

# Ordinance No. 00102

[\(Council Minutes 96/12/02\)](#)

## ORDINANCE NO. 102

AN ORDINANCE of the city of Lakewood, Washington, imposing a (second) one-quarter percent excise tax on real estate sales, imposing restrictions on use of the taxes, providing for collection and refunds

WHEREAS, the City of Lakewood will be incorporated effective February 28, 1996; and,

WHEREAS, state law authorizes the imposition of certain taxes upon transactions occurring within the City; and,

WHEREAS, 82.46.035 provide that revenues generated by real estate excise taxes in cities over 5,000 population that are required to plan under RCW 36.70A.040 shall be used solely for financing capital projects specified in a capital facilities plan element of a comprehensive plan and housing relocation assistance under RCW 59.18.440 and 59.18.450; and,

WHEREAS, the City, upon incorporation, has responsibilities to finance necessary capital facility improvements and it is therefore appropriate to impose the excise tax authorized by law to help finance these improvements; and

WHEREAS, the City has heretofore imposed a first 1/4 percent excise tax on real estate sales by adoption of Alternate No. 1 of Ordinance No.23.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. Second 1/4 Percent Excise Tax on Real Estate Sales.

A. Imposition. Pursuant to RCW 82.46.035, there is imposed an additional excise tax on each sale of real property constituting a taxable event as defined in Chapter 82.45, and occurring within the corporate limits of the City. The tax imposed under this section shall be collected from persons who are taxable by the State under RCW Chapter 82.45 and such tax shall comply with all applicable rules, regulations, laws and court decisions regarding real estate excise taxes as imposed by the State under Chapter 82.45 RCW.

B. Tax rate. The rate of tax imposed by this section pursuant to RCW 82.46.035 shall be one-quarter of one percent of the selling price of all real property upon which this tax is imposed.

C. Use of proceeds. All proceeds from the tax imposed by this section shall be placed by the City Manager or authorized designee in the City's General Fund, identified in a separate line item, with expenditures therefrom restricted solely to those uses permitted by state law, namely, solely for the financing of capital projects specified in a capital facilities plan element of a comprehensive plan approved by the City Council.

#### Section 2. County to Collect Payment.

The County Treasurer shall collect the taxes imposed by this Ordinance. The County Treasurer shall place one percent of the proceeds of the taxes imposed and collected by this Ordinance in the County Current Expense Fund to defray costs of collection. The remaining proceeds from City taxes imposed by this Ordinance shall be distributed to the City monthly.

#### Section 3. Tax is Obligation of Seller.

The taxes imposed by this Ordinance are the obligation of the seller and may be enforced through the action of debt against the seller or in the manner prescribed for the foreclosure of mortgages.

#### Section 4. Tax Lien on Real Property.

The taxes imposed by this Ordinance and any interest or penalties thereon is a specific lien upon each piece of real property sold from the time of sale or until the tax is paid, which lien may be enforced in the manner prescribed for the foreclosure of mortgages. Resort to one course of enforcement is not an election not to pursue the other.

#### Section 5. Duties of County Treasurer.

The taxes imposed by this Ordinance shall be paid to and collected by the County Treasurer. The County Treasurer shall cause a stamp evidencing satisfaction of the lien to be affixed to the instrument of sale or conveyance prior to its recording or to the real estate excise tax affidavit in the case of used mobile home sales. A receipt issued by the County Treasurer for the payment of the tax imposed herein shall be evidence of the satisfaction of the lien imposed in this Ordinance and may be recorded in the manner prescribed for recording satisfactions of mortgages. No instrument of sale or conveyance evidencing a sale subject to the tax may be accepted by the Pierce County Auditor's Office for filing or recording until the tax is paid and the stamp affixed thereto. In case the tax is not due on the transfer, the instrument shall not be accepted until suitable notation of this fact is made on the instrument by the County Treasurer.

#### Section 6. Payment Due.

The tax imposed by this Ordinance shall become due and payable immediately at the time of the sale, and if not so paid within 30 days thereafter, shall bear interest at the maximum rate permitted by law from the time of sale until the date of payment.

Section 7. Refunds.

If, upon written application by taxpayer to the County Treasurer for a refund, it appears that tax has been paid in excess of the amount actually due or upon a sale or other transfer declared to be exempt, such excess amount or improper payment shall be refunded by the County Treasurer to the taxpayer; provided, that no refund shall be made unless the State has first authorized the refund of an excessive amount or an improper amount paid, unless such improper amount was paid as a result of miscalculation. Any refund made shall be withheld from the next monthly distribution to the City.

Section 8. Penalty.

It is unlawful for any person to fail or refuse to pay taxes with intent to violate the provisions of this Ordinance. Any person violating any provision of this Ordinance shall be guilty of a misdemeanor and upon conviction thereof, punished pursuant to state law or city ordinance.

Section 9. Severability.

Should any section, paragraph, sentence, clause or phrase of this 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 preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 10. Effective Date and Publication.

This Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, as required by law.

ADOPTED by the City Council this 2nd day of December, 1996

CITY OF LAKEWOOD

/S/

Bill Harrison, Mayor

Attest:

/S/

Alice M. Bush, CMC, City Clerk

Approved as to Form:

/S/

Daniel B. Heid, City Attorney

.....