

ORDINANCE O-4440

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING AND AMENDING KIRKLAND MUNICIPAL CODE 7.48.020 TO ELIMINATE THE REQUIREMENT THAT THE WRITTEN CONSENT OF THE LANDLORD BE SECURED BEFORE GAMBLING ACTIVITIES MAY COMMENCE OR CONTINUE AND AMENDING 7.48.030 TO CHANGE THE FREQUENCY OF GAMBLING TAX COLLECTION FROM SEMI-ANNUALLY TO QUARTERLY.

WHEREAS, RCW 9.46.110 AND KMC 7.48.020 authorize the attachment of a lien for unpaid gambling taxes to the personal and real property used in the gambling activity; and

WHEREAS, Ordinance 4422, passed October 15, 2013, required an individual operating a gambling business as a tenant to obtain the written consent of the landlord to the potential attachment of the gambling tax lien; and

WHEREAS, staff anticipated that requiring landlords whose property is to be used for gambling activities to consent to the potential attachment of a tax lien would aid in efforts to collect delinquent gambling taxes; and

WHEREAS, it has become apparent this requirement will have the opposite effect and, instead, complicate the collection process for delinquent gambling taxes; and

WHEREAS, staff has determined there are other means by which collection of delinquent gambling taxes can be improved, including more frequent collection periods and enhanced administrative procedures,

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, their written consent to the potential attachment of the lien must be obtained before the gambling activities may commence. In the event additional real or personal property is acquired after gambling activities have commenced, further 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.~~ 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 7.48.030 is amended to read as follows:

7.48.030 Method of payment of gambling tax.

(a) Every holder of a gambling license from the State Gambling Commission who carries on all or any part of the gambling activity within the city shall:

(1) Beginning in October of 2014, on or before the last day of each April, July, October and January which follows the end of the quarterly period in which the tax accrued, that being March 31, June 30, September 30 and December 31, file with the director of finance a sworn statement on a form to be provided by the finance director, reporting the gross revenue received for the purpose of ascertaining the tax due for the preceding quarterly period. Upon the same date that the periodic financial report is required to be filed with the Washington State Gambling Commission, file a copy thereof in the office of the director of administration and finance for the city; and

(2) Pay over to the city, at the same time, the amount of gambling tax due for that the periodic report period.

(b) Gambling taxes shall become delinquent on the seventh day following the due date and shall be subject to interest from the due date until paid at the rate of one percent per month.

(c) Failure to make payment in full of all tax amounts and accrued interest within sixty days following the due date shall be both a civil and a criminal violation of this section.


(d) Any tax, including interest due and unpaid under this section, shall constitute a debt to the city, and may be collected by civil court proceedings in the same manner as any other debt in like amount, which shall be in addition to all other existing remedies.

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 1st day of April, 2014.


Signed in authentication thereof this 1st day of April, 2014.

MAYOR 

Attest:


City Clerk

Approved as to Form:


City Attorney

PUBLICATION SUMMARY
OF ORDINANCE O-4440

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING AND AMENDING KIRKLAND MUNICIPAL CODE 7.48.020 TO ELIMINATE THE REQUIREMENT THAT THE WRITTEN CONSENT OF THE LANDLORD BE SECURED BEFORE GAMBLING ACTIVITIES MAY COMMENCE OR CONTINUE AND AMENDING 7.48.030 TO CHANGE THE FREQUENCY OF GAMBLING TAX COLLECTION FROM SEMI-ANNUALLY TO QUARTERLY.

SECTION 1. Amends Kirkland Municipal Code Section 7.48.020 related to the tax rate imposed on gambling activities.

SECTION 2. Amends Kirkland Municipal Code Section 7.48.030 related to the method of payment of gambling tax.

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 1st day of April, 2014.

I certify that the foregoing is a summary of Ordinance O-4440 approved by the Kirkland City Council for summary publication.


City Clerk