

ORDINANCE No. 118313

COUNCIL BILL No. 111433

AN ORDINANCE relating to the gambling tax code; amending Seattle Municipal Code Sections 5.52.010, 020, 030, .040, .050, and .060; renumbering certain sections; and adding Sections 5.52.010, .020, .050, .090, .100, .110, .120, .130, .140, and .150.



COMPTROLLER FILE No. _____

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INDEXED

The City of Seattle--Leg

oversight

REPORT OF CO

Honorable President:

Your Committee on _____

to which I was referred the within Council Bill No. _____ report that we have considered the same and respectfully re

Full Council vote 9-

Committee C

Committee

Passed, 4-0

INDEXED

The City of Seattle--Legislative Department

oversight

REPORT OF COMMITTEE

Date Reported
and Adopted

Honorable President:

Your Committee on _____

to which was referred the within Council Bill No. _____

report that we have considered the same and respectfully recommend that the same:

Full Council vote 9-0

RUSH

Committee Chair

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ORDINANCE 118313

AN ORDINANCE relating to the gambling tax code; amending Seattle Municipal Code Sections 5.52.010, 020, 030, .040, .050, and .060; renumbering certain sections; and adding Sections 5.52.010, .020, .050, .090, .100, .110, .120, .130, .140, and .150.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added a new Section 5.52.010 to Chapter 5.52 of the Seattle Municipal Code as follows:

5.52.010 Definitions.

Words and terms used in this chapter shall have the same meaning as each has under RCW Chapter 9.46, as now existing or hereafter amended, unless otherwise specifically provided in this chapter, or when the context in which they are used in this chapter clearly indicates that they be given some other meaning.

A. "Bona fide charitable organization" means an organization that meets all of the requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated primarily to provide charitable services as defined by WAC 230-02-160.

B. "Bona fide nonprofit organization" means an organization that meets all of the requirements of RCW 9.46.0209.

C. "Department" or "Finance Department" means the Finance Department of The City of Seattle, or its functional successor.

D. "Director" means the Finance Director of The City of Seattle, or his or her functional successor.

E. "Gross gambling receipts" means the monetary value that would be due to any operator of a gambling activity for any chance taken, other participation fees, any rental or lease fees for amusement games received by a commercial amusement game operation, as evidenced by required records. The value shall be stated in U.S. currency, before any deductions for prizes or any other expenses. In the absence of records, gross gambling receipts shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.

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1 F. "Net gambling receipts" means all gross gambling receipts from any gambling activity, less the
2 monetary value or, in the case of merchandise, the actual cost, of any prizes that were awarded.

3 G. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm,
4 partnership(s), joint venture, joint-stock company, corporation, association, society, limited liability
5 corporation, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit
6 or otherwise, and includes the United States or any instrumentality thereof, provided a valid tax or fee
7 may be levied upon or collected therefrom under the provisions of this chapter. The term includes all
8 bona fide charitable organizations and bona fide nonprofit organizations.

9 H. "Within the City" or "in the City" includes but is not limited to all federal areas lying within the
10 boundaries of The City of Seattle.

11 Section 2. There is added a new Section 5.52.020 to Chapter 5.52 of the Seattle Municipal Code as
12 follows:

13 **5.52.020 Filing of intent to conduct activity.**

14 Any person, corporation, association, organization, or bona fide charitable or nonprofit organization
15 intending to conduct or operate in the City any such gambling activity or fundraising event as authorized
16 by or under RCW Chapter 9.46, as now existing and hereafter amended, and subject to the tax imposed
17 by Section 5.52.030 shall, prior to the commencement of any such activity, file with the Director a sworn
18 declaration of intent to conduct or operate such activity. A copy of the state license issued in
19 accordance with RCW Chapter 9.46, if such is required, shall accompany such declaration.

20 Section 3. Section 5.52.010 of the Seattle Municipal Code (Ordinance 102459, § 1, as last
21 amended by Ordinance 115916 § 2) is renumbered 5.52.030 and further amended to read as follows:

22 **5.52.030 ((5.52.010)) Tax levied.**

23 A. In accordance with RCW Chapter 9.46, as amended, a tax or fee ((there)) is levied upon all
persons, corporations, associations, or organizations conducting or operating within the City any of the
following gambling activities authorized by RCW 9.46.010, as amended, and RCW 9.46.033, ((a-tax)) as
follows:

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1 1. For the conduct of amusement games, a tax ~~((in an amount))~~ equal to two percent (2%) of
the net gambling receipts ~~((gross revenue, less the amount paid for as prizes, ;, and~~

2 2. For punchboards and pull-tabs, a tax equal to five percent (5%) of the gross gambling
3 receipts.

4 B. In accordance with RCW Chapter 9.46, as amended, a tax or fee is levied on all ~~((as to))~~ bona
5 fide charitable or nonprofit organizations, as defined in RCW 9.46.0209, conducting or operating in the
6 City any of the following gambling activities, ~~((there is levied a tax))~~ as follows:

7 1. Upon and for the conduct of bingo games, as defined in RCW 9.46.0205, and raffles, as
8 defined in RCW 9.46.0277, a tax ~~((in an amount))~~ equal to ten percent (10%) of the net gambling
9 receipts ~~((gross revenue, less the amount paid for as prizes, received therefrom))~~; and

10 2. Upon and for the conduct of a fund-raising event, as defined in RCW 9.46.0233, a tax ~~((in~~
11 ~~an amount))~~ equal to ten percent (10%) of the net gambling receipts ~~((gross revenue, less the amount~~
12 ~~paid for or as prizes, received therefrom))~~.

13 C. Except, no tax shall be imposed:

14 1. ~~((No tax shall be imposed on))~~ On bingo or amusement games when such activity, or any
15 combination thereof, is conducted by a bona fide charitable or nonprofit organization as defined in RCW
16 9.46.0209, when such ~~((which))~~ organization has no paid operating or management personnel and
17 when net gambling receipts ~~((has gross income))~~ from bingo or amusement games or any combination
18 thereof, ~~((less the amount paid for or as prizes,))~~ do not exceed ~~((exceeding))~~ Five Thousand Dollars
19 (\$5,000.00) per year; ~~((and))~~

20 2. ~~((No tax shall be imposed on))~~ On the first Ten Thousand Dollars (\$10,000.00) of net
21 gambling receipts ~~((proceeds))~~ from raffles conducted by any bona fide charitable or nonprofit
22 organization as defined in this chapter; ~~((and))~~

23 3. On the ~~((The))~~ conduct of amusement games at the Seattle Center pursuant to a concession
agreement with the City ~~((shall be exempt from the tax imposed by this chapter))~~.

Section 4. Section 5.52.020 of the Seat pal Code (Ordinance 102459, § 2, as last
amended by Ordinance 117169 § 55) is renumbered 5.52.040 and further amended to read as follows:

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1 5.52.040 ((5.52.020 Filing of intent to conduct activity--)) Payments -- Extensions -- Penalties
2 ((-- Late fees)).

