastrophe or to replace an organization-owned building that was taken or sold under an eminent domain proceeding. The expenditure may be only for that part of the replacement cost not reimbursed by insurance for the fire or catastrophe or compensation not received from a governmental unit under the eminent domain proceeding, if the board has first specifically authorized the expenditure.

(b) Expenditures authorized by the board under clauses (24) and (25) must be 51 percent completed within two years of the date of board approval; otherwise the organization must reapply to the board for approval of the project. "Fifty-one percent completed" means that the work completed must represent at least 51 percent of the value of the project as documented by the contractor or vendor.

(c) Notwithstanding paragraph (a), "lawful purpose" does not include:

(1) any expenditure made or incurred for the purpose of influencing the nomination or election of a candidate for public office or for the purpose of promoting or defeating a ballot question;

(2) any activity intended to influence an election or a governmental decision-making process;

(3) a contribution to a statutory or home rule charter city, county, or town by a licensed organization with the knowledge that the governmental unit intends to use the contribution for a pension or retirement fund; or

(4) a contribution to a 501(c)(3) organization or other entity with the intent or effect of not complying with lawful purpose restrictions or requirements.

Subd. 25a. Linked bingo game.

"Linked bingo game" means a bingo game played at two or more locations where licensed organizations are authorized to conduct bingo, where there is a common prize pool and a common selection of numbers or symbols conducted at one location, and where the results of the selection are transmitted to all participating locations by satellite, telephone, or other means by a linked bingo game provider.

Subd. 25b. Linked bingo game provider.

"Linked bingo game provider" means any person who provides the means to link bingo prizes in a linked bingo game, who provides linked bingo paper sheets to the participating organizations, who provides linked bingo prize management, and who provides the linked bingo game system.