

ORDINANCE NO. 18-12
REVISING ORDINANCE NO. 149-01
ESTABLISHING THE GAMBLING TAX RATE
FOR PUNCH BOARDS AND PULL-TABS

WHEREAS, RCW 9.46.110 states “(1) The legislative authority of any county, city-county, city or town, by local law and ordinance and in accordance with the provisions of this chapter and rules adopted under this chapter within in its jurisdiction, the tax receipts to go to the county, city-county, city or town so taxing the activity. Any such tax imposed by a county alone shall not apply to any gambling activity within a city or town located in the county but the tax rate established by a county, if any, shall constitute the tax rate through out the unincorporated areas of such county.”

WHEREAS, it is the intent of the Board of Mason County Commissioner’s to levy a tax in an amount provided by State Law on persons operating gambling activities pursuant to RCW 9.46.0217 within the unincorporated areas of Mason County; but not to levy a tax on “bona fide charitable or nonprofit organizations” as defined below;

NOW THEREFORE, there is hereby levied upon and shall be collected from and paid by every person receiving money or value from punch boards and pull-tabs as authorized by state laws, a tax in the amount of five percent (5%) of the gross receipts from the operation of the games (punch boards and pull tabs).

1. DEFINITIONS. “Person(s)” means any individual, firm, partnership, association, corporation, company, or group of individuals working from a common purpose or an organization of any kind.

“Bona fide charitable or nonprofit organizations” means any nonprofit organization duly existing under the provisions of state law, or any other nonprofit corporation duly existing under the provisions of Chapter 24.03 RCW for charitable, benevolent, eleemosynary, educational, civil, patriotic, political, social, fraternal, athletic, or agricultural purposes only.

“Gross receipts” means the total sum of money or value received from punch boards or pull tabs activity before the deduction is taken for operational and maintenance expenses, capital outlay, cost of prizes, or any other expense of any kind or nature.

2. PAYMENT OF TAX. Payment of the tax imposed by this ordinance shall be due and payable quarterly in each calendar year, and remittance shall be made on or before the 21st day of the month next succeeding the end of the quarterly period in which the tax is accrued. The taxpayer shall swear or affirm that the information given on the tax return is full and true and correct.

Tax returns and tax payments shall be filed with the Mason County Treasurer. Whenever the total tax due does not exceed the sum of Twenty-five Dollars (\$25.00) for any quarterly period, an annual return may be made if approved by the Mason County Treasurer.

When a taxpayer begins business during any quarterly period, his/her first return or tax shall be based upon, and cover the portion of the quarterly period during which he/she conducted business.

Payment of the tax shall be made on the form provided by the Mason County Treasurer.

3. TAX RECORDS TO BE KEPT. It shall be the duty of each person taxed under this ordinance to keep proper records as required by Chapter 9.46 RCW of the amount of gross receipts received from punch boards and pull tabs.

4. OVER AND UNDER PAYMENT OF TAX. If the Mason County Treasurer finds that the tax paid on any tax return exceeds the amount required, the Treasurer shall refund the amount overpaid. If the Mason County Treasurer finds the tax paid is less than required, the Treasurer shall mail a statement to the person showing the balance due, and such person shall within five (5) working days, pay the amount shown due.

5. FAILURE TO FILE A RETURN. If any person fails, neglects, or refuses to file his return as required, the Mason County Treasurer is authorized to determine the amount of tax due, and by mail to notify the person of the amount of tax due. The determined tax amount shall, upon notification by mail, become the tax due and payable.

6. APPEAL TO THE BOARD OF COUNTY COMMISSIONERS. Any person aggrieved by the amount of tax found by the Mason County Treasurer to be due may appeal the amount of the tax to the Board of Mason County Commissioners by filing a written notice of appeal with the Clerk of the Board of the Mason County Commissioners within five (5) business days from the date such person received notice of the amount of tax due.

The Board of Mason County Commissioner's shall fix a time and place for a hearing of such appeal, which shall not be more than three (3) weeks after the filing of the notice of appeal. The Board of Mason County Commissioners shall mail a notice of the hearing to appellant.

