

CITY COUNCIL AGENDA ITEM

CITY OF SHORELINE, WASHINGTON

AGENDA TITLE:	Discussing Resolution No. 448 and Ordinance No. 869 – Declaring the City’s Intent and Authorizing the Sales Tax Credit for Affordable and Supportive Housing as Authorized by SHB 1406		
DEPARTMENT:	Community Services		
PRESENTED BY:	Colleen Kelly, Community Services Manager		
ACTION:	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion
	<input checked="" type="checkbox"/> Discussion	<input type="checkbox"/> Public Hearing	

PROBLEM/ISSUE STATEMENT:

Washington State Substitute House Bill (SHB) 1406, which was adopted during this past legislative session, authorizes the governing body of a county or city to impose a local sales tax, credited against the state sales tax, for affordable and supportive housing. Jurisdictions that wish to receive the housing sales tax credit must pass a Resolution of Intent no later than January 27, 2020 and an Authorizing Ordinance no later than July 27, 2020. The sooner enabling legislation is passed, the sooner collections of the tax dollars can begin at the local level.

Tonight, Council will discuss proposed Resolution No. 448, which would declare the City’s intent to receive the affordable housing sales tax credit, and proposed Ordinance No. 869, which would authorize the collection of the sales tax credit. Proposed Resolution No. 448 and proposed Ordinance No. 869 are currently scheduled for adoption on the October 28, 2019 Council meeting.

RESOURCE/FINANCIAL IMPACT:

The projected estimate of sales tax resources available to the City of Shoreline depends on requirements and considerations outlined in this memo. At the lower qualifying rate, the projection is about \$81,700 per year; at the higher qualifying rate, the projection is about \$163,400 per year. The tax credit will be available for up to 20 years. This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer.

RECOMMENDATION

No action is required. Staff will present information related to SHB 1406 and outline the City’s options. Staff recommends that Council discuss these options to ensure a thorough understanding of the options and related requirements and seeks direction from Council regarding next steps, including scheduling proposed Resolution No. 448 and proposed Ordinance No. 869 for adoption on October 28, 2019.

Approved By: City Manager **DT** City Attorney **MK**

INTRODUCTION

Washington State Substitute House Bill 1406 ([SHB 1406](#)) authorizes the governing body of a county or city to impose a local sales tax, credited against the state sales tax, for affordable and supportive housing. Jurisdictions that wish to receive the housing sales tax credit must pass a Resolution of Intent no later than January 31, 2020 and an Authorizing Ordinance no later than July 27, 2020.

BACKGROUND

Overview

In the 2019 legislative session, the state approved a revenue sharing program for local governments by providing up to 0.0146% of local sales and use tax credited against the state sales tax for housing investments. 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 with populations under 100,000, 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. Jurisdictions may also issue bonds to finance authorized projects.

Available Revenue

Participating jurisdictions (a city or county that takes required actions) will receive either 0.0073% or 0.0146% of taxable retail sales in the jurisdiction, up to an annual maximum distribution cap that is based on FY 2019 taxable retail sales. The rate of tax for cities depends on whether they have, or will have by July 27, 2020, a “qualifying local tax” (QLT). Counties do not need a QLT to receive the maximum distribution.

A QLT is a local property or sales tax that a city has imposed, separately from SHB 1406, to address affordable housing or related issues and allows cities to collect at the maximum rate of 0.0146%. The QLT options are:

- An affordable housing levy ([RCW 84.52.105](#));
- A sales and use tax for affordable housing ([RCW 82.14.530](#));
- A levy lid lift ([RCW 84.55.050](#)) that is restricted solely to affordable housing; or
- A mental health and chemical dependency sales tax ([RCW 82.14.460](#)), which is only authorized by statute for those cities of at least 30,000 population located within Pierce County.

