

ORDINANCE NO. 14-2020

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, WASHINGTON, AUTHORIZING AN ADDITIONAL LOCAL SALES AND USE TAX FOR HOUSING AND RELATED SERVICES UNDER THE PROVISIONS OF RCW 82.14.530; AMENDING CHAPTER 3.10 CMC; ADOPTING FINDINGS OF FACT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, during its 2020 regular session, the Washington State Legislature passed House Bill 1590, Chapter 222, Laws of 2020, which amended RCW 82.14.530 to allow cities to impose an additional sales and use tax to fund investments in affordable housing and related services; and

WHEREAS, as amended, RCW 82.14.530 authorizes counties to impose an additional local sales and use tax that may not exceed one-tenth of one percent; however, if a county does not impose the tax, or the full rate of the tax authorized, by September 30, 2020, cities located in that county may impose the whole or remainder of the sales and use tax rate; and

WHEREAS, if Covington authorizes this tax before King County, the full amount of the tax revenue will remain in the Covington community, the use of those funds will be controlled by the city, and King County must provide a tax credit against any subsequently imposed county tax for the full amount of the tax imposed by the city; and

WHEREAS, if the city imposes the tax, there are statutory restrictions on the use of the revenue. A minimum of 60 percent of the moneys collected from this tax must be used for constructing affordable housing, constructing mental and behavioral health-related facilities, or funding the operations and maintenance costs of new units of affordable housing and facilities where housing-related programs are provided, or newly constructed evaluation and treatment centers; and

WHEREAS, there are also restrictions regarding the population the additional funding may be used to serve. The affordable housing and facilities providing housing-related programs may only be provided to persons whose income is at or below 60 percent of the median income of King County and are persons with behavioral health disabilities, veterans, senior citizens, homeless families with children, unaccompanied homeless youth or young adults, persons with disabilities, or domestic violence survivors; and

WHEREAS, the remainder of the moneys collected from this tax must be used for the operation, delivery, or evaluation of mental and behavioral health treatment programs and services or housing-related services; and

WHEREAS, the city has determined that imposing the sales and use tax in furtherance of the programs and services allowed by RCW 82.14.530 will provide a benefit to the citizens; and

WHEREAS, as of the adoption date of this ordinance, King County has not imposed a sales and use tax under RCW 82.14.530; and

WHEREAS, the City Council has determined that it is in the best interest of the city to impose an additional local sales and use tax as authorized by RCW 82.14.530;

NOW, THEREFORE, The City of Council of the City of Covington, Washington, do ordain as follows:

Section 1. Findings of Fact. The recitals set forth above are hereby adopted as the City Council's findings of fact.

Section 2. Amendments to Chapter 3.10 CMC. Chapter 3.10 CMC is hereby amended as set forth in the attached Exhibit A, which is incorporated herein by this reference.

Section 3. Severability. If any section, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or situation. The City Council of the City of Covington hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 4. Corrections. Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make any necessary corrections to this ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any reference thereto.

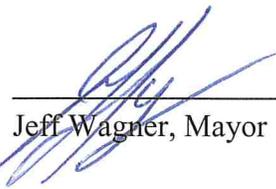
Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This ordinance shall be in full effect five (5) days after passage and publication, as provided by law. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Passed by the City Council of the City of Covington this 5th day of October 2020.

Signed in authentication of its passage this 7TH day of October, 2020.

[Signature Page Follows]

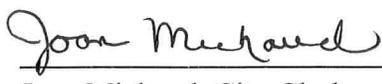


Jeff Wagner, Mayor

EFFECTIVE: October 13, 2020

PUBLISHED: October 8, 2020

AUTHENTICATED:



Joan Michaud, City Clerk

APPROVED AS TO FORM:

/s/ Mark Orthmann, as authorized by email on October 5, 2020

Mark Orthmann, City Attorney

EXHIBIT A

Article I. Sales and Use Tax

3.10.010 Imposition of a sales and use tax as authorized by RCW 82.14.030(1).

(1) Imposition. There is imposed a separate sales and/or use tax, as the case may be, 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 Chapters 82.08 and 82.12 RCW, as the same now exist or may hereafter be amended.

