

CITY OF BURIEN, WASHINGTON

ORDINANCE NO. 617

AN ORDINANCE OF THE CITY OF BURIEN, WASHINGTON, RELATING TO TAXATION; AMENDING THE BUSINESS AND OCCUPATION TAX RATE AND THRESHOLD EXEMPTION; INCREASING THE TAX RATE FROM ONE TWENTIETH OF ONE PERCENT TO ONE TENTH OF ONE PERCENT; INCREASING THE THRESHOLD EXEMPTION FROM \$100,000 TO \$200,000; PROVIDING FOR A REFERENDUM; PROVIDING FOR SEVERABILITY; AND, ESTABLISHING AN EFFECTIVE DATE

WHEREAS, in 2007 the City Council of the City of Burien enacted a business and occupation tax in accordance with Chapter 35.102 RCW and the “model ordinance” which ordinance is codified at Chapter 3.11 of the Burien Municipal Code; and

WHEREAS, the current tax rate is one of the lowest tax rates among comparable cities in King County; and

WHEREAS, the City desires to increase its capacity to support and market its local business in support of the City’s economic development activities; and

WHEREAS, an increase in the City’s B&O tax rate will provide additional resources that ~~can~~will be utilized to support the City’s economic development activities; and

WHEREAS, the increase in the threshold exemption for businesses subject to the B&O tax will decrease the number of small business in the community that are subject to the B&O tax; and

WHEREAS, it is anticipated that the Business and Occupation Tax Revenue will increase by 43%; and

WHEREAS, it is the intent of the City Council to dedicate a minimum of 40% and up to 50% of the Business and Occupation Tax Revenue to expanded economic development programs and activities; and

WHEREAS, the City Council has determined that passage of this ordinance will be in the best interest of the public health, safety and welfare;

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

Section 1. Amending Section 3.11.050 BMC (Imposition of the Tax – tax or fee levied). Section 3.11.050 of the Burien Municipal Code is hereby amended (*amendments shown in legislative revision marks*) to read as follows:

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3.11.050 Imposition of the tax – Tax or fee levied.

(1) Except as provided in subsection (2) of this section, there is hereby levied upon and shall be collected from every person a tax for the act or privilege of engaging in business activities within the city, whether the person's office or place of business be within or without the city. The tax shall be in amounts to be determined by application of rates against gross proceeds of sale, gross income of business, or value of products, including byproducts, as the case may be, as follows:

(a) Upon every person engaging within the city in business as an extractor; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, extracted within the city for sale or for commercial or industrial use, multiplied by the rate of ~~one-twentieth~~^{one}~~tenth~~ of one percent (0.00105). The measure of the tax is the value of the products, including byproducts, so extracted, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

(b) Upon every person engaging within the city in business as a manufacturer; as to such persons the amount of the tax with respect to such business shall be equal to the value of the products, including byproducts, manufactured within the city, multiplied by the rate of ~~one-twentieth~~^{one}~~tenth~~ of one percent (0.00105). The measure of the tax is the value of the products, including byproducts, so manufactured, regardless of the place of sale or the fact that deliveries may be made to points outside the city.

(c) Upon every person engaging within the city in the business of making sales at wholesale; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of ~~one-twentieth~~^{one}~~tenth~~ of one percent (0.00105).

(d) Upon every person engaging within the city in the business of making sales at retail; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of such sales of the business, without regard to the place of delivery of articles, commodities or merchandise sold, multiplied by the rate of ~~one-twentieth~~^{one}~~tenth~~ of one percent (0.00105).

(e) Upon every person engaging within the city in the business of (i) printing, (ii) both printing and publishing newspapers, magazines, periodicals, books, music, and other printed items, (iii) publishing newspapers, magazines and periodicals, (iv) extracting for hire, and (v)

processing for hire; as to such persons, the amount of tax on such business shall be equal to the gross income of the business multiplied by the rate of one-~~twentieth~~th of one percent (0.00105).

(f) Upon every person engaging within the city in the business of making sales of retail services; as to such persons, the amount of tax with respect to such business shall be equal to the gross proceeds of sales multiplied by the rate of one-~~twentieth~~th of one percent (0.00105).

(g) Upon every other person engaging within the city in any business activity other than or in addition to those enumerated in the above subsections; as to such persons, the amount of tax on account of such activities shall be equal to the gross income of the business multiplied by the rate of one-~~twentieth~~th of one percent (0.00105). This subsection includes, among others, and without limiting the scope hereof (whether or not title to material used in the performance of such business passes to another by accession, merger or other than by outright sale), persons engaged in the business of developing or producing custom software or of customizing canned software, producing royalties or commissions, and persons engaged in the business of rendering any type of service which does not constitute a sale at retail, a sale at wholesale or a retail service.

(2) The gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted within the city during any calendar year is equal to or less than \$20,000 or is equal to or less than \$5,000 during any quarter if on a quarterly reporting basis. Furthermore, the gross receipts tax imposed in this section shall not apply to any person whose gross proceeds of sales, gross income of the business, and value of products, including by-products, as the case may be, from all activities conducted inside or outside the city during any calendar year is equal to or less than \$~~1200,000~~ or is equal to or less than \$2550,000 during any quarter if on a quarterly reporting basis.

Section 2. 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 pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3. Referendum Authorized. A referendum petition to repeal this ordinance may be filed with the City Clerk within seven days of passage of this ordinance. Within ten days of such filing, the City Clerk shall confer with the petitioner concerning form and style of the petition, issue the petition an identification number, and secure an accurate, concise, and positive ballot title from the designated local official. The petitioner shall have thirty days in which to secure the signatures

of not less than fifteen percent of the registered voters of the city, as of the last municipal general election, upon petition forms that contain the ballot title and the full text of the measure to be referred. The City Clerk shall verify the sufficiency of the signatures on the petition and, if sufficient valid signatures are properly submitted, shall certify the referendum measure to the next election ballot within the city or at a special election ballot as provided pursuant to RCW 35.17.260(2). Except as otherwise provided herein, all provisions set forth at RCW 35.17.250 through RCW 35.17.360 that are applicable to the character and form for an initiative petition, to the examination and certification thereof, and to the submission to the vote of the people of the ordinance proposed thereby, shall apply to the referendum petition authorized herein and to this ordinance.

Section 4. Purpose of Revenue Increase. It is the intent of the Council that a minimum of 40% and up to 50% of the Business and Occupation Tax Revenue be dedicated to expanded economic development programs and activities.

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Section 45. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force at 12:01 a.m. on January 1, 2015.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF BURIEN,
WASHINGTON, AT A REGULAR MEETING THEREOF THIS 1ST DAY OF
DECEMBER, 2014.**

CITY OF BURIEN
/s/ Lucy Krakowiak, Mayor

ATTEST/AUTHENTICATED:
/s/ Monica Lusk, City Clerk

Approved as to form:
/s/ Chris Bacha, Kenyon Disend, PLLC
Interim City Attorney

Filed with the City Clerk: December 1, 2014
Passed by the City Council: December 1, 2014
Ordinance No.: 617
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