Ordinance No. 3362

(Amending or Repealing Ordinances)

CFN=175 – Business License
Passed 9/16/1997
Amending chapter 3.21

Amended by Ord. 3460;3949
ORDINANCE NO. 3362

AN ORDINANCE of the City Council of the City of Kent, Washington, amending Chapter 3.21 of the Kent City Code establishing a new tax rate of ten percent (10%) on the operation of punchboard and pulltabs based on gross receipts, less the amounts awarded as cash or merchandise prizes; and establishing definitions, a new method payment provision, a new record keeping requirement, and providing a process for under or over payment.

WHEREAS, the Washington State legislature has revised the State Gambling Code to allow the taxation of bona fide charitable or non-profit organizations at a tax rate of ten percent (10%) on the operation of punchboard and pulltabs based on gross receipts less the amounts awarded as cash or merchandise prizes; and

WHEREAS, at the option of the City, the State legislation now authorizes the taxation of commercial stimulant operators at a tax rate of ten percent (10%) on the operation of punchboard and pulltabs based on gross receipts less the amounts awarded as cash or merchandise prizes; and

WHEREAS, the Operations Committee has reviewed information submitted by businesses in Kent, encouraging the City to exercise the option to tax bona fide charitable organizations or non-profit organizations and commercial stimulant operators similarly for punchboard and pulltab operations;

WHEREAS, the Gambling Tax Code has been limited regarding the adopted enforcement provisions and such limitations need updating at this time; NOW THEREFORE,
THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES
HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 3.21 of the Kent City Code is hereby amended as
follows:

CHAPTER 3.21. GAMBLING TAX

Sec. 3.21.010. Tax imposed.

A. In accordance with RCW 9.46.010 et seq., there is levied upon all persons,
associations and organizations who have been duly licensed by the state gambling
commission to conduct or operate:

1. Any bingo games and raffles, a tax rate of ten (10%) percent of the gross
revenue received therefrom less the amount paid for as prizes; subject,
however, to the provisions of subsection B.C. below;

2. Any amusement games, a tax in an amount sufficient to pay the actual costs
of enforcement of the provisions of RCW 9.46.010 et seq.; provided, that
such tax shall not exceed two (2%) percent of the gross revenue from any
such amusement games less the amount paid for as prizes;

3. Taxation of punchboards; and pulltabs; is based on a tax rate of five
(5%) percent of the gross receipts from such punchboards or pulltabs, the
operation of the games less the amount awarded as cash or merchandise
prizes and shall not exceed a rate of ten percent (10%);

4. Taxation of social card games; based upon a tax rate of ten (10) percent of
the gross receipts received therefrom.

B. Definitions. For the purposes of this chapter, the words and terms used herein shall
have the same meaning given to each pursuant to RCW Chapter 9.46, as same exist
or may from time to time be amended; and as set forth under the rules of the
Washington State Gambling Commission, Chapter 230, Washington Administrative
Code, as the same exists or may hereafter be amended, unless otherwise specifically
provided herein.
No tax shall be imposed under the authority of this chapter on bingo, raffles, or amusement games when such activities or any combination thereof are conducted by any bona fide charitable or nonprofit organization as defined in Ch. 9.46 RCW, 9.46.020(3), which organization has no paid operating or management personnel and has gross income receipts from bingo, raffles or amusement games, or any combination thereof, not exceeding five thousand dollars ($5,000.00) per year less the amount paid for awarded as cash or merchandise prizes.

Sec. 3.21.020. Administration and collection. The administration and collection of the tax imposed by this chapter shall be by the finance director, pursuant to the rules and regulations of the state gambling commission. The city council shall adopt and publish such rules and regulations as may be reasonably necessary to enable the collection of the tax imposed herein.

