

Chapter 5.52

GAMBLING, BINGO, RAFFLES AND GAMES OF AMUSEMENT

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5.52.010 Misdemeanor – Exception.

Whoever engages in gambling, or knowingly causes, aids, abets, or conspires with another to engage in gambling, is guilty of a misdemeanor, and shall be punished by a fine of not more than three hundred dollars or imprisonment for a term not exceeding ninety days, or both such fine and imprisonment; provided, however, that this section shall not apply to those persons or organizations engaged in the gambling activities of bingo, raffles, amusement games, fishing derbies, punch boards, pull-tabs, or social card games as

specifically authorized herein. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.020 Definitions. As used in this chapter:

- A. “Contest of chance” means any contest, game, gaming scheme, or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein;
- B. “Gambling” A person engages in gambling if he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he or someone else will receive something of value in the event of a certain outcome. Gambling does not include pari-mutuel betting as authorized by RCW 67.16, bona fide business transactions valid under the law of contracts, including, but not limited to, contracts for the purchase or sale at a future date of securities or commodities, and agreements to compensate for loss caused by the happening of chance, including, but not limited to, contracts of indemnity or guarantee and life, health, or accident insurance;
- C. “Thing of value” means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise, directly or indirectly, contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge;

- D. "Bingo" means a game in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random and in which no cards are sold except at the time and place of said game, when said game is conducted by a bona fide charitable or nonprofit organization which does not conduct or allow its premises to be used for conducting bingo on more than three occasions per week and which does not conduct bingo in any location which is used for conducting bingo on more than three occasions per week or if an agricultural fair authorized under RCW 15.76 and 36.37, which does not conduct bingo on more than twelve consecutive days in any calendar year, and except in the case of any agricultural fair as authorized under RCW 15.76 and 36.37, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no person who takes any part in the management or operation of any game conducted by any other organization or any other branch of the same organization and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting the said game;
- E. "Raffle" means a game in which tickets bearing an individual number are sold for not more than one dollar each and in which a prize or prizes are awarded on the basis of a drawing from said tickets by the person or persons conducting the game, when said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting said game;
- F. "Amusement game" means a game played for entertainment in which:
1. The contestant actively participates,
 2. The outcome depends in a material degree upon the skill of the contestant,
 3. Only merchandise prizes are awarded,
 4. The outcome is not in the control of the operator,
 5. The wagers are placed, the winners are determined, and a distribution of prizes or property is made in the presence of all persons placing wagers at such game, and
 6. Said game is conducted by a bona fide charitable or nonprofit organization, no person other than a bona fide member of said organization takes any part in the management or operation of said game, including the furnishing of equipment, and no part of the proceeds thereof inure to the benefit of any person other than the organization conducting such game or said game is conducted as part of any agricultural fair as authorized under RCW 15.76 and 36.37.
- G. "Bona fide charitable or nonprofit organization" means any organization duly existing under the provisions of RCW 24.12, 24.20, or 24.28, any agricultural fair authorized under the provisions of RCW 15.76 or 36.37, or any nonprofit corporation duly existing under the provisions of RCW 24.03 for

charitable, benevolent, eleemosynary, educational, civic, patriotic, political, social, fraternal, athletic or agricultural purposes only, which has been organized and is operated primarily for purposes other than the operation of bingo games, raffles, amusement games, and which received not more than twenty thousand dollars or twenty-five percent of its gross receipts, whichever is the greater, in any calendar year from the operation of bingo, raffles, amusement games; but these limitations on receipts shall not apply to any organization which conducts only one raffle per calendar year, the total gross income from which does not exceed twenty thousand dollars, and which does not conduct bingo games and/or amusement games; provided, that the money or gross receipt limitations hereinabove set forth in this subsection shall not include the amount of cash prizes actually paid out in the operation of bingo games or the actual costs to an organization of any prizes given in the conduct of a raffle. The fact that contribution to an organization do not qualify for charitable contribution deduction purposes or that the organization is not otherwise exempt from payment of federal income taxes pursuant to the Internal Revenue Code of 1954, as amended, shall constitute prima facie evidence that the organization is not a bona fide charitable or nonprofit organization for the purposes of this section;

