ORDINANCE NO. 20-1004

AN ORDINANCE of the City Council of the City of SeaTac, Washington, adding a new Chapter 3.95 of the SeaTac Municipal Code, authorizing the maximum capacity of a local sales and use tax to fund investments in affordable and supportive housing as authorized under RCW 82.14.540, and establishing an Affordable Housing Sales Tax Fund.

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (chapter 338, Laws of 2019), now codified in RCW 82.14.540; and

WHEREAS, RCW 82.14.540 authorizes the governing body of a city with a population of 100,000 or less to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing; for the operations and maintenance costs of affordable or supportive housing; or for providing rental assistance to tenants; and

WHEREAS, the tax will be credited against state sales taxes collected within the City and, therefore, will not result in higher sales and use taxes within the City; and

WHEREAS, the credit against state retail sales or use taxes can be in place for a maximum of twenty (20) years and will represent an additional source of funding to address housing needs in the City; and

WHEREAS, the tax must be used on projects that serve persons whose income is at or below sixty percent (60%) of the City’s median income; and

WHEREAS, the tax is considered to be restricted revenue subject to reporting requirements and audit review for compliance; and
WHEREAS, RCW 82.14.540 requires the City to adopt an Ordinance by July 28, 2020, authorizing the tax be imposed; and

WHEREAS, on October 8, 2019, the City Council passed Resolution 19-011, declaring its intent to adopt legislation authorizing a sales and use tax for affordable and supportive housing in accordance with SHB 1406;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 3.95 is added to the SeaTac Municipal Code to read as follows:

**CHAPTER 3.95**
**SALES AND USE TAX FOR AFFORDABLE HOUSING**

Sections:
3.95.010 Imposition of Sales and Use Tax for Affordable Housing.
3.95.020 Purpose of Tax
3.95.030 Administration and Collection – Statutory Compliance
3.95.040 Establishment of Fund

3.95.010 **Imposition of Sales and Use Tax for Affordable Housing**

A. There is imposed a sales and use tax, as authorized by RCW 82.14.540, upon every taxable event, as defined in Chapter 82.14 RCW, occurring within the City of SeaTac. The tax shall be imposed upon and collected from those persons from whom the State sales tax or use tax is collected pursuant to Chapter 82.08 and 82.12 RCW.

B. The rate of the tax imposed by Subsection (A) of this Section shall be the maximum rate permitted to cities under RCW 82.14.540.

C. The tax imposed under this Section shall be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue under Chapter 82.08 or 82.12 RCW. The Department of Revenue shall perform the collection of such taxes on behalf of the City at no cost.

D. The Department of Revenue shall calculate the maximum amount of tax distributions for the City based on the taxable retail sales in the City during State Fiscal Year 2019, and the tax imposed under this Section shall cease to be distributed to the City for the remainder of any State Fiscal Year in which the amount of tax collected exceeds the maximum amount of tax distributions for the City as properly calculated by the Department of Revenue. Distributions to the City of SeaTac
that have ceased during a State Fiscal Year shall resume at the beginning of the next State Fiscal Year.

3.95.020 Purpose of Tax

A. The City may use the moneys collected by the tax imposed under SMC 3.95.010 only for the following purposes:

1. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services under RCW 71.24.385; or

2. Providing the operations and maintenance costs of new units of affordable or supportive housing; or

3. Providing rental assistance to tenants; or

4. Such other purposes authorized by the laws of the State of Washington.

B. The housing and services provided under subsection (A) of this section may only be provided to persons whose income is at or below sixty percent (60%) of the median income of the City.

C. In determining the use of funds under subsection (A) of this section, the City must consider the income of the individuals and families to be served, the leveraging of the resources made available under this Chapter, and the housing needs within the City.

D. The Finance Director must report annually to the Washington State Department of Commerce, in accordance with the Department’s rules, on the collection and use of the revenue from the tax imposed under this Chapter.

E. The tax imposed by this Chapter expires as set forth in RCW 82.14.540. The Finance Director shall provide notice to the City Council of the expiration date of the tax each year beginning three (3) years before the expiration date, and shall also promptly notify the City Council of any changes to the expiration date.

3.95.030 Administration and Collection – Statutory Compliance

A. The administration and collection of the tax imposed by this Chapter shall be in accordance with the provisions of RCW 82.14.540.

B. The Director of Finance and Systems is authorized to provide any necessary notice to the Department of Revenue to effectuate the tax enacted by this Ordinance, and to execute, for and on behalf of the City, any necessary agreement with the Department of Revenue for the collection and administration of the tax enacted by this Ordinance.
3.95.040 Affordable Housing Sales Tax Fund

A. There is hereby established a fund to be known as the Affordable Housing Sales Tax Fund, into which shall be paid all moneys received by the City in distribution of the tax collected pursuant to this Chapter, in accordance with RCW 82.14.540. Moneys in the fund shall be used only for the purposes set forth in SMC 3.95.020.

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance is declared unconstitutional or invalid for any reason, such invalidity shall not affect the validity or effectiveness of the remaining portions of this Ordinance.

Section 3. Effective Date. This Ordinance shall be in full force and effect five (5) days after passage and publication as required by law.

ADOPTED this 28th day of January, 2020, and signed in authentication thereof on this 28th day of January, 2020.

CITY OF SEATAC

Erin Sitterley, Mayor

ATTEST:

Kristina Gregg, City Clerk

APPROVED AS TO FORM:

Mary E. Mirante Bartolo, City Attorney

[Effective Date: 2/8/2020]

[Local sales and use tax funding affordable and supportive housing]