

**Subject: ORD 1520 - New Chapter 5.14
 RMC - Commercial Parking Tax**

Dept. Origin: Mayor's Office

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

For Agenda of: July 2, 2019

Exhibits: Ordinance No. 1520

Initial & Date

Concurred by Mayor: _____

Approved/form by City Atty: JSR/6-10-19

Approved by _____ Director: _____

Approved by Department Head: _____

Proposed Council Action:

This is on for Second Reading and Adoption.

INFORMATION / BACKGROUND

1. Background.

The State Legislature has provided cities with a local option commercial parking tax. RCW 82.80.030. This tax may be levied by a city within its boundaries and by a county in the unincorporated areas.¹ 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.² If the tax is assessed on the driver of a car, the tax rate can be a flat fee or a percentage amount.³ 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.⁴ 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.⁵

The City Council received a briefing on June 19, 2019 on the Commercial Parking Tax, including different options for how to impose the tax.

2. Proposed Commercial Parking Tax.

After spending time considering the options for imposing a commercial parking tax, the Mayor is recommending that the tax be imposed as a 20% tax on gross proceeds. Tax returns would need to be filed quarterly and payment made quarterly.

¹ RCW 82.80.030(1).

² RCW 82.80.030(4).

³ RCW 82.80.030(2)(a)&(d).

⁴ RCW 82.80.030(2)(e).

⁵ RCW 82.80.090.

The Ordinance creates a new Chapter 5.14 in the Ruston Municipal code imposing the tax. The ordinance contains the standards due process protections for challenging the tax with appeals heard by the Hearing Examiner, violation provisions and penalties for late payment.

The use of proceeds of a commercial parking tax is restricted to “transportation purposes.” RCW 82.80.070(1). In conformance with state law, the ordinance at Section 5.14.110 provides that the use of the proceeds of the tax “shall be strictly for transportation purposes in accordance with RCW 82.80.070.”

The sections created in this new chapter are:

- 5.14.010 Definitions.
- 5.14.020 Tax Rate - Who Must Pay.
- 5.14.030 Payment of Tax.
- 5.14.040 Tax - Collection.
- 5.14.050 Over- or Underpayment of Tax.
- 5.14.060 Penalty for Late Payment.
- 5.14.070 Violation - Penalty.
- 5.14.080 Appeal Procedure.
- 5.14.090 Confidentiality of Tax Returns.
- 5.14.100 Duties of the Mayor.
- 5.14.110 Use of Proceeds of Tax.

The tax is administered by the Mayor or designee with the Clerk being the person who accepts filing and payment.

RECOMMENDATION / MOTION

Adopt Ordinance No. 1520.

MOTION: I move to adopt Ordinance No. 1520 imposing a Commercial Parking Tax, and adding a new Chapter 5.14 to Title 5 of the Ruston Municipal Code, setting forth the rate, procedures, including the imposition of penalties and interest, and establishing an effective date.

ORDINANCE NO. 1520

AN ORDINANCE OF THE CITY OF RUSTON, IMPOSING A COMMERCIAL PARKING TAX, AND ADDING A NEW CHAPTER 5.14 TO TITLE 5 OF THE RUSTON MUNICIPAL CODE, SETTING FORTH THE RATE, PROCEDURES, INCLUDING THE IMPOSITION OF PENALTIES AND INTEREST, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City desires to levy a commercial parking tax in accordance with RCW 82.80.030 and which is fair to all; and

WHEREAS, the City Council finds that it is in the public interest to create such a commercial parking tax; and

WHEREAS, on June 18, 2019, the City Council held first reading of this ordinance; and

WHEREAS, on July 2, 2019, the City Council held the second reading of this Ordinance and adopted this Ordinance during its regular meeting; **NOW, THEREFORE**

THE CITY COUNCIL OF THE CITY OF RUSTON DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. A new Chapter 5.14 entitled “Commercial Parking Tax” is hereby added to the Ruston Municipal Code to read as follows:

**Chapter 5.14
COMMERCIAL PARKING TAX**

Sections:

- 5.14.010 Definitions.**
- 5.14.020 Tax Rate - Who Must Pay.**
- 5.14.030 Payment of Tax.**
- 5.14.040 Tax - Collection.**
- 5.14.050 Over- or Underpayment of Tax.**
- 5.14.060 Penalty for Late Payment.**
- 5.14.070 Violation - Penalty.**
- 5.14.080 Appeal Procedure.**
- 5.14.090 Confidentiality of Tax Returns.**

