



**CITY OF KIRKLAND**

**City Manager's Office**

123 Fifth Avenue, Kirkland, WA 98033 425.587.3001

www.ci.kirkland.wa.us

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**MEMORANDUM**

**To:** Kurt Triplett, City Manager  
**From:** Marilynne Beard, Assistant City Manager  
**Date:** January 20, 2011  
**Subject:** AMENDMENT TO GAMBLING ORDINANCE

**RECOMMENDATION:**

City Council approves the attached ordinance amending KMC 7.48 acknowledging the City's authority to allow social card games at existing establishments in the annexation area and amending the local tax rate on social card games to eleven percent.

**BACKGROUND DISCUSSION:**

During the 2009 session, the State Legislature approved ESSB5321 allowing annexing cities that prohibit social card games within their existing city limits to allow the continued operation of gambling establishments that were licensed as of July 26, 2009. There is one establishment in Kirkland's annexation area that qualifies for continued operation, the *Casino Caribbean* located in the Kingsgate business area.

On July 7, 2009, the Kirkland City Council approved resolution R-4766 expressing its intent to allow continued operation of existing card rooms or casinos in the annexation area (see attached). Since the Council's action occurred before the annexation vote, they were advised that the City Council would need to take further legislative action if the annexation were approved. The attached ordinance implements the intent expressed in the resolution.

The Kirkland Municipal Code currently provides a tax rate of 20% for social card games, even though the code prohibits card rooms from operating within the city limits. The resolution adopted in 2009 did not address the assumed gambling tax rate; however, annexation financial forecasts were prepared assuming an eleven percent tax rate which reflected King County's tax rate on card games. The attached ordinance also reflects the tax rate assumed in annexation financial forecasts. Since the Casino Caribbean will be the only legal card room in the city, the change in tax rate does not affect any other gambling revenue.

RESOLUTION R-4766

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND EXPRESSING ITS INTENT TO ALLOW CONTINUED OPERATION OF EXISTING CARDBOUSES OR CASINOS IN THE POTENTIAL ANNEXATION AREA.

WHEREAS, on April 7, 2009, the City of Kirkland, in Resolution R-4751, began proceedings to annex its Potential Annexation Area ("PAA"), consisting of the Kingsgate, Finn Hill and North Juanita Neighborhoods; and

WHEREAS, the City of Kirkland prohibits house-banked social card games within its existing City limits; and

WHEREAS, in its 2009 Session, the State legislature adopted ESSB 5321, which amends RCW 9.46.295 relating to licenses for house-banked social card games; and

WHEREAS, ESSB 5321 clarifies that the City of Kirkland may allow a licensed house-banked social card game business in the PAA to continue operating without being required to allow additional house-banked social card game businesses; and

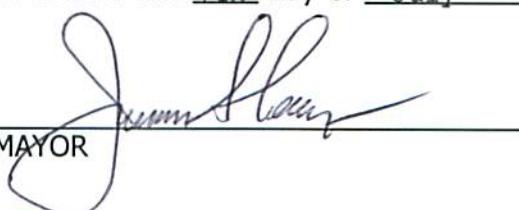
WHEREAS, the City Council desires to express its intent with respect to allowing continued operation of existing house-banked social card game businesses.

NOW, THEREFORE, be it resolved by the City Council of the City of Kirkland as follows:

Section 1. The City Council hereby expresses its intent to allow continued operation of existing, licensed house-banked social card game businesses in the PAA upon annexation by the City of Kirkland. In so doing however, the City Council reiterates that such establishments are generally prohibited under the Kirkland Municipal Code, and any existing establishment in the PAA shall be allowed to continue only as a result of, and pursuant to the provisions of, RCW 9.46.295.

Passed by majority vote of the Kirkland City Council in open meeting this 7th day of July, 2009.

Signed in authentication thereof this 7th day of July, 2009 .

  
MAYOR

Attest:

  
City Clerk

ORDINANCE 4292

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING.

WHEREAS, pursuant to authority provided by RCW 9.46.295, KMC 7.48.017 prohibits the conduct of a social card game as a commercial stimulant in Kirkland, which prohibition includes house banked social card game businesses; and

WHEREAS, the City Council in 2009 authorized annexation of territory wherein a house banked social card game business is in operation, with the annexation to be effective June 1, 2011; and

WHEREAS, under previous law, that business would have had to cease operation as of June 1, 2011, the effective date of the City's annexation, because RCW 9.46.295 only allowed a complete prohibition of any class of licensed gambling activities within a city's limits; and

WHEREAS, in recognition that an annexing city or town might want to allow a house banked social card game business operating in an annexed area to continue operating after annexation, the Washington State Legislature amended 9.46.295 to allow that to happen on the conditions presented there; and

WHEREAS, these conditions are met because the subject business was licensed by the Washington State Gambling Commission as of July 26, 2009, the City is authorized to impose a tax under RCW 82.14.415 and the City can demonstrate that the continuation of the house banked social card game business will reduce the credit against the state sales and use tax as provided in RCW 82.14.415(7);

NOW, THEREFORE, the City Council of the City of Kirkland do ordain as follows:

Section 1. Kirkland Municipal Code Section 7.48.017 is hereby amended to read as follows:

**(S)7.48.017 Prohibition of certain card rooms.\***

(a) Except as authorized in Section 7.48.018, the conduct of a social card game as a commercial stimulant is prohibited within the city of Kirkland. The term "commercial stimulant" means an activity operated in connection with an established business, with the purpose of increasing the volume of sales of food or drink for consumption on that business premises.

