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City Council Committee Meeting Agenda

Community Development Committee

Stanwood-Camano School District
Administration Building Board Room
26920 Pioneer Highway, Stanwood

Thursday August 8, 2019 6:00 PM

1. Developer Agreement for Schmitt Plat
2. Affordable Housing Sales Tax Credit
3. FYI Items



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**CITY OF STANWOOD
COMMUNITY DEVELOPMENT COMMITTEE
AGENDA STAFF REPORT**

DATE: August 8, 2019 Meeting

SUBJECT: August CDC Agenda Topics

FROM: Patricia Love, Community Development Director

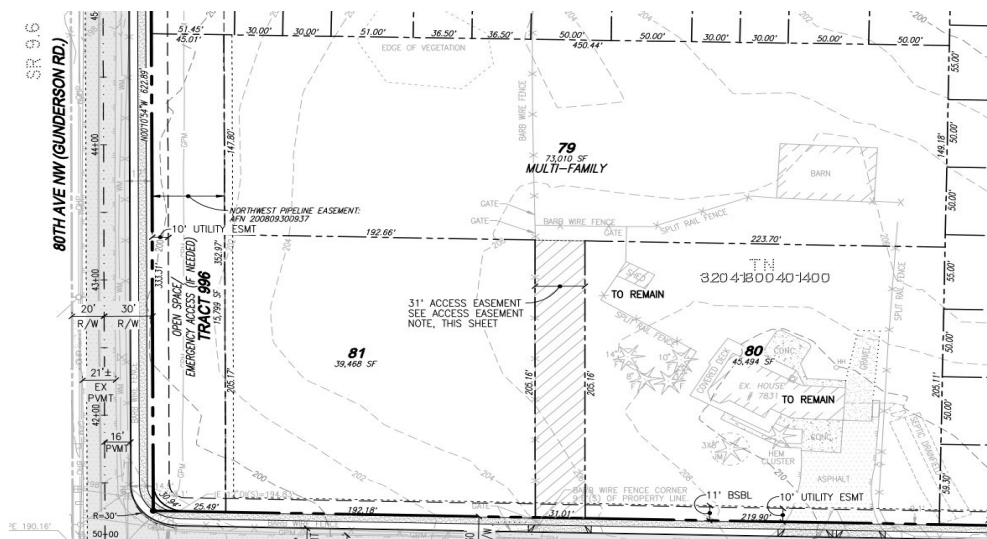
DEVELOPMENT AGREEMENT FOR SCHMITT PLAT:

The Von Moos Development Agreement for lots 79, 80, 81 and Tract 996 of the Stanwood Schmitt Preliminary Plat (file no. 2018-0444) that was approved on February 8, 2019. The development agreement was necessary to ensure the multi-family residential portion of the preliminary plat is accounted for. The preliminary plat was completed in the TN zone which required three different residential housing types.

The development agreement sets forth the following development standards for the lots and tract: minimum/maximum residential density, minimum lot area, minimum lot width, minimum lot depth, minimum front setback, minimum rear setback, minimum side setback, maximum height and maximum building coverage. Other provisions set forth in the agreement include: access, right-of-way dedication, type of residential housing allowed, roadway standards and vested studies.

A public hearing before the Hearing Examiner is scheduled for August 20, 2019. The hearing examiner staff report and developer agreement will be distributed at the meeting.

Site Plan of Lots 79, 80, 81 and Tract 996



AFFORDABLE HOUSING SALES TAX CREDIT – MRSC ARTICLE:

The 2019 legislative session produced a plethora of bills, but [SHB 1406](#) has generated significant buzz as it will provide a new affordable housing revenue stream for those counties, cities, and towns that choose to participate. This sales tax option is actually a credit against the state sales tax rate of 6.5%, so it will not increase the tax rate for consumers. However, cities, towns, and counties have a limited time to take advantage of this option and must act rather quickly if they wish to participate.

In order to understand the foundation of this bill, it's important to understand what is considered a participating and non-participating city or county. A "participating" city or county is one that chooses to impose the affordable housing sales tax credit provided in SHB 1406 and completes the required steps for adoption within the next 12 months, while a "nonparticipating" city or county is one that chooses not to implement the affordable housing sales tax credit.

