



INFORMATIONAL MEMORANDUM

TO: Mayor Ekberg
Finance Committee

FROM: Peggy McCarthy, Finance Director

BY: Sherry Wright, Senior Fiscal Coordinator

DATE: November 21, 2017

SUBJECT: Revisions to Tukwila Municipal Code 3.48 - Commercial Parking Tax

ISSUE

Recommendation for Council to modify TMC 3.48 to (1) increase the commercial parking tax rate, and (2) add a penalty for late payment.

BACKGROUND

In 1998, the Tukwila City Council adopted Ordinance 1852 which provided for a 5 percent tax to be levied on gross revenues generated by commercial parking lots in the city. According to Municipal Research & Services Center (MRSC), Tukwila is one of only six entities in Washington that currently levies a tax on commercial parking. The common feature of cities that levy this tax is proximity to a major transportation system, such as an airport or ferry terminal.

TMC requires that parking taxes be remitted on or before the last day of the month following the month during which the taxes were collected. However, the municipal code does not outline a penalty for late payments, which provides no incentive for payments to be made on time.

ANALYSIS

The 5% commercial parking tax has been in effect since 1998 without a rate increase. Staff recommends increasing the levy from 5% to 15%. This increase will keep the rate comparable to tax rates in surrounding jurisdictions (see Attachment A). In addition, over 50% of the parking taxes in Tukwila were paid late. Implementing a 10% late fee would encourage businesses to submit taxes on time and provide the City with a more predictable cash flow, and bring the parking tax penalty in line with the penalties assessed for other city taxes (See Attachment C).

FINANCIAL IMPACT

Attachment B highlights the impacts to revenue if the City were to increase the tax rate from 5% to 15%. Currently, the 5% rate results in just under \$215,000 in revenue per year. A rate increase to 15% would result in approximately \$643,000, or \$428,000 in additional revenue, assuming all other factors remain the same. The late fee is intended to encourage timely payment of taxes, and for purposes of discussion, it is assumed that adding a late payment penalty will not result in additional revenues.

In accordance with State law, parking tax revenues are currently deposited into Fund 104, Arterial Street Fund, and are restricted for transportation purposes. Any additional revenue received based on a change in city code would continue to be restricted for the same purpose and would be designated for transportation projects that currently have unidentified funding.

RECOMMENDATION

Council is being asked to approve the parking tax ordinance and fee resolution, and consider this item at the November 27 Committee of the Whole meeting and subsequent December 4 Regular Meeting.

ATTACHMENTS

- A. Comparison of Cities Levying Commercial Parking Tax
- B. Financial Implications of Amending TMC 3.48
- C. Comparison of Tukwila Taxes and Late Fees
- D. Draft ordinance repealing Ordinance 1852 and reenacting TMC Chapter 3.48
- E. Resolution adding appeal fee

ATTACHMENT A
Comparison of Cities Levying Commercial Parking Tax

Entity Levying Tax	Tax Rate	Tax Due Date	Penalty for Late Payment
State (RCW 82.80.030)	No Limit	May be monthly, quarterly, or annual	Each municipality may develop own rules
Bainbridge Island	30%	Quarterly	10% per month
Bremerton	15%	Quarterly	<30 days = 10% 31-60 days = 15% >61 days = 20%
Mukilteo	8% or 25% (depends on location)	Quarterly	10% per month
SeaTac	\$3 per vehicle	Monthly	None
Seattle	12.50%	Quarterly	5% - 29% (varies according to RCW 82.32.090)
Tukwila (current)	5%	Monthly	None
Tukwila (Proposed)	15%	Monthly	10% per month

ATTACHMENT B
Financial Implications of Amending TMC 3.48

		CURRENT				Total
		Tax Paid On-Time	Tax Paid Late	Late Fee (n/a)		
CURRENT Tax Rate = 5%	2016	3,495	10,964	-	14,459	
	jan	9,038	9,549	-	18,587	
	feb	4,535	4,252	-	8,787	
	mar	14,725	10,872	-	25,597	
	apr	6,882	14,411	-	21,293	
	may	6,240	11,624	-	17,864	
	jun	7,304	11,379	-	18,683	
	jul	7,599	10,167	-	17,766	
	aug	7,621	10,292	-	17,914	
	sep	6,384	10,011	-	16,395	
	oct	18,436	10,230	-	28,666	
	nov	8,322	-	-	8,322	
dec	100,580	113,751	\$	\$	214,331	
total						

Prior Collections	
2016	214,331
2015	193,486
2014	143,535
2013	155,860
2012	149,081