H. “Whoever” and “person” include natural persons, corporations and partnerships, and associations of persons; and when any corporate officer, director, or stockholder or any partner authorizes, participates in, or knowingly accepts benefits from any violation of this chapter committed by his corporation or partnership, he shall be punishable for

such violation as if it had been directly committed by him;

- I. “Punch boards” and “pull-tabs” shall be given their usual and ordinary meaning as of August 20, 1974, except that such definition may be revised by the Washington State Gambling Commission pursuant to rules and regulations promulgated by said commission;
- J. “Gross revenue or income” is defined as the total sum of money or value received from the particular activity before any deductions on account of operational and maintenance expenses or any expense whatsoever, and without any deduction on account of losses;
- K. “Fishing derby” means a fishing contest, with the payment or giving of an entry fee or other consideration by some or all of the contestants; wherein the contestants compete with each other for a prize or prizes, whether money, merchandise or other thing of value; the prize or prizes is or are awarded based upon the lawful catching of fish by any one or more of the contestants; and when such contest is conducted by a bona fide charitable or nonprofit organization;
- L. “Social card game” means a card game, including but not limited to the game commonly known as “Mah Jongg,” which constitutes gambling and contains each of the following characteristics:
 - 1. There are two or more participants and each of them is a player, and
 - 2. A player’s success at winning money or other thing of value by overcoming chance is in the long run

largely determined by the skill of the player, and

3. No organization, corporation, or person collects or obtains or charges any percentage of or collects or obtains any portion of the money or thing of value wagered or won by any of the players; provided, that this item shall not preclude a player from collecting or obtaining his winnings, and
4. No organization, corporation, or person collects or obtains any money or thing of value from, or charges or imposes any fee upon, any person which either enables him to play or results in or from his playing; provided, that this item shall not apply to the membership fee in any bona fide charitable or nonprofit organization or to an admission fee allowed by the state gambling commission, and
5. The type of card game is one specifically approved by the state gambling commission, and
6. The extent of wagers, money, or other thing of value which may be wagered or contributed by any player does not exceed the amount or value specified by the state gambling commission. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.030 Bingo – Restrictions. The conduct of bingo games shall be subject to the following restrictions:

- A. No person, firm, association, corporation, or organization other than as specified in this chapter shall conduct such game, or shall obtain a lease for or otherwise make available for conducting

bingo therein, a hall or other premises, for any consideration whatsoever, direct or indirect.

- B. No bingo games shall be held, operated, or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game, nor shall the rental under such lease exceed the usual rental for such premises in the same locality.
- C. No bingo game shall be held, operated, or conducted if the compensation to any person taking part in the management or operation of such game is based upon a percentage of the receipts or net profits derived from the operation of such game.
- D. The entire net proceeds of any game of bingo and of any rental therefor shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same. Net proceeds for the purposes of this subsection shall mean that amount remaining after expenses for supplies, rental, and prizes awarded to participants are deducted from the gross proceeds of such game.

The willful violation of subsections (A), (B), (C) or (D) above shall be a misdemeanor punishable by a fine of not more than three hundred dollars, or imprisonment for a term of not exceeding ninety days, or both such fine and imprisonment. (Ord 1179, 1973; Ord 1389, 1978)

5.52.040 Bingo – Tax. There is levied upon and shall be collected from and paid as hereinafter provided by every organization conducting bingo, as authorized pursuant to RCW Chapter 9.46 and this chapter, a tax in

the amount of five percent of the gross revenue received from such bingo activity, less the amount paid for or as prizes; provided that the first five hundred dollars of gross revenue received per month shall be exempt from such taxation.

