

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE NO. 97- 106

AN ORDINANCE AMENDING SECTION 300.07 "ZONING DISTRICT MAP"  
OF THE LAKE ELMO MUNICIPAL CODE


Section 1. Amendment: Section 300.07 Subd. 3 (A) of the "Zoning District Map" of the Lake Elmo Municipal Code is amended to rezone the following described property, owned by Dee M. Flatau-Cobb, 9730 Hudson Blvd, Lake Elmo from Highway Business (HB) to Limited Business (LB) to wit:

Pt of SW1/4 of SE1/4 342921 beg at an iron pipe mon set at the intersection of the east line thereof with the north line of Minn Trunk Hwy 12 & run thence north along SD East line 217.8 ft. to an iron pipe mon thence west on a line part to SD north line of SD Hwy 12, 200 ft. to an iron pipe mon thence south on a line par to SD East line of SD tract 217.8 ft. to an iron pipe mon set on SD north line of SD Hwy 12 thence East along SD North line of SD Hwy 12, 200 ft. to the Pt of Beg. Exc. to Hwy. Property ID 34-029-21-43-0002

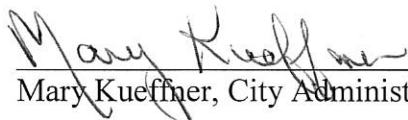
Section 300.07 Subd. 3 (A) of the "Zoning District Map" of the Lake Elmo Municipal Code is amended to rezone the following described property, owned by Dee Flatau from Highway Business (HB) to Limited Business (LB) to wit.

Section 2. Effective Date: This ordinance shall become effective upon its passage and publication according to law.

ADOPTED, by the Lake Elmo City Council on the 2<sup>nd</sup> day of April, 2002.

  
Lee Hunt, Mayor

ATTEST:

  
Mary Kueffner, City Administrator

Published in the Stilwater Gazette on the 8<sup>th</sup> day of May 2002.

City of Lake Elmo  
Washington County, Minnesota  
Summary of Ordinance 97-106  
Relating to Charitable Gambling License

On April 26, 2002, the Lake Elmo City Council adopted Ordinance 97-106 relating to Charitable Gambling Licensing.

On May 6, 2002, the Lake Elmo City Council received a summary of Ordinance 97-106 and by \_\_\_\_\_ affirmative votes, approved the publication of a summary of this ordinance.

A complete copy of Ordinance 97-106 is on file in the office of the City Administrator, and can be viewed by the public during business hours.

**CHAPTER 11 LICENSE**

1110.01 Lawful Gambling Permitted

1110.02 Filing of Records; Inspections; Access to Records

Subd. 1 Reports

1110.03 Approval of Premises Permit

Subd. 1 Filing

Subd. 2 Approval/Denial

Subd. 3. Records

1110.04 Locations

Subd. 1 Maximum Number

Subd. 2 Allotment to a Single Organization

Subd. 3 Where Permitted

Subd. 4 Compliance

1110.05 Liquor Sales/Lawful Gambling at On-Sale Establishments

Subd. 1. Prohibition

Subd. 2 Regulation

1110.06 Contributions

Subd. 1 Percentage

Subd. 2 Reporting Requirement

Subd. 3. Reporting Deadline

Subd. 4 Payment

Subd. 5 Interest

Subd. 6 Delinquencies

Subd. 7 Exemption

Subd. 8. Evaluation of Purpose of Funds

1110.07 Law Enforcement and Administrative Costs

1110.08 Trade Area Requirement

1110.09 Gambling Exempt from State Licensing Requirements

Subd. 1 Application

Subd. 2 Permit Fee

Subd. 3 Permitted Classes of Gambling

Subd. 4 On Premises

Subd. 5 Consumption, Possession, 3.2 Beer

Subd. 6 Compliance, Notice

Subd. 7 Filing of Report

Subd. 8 Law Enforcement and Administrative Costs

Attest:

\_\_\_\_\_  
Lee Hunt, Mayor

\_\_\_\_\_  
Mary Kueffner, City Administrator

## **Chapter 11 - Licensing**

### **Section 1110 - Bingo, Other Lawful Gambling and Video Games of Chance**

#### **1110.01 Lawful Gambling Permitted**

Lawful gambling, as defined in Minnesota Statutes, §349.12, Subd. 2, is permitted in the City if the organization conducting the gambling meets the following criteria:

- A. It is licensed by the Minnesota Gambling Control Board, and is in compliance with Minnesota Statutes §349;
- B. It is a tax exempt organization pursuant to Section 501(c) of the Internal Revenue Code or has a Section 501(c) application pending with the Internal Revenue Service;
- C. Maintains an address within the City;
- D. It has been in existence as a union non-profit corporation or as a Section 501(c) tax exempt organization for at least three (3) consecutive years prior to the date the gambling operation begins;
- E. Charitable gambling is limited to permanent, year-round licensed liquor establishments, fraternal organizations or churches all which are currently established and operating in the City; and
- F. Complies with all of the provisions of this section.

