

**ORDINANCE NO. 1636**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, RELATING TO FINANCE, IMPOSING A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH RCW 84.14.540, FIXING THE RATE OF THE TAX, DEFINING THE PERMISSIBLE USES OF THE PROCEEDS OF THE TAX, SETTING AN EXPIRATION DATE, AND ADDING AND READOPTING CHAPTER 3.32 OF THE BONNEY LAKE MUNICIPAL CODE ENTITLED AFFORDABLE HOUSING SALES TAX FUND.**

**WHEREAS**, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill (SHB) 1406 (Chapter 338, Laws of 2019, now codified at RCW 82.14.540; and

**WHEREAS**, RCW 82.14.540 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, 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 Housing Section of the Community Development Element of *Bonney Lake 2035* has document that that there is a lack of affordable housing for those individuals making less than sixty percent (60%) of the City median income;

**WHEREAS**, the City has determined that imposing the sales and use tax to address this need will benefit its citizens; and

**WHEREAS**, in order for a city or county to impose the tax, within six months of the effective date of SHB 1406, or January 28, 2020, the governing body must adopt a resolution of intent to authorize the maximum capacity of the tax, and within twelve months of the effective date of SHB 1406, or July 28, 2020, must adopt legislation to authorize the maximum capacity of the tax; and

**WHEREAS**, the City Council passed Resolution Number 2703 at the regular City Council meeting on September 24, 2019, declaring the City's intent to authorize the sales and use tax, and

**WHEREAS**, the maximum rate of tax that may be levied under RCW 82.14.540 by a City lying within a County that imposes its own tax under RCW 82.14.540 is seventy-three ten-thousands of one percent (0.0073%); and

**WHEREAS**, the City Council finds that imposing the maximum additional sales and use tax authorized by SHB 1406 and RCW 82.14.540 is necessary and proper to promote the health, safety, and welfare of the public;

**NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE,  
WASHINGTON DOES ORDAIN AS FOLLOWS:**

**Section 1.** Chapter 3.32 of the Bonney Lake Municipal Code is hereby readopted and shall be entitled "Affordable Housing Sales Tax Fund" to read as follows:

**3.32.010 Fund Established**

There is hereby established a special revenue fund for the city of Bonney Lake, to be known as the "Affordable Housing Sales Tax Fund," into which shall be deposited all monies received for affordable and supportive housing imposed by this chapter as authorized by RCW 82.14.540.

**3.32.020 Imposition**

There is imposed a sales and use tax for affordable and supportive housing as authorized by RCW 82.14.540 upon every taxable event occurring within the city as defined in RCW 82.14.020.

**3.32.030 Rate**

The rate of tax imposed by BLMC 3.32.020 shall be seventy-three ten-thousands of one percent (0.0073%) of the selling price in the case of a sales tax, or value of the article used, in the case of a use tax. 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.

**3.32.040 Use of fund**

Proceeds from the sales and use tax for affordable and supportive housing imposed by this chapter shall be used only for the purposes provided in RCW 82.14.540(6). The city

may enter into an interlocal agreement with one or more counties, cities, or public housing authorities in accordance with chapter 39.34 RCW and RCW 82.14.540(10).

**3.32.050 Administration Collection**

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

**3.32.060 Expiration.**

The tax imposed under this chapter shall expire twenty years after the date on which the tax is first imposed.

**3.32.070 Contract with Department of Revenue**

The Mayor or designee is authorized to enter into a contract with the Department of Revenue for the administration of this tax

**Section 2. Severability.** If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

**Section 3. Effective Date.** This Ordinance shall take effect thirty (30) days after its passage, approval, and publication as required by law.

**PASSED BY THE CITY COUNCIL this 23rd day of June, 2020**

DocuSigned by:  
*Neil Johnson, Jr.*  
20583FB9C281400...

Neil Johnson, Jr., Mayor

AUTHENTICATED:  
DocuSigned by:  
*Harwood T. Edvalson*  
F46A10AD29884A1...

Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:  
DocuSigned by:  
*Kathleen Haggard*  
3DB6AE277B904C4...

Kathleen Haggard, City Attorney

**City of Bonney Lake, Washington**  
**City Council Agenda Bill (AB)**

|  |  |                                       |
|--|--|---------------------------------------|
| <b>Department/Staff Contact:</b><br>Public Services Department<br>Jason Sullivan – Planning &<br>Building Supervisor | <b>Meeting/Workshop Date:</b><br>June 23, 2020 | <b>Agenda Bill Number:</b><br>AB20-29 |
| <b>Agenda Item Type:</b><br>Ordinance  | <b>Ordinance/Resolution Number:</b><br>D20-29  | <b>Sponsor:</b>                       |

**Agenda Subject:** Imposing Sales and Use Tax for Affordable and Supportive Housing in Accordance with Substitute House Bill 1406

**Full Title/Motion:** An ordinance of the City Council of the City of Bonney Lake, Pierce County, Washington, relating to finance, imposing a sales and use tax for affordable and supportive housing in accordance with RCW 84.14.540, fixing the rate of the tax, defining the permissible uses of the proceeds of the tax, setting an expiration date, and adding and readopting Chapter 3.32 of the Bonney Lake Municipal Code entitled Affordable Housing Sales Tax Fund

**Administrative Recommendation:** Approve

**Background Summary:** In 2019, the Legislature approved a local revenue sharing program for local governments by providing up to a 0.0073% local sales and use tax credited for housing investment for cities that have not already levied a property tax or sales tax for affordable housing up to twenty years. The funds can be used to provide affordable housing for persons whose income is at or below sixty percent of the area median income. The maximum amount collected each year over the next twenty years will be based on the sales tax collected within the boundary of the City in 2019. The estimated maximum amount the City would receive is approximately \$50,000 each year for the next twenty years or \$1 million dollars. The City passed Resolution 2780 on September 24, 2019 stating the City intent to adopt an ordinance by July 28, 2020 take advantage of the sales tax credit

**Attachments:** Ordinance D20-29, Resolution 2780, and AWC HB 1406 Information Material

| <b>BUDGET INFORMATION</b>  |                 |                      |                |
|----------------------------|-----------------|----------------------|----------------|
| Budget Amount              | Current Balance | Required Expenditure | Budget Balance |
| <b>Budget Explanation:</b> |                 |                      |                |

| <b>COMMITTEE, BOARD &amp; COMMISSION REVIEW</b> |                       |                        |   |
|---|-----------------------|------------------------|---|
| <b>Council Committee Review:</b>                | Finance Committee     | Approvals:             | Yes No  |
|   | Date: August 27, 2019 | Chair/Councilmember    | <input type="checkbox"/> <input type="checkbox"/>                   |
|   |                       | Councilmember          | <input type="checkbox"/> <input type="checkbox"/>                   |
|   |                       | Councilmember          | <input type="checkbox"/> <input type="checkbox"/>                   |
|   | Forward to:           | <b>Consent Agenda:</b> | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| <b>Commission/Board Review:</b>                 |                       |                        |   |
| <b>Hearing Examiner Review:</b>                 |                       |                        |   |

| <b>COUNCIL ACTION</b>               |                         |
|-------------------------------------|-------------------------|
| Workshop Date(s): June 17, 2020     | Public Hearing Date(s): |
| Meeting Date(s): September 24, 2019 | Tabled to Date:         |

| <b>APPROVALS</b>                          |               |  |
|---|---------------|--|
| <b>Director:</b><br><i>Ryan Johnstone</i> | <b>Mayor:</b> | <b>Date Reviewed<br/>by City Attorney:</b><br>(if applicable): |

**RESOLUTION NO. 2780**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, PIERCE COUNTY, WASHINGTON, DECLARING THE INTENT OF THE CITY OF BONNEY LAKE TO ADOPT LEGISLATION TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019).**

**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 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, or for the operations and maintenance costs of affordable or supportive housing; 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 (60%) of the City median income; and

