

CITY OF AUBURN, WASHINGTON

ORDINANCE NO. 6814

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, ADDING NEW CHAPTERS TO TITLE 3 OF THE AUBURN CITY CODE (REVENUE AND FINANCE) TO BE KNOWN AS BUSINESS AND OCCUPATION TAX (CHAPTER 3.53) AND BUSINESS AND OCCUPATION TAX ADMINISTRATIVE CODE (CHAPTER 3.54); PROVIDING FOR A REFERENDUM PROCESS; AND PROVIDING A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE.

WHEREAS, the City of Auburn, Washington (the “City”) is a non-charter optional municipal code city as provided in Title 35A RCW, incorporated under the laws of the state of Washington; and

WHEREAS, in 2018, during the creation of the City’s 2019/2020 biannual budget, the City’s long rang forecast identified a structural deficit on the General Fund financial condition resulting from several factors, including the 1% limitation on regular property tax, the sunset of streamlined sales tax mitigation revenue and pressure for increased services that outpace the increase in property and sales tax; and

WHEREAS, the City subsequently engaged with BERK consultants to help the City identify a strategy to overcome the structural deficit; and

WHEREAS, several options were identified as a result of that study, including reviewing service delivery adjustments, updating the City’s cost recovery model, increasing City utility taxes, and imposing a business and occupation tax, in order to preserve the City’s financial sustainability; and

WHEREAS, the need for additional revenue sources and the options identified by the study have been considered by City staff and City Council; and

WHEREAS, Washington Constitution Article XI, Section 12 and RCW 35A.82.020 and RCW 35A.11.020 grant the City the authority to license for revenue and to define taxation categories in order to respond to the unique concerns and responsibilities of the City; and

WHEREAS, these provisions of the law grant the City authority to impose a business and occupation tax on businesses operating within the City; and

WHEREAS, RCW 35.102.040 requires the City utilize the mandatory provisions of the model ordinances developed by Washington cities when imposing a business and occupation tax and adopting administrative provisions related to the imposition and collection of such a tax, but also allows for flexibility to customize the ordinances based on local goals and policies; and

WHEREAS, the model ordinance provides mandatory and standard exemptions for potential inclusion but also gives the City the ability to create certain exemptions from business and occupation tax including an annual gross receipts exemption threshold for small businesses to meet the City's own objectives, exemptions to set economic policy, and exemptions to maintain local control; and

WHEREAS, the model ordinance also provides mandatory and standard deductions for potential inclusion that ensures businesses are not taxed on the same revenue by multiple jurisdictions; and

WHEREAS, the City Council has determined that imposition of a business and occupation tax as provided herein and providing for uniform administration of the City's tax codes will be in the best interest of the public health, safety, and welfare;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, DOES ORDAIN as follows:

Section 1. Amendment to Title 3 Revenue and Finance. A new chapter, Chapter 3.53 Business and Occupation Tax, is added to Title 3 as set forth in Exhibit A to this ordinance.

Section 2. Amendment to Title 3 Revenue and Finance. A new chapter, Chapter 3.54 Business and Occupation Tax Administrative Code, is added to Title 3 as set forth in Exhibit B to this ordinance.

Section 3. Referendum. This ordinance is subject to referendum as set forth in RCW 35.21.706. A referendum petition to repeal this ordinance may be filed with the City Clerk within seven (7) days of adoption of this ordinance. Within ten (10) days of such filing, the City Clerk shall confer with the petitioner concerning form and style of the petition, issue the petition and identifications number, and secure an accurate, concise, and positive ballot title from the City Attorney. The petitioner shall then have thirty (30) days in which to secure the signatures of not less than fifteen (15) percent of the City's registered voters as of the last municipal general election upon petition forms which contain the ballot title and the full text of the measures to be referred. The City Clerk shall verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the City or at a special election ballot as provided pursuant to RCW 35.17.260(2).

Section 4. Severability; Ratification. 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. All acts taken pursuant to the authority granted in this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 5. 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 and the Exhibits attached hereto, 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 6. Publication and Effective Date. A summary of this ordinance consisting of the title shall be published in the official newspaper of the City. In the event that no referendum petition is filed, this ordinance shall take effect at 12:01 am on _____, 2021.

PASSED by the City Council of the City of Auburn, Washington, at a regular meeting of the City Council held on _____, 2021.

INTRODUCED: _____

PASSED: _____

APPROVED: _____

CITY OF AUBURN, WASHINGTON

Nancy Backus, Mayor

ATTEST:

Shawn Campbell, City Clerk

APPROVED AS TO FORM:

City Attorney