In this blog we discuss this complicated piece of legislation and some of the key decisions that eligible local governments will need to make within the next few months.

How Can This Revenue Be Used?

The intent of the legislation is to encourage local government investments in affordable and supportive housing, and as such, the funds will be considered a restricted revenue subject to reporting requirements and audit review for compliance. The use of this sales tax partially depends upon the size of your jurisdiction:

For counties over 400,000 population and cities over 100,000 population: The funds may only be used for (a) acquiring, rehabilitating, or constructing affordable housing, which may include new units within an existing structure or facilities providing supportive housing services under [RCW 71.24.385](#) (behavioral health organizations); **OR** (b) operations and maintenance costs of new units of affordable or supportive housing.

For counties under 400,000 population and cities under 100,000 population: The funds may be used for the same purposes listed above, but they may also be used to provide rental assistance to tenants that are at or below 60% of the median income of the county or city that is imposing the tax.

For any city or county, they may finance loans or grants to nonprofit organization or public housing authorities to carry out the purposes of the bill and may pledge the tax proceeds from SHB 1406 for repayment of bonds in accordance with debt limitations imposed by the state constitution or statute.

Additionally, any participating city or county may enter into an interlocal agreement with other cities, counties, and/or housing authorities to pool and allocate the tax revenues received under SHB 1406 to fulfill the intent of the legislation.

How Much Revenue Will We Receive?

The answer to this question depends on whether your entity has a “qualifying local tax” (see below), the local economy, and the revenue cap included in SHB 1406. Participating jurisdictions will receive revenues for 20 years, and the amount that you receive annually will be equivalent to either 0.0073% or 0.0146% of taxable retail sales in your jurisdiction.

For participating counties

Counties do not need a “qualifying local tax” and will automatically receive the maximum 0.0146% rate within the unincorporated areas. Within the boundaries of each city or town, you will receive 0.0146%, minus the rate being received by the city/town. Here are the variables:

- If the city chooses not to participate but the county does participate, the county will receive the full 0.0146% within the city boundaries.
- If a city elects to participate but does not have a “qualifying local tax” (see below), the city will receive the 0.0073% “half share” and the county will also receive a 0.0073% half share within the city boundaries.
- If a city elects to participate and imposes a “qualifying local tax” by the deadline, the city will receive the full 0.0146% share and the county will not receive any revenues within the city boundaries.

As the legislation is currently written, if the county elects not to participate, cities located within said county that have not enacted a qualifying local tax will not receive SHB 1406 revenues after the first year.

For participating cities

The rate your city receive depends on whether it enacts a local qualifying tax (see below) prior to the deadline of July 27, 2020, as well as whether or not your county participates.

- For cities that impose a qualifying local tax by the deadline, you will receive the maximum 0.0146% rate, regardless of whether your county participates.
- For cities that do not have a qualifying local tax, you will receive the 0.0073% “half share,” but *only if* your county also elects to participate.

If your county declares it will not participate or does not adopt the required resolution of intent by the end of January 2020, you will receive the full 0.0146% through July 27, 2020, but after that you will not receive any further revenues. In discussions with both Association of Washington Cities (AWC) and the Department of Revenue it is believed that this is due to a drafting error in the bill. AWC does not anticipate this scenario but asks that you let them know if your city finds itself in this situation!

SHB 1406 sets a cap on the maximum sales tax revenues to be credited to local government within any state fiscal year (July 1 to June 30). The cap will be calculated based upon the taxable retail sales during the state’s 2019 fiscal year (July 1, 2018 — June 30, 2019). Just like the state shared revenue

cycle, distributions will start July 1, and the state will cease distribution until the beginning of the next fiscal cycle if at any time during the fiscal period your distributions meet the cap.