3 ((A. Any person, corporation, association, organization, or bona fide charitable or nonprofit
4 organization intending to conduct or operate in the City any such gambling activity or fundraising event
5 as authorized by or under RCW Chapter 9.46, as amended, and subject to the tax imposed by Section
6 5.52.019 shall, prior to the commencement of any such activity, file with the Finance Director a sworn
7 declaration of intent to conduct or operate such activity together with a copy of the license therefor
8 issued in accordance with said chapter, if such is required, and thereafter for any period covered by
9 such license, or any renewal thereof, or by such statement of intent, shall on or before the fifteenth day
10 of the month next succeeding the end of the quarterly period in which the tax accrued, file with the
11 Finance Director a sworn return on a form to be provided and prescribed by the Director, and containing
12 such information as the Director shall prescribe for the purpose of ascertaining the tax due for the
13 preceding quarterly period.))

14 A. Any person, corporation, association, organization, or bona fide charitable or nonprofit
15 organization conducting or operating in the City any such gambling activity or fundraising event and
16 subject to the tax imposed by Section 5.52.030 shall on or before the last day of the month next
17 succeeding the end of the monthly or quarterly period in which the tax accrued, file with the Director a
18 sworn return on a form to be provided and prescribed by the Director, and containing such information
19 as the Director shall prescribe for the purpose of ascertaining the tax due for the preceding monthly or
20 quarterly period.

21 B. As used in this chapter, the term "quarterly period" shall mean the periods
22 January-February-March, April-May-June, July-August-September, October-November-December ((and
23 shall)) beginning with the first day of the first month and including ((include)) the last day of the third
24 month within each such period. The term((s)) "monthly((s))" shall mean the period beginning with the first
25 day of each calendar month and ends on ((include)) the last day of that month.

26 C. The tax imposed by subsection 5.52.030(A)(2) ((Section 5.52.040 A2)) for punchboards and
27 pulltabs shall be due and payable in monthly installments; all other taxes shall be due and payable for

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each quarterly period. Remittance of the tax shall accompany each return and be made on or before the last (~~fifteenth~~) day of the month next succeeding the period in which the tax accrued.

D. The Director, for good cause shown, may extend the time for filing any return as required under this chapter and may grant such reasonable additional time within which to file such returns as he or she may deem proper.

E. Failure to make payment or return by the due date--If any tax return, or payment of any tax, is not received by the Director on or before the last day of the month following the end of the monthly or quarterly period in which the tax accrued (the due date), pursuant to subsections A or C above, there shall be assessed a penalty of ten percent (10%) of the amount due with a minimum penalty of Ten Dollars (\$10.00); and if the return and/or tax is not received within thirty (30) days from the due date, there shall be assessed a total penalty of fifteen percent (15%) of the amount due with a minimum penalty of Twenty Dollars (\$20.00); and if the return and/or tax is not received within sixty (60) days from the due date, there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a minimum penalty of Forty Dollars (\$40.00).

F. ((5-52.030(C)) Interest and penalty on late payment--If the Finance Director finds that the tax, fee, ((or tax)) or penalty paid is less than the amount due, he or she shall mail the taxpayer a statement showing the balance due and shall add thereto interest on such balance at the rate of ten (~~six~~) percent (10%) (~~((6%))~~) per year from the date of underpayment until paid and the taxpayer shall within twenty (20) (~~((three-3))~~) days from the date of mailing ((statement)) pay the amount shown thereon ((as the balance due plus such interest)). If payment of any tax, fee, interest, or penalty assessed by the Director is not received by the Director by the due date specified in the notice, or any extension thereof, the Director shall add a penalty of ten percent (10%) of the amount of the additional tax or assessment. No penalty so added shall be less than Twenty Dollars (\$20.00).

G. Citation/Criminal Complaint--If a citation or criminal complaint is issued by the Director for the collection of any assessment, taxes, interest, and penalties, there shall be added thereto a penalty of ten percent (10%) of the amount due, but not less than Twenty Dollars (\$20.00).

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1 H. Penalty for disregarding specific written instructions--If the Director finds that all or any part of a
2 deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, the
3 Director shall add a penalty of twenty percent (20%) of the additional tax found due because of the
4 failure to follow the instructions. A taxpayer will be deemed to disregard specific written instruction when
5 the Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails
6 to act in accordance with those instructions unless the Department has not issued final instructions
7 because the matter is under appeal pursuant to this Chapter. The Director shall not assess the penalty
8 under this section upon any taxpayer who, in the Director's opinion, has made a good faith effort to
9 comply with the specific written instructions provided by the Department to that taxpayer. Specific
10 written instructions may be given as a part of a tax assessment, audit, determination, letter of instruction
11 or closing agreement, provided that such specific written instructions shall apply only to the taxpayer
12 addressed or referenced on such documents. Any specific written instructions by the Department shall
13 be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may
14 subject the taxpayer to the penalties imposed by this subsection. No penalty so added shall be less
15 than Twenty Dollars (\$20.00).

16 ((D. For each payment due, if such payment is not made within sixteen (16) days from the due date
17 thereof, there shall be added a penalty as follows:

18 Seventeen (17) to forty (40) days' delinquency, ten per cent (10%) with a minimum penalty of Five
19 Dollars (\$5.00); forty one (41) to seventy (70) days' delinquency, fifteen percent (15%) with a minimum
20 penalty of Fifteen Dollars (\$15.00); seventy one (71) or more days' delinquency, twenty percent (20%)
21 with a minimum penalty of Twenty-five Dollars (\$25.00).))

22 Section 5. There is added a new Section 5.52.050 to Chapter 5.52, of the Seattle Municipal Code
23 as follows:

5.52.050 Payments due under this chapter.

The tax or fee payable under this chapter shall be paid to the Finance Director by bank draft,
certified check, cashier's check, personal check or money order, or in cash. If payment is made by draft
or check, the tax or fee shall not be deemed paid unless the check or draft is honored in the usual

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1 course of business; nor shall the acceptance of any sum by the Finance Director be an acquittance or
2 discharge of the tax or fee due unless the amount of the payment is in the full and actual amount due.

3 Whenever payment of any tax or fee imposed by this chapter is made by check which is returned for
4 lack of sufficient funds or for any other reason, the return shall be filed upon payment of the original
5 amount due plus an additional amount of Twenty Dollars (\$20.00) by certified check, money order, or in
6 cash; penalties as provided by Section 5.52.040 may apply.

7 The Finance Director is authorized, but not required to mail to taxpayers forms for returns, but
8 failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and
9 making payment of the tax or fee, when and as due under this chapter.

10 Section 6. Section 5.52.030 of the Seattle Municipal Code (Ordinance 102459, § 3, as last
11 amended by Ordinance 117169 § 56) is renumbered 5.52.060 and further amended to read as follows:

12 **5.52.060 ((5.52.030 - Enforcement)) Over or under payment of tax.**

13 ((A. The Finance Director shall have the power, and it shall be his duty, from time to time, to adopt,
14 publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of
15 carrying out the provisions hereof, and he shall have the further duty and authority to prescribe and
16 issue appropriate forms for determination and declaration of the amount of tax to be paid.))

17 A. ((B.)) In the event of overpayment of any tax or fee due under this chapter, the Finance Director
18 or his or her authorized agent, upon written application by the taxpayer for a refund or credit within two
19 (2) years after the due date of such overpayment, may offset the amount of such overpayment against
20 the taxpayer's existing tax liability under this chapter and certify for refund any balance to such taxpayer
21 or credit such balance to taxes which may accrue under this chapter. To be eligible therefor, refund of
22 overpayments as authorized in this section shall be approved by the Finance Director or his or her
23 authorized agent. No refund or credit may be allowed with respect to any payments made to the City
more than two (2) years before the date of such application; provided, that where a taxpayer under
audit or investigation by the City makes application for a refund or credit of an overpayment made more
than two (2) years before the date of such application, the amount of ((the refund or)) credit otherwise
allowable for the portion of the assessment period preceding the two (2) year period may be offset

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1 against any existing tax deficiency (~~for~~) which accrued under this chapter in the same calendar year as
2 the overpayment ((within such assessment period)).