#### **1110.02 Filing of Records; Inspections; Access to Records**

##### **Subd. 1 Reports**

Every organization licensed to conduct gambling in the City shall file with the Administrator copies of all records and reports required to be filed with the Minnesota Lawful Gambling Control Board pursuant to Minnesota Statutes, Chapter 349, and the rules and regulations promulgated by M.S. Chapter 349. The records and reports shall be due at the same time they are due to the Board.

##### **Subd. 2 Inspection**

Every gambling event in the City conducted by an organization under Minnesota Statutes, Chapter 349, shall be open to inspection by officers of the police department.

##### **Subd. 3 Inspection of Records**

Employees of the City's police department may inspect, at any reasonable time, without notice or search warrant, all records of a licensed organization, including gambling accounts and other bank records which are required, by the Minnesota Lawful Gambling Board, to be maintained and preserved.

**1110.03 Approval of Premises Permit**

**Subd. 1 Notification of Application**

The Minnesota Lawful Board shall notify the Council in writing in the manner required by law of each pending application for a lawful gambling license at least sixty (60) days before issuing or renewing the license. Each pending application for a license shall be approved or disapproved by resolution of the Council.

**Subd. 2 Filing**

Any organization applying to the Gambling Control Board for a premises permit, bingo hall license or for the renewal of the premises permit to conduct lawful gambling in the City shall, within ten (10) days of making the application, file the following with the administrator:

- A. A duplicate copy of the Gambling Control Board application along with all supporting documents submitted to the Gambling Control Board;
- B. A copy of the Articles of Incorporation and Bylaws of the organization;
- C. The names and addresses of all officers and directors of the organization;
- E. 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; and
- E. A copy of the Internal Revenue Service's tax exempt letter.

**Subd. 3 Investigation**

Upon receipt of the materials required by Section 1110.03, Subd. 2 and not later than sixty (60) days from receipt of notice from the Gambling Control Board, City staff shall investigate the applicant and, based upon the investigation, the Council shall act on the application.

**Subd. 4 Approval/Denial**

The action of the Council to approve an application for a premises permit or a bingo hall license within the City shall be by resolution. Failure to receive a majority affirmative vote of the Council, shall constitute a denial of the application.

**Subd. 5 Resolution**

A copy of the Council resolution will be sent to the license applicant upon request.

**Subd. 6 Filing**

Copies of any other reports or documents which are required to be subsequently filed by the organization with the Gambling Control Board, including monthly financial statements, shall be filed with the City within ten (10) days of filing the materials with the Gambling Control Board.

**Subd. 7 Records**

To assure compliance with this Section, the City may require a premises permit holder or bingo hall licensee to provide copies of the records described in Minnesota Statutes §349.215.

**1110.04 Locations**

**Subd. 1 Maximum Number**

The maximum number of locations where lawful gambling may be conducted within the City is ten (10).

**Subd. 2 Allotment to Single Organization**

No single organization may conduct lawful gambling at more than three (3) locations within the City.

**Subd. 3 Where Permitted**

Lawful gambling under license issued by the Minnesota Lawful Gambling Control Board may be conducted only at the following locations:

- A. In the licensed organization's hall where it has its regular meetings. No organization shall rent, lease, or occupy, directly or indirectly, any other property for the purpose of conducting gambling, except an on-sale establishment as permitted in this Section;
- B. In licensed on-sale liquor, wine, and beer establishments;
- C. Notwithstanding Subsections A and B above, "rate only" licenses may be approved for any proper location.

**Subd. 4 Compliance**

No location shall be approved for gambling unless it complies with the applicable zoning, building, fire, and health codes of the City.