Sec. 3.21.030. Filing. For the purpose of identifying who shall be subject to the tax imposed by this chapter, any person, association or organization intending to conduct or operate any gambling activity authorized by RCW 9.46.010 et seq. shall, prior to 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 issued in accordance with RCW 9.46.010 et seq. Thereafter, for any period covered by such state license or any renewal thereof, any person, association or organization, shall on or before the fifteenth day of the month following the end of the quarterly period in which the tax accrued, file with the finance director a sworn statement on a form to be provided and prescribed by the city council for the purpose of ascertaining the tax due for the preceding quarterly period.

Sec. 3.21.040. Tax due.

A. The tax imposed by this chapter shall be due and payable in quarterly installments and remittance therefor, together with the return forms, shall accompany each return and be made on or before the final day of the month immediately succeeding the quarterly period in which the tax accrued. Such payments shall be due on January 31st, April 30th, July 31st, and October 31st of each respective year.
1. Whenever any person, association or organization taxed under this chapter quits business, sells out or otherwise disposes of its business, or terminates the business, any tax due shall become due and payable immediately, and such taxpayer shall, within ten (10) days thereafter, making a return and pay the tax due.

2. Whenever it appears to the finance director that the collection of taxes from any person, association or organization may be in jeopardy, the finance director, after not less then ten (10) days notice to the taxpayer, is authorized to require that the taxpayer remit taxes due and returns at such shorter intervals than otherwise provided, as the finance director deems appropriate under the circumstances.

Sec. 3.21.041. Administration and collection of tax.

A. Administration and collection of the various taxes imposed by this chapter shall be the responsibility of the finance director. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the finance director. The taxpayer shall be required to swear and affirm that the information given in the return is true, accurate and complete.

B. The finance director 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 finance director shall have forms available to the public in reasonable numbers at the City Hall Customer Services Department during regular business hours.

C. In addition to the return form, a copy of the taxpayer’s quarterly report to the Washington State Gambling Commission required by Chapter 230-08 WAC for the period in which the tax accrued, shall accompany remittance of the tax amount due.

Sec. 3.21.042. Method of payment. Taxes payable hereunder shall be remitted to the finance director on or before the time required by bank draft, certified check, cashier’s check, personal check, money order, credit card, or cash. If payment is made by draft, credit card, or check, the tax shall not be deemed paid until the draft, credit card, or
check is honored in the usual course of business, nor shall the acceptance of any sum by
the finance director 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 finance director after notation by
the finance director upon the return of the amount actually received from the taxpayer.

Sec. 3.21.043. Failure to make timely payment of tax or fee. For each
payment due, if such payment is not made by the due date thereof, there shall be added a
penalty as follows:

1. If not paid on or before the first day of the second month next succeeding
the quarterly period in which the tax accrued, ten (10) percent of the total
tax due with a minimum penalty of five dollars ($5.00).

2. If not paid on or before the first day of the third month next succeeding the
quarterly period in which the tax accrued, fifteen (15) percent of the total
tax due with a minimum penalty of ten dollars ($10.00).

3. If not paid on or before the first day of the fourth month next succeeding the
quarterly period in which the tax accrued, twenty (20) percent of the total
tax due with a minimum penalty of twenty dollars ($20.00).

4. Failure to make full payment of all taxes and penalties due by the final day
of the third month next succeeding the quarterly period in which the tax
accrued shall be deemed to be both a criminal and civil violation of this
chapter.

Sec. 3.21.050. Records required. Inspection of records. It shall be the
responsibility of all officers, directors and managers of any organization conducting
gambling activities subject to taxation under this chapter to make available at all reasonable
times such financial records as the mayor, his authorized representative or law enforcement
representative of the city may require in order to determine full compliance with this
chapter.

A. Each person, association, or organization engaging in an activity taxable under this
chapter 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 Chapter 230-08 WAC, and the United States Internal Revenue Service, respecting taxation, shall be kept and maintained for the periods required by those agencies.

B. 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 at any time, with or without notice, at the place where such records are kept upon the demand of the finance director or his designee for the purpose of enforcing the provisions of this chapter.

