

ORDINANCE O-4422

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING AND AMENDING KIRKLAND MUNICIPAL CODE SECTION 7.48.020 TO REQUIRE THE WRITTEN CONSENT OF THE LANDLORD BEFORE GAMBLING ACTIVITIES MAY COMMENCE OR CONTINUE AND SECTION 7.02.110 TO REQUIRE COMPLIANCE WITH THIS REQUIREMENT BEFORE A BUSINESS LICENSE CAN BE ISSUED OR RENEWED.

WHEREAS, the lien authorized by Kirkland Municipal Code 7.48.020(c) for delinquent gambling taxes was intended to attach to any property used in gambling activities, whether owned by the person or entity conducting the gambling activities or not; and

WHEREAS, to insure this result, the Council believes the written consent that this lien could potentially attach to their property should be obtained from the owner(s) of such property; and

WHEREAS, the Council believes the business license under KMC Chapter 7.02 should be withheld until the person or entity engaged in the gambling activities has obtained such consent,

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 7.48.020 is amended to read as follows:

7.48.020 Tax rate imposed on gambling activities.

(a) Tax Imposed. Pursuant to RCW 9.46.110, the city imposes a tax upon any gambling activity which activity is not prohibited by either state law or city ordinance. For the purposes of this section, a "charitable or nonprofit organization" shall mean an entity meeting the requirements of Chapter 9.46 RCW for a bona fide charitable or nonprofit organization. The gambling tax rate levied by the city of Kirkland is as follows:

(1) Bingo: ten percent of gross receipts less the amount awarded as cash or merchandise prizes; provided, that effective January 1, 2000, the tax rate for bingo shall be five percent of gross receipts less the amount awarded as cash or merchandise prizes.

(2) Raffles: ten percent of gross receipts less the amount awarded as cash or merchandise prizes; provided, that effective January 1, 2000, the tax rate for raffles shall be five percent of gross receipts less the amount awarded as cash or merchandise prizes.

(A) Special Rule. When a raffle is conducted by a charitable or nonprofit organization, no tax shall be imposed on the first ten

thousand dollars (per calendar year) of gross receipts less the amount awarded as cash or merchandise prizes.

(3) Amusement games: two percent of gross receipts less the amount awarded as prizes. The city shall use the revenue from such tax to pay the actual costs of enforcement of this chapter and Chapter 9.46 RCW by law enforcement.

(4) Punch boards and/or pull-tabs: five percent of gross receipts.

(A) Special Rule. When punch boards and/or pull-tabs are operated by a charitable or nonprofit organization, the tax shall be ten percent of gross receipts less the amount awarded as cash or merchandise prizes.

(5) Social card games, including but not limited to house banked social card games: eleven percent of gross revenue. The city of Kirkland prohibits social card games as a commercial stimulant except as allowed under Section 7.48.018.

(6) Contests of chance: seven percent of gross receipts. For purposes of this subsection, "contests of chance" shall mean gambling activities conducted at a "fund raising event" meeting the requirements of Chapter 9.46 RCW, other than the gambling activities listed above in this section. Bingo, raffles, amusement games, punch boards and/or pull-tabs, or social card games shall be taxed at the specific rates provided hereinabove, even if such activity was conducted as part of a fund raising event.

(b) Exemption for Certain Bingo or Amusement Games. A charitable or nonprofit organization, having no paid operating or management personnel, shall be exempt from the tax imposed under subsections (a)(1) and (a)(3) of this section so long as such organization receives no more than five thousand dollars per year in gross receipts from bingo or amusement games, or a combination thereof, less the amount awarded as cash or merchandise prizes.

(c) Lien. Taxes imposed under this chapter become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. If the personal or real property to be used is owned by any person or entity other than the person or entity conducting the gambling activities, the written consent to the potential attachment of the lien must be obtained from the person or entity owning the property before the gambling activities may commence or continue. In the event additional real or personal property is acquired after gambling activities have commenced, additional written consent must be obtained from the owners of that property before it can be used in the gambling activities. Both written consents required herein must be in a form acceptable to the City Attorney and must be provided to the city before the issuance or renewal of a business license under KMC 7.02 may occur. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

Section 2. Kirkland Municipal Code Section 7.02.110 is amended to read as follows:

7.02.110 Review of application.

(a) The director, upon receipt of an application form, shall cause an investigation and review of the application to be made by the proper city officials, and shall issue or deny issuance of the license within thirty days after the city receives a complete application.

(b) The proposed use of premises shall not be in violation of any city building, safety, fire, health or land use regulations as determined by the city department charged with the enforcement of said regulations.

(c) If a person required by the terms and provisions of this chapter to pay a license fee for any period fails or refuses to do so, he/she/it shall not be granted a license for the current period until the delinquent license fee, together with penalties, has been paid in full. Neither the applicant nor the proposed business shall be in default under the provisions of this chapter or indebted or obligated in any manner to the city, except for current taxes and other obligations not past due.

(d) Qualifications of Applicants. The director may deny issuance (or renewal) of a business license or permit when the licensee, officer or partner thereof, or another person with a legal interest in the license:

(1) Knowingly causes, aids, abets, or conspires with another to cause any person to violate any of the laws or regulations of this state or the city which may affect or relate to the licensed business;

(2) Has obtained a license or permit by fraud, misrepresentation, concealment, or through inadvertence or mistake;

(3) Is convicted of, forfeits bond upon, or pleads guilty to any offenses related to the operation of the licensed business or had a license revoked or suspended by the city or another jurisdiction;

(4) Makes a misrepresentation or fails to disclose a material fact to the city related to any of the obligations set forth in this chapter;

(5) Violates any building, safety, fire or health regulation on the premises in which the business is located after receiving warning from the city to refrain from such violations; or

(6) Is in violation of a zoning regulation or any other regulation of the city.

(e) If an application is denied, any person aggrieved may request director review as provided in this chapter.

Section 3. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this Section, or the application of the provision to other persons or circumstances is not affected.

Section 4. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication

pursuant to Section 1.08.017, Kirkland Municipal Code in the summary form attached to the original of this ordinance and by this reference approved by the City Council.

Passed by majority vote of the Kirkland City Council in open meeting this 15th day of October, 2013.

Signed in authentication thereof this 15th day of October, 2013.


MAYOR

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4422

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING AND AMENDING KIRKLAND MUNICIPAL CODE SECTION 7.48.020 TO REQUIRE THE WRITTEN CONSENT OF THE LANDLORD BEFORE GAMBLING ACTIVITIES MAY COMMENCE OR CONTINUE AND SECTION 7.02.110 TO REQUIRE COMPLIANCE WITH THIS REQUIREMENT BEFORE A BUSINESS LICENSE CAN BE ISSUED OR RENEWED.

SECTION 1. Amends Kirkland Municipal Code Section 7.48.020 relating to the tax rate imposed on gambling activities requiring the written consent of the landlord before gambling activities may commence or continue.

SECTION 2. Amends Kirkland Municipal Code Section 7.02.110 relating to the review of applications for compliance with the Kirkland Municipal Code, which would include the requirements of 7.48.020, before a business license can be issued or renewed.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 15th day of October, 2013.

I certify that the foregoing is a summary of Ordinance O-4422 approved by the Kirkland City Council for summary publication.



City Clerk