**1110.05 Liquor Sales/Lawful Gambling at On-Sale Establishments**

**Subd. 1 Prohibition**

No sale, consumption, or possession of liquor, wine, or 3.2 beer shall be permitted during gambling conducted by a licensed organization, except as permitted under a valid on-sale liquor, wine, or 3.2 beer license, or a bottle club permit; provided further that no sale, consumption, or possession of liquor, wine, or 3.2 beer shall be permitted in the room where a bingo session is taking place:

**Subd. 2 Regulations**

Lawful gambling at on-sale liquor, wine, and 3.2 beer establishments shall be conducted in compliance with the following regulations:

Lake Elmo Municipal Code  
Chapter 11 - Licensing

Section 1110 -Bingo, Other Lawful Gambling and Video Games of Chance

- A. Only licenses for pull tabs and raffles may be issued except where the licensed gambling organization also holds the on-sale liquor, wine or 3.2 beer licenses for the premises, in which case any lawful gambling license may be issued;
- B. On-sale establishments shall be limited to one licensed gambling organization at any one time in the licensed premises or any rooms adjoining the premises under the same management. No lease shall be effective between an on-sale establishment and a gambling organization while there is still a lease in effect between the on-sale establishment and another gambling organization.
- C. Every agreement between a non-profit organization and an on-sale premises for gambling shall be in the form of a written lease. The written lease shall be the complete agreement between the parties, and there shall be no unwritten terms or conditions. The lease shall specifically provide that the lessee shall operate only after issuance of a license and shall be subject to the terms of this Section;
- D. A copy of any lease agreement between a non-profit organization and an on-sale licensee shall be filed with the administrator with the gambling license application;
- E. A lease agreement between a non-profit organization and an on-sale establishment shall not provide for rental payments based on a percentage of receipts of profits from lawful gambling. There shall be no other compensation paid to the on-sale establishment, directly or indirectly, other than the rental fee provided in the lease agreement. The maximum rental fee shall be six hundred dollars (\$600.00) per month or \$24 per square foot of the leased premise, whichever is less.
- F. All gambling shall be conducted from a booth or other area properly segregated from the rest of the licensed premises. The physical layout of the area set aside for gambling shall be subject to the approval of the City's police department;
- G. The gambling booth shall be constructed and maintained by the organization licensed to conduct gambling and shall be under the exclusive control of that organization. The organization licensed to conduct gambling shall prominently display its name and license number at its gambling booth and shall indicate that all profits from gambling are for the benefit of the organization;
- H. No employees or agents of the on-sale establishment shall handle gambling devises, gambling money, prizes, or gambling records, nor shall they record winners, replays, or free games, nor shall they otherwise conduct, or assist the licensed gambling organizations in conducting the gambling operation;
- I. The gambling booth or area shall be separate from the liquor service bar area. No gambling shall be conducted from the liquor service bar area;

- J. The organization licensed to conduct gambling shall have exclusive control over all gambling devices, money and records. Whenever the organization is not present, all gambling devices, money and records shall be securely locked and shall be inaccessible to employees of the on-sale establishment;
- K. No gambling employee may use intoxicating beverages while working on the sale of games.
- L. No gambling funds shall be commingled with funds of the on-sale establishment;
- M. No food, drink or entertainment discounts or other promotions shall be offered in conjunction with the sale of gambling devices or chances;
- N. The on-sale establishment shall allow the organization to conduct gambling at any time during its lawful business hours and shall prohibit gambling at any time other than its lawful business hours;
- O. The on-sale licensee shall make no agreements with any gambling equipment distributor requiring the use of the distributor's gambling equipment in the establishment;
- P. Subsections F, G, H, I, J and K shall not apply when the licensed gambling organization is also the holder of the on-sale license for the establishment where the gambling is conducted;
- Q. The Council may disapprove a gambling license application for an on-sale establishment in which gambling violations have previously occurred.

**1110.06 Gambling Manager**

Before any person may serve as a gambling manager for any organization licensed to conduct gambling in the City, that person must have satisfactorily completed a course of instruction conducted by the Minnesota Lawful Control Board on the duties and responsibilities of the gambling manager.

**1110.07 Contributions**

**Subd. 1 Percentage**

Each organization conducting lawful gambling within the City 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 for disbursement by the City for lawful purposes as defined by Minnesota Statutes §349.12, Subd. 11, the City's use of the funds shall be determined at the time of adoption of the City's annual budget or at the time of amendments to the budget.