Provided further, that no tax shall be imposed under the authority of this chapter on bingo games when such activities are conducted by any bona fide charitable or nonprofit organization as defined in RCW 9.46.020(3), which organization has not paid operating or management personnel and has a gross income from bingo not exceeding five thousand dollars per year, less the amount paid for as prizes. (Ord. 1389, 1978; Ord. 1236, 1974; Ord. 1179, 1973)

5.52.043 Social Card Games – Prohibited. Social card games as defined by RCW 9.46.0282 and SMC 5.52.020(L) are prohibited within the City of Snohomish. (Ord. 2176, 2009)

5.52.045 Taxing of Social Card Games. Repealed by Ord. 2176, 2009.

5.52.047 Allocation of Social Card Game Tax Revenue. Repealed by Ord. 2114, 2006

5.52.050 Tax on Punchboards and Pull-Tabs. There is hereby levied upon and shall be collected from and paid as hereinafter provided by every person, organization, or association utilizing punchboards or pull-tabs as authorized pursuant to Chapter 9.46 RCW and this chapter, a tax in the amount of ten percent of the gross receipts-less-prizes from such punchboards and pull-tabs. (Ord 1179, 1973; Ord 1236, 1974; Ord 1339, 1978; Ord 1834, 1997)

5.52.060 Tax Payments.

- A. Monthly Return and Payment. At the option of the taxpayer, any tax payable under Chapter 5.52 may be reported and paid in monthly installments. In addition, monthly reporting and payments shall be required of taxpayers who fail to timely report and file returns when due for two reporting periods, and taxpayers who have not timely paid any tax due imposed by this Chapter to the City within thirty (30) days of the date said tax is due. Monthly reports and payment shall be due on the 15th day of the month next succeeding the month for which the report and payment is due.
- B. Annual Return and Payment. Whenever the total tax for which any person is liable under this chapter does not exceed the sum of \$2.00 for any quarterly period, an annual return may be made upon written request and subject to the approval of the City Treasurer.
- C. Semi-Annually. In all other instances, semi-annual reports and payments of tax imposed by this chapter shall be due and payable in semi-annual installments. The semi-annual terms shall be January 1 through June 30 and July 1 through December 31 of each year. Tax remittances therefore shall be made on or before the last day of the month next succeeding the end of the semi-annual period in which the tax accrued.
- D. Supporting Documentation. All gambling tax reports shall include a copy of the taxpayer's Organizational Activity Report as outlined and required under WAC 230-08-130, 230-08-165, and/or 230-08-160.

Regardless of the reporting period, all remittances shall be by bond, draft, certified check, and cashier's check, money order, or in cash, and shall be accompanied by a return on a form to be provided and prescribed by the City Treasurer. The taxpayer shall be required to swear or affirm that the information given on the tax return is full and true and that the taxpayer knows the same to be so.

For purposes of required monthly reporting, the City may not count any return prior to a return for the second quarter of 1996 or any nonpayment of taxes for any quarter prior to the second quarter of 1996. (Ord 1807, 1996; Ord 1834, 1997; Ord 2114, 2006)

5.52.070 Taxpayer to Keep Records. It shall be the duty of each taxpayer taxed pursuant to this chapter to keep and enter in a proper book or set of books or records an account which shall accurately reflect the amount of the gross revenue received from the taxable gambling activity which he is conducting. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.080 City Finance Officer to Investigate Returns. If any taxpayer fails to make his return, or if the City Finance Officer is dissatisfied as to the correctness of the statements made in the return of any taxpayer, said officer or his authorized agent may enter the premises of such taxpayer at any reasonable time for the purpose of inspecting his books or records of account to ascertain the amount of the tax or to determine the correctness of such statements, as the case may be, and may examine any person under oath administered by said officer or his agent, touching the matters inquired into, or said officer or his authorized agent may fix a time and place for an investigation of the correctness of the return and may issue a subpoena to the taxpayer, or any other person, to attend upon

such investigation and there testify, under oath administered by said officer or his agent, in regard to the matters inquired into and may, by subpoena, require him, or any person, to bring with him such books, records and papers as may be necessary. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.090 Extension of Time Penalties.