		PROPOSED				Total
		Tax Paid On-Time	Tax Paid Late	Late Fee (10%) ¹		
PROPOSED Tax Rate = 15% Late Fee = 10%	2016	43,377	-	-	43,377	
	jan	55,762	-	-	55,762	
	feb	26,360	-	-	26,360	
	mar	76,791	-	-	76,791	
	apr	63,878	-	-	63,878	
	may	53,591	-	-	53,591	
	jun	56,049	-	-	56,049	
	jul	53,297	-	-	53,297	
	aug	53,741	-	-	53,741	
	sep	49,184	-	-	49,184	
	oct	85,999	-	-	85,999	
	nov	24,966	-	-	24,966	
dec	642,994	\$	\$	\$	642,994	
total						

¹ It is assumed that taxes will be paid on time if a late payment penalty is enacted.

ATTACHMENT C
Comparison of Tukwila Taxes & Late Fees

	TMC Chapter	Enacted in	Tax Rate	Collection Period	Due Date	Late Fee Assessed After	Late Fee Amount
GAMBLING TAX	3.08	1997	From 2% to 20% depending on type of activity	Quarterly	On or before last day of month following quarter in which tax was collected	15 days late	10% per month
ADMISSIONS & ENTERTAINMENT TAX	3.20	1995	5%	Monthly	On or before last day of month following month in which tax was collected	1 day late	10% per month
COMMERCIAL PARKING TAX	3.48	1998	5%	Monthly	On or before last day of month following month in which tax was collected	n/a	n/a
UTILITY TAX (electric, gas, telephone, or cable tv)	3.50	2002	6% (2007 +) 5% (2005-2006) 4% (2003-2004)	Monthly (small entities may file annually)	On or before last day of month following month in which tax was collected	15 days late	10% per month
SOLID WASTE UTILITY TAX	3.51	2009	6%	Monthly	On or before last day of month following month in which tax was collected	15 days late	10% per month
REET #1	3.56	1986	0.25%	Monthly	Within 30 days of sale	1 day late	1% interest per month from time of sale until date of payment
REET #2	3.60	1999	0.25%	Monthly	Within 30 days of sale	1 day late	1% interest per month from time of sale until date of payment

DRAFT

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, REPEALING ORDINANCE NO. 1852; REENACTING TUKWILA MUNICIPAL CODE CHAPTER 3.48, "COMMERCIAL PARKING TAX," RELATING TO THE LOCAL OPTION TRANSPORTATION TAX TO INCREASE THE TAX RATE AND ADOPT A PENALTY FOR LATE PAYMENT; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, pursuant to RCW 82.80.030, the City of Tukwila is authorized to fix and impose a parking tax on all persons engaged in a commercial parking business within its respective jurisdiction; and

WHEREAS, in 1998 the Tukwila City Council adopted Ordinance No. 1852, pursuant to RCW 82.80.030, to levy a 5% parking tax on all commercial parking businesses within the City; and

WHEREAS, the City Council has determined that a rate increase is warranted as the City has a substantial need to increase tax revenue in order to discharge the expected expenses and obligations of the City, and based on review of neighboring cities' tax rates, and noting that the current tax rate has not been altered since its adoption 20 years ago; and

WHEREAS, in addition to a rate increase, the Council desires the adoption of a penalty for late payment, as the timely payment of the tax is difficult to enforce absent a late penalty and nearly 50% of parking taxes in 2016 were remitted to the City after the due date, and it is standard practice for City taxes to include a penalty for late payment in order to provide stability for the City's budgeting purposes; and

WHEREAS, the City held a duly noticed public hearing on this tax increase on November 27, 2017;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY ORDAINS AS FOLLOWS:

Section 1. Repealer. Ordinance No. 1852, as codified at Tukwila Municipal Code Chapter 3.48, is hereby repealed in its entirety.

Section 2. TMC Chapter 3.48 Reenacted. Tukwila Municipal Code (TMC) Chapter 3.48 is hereby reenacted to read as follows:

**CHAPTER 3.48
COMMERCIAL PARKING TAX**

Sections:

3.48.010	Definitions
3.48.020	Exemptions
3.48.030	Local Option Transportation Tax Imposed
3.48.040	Tax in Addition to Other License Fees or Taxes
3.48.050	Exempt Vehicles
3.48.060	Taxes Collected by Business Operators
3.48.070	<u>Late Penalty</u>
3.48.080	Use of Fund
3.48.090	<u>Application-Liability</u> and Reporting
3.48.100	Violation/Penalty
3.48.110	Appeal Procedure

Section 3. TMC Section 3.48.010 is hereby reenacted to read as follows:

3.48.010 Definitions

The following definitions shall apply throughout this chapter:

1. “*Commercial parking business*” means the ownership, lease, operation or management of a commercial parking lot in which fees are charged for parking.