3 B. (~~C.)~~ No demand for any (~~an~~) additional tax, fee, interest, ((or tax)) or penalty shall be
4 made by the Finance Director more than four (4) years after the close of the year in which the same
5 accrued except:

6 1. Against a taxpayer who is not registered as required by this chapter, assessments or
7 demands for any additional tax, fee, interest or penalty due as a result of failure to made a declaration
8 with the City as required under Section 5.52.020 and file a tax return as required by this chapter may be
9 made by the Director within ten (10) years after the close of the calendar year in which the same
10 accrued; or

11 2. As against a taxpayer who has been guilty of fraud or misrepresentation of a material fact;

12 or

13 3. Where a taxpayer has executed a written waiver of such limitations.

14 C. The Director may enter into an agreement in writing with any person relating to the liability of
15 such person in respect of any tax, fee, or assessment imposed by this chapter for any taxable period or
16 periods.

17 Section 7. Section 5.52.040 of the Seattle Municipal Code (Ordinance 102459, § 4, as last
18 amended by Ordinance 117169 § 57) is renumbered 5.52.070 and further amended to read as follows:

19 **5.52.070 ((5.52.040)) Keeping ((of)) books and records – Inspection – Failure to make return**
20 **or provide records.**

21 A. It shall be the duty of every person, corporation, association, organization or bona fide
22 charitable or bona fide nonprofit organization liable for the payment of any tax imposed by this chapter to
23 keep and preserve for the period of five (5) years such books and records as will accurately reflect the
amount of gross gambling receipts and the cost of prizes disbursed for ((revenue received from)) any
gambling activity or fund-raising event enumerated in Section 5.52.030 ((5.52.040)) and from which can
be determined the amount of tax for which such person, corporation, association, organization or bona
fide charitable or bona fide nonprofit organization may be liable under the provisions of this chapter. ((;

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1 and all) All such books and records, and also invoices, inventories and stocks of goods, wares and
2 merchandise shall be open for inspection at all reasonable times by the Finance Director or his or her
3 duly authorized agent.

4 B. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this
5 chapter, or refuses to provide or make available records as requested by the Department, the Director is
6 authorized to determine the amount of the tax payable by obtaining facts and information upon which to
7 base an estimate of the tax. Such assessment shall be deemed prima facie correct and shall be the
8 amount of tax owing the City by the taxpayer. The taxpayer shall be notified by mail by the Director of
9 the amount of tax so determined, together with any penalty, interest, and fees due under this chapter;
10 the total of such amounts shall thereupon become immediately due and payable.

11 Section 8. Section 5.52.050 of the Seattle Municipal Code (Ordinance 102459, § 5, as last
12 amended by Ordinance 102835 § 9(part)) is renumbered 5.52.080 and further amended to read as
13 follows:

14 **5.52.080 ((5.52.050)) Unlawful actions ((False statement or failure to pay tax—Penalty)).**

15 It is unlawful for anyone to falsify or fail to furnish any declaration or return required by this chapter,
16 or to fail or refuse to pay the tax levied by this chapter, or to aid or abet another in any attempt to evade
17 payment of the tax, or any part thereof, or for any person to fail to appear and/or testify in response to
18 subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a
19 return or upon the hearing of any appeal, or in any manner to hinder or delay the City or any of its
20 officers in carrying out the provisions of this chapter. Remedial action by the City may include fines and
21 imprisonment as provided for in Section 5.52.130. ((Upon conviction of any violation of this section, the
22 offender shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00).

23 Section 9. There is added a new Section 5.52.090 to Chapter 5.52 of the Seattle Municipal Code as
follows:

5.52.090 Appeals and judicial review.

A. Any person aggrieved by the amount of the tax, fee, penalty, or interest assessed by the
Director under the provisions of this chapter, may file a written appeal ("petition") with the Office of the

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1 Hearing Examiner within twenty (20) days from the date that the assessment notice was mailed to the
2 taxpayer, or within the period covered by any extension of said due date granted in writing by the
3 Finance Director. The Director may grant an extension of the appeal period only if the taxpayer, within
4 the twenty (20) day period to appeal, makes written application showing good cause why an extension
5 is necessary. A copy of the petition must be provided by the taxpayer to the Finance Director and the
6 City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is
7 filed with the Hearing Examiner and provided to the Finance Director and City Attorney within the twenty
8 (20) day period, the assessment covered by the notice shall become final and no refund request may be
9 made for the audit period covered in this assessment.

10 B. The petition shall set forth the reasons why the assessment should be reverse or modified and
11 the amount of the tax, fee, interest, or penalties which the taxpayer believes to be due. The Hearing
12 Examiner shall fix the time and place of the hearing and notify the taxpayer thereof by mail. The hearing
13 shall be conducted in accordance with the procedures for hearing contested cases in the Seattle
14 Administrative Code (Chapter 3.02 of the Seattle Municipal Code).

15 C. The Director's assessment appealed from shall be regarded as prima facie correct. The
16 Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may
17 also require him or her to produce pertinent books and records. Any person served with such a
18 subpoena shall appear at the time and place therein stated and produce the books and records
19 required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any
20 matter required of him or her pertinent to the appeal; and it shall be unlawful for him or her to fail or
21 refuse to do so.

22 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain the correct
23 amount of the tax, fee, interest or penalty due if the Director's assessment violates the terms of this
chapter or is contrary to law. The decision of the Hearing Examiner shall be final. The taxpayer and/or
the Department of Finance may seek review of the decision of the Hearing Examiner to the Superior
Court of Washington in and for King County within fourteen (14) days from the date of the decision.

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1 Section 10. There is added a new Section 5.52.100 to Chapter 5.52 of the Seattle Municipal Code
as follows:

2 **5.52.100 Mailing of notices.**

3 Any notice required by this chapter to be mailed to any taxpayer shall be sent by ordinary mail,
4 addressed to the address of the taxpayer as shown by the records of the Director, or if no such address
5 is shown, to such address as the Director is able to ascertain by reasonable effort. Failure of the
6 taxpayer to receive any such mailed notice shall not release the taxpayer from any tax, fee, interest, or
7 penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this
8 chapter.

9 Section 11. There is added a new Section 5.52.110 to Chapter 5.52 of the Seattle Municipal Code
as follows:

10 **5.52.110 Computation of time.**

11 Except as otherwise specifically provided by any other provisions of this chapter, in computing any
12 period of days prescribed by this chapter the day of the act or event from which the designated period of
13 time runs shall not be included. The last day of the period shall be included unless it is a Saturday,
14 Sunday, or City legal holiday, in which case the last day of such period shall be the next succeeding day
15 which is neither a Saturday, Sunday, or City legal holiday.

16 Section 12. There is added a new Section 5.52.120 to Chapter 5.52 of the Seattle Municipal Code
as follows:

17 **5.52.120 Collection of delinquent tax -- Tax constitute debt.**

18 Any fee or tax due and unpaid and delinquent under this chapter, and all penalties thereon shall be
19 a lien against all assets, real or personal, owned by the taxpayer. Such lien may be collected by civil
20 action, including, but not limited to, the perfecting and filing of such lien with a court of competent
21 jurisdiction. The exercise of such civil action shall be in addition to any and all other existing remedies.