C. Where the taxpayer does not keep all of the books, records, or items required to be kept or maintained under this section within the jurisdiction of the city so that the auditor may examine them conveniently, the taxpayer shall either:

1. Produce and make available for inspection in this jurisdiction all of the required books, records, or other items within ten (10) days following a request by the auditor that he do so;

2. Bear the actual cost of inspection by the auditor or his designee at the location of which books, records or items are located; provided that a taxpayer choosing to bear these costs shall pay in advance to the finance director the estimated costs thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals and incidental expenses. Thee actual amounts due or to be refunded for expenses shall be determined following the examination of the records.

D. A taxpayer who fails, neglects, or refuses to produce such books and records either within or without this jurisdiction, in addition to being subject to other civil and criminal penalties provided by this chapter, shall be subject to a jeopardy fee or tax assessment by the auditor which penalty fee or jeopardy assessment shall be deemed prima facie correct and shall be the amount of the fee or tax owing by the
taxpayer unless he can prove otherwise. The taxpayer shall be notified by the
finance director by posting in the mails of the United States, addressed to the
taxpayer to the last address on file with the finance department, a statement of the
amount of tax so determined by jeopardy assessment, together with any penalty
and/or interest, and the total of such amounts shall thereupon become immediately
due and payable.

Sec. 3.21.051. Overpayment or underpayment of tax. 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 finance director that within three years
immediately preceding receipt by the finance director of the application by the taxpayer for
a refund or an audit, or in the absence of such an application, within three years
immediately preceding the commencement by the finance director 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 credited to the taxpayer at the taxpayer's option.
No refund or credit shall be allowed for any excess paid more than three years
before the date of such application or 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 finance director shall mail a statement to the taxpayer,
showing the balance due, including the tax amount or penalty assessments and fees,
and it shall be a separate, additional violation of this chapter, both civil and criminal
if the taxpayer fails to make payment in full within ten (10) calendar days of such
mailing.

Sec. 3.21.052. Failure to make return. If any taxpayer fails, neglects, or refuses
to make and file his return as and when required under this chapter, the finance director is
authorized to determine the amount of tax payable, together with any penalty and/or interest
assessed under the provisions of this chapter and by mail to notify such taxpayer of the
amount so determined, which amount shall thereupon become the tax and penalty and/or
interest and shall become immediately due and payable.
Sec. 3.21.053. Tax additional to others. The taxes levied herein shall be additional to any license fee or tax imposed or levied under any law or other ordinance of the city except as otherwise herein expressly provided.

Sec. 3.21.054. Finance director to make rules. The finance director shall have the power, and it shall be his or her duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or other applicable laws for the purpose of carrying out the provisions hereof, and it is unlawful to violate or fail to comply with any such rule or regulation.

Sec. 3.21.055. Taxes, penalties, and fees constitute debt to municipality. Any tax due and unpaid under this chapter and all penalties or fees shall constitute a debt to the city and may be collected by court proceedings the same as any other debt or like amount which shall be in addition to all other existing remedies.

Sec. 3.21.060. Penalties. Any person who shall fail or refuse to pay the tax as required in this chapter, or who shall willfully disobey any rule or regulation promulgated by the city council under this chapter, shall be guilty of a misdemeanor and upon conviction shall be punished by imprisonment for not more than ninety (90) days or by a fine of not more than two hundred fifty dollars ($250.00) or by both such fine and imprisonment. Any such fine shall be in addition to the tax required. Officers, directors and managers of any organization conducting gambling activities shall be jointly and severally liable for the payment of the tax and for the payment of any fine imposed under this chapter.

SECTION 2. - Severability. If any one or more sections, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Ordinance and the same shall remain in full force and effect.
SECTION 3. Effective Date. This Ordinance shall take effect and be in force on October 1, 1997, which is more than five (5) days from the time of its final approval and passage as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK

APPROVED AS TO FORM:

ROGER A. LUBOVICH, CITY ATTORNEY

PASSED: 16 day of September, 1997.
APPROVED: 16 day of September, 1997.
PUBLISHED: 19 day of September, 1997.

I hereby certify that this is a true copy of Ordinance No. 3362, passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

P: LAW/ORDINANCE/GAMBLING.ORD