ORDINANCE NO. 3949

AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 3.21.010 of the Kent City Code to affirm the City’s general prohibition of social card games as commercial stimulants within the City of Kent, but to allow one house-banked social card game business currently operating in the Panther Lake Annexation Area to remain in business after annexation, pursuant to RCW 9.46.295; to adjust the rate of taxation applicable to that house-banked social card game business; to establish a new threshold annual amount for taxation of not for profit raffles; to revise the due date of tax reporting forms and payments; and to clarify tax enforcement provisions made available to the City by state law.

RECATALS

A. Social card rooms as commercial stimulants are prohibited outright in the City of Kent. There is, however, one lawfully operating house-banked social card room business in the Panther Lake Annexation Area that provides an important source of jobs to the area, as well as tax revenue, and that does not otherwise pose a significant threat to the public health, safety, and welfare of the City of Kent.
B. During its 2009 session, the Legislature amended RCW 9.46.295 so that the City can allow pre-existing house-banked social card game businesses as commercial stimulants to remain in annexed areas, while continuing to prohibit them elsewhere in the City.

C. The City is authorized to impose a tax under RCW 82.14.415, and can demonstrate that the continuation of the affected house-banked social card room business will reduce the credit against state sales and use taxes as provided in RCW 82.14.415(7). Therefore, this ordinance satisfies the grandfathering prerequisites of RCW 9.46.295. However, section 3.21.010 of the Kent City Code must be amended in order to allow this house-banked social card room business to remain in operation after annexation.

D. This ordinance also establishes the rate of taxation applicable to house-banked social card game businesses authorized within the City of Kent, and establishes a new annual threshold amount of receipts for taxation of not for profit raffles consistent with RCW 9.46.110.

E. Lastly, this ordinance revises the due date of tax reporting forms and payments, and clarifies tax enforcement provisions made available to the City by state law. These final amendments apply to all gambling establishments within the City of Kent.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

ORDINANCE

SECTION 1. - Amendment – KCC 3.21.010. Section 3.21.010 of the Kent City Code, entitled “Gambling activities and tax,” is amended as follows:

Annexation & Continued Operation of Social Card Game Business–KCC 3.21.010
Sec. 3.21.010. Gambling activities and tax.

A. Tax imposed. In accordance with RCW 9.46.110, the following taxes are there is levied a tax upon all persons, associations, and organizations who have been duly licensed by the Washington State Gambling Commission to conduct or operate certain gambling activities as follows:

1. Until January 1, 2000, taxation of bingo games and raffles at a tax rate of ten (10) percent of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes. Effective January 1, 2000, taxation of bingo games and raffles, at a tax rate of five (5) percent of the gross receipts received therefrom less the amount awarded as cash or merchandise prizes;

2. Taxation of amusement games, at a tax rate of two (2) percent of the gross receipts from any such amusement games less the amount awarded as prizes, which is an amount less than the actual amount of costs of enforcement by the City of the provisions of Chapter 9.46 RCW;

3. Taxation of punch boards and pull-tabs for bona fide charitable or nonprofit organizations and for commercial stimulant operators, at a tax rate of ten (10) percent based on the gross receipts from the operation of the games less the amount awarded as cash or merchandise prizes;

4. Taxation of social card games not prohibited by subsection (D) of this section, at a tax rate of ten (10) percent of the gross revenue from such games.

B. Definitions. For the purposes of this chapter, the words and terms used herein shall have the same meaning given to each pursuant to Chapter 9.46 RCW, 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.

C. **Exemption from tax.** 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 Chapter 9.46 RCW, which organization has no paid operating or management personnel and has gross receipts from bingo, raffles or amusement games, or any combination thereof, not exceeding five thousand dollars ($5,000) per year less the amount awarded as cash or merchandise prizes. For raffles conducted by bona fide charitable or nonprofit organizations, no tax shall be imposed under this chapter on the first ten thousand dollars ($10,000) per year of gross receipts, less the amount awarded as cash or merchandise for prizes.