22 Any tax or fee due and unpaid under this chapter, and all interest and penalties thereon, shall
23 constitute a debt to The City of Seattle and may be collected by court proceedings in the same manner
as any other debt in like amount which remedy shall be in addition to all other existing remedies.

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1 Section 13. There is added a new Section 5.52.130 to Chapter 5.52 of the Seattle Municipal Code
as follows:

2 **5.52.130 Violation -- Penalty**

3 A. A person who violates or fails to comply with any provision of this chapter or any rule, regulation
4 or order of the Director is guilty of a misdemeanor subject to the provisions of Chapter 12A.02 and
5 12A.04 of the Seattle Municipal Code, except that absolute liability shall be imposed for such a violation
6 or failure to comply and none of the mental states described in Section 12A.04.030 of the Seattle
7 Municipal Code need be proved. A corporation which violates or fails to comply with any provision of
8 this chapter or any rule, regulation or order of the Director shall be punished by a fine of not more than
One Thousand (\$1,000) Dollars. Each day of violation or failure to comply is a separate offense.

9 B. Prosecution for a criminal offense shall not be commenced more than four (4) years after the
10 violation or failure to comply.

11 Section 14. There is added a new Section 5.52.140 to Chapter 5.52 of the Seattle Municipal Code
as follows:

12 **5.52.140 Fees for copies and research.**

13 The Director may charge a fee:

14 A. For making copies of books and records as authorized by Ordinance 100501, as now existing
15 or hereafter amended or supplemented;

16 B. For compiling statistics and conducting special research as authorized in a fee schedule
17 approved by the City Council by resolution from time-to-time to reimburse the City's cost therefor; and

18 C. For the bulk sale of City forms and printed brochures and other publications in an amount equal
19 to the cost of preparing, reproducing and distributing them as determined by the Director by rule
20 adopted pursuant to the Administrative Code, Sections 3.02.030 through 3.02.070.

21 Section 15. There is added a new Section 5.52.150 to Chapter 5.52 of the Seattle Municipal Code
as follows:

22 **5.52.150 Application to City's activities.**

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1 Whenever the City through any department, division, or employee association engages in any
2 activity which if engaged in by any person would under this chapter require the payment of tax by such
3 person, the City department, division, or employee association engaging in such activity shall file a
4 declaration and make returns and from the funds of such department, division, or employee association
5 pay the taxes imposed by this chapter.

6 Section 16. Section 5.52.060 of the Seattle Municipal Code (Ordinance 115916, § 4, as last
7 amended by Ordinance 117169 § 58) is renumbered 5.52.160 and further amended to read as follows:

8 **5.52.160 ((5.52.060)) Rule-making authority.**

9 The Finance Director shall have the power and it shall be his or her duty, from time to time, to adopt,
10 publish and enforce ((promulgate)) rules and regulations not inconsistent with ((to implement)) this
11 chapter, including the adoption by reference of provisions of state law or the Washington Administrative
12 Code relating to gambling; and it shall be unlawful to violate or fail to comply with, any such rule or
13 regulation ((the waiver of delinquency penalties for delayed reporting of the gambling tax when occurring
14 due to causes beyond the taxpayer's control or due to excusable neglect; and the allocation of gross
15 revenues among taxing jurisdictions when raffles or other gambling activity occur in Seattle and
16 elsewhere)).

17 Section 17. The provisions of this ordinance are declared to be separate and severable. The
18 invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the
19 invalidity of the application thereof to any person or circumstance shall not affect the validity of the
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remainder of this ordinance, or the validity of its application to other persons or circumstances.

Section 18. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

PASSED by the City Council of the City of Seattle this 7 day of October, 1996, and signed by me in open session in authentication of its passage this 7 day of October, 1996.

Jan Sraeg
President of the City Council

Approved by me this 17 day of October, 1996.

Norman B. Sui
Mayor

Filed by me this 18 day of October, 1996.

Judith E. Pappini
City Clerk

(Seal)

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City of Seattle

**Department
of Finance**

Dwight D. Dively
Director of Finance

Norman B. Rice
Mayor

September 9, 1996

The Honorable Jan Drago
Seattle City Council
600 Fourth Avenue, 11th Floor
Seattle, Washington 98104

RECEIVED OMP
SEP 10 1996

Via: Mayor's Office

Attention: Tom Tierney, Director, Office of Management and Planning

Subject: Rewrite of Chapter 5.52: Gambling Tax Code

Dear Councilmember Drago,

The attached ordinance amends Chapter 5 of the Seattle Municipal Code. It continues the ongoing efforts of the Finance and Law Departments to clarify the City's tax code.

This ordinance is part of a set of four ordinances that make related changes to SMC Chapter 5. The attached ordinance covers Chapter 5.52, which is the City's gambling tax code. The other three ordinances cover Chapter 5.32 (general revenue license provisions), Chapter 5.44 (business licenses and B&O taxes), and Chapter 5.48 (utility taxes). Since many of the proposed changes are inter-related, we request that all four ordinances be considered together.

Summary

The attached ordinance extensively rewrites Chapter 5.52, the Gambling Tax Code. The rewrite has three purposes:

1. To add definitions and filing requirements to reflect current practices.
2. To correct arcane language and incorrect references.
3. To establish procedures for penalties, appeals, and other administrative practices that will be consistent with those used for general B&O taxes.

The proposed changes are solely of an administrative nature: no change in tax revenue is expected to result.

Section Review

The following list outlines the nature and purpose of the proposed changes to each section of Chapter 5.52. The section references correspond to the proposed ordinance, rather than the existing sections of the Municipal Code.

5.52.010 Definitions.

This is a new section. Definitions are provided for terms used in the code such as

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"Bona fide charitable organization", "Gross gambling receipts", and "Net gambling receipts". Definitions for terms not used elsewhere in Title 5 of the Seattle Municipal Code have come from RCW Chapter 9.46.

5.52.020 Filing of intent to conduct activity.

This is a new section that has been added to improve clarity. Most of this section has come from old subsection 5.52.020(A). The requirement to file a declaration is not new.

5.52.030 Tax levied.

This section is currently badly written and difficult to understand. The new language clarifies the existing tax but makes no changes in tax rates or coverage.

5.52.040 Payments—Extensions—Penalties.

Several changes have been made to this section. The old subsection A is now split: the portion regarding filing a declaration is new Section 5.52.020 and the second part of old subsection A has become new subsection A. The primary change to this subsection is the extension of the date for filing a return from the 15th of the month to the last day of month. The Department of Finance is proposing to move the reporting date to the end of the month so as to standardize the due date of all returns. The eventual goal is to combine as many of the taxes as possible on one monthly or quarterly return. Several cross-references have been corrected. Interest and penalty provisions have been changed to be consistent with those used in the B&O tax code.

5.52.050 Payments due under this chapter.

This is a new section that specifies how payments are to be made. It is consistent with the approach used in the B&O tax code.

5.52.060 Over or under payment of tax.

This section has been changed to be consistent with the approach used in the B&O tax code.

5.52.070 Keeping books and records—Inspection—Failure to make return or provide records.

This section has been changed to be consistent with the approach used in the B&O tax code.

5.52.080 Unlawful actions.

Language has been added to identify some of the acts which are unlawful. This section is consistent with the approach used in the B&O tax code.

