

7861.0240 PREMISES PERMITS.

Subpart 1. **Premises permit required.** An organization must obtain a premises permit issued by the board for each premises it owns or leases where it will conduct lawful gambling. The permit, when issued, is not transferable from one site to another.

Subp. 2. **Contents of and attachment to premises permit application.** A premises permit application must contain the following information:

- A. organization's legal name;
- B. name and daytime telephone number of the organization's chief executive officer;
- C. name and street address of the proposed gambling premises;
- D. city and county or township and county where the proposed gambling premises is located;
- E. address in Minnesota of any temporary or permanent storage space for gambling equipment and records, if different than the permitted premises;
- F. bank name, address, and account number for each bank account in Minnesota into which gross receipts from gambling are deposited;
- G. authorization permitting the board and agents of the board and the commissioners of revenue and public safety and their agents to inspect the bank records of the gambling account;
- H. a statement giving consent to local law enforcement officers, the board or its agents, and the commissioners of revenue and public safety and their agents to enter and inspect the premises;
- I. acknowledgment signed by the chief executive officer;
- J. acknowledgment by the local unit of government that it has approved the application by resolution as authorized by Minnesota Statutes, section 349.213, subdivision 2; and
- K. if the premises is leased, a copy of the lease as required by subpart 3.

Subp. 3. **Lease required for leased premises.** For premises not owned by the organization, a lease must be on a form prescribed by the board and contain at a minimum the following information:

- A. name, business address, and telephone number of the legal owner of the premises and the lessor;
- B. organization's name, business address, license number, and daytime telephone number;
- C. name, address, and telephone number of the leased premises;
- D. type of gambling activity to be conducted;
- E. monetary consideration, if any, that may not be directly or indirectly supplemented above the amounts in Minnesota Statutes, section 349.18;

F. an irrevocable consent from the lessor that:

(1) the board and its agents, the commissioners of revenue and public safety and their agents, and law enforcement personnel have access to the permitted premises at any reasonable time during the business hours of the lessor;

(2) the organization has access to the permitted premises during any time reasonable and when necessary for the conduct of lawful gambling on the premises;

(3) the owner of the premises or the lessor will not manage the conduct of gambling at the premises;

(4) the lessor, the lessor's immediate family, and any agents or gambling employees of the lessor will not participate as players in the conduct of lawful gambling except as authorized by part 7861.0260, subpart 1, item C;

(5) the lessor, the lessor's immediate family, any person residing in the same residence as the lessor, and any agents or employees of the lessor will not require the organization to perform any action that would violate statute or rule, with a clause stating that the lessor must not modify or terminate the lease in whole or in part because of a violation of this provision. If there is a dispute as to whether a violation has occurred, the lease will remain in effect pending a final determination by the compliance review group. The lessor agrees to arbitration when a violation is alleged. For purposes of this subitem, the arbitrator must be the compliance review group of the board; and

(6) the lessor must maintain a record of all money received from the organization, and make the record available to the board and its agents and the commissioners of revenue and public safety and their agents. The record must be maintained for 3-1/2 years;

G. clauses pertaining to illegal gambling stating that:

(1) notwithstanding part 7865.0220, subpart 3, an organization is required to continue making rent payments, under the terms of the lease, if the organization or its agents are found to be solely responsible for any illegal gambling conducted at the site that is prohibited by part 7861.0260, subpart 1, item J, or Minnesota Statutes, section 609.75, unless the organization's agents responsible for the illegal gambling activity are also agents or employees of the lessor;

(2) the lessor must not modify or terminate the lease in whole or in part because the organization reported to a state or local law enforcement authority or the board the conduct at the site of illegal gambling activity in which the organization did not participate;

(3) the lessor is aware of the prohibition against illegal gambling in Minnesota Statutes, section 609.75, and the penalties for illegal gambling violations in part 7865.0220, subpart 3;

(4) to the best of the lessor's knowledge, the lessor affirms that any and all games or devices located on the premises are not being used, and are not capable of being used, in a manner that violates the prohibitions against illegal gambling in Minnesota Statutes, section 609.75, and the penalties for illegal gambling violations in part 7865.0220, subpart 3; and

(5) the lessor acknowledges the provisions of Minnesota Statutes, section 349.18, subdivision 1, paragraph (a);

H. a clause stating that the lessor must not impose restrictions on the organization with respect to providers of gambling-related equipment and services or in the use of net profits for lawful purposes; and

I. all other agreements between the organization and the lessor.

Subp. 4. **Changes in premises permit application and lease information.** The following items pertain to changes in application and lease information.

A. Except for items B and C, the organization must notify the board in writing when any information submitted in the application changes, no later than ten days after the change has taken effect.

B. For changes to a lease that do not include a change in the lessor, the organization must submit to the board a new lease at least ten days before the effective date of the change.

C. For a change in ownership of the site, the organization must submit to the board a new lease within ten days after the new lessor has assumed ownership.

Subp. 5. **Issuing or denying a premises permit; violation of lease agreement.** The following items apply to a premises permit issued or denied by the board.

A. The board must issue a premises permit when an application is complete and contains:

- (1) information required in the application and application attachments;
- (2) the fee required by Minnesota Statutes, section 349.165, subdivision 3; and
- (3) local unit of government approval.

B. The board must deny the application if:

(1) the organization does not or will not have an organization license or licensed gambling manager when the premises permit is issued, or the organization license has lapsed according to Minnesota Statutes, section 349.16, subdivision 3a;

(2) the application has been denied by the local unit of government;

(3) illegal gambling was conducted at the proposed site within the 90 days immediately preceding the date of the application, and at a time when no licensed organization had a premises permit for the site;

(4) another organization's premises permit for the proposed site is under suspension or revocation for illegal gambling under part 7865.0220, subpart 3;

(5) a prior premises permit for the proposed site would have been subject to suspension or revocation for illegal gambling under part 7865.0220, subpart 3, and the suspension period or revocation that could have been imposed for that site has not elapsed;

(6) the organization has not submitted the information required by subpart 2, and for a leased site the organization has not submitted a lease as required by subpart 3, and the application remains incomplete for more than 90 days after it was received by the board; or

(7) the lessor, the lessor's immediate family, any person residing in the same residence as the lessor, or the lessor's agents or employees have required an organization to perform an action that would violate statute or rule, as referenced in the lease agreement. If such a violation of the lease agreement has occurred, any premises permit application for that site will not be considered for the following periods:

(a) up to one year from the date of the board's final decision on the matter; or

(b) up to two years from the date of the board's final decision on the matter for a second such violation, unless a complete change of ownership of the site occurred at the time of the first or second violation. "Complete change of ownership" has the meaning given in part 7865.0210, subpart 3, item C.

When the board determines that an application must be denied, the board must promptly give a written notice to the organization. The notice must contain the grounds for the action and reasonable notice of the rights of the organization to request an appeal under part 7865.0260, subpart 2.

C. All fees submitted with a permit application are considered earned and are not refundable.

Subp. 6. **Permit effective date.** A premises permit issued by the board is effective on the first day of a month or as otherwise determined by the board.

Statutory Authority: *MS s 14.055; 349.12; 349.151; 349.154; 349.155; 349.16; 349.162; 349.163; 349.1635; 349.165; 349.166; 349.167; 349.169; 349.17; 349.1711; 349.1721; 349.173; 349.19; 349.191; 349.211*

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