Last but not least it's important to remember that retail sales can fluctuate from year to year depending upon a number of economic factors, so your revenues being generated from this sales tax credit will fluctuate as well. The Department of Revenue (DOR) website provides [Local Retail Sales for calendar year 2018](#) that can be used to forecast your sales tax credit revenues. Additionally, we have developed a [worksheet for your revenue forecasting](#) that is based upon 2018 taxable sales with projections for both the 0.0073% and 0.0146% tax credit options.

How Do We Impose This New Tax Option?

To receive the affordable housing sales tax credit, you must:

- **Pass a resolution of intent by January 27, 2020** that indicates intention to impose the sales tax credit at the maximum capacity by a simple majority vote of the legislative body. *This is the single most important step in being able to receive this sales tax credit option.* If this deadline is missed, there are no other opportunities to access the tax. Here is a [sample resolution of intent](#) that has been prepared by Pacifica Law Group for the Association of Washington Cities (AWC) that will assist you in this process. *(Editor's note: Also see the resolution adopted by the City of Vancouver, which is provided at the end of this article.)*
- **Adopt legislation to authorize by July 27, 2020** to impose the maximum capacity of the affordable sales tax credit. This step must be completed in order to continue to access this sales tax credit whether you decide to impose a qualifying local tax or not.

What Is a Qualifying Local Tax?

A “qualifying local tax” (QLT) is a local property or sales tax that a city has imposed, separately from SHB 1406, to address affordable housing or related issues. This provision within the bill *only applies to cities and towns*, and it allows them to double the sales tax credit.

The QLT options are:

- An affordable housing levy ([RCW 84.52.105](#));
- A sales and use tax for affordable housing ([RCW 82.14.530](#));
- A levy lid lift ([RCW 84.55.050](#)) that is restricted solely to affordable housing; or
- A mental health and chemical dependency sales tax ([RCW 82.14.460](#)), which is only authorized by statute for those cities of at least 30,000 population located within Pierce County.

According to our data, there are currently only six cities that have implemented at least one of these qualifying local taxes: Bellingham, Ellensburg, Olympia, Seattle, Tacoma, and Vancouver. *Editor's note: Port Angeles has also placed a qualifying local tax on the ballot for November 2019 – see the resolution at the end of this article which also provides a good analysis of election timing and costs.*

All of the qualifying local taxes require voter approval with a simple majority vote (with the exception of the mental health and chemical dependency sales tax) and may be presented at any special, primary, or general election. (For more detailed information on any of these qualifying local taxes, refer to our [Revenue Guide for Cities and Towns](#).)

Deciding to present a qualifying local tax before the voters in order to gain the full tax credit will require some timing considerations, as the legislation requires that the qualifying local tax must be “instated” (which DOR is interpreting to mean “approved by voters”) within 12 months of the effective date of SHB 1406. This deadline is July 27, 2020. The deadline for placement on the general election ballot is fast approaching (August 6), and the only other elections before the July 2020 deadline are the special elections in February and April. (See our Key Deadlines for voted sales and property taxes in the recently updated Revenue Guides for [Cities/Towns](#) and [Counties](#)).

When Will We Start to Receive Revenues from SHB 1406?

The Department of Revenue (DOR) typically requires a 75-day notice for sales tax rate changes, but this is not a new sales tax and therefore will only require a 30-day wait period. The credit will take effect on the first day of the month following the 30-day period ([RCW 82.14.055\(2\)](#)). For example, if you adopt the resolution of intent and then the enabling legislation (ordinance/resolution) during August 2019, the tax will take effect on October 1. The sales tax revenues from October will be remitted by retailers to DOR by the 25th of the following month (November), and you will receive your first distribution of this tax credit on your end-of-month December disbursement from the State Treasurer’s office. *Editor's note: In this example, the original article incorrectly stated that the revenues would be distributed at the end of November.*

For cities that have a qualifying local tax in place, you will receive the full credit of 0.0146% as soon as you adopt the enacting ordinance. For all other cities and towns that have adopted the enacting ordinance, you will collect a tax credit of 0.0073% until your ballot measure for a qualifying local tax has passed.