This section is an exercise of the city's authority under state law to prohibit gambling activities (see RCW 9.46.295). In turn, a license issued by the state to engage in gambling activities is not legal authority to engage in the conduct of social card games as a commercial stimulant anywhere within the city of Kirkland.

Should there be any change in the terminology used by the state in issuing a gambling license, this section should be liberally construed so as to prohibit that category of gambling activities which is most similar to what is presently licensed as a card game under RCW 9.46.070(2).

(b) Any person who engages in or carries on an activity in violation of this section shall be guilty of a gross misdemeanor. Each day of violation shall be considered a separate crime.

(c) If any provision of this section or its application to any person or circumstance is held invalid, the remainder of this section, or the application of the provision to other persons or circumstances is not affected

Section 2. Kirkland Municipal Code Chapter 7.48 is hereby amended by the addition of a new section to be known as Section 7.48.018 and to read as follows:

**7.48.018 Limited house banked social card game authorization.**

Pursuant to authority provided in RCW 9.46.295, any house banked social card game business operating in the city on June 1, 2011, that was licensed by the Washington State Gambling Commission before July 26, 2009, may continue to operate thereafter within the city in accordance with applicable law. As further allowed by RCW 9.46.295, no additional house banked social card game businesses will be allowed to operate within the city.

Section 3. Kirkland Municipal Code Section 7.48.020 is hereby amended to read as follows:

**7.48.020 Tax rate imposed on gambling activities.**

(a) Tax Imposed. Pursuant to RCW 9.46.110, the city imposes a tax upon any gambling activity which activity is not prohibited by either state law or city ordinance. For the purposes of this section, a "charitable or nonprofit organization" shall mean an entity meeting the requirements of Chapter 9.46 RCW for a bona fide charitable or nonprofit organization. The gambling tax rate levied by the city of Kirkland is as follows:

(1) Bingo: ten percent of gross receipts less the amount awarded as cash or merchandise prizes; provided, that effective January 1, 2000, the tax rate for bingo shall be five percent of gross receipts less the amount awarded as cash or merchandise prizes.

(2) Raffles: ten percent of gross receipts less the amount awarded as cash or merchandise prizes; provided, that effective January 1, 2000, the tax rate for raffles shall be five percent of gross receipts less the amount awarded as cash or merchandise prizes.

(i) Special Rule. When a raffle is conducted by a charitable or nonprofit organization, no tax shall be imposed on the first ten thousand dollars (per calendar year) of gross receipts less the amount awarded as cash or merchandise prizes.

(3) Amusement games: two percent of gross receipts less the amount awarded as prizes. The city shall use the revenue from such tax to pay the actual costs of enforcement of this chapter and Chapter 9.46 RCW by law enforcement.

(4) Punch boards and/or pull-tabs: five percent of gross receipts.

(i) Special Rule. When punch boards and/or pull-tabs are operated by a charitable or nonprofit organization, the tax shall be ten percent of gross receipts less the amount awarded as cash or merchandise prizes.

(5) Social card games, including but not limited to house banked social card games; ~~twenty-one~~ percent of gross revenue. The city of Kirkland prohibits social card games as a commercial stimulant except as allowed under KMC 7.48.018.

(6) Contests of chance: seven percent of gross receipts. For purposes of this subsection, "contests of chance" shall mean gambling activities conducted at a "fund raising event" meeting the requirements of Chapter 9.46 RCW, other than the gambling activities listed above in this section. Bingo, raffles, amusement games, punch boards and/or pull-tabs, or social card games shall be taxed at the specific rates provided hereinabove, even if such activity was conducted as part of a fund raising event.

(b) Exemption for Certain Bingo or Amusement Games. A charitable or nonprofit organization, having no paid operating or management personnel, shall be exempt from the tax imposed under subsections (a)(1) and (a)(3) of this section so long as such organization receives no more than five thousand dollars per year in gross receipts from bingo or amusement games, or a combination thereof, less the amount awarded as cash or merchandise prizes.

(c) Lien. Taxes imposed under this chapter 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. 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 4. The tax rate set forth in Kirkland Municipal Code Section 7.48.020(a)(5), which is amended by this ordinance, shall remain in force and effect until the rate set forth in this ordinance goes into effect.

Section 5. If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of this Section, or the application of the provision to other persons or circumstances is not affected.

Section 6. This Ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication, as required by law. The limited house banked social card game authorization set forth in Section 2 of this ordinance and the tax decrease on social card games set forth in Section 3 of this ordinance shall take effect on June 1, 2011.

Passed by majority vote of the Kirkland City Council in open meeting this 1st day of February, 2011.

Signed in authentication thereof this 1st day of February, 2011.

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MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to Form:

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City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4292

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO GAMBLING.

SECTION 1. Amends Kirkland Municipal Code (KMC) Section (S)7.48.017 relating to prohibition of certain card rooms.

SECTION 2. Adds a new Section 7.48.018 to the KMC relating to house banked social card games.

SECTION 3. Amends KMC Section 7.48.020 relating to the tax rate imposed on gambling activities.

SECTION 4. Provides for continuation of the existing tax rate until the new tax rate takes effect.

SECTION 5. Provides a severability clause for the ordinance.

SECTION 6. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date of the ordinance as five days after publication of the summary and sets June 1, 2011 as the effective dates for Sections 2 and 3 of the Ordinance.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 1st day of February, 2011.

I certify that the foregoing is a summary of Ordinance 4292 approved by the Kirkland City Council for summary publication.

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City Clerk