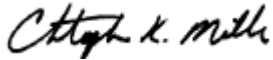


REQUEST FOR COUNCIL ACTION

Date: 1/10/11

Item No.: 13.a

Department Approval



City Manager Approval



Item Description: Consider Request by Grumpy's Bar & Grill to Allow a non Roseville-Based Organization to Conduct Lawful Gambling Activities

BACKGROUND

Lawful gambling activities as regulated under MN State Statutes Chapter 349, is permitted under City Code Chapter 304. Current City Code allows only Roseville-based organizations to conduct these activities within City limits.

Grumpy's Bar & Grill, located at 2801 Snelling Avenue has requested the City to allow a non Roseville-based organization to conduct lawful gambling activities at their establishment. Granting this request would require either a change in City Code or perhaps some sort of administrative variance.

In a letter dated November 19, 2010 (attached) Grumpy's representatives cited the loss of a previous organization as well as difficulties they've faced in persuading existing Roseville-based organizations to establish a presence at Grumpy's.

While the Council is being asked to reconsider only a portion of City Code Chapter 304, it may be purposeful to consider other aspects of this Chapter to affirm the Council's position on how lawful gambling activities ought to be regulated in the City.

POLICY OBJECTIVE

Not applicable.

FINANCIAL IMPACTS

Not applicable.

STAFF RECOMMENDATION

Not applicable.

REQUESTED COUNCIL ACTION

Consider changing City Code Chapter 304 to accommodate the request from Grumpy's Bar & Grill.

Prepared by: Chris Miller, Finance Director

Attachments: A: Letter from Grumpy's Bar & Grill dated November 19, 2010
B: City Code Chapter 304

Robert V Petersen
Grumpy's Bar & Grill
2801 Snelling Ave
Roseville, MN 55113
651-379-1180
bob@grumpys-bar.com

November 19, 2010

Christopher K. Miller
Finance Director
2660 Civic Center Drive
Roseville, MN 55113

Dear Mr. Miller,

In an attempt to help keep our doors open and avoid having to lay off staff, we are seeking to reopen our charitable gambling services. In April 2010, the Roseville Lions Club pulled out due to their lack of ability to staff our pull tab booth. We have contacted several other charities based in Roseville, but were told they have no interest in expanding.

With 20 years experience and wide array of services, the Blaine Lions Club is willing to join us and have agreed to use all revenues raised at our establishment for Roseville charities.

Since we have been unable to find a Roseville-based replacement, we are requesting a variance to allow the Lions Club to operate in our establishment, with all charitable proceeds going directly to local Roseville charities. We believe this arrangement honors the spirit of the local code, while helping to maintain critical employment in this shaky economy.

Thank you for your time and consideration,



Robert V. Petersen

CHAPTER 304 LAWFUL GAMBLING

SECTION:

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

304.01: LAWFUL GAMBLING PERMITTED:

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

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

304.02: NUMBER OF LICENSES AND PERMITS:

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

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

304.03: APPROVAL OF LICENSES:

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

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

H. Employment of Certified Public Accountant: All Class A licensees and permittees in the City shall use a certified public accounting firm for all accounting, bookkeeping and tax preparation services related directly to lawful gambling and charged as an allowable expense of the gambling operation. All agreements providing for such services shall be in writing and shall be submitted to the City as part of the application for review by the City to determine compliance with local and State regulations and laws. Any such agreements entered into or modified after issuance of a license or permit shall be filed with the City prior to the new agreement or modification becoming effective. The initial approval and the continuance of a license or permit are contingent upon such agreements complying with this Chapter and State statutes and regulations.

I. Management: All licensees and permittees in the City will assure continuous and active management of the gambling operation and will not delegate managerial responsibilities, will work continuously to operate in the most efficient manner to increase the amount of available lawful proceeds, will maintain the lowest possible costs and will encourage and use volunteers to the fullest extent possible. (Ord. 1114, 9-24-92)

304.04: CONTRIBUTIONS:

A. Each organization conducting lawful gambling within the City shall contribute at least 10% of its net profits derived from lawful gambling in the City to a fund administered and regulated by the City. The City then shall make disbursements to the Roseville Community Foundation, a Minnesota nonprofit corporation. This contribution shall be for the purposes defined in Minnesota Statute 349.12, subdivision 25. The City's directive to the Roseville Community Foundation as to the use of the funds shall be made at the time of the City's adoption of its annual budget or any amendments thereto. (Ord. 1327, 10-10-05)

B. Each organization conducting lawful gambling shall expend or contribute a minimum of 75% of its net profits from Roseville gambling sites by the end of each premises permit year. The remaining percentage may be carried over to the subsequent permit or license year. The City Council may grant a variance authorizing the organization to carry over more than 25% of all its net profits for expenditure in the subsequent permit or license year.

C. In the event any organization contributes to the City any sum in excess of the 10% as required in subsection A above, said funds will be deposited and allocated to the Roseville Community Foundation. In the event the Roseville Community Foundation is in any way unable to receive the allocated funds as set forth in subsection A above, the funds will be deposited in an interest bearing escrow account in a bank located in the City and allocated to uses by further order of the City Council. (Ord. 1114, 9-24-92)

304.05: LAW ENFORCEMENT AND ADMINISTRATIVE COSTS:

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

304.06: GAMBLING EXEMPT FROM STATE LICENSING REQUIREMENTS:

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

except this requirement does not apply to door prizes or raffles and bingo where total prizes are less than \$1,500 in a calendar year. (Ord. 1327, 10-10-05)

B. An application for such a permit, along with a fee as prescribed by the Fee Schedule, shall be made at least 30 days prior to the date such gambling is to be conducted. The application shall contain the following:

1. The name of the organization.
2. The address of the organization.
3. The place where such gambling will occur.
4. The total prizes to be awarded.

(Ord. 1327, 10-10-05)

C. Within 30 days of filing any reports with the Gambling Control Board, the organization shall file a copy of such reports with the City.

D. The provisions relating to law enforcement and administrative costs set forth in Section 304.05 shall not apply to gambling permitted pursuant to this Section. All other provisions of this Chapter apply to such organizations. (Ord. 1114, 9-24-92)

304.07: VIDEO GAMES OF CHANCE:

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