

**CITY COUNCIL AGENDA ITEM**  
CITY OF SHORELINE, WASHINGTON

**AGENDA TITLE:** Ordinance No. 541, Amending Shoreline Municipal Code 3.30.060 by Modifying the Delinquency Penalties for Late Payment of Gambling Taxes  
**DEPARTMENT:** Finance  
**PRESENTED BY:** Debbie Tarry, Finance Director

**PROBLEM/ISSUE STATEMENT:**

Shoreline gambling establishments have requested that the City modify the delinquency penalties for late payment of gambling taxes as they believe that the City's penalties are too onerous. In response, the City surveyed the late payment penalty policies of 12 Washington cities and two counties. The City's current delinquent payment penalties were adopted in 1995. Currently the City of Shoreline assesses late fees in the following manner:

- ◆ Tax payments 1 - 15 days late, 10% of payment
- ◆ Tax payments 16 - 30 days late, 15% of payment
- ◆ Tax payments over 30 days late, 20% of payment

As a result of the research completed by staff, staff is recommending that the City revise its delinquent payment penalties to be:

- ◆ Tax payments 1 - 30 days late, 10% of payment
- ◆ Tax payments 30 - 60 days late, 15% of payment
- ◆ Tax payments in excess of 60 days late, 20% of payment

**FINANCIAL IMPACT:**

The recommended changes may result in lower penalty fees. Even though this is the case, the City does not anticipate or budget for gambling tax delinquent payment penalties since the City prefers to have all gambling taxes paid on time. Income generated from late payment penalties is not relied upon or perceived to be a revenue option. In 2008 the City collected \$21,068 in late penalty fees.

**RECOMMENDATION**

Staff recommends that Council adopt Ordinance No. 541, amending Shoreline Municipal Code 3.30.060 to modify the delinquency penalties for late payment of quarterly gambling taxes.

Approved By: City Manager  City Attorney 

## **BACKGROUND**

The City collects gambling taxes on bingo, raffles, amusement games, pull-tabs, and social card game rooms. Quarterly gambling tax payments are due on the 30<sup>th</sup> of the month following the end of each quarter. Failure to make payment by the deadline results in a penalty. The current penalties are based on the number of days late that the quarterly tax payment is received. The following table summarizes the current delinquent payment penalties along with an example of the impact that each penalty level has on the average gambling tax payment:

Number of Days Late	1 to 15	16 to 30	30+
Penalty Percentage	10%	15%	20%
Resulting Penalty on Average Pull Tab Quarterly Payment (\$1,750)	\$175.00	\$262.50	\$350.00
Resulting Penalty on Average Card Room Quarterly Payment (\$117,000)	\$11,700.00	\$17,550.00	\$23,400.00

The City utilizes late payment penalty procedures to provide an incentive for gambling establishments to pay on time as there is an impact to the City's cash flow when taxpayers fail to make their payment on time. The current late payment penalty schedule was adopted in August 1995 and has remained unchanged. Historically the majority of Shoreline gambling operators pay their taxes on time, however there are a few, usually one to two establishments a year that do not. In these cases the City has implemented the penalties in accordance with the adopted policies, but has worked with each operator to establish a payment schedule to pay delinquent taxes and penalties. Staff believes that without some type of penalty policy, enforcement of tax payments would be very difficult.

## **DISCUSSION**

As mentioned earlier in this report, City staff surveyed the delinquent payment penalty provisions of 12 Washington cities and two counties that have gambling operations. The results of the survey showed that only two cities (Kenmore and Lakewood) have stronger late payment penalty policies than Shoreline. Conversely 11 cities and two counties (Auburn, Bremerton, Burien, Everett, Federal Way, King County, Mountlake Terrace, Renton, Snohomish County, SeaTac, Spokane and Tukwila) have late payment penalty policies that are less punitive than Shoreline. Attachment B has the listing of penalties for each of these jurisdictions.

The impact or punitive element of late payment penalties are established by two factors: the percentage of the late payment penalty and the timeframe of the delinquency. . The majority of the local governments that have less stringent late payment penalties, soften the impact by the lengthening the timeframe before the next higher penalty kicks in. A few cap the maximum percentage amount to 12% annually, some set 15% as the highest penalty. The more punitive penalty policies have a maximum rate of 25% plus an optional 1% per month additional penalty.

