

CITY COUNCIL AGENDA ITEM
CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Adoption of Ordinance 394 amending Criminal Code section 9.10.420
DEPARTMENT:	City Attorney's Office
PRESENTED BY:	Ian Sievers, City Attorney

PROBLEM/ISSUE STATEMENT:

The state legislature amended the penalties for the crime of *cheating*, adding a felony to the existing gross misdemeanor and adding a definition section. These amendments renumbered the section for the gross misdemeanor offense of cheating, which is enforceable in Shoreline District Court. The City needs to update its Criminal Code in order to provide the correct citation for the gross misdemeanor, cheating in the second degree.

RECOMMENDATION

Staff recommends that Council adopt Ordinance 394 amending Shoreline Municipal Code 9.10.420 to provide for the definitions for cheating and correcting the citation for cheating in the second degree.

Approved By: City Manager  City Attorney 

DISCUSSION

The Gambling Commission brought to the City's attention that cities need to update their criminal codes in order to provide for the changes made to the gambling laws defining and classifying cheating. The City does not typically encounter this problem since we adopt the RCWs "as presently constituted or hereinafter amended." However, since the legislature added a new section, the section is not automatically adopted into the Shoreline Municipal Code.

The state legislature added a Class C felony for cheating in the first degree. An individual committed of a Class C felony can be punished by confinement for up to five (5) years and fined up to \$10,000, although the amended law allows for an additional penalty of up to \$20,000. A person is guilty of cheating in the first degree if he/she cheats and (1) knowingly causes, aids, abets, or conspired with another to engage in cheating; or (2) holds a license or permit issued by the state of Washington to conduct, manage or act as an employee in an authorized gambling activity. This offense is prosecuted by the King County Prosecutor in Superior Court.

The legislature retained the penalty of gross misdemeanor for cheating in the second degree. An individual committed of a gross misdemeanor can be punished by confinement for up to one (1) year and fined up to \$5,000. A person is guilty of cheating in the second degree is he/she engaged in cheating and the conduct does not amount to cheating in the first degree. This offense is prosecuted by the Shoreline City Attorney's Office in Shoreline District Court.

FINANCIAL IMPACT

The net result of the state law changes and the proposed ordinance will be minimal and should slightly reduce costs for Shoreline in prosecution, court services, public defender and jail for those charged with cheating. The state has created a more serious offense when cheating involves a regulated gambling operator or a conspiracy. The number of misdemeanor offenses for cheating tried in Shoreline municipal court will be diminished by the number of offenses that are prosecuted as felonies at County expense.

RECOMMENDATION

Staff recommends that Council adopt Ordinance 394 amending Shoreline Municipal Code 9.10.420 to provide for the definitions for cheating and correcting the citation for cheating in the second degree.

ATTACHMENTS

- A. Proposed Ordinance 394
- B. RCW 9.46.196
RCW 9.46.1961
RCW 9.46.1962

ORDINANCE NO. 394

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON AMENDING SECTION 9.10.420 OF THE SHORELINE MUNICIPAL CODE RELATING TO GAMBLING OFFENSES

WHEREAS a new definition and a new classification for cheating were adopted into state law and need to be adopted by local jurisdictions; and

WHEREAS the new definition and new classification are adopted in Shoreline Municipal Code, Section 9.10.420, *Gambling Offenses*; NOW THEREFORE

THE CITY COUNCIL OF THE CITY OF SHORELINE DO ORDAIN AS FOLLOWS:

Section 1. Amendment. SMC 9.10.420 *Gambling Offenses* is amended as follows:

9.10.420 Gambling offenses.

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW

9.46.190 Violations relating to fraud or deceit.

9.46.193 Cities and towns – Ordinance adopting certain sections of chapter – Jurisdiction of courts.

9.46.195 Obstruction of public servant in administration or enforcement as violation – Penalty.

9.46.196 Cheating – Defined. ~~Defrauding or cheating other participant or operator as violation – Causing another to do so as violation –~~ Penalty.

9.46.1961 Cheating in the first degree.

9.46.1962 Cheating in the second degree.

9.46.198 Working in gambling activity without license as violation – Penalty.

9.46.210 Enforcement – Commission as law enforcement agency.

9.46.215 Ownership or interest in gambling device – Penalty – Exceptions.

9.46.217 Gambling records – Penalty – Exceptions.

9.46.222 Professional gambling in the third degree.

9.46.231 Gambling devices, real and personal property – Seizure and forfeiture.

9.46.235 Slot machines, antique – Defenses concerning – Presumption created.

9.46.240 Gambling information, transmitting or receiving as violation – Penalty.

9.46.250 Gambling property or premises – Common nuisances, abatement – Termination of mortgage, contract or leasehold interests, licenses – Enforcement.

9.46.260 Proof of possession as evidence of knowledge of its character.

Section 2. Effective Date and Publication. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City and the ordinance shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 12, 2005.

Mayor Ron Hansen

ATTEST:

APPROVED AS TO FORM:

Scott Passey
City Clerk

Ian Sievers
City Attorney

Date of Publication: September 15, 2005
Effective Date: September 20, 2005

Attachment B

RCW 9.46.196

Cheating -- Defined.

"Cheating," as used in this chapter, means to:

- (1) Employ or attempt to employ any device, scheme, or artifice to defraud any other participant or any operator;
- (2) Engage in any act, practice, or course of operation as would operate as a fraud or deceit upon any other participant or any operator;
- (3) Engage in any act, practice, or course of operation while participating in a gambling activity with the intent of cheating any other participant or the operator to gain an advantage in the game over the other participant or operator; or
- (4) Cause, aid, abet, or conspire with another person to cause any other person to violate subsections (1) through (3) of this section.

[2002 c 253 § 1; 1991 c 261 § 8; 1977 ex.s. c 326 § 13.]

RCW 9A.46.1961

Cheating in the first degree.

(1) A person is guilty of cheating in the first degree if he or she engages in cheating and:

(a) Knowingly causes, aids, abets, or conspires with another to engage in cheating; or

(b) Holds a license or similar permit issued by the state of Washington to conduct, manage, or act as an employee in an authorized gambling activity.

(2) Cheating in the first degree is a class C felony subject to the penalty set forth in RCW 9A.20.021. In addition to any other penalties imposed by law for a conviction of a violation of this section the court may impose an additional penalty of up to twenty thousand dollars.

[2002 c 253 § 2.]

RCW 9A.46.1962

Cheating in the second degree.

(1) A person is guilty of cheating in the second degree if he or she engages in cheating and his or her conduct does not constitute cheating in the first degree.

(2) Cheating in the second degree is a gross misdemeanor subject to the penalty set forth in RCW 9A.20.021.

[2002 c 253 § 3.]