5.52.090 Appeals and judicial review.

This is a new section; previously, the chapter did not include procedures for appealing a finding or assessment of the department. This section is consistent with the approach used in the B&O tax code.

5.52.100 Mailing of notices.

This is a new section that is consistent with the approach used in the B&O tax code.

5.52.110 Computation of time.

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This is a new section that is consistent with the approach used in the B&O tax code.

5.52.120 Collection of delinquent tax – Tax constitutes debt.

This is a new section that is consistent with the approach used in the B&O tax code.

5.52.130 Violation -- Penalty.

This is a new section that is consistent with the approach used in the B&O tax code.

5.52.140 Fees for copies and research.

This is a new section that is consistent with the approach used in the B&O tax code.

5.52.150 Application to City's activities.

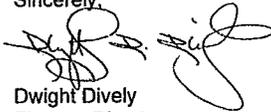
This is a new section that is consistent with the approach used in the B&O tax code.

5.52.160 Rule-making authority.

Minor changes have been made to the language.

Thank you for your consideration of the proposed changes. Questions regarding this ordinance can be directed to Norma Bush at 233-0010.

Sincerely,


Dwight Dively
Finance Director

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ORDINANCE _____

AN ORDINANCE relating to the gambling tax code; amending Seattle Municipal Code Sections 5.52.010, .020, .030, .040, .050, and .060; renumbering certain sections; and adding Sections 5.52.010, .020, .050, .090, .100, .110, .120, .130, .140, and .150.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. There is added a new Section 5.52.010 to Chapter 5.52 of the Seattle Municipal Code as follows:

5.52.010 Definitions.

Words and terms used in this chapter shall have the same meaning as each has under RCW Chapter 9.46, as now existing or hereafter amended, unless otherwise specifically provided in this chapter, or when the context in which they are used in this chapter clearly indicates that they be given some other meaning.

A. "Bona fide charitable organization" means an organization that meets all of the requirements of RCW 9.46.0209, as now existing or hereafter amended, and is organized and operated primarily to provide charitable services as defined by WAC 230-02-160.

B. "Bona fide nonprofit organization" means an organization that meets all of the requirements of RCW 9.46.0209.

C. "Department" or "Finance Department" means the Finance Department of The City of Seattle, or its functional successor.

D. "Director" means the Finance Director of The City of Seattle, or his or her functional successor.

E. "Gross gambling receipts" means the monetary value that would be due to any operator of a gambling activity for any chance taken, other participation fees, any rental or lease fees for amusement games received by a commercial amusement game operation, as evidenced by required records. The value shall be stated in U.S. currency, before any deductions for prizes or any other expenses. In the absence of records, gross gambling receipts shall be the maximum that would be due to an operator from that particular activity if operated at maximum capacity.

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1 F. "Net gambling receipts" means all gross gambling receipts from any gambling activity, less the
2 monetary value or, in the case of merchandise, the actual cost, of any prizes that were awarded.

3 G. "Person" means any individual, receiver, assignee, trustee in bankruptcy, trust, estate, firm,
4 partnership(s), joint venture, joint-stock company, corporation, association, society, limited liability
5 corporation, or any group of individuals acting as a unit, whether mutual, cooperative, fraternal, nonprofit
6 or otherwise, and includes the United States or any instrumentality thereof, provided a valid tax or fee
7 may be levied upon or collected therefrom under the provisions of this chapter. The term includes all
8 bona fide charitable organizations and bona fide nonprofit organizations.

9 H. "Within the City" or "in the City" includes but is not limited to all federal areas lying within the
10 boundaries of The City of Seattle.

11 Section 2. There is added a new Section 5.52.020 to Chapter 5.52 of the Seattle Municipal Code as
12 follows:

13 **5.52.020 Filing of intent to conduct activity.**

14 Any person, corporation, association, organization, or bona fide charitable or nonprofit organization
15 intending to conduct or operate in the City any such gambling activity or fundraising event as authorized
16 by or under RCW Chapter 9.46, as now existing and hereafter amended, and subject to the tax imposed
17 by Section 5.52.030 shall, prior to the commencement of any such activity, file with the Director a sworn
18 declaration of intent to conduct or operate such activity. A copy of the state license issued in
19 accordance with RCW Chapter 9.46, if such is required, shall accompany such declaration.

20 Section 3. Section 5.52.010 of the Seattle Municipal Code (Ordinance 102459, § 1, as last
21 amended by Ordinance 115916 § 2) is renumbered 5.52.030 and further amended to read as follows:

22 **5.52.030 ((5.52.040)) Tax levied.**

23 A. In accordance with RCW Chapter 9.46, as amended, a tax or fee ((there)) is levied upon all
persons, corporations, associations, or organizations conducting or operating within the City any of the
following gambling activities authorized by RCW 9.46.010, as amended, and RCW 9.46.033, ((a tax)) as
follows:

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1 1. For the ~~conduct~~ of amusement games, a tax ~~((in an amount))~~ equal to two percent (2%) of
2 the net gambling receipts ~~((gross revenue, less the amount paid for as prizes))~~; and

3 2. For punchboards and pull-tabs, a tax equal to five percent (5%) of the gross gambling
4 receipts.

5 B. In accordance with RCW Chapter 9.46, as amended, a tax or fee is levied on all ~~((as to))~~ bona
6 fide charitable or nonprofit organizations, as defined in RCW 9.46.0209, conducting or operating in the
7 City any of the following gambling activities, ~~((there is levied a tax))~~ as follows:

8 1. Upon and for the conduct of bingo games, as defined in RCW 9.46.0205, and raffles, as
9 defined in RCW 9.46.0277, a tax ~~((in an amount))~~ equal to ten percent (10%) of the net gambling
10 receipts ~~((gross revenue, less the amount paid for as prizes, received therefrom))~~; and

11 2. Upon and for the conduct of a fund-raising event, as defined in RCW 9.46.0233, a tax ~~((in~~
12 ~~an amount))~~ equal to ten percent (10%) of the net gambling receipts ~~((gross revenue, less the amount~~
13 ~~paid for or as prizes, received therefrom))~~.

14 C. Except, no tax shall be imposed:

15 1. ~~((No tax shall be imposed on))~~ On bingo or amusement games when such activity, or any
16 combination thereof, is conducted by a bona fide charitable or nonprofit organization as defined in RCW
17 9.46.0209, when such ~~((which))~~ organization has no paid operating or management personnel and
18 when net gambling receipts ~~((has gross income))~~ from bingo or amusement games or any combination
19 thereof, ~~((less the amount paid for or as prizes,))~~ do not exceed ~~((exceeding))~~ Five Thousand Dollars
20 (\$5,000.00) per year; ~~((and))~~

21 2. ~~((No tax shall be imposed on))~~ On the first Ten Thousand Dollars (\$10,000.00) of net
22 gambling receipts ~~((proceeds))~~ from raffles conducted by any bona fide charitable or nonprofit
23 organization as defined in this chapter; ~~((and))~~

 3. On the ~~((The))~~ conduct of amusement games at the Seattle Center pursuant to a concession
agreement with the City ~~((shall be exempt from the tax imposed by this chapter))~~.

Section 4. Section 5.52.020 of the Seattle Municipal Code (Ordinance 102459, § 2, as last
amended by Ordinance 117169 § 55) is renumbered 5.52.040 and further amended to read as follows:

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5.52.040 ((5.52.020 Filing of intent to conduct activity--)) Payments -- Extensions -- Penalties
((--Late fees)).

