

ORDINANCE NO. 3353

AN ORDINANCE of the City of Port Angeles, Washington, revising Title 3 of the Port Angeles Municipal Code to add a new Chapter 3.60 to provide commercial parking tax provisions to the City of Port Angeles.

WHEREAS, state-shared gas tax revenues for Port Angeles do not keep up with inflation;  
and

WHEREAS, addressing the deteriorating condition of Port Angeles' infrastructure will require a substantial annual dedication of resources beyond those currently available; and

WHEREAS, in 1990, the Washington State Legislature passed legislation that was adopted as Section 208 of Chapter 42, Laws of Washington, codified at RCW 82.80.030, which authorized cities to fix and impose a tax for the act of or privilege of parking a motor vehicle in a facility operated by a commercial parking business within its incorporated boundaries; and

WHEREAS, there are commercial parking businesses operating within the City providing parking for which a fee is paid; and

WHEREAS, the proceeds of the commercial parking tax herein imposed shall be used strictly for transportation purposes in accordance with RCW 82.80.070; and

WHEREAS, the City wishes to impose a commercial parking tax as authorized by RCW 82.80.030 to provide an equitable means of generating revenue to support the City's transportation system.

THE CITY COUNCIL OF THE CITY OF PORT ANGELES DO HEREBY ORDAIN  
as follows:

**Section 1.** Effective January 1, 2009, the Port Angeles Municipal Code is hereby amended to add a new Chapter 3.60 "Commercial Parking Tax" to Title 3 to read as follows:

Chapter 3.60

COMMERCIAL PARKING TAX

Sections:

|                 |   |
|-----------------|---|
| <u>3.60.010</u> | <u>Administrative Provisions</u>        |
| <u>3.60.020</u> | <u>Definitions</u>                      |
| <u>3.60.030</u> | <u>Parking Tax Imposed</u>              |
| <u>3.60.040</u> | <u>Measure of Tax: Parking Fee</u>      |
| <u>3.60.050</u> | <u>Exemptions from the Parking Tax</u>  |
| <u>3.60.060</u> | <u>Collection and Remittance of Tax</u> |
| <u>3.60.070</u> | <u>Use of Revenues</u>                  |

3.60.010 Administrative Provisions.

All of the provisions contained in Chapter 3 of the Port Angeles Municipal Code shall have full force and application with respect to taxes imposed under the provisions of this chapter except as may be expressly stated to the contrary herein.

3.60.020 Definitions.

The definitions contained in Chapter 3 of the Port Angeles Municipal Code shall be fully applicable to this chapter except as may be expressly stated to the contrary herein. The following additional definitions shall apply throughout this chapter:

A. "Commercial parking business" means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged for the act or privilege of parking motor vehicles.

B. "Commercial parking lot" means a covered or uncovered area with stalls used for the purpose of parking motor vehicles for a fee.

C. "Parking tax" means the commercial parking tax imposed by this chapter.

D. "Director" means the Finance Director of the City of Port Angeles.

3.60.030 Parking Tax Imposed.

A Pursuant to RCW 82.80.030, there is imposed on every person a tax for the act or privilege of parking a motor vehicle in a commercial parking lot within the City that is operated by a commercial parking business. The privilege of parking includes the right to park, whether or not the right is exercised.

B. The amount of the parking tax shall be equal to the parking fee multiplied by the parking tax rate. Effective January 1, 2009, the parking tax rate is imposed at ten percent (0.10).

3.60.040 Measure of Tax: Parking Fee.

A. The measure of the parking tax is the parking fee. Parking fee means the fee paid or due for the act or privilege of parking a motor vehicle in a commercial parking lot.

B. If, in a lease of nonresidential space, a parking fee is combined with other payments, or is otherwise not separately stated, or does not result from an arm's length transaction, or does not fairly reflect the value of the act or privilege of parking, the parking fee

shall be determined by the Finance Director according to rules promulgated by the Finance Director to establish the parking fee based on the fair market value of the act or privilege of parking.

C. It shall be conclusively presumed that the posted parking prices do not include the parking tax unless all the following conditions are met:

1. The fee is advertised as including the tax or that the commercial parking business is paying the tax;

2. The words "tax included" are stated immediately following the advertised or posted prices in print size at least half as large as the advertised or posted prices print size; and

3. All advertised or posted parking prices and the words "tax included" are stated in the same medium, whether oral or visual, and if oral, in substantially the same inflection and volume.

If these conditions are satisfied, then price lists, reader boards, and other price information mediums need not show separately the parking fee and the actual amount of commercial parking tax being collected.

#### 3.60.050 Exemptions from the Parking Tax.

The following are exempt from the parking tax:

A. Parking permits purchased for a reserved 30 day parking stall.

B. Parking of a motor vehicle owned or controlled by a natural person in a stall provided with that person's residence.

C. Parking at stadiums and exhibition centers which the City is precluded from taxing pursuant to RCW 36.38.040.

D. Parking on City of Port Angeles streets.

#### 3.60.060 Collection and Remittance Of Tax.

A commercial parking business or person acting on its behalf shall collect the amount of the parking tax from the person paying the parking fee at the time payment is made. The parking tax shall be stated separately from the parking fee on all instruments evidencing the parking fee. Except when all requirements of section 3.60.040 B are satisfied, it shall be conclusively presumed that the parking fee does not include the parking tax. The presumption is not overcome by any oral or written agreement between the parties.

The person receiving payment of the parking fee shall remit the parking tax to the Finance Director according to the provisions contained in Port Angeles Municipal Code Chapter 3.60. The parking tax shall be deemed held in trust by the person required to collect the same until remitted to the Director. Any person who fails to collect the parking tax, or who collects the parking tax but fails to remit the parking tax to the Director, shall be liable to the City for the amount of such tax. Such person shall, unless the remittance is made as required in this section, be guilty of a violation of this chapter whether such failure be the result of the person's own act or the result of acts or conditions beyond its control.

#### 3.60.070 Use Of Revenues.

The proceeds of the tax imposed herein shall be used for transportation purposes in accordance with RCW 82.80.070. To the extent permitted by applicable law the City may issue bonds, notes,

or other evidences of indebtedness payable wholly or in part from the parking tax and may pledge and may apply such tax to the payment of principal of, interest on, and premium (if any) on such bonds, notes, or other evidences of indebtedness and to the payment of costs associated with them.

**Section 2 - Corrections.** The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of the scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 3 - Severability.** If any provisions of this Ordinance, or its application to any person or circumstances, are held invalid, the remainder of the Ordinance, or application of the provisions of the Ordinance to other persons or circumstances, is not affected.

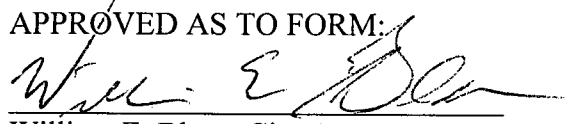
**Section 4 - Effective Date.** This Ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum. This ordinance shall take effect January 1, 2009.

PASSED by the City Council of the City of Port Angeles at a regular meeting of said Council held on the 2nd day of December, 2008.

  
MAYOR

ATTEST:

  
Becky J. Upton, City Clerk

APPROVED AS TO FORM:  
  
William E. Bloor, City Attorney

PUBLISHED: December 7, 2008  
By Summary