**Subd. 2 Reporting Requirement**

The ten (10) percent contribution imposed by this Section shall be reported on a duplicate copy of the gambling tax return filed with the Minnesota Lawful Gambling Control Board each month. The report shall be an exact duplicate of the report filed with the Minnesota Lawful Gambling Control Board without deletions or additions, and must contain the signatures of organization officials as required on the report form.

**Subd. 3 Reporting Deadline**

The contribution and the report due must be postmarked or, if hand-delivered, received in the office of the administrator on or before the last business day of the month following the month for which the report is made.

An incomplete report will not be considered timely filed unless corrected and returned by the due date for filing. Delays in the mailing, mail pick-ups, and postmarking are the responsibility of the organization.

The report and contribution shall be delivered to:

City of Lake Elmo  
3800 Laverne Avenue North  
Lake Elmo, MN 55042

**Subd. 4 Payment**

Checks shall be made payable to: "City of Lake Elmo"

**Subd. 5 Interest**

There shall be an interest charge of eight (8) percent per annum on the unpaid balance of all overdue contributions owed by an organization under this Section.

**Subd. 6 Delinquencies**

The Council shall disapprove any pending application for renewal or original issue of a lawful gambling license for any organization which owes delinquent gambling contributions to the City. Further, the Council or administrator may notify the Minnesota Lawful Gambling Board of any organization owing delinquent gambling taxes to the City and may request that the Council revoke or suspend the organization's license during the license year. The Council shall not issue or renew any on-sale or off-sale alcoholic beverage license, bottle club permit, or food license to any organization which owes delinquent gambling contributions to the City. The above remedies are not exclusive and shall be in addition to any other powers and remedies provided by law.

**Subd. 7 Exemption**

The receipts from lawful gambling of an organization that is exempt from licensing under Minnesota Statutes, §349.166, are not subject to the contribution imposed by this section.

**Subd. 8 Evaluation of Purpose of Funds**

City will evaluate yearly the purposes for which the funds will be used.



**1110.08 Law Enforcement and Administrative Costs**

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

**1110.09 Trade Area Requirement**

Every organization conducting lawful gambling within the jurisdiction of the City shall expend all of its expenditures for lawful purposes on lawful purposes conducted or located within the City's trade area. The City's "trade area" is defined as the area located within the City limits and the area located within the limits of all Minnesota cities and townships which are contiguous to the City.

**1110.10 Gambling Exempt from State Licensing Requirements**

Organizations which conduct lawful gambling which are exempt from state gambling licensing requirements (pursuant to Minnesota Statute §349.166) 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 rates and bingo where total prizes are less than \$5,000 in a calendar year.

**Subd. 1 Application**

An application for such a permit shall be made at least thirty (30) days prior to the date such gambling shall be conducted. The application shall contain the following:

- A. The name of the organization;
- B. The address of the organization;
- C. The place where the gambling will occur;
- D. The total prizes to be awarded.

**Subd. 2 Permit Fee**

The organization shall pay a permit fee of ten dollars (\$10.00) for each day the gambling is conducted;

**Subd. 3 Permitted Classes of Gambling**

Permits for all classes of gambling activities may be approved.

**Subd. 4 On-Sale Premises**

Lawful gambling by an organization exempt from licensing may be conducted on the premises of a licensed on-sale liquor, wine, or beer establishment or a bottle club, subject to the restrictions in this section relating to the conduct of gambling in on-sale establishments and bottle clubs;

Lake Elmo Municipal Code  
Chapter 11 - Licensing

Section 1110 - Bingo, Other Lawful Gambling and Video Games of Chance

**Subd. 5 Consumption, Possession, 3.2 Beer**

Except as provided in Section 1110.10, Subd. 5, the sale, consumption, and possession of intoxicating liquor at a gambling event by an exempt organization shall be prohibited. However, 3.2 beer may be served and consumed, but only under a valid temporary on-sale beer license;

**Subd. 6 Compliance, Notice**

The organization shall comply with all statutory requirements for an exempt organization, including the thirty (30) day notice requirement to the City, pursuant to Minnesota Statutes §349.166, Subd. 2(4).

**Subd. 7 Filing of Report**

Within thirty (30) days after filing any reports with the Gambling Control Board, the organization shall file a copy of the reports with the City.

**Subd. 8 Law Enforcement and Administrative Costs**

The provisions relating to "law enforcement and administrative costs" set forth in Section 1110.08 shall not apply to gambling permitted pursuant to this section. All other provisions of this section apply to such organizations.