

ORDINANCE 1721

AN ORDINANCE OF THE CITY OF NORTH BEND, WASHINGTON, ADOPTING A NEW CHAPTER 3.10 OF THE NORTH BEND MUNICIPAL CODE ENTITLED “SALES AND USE TAX FOR AFFORDABLE HOUSING” FOR THE PURPOSE OF AUTHORIZING THE MAXIMUM CAPACITY OF A LOCAL SALES AND USE TAX TO FUND INVESTMENTS IN AFFORDABLE AND SUPPORTIVE HOUSING; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, State House Bill (SHB) 1406 authorizes the governing body of a city or county to impose a local sales and use tax 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, or, if eligible, for providing rental assistance to tenants; and

WHEREAS, 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 currently lacks sufficient affordable workforce housing and has determined that imposing the sales and use tax to address this need will benefit its citizens; and

WHEREAS, forty-two percent of the households in North Bend are burdened by housing costs which exceed 33% of gross income; and

WHEREAS, the tax would directly support North Bend’s Comprehensive Plan Housing Goals 5 and 6 which support the availability of housing for residents with special needs and support affordability so residents can age in place; and

WHEREAS, the North Bend City Council, in accordance with Washington State Legislature Chapter 338, Laws of 2019, adopted a resolution of intent (Resolution 1911, October 15, 2019) to adopt legislation to authorize the maximum capacity of a sales and use tax within six months of the effective date of Chapter 338, Laws of 2019; and

WHEREAS, the City of North Bend intends to impose the maximum local sales and use tax authorized under Chapter 338, Laws of 2019 within one year of the date on which said law takes effect; and

WHEREAS, the Department of Revenue requires 30 days’ notice of adoption of sales tax credits and the credit will then take effect on the first day of the month following the 30-day period; and

WHEREAS, the local sales and use tax will be credited against the state sales and use tax so that the total tax paid by the consumer will not increase; and

WHEREAS, the local sales and use tax shall be spent on acquiring, rehabilitating, constructing affordable housing or supportive housing, or rental assistance and other related expenditures as authorized by Chapter 338, Laws of 2019; and

WHEREAS, Chapter 338, Laws of 2019 authorizes the City of North Bend to issue general obligation or revenue bonds to carry out the purposes of the legislation and to pledge the revenue collected by the local sales and use tax to repay the bonds; and

WHEREAS, the City has determined it is in the best interest of the City and its residents to begin implementation of the tax and then later determine the process and distribution of the funds collected by a resolution of the North Bend City Council to meet the requirements of Chapter 338, Laws of 2019;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. New NBMC Chapter 3.10, Sales and Use Tax for Affordable Housing, Adopted: A new North Bend Municipal Code Chapter 3.10 (Sales and Use Tax for Affordable Housing) is hereby adopted to read as follows:

**CHAPTER 3.10
SALES AND USE TAX FOR AFFORDABLE HOUSING**

Sections:

- 3.10.010 Imposition of Sales and Use Tax for Affordable Housing
- 3.10.020 Purpose of Tax
- 3.10.030 Administration and Collection – Statutory Compliance

3.10.010 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 84.12 RCW, occurring in the City of North Bend. 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 by NBMC Section 3.10.010 shall be 0.0073 percent of the selling price of value of the article used.

- C. The tax imposed under NBMC Section 3.10.040 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 North Bend at no cost to the City
- D. The Department of Revenue will calculate the maximum amount of tax distributions for the City of North Bend based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed under NBMC 3.10.010 will cease to be distributed to the City of North Bend 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 North Bend that have ceased during a State Fiscal Year shall resume at the beginning of the next State Fiscal Year.

3.10.020 Purpose of Tax

- A. The City may use the moneys collected by the tax imposed under NBMC 3.10.010 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 NBMC Section 3.10.020 may only be provided to persons whose income is at or below 60 percent of the median income of the City.
- C. In determining the use of funds under NBMC 3.10.020, the City must consider the income of individuals and families to be served, the leveraging of the resources made available under NBMC Section 3.10.010, and the housing needs within the City.
- D. 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 NBMC Section 3.10.010.
- E. The tax imposed by the City under NBMC 3.10.010 will expire in 20 years after the date on which the tax is first imposed. The Finance Director shall provide notice to the City Council and the Mayor of the expiration date of the tax each year beginning three years before the expiration date and shall also promptly notify the City Council and the Mayor of any changes to the expiration date.

3.10.030 Administration and Collection – Statutory Compliance

The administration and collection of the tax imposed by Chapter 3.10 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. The Finance Director is authorized to provide any necessary notice to the Department of Revenue to effectuate the tax enacted by this ordinance and to execute, for and behalf of the City of North Bend, any necessary agreement with the Department of Revenue for the collection and administration of the tax enacted by this ordinance.

Section 3. Corrections by City Clerk or Code Reviser: Upon approval of the City Attorney, the City Clerk and the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering.

Section 4. Severability: Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, 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 pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 5. Effective Date: This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND, WASHINGTON, AT A REGULAR MEETING THEREOF, THIS 19TH DAY OF MAY, 2020.

CITY OF NORTH BEND:

APPROVED AS TO FORM:

Rob McFarland, Mayor

Michael R. Kenyon, City Attorney

ATTEST/AUTHENTICATED:

Published: May 29, 2020
Effective: June 3, 2020

Susie Oppedal, City Clerk