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ORDINANCE NO. 827

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, REVISING THE RESPONSIBILITY, PENALTY AND INTEREST RATES, AND DELINQUENCY SCHEDULES FOR LATE PAYMENT OF GAMBLING TAXES AND UTILITY TAXES EFFECTIVE JANUARY 1, 2019; AMENDING SHORELINE MUNICIPAL CODE 3.30 AND 3.32.

WHEREAS, the City Council finds that the City should continue to assess a penalty for late payment of gambling taxes and utility taxes; and

WHEREAS, subsequent to the adoption of Ordinance No. 808, through an evaluation of the business process to implement *FileLocal's* standard configuration of its online tax filing option it has been determined that the City must have penalty and interest rates and a delinquency schedule that is consistent with that prescribed for business & occupation taxes; and

WHEREAS, the City Council finds that it is in the best interest of the businesses conducting business in Shoreline that all assessments will be made in accordance with RCW 82.32.050 and 82.32.090 as they now exist or may be amended and allowing for implementation of *FileLocal's* standard configuration to proceed;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Amendment – Chapter 3.30.040 *Administration.* The City of Shoreline hereby amends Shoreline Municipal Code 3.30.040 as set forth below:

> The administration and collection of the tax imposed by SMC 3.30.010 shall be by the ~~city clerk~~Administrative Services Director and pursuant to the rules and regulations of the Washington State Gambling Commission. The ~~city clerk~~Administrative Services Director is instructed and authorized to adopt appropriate reporting requirements, to ensure the effective administration of license holders exempt from the payment of the tax and to make such further rules and regulations for the purpose of carrying out the provisions of this chapter.

Section 2. Amendment – Chapter 3.30.050 *Charitable, nonprofit organization – Declaration of intent to conduct gambling activity.* The City of Shoreline hereby amends Shoreline Municipal Code 3.30.050 as set forth below:

> For the purpose of identifying the persons, associations and organizations that shall be subject to the tax imposed by SMC 3.30.010, any bona fide charitable or nonprofit corporation intending to conduct or operate any bingo game, raffle or amusement game which requires licensing as provided in and authorized by Chapter 9.46 RCW, as the same now exists or may be hereafter amended, shall, prior to commencement of any such activity, file with the ~~city clerk~~Administrative Services Director a sworn declaration of intent to conduct or operate such activity, together with a copy of the license issued in

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accordance with Chapter 9.46 RCW, as the same now exists or may be hereafter amended, as amended. Thereafter, for any period covered by such state license or any renewal thereof, any such licensed bona fide charitable or nonprofit corporation shall, on or before the ~~fifteenth~~thirtieth day of the month following the end of the quarterly period in which the tax accrued, file with the ~~city clerk~~Administrative Services Director a sworn statement, on a form to be provided and prescribed by the ~~city clerk~~Administrative Services Director, for the purpose of ascertaining the tax due for the preceding quarterly period.

Section 3. Amendment – Chapter 3.30.060 *Due date - Delinquency.* The City of Shoreline hereby amends Shoreline Municipal Code 3.30.060 as set forth below:

A. The tax imposed ~~by~~under SMC 3.30.020 shall be due and payable in quarterly installments, and remittance therefor shall accompany ~~such~~a return on a form approved by the Administrative Services Director and be made on or before the thirtieth day of the month next succeeding the quarterly period in which the tax accrued. Quarterly reporting periods shall begin the first day of the months of January, April, July and October.

B. ~~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 paid on or before the thirtieth day of the second month next succeeding the quarterly period in which the tax accrued, 10 percent with a minimum penalty of $5.00;~~

~~2. If paid on or before the sixtieth day of the second month next succeeding the quarterly period in which the tax accrued, 15 percent with a minimum penalty of $10.00;~~

~~3. Failure to make payment by the sixtieth day of the second month succeeding the quarterly period in which the tax accrued shall result in a penalty of 20 percent with a minimum penalty of $15.00.~~If payment of any tax due on a return to be filed by a taxpayer is not received by the Administrative Services Director by the due date, the Administrative Services Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.

C. If the Administrative Services Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.

D. If a citation or criminal complaint is issued by the Administrative Services Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

E. If the Administrative Services Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended

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F. If the Administrative Services Director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the Administrative Services Director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.

G. The penalties imposed under subsections (B) through (E) above of this section can each be imposed on the same tax found to be due. This provision does not prohibit or restrict the application of other penalties authorized by law.

H. The Administrative Services Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

I. For the purposes of this section, "return" means any document a person is required by the City of Shoreline to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.

J. If incorporation into the City of Shoreline Municipal Code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

Section 4. Amendment – Chapter 3.30.070 ***Financial records.*** The City of Shoreline hereby amends Shoreline Municipal Code 3.30.070 as set forth below:

It shall be the responsibility of all officers, directors and managers of any corporation conducting any gambling activities subject to taxation under this chapter to make available at all reasonable times such financial records as the ~~city clerk~~Administrative Services Director may require to determine full compliance with this chapter.