2. “*Commercial parking*” means any transaction or arrangement whereby a vehicle is parked and a fee is charged for parking or allowing the vehicle to be parked.

Commercial parking shall include instances where a fee is charged specifically for the parking of a vehicle. This shall include any business which uses part or all of its area to park vehicles for a fee where no other service, lodging or business is being provided or conducted in conjunction with the parking of the vehicle.

Commercial parking shall also include instances such as when a guest of a hotel, motel or other lodging establishment is allowed to park or leave his/her vehicle before or after his or her lodging or business stay there so that, for a fee, the guest’s vehicle is parked at the hotel, motel or other lodging establishment during days when the guest is no longer staying there.

Section 4. TMC Section 3.48.020 is hereby reenacted to read as follows:

3.48.020 Exemptions

The following exemptions to the commercial parking tax are allowed:

1. **Local employee parking**, with parking spaces provided or reserved for use by an employee who works within the City, where the employee parks his or her vehicle in connection with his or her employment, without regard to whether arrangements or payment for the parking is made by the employee or by his or her employer.
2. **Apartments and condominiums**, where parking is provided in conjunction with arrangements for residential living spaces.
3. **Offices, retail establishments, warehouses and industrial buildings**, where parking is provided in association with tenant arrangements for the use of such facilities.

Section 5. TMC Section 3.48.030 is hereby reenacted to read as follows:

3.48.030 Local Option Transportation Tax Imposed

There is hereby levied a special local option transportation tax to be imposed in connection with commercial parking businesses within the City. The tax shall be imposed at the rate of ~~5%~~ 15% of the gross revenues generated by non-exempt commercial parking charges and fees.

Section 6. TMC Section 3.48.040 is hereby reenacted to read as follows:

3.48.040 Tax in Addition to Other License Fees or Taxes

The tax levied under this chapter shall be in addition to any license fee or tax imposed or levied under any law, statute or ordinance whether imposed or levied by the City, State or other governmental entity or political subdivision.

Section 7. TMC Section 3.48.050 is hereby reenacted to read as follows:

3.48.050 Exempt Vehicles

The tax shall not be levied on vehicles with official State disabled person decals; government vehicles which are exempt from tax, and tax-exempt carpool vehicles.

Section 8. TMC Section 3.48.060 is hereby reenacted to read as follows:

3.48.060 Taxes Collected by Business Operators

Taxes imposed herein shall be collected by the operators of the commercial parking businesses, and shall be due and payable to the City in monthly installments. The operators of the commercial parking businesses shall remit to the City the local option transportation taxes collected on or before the last day of the month following the month

during which the taxes were collected. The City shall be authorized to review and inspect financial records involving activities of businesses which are taxable by this tax, at least quarterly each year.

Section 9. TMC Section 3.48.070 is hereby established to read as follows:

3.48.070 Late Penalty

If a Commercial Parking Business subject to this tax fails to pay any tax required by this chapter within 15 days after the due date thereof, there shall be added to such tax a penalty of 10% of the tax per month for each month overdue, which shall be added to the amount of the tax due.

Section 10. TMC Section 3.48.080 is hereby reenacted to read as follows:

3.48.070080 Use of Fund

All revenues, assessments and other charges generated and collected as local option transportation taxes shall be placed in the City's 104 Bridge and Arterial Street Fund, to be used for transportation purposes within the Transportation Element of the Tukwila Comprehensive Transportation Plan, in accordance with RCW 82.80.070; and to be used for administration of the tax, including those activities of the City in keeping and tracking records, financial reports and other documents, reviewing filings and compiling reports by commercial parking businesses, and other activities involved in collection and enforcement of the tax.

Section 11. TMC Section 3.48.090 is hereby reenacted to read as follows:

3.48.080090 Application and Liability and Reporting

~~A. Any commercial parking business shall procure from the City an annual certificate of registration, the fee for which shall initially be \$1.00, and it shall be posted in a conspicuous place in the office of such a business. Annual renewals will be provided without a fee.~~

~~B. The applicant for a certificate of registration shall furnish the Finance Director with a completed application, and with the name and address of any owners or lessees of the business. All owners or lessees shall be notified of the issuance of such certificate. All owners and lessees shall have joint liability for the collection and remittance to the City of parking taxes and they shall be notified of their joint liability for collection and remittance of such tax.~~

A. All officers, directors and managers of any organization or association operating a Commercial Parking Business, including owners and lessees of a parking facility used for Commercial Parking, shall be jointly and severally liable for the payment of said tax, penalties, and any fine imposed under this chapter

~~C~~B. The Finance Director 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; and a copy of the rules and regulations shall be on file and available for public examination in the ~~City Clerk's office~~City of Tukwila Finance Department.