All QLTs require voter approval with a simple majority vote (with the exception of the mental health and chemical dependency sales tax) and may be presented at any special, primary, or general election. Using Washington State Department of Revenue data, the Municipal Research and Services Center (MRSC) has developed a [worksheet](#) showing what the revenue cap would be for each jurisdiction based on April, 2018 to March, 2019 sales tax collections. Final caps will be determined based on July 1, 2018 to June 30, 2019, but the worksheet numbers provide a useful estimate. Projected revenues for Shoreline based on this data from the State Department of Revenue are:

<u>Rate</u>	<u>Estimate of Max Value/Year</u>	<u>20-Year Total Estimate (assumes max/yr)</u>
0.0073%	\$81,714	\$1,634,280
0.0146%	\$163,429	\$3,268,580

Here are the possible scenarios for sales tax credit collections:

- If a city chooses not to participate but the county does participate, the county will receive the full 0.0146% within the city boundaries.
- If a city elects to participate but does not have a QLT, the city will receive the 0.0073% “half share” and the county will also receive a 0.0073% half share within the city boundaries.
- If a city elects to participate and imposes a QLT by the deadline, the city will receive the full 0.0146% share and the county will not receive any revenues within the city boundaries.
- If the county elects not to participate, cities located within said county that have not enacted a QLT will not receive SHB 1406 revenues after the first year.

King County has already passed enabling legislation, so that is a known variable at this time. Additionally, given that the City Council has not discussed enacting any of the eligible QLTs in Shoreline in the near term nor prepared for a public vote on these additional taxes, which must be done before July of next year, it is most likely that Shoreline would receive a “half share” of the sales tax credit if authorized by the Council.

It is also important to remember that retail sales can fluctuate from year to year depending upon various economic factors, so revenues generated from this sales tax credit may fluctuate as well. Also, as noted above, SHB 1406 sets a cap on the revenues to be credited within any state fiscal year. The cap will be calculated based upon the jurisdiction's taxable retail sales during the state's 2019 fiscal year (July 1, 2018 - June 30, 2019). If at any time during the fiscal period the city's distributions meet the cap, the state will cease distribution until the beginning of the next fiscal cycle.

Restricted Uses

The intent of the legislation is to encourage local government investments in affordable and supportive housing, and as such, the funds will be considered a restricted revenue subject to reporting requirements and audit review for compliance. The use of this sales tax partially depends upon the size of the jurisdiction:

- **For counties over 400,000 population and cities over 100,000 population:**
The funds may only be used for (a) acquiring, rehabilitating, or constructing affordable housing, or facilities providing supportive housing services under [RCW 71.24.385](#) (behavioral health organizations), or (b) operations and maintenance costs of new units of affordable or supportive housing.
- **For counties under 400,000 population and cities under 100,000 population:**
The funds may be used for the same purposes listed above, but they may also be used to provide rental assistance to tenants that are at or below 60% of the area median income (AMI) of the county or city that is imposing the tax.

The funds may be used to finance loans or grants to nonprofit organizations or public housing authorities to carry out the purposes of the bill, and a participating city or county may pledge the tax proceeds from SHB 1406 for repayment of bonds in accordance with debt limitations imposed by the state constitution or statute.

Additionally, any participating city or county may enter into an interlocal agreement with other cities, counties, and/or housing authorities to pool and allocate the tax revenues received under SHB 1406 to fulfill the intent of the legislation.

ALTERNATIVES ANALYSIS

There are two primary alternatives for Council consideration:

- The Council may choose to collect the sales tax credit (with or without a QLT), or
- The Council may decline to collect the sales tax credit.

Considerations

Opting in as a participating jurisdiction entitles the City to begin collecting the credited sales tax dollars on the first of the month following a 30-day notice of adoption period. If the City is interested in becoming a participating jurisdiction, the first question to address is whether to implement a QLT as described above. Doing so would make Shoreline eligible to collect the full 0.0146% (about \$163,400/year). As noted earlier, to be eligible for the higher collection rate, a QLT would have to be approved by voters no later than July 27, 2020. Staff believes that this is an ambitious, if not unrealistic timeline, and does not recommend pursuing a voter-approved QLT. Proceeding without a QLT would mean the City would collect the sales tax credit at the 0.0073% rate (approximately \$81,700 per year) and King County would collect the other 0.0073%.

With or without a QLT, opting in requires the Council to adopt both a Resolution of Intent (see Attachment A) and an Authorizing Ordinance (See Attachment B). Opting in also means that the City Council would have sole authority to direct the allocation of its collected funds in support of any of the following allowed uses:

- 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.
- Funding the operations and maintenance costs of new units of affordable or supportive housing.
- Providing rental assistance to tenants at or below 60% of the King County AMI.

Should the Council decline to collect the tax credit funds, Shoreline's full share of 0.0146% would be collected by King County and the Council would forgo the opportunity to direct the allocation of at least the lower rate of \$81,700/year. At a high level, the greatest risk in declining to collect the sales tax credit dollars is that Shoreline residents may be less likely to be served through any of the allowed methods.

