

ORDINANCE NO. 14-2019

AN ORDINANCE OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON ADOPTING LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019), AND OTHER MATTERS RELATED THERETO AND ADDING A NEW ARTICLE III TO CHAPTER 3.10 OF THE COVINGTON MUNICIPAL CODE.

WHEREAS in the 2019 Regular Session, the Washington State Legislature approved Substitute House Bill 1406 to implement a local sales and use tax to fund affordable and supportive housing (Chapter 338, Laws of 2019) (“SHB 1406”); and

WHEREAS, under the new law, a “qualifying local tax” is defined as any of the following:

- the affordable housing levy (RCW 84.52.105),
- the sales and use tax for housing and related services (RCW 82.14.530),
- the sales and use tax for chemical dependency and mental health treatment services or therapeutic courts (RCW 82.14.460), or
- a voter-approved property tax levy used solely for affordable housing (RCW 84.55.050); and

WHEREAS, under the new law, the maximum rate of 0.0146 percent is available only to a city levying a qualifying local tax; and

WHEREAS, a county may not levy the tax within the limits of a city imposing the tax at 0.0146 percent;

WHEREAS, the City of Covington does not presently have a qualifying local tax and this Ordinance would not impose a qualifying local tax; and

WHEREAS, the City of Covington could still obtain the maximum rate of 0.0146 percent under the new law if a qualifying local tax is instated in Covington no later than July 27, 2020 (this would require separate additional action beyond the scope of the Ordinance); and

WHEREAS, under the new law, the rate of 0.0073 percent is available to a city, like Covington, without a qualifying local tax; and

WHEREAS, to impose the tax under the new law, a city legislative authority must adopt a resolution of intent by January 31, 2020, and impose the tax by July 27, 2020; and

WHEREAS, the City Council adopted a resolution of intent on October 8, 2019; and

WHEREAS, the tax imposed by this Ordinance is deducted against the state sales tax collected in the jurisdiction, so it does not increase the total sales and use tax paid by the final consumer or end user; and

WHEREAS, under this new tax, the amount a city may collect in any fiscal year is limited based on taxable retail sales in the jurisdiction for state fiscal year 2019; and

WHEREAS, a city may bond against the revenue by this tax; and

WHEREAS, the revenue collected or bonds issues may only be used for: 1) acquiring, rehabilitating, or constructing affordable housing, including new units of affordable housing within an existing structure or facilities providing supportive housing services; or 2) operations and maintenance costs of new units of affordable or supportive housing; and

WHEREAS, cities with a population of 100,000 or less may also use the revenue to provide rental assistance to tenants; and

WHEREAS, housing and services may only be provided to persons whose income is at or below 60 percent of the city median income; and

WHEREAS, a city may enter into an interlocal agreement with one or more other counties, cities, or other housing partners to provide affordable or supportive housing; and

WHEREAS, cities imposing the tax must submit annual reports on the collection and uses of the revenue to the Department of Commerce; and

WHEREAS, the City Council desires, by this Ordinance to levy and impose the tax authorized by Chapter 338, Laws of 2019;

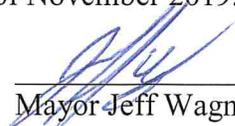
NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. The City Council hereby adopts a new Article III to Chapter 3.10 of the Covington Municipal Code (CMC), entitled “Sales and Use Tax for Affordable and Supportive Housing” as attached hereto and hereby incorporated by reference as if fully set forth herein.

Section 2. This ordinance shall be in full force and effect five days (5) after publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Section 3. If any provision of this ordinance, or ordinance modified by it is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance and ordinances and or/resolutions modified by it shall remain in force and effect.

Passed by the City Council on the 12th day of November 2019.



Mayor Jeff Wagner

ATTESTED:

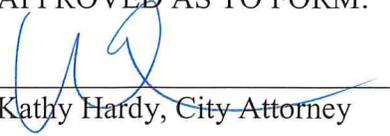


Sharon Scott, City Clerk

PUBLISHED: November 15, 2019

EFFECTIVE: November 20, 2019

APPROVED AS TO FORM:



Kathy Hardy, City Attorney

Article III
Sales and Use Tax for Affordable and Supportive Housing

Sections:

- 3.10.090 Imposition of Sales and Use Tax for Affordable and Supportive Housing as authorized by SHB 1406.
- 3.10.100 Purpose of Tax.
- 3.10.110 Administration - Collection.
- 3.10.120 Inspection of Records – Agreement with Department of Revenue.
- 3.10.130 Violation - Penalty.

3.10.090 Imposition of Sales and Use Tax for Affordable and Supportive Housing.

1. Imposition. There is imposed a sales and use tax as authorized by Washington State Legislature Chapter 338, Laws of 2019, upon every taxable event, as defined in Chapter 82.14 RCW, as the same exists or may hereafter be amended, which occurs within the City limits. The tax shall be imposed upon and collected from those persons from whom the State sales and/or use tax is collected pursuant to Chapter 82.08 and 82.12 RCW, as the same now exists or may hereafter be amended.

2. Tax Rate. The rate of the tax imposed by subsection (1) of this section shall be the maximum rate permitted to cities under Chapter 338, Laws of 2019 and shall expire twenty years after the date on which the tax is first imposed.

3. Calculation. The maximum amount to be received by the City from the tax each year shall be equal to the taxable retail sales within the City limits of Covington in State fiscal year 2019 multiplied by the tax rate. The tax imposed subsection (1) of this section shall be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue (DOR) under Chapter 82.08 or 82.12 RCW, as the same now exists or may hereafter be amended. DOR shall collect and administer the tax on behalf of the City of Covington at no cost to the City. In the event that the amount of tax exceeds the maximum amount allowed to the City under SHB 1406, any excess shall be remitted to the State Treasurer in accordance with SHB 1406.

3.10.100 Purpose of Tax.

The City may use the moneys collected by the tax imposed under CMC section 3.10.090 or bonds issued only for the following purposes:

1. Acquiring, rehabilitating, 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.

The housing and services provided under CMC Section 3.10.100 may only be provided to persons whose income is at or below 60 percent of the median income of the City.

3.10.110 Administration – Collection.

The administration and collection of tax imposed by this chapter 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.

3.10.120 Inspection of Records – Agreement with the Department of Revenue.

The City consents to the inspection of such records as are necessary to qualify the City for inspection of records of the Department of Revenue, pursuant to RCW 82.32.330, as the same now exists or may hereafter be amended. The City Manager is authorized to enter into an agreement with the Department of Revenue for the administration of the tax.

3.10.130 Inspection of Records – Agreement with the Department of Revenue.

It is unlawful for any seller to fail or refuse to collect taxes with intent to violate the provisions of this chapter or to gain some advantage or benefit, whether direct or indirect, or for any buyer to refuse to pay any tax due under the provisions of this chapter. Any person violating any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof punished pursuant to State law or City ordinance.