(A. Any person, corporation, association, organization, or bona fide charitable or nonprofit organization intending to conduct or operate in the City any such gambling activity or fundraising event as authorized by or under RCW Chapter 9.46, as amended, and subject to the tax imposed by Section 5.52.040 shall, prior to the commencement of any such activity, file with the Finance Director a sworn declaration of intent to conduct or operate such activity together with a copy of the license therefor issued in accordance with said chapter, if such is required, and thereafter for any period covered by such license, or any renewal thereof, or by such statement of intent, shall on or before the fifteenth day of the month next succeeding the end of the quarterly period in which the tax accrued, file with the Finance Director a sworn return on a form to be provided and prescribed by the Director, and containing such information as the Director shall prescribe for the purpose of ascertaining the tax due for the preceding quarterly period.)

A. Any person, corporation, association, organization, or bona fide charitable or nonprofit organization conducting or operating in the City any such gambling activity or fundraising event and subject to the tax imposed by Section 5.52.030 shall on or before the last day of the month next succeeding the end of the monthly or quarterly period in which the tax accrued, file with the Director a sworn return on a form to be provided and prescribed by the Director, and containing such information as the Director shall prescribe for the purpose of ascertaining the tax due for the preceding monthly or quarterly period.

B. As used in this chapter, the term "quarterly period" shall mean the periods January-February-March, April-May-June, July-August-September, October-November-December ((and shall)) beginning with the first day of the first month and including ((include)) the last day of the third month within each such period. The term ((:)) "monthly ((:))" shall mean the period beginning with the first day of each calendar month and ends on ((include)) the last day of that month.

C. The tax imposed by subsection 5.52.030(A)(2) ((Section 5.52.040, 42)) for punchboards and pulltabs shall be due and payable in monthly installments; all other taxes shall be due and payable for

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1 each quarterly period. Remittance of the tax shall accompany each return and be made on or before
2 the ~~last~~ ~~((fifteenth))~~ day of the month next succeeding the period in which the tax accrued.

3 D. The Director, for good cause shown, may extend the time for filing any return as required under
4 this chapter and may grant such reasonable additional time within which to file such returns as he or she
5 may deem proper.

6 E. Failure to make payment or return by the due date--If any tax return, or payment of any tax, is
7 not received by the Director on or before the last day of the month following the end of the monthly or
8 quarterly period in which the tax accrued (the due date), pursuant to subsections A or C above, there
9 shall be assessed a penalty of ten percent (10%) of the amount due with a minimum penalty of Ten
10 Dollars (\$10.00); and if the return and/or tax is not received within thirty (30) days from the due date,
11 there shall be assessed a total penalty of fifteen percent (15%) of the amount due with a minimum
12 penalty of Twenty Dollars (\$20.00); and if the return and/or tax is not received within sixty (60) days from
13 the due date, there shall be assessed a total penalty of twenty percent (20%) of the amount due, with a
14 minimum penalty of Forty Dollars (\$40.00).

15 F. ~~((5-52-030(C)))~~ Interest and penalty on late payment--If the Finance Director finds that the tax,
16 fee, ~~((or tax))~~ or penalty paid is less than the amount due, he or she shall mail the taxpayer a statement
17 showing the balance due and shall add thereto interest on such balance at the rate of ~~ten~~ ~~((six))~~ percent
18 (10%) ~~((6%))~~ per year from the date of underpayment until paid and the taxpayer shall within ~~twenty~~
19 (20) ~~((three (3)))~~ days from the date of mailing ~~((statement))~~ pay the amount shown thereon ~~((as the~~
20 balance due plus such interest)). If payment of any tax, fee, interest, or penalty assessed by the
21 Director is not received by the Director by the due date specified in the notice, or any extension thereof,
22 the Director shall add a penalty of ten percent (10%) of the amount of the additional tax or assessment.
23 No penalty so added shall be less than Twenty Dollars (\$20.00).

G. Citation/Criminal Complaint--If a citation or criminal complaint is issued by the Director for the
collection of any assessment, taxes, interest, and penalties, there shall be added thereto a penalty of
ten percent (10%) of the amount due, but not less than Twenty Dollars (\$20.00).

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1 H. Penalty for disregarding specific written instructions--If the Director finds that all or any part of a
2 deficiency resulted from the disregard of specific written instructions as to reporting of tax liabilities, the
3 Director shall add a penalty of twenty percent (20%) of the additional tax found due because of the
4 failure to follow the instructions. A taxpayer will be deemed to disregard specific written instruction when
5 the Director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails
6 to act in accordance with those instructions unless the Department has not issued final instructions
7 because the matter is under appeal pursuant to this Chapter. The Director shall not assess the penalty
8 under this section upon any taxpayer who, in the Director's opinion, has made a good faith effort to
9 comply with the specific written instructions provided by the Department to that taxpayer. Specific
10 written instructions may be given as a part of a tax assessment, audit, determination, letter of instruction
11 or closing agreement, provided that such specific written instructions shall apply only to the taxpayer
12 addressed or referenced on such documents. Any specific written instructions by the Department shall
13 be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may
14 subject the taxpayer to the penalties imposed by this subsection. No penalty so added shall be less
15 than Twenty Dollars (\$20.00).

16 I. The aggregate of penalties imposed under this section for failure to make payment or return by
17 the due date as described by subsection E, late payment of any tax, assessment, or late penalty as
18 described by subsection F, or issuance of a citation or criminal complaint as described by subsection G,
19 shall not exceed forty (40%) percent of the tax due, or Sixty Dollars (\$60.00), whichever is greater.

20 ((D. For each payment due, if such payment is not made within sixteen (16) days from the due date
21 thereof, there shall be added a penalty as follows:

22 Seventeen (17) to forty (40) days' delinquency, ten percent (10%) with a minimum penalty of Five
23 Dollars (\$5.00); forty one (41) to seventy (70) days' delinquency, fifteen percent (15%) with a minimum
penalty of Fifteen Dollars (\$15.00); seventy one (71) or more days' delinquency, twenty percent (20%)
with a minimum penalty of Twenty-five Dollars (\$25.00).))

Section 5. There is added a new Section 5.52.050 to Chapter 5.52, of the Seattle Municipal Code
as follows:

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5.52.050 Payments due under this chapter.

1 The tax or fee payable under this chapter shall be paid to the Finance Director by bank draft,
2 certified check, cashier's check, personal check or money order, or in cash. If payment is made by draft
3 or check, the tax or fee shall not be deemed paid unless the check or draft is honored in the usual
4 course of business; nor shall the acceptance of any sum by the Finance Director be an acquittance or
5 discharge of the tax or fee due unless the amount of the payment is in the full and actual amount due.
6 Whenever payment of any tax or fee imposed by this chapter is made by check which is returned for
7 lack of sufficient funds or for any other reason, the return shall be filed upon payment of the original
8 amount due plus an additional amount of Twenty Dollars (\$20.00) by certified check, money order, or in
9 cash; penalties as provided by Section 5.52.040 may apply.

10 The Finance Director is authorized, but not required to mail to taxpayers forms for returns, but
11 failure of the taxpayer to receive any such forms shall not excuse the taxpayer from filing returns and
12 making payment of the tax or fee, when and as due under this chapter.