**WHEREAS**, the Housing Section of the Community Development Element of *Bonney Lake 2035* has document that that there is a lack of affordable housing for those individuals making less than sixty percent (60%) of the City median income;

**WHEREAS**, the City has determined that imposing the sales and use tax to address this need will benefit its citizens; and

**WHEREAS**, in order for the City to impose the tax, within six (6) months of the effective date of SHB 1406, or January 28, 2020, the governing body must adopt a resolution of intent to authorize the maximum capacity of the tax, and

**WHEREAS**, the City must adopt legislation to authorize the maximum capacity of the tax within twelve months of the effective date of SHB 1406, or July 28, 2020; and

**WHEREAS**, this Resolution constitutes the City’s notice of intent required by SHB 1406; and

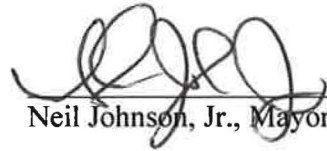
**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF BONNEY LAKE, WASHINGTON HEREBY RESOLVES AS FOLLOWS:**

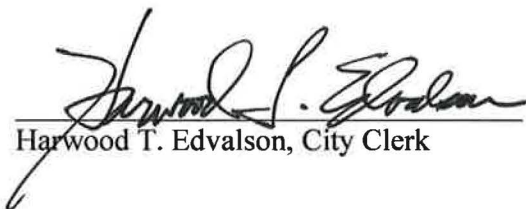
**Section 1. Resolution of Intent.** The City of Bonney Lake City Council declares its intent to adopt legislation to authorize the maximum capacity of the sales and use tax authorized by SHB 1406 within one year of the effective date of SHB 1406, or by July 28, 2020.

**Section 2. Further Authority.** All City officials, their agents, and representatives are hereby authorized and directed to undertake all action necessary or desirable from time to time to carry out the terms of, and complete the actions contemplated by, this resolution.

**Section 3. Effective Date.** This Resolution shall take effect immediately upon its passage pursuant to BLMC 2.04.800.B.

**PASSED BY THE CITY COUNCIL this 24th day of September, 2019.**

  
Neil Johnson, Jr., Mayor

  
Harwood T. Edvalson, City Clerk

APPROVED AS TO FORM:

  
Kathleen Haggard, City Attorney



# Implementing HB 1406

2019

## Don't miss out on up to 20 years of shared revenue for affordable housing

In the 2019 legislative session, the state approved a local revenue sharing program for local governments by providing up to a 0.0146% local sales and use tax credited against the state sales tax for housing investments, available in increments of 0.0073%, depending on the imposition of other local taxes and whether your county also takes advantage. The tax credit is in place for up to 20 years and can be used for acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable or supportive housing facilities; and, for smaller cities, rental assistance. The funding must be spent on projects that serve persons whose income is at or below sixty percent of the area median income. Cities can also issue bonds to finance the authorized projects.

This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer. There are tight timelines that must be met to access this funding source – the first is January 31, 2020 to pass a resolution of intent. The tax ordinance must then be adopted by July 27, 2020 to qualify for a credit.

The following information is intended to assist your city in evaluating its options and timelines. It is not intended as legal advice. Check with your city's legal counsel and/or bond counsel for specific questions on project uses and deadlines for implementation.

### Deadlines to participate:

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020

### Eligibility to receive shared revenues

- The state is splitting the shared resources between cities and counties. However, cities can receive both shares if they have adopted a "qualifying local tax" by July 31, 2020. Qualifying taxes are detailed below. Cities who are levying a "qualifying local tax" by July 28, 2019, the effective date of the new law, will receive both shares immediately once they impose the new sales tax credit.
- If a city does not implement a qualifying local tax by the deadline, they can still participate in the program if they meet the other deadlines but will be eligible for a lower credit rate.
- A city can adopt the sales tax credit before designating how the funds will be used once collected.

