

ORDINANCE 1561

CITY OF LACEY

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LACEY, 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, ADDING A NEW CHAPTER 3.90 TO THE LACEY MUNICIPAL CODE, ESTABLISHING AN EFFECTIVE DATE AND APPROVING A SUMMARY FOR PUBLICATION.

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019) (“SHB 1406”); and

WHEREAS, SHB 1406 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, for funding the operations and maintenance costs of new units of affordable or supportive housing, or for providing rental assistance to tenants; and

WHEREAS, the tax is not a new tax, rather 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 will represent an additional source of funding to address housing needs in the City; and

WHEREAS, the tax must be used to assist persons whose income is at or below sixty percent of the City median income; and

WHEREAS, the City has residents that are on the verge of homelessness, and others that are living in places that are not meant for permanent housing, such as cars or streets, and has determined that imposing the sales and use tax to address this need will benefit its citizens; 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; and

WHEREAS, 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, on September 12, 2019, the City Council adopted Resolution Number 1078, declaring its intent to adopt an ordinance authorizing the tax allowed by SHB 1406; 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, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. There is hereby added to the Lacey Municipal Code a new Chapter 3.90, to read as follows:

Chapter 3.90

SALES AND USE TAX FOR AFFORDABLE HOUSING

Sections:

- 3.90.010 Imposition of Sales and Use Tax for Affordable Housing
- 3.90.020 Purpose of Tax
- 3.90.030 Administration and Collection – Statutory Compliance

3.90.010 Imposition of Sales and Use Tax for Affordable Housing.

- A. There is imposed a sales and use tax as authorized by Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW, upon every taxable event, as defined in Chapter 82.14 RCW, occurring within the City of Lacey. 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 under this section shall be 0.0073 percent of the selling price or value of the article used.
- 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 will perform the collection of such taxes on behalf of the City of Lacey at no cost to the City.
- D. The Department of Revenue will calculate the maximum amount of tax distributions for the City of Lacey based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed under LMC Section 3.90.010 will cease to be distributed to the City of Lacey for the remainder of any State Fiscal Year in which the amount of tax exceeds the maximum amount of tax distributions for the City as properly calculated by the Department of Revenue. Distributions to the City of Lacey that have ceased during a State Fiscal Year shall resume at the beginning of the next State Fiscal Year.

3.90.020 Purpose of Tax.

- A. The City may use the moneys collected by the tax imposed under LMC Section 3.90.010 or bonds issued 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; and
 2. Providing the operations and maintenance costs of new units of affordable or supportive housing; and
 3. Providing rental assistance to tenants.
- B. The housing and services provided under this section may only be provided to persons whose income is at or below 60 percent of the median income of the City.
- C. 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 LMC Section 3.90.010.
- D. Any unexpected 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 A of this section.
- E. The tax imposed by the City under LMC Section 3.90.010 will expire 20 years after the date on which the tax is first imposed.

3.90.030 Administration and Collection – Statutory Compliance.

The administration and collection of the tax imposed under this Chapter 3.90 shall be in accordance with the provisions of Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW.

Section 2. 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 LMC Sections 3.90 with the correct Revised Code of Washington citation once the Washington citation once the Washington State Code Reviser releases that information.

Section 3. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 4. 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 5. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force five days after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, this 5th day of December, 2019.

CITY COUNCIL



Mayor

Attest:



City Clerk

Approved as to form:



City Attorney

SUMMARY FOR PUBLICATION

ORDINANCE NO 1561

CITY OF LACEY

The City Council of the City of Lacey, Washington passed on December 5, 2019, Ordinance No. 1561, entitled "AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF LACEY, 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, ADDING A NEW CHAPTER 3.90 TO THE LACEY MUNICIPAL CODE, ESTABLISHING AN EFFECTIVE DATE AND APPROVING A SUMMARY FOR PUBLICATION."

The main points of the Ordinance are described as follows:

1. The Ordinance authorizes the maximum capacity of the tax authorized under the provisions of SHB 1406 for affordable and supportive housing and rental assistance.
2. The Ordinance adopts a new chapter 3.90 of the Lacey Municipal Code related to sales and use tax for affordable housing.
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: December 9, 2019