

ORDINANCE NO. 1267

CITY OF LACEY

AN ORDINANCE RELATING TO PENALTIES UPON TAX DEFICIENCIES, AMENDING SECTION 3.02A.130 OF THE LACEY MUNICIPAL CODE AND ADOPTING A SUMMARY FOR PUBLICATION.

WHEREAS, the State Legislature has amended RCW 82.32.090 to provide that the initial 5% penalty on taxes found to be due shall only apply if such taxes are substantially underpaid and state law requires all cities to make similar provisions for local business and occupation taxes,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 3.02A.130 of the Lacey Municipal Code is hereby amended to read as follows:

3.02A.130 Late payment - Disregard of written instructions - Evasion - Penalties.

- A. If payment of any tax due on a return to be filed by a taxpayer is not received by the director by the due date, the director shall add a penalty equal to five percent of the amount of the tax; and if the tax is not received on or before the last day of the month following the due date, the director shall add a total penalty equal to fifteen percent of the amount of the tax; and if the tax is not received on or before the last day of the second month following the due date, the director shall add a total penalty equal to twenty-five percent of the amount of the tax. No penalty assessed herein shall be less than five dollars.
- B. If a tax deficiency is assessed by the director due to the tax being substantially under paid, there shall be added a penalty equal to five percent of the amount of the deficiency. If payment of any tax deficiency assessed by the director is not received by the due date specified in the notice, or any extension thereof, the director shall assess a penalty equal to fifteen percent of the amount of the additional tax found due. If payment of any tax deficiency assessed by the director is not received on or before the thirtieth day following the due date specified in the notice, or any extension thereof, the director shall assess a penalty equal to twenty-five percent of the amount of additional tax found due. No penalty added shall be less than five dollars. As used in this subsection, "substantially under paid" means that the taxpayer has paid less than 80% of the amount of tax determined by the director to be due for the entire period of time covered by the director's deficiency notice and the amount of underpayment is at least \$1,000.00.

- C. If a citation or criminal complaint is issued for the collection of taxes, fees, assessments, interest or penalties, there shall be added thereto a penalty of ten percent of the amount due, but not less than ten dollars.
- D. If the director finds that a person has engaged in any business or performed any act upon which a tax is imposed under this title and that person has not obtained from the director a license as required by Chapter 5.12 of the Lacey Municipal Code, the director shall impose a penalty of five percent of the amount of tax due from that person for the period that the person was not licensed. No penalty shall be imposed under this subsection if the person who has engaged in business without a license obtains a license prior to being notified by the director of the need to be licensed.
- E. If the 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 of ten percent of the amount of the additional tax due.
 - 1. A taxpayer fails to follow specific written tax reporting instructions when the director has informed the taxpayer in writing of the taxpayer's tax obligations and the taxpayer fails to act in accordance with those instructions unless the director has not issued final instructions because the matter is under appeal pursuant to this chapter. The director shall not assess the penalty under this subsection E, upon any taxpayer that has made a good faith effort to comply with the specific written instructions provided by the director to that taxpayer.
 - 2. Specific written instructions may be given as a part of a tax assessment, audit, determination or closing agreement, provided that such specific written instructions shall apply only to the taxpayer addressed or referenced on such documents.
 - 3. Any specific written instructions by the director shall be clearly identified as such and shall inform the taxpayer that failure to follow the instructions may subject the taxpayer to the penalties imposed by this subsection.
- F. If the director finds that all or any part of the deficiency resulted from an intent to evade the tax payable, the director shall assess a penalty of fifty percent of the additional tax found to be due.
- G. The penalties imposed under subsections A through F of this section can each be imposed on the same tax found to be due. This subsection does not prohibit or restrict the application of other penalties authorized by law.
- H. The penalties authorized by subsections E and G of this section shall be assessed in accordance with the provisions of this chapter governing assessment of tax deficiencies. The 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 Lacey 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.

Section 2. The Summary attached hereto is hereby approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY,
WASHINGTON, at a regularly-called meeting thereof, held this 13TH day of
JULY, 2006.

CITY COUNCIL

By W. S. Parks
Mayor

Approved as to form:

[Signature]
City Attorney

Attest:

Carol Litter
City Clerk

SUMMARY FOR PUBLICATION

ORDINANCE 1267

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on JULY 13, 2006, Ordinance No. 1267, entitled "AN ORDINANCE RELATING TO PENALTIES UPON TAX DEFICIENCIES, AMENDING SECTION 3.02A.130 OF THE LACEY MUNICIPAL CODE AND ADOPTING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. Under state legislation, the collection of local business and occupation taxes are to be in accordance with certain sections of state law. One of those sections has been changed by the legislature so that the 5% penalty assessed when an examination reveals that taxes have been under paid, will apply only where such taxes have been substantially under paid.
2. This Ordinance makes the same modification to the provisions for tax deficiency penalties under the City Code. The initial 5% penalty imposed by City Code will only apply where the deficiency is such that the tax payer has paid less than 80% of the tax otherwise due and the underpayment is at least \$1,000.00. This provision does not effect the interest amounts on unpaid taxes nor does it reduce the penalties for non-payment of taxes after a deficiency notice is issued.
3. The Ordinance approves this Summary for Publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: JULY 17, 2006.