

ORDINANCE NO. O2019-024

AN ORDINANCE of the City Council of the City of Tumwater, Washington, relating to local sales and use taxes; authorizing the maximum capacity of the tax authorized under the provisions of Substitute House Bill 1406 for affordable and supportive housing and rental assistance for collection beginning January 1, 2020; amending Chapter 3.36 of the Tumwater Municipal Code to create a new fund; and amending, deleting, and adding new sections to Chapter 3.24 of the Tumwater Municipal Code as more particularly described herein.

WHEREAS, the City adopted Resolution No. R2018-016 establishing the City's action plan for addressing homelessness and affordable housing based on the need to provide housing for those who are living without homes and impacting K-12 student performance, public and individual health, public safety, quality of life, and property values and has determined that imposing the sales and use tax to address this need will benefit its citizens; and

WHEREAS, in 2019, Washington State enacted Substitute House Bill 1406 ("SHB 1406"), a revenue sharing program with local governments for affordable housing which is intended to encourage investments in affordable and/or supportive housing; and

WHEREAS, on July 16, 2019, the City Council adopted Resolution No. R2019-006, declaring its intent to adopt an ordinance authorizing the tax allowed by SHB 1406; and

WHEREAS, the effective date of SHB 1406 is July 28, 2019, and the Washington State Code Reviser's Office will not publish the Revised Code of Washington ("RCW") citation for this tax until at least September 3, 2019; and

WHEREAS, the proposed Tumwater Municipal Code ("TMC") language currently references the Session Law information, but will be updated by the City Clerk once the actual RCW citation is released; and

WHEREAS, through a credit against state retail sales and use taxes, the program allows the City to authorize and collect a local sales and use tax, estimated to be \$56,000 annually, for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, and for the operations and maintenance costs of affordable or supportive housing, and if eligible, for providing rental assistance to tenants, with no increase in sales or use tax for the consumer; and

WHEREAS, the revenues may be used to finance grants or loans to non-profit organizations or public housing authorities to carry out these provisions. The City may enter into interlocal agreements with other cities or municipal corporations in the execution of these provisions; 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 of the City's median income; and

WHEREAS, the state legislation requires the City adopt an ordinance authorizing the tax within twelve (12) months of the effective date of SHB 1406, or by July 28, 2020; and

WHEREAS, the tax is considered to be restricted revenue subject to reporting requirements and audit review for compliance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUMWATER, STATE OF WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new Section 3.24.025, Credit against state's share of tax – sales or use tax for affordable housing – Imposition, is hereby added to the Tumwater Municipal Code to read as follows:

3.24.025 Credit against state's share of tax – sales or use tax for affordable housing – Imposition.

There is hereby imposed an additional sales or use tax, as the case may be, separate and apart from the tax referred to in Tumwater Municipal Code Sections 3.20.010, 3.20.020, 3.24.010 and 3.24.020, as authorized by Laws of 2019, ch 338 § 1, upon every taxable event, as defined in RCW 82.14.020, occurring in the City. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to RCW 82.08 and 82.12 but will be credited against the state's share of the tax. Moneys collected under this Section must be used solely, as required by Laws of 2019, ch 338 § 1 and as hereinafter amended, for the purpose of 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 funding the operation and maintenance of new units of affordable housing or supportive housing or for providing rental assistance to tenants.

Section 2. A new Section 3.24.026, Credit against state's share of tax – sales or use tax for affordable housing – Rate, is hereby added to the Tumwater Municipal Code to read as follows:

3.24.026 Credit against state's share of tax – sales or use tax for affordable housing – Rate.

The rate of the tax imposed by Section 3.24.025 of this chapter shall be .0073 percent of the selling price or value of the article used, as the case may be.

Section 3. Section 3.24.030 of the Tumwater Municipal Code is hereby amended to read as follows:

3.24.030 Administration and collection.

The administration and collection of the tax imposed by ~~this chapter~~ section 3.24.010 shall be in accordance with the provisions of RCW 82.14.050 and the administration and collection of the sales or use tax imposed by section 3.24.025 shall be in accordance with the provisions of the Laws of 2019, ch 338 § 1.
(Ord. 952, Added, 02/01/1983)

Section 4. Section 3.24.050 of the Tumwater Municipal Code is hereby deleted in its entirety.

~~**3.24.050 Contract with state.**~~

~~The mayor and finance director are authorized to enter into a contract with the Department of Revenue for the administration of this tax.
(Ord. 096-027, Amended, 10/15/1996; Ord. 952, Added, 02/01/1983)~~

Section 5. A new Section 3.36.240, Affordable Housing Sales Tax Fund, is hereby added to the Tumwater Municipal Code to read as follows:

3.36.240 Affordable Housing Sales Tax Fund.

A. There is hereby established a special revenue fund for the city of Tumwater, to be known as the "Affordable Housing Sales Tax Fund," into which shall be deposited all monies received from a portion of sales and use taxes otherwise required to be collected and paid to the department of revenue pursuant to legislation enacted by the 2019 Washington State Legislature.

B. This fund has been established to receive that portion of sales and use tax credited back to the city for use the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, and for the operations

and maintenance costs of new units of affordable or supportive housing, and if eligible, for providing rental assistance to tenants.

C. Any unexpended funds remaining in the affordable housing sales tax fund at the end of a budget period shall not be transferred to the general fund or otherwise lapse, but funds shall be carried forward from year to year until expended for a purpose set forth in subsection B of this section.

Section 6. Expiration. The amendatory language set forth in Sections 1-3 above, shall expire twenty (20) years after the effective date of this Ordinance, January 1, 2020.

Section 7. Corrections. The City Clerk and codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto and to update TMC Sections 3.24.025, 3.24.026 and 3.24.030 with the correct Revised Code of Washington citation once the Washington State Code Reviser releases that information.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 9. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to other persons or circumstances.

Section 10. Effective Date. This ordinance shall become effective January 1, 2020.

ADOPTED this 3rd day of September, 2019.

CITY OF TUMWATER



Pete Kmet, Mayor

ATTEST:

Melody Valiant
Melody Valiant, City Clerk

APPROVED AS TO FORM:

Karen Kirkpatrick
Karen Kirkpatrick, City Attorney

Published: 09-05-2019

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