At such hearing, the appellant shall be entitled to be heard and to introduce evidence in his own behalf. The Board of Mason County Commissioners shall determine the correct amount of the tax by order. The appellant must pay the tax amount due within five (5) working days after receipt of the Board of County Commissioners order.

The Chairman of the Board of Mason County Commissioners may require the attendance of any person at the hearing, and may require any such person(s) to produce any pertinent records. It shall be unlawful for any such person to fail to appear in response to a subpoena; and unlawful for any such person to fail or refuse to produce the required records for to fail to testify truthfully under oath.

7. COUNTY TREASURER TO MAKE RULES. The Mason County Treasurer shall have the power to adopt, publish, and enforce rules and regulations consistent with this Ordinance and state law for the purpose of carrying out the provisions of this Ordinance; and it shall be unlawful to violate or fail to comply with any such rule or regulation.

8. FALSE RETURNS UNLAWFUL. It shall be unlawful for any person liable for the tax to fail to or refuse to file the required returns, or to fail to or refuse to pay the tax due; or for any person to make a false or fraudulent return or any false statement or representation in, or in connection with any such return, or to aid or abet another in any attempt to evade payment of the tax, or any part of the tax.

9. PENALTY FOR DELINQUENT PAYMENTS AND LATE RETURNS. In addition to any tax due, the Mason County Treasurer shall collect from each taxpayer the sum of Fifty Dollars (\$50.00) for any tax return filed late up to ten (10) days after the date the tax return is was due, and shall collect a penalty of One Hundred Dollars (\$100.00) for each tax return filed more than ten (10) days after the date the tax return was due.

The filing of the tax return within thirty (30) days after the due date, and payment of all taxes and penalties due shall relieve the taxpayer from any additional liability for failure to pay the tax when due, including criminal penalties.

In addition to the foregoing penalties, the Mason County Treasurer shall collect an additional penalty in the amount of ten percent (10%) for the amount of tax due for each month, or portion of a month thereof, that the tax remains due and unpaid, beginning with the thirty-first (31) day after the due date of the tax.

10. CRIMINAL PENALTIES. Any person violating any of the provisions, or failing to comply with any of the mandatory requirements of this Ordinance shall be guilty of a misdemeanor. Any person convicted of a misdemeanor under this Ordinance shall be punished by a fine of not more that Five Hundred Dollars (\$500.00) or by imprisonment not to exceed ninety days, or by both, consistent with state laws. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the Ordinance is committed, continued, or permitted by any such person, and he/she shall be punished accordingly.

11. LIEN OF TAXES IMPOSED. Taxes imposed by the Ordinance as stated in Chapter 9.46.110 (4) become a lien upon the personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach on the date the tax becomes due and shall relate back and have priority against the real and personal property to the same extent as ad valorem taxes.

12. CIVIL ACTION TO COLLECT TAXES, INTEREST, PENALTIES AND FEES. Where the tax is one imposed by a county, city or town under RCW 9.46.110, any such action shall be brought by that county, city or town on its own behalf. An action may be brought whether or not the person owing the amount is at such time a licensee pursuant to the provisions of Chapter 9.46.350 RCW. If such an action is brought in the courts of this state, a writ of attachment may be issued and no bond or affidavit prior to the issuance thereof shall be required. In all actions in this state, the records of the county, city or town, shall be prima facie evidence of the determination of the tax due or the amount of the delinquency.

13. INTERPRETATION. This Ordinance shall be subject to the laws of the State of Washington, particularly Chapter 9.46 RCW, and the rules and regulations of the Gambling Commission of the State of Washington. In the event any section or portion of this Ordinance should be held by a court of competent jurisdiction to be invalid, the remaining portions not so held to be invalid shall remain in full force and effect.

14. EFFECTIVE DATE. This ordinance shall supersede Ordinance #149-01 on the 20th day of March, 2012.

Approved this 20th day of March, 2012.

Lynda Ring Erickson
Lynda Ring Erickson, Chairperson

Absent

Tim Sheldon, Commissioner

Steve Bloomfield
Steve Bloomfield, Commissioner

Attest:

Shannon Goudy
Shannon Goudy, Clerk of the Board

Approved as to Form:

Tim Whitehead #37611
Tim Whitehead, Civil Deputy Prosecuting Attorney