

Subject: Ordinance #1504 – Adopting Lodging Tax – New Chapter 5.19 RMC

Dept. Origin: Mayor’s Office

**Prepared by: Jennifer Robertson
 City Attorney’s Office**

For Agenda of: June 19, 2018

Exhibits: Ordinance #1504

Proposed Council Action:

This is on for First Reading and discussion. Unless directed otherwise, this will be brought Back for Second Reading and Action on July 3, 2018.

Concurred by Mayor:	Initial & Date
Approved/form by City Atty:	<u>JSR/6-13-18</u>
Approved by _____ Director:	_____
Approved by Department Head:	_____

INFORMATION / BACKGROUND

The City has had more transient rentals in recent years with more planned or under construction. In order to provide the necessary services to respond to the increased tourism and visitors, the Mayor’s office recommends adoption of a lodging tax.

Chapter 67.28 RCW authorizes the City of Ruston to impose a lodging tax on all who charge to provide lodging. The lodging tax has two components. The first is a 2 percent tax that is charged by the City but does not increase the taxes paid on lodging. Rather, this money is paid by the State out of the State portion of sales tax. This is called the “transient rental tax.” In addition, cities can charge up to an additional 2 percent which is on top of the established sales tax. This is limited based on what other taxes are on the books in the County. For example, in King County cities can only charge an addition one percent. In verifying with the Department of Revenue what the maximum additional lodging tax is allowed in Pierce County, the City learned that Pierce County is grandfathered in to a prior system and this results in there being no capacity for additional lodging taxes in Pierce County cities. Therefore, Ruston is limited in only charging the 2 percent transient rental tax that is recoupled from the State out of sales tax collections.

The proposed new chapter 5.19 RMC establishes the tax as well as outlining the requirement for a specific fund, use of the funds, collection, and annual reporting. The new sections proposed are:

- 5.19.010 Imposition of tax.
- 5.19.020 Exceptions.
- 5.19.030 Credits.
- 5.19.040 Definitions.
- 5.19.050 Lodging tax fund.

- 5.19.060 Administration.
- 5.19.070 Adoption of rules.
- 5.19.080 Violator deemed principal.
- 5.19.090 Penalty.
- 5.19.100 Annual report.

The uses of these tax revenues are not unlimited but may only be used for “the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities or for other purposes as authorized in RCW Chapter 67.28.” RMC 5.19.050(b).

The soonest this tax may take effect is January 1, 2018.

RECOMMENDATION / MOTION

No action requested. Unless directed otherwise, this will be brought back for Second Reading and Action on July 3, 2018.

ORDINANCE NO. 1504

AN ORDINANCE OF THE CITY OF RUSTON, WASHINGTON, LEVYING A SPECIAL EXCISE TAX ON CHARGES FOR LODGING, ADOPTING NEW CHAPTER 5.19 INTO THE RUSTON MUNICIPAL CODE ENTITLED “LODGING EXCISE TAX”, WITH SECTIONS 5.19.010 THROUGH 5.19.100, ESTABLISHING IMPOSITION OF TAX, SETTING FORTH EXCEPTIONS, CREDITS, DEFINITIONS, ESTABLISHING A LODGING TAX FUND BY THE CITY, DESCRIBING ADMINISTRATION AND THE ADOPTION OF RULES, VIOLATIONS, PENALTIES AND REQUIRING AN ANNUAL REPORT BY THE CITY, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 67.28 RCW authorizes the City of Ruston to impose a lodging tax on all who charge to provide lodging; and

WHEREAS, the City Council finds that it is in the public interest to levy such a tax for the purposes provided by statute; and

WHEREAS, for all cities in Pierce County, the maximum that may be levied on lodgings is the two (2) percent transient rental tax; and

WHEREAS, on June 19, 2018, the City Council held the first reading on this Ordinance; and

WHEREAS, on July 3, 2018, the City Council adopted this Ordinance during its regular meeting at second reading; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON HEREBY ORDAINS AS FOLLOWS:

Section 1. A new chapter 5.19 entitled “Lodging Excise Tax” is hereby added to the Ruston Municipal Code to read as follows:

**Chapter 5.19
LODGING EXCISE TAX**

Sections:

- 5.19.010 Imposition of tax.
- 5.19.020 Exceptions.
- 5.19.030 Credits.
- 5.19.040 Definitions.
- 5.19.050 Lodging tax fund.
- 5.19.060 Administration.
- 5.19.070 Adoption of rules.
- 5.19.080 Violator deemed principal.
- 5.19.090 Penalty.
- 5.19.100 Annual report.