D. **Social card games – Prohibited – Exceptions.** Pursuant to RCW 9.46.295 and to the City’s police power and legislative authority, the operation or conduct of social card games by any person, association, or organization as a commercial stimulant, as defined in Chapter 9.46 RCW, is prohibited within the City of Kent; provided, that **house-banked social card game** establishments licensed by the Washington State Gambling Commission, lawfully operating in the City of Kent in an area as described in RCW 9.46.295 and annexed by the City of Kent, and which are in compliance with the provisions of this chapter as of February 2, 1999, may continue to operate **house-banked social card games** as a commercial stimulant under said license and renewals thereto at the original licensed location or at another location within the same annexation area; provided, however, that a relocated establishment must otherwise comply with applicable land use and Gambling Commission regulations, until March 1, 2004, after which date no such establishment may lawfully operate in the City of Kent; It is and further provided; that bona fide
charitable or nonprofit organizations, as defined in Chapter 9.46 RCW, may operate or conduct social card games if said social card games have been duly licensed by the Washington State Gambling Commission and if they are otherwise operated or conducted in compliance with the provisions of this chapter. A violation of this section shall not be subject to KCC 1.01.140.

SECTION 2. – Amendment – KCC 3.21.040. Section 3.21.040 of the Kent City Code, entitled “Tax due,” is amended as follows:

Sec. 3.21.040. Tax due.
A. Quarterly Tax Reporting and Payment. Except as provided in KCC 3.21.040(B) for taxes due in excess of $50,000 annually, the tax imposed by this chapter shall be due and payable in quarterly installments and remittance therefor, together with the return forms, shall be made on or before the final day of the month immediately after succeeding—the quarterly period in which the tax accrued. Such payments shall be due on January 31, April 30, July 31, and October 31 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 after the last date the establishment is open for business thereafter, file 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 than 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.
B. **Monthly Tax Reporting and Payment.** The tax imposed by this chapter shall be due and payable in monthly installments when the gambling taxes due in the previous calendar year were in excess of fifty thousand dollars ($50,000). In that event, the tax remittance, together with the return forms, shall be made on or before the final day of the month immediately after the month in which the tax accrued.

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 after the last date the establishment is open for business, file 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 than 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.

**SECTION 3. – Amendment – KCC 3.21.043.** Section 3.21.043 of the Kent City Code, entitled “Failure to make timely payment of tax or fee,” is amended as follows:

**Sec. 3.21.043. Failure to make timely payment of tax or fee.**

A. **Penalty.** 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).
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).

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).

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.

B. Service charge. In addition to the penalties imposed under KCC 3.21.043(A), a service charge of one (1) percent of the amount of the unpaid balance or two dollars ($2.00), whichever amount is greater, will be imposed one (1) month from the date payment was due, and at the end of each succeeding monthly period, until all past due amounts are paid in full.

SECTION 4. Amendment – KCC 3.21.055. Section 3.21.055 of the Kent City Code, entitled “Taxes, penalties, and fees constitute debt to municipality,” is amended as follows:

Sec. 3.21.055. Taxes, penalties, service charges, and fees constitute debt to municipality. Any tax due and unpaid under this chapter and all penalties, service charges, or fees shall constitute a debt to the city. The city may, pursuant to Ch. 19.16 RCW, use a collection agency to collect outstanding debts, or it may seek be collectioned by court proceedings, which remedies the same as any other debt or like amount which shall be in addition to all other existing remedies. Further, as provided for in RCW 9.46.110(4), as now enacted or hereafter amended, taxes and associated penalties and charges imposed under this
chapter shall become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010 for property taxes. The lien shall attach on the date the tax becomes due and shall relate back and have priority against real and personal property to the same extent as ad valorem taxes.

SECTION 5. - Severability. If any one or more section, 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 6. - Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

SECTION 7. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

SUZETTE COOKE, MAYOR

BRENDA JACOBER, CITY CLERK

ATTEST:
APPROVED AS TO FORM:

TOM BRUBAKER, CITY ATTORNEY

PASSED: __6__ day of March, 2010.
APPROVED: __6__ day of March, 2010.
PUBLISHED: __9__ day of March, 2010.

I hereby certify that this is a true copy of Ordinance No. 3949 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

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Annexation & Continued Operation of Social Card Game Business—KCC 3.21.010