

ORDINANCE NO. 115

AN ORDINANCE RELATING TO GAMBLING, PROVIDING FOR, AND LEVYING, A TAX UPON THE INCOME DERIVED FROM THE CONDUCT OF CERTAIN ACTIVITIES: PROVIDING FOR NECESSARY ADMINISTRATIVE PROCEDURES FOR THE COLLECTION AND ENFORCEMENT OF SUCH A TAX: PROVIDING PENALTIES FOR FAILURE TO TIMELY PAY THE TAX: AND PROVIDING FOR THE EFFECTIVE DATE OF THIS ORDINAICE.

WHEREAS, Chapter 218, Laws of 1973, 1st Ex. Sess. and Chapter 9.46 RCW, each as amended, allows qualified persons licensed by the Washington State Gambling Commission to conduct certain gambling activities within this jurisdiction subject to compliance with state law and the rules of the Washington State Gambling Commission, unless the particular gambling activity has been specifically prohibited by action of the appropriate local agency pursuant to RCW 9.46.295; and

WHEREAS, RCW 9.46.210 makes it the duty of law enforcement officials of this jurisdiction, among others, to enforce the provisions of Chapter 9.46 RCW imposing a financial burden upon this County; and

WHEREAS, RCW 9.46.110 empowers each county to, by ordinance, provide for the taxing of any gambling activity authorized by RCW 9.46.030 which is conducted within its jurisdiction subject to certain maximum tax rates;

NOW, THEREFORE, the Board of County Commissioners of Walla Walla County, Washington, does ordain:

Section 1. DEFINITIONS. For the purpose 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 2. PERSONS SUBJECT TO TAX - TAX RATES. There is hereby levied upon all persons, associations and organizations conducting or operating within the unincorporated ares of Walla Walla County any of the activities listed below a tax in the

following amounts to be paid to the County of Walla Walla, Washington:

- (a) Bingo, in the amount of the gross receipts therefrom, less the amount of money paid in cash, and paid for merchandise, actually awarded as prizes during the taxable period, multiplied by the rate of ten percent (10%).
- (b) Raffles, in the amount of the gross receipts therefrom, less the amount of money paid in cash, and paid for merchandise, actually awarded as prizes during the taxable period, multiplied by the rate of ten percent (10%).
- (c) Amusement games, in the amount of the gross receipts therefrom, less the amount of money paid in cash, and paid for merchandise, actually awarded as prizes during the taxable period, multiplied by the rate of ten percent (10%).
- (d) Any punchboards or pull tabs, in the amount of five percent (5%) of the gross receipts directly from the operation of the punchboards or pull tabs themselves.
- (e) Card playing, in the amount of ten percent (10%) of the gross receipts received as fees charged persons for the privilege of playing in card games.

Section 3. 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, shall be due and payable in quarterly installments, and remittance therefor, together with return forms, shall be made to the County of Walla Walla, Washington, on or before the last day of the month next succeeding the quarterly period in which the tax accrued, that is, on January 31, April 30, July 30 and October 31 of each; PROVIDED, that the following exceptions to this payment schedule shall be allowed, or required:

- (a) Except as provided in (b) below, 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 its business, or terminates the business, any tax due hereunder shall become due and payable, and such taxpayer shall, within ten (10) days thereafter,

make a return and pay the tax due.

- (b) It is recognized that some bona fide charitable or bona fide nonprofit organization taxpayers will be conducting or operating taxable activities only upon an occasional and random basis. Except as provided in (c) below, when such a taxpayer conducts only one taxable activity during any calendar quarter, the duration of each such activity does not exceed seven (7) consecutive calendar days, and the gross receipts therefrom do not exceed Two Hundred Fifty Dollars (\$250.00) per quarter, that taxpayer need not remit the tax due with a return therefor until on or before January 31, of the year following that year in which the activity took place. Such returns shall be made upon a special form to be supplied by the County Treasurer or his designate. First payment and returns under this subsection shall be made on or before January 31, 1976.
- (c) Whenever it appears to the County Treasurer or his designate that the collection of taxes from any person, association or organization may be in jeopardy, that officer, after not less than fifteen (15) days notice to the taxpayer, is authorized to require that taxpayer to remit taxes and returns at such shorter intervals than quarterly or annually, as he shall deem appropriate under the circumstances.

Section 4. ADMINISTRATION AND COLLECTION OF TAX. Administration and collection of the various taxes imposed by this ordinance shall be the responsibility of the County Treasurer. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the County Treasurer. The taxpayer shall be required to swear and affirm that the information given in the return is true, accurate and complete.

The County Treasurer, or his designate, is authorized, but not required to mail to taxpayers forms for returns. 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 County Treasurer shall make forms available to the public in reasonable numbers in his office 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 5. METHOD OF PAYMENT. Taxes payable hereunder shall be remitted to the County Treasurer 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 County Treasurer be an acquittance or discharge of the tax unless the amount paid is the full amount due. The return, and copy of quarterly report to the Washington State Gambling Commission, shall be filed in the office of the County Treasurer after notation by that office upon the return of the amount actually received from the taxpayer.