5.19.010 Imposition of tax.

(a) There is levied a special excise tax, also known as the “transient rental tax” in the amount of two percent on the sale or charge made for the furnishing of lodging that is subject to tax under Chapter 82.08 RCW. This tax applies to the sale or charge made for the furnishing of lodging by a hotel, rooming house, tourist court, motel or trailer camp, temporary rentals (i.e. Air BnB and the like) and the granting of any similar license to use real property, as distinguished from the renting or leasing of real property. It shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or enjoy the same.

(b) The collection of the tax imposed by this chapter shall begin as soon as possible pursuant to State Department of Revenue requirements, but not later than January 1, 2019 upon the activities described in subsection “a” herein.

5.19.020 Exceptions.

(a) For the purposes of this chapter it shall be presumed that the occupancy of real property for a continuous period of one month or more constitutes a rental or lease of real property and not a mere license to use or to enjoy the same.

(b) The tax levied under this chapter shall not apply to emergency lodging provided for homeless persons for a period of less than thirty consecutive days under a shelter voucher program administered by a city, town, or county, or their respective agencies, and groups providing emergency food and shelter services.

5.19.030 Credits.

The tax levied in this chapter shall be in addition to any license fee or any other tax imposed or levied under any law or any other ordinance of the city; provided, that the tax collected under this chapter shall be credited against the amount of sales tax due to the state under Chapter 82.08 RCW on the same sale of lodging.

5.19.040 Definitions.

The definitions of “selling price”, “seller”, “buyer”, and all other definitions applicable to this chapter shall be as defined in RCW Chapter 82.08 and RCW Chapter 67.28, and subsequent amendments thereto.

5.19.050 Lodging tax fund.

(a) Pursuant to RCW Chapter 67.28, a special fund to be known as the lodging tax fund is hereby established and all taxes collected under this chapter shall be credited to this special fund.

(b) All revenue collected under this chapter shall be used solely for the purpose of paying all or any part of the cost of tourism promotion, acquisition of tourism-related facilities, or operation of tourism-related facilities or for other purposes as authorized in RCW Chapter 67.28, or as it is hereafter amended.

(c) The definitions in this section shall apply throughout this chapter unless the context clearly requires otherwise:

(1) “Tourism” means economic activity resulting from tourists, which may include sales of overnight lodging, meals, tours, gifts, or souvenirs.

(2) “Tourism promotion” means activities and expenditures designed to increase tourism, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists; developing strategies to expand tourism; operating tourism promotion agencies; and funding marketing of special events and festivals designed to attract tourists.

(3) “Tourism-related facility” means real or tangible personal property with a usable life of three or more years, or constructed with volunteer labor, and used to support tourism, performing arts, or to accommodate tourist activities.

(4) “Tourist” means a person who travels from a place of residence to a different town, city, county, state or country, for purposes of business, pleasure, recreation, education, arts, heritage, or culture.

5.19.060 Administration.

The State Department of Revenue is designated as the agent of the city for the purposes of collection of the lodging tax and for administrative procedures applicable thereto. All rules, regulations, and procedures adopted by the State Department of Revenue for the administration of the collection of lodging tax on behalf of the city are adopted by reference.

5.19.070 Adoption of rules.

The City Clerk/Treasurer shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection and remittance of the tax herein levied such as concerning inspection of records; and a copy of the rules and regulations shall be on file and available for public examination in the director of finance and administration’s office. Failure or refusal to comply with any such rules and regulations is a violation of this chapter.

5.19.080 Violator deemed principal.

Any person who directly or indirectly performs or omits to perform any act in violation of this chapter, or aids or abets the same, or directly or indirectly counsels, encourages, commands, or

otherwise induces another to commit such violation is a principal under the terms of this chapter and may be proceeded against as such.

5.19.090 Penalty.

It is unlawful for any person, firm, or corporation to violate or fail to comply with any of the provisions of this chapter. Every person convicted of a violation of any provision of this chapter shall be guilty of a gross misdemeanor. Each day of violation shall be considered a separate offense.

5.19.100 Annual report.

Pursuant to RCW 67.28.8001, or as otherwise provided by RCW Chapter 67.28, the city shall submit a report to the State Department of Commerce about the rate of lodging tax imposed and about revenue received and projects and activities funded with lodging tax revenue.

Section 2. Direction to Clerk. The City Clerk is hereby directed to submit a signed copy of this Ordinance to the Department of Revenue within 5 business days of its passage.

Section 3. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be 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 4. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 5. Effective Date. This Ordinance shall be effective five days after publication as provided by law with the taxes imposed hereunder taking effect on January 1, 2019.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 3rd day of July, 2018.

APPROVED by the Mayor this 3rd day of July, 2018.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams
City Clerk

APPROVED AS TO FORM:

Jennifer S. Robertson
City Attorney's Office

FILED WITH THE CITY CLERK: 6/13/2018
PASSED BY THE CITY COUNCIL: _____
PUBLISHED: _____
EFFECTIVE DATE: _____
ORDINANCE NO: 1504