13 Section 6. Section 5.52.030 of the Seattle Municipal Code (Ordinance 102459, § 3, as last
14 amended by Ordinance 117169 § 56) is renumbered 5.52.060 and further amended to read as follows:

5.52.060 ((5.52.030-Enforcement) Over or under payment of tax.

15 ((A. The Finance Director shall have the power, and it shall be his duty, from time to time, to adopt,
16 publish and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of
17 carrying out the provisions hereof, and he shall have the further duty and authority to prescribe and
18 issue appropriate forms for determination and declaration of the amount of tax to be paid.))

19 A. ((B.)) In the event of overpayment of any tax or fee due under this chapter, the Finance Director
20 or his or her authorized agent, upon written application by the taxpayer for a refund or credit within two
21 (2) years after the due date of such overpayment, may offset the amount of such overpayment against
22 the taxpayer's existing tax liability under this chapter and certify for refund any balance to such taxpayer
23 or credit such balance to taxes which may accrue under this chapter. To be eligible therefor, refund of
24 overpayments as authorized in this section shall be approved by the Finance Director or his or her
25 authorized agent. No refund or credit may be allowed with respect to any payments made to the City

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1 more than two (2) years before the date of such application; provided, that where a taxpayer under
2 audit or investigation by the City makes application for a refund or credit of an overpayment made more
3 than two (2) years before the date of such application, the amount of ~~((the refund or))~~ credit otherwise
4 allowable for the portion of the assessment period preceding the two (2) year period may be offset
5 against any existing tax deficiency ~~((fer))~~ which accrued under this chapter in the same calendar year as
6 the overpayment ((within such assessment period)).

7 B. ((C.)) No demand for any ((an)) additional tax, fee, interest, ((or tax)) or penalty shall be
8 made by the Finance Director more than four (4) years after the close of the year in which the same
9 accrued except:

10 1. Against a taxpayer who is not registered as required by this chapter, assessments or
11 demands for any additional tax, fee, interest or penalty due as a result of failure to made a declaration
12 with the City as required under Section 5.52.020 and file a tax return as required by this chapter may be
13 made by the Director within ten (10) years after the close of the calendar year in which the same
14 accrued; or

15 2. As against a taxpayer who has been guilty of fraud or misrepresentation of a material fact;
16 or

17 3. Where a taxpayer has executed a written waiver of such limitations.

18 C. The Director may enter into an agreement in writing with any person relating to the liability of
19 such person in respect of any tax, fee, or assessment imposed by this chapter for any taxable period or
20 periods.

21 Section 7. Section 5.52.040 of the Seattle Municipal Code (Ordinance 102459, § 4, as last
22 amended by Ordinance 117169 § 57) is renumbered 5.52.070 and further amended to read as follows:

23 5.52.070 ((5.52.040)) Keeping ((of)) books and records – Inspection – Failure to make return
or provide records.

A. It shall be the duty of every person, corporation, association, organization or bona fide
charitable or bona fide nonprofit organization liable for the payment of any tax imposed by this chapter to
keep and preserve for the period of five (5) years such books and records as will accurately reflect the

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1 amount of gross gambling receipts and the cost of prizes disbursed for ((revenue received from)) any
2 gambling activity or fund-raising event enumerated in Section 5.52.030 ((5.52.040)) and from which can
3 be determined the amount of tax for which such person, corporation, association, organization or bona
4 fide charitable or bona fide nonprofit organization may be liable under the provisions of this chapter. ((;
5 and all)) All such books and records, and also invoices, inventories and stocks of goods, wares and
6 merchandise shall be open for inspection at all reasonable times by the Finance Director or his or her
7 duly authorized agent.

8 B. If any taxpayer fails, neglects or refuses to make his or her return as and when required in this
9 chapter, or refuses to provide or make available records as requested by the Department, the Director is
10 authorized to determine the amount of the tax payable by obtaining facts and information upon which to
11 base an estimate of the tax. Such assessment shall be deemed prima facie correct and shall be the
12 amount of tax owing the City by the taxpayer. The taxpayer shall be notified by mail by the Director of
13 the amount of tax so determined, together with any penalty, interest, and fees due under this chapter;
14 the total of such amounts shall thereupon become immediately due and payable.

15 Section 8. Section 5.52.050 of the Seattle Municipal Code (Ordinance 102459, § 5, as last
16 amended by Ordinance 102835 § 9(part)) is renumbered 5.52.080 and further amended to read as
17 follows:

18 **5.52.080 ((5.52.050)) Unlawful actions ((False statement or failure to pay tax—Penalty)).**

19 It is unlawful for anyone to falsify or fail to furnish any declaration or return required by this chapter,
20 or to fail or refuse to pay the tax levied by this chapter, or to aid or abet another in any attempt to evade
21 payment of the tax, or any part thereof, or for any person to fail to appear and/or testify in response to
22 subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a
23 return or upon the hearing of any appeal, or in any manner to hinder or delay the City or any of its
officers in carrying out the provisions of this chapter. Remedial action by the City may include fines and
imprisonment as provided for in Section 5.52.130. ((Upon conviction of any violation of this section, the
offender shall be subject to a fine of not to exceed Five Hundred Dollars (\$500.00).

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1 Section 9. There is added a new Section 5.52.090 to Chapter 5.52 of the Seattle Municipal Code as
2 follows:

3 **5.52.090 Appeals and judicial review.**

4 A. Any person aggrieved by the amount of the tax, fee, penalty, or interest assessed by the
5 Director under the provisions of this chapter, may file a written appeal ("petition") with the Office of the
6 Hearing Examiner within twenty (20) days from the date that the assessment notice was mailed to the
7 taxpayer, or within the period covered by any extension of said due date granted in writing by the
8 Finance Director. The Director may grant an extension of the appeal period only if the taxpayer, within
9 the twenty (20) day period to appeal, makes written application showing good cause why an extension
10 is necessary. A copy of the petition must be provided by the taxpayer to the Finance Director and the
11 City Attorney on or before the date the petition is filed with the Hearing Examiner. If no such petition is
12 filed with the Hearing Examiner and provided to the Finance Director and City Attorney within the twenty
13 (20) day period, the assessment covered by the notice shall become final. The twenty (20) day appeal
14 period for an assessment takes precedence over section 5.52.060 regarding any subsequent refund
15 request.

16 B. The petition shall set forth the reasons why the assessment should be reversed or modified and
17 the amount of the tax, fee, interest, or penalties which the taxpayer believes to be due. The Hearing
18 Examiner shall fix the time and place of the hearing and notify the taxpayer thereof by mail. The hearing
19 shall be conducted in accordance with the procedures for hearing contested cases in the Seattle
20 Administrative Code (Chapter 3.02 of the Seattle Municipal Code).

21 C. The Director's assessment appealed from shall be regarded as prima facie correct. The
22 Hearing Examiner may, by subpoena, require the attendance of any person at the hearing, and may
23 also require him or her to produce pertinent books and records. Any person served with such a
subpoena shall appear at the time and place therein stated and produce the books and records
required, if any, and shall testify truthfully under oath administered by the Hearing Examiner as to any
matter required of him or her pertinent to the appeal; and it shall be unlawful for him or her to fail or
refuse to do so.

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1 D. The Hearing Examiner may reverse or modify an action of the Director and ascertain the correct
2 amount of the tax, fee, interest or penalty due if the Director's assessment violates the terms of this
3 chapter or is contrary to law. The decision of the Hearing Examiner shall be final. The taxpayer and/or
4 the Department of Finance may seek review of the decision of the Hearing Examiner to the Superior
5 Court of Washington in and for King County within fourteen (14) days from the date of the decision.