Staff has previously discussed with Council the increased obstacles Shoreline's gambling operators are experiencing as a result of legislative changes, economic conditions, tribal casinos and temporary infrastructure disruptions. In addition, Shoreline's late tax payment penalties are, in comparison with the surveyed local governments, a bit more punitive.

As a result staff is recommending that the City Council modify our delinquent penalties as follows:

<b>Number of Days Late</b>	<b>Current</b>	<b>Proposed</b>
<b>1 to 15</b>	10%	10%
<b>16 to 30</b>	15%	10%
<b>31 to 60</b>	20%	15%
<b>61 or more</b>	20%	20%

Using an average quarterly payment of \$117,000 for card room activity as an example, the differences in the current and proposed penalties are shown below:

<b>Number of Days Late</b>	<b>Current</b>	<b>Recommended Change</b>	<b>Difference</b>
<b>1 to 15</b>	\$11,700.00	\$11,700.00	\$0.00
<b>16 to 30</b>	\$17,550.00	\$11,700.00	\$5,850.00
<b>31 to 60</b>	\$23,400.00	\$17,550.00	\$5,850.00
<b>61 or more</b>	\$23,400.00	\$23,400.00	\$0.00

If the City Council approves the recommended changes in the City's penalty provisions tonight, the revised penalty will be effective for gambling tax payments for the first quarter of 2009 which are due April 30, 2009.

### **RECOMMENDATION**

Staff recommends that Council adopt Ordinance No. 541, amending Shoreline Municipal Code 3.30.060 to modify the delinquency penalties for late payment of quarterly gambling taxes.

### **ATTACHMENTS**

Attachment A – Ordinance No. 541

Attachment B – Comparison of delinquent payment penalties

**ORDINANCE NO. 541**

**AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON,  
REVISING THE DELINQUENCY PENALTIES FOR LATE PAYMENT  
OF QUARTERLY GAMBLING TAXES EFFECTIVE APRIL 30, 2009;  
AMENDING SHORELINE MUNICIPAL CODE 3.30.060.**

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

WHEREAS, the City's current late payment penalties are more stringent than many of the other cities and counties in the Puget Sound area that allow gambling activities; and,

WHEREAS, The City Council finds that the current provisions of the City's delinquent payment penalties for gambling taxes are too onerous and as such should be adjusted to decrease the financial impact to those making late payments; now therefore

**THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON,  
DOES ORDAIN AS FOLLOWS:**

**Section 1. Amendment.** Shoreline Municipal Code section 3.30.060 are amended as follows:

**3.30.060 Due date – Delinquency.**

A. The tax imposed by SMC 3.30.010 shall be due and payable in quarterly installments, and remittance therefor shall accompany such return and be made on or before the thirtieth day of the month next succeeding the quarterly period in which the tax accrued.

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 ~~fifteenth~~ 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 ~~prior to~~ on or before the ~~thirtieth~~ 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 ~~thirtieth~~ 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.

**Section 2. Publication, Effective Dates.** This ordinance shall take effect and be in full force and effect five days after publication.

**PASSED BY THE CITY COUNCIL ON April 27, 2009**

\_\_\_\_\_  
Mayor Cindy Ryu

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Scott Passey  
City Clerk

\_\_\_\_\_  
Ian Sievers  
City Attorney

Date of Publication:  
Effective Date:

<b>Auburn</b>	<b>Time Period</b>	<b>Penalty</b>
	Not Date Specific	NA
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. (Ord. 5673 § 1, 2002; Ord. 5013 § 2, 1997. Formerly 5.44.085.)		
In addition to any liability for civil remedies in favor of the city for collection of any delinquent taxes under the provisions of this chapter, and in addition to any penalties that might be imposed by the state, a violation of the provisions of this chapter is a misdemeanor punishable in accordance with ACC 1.24.010. (Ord. 5683 § 13, 2002; Ord. 5673 § 1, 2002; Ord. 2883 § 7, 1975. Formerly 5.44.090.)		
<b>Bremerton</b>	<b>Time Period</b>	<b>Penalty</b>
	1 - 30 Days	10%
	31-60 Days	15%
	61+	20%
May also charge 1% of all taxes and fees due for each 30 day period.		
<b>Burien</b>	<b>Time Period</b>	<b>Penalty</b>
	1 - 17 Days	10%
	18 - 40 Days	15%
	41+ Days	See Note Below
All delinquent taxes and applicable penalties shall accrue interest at the rate of 12 percent, compounded daily, beginning on the forty-first day after any applicable due date		
<b>Everett</b>	<b>Time Period</b>	<b>Penalty</b>
	16 - 45 Days	10%
	46 - 75 Days	15%
	76+	20%
<b>Federal Way</b>	<b>Time Period</b>	<b>Penalty</b>
	1 - 15 Days	10%
	15 - 30 Days	15%
May also charge 1% of all taxes and fees due for each 30 day period.		
Interest shall accrue, from the date such tax is due until paid in full, at a rate of 12 percent per annum, compounded daily, on the principal interest and penalties imposed pursuant to this subsection		
Failure to make payment by the last day of the second month succeeding the reporting period in which the tax accrued shall be both a criminal and civil violation of this section.		
<b>Kenmore</b>	<b>Time Period</b>	<b>Penalty</b>
	Any late payment	25%
In addition to an assessment of late penalties, any quarterly tax payment not paid by the due date shall bear interest at the greater of 12 percent per annum or the maximum legal rate. [Ord. 98-0049 § 3.]		

