

ORDINANCE NO 24-1697

AN ORDINANCE OF THE CITY OF LYNDEN, WASHINGTON, IMPOSING AN ADDITIONAL SALES AND USE TAX OF ONE-TENTH OF ONE PERCENT WITHIN THE BOUNDARIES OF THE LYNDEN TRANSPORTATION BENEFIT DISTRICT FOR THE PURPOSE OF FINANCING THE COSTS ASSOCIATED WITH TRANSPORTATION IMPROVEMENTS IN THE DISTRICT IDENTIFIED HEREIN AS AUTHORIZED BY RCW 36.73.040; PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of Lynden Transportation Benefit District (hereinafter "the District") was established pursuant to RCW 35.21.225 and Chapter 36.73 RCW by the City Council of Lynde by Ordinance No. 1423 in July of 2012; and

WHEREAS, by Ordinance No. 1523, the City of Lynden assumed the rights, powers, immunities, functions, and obligations of the City of Lynden Transportation Benefit District, pursuant to Second Engrossed Substitute Senate Bill 5987 (2015), which amended Chapter 36.73 RCW to allow for said assumption; and

WHEREAS, the City of Lynden enacted Ordinance No. 1423 in July of 2012, establishing boundaries for the City of Lynden Transportation Benefits District which are coterminous with the boundaries of the City of Lynden City Limits; and

WHEREAS, the City's necessary transportation improvement projects are identified in the City of City of Lynden's Transportation System Plan and the City's Six-Year Transportation Improvement Program; and

WHEREAS, City of Lynden Ordinance No. 1423 provides that funds generated by the City of Lynden Transportation Benefit District shall be used for transportation improvements that preserve, maintain and operate the planned and/or existing transportation infrastructure of the City/District, consistent with the requirements of RCW 36.73; and

WHEREAS, RCW 36.73.040(3)(a) authorizes transportation benefit districts to impose a sales and use tax subject to the provisions of RCW 36.73.065; and

WHEREAS, RCW 36.73.065(4)(a)(v) authorizes transportation benefit districts to impose a sales and use tax in accordance with RCW 82.14.0455 in an amount not exceeding one-tenth of one percent (0.1%) for a period of 10 years upon a majority vote of the governing board of the District for the purpose of financing certain transportation improvements; and

WHEREAS, the City of Lynden has identified the sales and use tax authorized by RCW 82.14.0455, as well as any other lawful funding sources available to the District pursuant to RCW 36.73.040, as funding sources available to the City of Lynden Transportation Benefit District; and

WHEREAS, a sales and use tax will be used for the purpose of acquiring, investing in, constructing, improving, providing, operating, preserving, maintaining and/or funding transportation improvements within the City of Lynden Transportation Benefit District, which are coterminous with the City of Lynden city limits and which are identified in the City of Lynden's Transportation System Plan and the City's Six-Year Transportation Improvement Program; and

WHEREAS, a sales and use tax will apply to all persons who shop and thereby use streets and roadways in the City of Lynden; and

WHEREAS, the City Council as the governing board of the City of Lynden Transportation Benefit District has considered this matter during a duly called public meeting of said Council, has given this matter careful review and consideration, and finds that the best interests of the City of Lynden and District will be served by passage of this ordinance;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF LYNDEN, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Incorporation of Recitals. The above stated recitals are incorporated as though fully set forth herein.

Section 2. Addition of .1% sales tax. The City Council as the governing board of the City of Lynden Transportation Benefit District finds that it is in the best interest of the City and District to impose a sales and use tax of one-tenth of one percent (.001) pursuant to sections 36.73.040(3)(a), 36.73.065(4)(v), and 82.14.0455 of the Revised Code of Washington for the purpose of raising revenue to acquire, invest in, construct, improve, provide, operate, preserve, maintain and/or fund transportation improvements in the District, and to impose such sales and use tax. The sales and use tax shall be imposed for a period not exceeding ten (10) years. The tax shall be in addition to any other taxes authorized by law and shall be collected from those persons who are taxable by the state under chapters 82.08 and 82.12 of the Revised Code of Washington, as amended, upon the occurrence of any taxable event within the boundaries of the City of Lynden Transportation Benefit District which is conterminous with the City of Lynden city limits.

Section 3. Description of transportation improvements. The revenues from a sales and use tax may be used to acquire, invest in, construct, improve, provide, operate, preserve, maintain and/or fund the following described transportation improvements: Projects in the District identified in the City of Lynden's Transportation System Plan and the City of Lynden's Six-Year Transportation Improvement Program. Expanded projects identified in accordance with section 36.73.160 of the Revised Code of Washington, as amended.

The cost of all construction, maintenance, preservation, operation, design, engineering, construction management, financial, legal and other consulting services, inspection and testing, administrative and relocation expenses, and other costs incurred in connection with the foregoing described transportation benefit district projects shall be deemed to be part of the transportation improvements.

Section 4. Notice to Department of Revenue. The appropriate staff is instructed to submit this Ordinance to the Washington Department of Revenue (DOR), and to direct DOR to take all steps necessary to immediately implement and collect the tax imposed by this Ordinance.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of the Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emptions shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 6. Regulatory Conflicts. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of the inconsistency or conflict.

Section 7. Corrections. The City Clerk is authorized to make necessary corrections to this Ordinance, including but not limited to the correction of clerical errors; references to other local, state or federal laws, codes, rules, or regulations; or section/subsection numbers.

Section 8. Effective Date. This Ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City and shall take effect and be in full force five (5) days after publication provided, that the additional Sales and Use tax imposed by Section 2 shall apply only to taxable events occurring on and after January 1, 2025. This ordinance and the sales and use tax imposed herein shall automatically expire without further action of the City Council of the City of Lynden ten years after the effective date noted above.

AFFIRMATIVE VOTE ____ IN FAVOR, AND ____ AGAINST, AND SIGNED BY THE MAYOR THIS 18TH DAY OF NOVEMBER, 2024.

Scott Korthuis, Mayor

ATTEST:

APPROVED AS TO FORM:

Pamela Brown, City Clerk

Robert Carmichael, City Attorney