This piece of legislation is complex and a bit confusing. We have worked closely with the DOR and the AWC to bring you as much information as possible to assist with your decisions to take the first step in the process — which is to pass a resolution of intent. Additionally AWC has prepared an [implementation guide](#) to help in your decision-making process, and we (MRSC) are ready to answer any further questions that you may have. Please do not hesitate to [send me an email](#) or give me call.

Estimated Sales Tax:

The Association of Washington Cities has been active in helping cities understand the implementation steps to HB1406, the state sales tax rebate, as well as an analysis of the funds the city would receive if action is taken.

	Sum Of Taxable	.0073%	.0146%
STANWOOD	174,314,907	12,725	25,450

AWC HB 1406 Guide Page: - See Attached brochure prepared by the Association of Washington Cities.

The City Attorney is in the process of preparing a draft resolution which will be added to the Council's September meeting.

FYI ITEMS:

Docket – The 2019 / 2020 annual Docket period is now open for the month of August.

Buildable Lands – Staff is compiling a list of all permits issued since April 1, 2011 through April 1, 2019 to create a vacant land supply map; this will be used to determine our build out density and employment projections for the City's buildable lands report. Data from this work will start to inform the next round of how to accommodate future population projections.

Final Plat of Cedarhome Square - Phase 3 and 4 of Cedarhome Square final plat will be included in the September CDC packet with Council acceptance at the following meeting.

Stanwood Civic Campus Project – Preliminary building square footage requirements are being prepared which will be used for the design of the proposed Police and City Hall facilities. A steering committee has been established. Tours of the Arlington Police Station and Edgewood combined City Hall / Police Station are scheduled for next month.



Implementing HB 1406

2019

Don't miss out on up to 20 years of shared revenue for affordable housing

In the 2019 legislative session, the state approved a local revenue sharing program for local governments by providing up to a 0.0146% local sales and use tax credited against the state sales tax for housing investments, available in increments of 0.0073%, depending on the imposition of other local taxes and whether your county also takes advantage. The tax credit is in place for up to 20 years and can be used for acquiring, rehabilitating, or constructing affordable housing; operations and maintenance of new affordable or supportive housing facilities; and, for smaller cities, rental assistance. The funding must be spent on projects that serve persons whose income is at or below sixty percent of the area median income. Cities can also issue bonds to finance the authorized projects.

This local sales tax authority is a credit against the state sales tax, so it does not increase the sales tax for the consumer. There are tight timelines that must be met to access this funding source – the first is January 31, 2020 to pass a resolution of intent. The tax ordinance must then be adopted by July 27, 2020 to qualify for a credit.

The following information is intended to assist your city in evaluating its options and timelines. It is not intended as legal advice. Check with your city's legal counsel and/or bond counsel for specific questions on project uses and deadlines for implementation.

Deadlines to participate:

- Resolution to levy tax credit: July 28, 2019 – January 31, 2020
- Ordinance to levy the tax credit: By July 27, 2020
- Adopt "qualifying local tax" (optional): By July 31, 2020

Eligibility to receive shared revenues

- The state is splitting the shared resources between cities and counties. However, cities can receive both shares if they have adopted a "qualifying local tax" by July 31, 2020. Qualifying taxes are detailed below. Cities who are levying a "qualifying local tax" by July 28, 2019, the effective date of the new law, will receive both shares immediately once they impose the new sales tax credit.
- If a city does not implement a qualifying local tax by the deadline, they can still participate in the program if they meet the other deadlines but will be eligible for a lower credit rate.
- A city can adopt the sales tax credit before designating how the funds will be used once collected.

Qualifying local taxes

The following are considered "qualifying local taxes" and, if levied, give the city access to both shares of the tax credit (i.e. 0.0146% rate instead of the single share rate of 0.0073%):

- Affordable housing levy (property tax) under RCW 84.52.105
- Sales and use tax for housing and related services under RCW 82.14.530. The city must have adopted at least half of the authorized maximum rate of 0.001%.
- Sales tax for chemical dependency and mental health (optional .1 MIDD) under RCW 82.14.460
- Levy (property tax) authorized under RCW 84.55.050, if used solely for affordable housing

Think of the "qualifying local tax" as a multiplier or "doubler." It gives the city access to double the tax credit even when the county chooses to participate in the program.

