

ORDINANCE NO. 303

AN ORDINANCE, relating to gambling; Repealing Ordinance No. _____; providing for the taxation of gambling activities; establishing the rate of taxation; and, imposing penalties for violation as authorized by RCW 9.46.192.

BE IT ORDAINED, by the Town Council of the Town of Yacolt, Washington, as follows:

Section 1. Repealer: That Yacolt Ordinance _____ and any other Yacolt ordinances in conflict herewith are hereby repealed.

Section 2. Adoption by Reference: The following Washington Statutes are adopted by reference as and for a portion of the Gambling Ordinance of this Town as if set forth in full herein:

RCW 9.46.150
RCW 9.46.170
RCW 9.46.185
RCW 9.46.190
RCW 9.46.195
RCW 9.46.196
RCW 9.46.198
RCW 9.46.230(5)
RCW 9.46.240

The amendment, addition or repeal by the Washington Legislature of any Section of any of the adopted Statutes set forth above shall be deemed to amend this Ordinance and the Statutes contained in this Ordinance which are adopted by reference, in conformity with the amendment, addition or repeal, and it shall not be necessary for the legislative authority of this Town to take any action with respect to such addition, amendment, or repeal.

Section 3. Definitions: For the purposes of this ordinance the words and terms used shall have the same meaning as each has under Chapter 218, Laws of 1973, 1st Ex. Sess. and Chapter 9.46 RCW, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or the context in which they are used herein clearly indicates that they be given some other meaning.

Section 4. Taxes Imposed - Amounts: There is hereby levied a tax upon all persons, associations, and organizations who conduct or operate gambling activities, including bingo and raffle games, amusement games and punch boards and pull-tabs, within the Town of Yacolt, Washington, and who have been duly licensed by the

Washington State Gambling Commission to conduct or operate such gambling activities, which tax shall be paid on the following gambling activities in the following respective amounts:

- A. BINGO AND RAFFLE GAMES: Any bingo or raffle activity, a tax computed at the rate of ten percent (10%) of the difference between the gross revenue received from the conduct of such activity and the amount paid for or as prizes in the conduct of such activity; Provided, however, that no tax shall be imposed under the authority of this ordinance on bingo or raffles when such activity or any combination thereof are conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.020(3).
- B. AMUSEMENT GAMES: Any amusement game, a tax computed at two percent (2%) of the gross revenue less the amount paid for as prizes; Provided, however, that no tax shall be imposed under the authority of this ordinance on Amusement Games when such activity is conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.020(3).
- C. PUNCH BOARD OR PULL-TAB: Any punch board or pull-tab, a tax computed at the rate of ~~three~~ three percent (3%) of the gross receipts from the conduct of such activity; Provided, however, that no tax shall be imposed under the authority of this Ordinance on punch boards or pull-tabs when such activities are conducted by any bona fide charitable or non-profit organization as defined in RCW 9.46.020(3).

Section 5. Prohibited Gambling Activities: All gambling and gambling activities within the Town of Yacolt are prohibited with the following exceptions:

- A. Those gambling activities taxed under Section 4 of this Ordinance, including bingo and raffles, amusement games, punch boards and pull-tabs.
- B. All lawful gambling for which no license is required under Chapter 9.46 Revised Code of Washington.
- C. Any other gambling which is lawful by law and which does not require a license under Chapter 9.46 Revised Code of Washington, including but not limited to the Washington State Lottery as defined in Chapter 67.70 Revised Code of Washington.

Section 6. Tax to Be Computed and Paid Quarterly - Exceptions: Each of the various taxes imposed by this ordinance shall be computed on the basis of activity during each calendar quarter

year, and shall be due and payable in quarterly installments, and the remittance, together with return forms, shall be made to the Town of Yacolt, Washington, on or before the last day of the month next succeeding the quarterly period in which the tax is accrued: That is on January 31, April 30, July 31, and October 31, of each year; Provided, that the following exceptions to this payment schedule shall be allowed or required:

- A. Whenever any person, association, or organization taxable hereunder, conducting or operating a taxable activity on a regular basis discontinues operation of that taxable activity for a period of more than four (4) consecutive weeks, or quits business, sells out, or otherwise disposes of the business, or terminates the business, any tax due shall become due and payable, and such taxpayer shall, within ten (10) days thereafter, make a return and pay the tax due.
- B. Whenever it appears to the Town of Yacolt that the collection of taxes from any person, association, or organization may be in jeopardy, the Town of Yacolt, after not less than ten (10) days notice to the taxpayer, may require the taxpayer to remit taxes and returns at shorter intervals than quarterly or annually, as the Town of Yacolt shall deem appropriate under the circumstances.
- C. Whenever reports required by the Washington State Gambling Commission under the provisions of RCW 9.46 are required on less than a quarterly basis, any person, association, or organization taxable hereunder shall report to the Town of Yacolt on the same basis.