Section 6. FAILURE TO MAKE TIMELY PAYMENT OF TAX OR FEE. If full payment of any tax or fee due under this ordinance is not received by the County Treasurer on or before the date due, there shall be added to the amount due a penalty fee as follows:

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|-------------------------|----------------|
| (a) 1 - 10 days late -  | 6% of tax due  |
| (b) 11 - 20 days late - | 8% of tax due  |
| (c) 21 - 31 days late - | 10% of tax due |
| (d) 32 - 60 days late - | 12% of tax due |

but in no event shall the penalty amount be less than Five Dollars (\$5.00). In addition to this penalty, the County Treasurer 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, and penalties, within sixty (60) days following the day the tax amount initially became due shall be both a civil and a criminal violation of this section.

Section 7. NOTICE OF INTENTION TO ENGAGE IN ACTIVITY TO BE FILED. In order that the county may identify those persons who are subject to taxation under this ordinance, each person, association or organization shall file with the County Treasurer a sworn Declaration of Intent to conduct an activity taxable under this ordinance upon a form to be prescribed by the County Treasurer, together with a copy of the license issued therefor by the Washington State Gambling Commission. The filing shall be made not later than ten (10) days prior to conducting or operating the taxable activity, or twenty (20) days after the effective date of this ordinance if the activity is being conducted prior to the adoption hereof. 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 8. 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.

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 demand by the County Treasurer or his designees, for the purpose of enforcing the provisions of this taxing ordinance.

Where a taxpayer does not keep all of the books, records or items required to be kept or maintained under this section in this jurisdiction so that the County Treasurer may examine them conveniently, the taxpayer shall either:

- (a) Produce all the required books, records or items within this jurisdiction for such inspection within seven (7) days following a request of the local official that he do so; or
- (b) Bear the actual cost of inspection by the County Treasurer or his 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 County Treasurer the estimated cost 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 the expenses shall be determined following said examination of the records.

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 ordinance, shall be subject to a jeopardy fee or tax assessment by the County Treasurer.

This penalty fee or jeopardy assessment shall be deemed prima facie correct and shall be the amount of fee or tax owing by the taxpayer unless he can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the County Treasurer 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.

Section 9. 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 County Treasurer that within three (3) years immediately preceding receipt by the County Treasurer of the application by the taxpayer for a refund, or an audit, or, in the absence of such an application, within the three (3) years immediately preceding the commencement by the County 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 county within such period of three (3) 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 three (3) 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 County Treasurer 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 ordinance, both civil and criminal, if the taxpayer fails to make payment in full within ten (10) calendar days of such mailing.

Section 10. FAILURE TO MAKE RETURN. If any taxpayer fails, neglects or refuses to make and file his return as and when re-



quired under this ordinance, the County 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 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.

Section 11. TAX ADDITIONAL TO OTHERS. The tax herein levied shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of Walla Walla County, Washington, except as herein otherwise expressly provided.

Section 12. TAXES, PENALTIES AND FEES CONSTITUTE DEBT TO COUNTY. Any tax due and unpaid under this ordinance and all penalties or fees shall constitute a debt to the County of Walla Walla, and may be collected by court proceedings the same as any other debt in like amount which shall be in addition to all other existing remedies.

Section 13. LIMITATION ON RIGHT TO RECOVERY. The right of recovery by the County from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of three (3) calendar years from the date said tax became due. The right of recovery against the County because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three (3) calendar years from the date such payment was made.

Section 14. VIOLATIONS - PENALTIES. Any person violating or failing to comply with any of the provisions of this ordinance or any lawful rule or regulation adopted by the county pursuant thereto, upon conviction thereof, shall be guilty of a misdemeanor.

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 shall be guilty of a violation of this ordinance shall be guilty of a violation of this ordinance for each day during which the gambling activity is carried on.

Section 15. SEVERABILITY. If any provision or section of this ordinance shall be held void or unconstitutional, all other parts, provisions and sections of this ordinance not expressly so held to be void or unconstitutional shall continue in full force and effect.

Section 16. EFFECTIVE DATE. This ordinance shall take effect

and be in force thirty (30) days from and after its passage.

PASSED by the Board of County Commissioners, Walla Walla County, Washington, this 5th day of August, 1975.



James R. Stonciper  
Eugene V. Kelly  
Franklin F. Cline  
County Commissioners

ATTEST:

Theodore S. Bjerke  
County Auditor and ex officio  
Clerk of the Board

FILED FOR RECORD  
IN WALLA WALLA CO. WASH.  
BY Board of County Commissioners  
AUG 5 4 29 PM '75  
RECORDED IN VOL 1  
OF Ordinance PAGE 284  
THEODORE S. BJERKE  
AUDITOR