The City Finance Officer for good cause shown may extend the time for making and filing any return as required under this chapter, and may grant such reasonable additional time within which to file such return as he may deem proper. Provided, that any extension in excess of thirty days shall be conditioned upon payment of interest of one-half of one percent for each thirty days or portion thereof on the amount of the tax from the date upon which tax becomes due. If tax return and/or payment are not received within fifteen days of due date, a penalty must be included as follows: If sixteen to forty-five days delinquent, ten percent of the tax with a minimum penalty of one dollar; if forty-six to seventy-five days delinquent, fifteen percent of the tax with a minimum penalty of two dollars; if seventy-six or more days delinquent, twenty percent of the tax with a minimum penalty of three dollars. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.100 Over or Under Payment of Tax.

If the City Finance officer upon investigation or upon checking returns finds that the tax paid on any of them is more than the amount required of the taxpayer, he shall refund the amount overpaid by a warrant upon the general fund. If the City Finance Officer finds that the tax paid is less than required, he shall mail a statement to the taxpayer showing the balance due, who shall within ten days pay the amount shown

thereon. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.110 Failure to Make Return. If any taxpayer fails, neglects, or refuses to make his return as and when required herein, the City Finance Officer is authorized to determine the amount of the tax payable, and by mail to notify such taxpayer of the amount so determined. The amount so fixed shall thereupon become the tax and be immediately due and payable. (Ord 1179, 1973; Ord 1236, 1974; Ord. 1389, 1978)

5.52.120 Appeal to City Council. Any taxpayer aggrieved by the amount of the tax found by the City Finance Officer to be required under the provisions of this chapter may appeal to the City Council from such finding by filing a written notice of appeal with the City Finance Officer within five days from the time such taxpayer was given notice of such amount. The City Finance Officer shall, as soon as practicable, fix a time and place for the hearing of such appeal, which time shall be not more than ten days after the filing of the notice of appeal, and he shall cause a notice of hearing, and a notice of the time and place thereof to be mailed to the applicant. At such hearing, the taxpayer shall be entitled to be heard and to introduce evidence in his own behalf. The City Council shall thereupon ascertain the correct amount of the tax by resolution and the City Finance Officer shall immediately notify the appellant thereof by mail, which amount, together with costs of the appeal, if appellant is unsuccessful therein, must be paid within ten (10) days after such notice is given.

The City Manager may, by subpoena, require the attendance thereat of any person, and may also require him to produce any pertinent books and records. Any person with such subpoena shall appear at the time and place therein stated and produce the

books and records required, if any, and shall testify truthfully under oath administered by the Manager as to any matter required of him pertinent to the appeal and it shall be unlawful for him to fail or refuse so to do. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.130 City Manager to Make Rules. The City Manager shall have the power, and it shall be his duty, from time to time, to adopt, publish, and enforce rules and regulations not inconsistent with this chapter or with law for the purpose of carrying out the provisions hereof, and it shall be unlawful to violate or fail to comply with any such rule (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.140 False Returns – Unlawful. It is unlawful for any person liable to tax hereunder to fail or refuse to make the returns as and when required or to pay the tax when due, or for any person to make any false or fraudulent return or any false statement or representation in, or in connection with, any such return, or to aid or abet another in any attempt to evade payment of the tax, or any part thereof, or for any person to fail to appear and/or testify in response to subpoena issued pursuant hereto, or to testify falsely upon any investigation of the correctness of a return or upon the hearing of any appeal, or in any manner to hinder or delay the City or any of its officers in carrying out the provisions of this chapter. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.150 License Fee – 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 Snohomish, a municipal corporation, except as herein otherwise

expressly provided. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.160 Tax Constitutes Debt. Any tax due and unpaid under this chapter and all penalties thereon, shall constitute a debt to Snohomish, a municipal corporation, and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. The right of recovery by the City of Snohomish from the taxpayer for any tax provided hereunder shall be outlawed after the expiration of three years and the right of recovery against the City of Snohomish because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three years after which time the taxpayer shall have no right of recovery against the City of Snohomish. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978)

5.52.170 Violations – Penalty. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978; Ord. 1927, 1999; Ord. 2155, 2008)

5.52.180 Severability. If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be preempted by state or federal law or regulation, such a decision or preemption shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other persons or circumstances. (Ord 1179, 1973; Ord 1236, 1974; Ord 1389, 1978; Ord 2176, 2009)