Section 7. Administration and Collection of Tax: Administration and collection of the various taxes imposed herein shall be the responsibility of the Yacolt Town Clerk/Treasurer, under the supervision of the Mayor and the Town Council. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the Town. The taxpayer shall be required to swear, affirm and certify under penalty of perjury under the laws of the State of Washington that the information given in the return is true, accurate, and complete. The Town Clerk/Treasurer is authorized, but not required, to mail to taxpayers the necessary return forms. Failure of the taxpayer to receive such a form shall not excuse a taxpayer from making the return and timely paying all taxes due. The Town Clerk/Treasurer shall make forms available to the public in reasonable numbers at Town Hall during regular business hours.

In addition to the return form, a copy of the taxpayer's quarterly report to the Washington State Gambling Commission

required by WAC 230-08 for the period in which the tax accrued shall accompany remittance of the tax amount due.

Section 8. Method of Payment: Taxes payable hereunder shall be remitted to the Town of Yacolt on or before the time required, by bank draft, certified check, cashier's check, personal check, money order, or in cash. If payment is made by draft or check, the tax shall not be deemed paid until the draft or check is honored in the usual course of business, nor shall the acceptance of any sum by the Town of Yacolt be an acquittance or discharge of the tax unless the amount paid is the full amount due. The return and a copy of the quarterly report to the Washington State Gambling Commission shall be filed in the office of the Town of Yacolt after notation by the office upon the return of the amount actually received from the taxpayer.

Section 9. Failure to Make Timely Payments of Tax or Fee: If full payment of any tax or fee due under this ordinance is not received by the Town of Yacolt on or before the date due, there shall be added to the amount due a penalty fee as follows:

- A. 1 - 10 days late: 5% of tax due
- B. 11 - 20 days late: 10% of tax due
- C. 21 - 31 days late: 15% of tax due
- D. 32 - 60 days late: 20% of tax due

but in no event shall the penalty amount be less than Twenty-Five Dollars (\$25). In addition to this penalty the Town of Yacolt may charge the taxpayer interest of one percent (1%) of all taxes and fees due for each thirty (30) day period, or portion thereof, that said amounts are past due.

Failure to make payment in full of all tax amounts, penalties and interest, within sixty (60) days following the day the tax amount initially became due shall be both a civil and criminal violation of this section.

Section 10. Notice of Intention to Engage in Activity to be Filed: In order that the Town of Yacolt may identify those persons who are subject to taxation under this ordinance, each person, association, or organization shall file with the Town of Yacolt a sworn "Declaration of Intent" to conduct an activity taxable under this ordinance upon a form to be prescribed by the Town of Yacolt together with a copy of the license issued therefor by the Washington State Gambling Commission. The filing shall be made not later than five days prior to conducting or operating the taxable activity or twenty days after the effective

date of this ordinance if the activity is being conducted prior to its adoption. No fee shall be charged for such filing, which is not for the purpose of regulation of this activity but for the purposes of administration of this taxing ordinance only. Failure to timely file shall not excuse any person, association, or organization from any tax liability.

Section 11. Records Required: Each person, association, or organization engaging in an activity taxable under this ordinance shall maintain records respecting that activity which truly, completely, and accurately disclose all information necessary to determine the taxpayer's tax liability hereunder during each base tax period. Such records shall be kept and maintained for a period of not less than three (3) years. In addition, all information and items required by the Washington State Gambling Commission under WAC 230-08, and the United States Internal Revenue Service respecting taxation, shall be kept and maintained for the periods required by those agencies.

The premises and paraphernalia, and all books, records and other items required to be kept and maintained under this section and under RCW 9.46, and any person, association, or organization receiving profits therefrom or having any interest therein, shall be subject to and immediately made available for, inspection and audit at any reasonable time, with or without notice, upon demand by the Town of Yacolt or its designee for the purpose of determining compliance or non-compliance with this ordinance.