Use of Funds

The legislation does not require an Authorizing Ordinance to stipulate how collected funds should be used. If the Council decides to proceed with steps to collect these funds, staff suggest that the discussion of how to spend the funds be deferred to a later date when a more complete analysis of options can be developed.

External Discussions – King County Affordable Housing Committee and Sound Cities Association

On September 20, 2019, the King County Affordable Housing Committee (KCAHC) adopted a recommendation to local jurisdictions and sub-regional collaborations on a regional approach to implementing SHB 1406. Adoption of this recommendation is the first major action taken by the KCAHC to enhance regional coordination and collaboration around affordable housing issues in King County. With the assumption that most cities will likely opt to collect the sales tax credit, the KCAHC recommends that local jurisdictions consider the following policies:

1. Pool funds with existing sub-regional collaborations or new partners and deploy funds as quickly as possible to maximize the impact of this revenue tool.
2. Prioritize construction and preservation of affordable homes for households earning at or below 30% AMI to the greatest extent possible.
3. Advance preservation efforts and equitable development in partnership with communities of color, immigrant and refugees, and low-income communities at risk of displacement in gentrifying areas.

Should Council choose to collect the sales tax credit dollars, these suggestions can be incorporated into a future discussion regarding use of the funds.

In addition, this item has been on the Sound Cities Association Public Issue Committee agenda a number of times. In each instance, there has been concurrence that cities should exercise their option to collect these funds, and a number of cities have indicated their intent to do so. At this time, the Cities of Tukwila and Tumwater are known to have adopted Authorizing Ordinances, and the City of East Wenatchee has passed a Resolution of Intent.

Next Steps

Staff has drafted proposed Resolution No. 448 (Attachment A), which would declare the City's intent to receive the affordable housing sales tax credit, and proposed Ordinance No. 869 (Attachment B), which would authorize the collection of the sales tax credit at the 0.0073% "half share" tax rate. If Council is interested in collecting the sales tax credit, staff can bring back the proposed resolution and ordinance for Council adoption. Staff recommends placing proposed Resolution No. 448 on the October 28, 2019 Consent calendar and proposed Ordinance No. 869 as Action item on the same Council agenda. This approach satisfies the requirement to take both actions in the proper sequence and would allow collection of funds to begin on December 1, 2019.

COUNCIL GOAL(S) ADDRESSED

The topic of this staff report directly address Council Goal 1 (Strengthen Shoreline's economic climate and opportunities); Action Step 4 (Encourage affordable housing development in Shoreline and engage the community to determine which additional housing types and policies may be appropriate for Shoreline...).

RESOURCE/FINANCIAL IMPACT

The projected estimate of sales tax resources available to the City of Shoreline depends on requirements and considerations outlined in this memo. At the lower qualifying rate,

the projection is about \$81,700 per year; at the higher qualifying rate, the projection is about \$163,400 per year. The tax credit will be available for up to 20 years. This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer.

SUMMARY

In summary, Council has a one-time opportunity to become a participating jurisdiction in a state program that allows the City to collect credited state sales tax dollars in the amount of roughly \$81,700 per year for 20 years in support of affordable housing. To do so would require the adoption of proposed Resolution No. 448 no later than January 27, 2020 and adoption of proposed Ordinance No. 869 no later than July 27, 2020. Staff however recommends that both proposed Resolution No. 448 and proposed Ordinance No. 869 be adopted on October 28th.

RECOMMENDATION

No action is required. Staff will present information related to SHB 1406 and outline the City's options. Staff recommends that Council discuss these options to ensure a thorough understanding of the options and related requirements and seeks direction from Council regarding next steps, including scheduling proposed Resolution No. 448 and proposed Ordinance No. 869 for adoption on October 28, 2019.

ATTACHMENTS

Attachment A: Proposed Resolution No. 448

Attachment B: Proposed Ordinance No. 869

RESOLUTION NO. 448

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DECLARING THE CITY COUNCIL'S INTENT TO ADOPT LEGISLATION TO AUTHORIZE THE MAXIMUM CAPACITY OF A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406.

