

Subject: Consideration of Adoption of Commercial Parking Tax RCW 82.80.030

Dept. Origin: Mayor's Office

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For Agenda of: June 19, 2018

Exhibits: Matrix & RCW 82.80.030

Initial & Date

Proposed Council Action:

Concurred by Mayor: _____

Approved/form by City Atty: JSR/6-14-18

Approved by _____ Director: _____

Approved by Department Head: _____

Discussion only. Give direction to staff.

INFORMATION / BACKGROUND

1. Background on Commercial Parking Tax.

The State Legislature has provided cities with a local option commercial parking tax. RCW 82.80.030.¹ This tax may be levied by a city within its boundaries and by a county in the unincorporated areas.² There is no limit on the tax rate and many ways of assessing the tax are allowed. If the city chooses to levy it on parking businesses, it can tax gross proceeds or charge a fixed fee per stall.³ If the tax is assessed on the driver of a car, the tax rate can be a flat fee or a percentage amount.⁴ Rates can vary by any reasonable factor, including location of the facility, time of entry and exit, duration of parking, and type or use of vehicle.⁵ The parking business operator is responsible for collecting the tax and remitting it to the city, which must administer it. This tax is subject to a voter referendum.⁶

2. Expenditure of Local Option Transportation Taxes.

Under RCW 82.80.070(1), local option transportation taxes must be used for "transportation purposes," which are defined as:

including but not limited to the following: The operation and preservation of roads, streets, and other transportation

¹ A copy of this statute is attached.

² RCW 82.80.030(1).

³ RCW 82.80.030(4).

⁴ RCW 82.80.030(2)(a)&(d).

⁵ RCW 82.80.030(2)(e).

⁶ RCW 82.80.090.

improvements; new construction, reconstruction, and expansion of city streets, county roads, and state highways and other transportation improvements; development and implementation of public transportation and high capacity transit improvements and programs; and planning, design, and acquisition of right-of-way and sites for such transportation purposes.

However, this section of the statute goes on to say: The proceeds collected from excise taxes on the sale, distribution, or use of motor vehicle fuel and special fuel under RCW 82.80.010 shall be used exclusively for “highway purposes” as that term is construed in Article II, section 40 of the state Constitution.

“Highway purposes” is defined in Article II, section 40 in the state constitution, in part, as:

(a) The necessary operating, engineering and legal expenses connected with the administration of public highways, county roads and city streets;

(b) The construction, reconstruction, maintenance, repair, and betterment of public highways, county roads, bridges and city streets; including the cost and expense of (1) acquisition of rights-of-way, (2) installing, maintaining and operating traffic signs and signal lights, (3) policing by the state of public highways, (4) operation of movable span bridges, (5) operation of ferries which are a part of any public highway, county road, or city street...

And these “highway purposes” are narrower than the “transportation purposes” identified in the beginning of the statute. Until this inconsistency is eliminated by the legislature or is clarified by an attorney general opinion or court decision, a conservative use of these fuel tax funds would be the narrower use.

All local option transportation funds are to be spent in a manner consistent with the city’s transportation and land use plans. The revenues may also be used to pay debt service on general obligation or revenue bonds if the city issued them to raise funds for street projects.

3. Crafting a local ordinance to impose the Commercial Parking Tax.

There is a variety of ways to impose this tax, including:

- On the vehicle owner/operator
- Per stall of parking
- Taxing all parking or which a fee is paid, whether leased, including parking supplied with a lease of non-residential space
- On a per-vehicle basis
- On the gross receipts for commercial parking businesses

As stated above, the tax rate can vary with the zoning or with the location of the facility and can also vary depending on the duration of the parking, the time of entry or exit, the type or use of

vehicle or other factors. The city may (but is not required to) exempt tax exempt carpools, handicapped vehicles or government vehicles.

Whatever method is chosen for the tax, the rates charged must be uniform for the same class or type of parking business. The city may also choose to have the tax remitted monthly, quarterly or annually. Most cities that impose a flat per vehicle fee require monthly remittance. The cities that impose a percentage on gross receipts require quarterly returns and payment.

In analyzing this revenue source, other cities that have imposed a commercial parking tax were reviewed. Six are presented in the attach matrix for your review. There is no limit on the amount that can be charged for this tax.⁷

4. Recommendation.

From reviewing the various codes of other cities around Washington, the easiest to administer would either be a flat per car rate (i.e. \$3.00 per car) or having a percentage of the gross proceeds be payable. The rates range from 5 percent to 30 percent of gross receipts. There is no limit to this tax, however, it is subject to referendum and the proceeds are restricted to transportation purposes.