A reasonable time for the purposes of this section shall be:

- A. If the items or records to be inspected or audited are located anywhere upon a premises any portion of which is regularly open to the public or members and guests, then at any time when the premises are so open, or at which they are usually open; or
- B. If the items or records to be inspected or audited are not located upon a premises set out in subsection A above, then any time between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday.

Where the taxpayer does not keep all of the books, records, or items required to be kept or maintained under this section in this jurisdiction, the taxpayer shall either:

- A. Produce all of the required books, records, or items within the Town of Yacolt for such inspection within five (5) days following a request of the Town of Yacolt to do so; or

- B. Bear the actual cost of the inspection by the Town of Yacolt or its designee, at the location at which such books, records or items are located, provided that a taxpayer choosing to bear these costs shall pay in advance to the Town of Yacolt the estimated costs thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals, and incidental expenses. The actual amount due, or to be refunded, for expenses shall be determined following said examination of the books, records or items required to be kept or maintained under this Section.

A taxpayer who fails, neglects or refuses to produce such books, records and other items, either within or without this jurisdiction, in addition to being subject to other civil and criminal penalties provided by this ordinance or otherwise, shall be subject to a jeopardy tax assessment by the Town Clerk/Treasurer.

Said jeopardy tax assessment shall be deemed prima facia correct and shall be the amount of fee or tax owing to the Town of Yacolt by the taxpayer unless the taxpayer can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the Town Clerk/Treasurer of the amount of tax so determined by jeopardy tax assessment, together with any penalty and/or interest, and the total of such amounts shall thereupon become immediately due and payable.

Section 12. Overpayment or Underpayment of Tax: If, upon application by a taxpayer for a refund or an audit of his records, or upon any examination of the returns or records by the Town of Yacolt, it is determined that within five (5) years immediately preceeding receipt of the application from the taxpayer for a refund, or an audit, or in the absence of such application, within five (5) years immediately preceeding the commencement by the Town Clerk/Treasurer of such examination:

- A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the Town within such period of five (5) 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 with respect to any excess amounts paid more than five (5) 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 Town Clerk/Treasurer shall mail a statement to the taxpayer showing the balance due, including the tax amount or penalty assessment and fees, and it shall be a separate, additional violation of the provisions of this ordinance, both civil and

criminal, if the taxpayer fails to make payment in full within ten (10) calendar days of such mailing.

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

Section 14. Tax Additional to Others: The tax herein levied shall be in addition to any license fee or tax imposed or levied under any law or any other ordinance of the Town of Yacolt, except as herein otherwise expressly provided.

Section 15. Taxes, Penalties and Fees Constitute Debt to Municipality: Any tax due and unpaid under this ordinance and all penalties or interest shall constitute a debt to the Town of Yacolt, a municipal corporation, and may be collected by court proceedings the same as any other debt in like amount, but shall be in addition to all other existing remedies.

Section 16. Limitations on Right of Recovery: The right of recovery by the Town from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of five (5) calendar years from the date said tax became due. The right of recovery against the Town because of overpayment of tax by any taxpayer shall be outlawed after the expiration of five (5) calendar years from the date such payment was made.

Section 17. Violation - Penalties: Except as otherwise provided within this ordinance, any person, association or organization violating or failing to comply with any of the provisions of this ordinance, upon conviction thereof, is guilty of a misdemeanor, and any person, association or organization so convicted shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00), or by imprisonment in the county jail not to exceed ninety (90) days, or both such fine and imprisonment.

Any taxpayer who engages in, or carries on, any gambling activity subject to a tax hereunder, without having complied with the provisions of this ordinance or in violation of any of the provisions of this ordinance, shall be guilty of a violation of this ordinance for each day or portion of such day during which the gambling activity is carried on.

Section 18. Revenue: Any revenue collected from the taxes imposed hereunder shall be used primarily by the Town of Yacolt

for the purpose of the enforcement of the provisions of chapter 9.46 RCW, the rules and regulations of the Washington State Gambling Commission, and this ordinance.

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

PASSED AND APPROVED BY THE TOWN OF YACOLT, WASHINGTON, this 21st day of June, 1988.

Section 20 Effective date: This ordinance shall take effect and be in force October 1, 1988, after its passage and publication as provided by law.

AYES Councilmembers- Jolma, Messer, Grooms, Alexander

NAYES None

ABSENT None

MAYOR Jim Worthington ATTEST Gene Christensen