

AN ORDINANCE relating to the taxation of gambling activities: levying a tax, providing for the collection of said tax, and defining penalties.

WHEREAS, the Gig Harbor City Council repealed Ordinance No. 180 relating to the taxation of gambling activities; and,

WHEREAS, the City Council wishes to continue the administration of gambling activities; and

WHEREAS, Chapter 218, Laws of Washington, 1973 (43rd legislative, 1st extra session) authorizes cities to impose a tax on gambling activities to fund the administration of such activities;

The City Council of the City of Gig Harbor DO ORDAIN as follows:

Section 1. Reference. Chapter 218, Laws of Washington 1973 (43rd legislative, 1st extra session) is hereby adopted as if set forth fully herein.

Section 2. Definitions. For the purpose of this chapter, the words and terms used shall have the same meaning each has under Chapter 218, Laws of 1973, 1st extra session and Chapter 9.46 RCW, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or as the context in which they are used clearly indicates that they be given some other meaning.

Section 3. Tax Levied. There is hereby levied upon all persons, associations and organizations conducting or operating within the City of Gig Harbor any of the following activities a tax as listed to be paid to Gig Harbor, Washington.

- A. Bingo, raffles, in the amount of ten percent (10%) of the gross receipts less the amount paid for prizes.
- B. Any punchboards or pulltabs in the amount of five percent (5%) of the gross receipts.
- C. Card playing in the amount of twenty percent (20%) of the gross receipts received as fees charged persons for the privilege of playing in card games.
- D. Amusement games in the amount of two percent (2%) of the gross revenue therefrom, less the amount paid for or as prizes.

Section 4. Tax Exception - Charitable and non profit organizations.

- A. The rate of tax on bingo, raffles, and amusement games shall be five percent (5%) of the first \$50,000.00 of gross annual receipts less the amount paid for prizes, and ten percent (10%) of any gross receipts in excess of \$50,000.00 less the amount paid for prizes for organizations defined by RCW 9.46.020 (3) as charitable or non-profit.
- B. Charitable or non-profit organizations conducting such activities not more than once each calendar year and with less than \$10,000.00 gross annual receipts from such activities shall be exempt from taxation.

Section 5. Procedure for Payment. The taxes imposed shall be due and payable in monthly installments and remittance therefore shall be made on or before the fifteenth day of the month next succeeding the end of the monthly period in which tax accrued. The taxpayer shall, on or before the fifteenth day of said month,

make out a return on such forms and setting forth such information as the City Treasurer may require showing the amount of the tax for which he is liable for the preceding monthly period, sign and transmit the same to the City Treasurer together with a remittance for such amount, PROVIDED:

- A. Whenever any person, association or organization taxable hereunder conducting or operating a taxable activity on a regular basis terminates the business, sells out or otherwise disposes of its business, any tax due hereunder shall become due and payable and such taxpayer shall within ten (10) days thereafter make a return and pay the tax due.
- B. Whenever it appears to the City Treasurer that the collection of taxes from any person, association or organization may be in jeopardy, the Treasurer after not less than ten (10) days' notice to the taxpayer is authorized to require that the taxpayer remit taxes and returns at such shorter intervals than monthly as the Treasurer shall deem appropriate under the circumstances.

Section 6. Administration and Collection. Administration and collection of the various taxes imposed by this ordinance shall be the responsibility of the City Treasurer. The taxpayer shall be required to swear and affirm by signature that the information given in the return is true, accurate and complete under penalty of perjury. The Treasurer is authorized but not required to mail to taxpayers forms for returns. Failure of the taxpayer to receive such a form shall not excuse the taxpayer from making the return and timely paying all taxes due. The Treasurer shall make forms available to the public in reasonable numbers in the Treasurer's office during regular business hours. Along with the tax remittance and return form for each month ending a calendar quarter year, each taxpayer shall submit to the Treasurer a copy of his quarterly report to the Washington State Gambling Commission required by WAC 230-08 as now or hereafter amended.

Section 7. Terms of Acceptance of Payment. Taxes payable hereunder shall be remitted to the City Treasurer on or before the time required by bank draft, certified check, cashier's check, personal check, money order or in cash. If payment is made by a draft or check the tax shall not be deemed paid until the draft or check is collected upon by the City or the bank representing the City. Nor shall the acceptance of any sum of the Treasurer be an acquittance or discharge of the tax unless the amount paid is the full amount due. The return and copy of the quarterly report to the Washington State Gambling Commission shall be filed in the office of the Treasurer after notation of that office upon the return of the amount actually received.

Section 8. Penalties and Interest Charges for Late Payment. If full payment of any tax or fee due under this ordinance is not received by the Treasurer on or before the date due, there shall be added to the amount due a penalty fee as follows:

- A. 1 - 10 days late -- ten percent (10%) of tax due;
- B. 11 - 20 days late -- fifteen percent (15%) of tax due;
- C. 21 - 30 days late -- twenty percent (20%) of tax due;
- D. 31 - 60 days late -- twenty-five percent (25%) of tax due.

In addition to the above penalty, the Treasurer shall charge the taxpayer interest of twelve percent (12%) of all taxes and fees due for each thirty-day period or portion thereof that said amounts are past due. Failure to make payment in full of all tax amounts and penalties within sixty (60) days following the day the tax amount initially became due shall be both a civil and a criminal violation of this section.

