ORDINANCE NO. 928

AN ORDINANCE OF THE CITY OF CARNATION, WASHINGTON, IMPOSING A LOCAL SALES AND USE TAX FOR AFFORDABLE AND SUPPORTIVE HOUSING IN ACCORDANCE WITH SUBSTITUTE HOUSE BILL 1406 (CHAPTER 338, LAWS OF 2019), PROVIDING FOR SEVERABILITY AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, in the 2019 Regular Session, the Washington State Legislature approved, and the Governor signed, Substitute House Bill 1406 (Chapter 338, Laws of 2019) ("SHB 1406"); and

WHEREAS, SHB 1406 authorizes the governing body of a city with a population of 100,000 or less to impose a local sales and use tax for the acquisition, construction or rehabilitation of affordable housing or facilities providing supportive housing, operations and maintenance costs of affordable or supportive housing, or providing rental assistance to tenants; and

WHEREAS, the tax is not a new tax, rather the tax will be credited against state sales taxes collected within the city of Carnation and, therefore, will not result in higher sales and use taxes within the city and will represent an additional source of funding to address housing needs in the city; and

WHEREAS, the tax must be used to assist persons whose income is at or below sixty percent of the city of Carnation median income; and
WHEREAS, the 2016 U.S. Census American Community Survey data shows that the city of Carnation has approximately 30% of households at or below 60% of the city of Carnation median income, but there is a deficit of housing stock that is reasonably affordable for households in that income percentile and the City Council has determined that imposing the sales and use tax to address this need will benefit its citizens; and

WHEREAS, in order for the City to impose the tax, the City was required to adopt a resolution within six months of the effective date of SHB 1406, or January 28, 2020, declaring the City’s intent to adopt legislation to levy the maximum capacity of the tax; and

WHEREAS, in fulfillment of the resolution of intent requirement, the Carnation City Council passed Resolution No. 438 on November 5, 2019; and

WHEREAS, SHB 1406 also requires that the City adopt legislation to authorize the maximum capacity of the tax within one year from the effective date of SHB 1406; and

WHEREAS, this ordinance constitutes the required legislation; and

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

THE CITY COUNCIL OF THE CITY OF CARNATION, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Findings. The City Council of the City of Carnation, Washington, makes the following findings and determinations:

1.1. SHB 1406 authorizes cities without a “qualifying local tax” to adopt a sales and use tax increase of 0.0073% (the “State-Shared Affordable Housing Sales and Use Tax”), provided that the revenues are dedicated to the affordable housing purposes as defined in that statute. Upon adoption of the increase, the tax imposed will be deducted from the amount of State sales and use tax otherwise required to be collected within the city, subject to the annual cap described in that statute.
1.2. The City Council passed Resolution No. 438 on November 5, 2019, declaring its intent to authorize the maximum capacity of the tax authorized under SHB 1406.

1.3. The City of Carnation does not impose a Qualifying Local Tax as defined by SHB 1406.

1.4. The City Council finds that the City of Carnation has satisfied all prerequisites to imposing the State-Shared Affordable Housing Sales and Use Tax at a rate of 0.0073%, and finds it is in the City’s best interest to begin imposing the tax.

Section 2. Sales and Use Tax for Affordable Housing Imposed.

2.1. Imposition of Tax. There is imposed a sales and use tax as authorized by Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW (RCW 82.14.540), upon every taxable event, as defined in Chapter 82.14 RCW, occurring within the city of Carnation. 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.

2.2. Rate. The rate of the tax imposed under this section shall be 0.0073 percent of the selling price or value of the article used.

2.3. Collection of Tax by Department of Revenue. The tax imposed under this section 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 Carnation at no cost to the city.

2.4. Distribution by Department of Revenue – Maximum Amount of Tax. The Department of Revenue will calculate the maximum amount of tax distributions for the City of Carnation based on the taxable retail sales in the city in State Fiscal Year 2019, and the tax imposed under this section will cease to be distributed to the City of Carnation 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 Carnation that have ceased during a state fiscal year shall resume at the beginning of the next state fiscal year.

2.5. Expiration of Tax. The tax imposed by this Chapter will expire twenty years after the date on which the tax is first imposed.

Section 3. Purpose of Tax.

3.1. The city may use the moneys collected by the tax imposed by Section 2 above only for the following purposes:
a. 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; and

b. Providing the operations and maintenance costs of new units of affordable or supportive housing; and

c. Providing rental assistance to tenants; and

d. Any other purpose authorized by RCW 82.14.540, as the same now exists or as hereafter amended or superseded.

3.2. The housing and services provided under this section may only be provided to persons whose income is at or below sixty percent of the median income of the city.

3.3. The treasurer 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 2 above.

3.4. Any unexpected affordable housing sales tax funds remaining at the end of a budget period shall not lapse, but funds shall be carried forward from year to year until expended for a purpose set forth in Subsection 3.1 above.

Section 4. Interlocal Agreements.

RCW 82.14.540 authorizes cities imposing the tax provided for in this chapter to enter into interlocal agreements with one or more counties, cities, or public housing authorities in accordance with Chapter 39.34 RCW. Such interlocal agreements may include, but are not limited to, pooling the tax receipts, pledging those taxes to bonds issued by one or more parties, and allocating the proceeds of the taxes levied or bonds issued in accordance with such interlocal agreement. Such interlocal agreements, if any, shall be authorized by separate action of the Carnation City Council.

Section 5. Administration and collection – Statutory compliance.

The administration and collection of the tax imposed under this chapter shall be in accordance with the provisions of Washington State Legislature Chapter 338, Laws of 2019, which shall be codified in Chapter 82.14 RCW (RCW 82.14.540).

Section 6. Non-Codification. This ordinance shall not be codified in the Carnation Municipal Code.

Section 7. Severability. If any section, sentence, clause or phrase of this ordinance
should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 8. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED by the Carnation City Council this 3rd day of March, 2020.

MAYOR, KIMBERLY LISK

ATTEST/AUTHENTICATED:

CITY CLERK, MARY MADOLE

FILED WITH THE CITY CLERK: ..... 02/13/2020
PASSED BY THE CITY COUNCIL: ..... 03/03/2020
PUBLISHED: .................................................. 03/13/2020
EFFECTIVE DATE: ............................... 03/18/2020
ORDINANCE NO. ................................. 928