5.14.100 Duties of the Mayor.

5.14.110 Use of Proceeds of Tax.

5.14.010 Definitions.

For the purposes of this chapter, the following definitions shall apply unless the context indicates otherwise:

- a) "Clerk's Office" means the Office of the City Clerk.
- b) "Commercial parking business" means the ownership, lease, operation, or management of a commercial parking lot in which fees are charged.
- c) "Commercial parking lot" means a covered or uncovered area with stalls for the purpose of parking motor vehicles.
- d) "Gross proceeds" means and includes the gross receipts collected or accruing by reason of the transaction of the commercial parking business, without any deduction on account of the cost of tangible property sold, labor costs, interest, discount, taxes, or any other costs or expenses whatsoever paid or accrued and without any deduction on account of losses.
- e) "Mayor" means the Mayor of the City or any officer, agent or employee of the City designated to act on the Mayor's behalf.
- f) "Parking tax" means the commercial parking tax imposed by this chapter.
- g) "Person" means any individual, association, corporation, partnership, joint venture, trust, or other entity.

5.14.020 Tax Rate - Who Must Pay.

There is levied upon and shall be collected from every person engaged in a commercial parking business within the City a commercial parking tax in an amount equal to twenty percent (20%) of the gross proceeds of the commercial parking business.

5.14.030 Payment of Tax.

- a) The tax imposed by this chapter shall be due and payable in quarterly installments, on or before the last day of the month next succeeding the end of the quarterly period in which the tax accrued. The quarterly periods are as follows:
 - 1. First quarter: January, February, March;
 - 2. Second quarter: April, May, June;
 - 3. Third quarter: July, August, September;
 - 4. Fourth quarter: October, November, December;
- b) Tax payments shall be paid to and returns filed with the Clerk's Office.
- c) The Mayor or designee may require payment of the tax to be accompanied by a written tax return, upon such form and setting forth such information as the Mayor or designee may reasonably require in order to calculate the amount of tax due to the City.
- d) The Mayor or designee shall have the right to require proof of the gross proceeds of the commercial parking business. Each person required to pay the tax imposed by this chapter shall retain records reflecting the gross proceeds of the commercial parking business and

the records shall be open at all reasonable hours to inspection by the Mayor or the Mayor's designee.

- e) If the payment of any tax due under this chapter is not received by the City by the last day of the month in which the tax becomes due, the tax shall be delinquent.

5.14.040 Tax - Collection.

The tax imposed by this chapter, and all penalties thereon, shall constitute a debt to the City and may be collected by court proceedings in the same manner as any other debt in like amount, which remedy shall be in addition to all other existing remedies. Any judgment entered in favor of the City shall include an award to the City of all court and collection costs, including attorneys' fees. Amounts delinquent more than ninety (90) days may be assigned to a third party for collection, in which case the amount of any collection charges shall be in addition to all other amounts owed. Amounts due shall not be considered paid until the City has received good funds for the full amount due or has discharged the amount due and not paid.

5.14.050 Over- or Underpayment of Tax.

In the event that a person makes an overpayment, and within two (2) years of the date of such overpayment makes application for a refund or a credit, the person's claim shall be allowed and a refund made by the City upon determination by the Mayor that no other sums are owed by the person to the City. If a person determines that the tax has been underpaid and without notice by any party pays the amount due to the City, the amount underpaid and corrected by the person shall not be subject to penalty.

5.14.060 Penalty for Late Payment.

- a) If full payment of any tax due under this chapter is not received by the City Clerk by the last day of the month in which the tax was due, there shall be added to such tax a penalty as described below.
- b) If, upon examination of any returns, or from other information obtained by the Mayor or designee, it appears that a tax or penalty in an amount less than that properly due has been paid, the Mayor or designee shall assess the additional amount found to be due and shall add thereto interest on the tax only. The Mayor or designee shall notify the person by mail of the additional amount, which shall become due and shall be paid within 30 days from the date of the notice, or within such time as the Mayor or designee may provide in writing. The Mayor shall compute interest in accordance with RCW 82.32.050 as it now exists or as it may be amended.