WHEREAS, in 2015, the City Council passed Resolution No. 379 expressing the City's commitment to continue to help incentivize and aid in the development of affordable housing in the City; and

WHEREAS, in the 2019 regular session, the Washington State Legislature adopted Substitute House Bill (SHB) 1406 (chapter 338, Laws of 2019), adding a new section to chapter 82.14 RCW so as to encourage investments in affordable and supportive housing through a revenue sharing program between the State of Washington and local governments; and

WHEREAS, SHB 1406 permits the City Council to authorize a local sales and use tax for the acquisition, construction, or rehabilitation of affordable housing or facilities providing supportive housing services, and for the operations and maintenance costs of affordable or supporting housing; SHB 1406 further authorizes cities with a population of less than 100,000 to utilize the tax collected for the provision of rental assistance to tenants; and

WHEREAS, the local sales and use tax authorized by SHB 1406 shall be deducted from the amount of tax otherwise required to be collected or paid to the Washington State Department of Revenue pursuant to chapters 82.08 or 82.12 RCW; and

WHEREAS, given this reduction, the local sales and use tax authorized by SHB 1406 will not result in higher sales and use taxes and represents an additional source of funding to address affordable and supportive housing needs within the City for those persons whose income is at or below sixty percent of the City median income; and

WHEREAS, the City Council has determined that there are qualified residents of the City with a need for affordable and supportive housing and that the imposition of the local sales and use tax will provide a benefit to all of the City's residents; and

WHEREAS, the effective date of SHB 1406 is July 28, 2019, and SHB 1406 requires the City to adopt a resolution of intent within six months and legislation within one year of the effective date; and

WHEREAS the City Council desires, with this Resolution, to declare its intent to impose a local sales and use tax as authorized by SHB 1406 as set forth herein;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, HEREBY RESOLVES:

Section 1. Resolution of Intent. The City Council of the City of Shoreline declares its intent to adopt legislation to authorize the maximum capacity of the local sales and use tax authorized by SHB 1406 within one year of the effective date of SHB 1406.

Section 2. Direction to City Staff. City Staff is directed to undertake all action necessary to facilitate the adoption of the legislation contemplated by this Resolution and to present to the City Council for consideration and adoption.

Section 3. Severability. If any one or more sections, subsections, or sentences of this Resolution are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this Resolution and the same shall remain in full force and effect.

Section 4. Effective Date of Resolution. This Resolution shall take effect and be in full force immediately upon passage by the City Council.

**ADOPTED BY A SIMPLE MAJORITY VOTE OF THE CITY COUNCIL
ON OCTOBER 28, 2019.**

Mayor Will Hall

ATTEST:

Jessica Simulcik Smith
City Clerk

ORDINANCE NO. 869

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, AUTHORIZING THE MAXIMUM CAPACITY OF LOCAL SALES AND USE TAX TO FUND INVESTMENTS IN AFFORDABLE AND SUPPORTIVE HOUSING PURSUANT TO SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019) AND ESTABLISHING A NEW CHAPTER, CHAPTER 3.17 OF THE SHORELINE MUNICIPAL CODE.

WHEREAS, on October 28, 2019, the City Council adopted Resolution 448 declaring its intent to adopt legislation authorizing the maximum capacity of the local sales and use tax pursuant to SHB 1406 (chapter 338, Laws of 2019) which added a new section to chapter 82.14 RCW so as to encourage investments in affordable and supportive housing through a revenue sharing program; and

WHEREAS, the revenue sharing program established by SHB 1406 allows the City to authorize and collect a local sales and use tax for the acquisition, construction, or rehabilitation of affordable housing or facilities providing supportive housing services, for the operations and maintenance costs of affordable or supporting housing, and for the provision of rental assistance to tenants; and

WHEREAS, this tax will be credited against the State of Washington sales tax collected within the City and, therefore, will not result in higher sales and use taxes within the City and will provide an additional source of funding to address affordable and supportive housing needs in the City whose income is at or below sixty percent of the City's median income; and

WHEREAS, SHB 1406 authorizes the City 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 replay the bonds; and

WHEREAS, the City Council adopted Resolution 379 expressing its commitment to address homelessness, including implementing policies that encourage and incentivize the development of affordable housing for all members of the Shoreline community; and

WHEREAS, the Housing Element of the Shoreline Comprehensive Plan sets forth goals and policies related to housing affordability and regional coordination including Goals H-III and H-VII and Policies H-7 through H-20; and

WHEREAS, the City Council has determined that authorizing and collecting the sales and use tax pursuant to SHB 1406 is in the best interests of the City and all of its residents;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SHORELINE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. New Chapter Established: SMC Chapter 3.17 – Sales and Use Tax for

Affordable and Supportive Housing. A new chapter, Chapter 3.17 of the Shoreline Municipal Code (SMC), entitled “Sales and Use Tax for Affordable and Supportive Housing” is added to SMC Title 3 as set forth on Exhibit A, attached hereto.