Section 12. TMC Section 3.48.100 is hereby reenacted to read as follows:

3.48.090100 Violation/Penalty

It is unlawful for any person, firm or corporation engaged in a ~~C~~commercial ~~p~~Parking ~~B~~Business to fail or refuse to collect and remit parking taxes as required by the provisions of this chapter or to gain for himself or herself some advantage or benefit from the tax, whether direct or indirect. Any such violation shall constitute a misdemeanor and shall be punishable by a fine not to exceed \$1,000 and/or by imprisonment not exceeding 90 days. Any such fine shall be in addition to any tax and penalties required.

Section 13. TMC Section 3.48.110 is hereby established to read as follows:

3.48.100110 Appeal Procedure

A. Any person aggrieved by the amount calculation of the tax determined to be due to the City pursuant to this chapter may appeal to the Finance Director or his/her designee from such determination by filing a written notice of appeal with the City Clerk within 20 calendar days from the date on which such person was given notice of the tax. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the amount of the tax was incorrect. The Finance Director or designee shall, as soon as practicable, fix a time and place for the hearing for such appeal. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing review the basis for the appeal, and may request clarification from the appellant. After the review is complete, the Finance Director or designee shall issue an administrative decision that may sustain or modify the amount of tax owed. Notice of the administrative decision shall be sent to the appellant by certified mail within 10 days of issuance.

B. The appellant, if aggrieved by the decision of the Finance Director or designee, may then appeal to the City Hearing Examiner within 20 calendar days of the date of the administrative decision is mailed to the appellant. The notice of appeal must state the grounds for appeal, including a detailed explanation of why the administrative decision is incorrect. The notice of appeal must be accompanied by an Appeal Fee in accordance with the fee schedule adopted by resolution of the City Council.

C. Upon timely filing of a notice of appeal, the Finance Director shall schedule a hearing on the appeal before the City's Hearing Examiner. The hearing shall be conducted no later than 30 days from the date of the notice of appeal, unless an extension is agreed to by the appellant or otherwise ordered by the Hearing Examiner for good cause shown. Notice of the hearing and the appeal shall be given to the appellant by certified mail at least five days prior to the date of the hearing.

D. The hearing shall be governed by the City of Tukwila Hearing Examiner's procedural rules. The hearing shall be de novo. The decision of the City's Hearing Examiner or other hearing body shall be based upon a preponderance of the evidence. The burden of proof shall be on the appellant. The Hearing Examiner or other hearing body may affirm, reverse or modify the Finance Director's decision.

E. Within 20 business days, excluding holidays recognized by the City of Tukwila, from the date of the hearing on an appeal under this section, the Hearing Examiner shall issue a written decision which shall set forth the reasons therefor.

Section 14. 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 15. 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 16. Effective Date. This ordinance or a summary thereof shall be published in the official newspaper of the City, and shall take effect and be in full force on January 1, 2018 after passage and publication as provided by law.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Allan Ekberg, Mayor

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Published: _____

Effective Date: _____

Ordinance Number: _____

Rachel B. Turpin, City Attorney

DRAFT

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, ADOPTING A FEE SCHEDULE FOR TUKWILA MUNICIPAL CODE CHAPTER 3.48, "COMMERCIAL PARKING TAX."

WHEREAS, the City Council intends to remove specific amounts for fees and charges from the Tukwila Municipal Code in favor of a City-wide fee resolution; and

WHEREAS, the updated commercial parking tax ordinance references an appeal process, including an appeal fee, which will be included as part of the City-wide fee resolution;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Fee Schedule. The following fee shall be charged to appellants by the City of Tukwila Finance Department to appeal a commercial parking tax decision:

Type of appeal	Fee
Hearing Examiner Appeal Fee <i>TMC 3.48.110</i>	\$250.00

Section 2. Effective Date. The fee schedule contained in this resolution shall be effective as of January 1, 2018.

PASSED BY THE CITY COUNCIL OF THE CITY OF TUKWILA, WASHINGTON, at a Regular Meeting thereof this _____ day of _____, 2017.

ATTEST/AUTHENTICATED:

Christy O'Flaherty, MMC, City Clerk

Dennis Robertson, Council President

APPROVED AS TO FORM BY:

Filed with the City Clerk: _____

Passed by the City Council: _____

Resolution Number: _____

Rachel B. Turpin, City Attorney