King County	Time Period	Penalty
	1 - 17 Days	10%
	18 - 40 Days	15%
	41+	violation of this section
Lakewood	Time Period	Penalty
	1 - 10 Days	10%
	11 - 20 Days	15%
	21 - 30 Days	20%
	31 - 60 Days	25%
In addition to the above penalty, the City will charge the taxpayer interest of all taxes due at the rate of one percent (1%) per month or portion thereof that said amounts are past due.		
Mountlake Terrace	Time Period	Penalty
	1 - 17 Days	10%
	17+	15%
Any person who shall fail or refuse to pay the tax as herein before required, or who shall willfully disobey any rule or regulation promulgated by the City of Mountlake Terrace hereunder, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than \$250.00. Any such fine shall be in addition to the tax required. Officers, directors and managers of any organization conducting gambling activities shall be jointly and severally liable for the payment of said tax and for payment of said tax and for the payment of any fine imposed hereunder. (Ord. 1011 § 5, 1975).		
Renton	Time Period	Penalty
	1 - 17 Days	10%
	18 - 40 Days	15%
Any delinquency of forty (40) days or more shall be deemed a violation of this Section.		
Any person, association or organization that shall fail, neglect or refuse to pay the tax herein required or that shall willfully disobey any rule or regulation promulgated by the Finance Administrator hereunder, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by imprisonment in the City jail for not more than ninety (90) days, or by a fine of not more than five hundred dollars (\$500.00), or both. Any such fine shall be in addition to any tax and penalties required. All officers, directors and managers of any organization or association conducting gambling activities shall be jointly and severally liable for the payment of said tax and penalties, and for the payment of any fine imposed hereunder. (Amd. Ord. 5414, 10-20-08		
Snohomish County	Time Period	Penalty
	1 - 17 Days	10%
	17 Days+	15%
SeaTac	Time Period	Penalty

All taxes on gambling activities shall be delinquent if not paid on or before the due date, and interest shall accrue on all such delinquencies at the rate of one percent (1%) per month commencing on the next day following the due date. Delinquent taxes, and accrued interest, shall constitute a public debt owing to the City which may be collected by action at law and writ of attachment pursuant to RCW 9.46.350, as presently enacted together with amendments thereof or additions thereto, or which may be referred to a collection agency pursuant to RCW 19.16.500, as presently enacted together with amendments thereof or additions thereto. (Ord. 89-1006 § 4)

<b>Spokane</b>		
	Time Period	Penalty
	1-30 Days	10%
	31 - 60 Days	15%
	60+	20%

In addition to the penalty provided in subsection (A) of this section, interest is charged at the rate of one percent of the amount of the tax for every thirty-day period or fraction from due date to date of payment.

As a condition of granting any taxpayer an extension of time, the chief financial officer charges interest at the rate of one percent of the tax due from the due date.

<b>Tukwila</b>		
	Time Period	Penalty
	1-17 Days	10%
	18 - 40 Days	15%

Any delinquency of 41 or more days shall be deemed a violation of this section.

Any person, association, or organization that shall fail, neglect, or refuse to pay the tax required by this chapter... Shall be guilty of a misdemeanor, and upon conviction therefore shall be punished by imprisonment in a City jail for not more than 90 days or by a fine of not more than \$500. Any such fine should be in addition to any tax and penalties required.