Section 5. New Section – Chapter 3.30.100 ***Underpayment of tax, interest, or penalty - Interest.*** The City of Shoreline hereby adds Shoreline Municipal Code 3.30.100 as set forth below:

A. If, upon examination of any returns, or from other information obtained by the Administrative Services Director, it appears that a tax or penalty less than that properly due has been paid, the Administrative Services Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Administrative Services Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Administrative Services Director may provide in writing.

B. The Administrative Services Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended. If this provision is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

Section 6. Amendment – Chapter 3.32.050 ***Administration and audit.*** The City of Shoreline hereby amends Shoreline Municipal Code 3.32.050 as set forth below:

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A. The administration and collection of the tax imposed by SMC 3.32.010 shall be by the ~~city manager or manager's designee~~Administrative Services Director. The ~~manager~~Administrative Services Director is instructed and authorized to adopt appropriate reporting requirements and to make such further rules and regulations for the purpose of carrying out the provisions of this chapter.

B. Each taxpayer shall keep records reflecting the amount of the taxpayer's gross income from sales and services within the city and such records shall be open at all reasonable times to the inspection of the ~~finance d~~Administrative Services Director's duly authorized agent upon reasonable notice for verification of tax returns. In the event that such audit discloses a discrepancy of more than 10 percent between the amount reported by the taxpayer and the actual gross revenues collected by the taxpayer, the taxpayer shall reimburse the city for all costs associated with said audit.

Section 7. Amendment – Chapter 3.32.060 *Due date - Delinquency.* The City of Shoreline hereby amends Shoreline Municipal Code 3.32.060 as set forth below:

A. The tax imposed under SMC 3.32.010 shall be due and payable in monthly or quarterly installments at the taxpayer's discretion, and shall accompany a return on a form approved by the ~~finance d~~Administrative Services Director and be made on or before the thirtieth day of the month ~~following~~next succeeding the reporting period in which the tax accrued. Quarterly reporting periods shall begin the first day of the months of January, April, July and October.

B. ~~If payment is not made by the fifteenth day following the due date there shall be a penalty of 10 percent. This penalty shall increase to 15 percent on the thirtieth day following the due date and 20 percent on the forty-fifth day following the due date if payment is not made.~~If payment of any tax due on a return to be filed by a taxpayer is not received by the Administrative Services Director by the due date, the Administrative Services Director shall add a penalty in accordance with RCW 82.32.090(1), as it now exists or as it may be amended.

C. If the Administrative Services Director determines that any tax has been substantially underpaid as defined in RCW 82.32.090(2), there shall be added a penalty in accordance with RCW 82.32.090(2), as it now exists or as it may be amended.

D. If a citation or criminal complaint is issued by the Administrative Services Director for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty in accordance with RCW 82.32.090(3), as it now exists or as it may be amended.

E. If the Administrative Services Director determines that all or any part of a deficiency resulted from the taxpayer's failure to follow specific written tax reporting instructions, there shall be assessed a penalty in accordance with RCW 82.32.090(5), as it now exists or as it may be amended

F. If the Administrative Services Director finds that all or any part of the deficiency

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resulted from an intent to evade the tax payable, the Administrative Services Director shall assess a penalty in accordance with RCW 82.32.090(6), as it now exists or as it may be amended.

G. The penalties imposed under subsections (B) through (E) above of this section can each be imposed on the same tax found to be due. This provision does not prohibit or restrict the application of other penalties authorized by law.

H. The Administrative Services Director shall not impose both the evasion penalty and the penalty for disregarding specific written instructions on the same tax found to be due.

I. For the purposes of this section, "return" means any document a person is required by the City of Shoreline to file to satisfy or establish a tax or fee obligation that is administered or collected by the City, and that has a statutorily defined due date.

J. If incorporation into the City of Shoreline Municipal Code of future changes to RCW 82.32.090 is deemed invalid, then the provisions of RCW 82.32.090 existing at the time this ordinance is effective shall apply.

Section 8. New Section – Chapter 3.32.100 ***Underpayment of tax, interest, or penalty - Interest.*** The City of Shoreline hereby adds Shoreline Municipal Code 3.32.100 as set forth below:

A. If, upon examination of any returns, or from other information obtained by the Administrative Services Director, it appears that a tax or penalty less than that properly due has been paid, the Administrative Services Director shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Administrative Services Director shall notify the person by mail of the additional amount, which shall become due and shall be paid within thirty (30) days from the date of the notice, or within such time as the Administrative Services Director may provide in writing.

B. The Administrative Services Director shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended. If this provision is held to be invalid, then the provisions of RCW 82.32.050 existing at the effective date of this ordinance shall apply.

Section 9. Corrections by City Clerk or Code Reviser. Upon approval of the City Attorney, the City Clerk and/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 10. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

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Section 11. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect on January 1, 2019.

PASSED BY THE CITY COUNCIL ON JUNE 25, 2018

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk

APPROVED AS TO FORM:

Margaret King
City Attorney

Date of Publication: June 28, 2018
Effective Date: January 1, 2019