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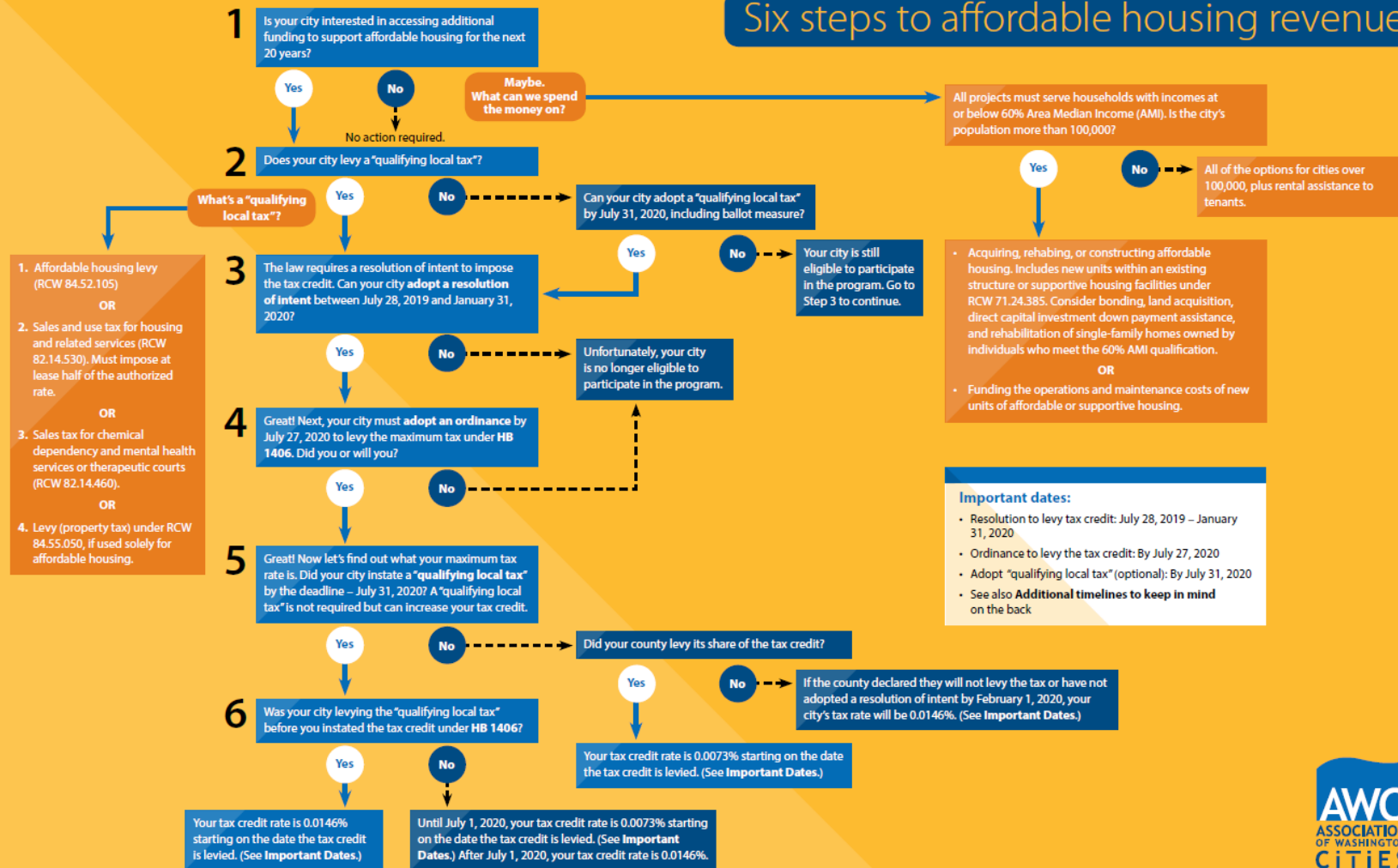
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06/2019