6 Section 10. There is added a new Section 5.52.100 to Chapter 5.52 of the Seattle Municipal Code
7 as follows:

8 **5.52.100 Mailing of notices.**

9 Any notice required by this chapter to be mailed to any taxpayer shall be sent by ordinary mail,
10 addressed to the address of the taxpayer as shown by the records of the Director, or if no such address
11 is shown, to such address as the Director is able to ascertain by reasonable effort. Failure of the
12 taxpayer to receive any such mailed notice shall not release the taxpayer from any tax, fee, interest, or
13 penalties thereon, nor shall such failure operate to extend any time limit set by the provisions of this
14 chapter.

15 Section 11. There is added a new Section 5.52.110 to Chapter 5.52 of the Seattle Municipal Code
16 as follows:

17 **5.52.110 Computation of time.**

18 Except as otherwise specifically provided by any other provisions of this chapter, in computing any
19 period of days prescribed by this chapter the day of the act or event from which the designated period of
20 time runs shall not be included. The last day of the period shall be included unless it is a Saturday,
21 Sunday, or City legal holiday, in which case the last day of such period shall be the next succeeding day
22 which is neither a Saturday, Sunday, or City legal holiday.

23 Section 12. There is added a new Section 5.52.120 to Chapter 5.52 of the Seattle Municipal Code
as follows:

5.52.120 Collection of delinquent tax -- Tax constitute debt.

Any fee or tax due and unpaid and delinquent under this chapter, and all penalties thereon shall be
a lien against all assets, real or personal, owned by the taxpayer. Such lien may be collected by civil

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action, including, but not limited to, the perfecting and filing of such lien with a court of competent jurisdiction. The exercise of such civil action shall be in addition to any and all other existing remedies.

Any tax or fee due and unpaid under this chapter, and all interest and penalties thereon, shall constitute a debt to The City of Seattle and may be collected by court proceedings in the same manner as any other debt in like amount which remedy shall be in addition to all other existing remedies.

Section 13. There is added a new Section 5.52.130 to Chapter 5.52 of the Seattle Municipal Code as follows:

5.52.130 Violation -- Penalty

A. A person who violates or fails to comply with any provision of this chapter or any rule, regulation or order of the Director is guilty of a misdemeanor subject to the provisions of Chapter 12A.02 and 12A.04 of the Seattle Municipal Code, except that absolute liability shall be imposed for such a violation or failure to comply and none of the mental states described in Section 12A.04.030 of the Seattle Municipal Code need be proved. A corporation which violates or fails to comply with any provision of this chapter or any rule, regulation or order of the Director shall be punished by a fine of not more than One Thousand (\$1,000) Dollars. Each day of violation or failure to comply is a separate offense.

B. Prosecution for a criminal offense shall not be commenced more than four (4) years after the violation or failure to comply.

Section 14. There is added a new Section 5.52.140 to Chapter 5.52 of the Seattle Municipal Code as follows:

5.52.140 Fees for copies and research.

The Director may charge a fee:

A. For making copies of books and records as authorized by Ordinance 100501, as now existing or hereafter amended or supplemented;

B. For compiling statistics and conducting special research as authorized in a fee schedule approved by the City Council by resolution from time-to-time to reimburse the City's cost therefor; and

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1 C. For the bulk sale of City forms and printed brochures and other publications in an amount equal
2 to the cost of preparing, reproducing and distributing them as determined by the Director by rule
3 adopted pursuant to the Administrative Code, Sections 3.02.030 through 3.02.070.

4 Section 15. There is added a new Section 5.52.150 to Chapter 5.52 of the Seattle Municipal Code
5 as follows:

6 **5.52.150 Application to City's activities.**

7 Whenever the City through any department, division, or employee association engages in any
8 activity which if engaged in by any person would under this chapter require the payment of tax by such
9 person, the City department, division, or employee association engaging in such activity shall file a
10 declaration and make returns and from the funds of such department, division, or employee association
11 pay the taxes imposed by this chapter.

12 Section 16. Section 5.52.060 of the Seattle Municipal Code (Ordinance 115916, § 4, as last
13 amended by Ordinance 117169 § 58) is renumbered 5.52.160 and further amended to read as follows:

14 **5.52.160 ((6-52.060)) Rule-making authority.**

15 The Finance Director shall have the power and it shall be his or her duty, from time to time, to adopt,
16 publish and enforce ((premulgate)) rules and regulations not inconsistent with ((to implement)) this
17 chapter, including the adoption by reference of provisions of state law or the Washington Administrative
18 Code relating to gambling; and it shall be unlawful to violate or fail to comply with, any such rule or
19 regulation ((the waiver of delinquency penalties for delayed reporting of the gambling tax when occurring
20 due to causes beyond the taxpayer's control or due to excusable neglect; and the allocation of gross
21 revenues among taxing jurisdictions when raffles or other gambling activity occur in Seattle and
22 elsewhere)).

23 Section 17. The provisions of this ordinance are declared to be separate and severable. The
invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the
invalidity of the application thereof to any person or circumstance shall not affect the validity of the
remainder of this ordinance, or the validity of its application to other persons or circumstances.

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552ord05.dot
Norma J Bush/njb
9/16/96
Ver. 1

Section 18. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

PASSED by the City Council of the City of Seattle this _____ day of _____, 1996, and signed by me in open session in authentication of its passage this _____ day of _____, 1996.

President _____ of the City Council

Approved by me this _____ day of _____, 1996.

Mayor

Filed by me this _____ day of _____, 1996.

City Clerk

(Seal)

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TIME DATE STAMP

SPONSORSHIP

THE ATTACHED DOCUMENT IS SPONSORED FOR FILING WITH THE CITY COUNCIL BY THE MEMBER(S) OF THE CITY COUNCIL WHOSE SIGNATURE(S) ARE SHOWN BELOW:

Martha Chase

_____	_____
_____	_____
_____	_____
_____	_____

FOR CITY COUNCIL PRESIDENT USE ONLY

COMMITTEE(S) REFERRED TO: _____

PRESIDENT'S SIGNATURE

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96-298

City of Seattle

Executive Department—Office of Management and Planning

Thomas M. Tierney, Director
Norman B. Rice, Mayor

September 10, 1996

The Honorable Mark Sidran
City Attorney
City of Seattle

*9/16/96
OK as to
formality
OK*



Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

REQUESTING
DEPARTMENT: Finance

SUBJECT: AN ORDINANCE relating to the gambling tax code; amending
Seattle Municipal Code Sections 5.52.010, 020, 030, 040, 050, and
.060; renumbering certain sections; and adding Sections
5.52.010, 020, 050, 090, 100, 110, 120, 130, 140, and 150.

96 SEP 10 AM 10:21
TOM TIERNEY

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMP. Any specific questions regarding the legislation can be directed to Leda Young at 233-7268.

Sincerely,

Norman B. Rice
Mayor

by

Leda Young for
TOM TIERNEY
Director

h:\admin\legis\law\trs\young12

Enclosure

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STATE OF WASHINGTON - KING COUNTY

73475
City of Seattle, City Clerk

—ss.

No. ORDINANCE IN

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:GRD 118313

was published on

10/25/96

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on

10/25/96

Notary Public for the State of Washington,
residing in Seattle

Affidavit of Publication

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