5.14.070 Violation - Penalty.

- a) It shall be a violation of this chapter:
 - 1. For a person required to pay a tax under this chapter to fail or refuse to pay the tax imposed;
 - 2. For a person to evade payment of the tax, or any part thereof;

3. For a person to fail to appear and/or refuse to testify in response to a subpoena issued in any proceeding under this chapter;
 4. For a person to testify falsely upon any investigation into the correctness of a return, or upon the hearing of any appeal; or
 5. For a person to in any manner hinder or delay the City or any of its officers in carrying out the provisions of this chapter.
- b) A person violating any of the provisions of this chapter, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars (\$500.00). A person is guilty of a separate offense for each and every day during the portion of which any violation of any provision of this chapter is committed, continued or permitted by any such person, and shall be punished accordingly. Such fines shall accumulate daily until such time as the violation ceases.

5.14.080 Appeal Procedure.

Any person aggrieved by the amount of the tax determined to be due to the City by the Mayor under the provisions of this chapter may pay the amount due and appeal such determination to the City's Hearing Examiner by filing a written notice of appeal with the City Clerk within 30 calendar days from the date written notice of such amount was mailed to the taxpayer. A filing fee in the amount established by resolution of the City Council shall be submitted with the appeal, which filing fee is required to process the appeal. Failure to pay the fee by the filing deadline will result in an automatic dismissal of the appeal. The City Clerk shall, as soon as practical, fix a time and place for the hearing of such appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the taxpayer. At the hearing before the Hearing Examiner, the taxpayer shall be entitled to be heard and to introduce evidence in his or her own behalf. The Mayor may by subpoena require the attendance of any person, and may require the production of pertinent books and documents. Any person appearing by subpoena will testify under oath before the Hearing Examiner. The decision of the Hearing Examiner shall indicate the correct amount of the fee or tax owing.

5.14.090 Confidentiality of Tax Returns.

The tax returns made to the City pursuant to this chapter shall not be made public, nor shall they be subject to inspection by a person who is not an employee of or under contract to the City and who is not acting in an official capacity. It shall be unlawful for any person to make public or to inform any unauthorized person as to the contents of a tax return, or to permit inspection of a tax return, except as authorized in this section or as required by law. This section shall not be construed to prohibit the disclosure of information received under this chapter to the Federal Internal Revenue Service, State Department of Revenue, or to tax enforcement officials of any other city in the State of Washington for official purposes only, and this section shall not be construed to prohibit or make unlawful the disclosure of the name and address of any person licensed under this chapter, or of any person signing an application on behalf of an applicant.

5.14.100 Duties of the Mayor or designee.

- a) The Mayor or designee shall keep full and accurate records of all funds received under the provisions of this chapter. Upon receipt of any tax or penalty collected under the provisions of this chapter, the Mayor or designee shall deposit the amounts collected into the street fund of the City.
- b) In order to carry out the provisions of this chapter, the Mayor or designee shall have the power to adopt, publish and enforce rules and regulations consistent with this chapter.
- c) The Mayor for good cause shown may extend the time for making and filing any tax return required under this chapter; provided, that any extension in excess of thirty (30) days shall be conditioned upon payment of interest of one percent (1%) for each thirty (30) days or portion thereof on the amount of tax from the date upon which the tax became due.

5.14.110 Use of Proceeds of Tax.

The proceeds of the tax imposed and collected pursuant to this chapter shall be used strictly for transportation purposes in accordance with RCW 82.80.070.

Section 2. 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 3. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 4. Effective Date. This Ordinance shall take effect ten (10) days from passage and publication, subject to Referendum procedures of RCW 82.80.090. For purposes of referendum, the filing officer is the City Clerk.

ADOPTED by the City Council of the City of Ruston and attested by the City Clerk in authentication of such passage on this 2nd day of July, 2019.

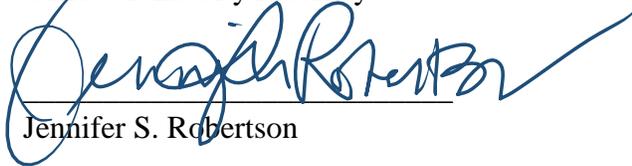
APPROVED by the Mayor this 2nd day of July, 2019.

Bruce Hopkins, Mayor

ATTEST/AUTHENTICATED:

Judy Grams, City Clerk

APPROVED AS TO FORM:
Office of the City Attorney



Jennifer S. Robertson

FILED WITH THE CITY CLERK: _____

PASSED BY THE CITY COUNCIL: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

ORDINANCE NO: 1520