Six steps to affordable housing revenue



Tax credit rate examples

Max tax credit rate under HB 1406	City with qualifying local tax	City without qualifying local tax	City doesn't levy a tax credit, county does participate	County doesn't participate, city participates but doesn't have a qualifying tax.*
City	0.0146%	0.0073%	0.0%	July 2020: 0.0%
County	0.0%	0.0073%	0.0146%	0.0%

**We believe that this was an error in bill drafting. Please let us know if you are in this situation. We can work to address it in future legislative sessions.*

Eligible uses of the funds:

1. Projects must serve those at or below 60% AMI.
2. Acquiring, rehabilitating, or constructing affordable housing, which may include new units of affordable housing within an existing structure or facilities providing supportive housing services. In addition to investing in traditional subsidized housing projects, this authority could potentially be used to provide for land acquisition, down payment assistance, and home repair so long as recipients meet the income guidelines.
3. Funding the operations and maintenance costs of new units of affordable or supportive housing.
4. For cities with a population under 100,000, the funds can also be used for rental assistance to tenants.

Additional timelines to keep in mind:

1. Department of Revenue (DOR) requires 30-days-notice of adoption of sales tax credits. The credit will then take effect on the first day of the month following the 30-day period.
2. If your city is adopting a "qualifying local tax", DOR requires 75-days-notice of adoption of sales tax increases. Local sales tax increases may only take effect on the first day of the first, second, or third quarter – not the fourth (April 1, July 1, or October 1).
3. If your city is adopting a "qualifying local tax" remember to factor in the ballot measure process into the timeline, as these must be approved by the voters.
4. If you are intending to bond the revenues for a project under this authority, check with your legal counsel and bond counsel about other deadlines that may apply to your city.

Frequently asked questions:

1. **This program sounds very familiar. Didn't a local option, affordable housing sales tax law pass a few years ago?** Yes, but the new law has important differences. The Legislature passed HB 2263 in 2015 that authorized cities and towns to levy up to a 0.1% sales tax for affordable housing—

but, importantly, only after voter approval. This sales tax levy is considered a "qualifying local tax" under HB 1406. Another important distinction is that the affordable housing sales tax from 2015 is an additional tax on the consumer, and not a credit on an existing state-imposed tax.

2. **Do we have to levy a "qualifying local tax" to participate?** No. Your city is still eligible to participate in the program, but your tax credit rate will depend on whether the county participates in the program. See *Tax credit rate examples* chart to the left.
3. **Do we only have access to the program if the county declines to participate?** No. A city can participate, and receive funds, even if the county participates. Unfortunately, if your city does not impose a "qualifying local tax" by the deadline and your county declines to participate, then you will not have access to funds after the first year, due to a drafting error in the bill. We don't anticipate this scenario to occur, but please let us know if you find yourself in that situation. We will work with the Legislature to address it if this proves problematic. In all cases you must meet the program deadlines to participate. See *Deadlines to participate*.
4. **Does it make a difference at all if our county participates?** Only if you have not adopted a "qualifying local tax." If you have adopted a "qualifying local tax" you can access the higher credit rate regardless of county participation. If you don't have a "qualifying local tax" then you can only access the higher rate if the county does not participate.
5. **How is "rental assistance" defined? Does that include rent vouchers?** The term "rental assistance" is not defined in the chapter 82.14 RCW; however, both federal and state housing programs use the term "rental assistance" to mean providing rent, security deposits, or utility payment assistance to tenants.
6. **Can we pool our revenue with another entity? Can we issue bonds or use the money to repay bonds?** Yes! Cities can enter into an interlocal agreement with other local governments or a public housing authority to pool tax receipts, pledge tax collections to bonds, allocating collected taxes to authorized affordable housing expenditures, or other agreements authorized under chapter 39.34 RCW. Cities may also use the tax credit revenue to issue or repay bonds in order to carry out the projects authorized under the new law.
7. **Is the amount of tax credit we receive limited only by the amount of sales tax collected per year?** No. The maximum amount will be based on state fiscal year 2019 sales.
8. **Does the tax credit program expire?** Yes, the tax expires 20 years after the date on which the tax is first levied.

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