Section 9. Filing Required Before Operation of Taxable Activity. In order that the City of Gig Harbor may identify those persons who are subject to taxation under this ordinance, each person, association or organization shall file with the City Treasurer a sworn declaration of intent to conduct an activity taxable under this chapter upon a form to be prescribed by the Treasurer together with a copy of the license issued therefor by the Washington State Gambling Commission. The filing shall be made not

later than 15 days prior to conducting or operating the taxable activity. No fee shall be charged for such filing which is not for the purpose of regulation of this activity but for the purposes of administration of this taxing ordinance only. Failure to timely file shall not excuse any person, association or organization from tax liability.

Section 10. Filing - - New Declaration Necessary After License Expiration, Suspension, or Revocation. A new declaration of intent to conduct or operate any of the activities taxable under this chapter shall be required prior to the recommencement of the activity following the expiration, suspension or revocation of any license previously issued by the Washington State Gambling Commission in the same manner as described in Section 9.

Section 11. Records of Activity Required. Each person, association or organization engaging in an activity taxable under this ordinance shall maintain records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer's tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three years. In addition, all information and items required by the Washington State Gambling Commission under WAC 230-08 and the United States Internal Revenue Service respecting taxation shall be kept and maintained for the period required by those agencies. All books, records and other items required to be kept and maintained under this section shall be subject to and immediately made available for inspection and audit during normal business hours with or without notice at the place where such records are kept on demand by the Gig Harbor City Council, the City Attorney, the Treasurer, or the Auditor or their designees for the purpose of enforcing the provisions of this taxing ordinance. Failure of a taxpayer to keep books and records as required by this section shall be a bar to contesting the assessment of taxes as estimated by the City Treasurer.

Where a taxpayer does not keep all of the books, records or items required to be kept or maintained under this section in this jurisdiction so that the above officials or their designees may examine them conveniently, the taxpayer shall either:

- A. Produce all of the required books, records or items within this jurisdiction for such inspection within 5 days following a request of the above officials that he do so or;
- B. Bear the actual cost of inspection by the above officials or their designees at the location where such books, records or items are located, provided that a taxpayer choosing to bear these costs shall pay in advance to the above stated officials or their designees the estimated costs thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals and incidental expenses; the actual amount due or to be refunded for expenses shall be determined following said examination of the records.

Section 12. Overpayments and underpayments - - Refunds and Penalties. If upon application by a taxpayer for a refund or for an audit of his records or upon any examination of the returns or records of any taxpayer it is determined by the treasurer that within three years immediately preceding receipt by the treasurer of the application by the taxpayer for a refund or an audit in the absence of such an application within the three years immediately preceding the commencement by the treasurer of such examination:

- A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the City within such period of three years shall be credited to the taxpayer's account or shall be refunded to the taxpayer at the taxpayer's option. No refund or credit shall be allowed with respect to the treasurer for more than three years before the date of such application for examination.
- B. A tax or other fee has been paid which is less than that properly due or no tax or other fee has been paid, the

treasurer shall mail a statement by certified mail to the taxpayer showing the balance due including the tax amount or the penalty, assessments and fees, and it shall be a separate additional violation of this ordinance if a taxpayer fails to make a payment in full within ten (10) calendar days of such mailing.

Section 13. Failure of taxpayer to file return - - Treasurer authorized to set tax due. If any taxpayer fails, neglects or refuses to make and file his return as and when required under this ordinance, the treasurer is authorized to determine the amount of tax payable together with any penalty and/or interest assessed under the provisions of this ordinance and by certified mail to notify such taxpayer of the amount so determined, which amount shall thereupon become the tax penalty and/or interest and shall become immediately due and payable.

Section 14. Tax separate from license fee. The tax herein levied shall be additional to any license fee or tax imposed or levy under any law or any other ordinance of the City of Gig Harbor except as herein otherwise expressly provided.

Section 15. Rules and regulations - - Treasurer to adopt, publish, and enforce. The treasurer shall have the power and it shall be his duty from time to time to adopt, publish and enforce rules and regulations not inconsistent with this ordinance or with superior law for the purposes of carrying out the provisions hereof and it shall be unlawful to violate or fail to comply with any such rule or regulation.

Section 16. Tax due constitutes debt. Any tax due and unpaid under this ordinance and all penalties or fees shall constitute a debt to the City of Gig Harbor, a legal subdivision of the State of Washington and may be collected by court proceedings the same as any other debt in like amount which shall be in addition to all other existing remedies.

Section 17. Four-year limit on recovery. The right of recovery by the City from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of four calendar years from the date said tax became due. The right of recovery against the City because of overpayment of tax by any taxpayer shall be outlawed after the expiration of four calendar years from the date such payment was made.

Section 18. Violations - - Penalty. Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the treasurer pursuant thereto and upon conviction thereof shall be punished by a fine in any sum not to exceed three hundred dollars (\$300.00) or by imprisonment in the Pierce County Jail for a term not exceeding ninety (90) days or by both such fine and imprisonment. Any taxpayer who engages in or carries on any gambling activities subject to a tax hereunder without having complied with the provisions of this chapter shall be guilty of a violation of this chapter for each day in which the gambling activity is carried on.

Section 19. Severability. If any provision or section of this chapter shall be held void or unconstitutional, all other parts, provisions and sections of this section not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 20. Effective Date. This ordinance is effective and in full force five (5) days following its approval, passage, and publication by law.

PASSED by the City Council and APPROVED by the Mayor at a regular meeting this 14th day of June 1982.

Ruth M. Boque
Ruth M. Boque, Mayor

ATTEST:

Jeffrey Snider
Jeffrey Snider
Administrator/Clerk