RECOMMENDATION / MOTION

Provide input to staff on whether the City should consider:

1. Whether to adopt a commercial parking tax;
2. What method to use for the parking tax;
3. What the appropriate dollar amount or percentage should be imposed; and
4. Whether or not to exempt any vehicles from the tax.

If the Council desires to bring this revenue tool forward, staff will prepare a draft ordinance after receiving further direction.

⁷ If you would like copies of any of the city codes referenced in the matrix, please let the City Attorney know.

RCW 82.80.030 – Commercial parking tax.

(1) Subject to the conditions of this section, the legislative authority of a county, city, or district may fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction. A city or county may impose the tax only to the extent that it has not been imposed by the district, and a district may impose the tax only to the extent that it has not been imposed by a city or county. The jurisdiction of a county, for purposes of this section, includes only the unincorporated area of the county. The jurisdiction of a city or district includes only the area within its boundaries.

(2) In lieu of the tax in subsection (1) of this section, a city, a county in its unincorporated area, or a district may fix and impose a tax for the act or privilege of parking a motor vehicle in a facility operated by a commercial parking business.

The city, county, or district may provide that:

- (a) The tax is paid by the operator or owner of the motor vehicle;
- (b) The tax applies to all parking for which a fee is paid, whether paid or leased, including parking supplied with a lease of nonresidential space;
- (c) The tax is collected by the operator of the facility and remitted to the city, county, or district;
- (d) The tax is a fee per vehicle or is measured by the parking charge;
- (e) The tax rate varies with zoning or location of the facility, the duration of the parking, the time of entry or exit, the type or use of the vehicle, or other reasonable factors; and
- (f) Tax exempt carpools, vehicles with handicapped decals, or government vehicles are exempt from the tax.

(3) "Commercial parking business" as used in this section, means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged. "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.

(4) The rate of the tax under subsection (1) of this section may be based either upon gross proceeds or the number of vehicle stalls available for commercial parking use. The rates charged must be uniform for the same class or type of commercial parking business.

(5) The county, city, or district levying the tax provided for in subsection (1) or (2) of this section may provide for its payment on a monthly, quarterly, or annual basis. Each local government may develop by ordinance or resolution rules for administering the tax, including provisions for reporting by commercial parking businesses, collection, and enforcement.

(6) The proceeds of the commercial parking tax fixed and imposed by a city or county under subsection (1) or (2) of this section shall be used for transportation purposes in accordance with RCW [82.80.070](#) or for transportation improvements in accordance with chapter [36.73](#) RCW. The proceeds of the parking tax imposed by a district must be used as provided in chapter [36.120](#) RCW.

**Commercial Parking Tax – RCW 82.80.030
Jurisdictional Comparison Matrix**

City	Tax Rate / Basis	How paid?	Exemptions
Bainbridge Island Chapter 5.10 BIMC	30 percent of gross proceeds of the commercial parking business	Quarterly returns	None
Bremerton Chapter 3.82 BMC	15 percent of the gross proceeds of the commercial parking business	Quarterly returns	None
Burien Chapter 3.13 BMC	\$3.00 per commercial parking transaction, including “short term metered parking” irrespective of duration of parking	Remitted monthly	-Vehicles with handicapped decal -Government vehicles which are exempt from tax -Tax exempt carpools
Mukilteo Chapter 5.10 MMC	25 percent of the gross proceeds resulting from the commercial parking facility (for businesses in one area) OR 8 percent of the gross proceeds resulting from the commercial parking facility for other locations in the city	Quarterly returns	None
SeaTac Chapter 3.70 SMC	\$3.00 per parking transaction, adjusted by CPI-W annually. Flat fee per transaction.	Remitted monthly	-Vehicles with handicap decal, -Government vehicles, -Tax exempt car pool vehicles
Seattle Chapter 5.35 SMC	12.5 percent of the parking fee Fee is based on the parking fees charged and/or fair market value of parking included in another contract (i.e. lease) Parking fee includes fair market value of the parking even if combined with lease rent or other payment	Collected from the person paying to park and remitted quarterly	-Long term lease of parking stalls (30+ days), -Parking at a resident, stadium parking, -Street parking, -Parking of federal, state or local vehicles.
Tukwila Chapter 3.48 TMC	5 percent of gross revenues generated by commercial parking charges and fees	Remitted monthly	-Local employee parking, -multi-family housing with parking included in rent, -office, retail, warehouse and industrial buildings where parking is provided in association with tenant arrangements -Vehicles with handicapped decal, -Government vehicles which are tax exempt -tax exempt car pools