### Qualifying local taxes

The following are considered "qualifying local taxes" and, if levied, give the city access to both shares of the tax credit (i.e. 0.0146% rate instead of the single share rate of 0.0073%):

- Affordable housing levy (property tax) under RCW 84.52.105
- Sales and use tax for housing and related services under RCW 82.14.530. The city must have adopted at least half of the authorized maximum rate of 0.001%.
- Sales tax for chemical dependency and mental health (optional .1 MIDD) under RCW 82.14.460
- Levy (property tax) authorized under RCW 84.55.050, if used solely for affordable housing

Think of the "qualifying local tax" as a multiplier or "doubler." It gives the city access to double the tax credit even when the county chooses to participate in the program.

## Contact:

**Carl Schroeder**  
Government Relations Advocate  
carls@awcnet.org

**Shannon McClelland**  
Legislative & Policy Analyst  
shannonm@awcnet.org

# Six steps to affordable housing revenue

**1** Is your city interested in accessing additional funding to support affordable housing for the next 20 years?

**Yes**

**Maybe. What can we spend the money on?**

No action required.

**2** Does your city levy a "qualifying local tax"?

**Yes**

**No**

**What's a "qualifying local tax"?**

- 1. Affordable housing levy (RCW 84.52.105)
- OR
- 2. Sales and use tax for housing and related services (RCW 82.14.530). Must impose at least half of the authorized rate.
- OR
- 3. Sales tax for chemical dependency and mental health services or therapeutic courts (RCW 82.14.460).
- OR
- 4. Levy (property tax) under RCW 84.55.050, if used solely for affordable housing.

Can your city adopt a "qualifying local tax" by July 31, 2020, including ballot measure?

**Yes**

**No**

Your city is still eligible to participate in the program. Go to Step 3 to continue.

**3** The law requires a resolution of intent to impose the tax credit. Can your city **adopt a resolution of intent** between July 28, 2019 and January 31, 2020?

**Yes**

**No**

Unfortunately, your city is no longer eligible to participate in the program.

**4** Great! Next, your city must **adopt an ordinance** by July 27, 2020 to levy the maximum tax under **HB 1406**. Did you or will you?

**Yes**

**No**

**5** Great! Now let's find out what your maximum tax rate is. Did your city instate a "**qualifying local tax**" by the deadline – July 31, 2020? A "qualifying local tax" is not required but can increase your tax credit.

**Yes**

**No**

Did your county levy its share of the tax credit?

**Yes**

**No**

If the county declared they will not levy the tax or have not adopted a resolution of intent by February 1, 2020, your city's tax rate will be 0.0146%. (See **Important Dates**.)

**6** Was your city levying the "qualifying local tax" before you instated the tax credit under **HB 1406**?

**Yes**

**No**

Your tax credit rate is 0.0073% starting on the date the tax credit is levied. (See **Important Dates**.)

Your tax credit rate is 0.0146% starting on the date the tax credit is levied. (See **Important Dates**.)

Until July 1, 2020, your tax credit rate is 0.0073% starting on the date the tax credit is levied. (See **Important Dates**.) After July 1, 2020, your tax credit rate is 0.0146%.

All projects must serve households with incomes at or below 60% Area Median Income (AMI). Is the city's population more than 100,000?

**Yes**

**No**

All of the options for cities over 100,000, plus rental assistance to tenants.

- Acquiring, rehabing, or constructing affordable housing. Includes new units within an existing structure or supportive housing facilities under RCW 71.24.385. Consider bonding, land acquisition, direct capital investment down payment assistance, and rehabilitation of single-family homes owned by individuals who meet the 60% AMI qualification.
- OR
- Funding the operations and maintenance costs of new units of affordable or supportive housing.

**Important dates:**

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020
- See also **Additional timelines to keep in mind** on the back





## Tax credit rate examples

| Max tax credit rate under HB 1406 | City with qualifying local tax | City without qualifying local tax | City doesn't levy a tax credit, county does participate | County doesn't participate, city participates but doesn't have a qualifying tax.* |
|-----------------------------------|--------------------------------|-----------------------------------|---|---|
| City                              | 0.0146%                        | 0.0073%                           | 0.0%  | July 2020: 0.0%   |
| County                            | 0.0%                           | 0.0073%                           | 0.0146%   | 0.0%  |

\*We believe that this was an error in bill drafting. Please let us know if you are in this situation. We can work to address it in future legislative sessions.

