

**CITY OF MERCER ISLAND
ORDINANCE NO. 19C-16**

AN ORDINANCE OF THE CITY OF MERCER ISLAND, WASHINGTON, ADOPTING A NEW CHAPTER 4.15 MICC TO AUTHORIZE A SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING PURSUANT TO SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Goal 3 of Mercer Island's Comprehensive Plan is to support the adequate preservation, improvement and development of housing for the diverse economic and social segments of the community; and

WHEREAS, the Mercer Island City Council, in accordance with Washington State Legislature Chapter 338, Laws of 2019, has adopted a resolution of intent to adopt legislation to authorize the maximum capacity of a sales and use tax within six months of the effective date of Chapter 338, Laws of 2019; and

WHEREAS, the City of Mercer Island intends to impose the maximum local sales and use tax authorized under Chapter 338, Laws of 2019 within one year of the date on which said law takes effect; and

WHEREAS, the Department of Revenue requires 30 days' notice of adoption of sales tax credits and the credit will then take effect on the first day of the month following the 30-day period; and

WHEREAS, the local sales and use tax will be credited against the state sales and use tax so that the total tax paid by the consumer will not increase; and

WHEREAS, the credit against state retail sales or use taxes can be in place for a maximum of twenty years and will represent an additional source of funding to address housing needs; and

WHEREAS, the local sales and use tax revenue shall be spent on acquiring, rehabilitating, constructing affordable housing or supportive housing, or rental assistance and other related expenditures as authorized by Chapter 338, Laws of 2019; and

WHEREAS, the tax must be used on projects that serve persons whose income is at or below sixty percent of the City's median income; and

WHEREAS, the tax is considered restricted revenue subject to reporting requirements and audit review for compliance;

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

Section 1. Chapter 4.15 of the Mercer Island City Code Adopted. A new chapter 4.15 of the Mercer Island City Code entitled "Sales and Use Tax for Affordable and Supportive Housing" is hereby adopted as follows:

CHAPTER 4.15

SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING

Sections:

- 4.15.010 Imposition of Sales and Use Tax for Affordable and Supportive Housing
- 4.15.020 Purpose of Tax
- 4.15.030 Administration and Collection of Tax

4.15.010 Imposition of sales and use tax for affordable and supportive housing.

A. There is imposed a sales and use tax, as the case may be, as authorized by Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in chapter 82.14 RCW, upon every taxable event, as defined in chapter 82.14 RCW, occurring within the City of Mercer Island. The tax shall be imposed upon and collected from those persons from whom the state sales tax or use tax is collected pursuant to chapters 82.08 and 82.12 RCW.

B. The rate of the tax imposed by MICC 4.15.010 shall be the maximum rate authorized under Chapter 338, Laws of 2019, which shall be 0.0073 percent, except that in the event the City of Mercer Island levies a “qualifying local tax” as defined by and before the deadline imposed by Chapter 338, Laws of 2019, the rate shall be 0.0146 percent.

C. The tax imposed under MICC 4.15.010 shall be deducted from the amount of tax otherwise required to be collected or paid to the Department of Revenue under chapter 82.08 or 82.12 RCW. The Department of Revenue will perform the collection of such taxes on behalf of the City of Mercer Island at no cost to the City.

D. The Department of Revenue will calculate the maximum amount of tax distributions for the City of Mercer Island based on the taxable retail sales in the City in state fiscal year 2019, and the tax imposed under MICC 4.15.010 will cease to be distributed to the City of Mercer Island for the remainder of any state fiscal year in which the amount of tax exceeds the maximum amount of tax distributions for the City as properly calculated by the Department of Revenue. Distributions to the City of Mercer Island that have ceased during a state fiscal year shall resume at the beginning of the next state fiscal year.

4.15.020 Purposes of tax.

A. The City may use the funds collected by the tax imposed under MICC 4.15.010 or bonds issued under Chapter 338, Laws of 2019 only for the following purposes and in accordance with Chapter 338, Laws of 2019:

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. Funding the operations and maintenance costs of new units of affordable or supportive housing; or
3. Providing rental assistance to tenants.

B. The housing and services provided under MICC 4.15.020 may only be provided to persons whose income is at or below 60 percent of the median income of the City.

C. In determining the use of funds under MICC 4.15.020, the City must consider the income of the individuals and families to be served, the leveraging of the resources made available under MICC 4.15.010, and the housing needs within the City.

D. The City of Mercer Island must report annually to the Washington State Department of Commerce, in accordance with the Department's rules, on the collection and use of the revenue from the tax imposed under Section 4.15.010.

E. The tax imposed by the City under MICC 4.15.010 will expire 20 years after the date on which the tax is first imposed.

4.15.030 Administration and collection of tax.

The administration and collection of the tax imposed by chapter 4.15 MICC shall be in accordance with the provisions of RCW 82.14.050 and Chapter 338, Laws of 2019.

Section 2. Implementation. The Finance Director is authorized to provide any necessary notice to the Department of Revenue to effectuate the tax enacted by this ordinance and to execute, for and on behalf of The City of Mercer Island, any necessary agreement with the Department of Revenue for the collection and administration 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 the code reviser are authorized to make necessary corrections to this ordinance, including the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or ordinance numbering and section/ subsection numbering.

Section 4. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance or its application to any person or situation should be held to be invalid or unconstitutional for any reason by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this ordinance or its application to any other person or situation.

Section 5. Effective Date. This ordinance shall take effect five days after passage and publication in the official newspaper of the City.

ADOPTED BY THE CITY COUNCIL OF MERCER ISLAND, WASHINGTON AT ITS REGULAR MEETING ON THE 4TH DAY OF NOVEMBER 2019.

CITY OF MERCER ISLAND


Debbie Bertlin, Mayor

ATTEST:


Deborah A. Estrada, City Clerk

APPROVED AS TO FORM:


Bio Park, Interim City Attorney

Date of Publication: 11/13/19