(2) Tax Rate. The rate of tax imposed by subsection (1) of this section shall be one-half of one percent of the selling price of value of the article used, as the case may be; provided, that during such period as there is in effect a sales and/or use tax imposed by King County pursuant to RCW 82.14.030(1), the rate imposed by this chapter shall be as provided in RCW 82.14.030(1), as the same now exists or may hereafter be amended. The rate as of the effective date of this chapter shall be 425/1000th of one percent.

3.10.020 Administration – Collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050, as the same now exists or may hereafter be amended.

3.10.030 Inspection of records – Agreement with 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

3.10.040 Violation – Penalty.

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.

Article II. Additional Sales and Use Tax

3.10.050 Imposition of an additional sales and use tax as authorized by RCW 82.14.030(2).

(1) Imposition. In addition to other taxes which may be imposed by the City, there is imposed a separate sales and/or use tax, as the case may be, upon the same taxable events and upon which the tax imposed pursuant to RCW 82.14.030(1) is levied, as the same exists or may hereafter be amended, and as specifically authorized by RCW 82.14.030(2).

(2) Tax Rate. The rate of tax imposed by this section, which shall be in addition to the rate of tax permitted to be imposed in City ordinance pursuant to RCW 82.14.030(1), as the same now exists or may hereafter be amended, shall be one-half of one percent of the selling price (in the case of a sales tax) or value of the article used (in the case of a use tax); provided, that if King County shall impose a sales and/or use tax pursuant to RCW 82.14.030 (2), as the same now exists or may hereafter be amended, at a rate that is equal to or greater than the rate imposed under this chapter, then said County shall receive 15 percent of the City tax; provided further, that if King County shall impose a sales and/or use tax pursuant to RCW 82.14.030 (2), at a rate that is less than the rate imposed under this chapter, the County shall receive that amount of revenues from the City tax equal to 15 percent of the rate of tax imposed by the County.

3.10.060 Administration – Collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of RCW 82.14.050, as the same now exists or may hereafter be amended.

3.10.070 Inspection of records – Agreement with 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.

3.10.080 Violation – Penalty.

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.

Article III. Sales and Use Tax for Affordable and Supportive Housing

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 RCW 82.14.540, 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 Chapters 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 RCW 82.14.540, and shall expire 20 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 in 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 RCW 82.14.540, any excess shall be remitted to the State Treasurer in accordance with RCW 82.14.540.

3.10.100 Purpose of tax.

The City may use the moneys collected by the tax imposed under CMC 3.10.090 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.

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.

3.10.110 Administration – Collection.

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

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 Violation – Penalty.

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.

Article IV. Additional Sales and Use Tax for Housing and Related Services

3.10.140 Imposition of additional sales and use tax for housing and related services.

(1) Imposition. There is hereby imposed an additional sales and use tax as authorized by RCW 82.14.530, upon every taxable event, as defined in Chapter 82.14 RCW, occurring 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 Chapters 82.08 and 82.12 RCW, as the same now exist or may hereafter be amended.

(2) Rate. The rate of the tax shall be the maximum rate permitted under RCW 82.14.530 (or as may be amended in the future) of one-tenth of one percent of the selling price in the case of sales tax, or value of the article used, in the case of a use tax.

3.10.150 Purpose and use of the tax.

The City must use the moneys collected by the tax imposed under CMC 3.10.140 in accordance with RCW 82.14.530 (or as may be amended in the future) for housing and related services.

3.10.060 Administration – Collection.

The administration and collection of the tax imposed under CMC 3.10.140 shall be in accordance with the provisions of RCW 82.14.050, as the same now exists or may hereafter be amended.

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 Violation – Penalty.

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.