### Eligible uses of the funds:

1. Projects must serve those at or below 60% AMI.
2. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services. In addition to investing in traditional subsidized housing projects, this authority could potentially be used to provide for land acquisition, down payment assistance, and home repair so long as recipients meet the income guidelines.
3. Funding the operations and maintenance costs of new units of affordable or supportive housing.
4. For cities with a population under 100,000, the funds can also be used for rental assistance to tenants.

### Additional timelines to keep in mind:

1. Department of Revenue (DOR) requires 30-days-notice of adoption of sales tax credits. The credit will then take effect on the first day of the month following the 30-day period.
2. If your city is adopting a "qualifying local tax", DOR requires 75-days-notice of adoption of sales tax increases. Local sales tax increases may only take effect on the first day of the first, second, or third quarter – not the fourth (April 1, July 1, or October 1).
3. If your city is adopting a "qualifying local tax" remember to factor in the ballot measure process into the timeline, as these must be approved by the voters.
4. If you are intending to bond the revenues for a project under this authority, check with your legal counsel and bond counsel about other deadlines that may apply to your city.

### Frequently asked questions:

1. **This program sounds very familiar. Didn't a local option, affordable housing sales tax law pass a few years ago?** Yes, but the new law has important differences. The Legislature passed HB 2263 in 2015 that authorized cities and towns to levy up to a 0.1% sales tax for affordable housing—

but, importantly, only after voter approval. This sales tax levy is considered a "qualifying local tax" under HB 1406. Another important distinction is that the affordable housing sales tax from 2015 is an additional tax on the consumer, and not a credit on an existing state-imposed tax.

2. **Do we have to levy a "qualifying local tax" to participate?** No. Your city is still eligible to participate in the program, but your tax credit rate will depend on whether the county participates in the program. See *Tax credit rate examples* chart to the left.
3. **Do we only have access to the program if the county declines to participate?** No. A city can participate, and receive funds, even if the county participates. Unfortunately, if your city does not impose a "qualifying local tax" by the deadline and your county declines to participate, then you will not have access to funds after the first year, due to a drafting error in the bill. We don't anticipate this scenario to occur, but please let us know if you find yourself in that situation. We will work with the Legislature to address it if this proves problematic. In all cases you must meet the program deadlines to participate. See *Deadlines to participate*.
4. **Does it make a difference at all if our county participates?** Only if you have not adopted a "qualifying local tax." If you have adopted a "qualifying local tax" you can access the higher credit rate regardless of county participation. If you don't have a "qualifying local tax" then you can only access the higher rate if the county does not participate.
5. **How is "rental assistance" defined? Does that include rent vouchers?** The term "rental assistance" is not defined in the chapter 82.14 RCW; however, both federal and state housing programs use the term "rental assistance" to mean providing rent, security deposits, or utility payment assistance to tenants.
6. **Can we pool our revenue with another entity? Can we issue bonds or use the money to repay bonds?** Yes! Cities can enter into an interlocal agreement with other local governments or a public housing authority to pool tax receipts, pledge tax collections to bonds, allocating collected taxes to authorized affordable housing expenditures, or other agreements authorized under chapter 39.34 RCW. Cities may also use the tax credit revenue to issue or repay bonds in order to carry out the projects authorized under the new law.
7. **Is the amount of tax credit we receive limited only by the amount of sales tax collected per year?** No. The maximum amount will be based on state fiscal year 2019 sales.
8. **Does the tax credit program expire?** Yes, the tax expires 20 years after the date on which the tax is first levied.

# Contact:

**Carl Schroeder**  
Government Relations Advocate  
carls@awcnet.org

**Shannon McClelland**  
Legislative & Policy Analyst  
shannonm@awcnet.org