Section 2. Administrative Services Director. The Administrative Services Director, or designee, is authorized to provide any required notice to the Washington State Department of Revenue to effectuate the tax enacted by this Ordinance and to execute, for and on behalf of the City of Shoreline, any necessary agreement with the Department of Revenue for the administration and collection 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/or the Code Reviser are authorized to make necessary corrections to this ordinance, including the corrections of scrivener or clerical errors; references to other local, state, or federal laws, codes, rules, or regulations; or ordinance numbering and section/subsection numbering and references.

Section 4. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any person or situation.

Section 5. Publication and Effective Date. A summary of this Ordinance consisting of the title shall be published in the official newspaper. This Ordinance shall take effect five days after publication.

PASSED BY THE CITY COUNCIL ON OCTOBER 28, 2019

Mayor Will Hall

ATTEST:

APPROVED AS TO FORM:

Jessica Simulcik-Smith
City Clerk

Margaret King
City Attorney

Date of Publication: _____, 2019

Effective Date: _____, 2019

EXHIBIT A – Ordinance 869

Shoreline Municipal Code

Chapter 3.17 Sales and Use Tax for Affordable and Supportive Housing

Section 3.17.010 Administration and collection.

The administration and collection of the tax imposed by this chapter shall be in accordance with the provisions of Substitute House Bill 1406 (chapter 338, Laws of 2019), as subsequently codified in chapter 82.14 RCW and, as amended from time to time.

Section 3.17.020 Credit against State's share of tax - Imposition of sales and use tax for affordable and supportive housing.

- A. Imposition. There is imposed a sales and use tax as authorized by Substitute House Bill 1406 (chapter 338, Laws of 2019), which shall be subsequently codified in chapter 82.14 RCW, upon every taxable event, as defined in chapter 82.14 RCW, occurring within the City of Shoreline. The tax shall be imposed upon and collected from those persons from who the State of Washington sales tax or use tax is collected pursuant to chapters 82.08 and 82.12 RCW.
- B. Tax Rate. The rate of the tax imposed by this section shall be 0.0073 percent of the selling price or value of the article used.
- C. Tax Deduction. The tax imposed by this section shall be deducted from the amount of tax otherwise required to be collected or paid to the Washington State Department of Revenue under chapters 82.02 or 82.12 RCW. The Department of Revenue shall perform the collection of such taxes on behalf of the City at no cost to the City.
- D. Tax Distribution. The Washington State Department of Revenue shall calculate the maximum amount of tax distributions for the City based on the taxable retail sales in the City in State Fiscal Year 2019, and the tax imposed by this section shall cease to be distributed to the City for the remained of any State Fiscal Year in which the amount of tax exceeds the maximum amount of tax distribution for the City as properly calculated by the Department of Revenue. Distributions to the City that have ceased during a State Fiscal Year shall resume at the beginning on the next State Fiscal Year.

Section 3.17.030 Purpose of tax.

- A. The City may use moneys collect by the tax imposed by SMC 3.17.020 or bonds issued may be used solely 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; or
 - 2. Proving the operations and maintenance costs of new units of affordable or supportive housing; or
 - 3. Proving rental assistant to tenants.
- B. The housing and services provided under subsection A above may only be provided to persons whose income is at of below sixty percent (60%) of the median income of the City.

- C. In determining the use of funds under this section, the City must consider the income of the persons to be served, the leveraging of the resources made available under SMC 3.17.020, and the housing needs of the City.
- D. The Administrative Services Director, or designee, shall report annual to the Washington State Department of Commerce, in accordance with rules adopted by that department, on the collection and use of the revenue from the tax imposed under SMC 3.17.020.

Section 3.17.040 Expiration of tax.

- A. The tax imposed by the City under SMC 3.17.020 shall expire twenty (20) years after the date on which the tax is first imposed. The Administrative Services Director, or designee, shall provide notice to the City Council and the City Manager of the expiration date of the tax each year beginning three (3) years before the expiration date.
- B. If there are any changes to the expiration, the Administrative Services Director, or designee, shall promptly notify the City Council and the City Manager.