

ORDINANCE NO. 2021-05-016

AN ORDINANCE OF THE CITY OF BELLINGHAM, WASHINGTON, PROVIDING FOR ESTABLISHMENT OF THE BELLINGHAM WHATCOM COUNTY TOURISM PROMOTION AREA AND APPROVING OTHER MATTERS RELATED THERETO.

WHEREAS, the tourism industry is a vital and substantial component of the region's economy and tourism promotion increases the number of visitors to the region which in turn increases regional sales supporting the local economy; and

WHEREAS, the Legislature of the State of Washington has recognized the importance of tourism promotion in the State of Washington and in 2003 passed Engrossed Substitute Senate Bill No. 6026, codified as chapter 35.101 RCW, as amended (the "TPA Act"), authorizing counties, cities, and towns to establish tourism promotion areas and to levy a tourism promotion charge on the furnishing of lodging on certain lodging businesses (as defined in the TPA Act, "Lodging Businesses") to fund tourism promotion (as defined in the TPA Act); and

WHEREAS, pursuant to RCW 35.101.040, a county, city or town may establish a tourism promotion area that includes within the boundaries of the area portions of its own jurisdiction and another jurisdiction, if the other jurisdiction is a party to an interlocal agreement formed pursuant to chapter 39.34 RCW (the "Interlocal Cooperation Act"); and

WHEREAS, operators of Lodging Businesses located in the proposed Bellingham Whatcom County Tourism Promotion Area presented a petition pursuant to the terms of the TPA Act to the City Council and the Whatcom County Council (the "Initiation Petition") to initiate the establishment of the Bellingham Whatcom County Tourism Promotion Area; and

WHEREAS, the Initiation Petition contained all of the required elements pursuant to RCW 25.101.030; and

WHEREAS after receipt of the Initiation Petition, the City Council passed Resolution No. 2021-06 on April 12, 2021 (the "Resolution of Intent") and the Whatcom County Council adopted Resolution No. 2021-008 on March 9, 2021 providing notice of the intention to establish the Bellingham Whatcom County Tourism Promotion Area, authorizing the execution and delivery of an interlocal agreement for purposes of the TPA Act, and setting the time and place of a public hearing to be held to hear protests and receive evidence for or against the proposed formation of the Bellingham Whatcom County Tourism Promotion Area; and

WHEREAS, pursuant to the TPA Act and the Interlocal Cooperation Act, the City and Whatcom County entered into an Interlocal Agreement for the Joint Establishment of a Tourism Promotion Area dated _____, 2021, as it may be amended from time to time (the “Interlocal Agreement”), for the purpose of, among other things, designating the Bellingham City Council as the “legislative authority” for purposes of the TPA Act; and

WHEREAS, following proper notice as required by the TPA Act and authorization contained in the Interlocal Agreement, the City Council held a public hearing on April 26, 2021; and

WHEREAS, following such public hearing the City Council, as the “legislative authority” under the Interlocal Agreement, the Interlocal Cooperation Act, and the TPA Act, now desires to establish the Bellingham Whatcom County Tourism Promotion Area as provided herein;

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth below or in the TPA Act, as the context may require.

“Bellingham Whatcom County Tourism Promotion Area” means the proposed tourism promotion area described in the Initiation Petition.

“City” or “City of Bellingham” means the City of Bellingham, a municipal corporation organized under the laws and statutes of the State.

“City Council” means the City Council of the City of Bellingham, as the same shall be duly and regularly constituted from time to time.

“Initiation Petition” means the initiation petition delivered to the City Council and the Whatcom County Council pursuant to the TPA Act.

“Interlocal Agreement” means the Interlocal Agreement for the Joint Establishment of a Tourism Promotion Area by and between the City and Whatcom County, as it may be amended from time to time.

“Interlocal Cooperation Act” means chapter 39.34 RCW, as the same may be amended from time to time.

“Legislative Authority” means the legislative authority of the Bellingham Whatcom County Tourism Promotion Area appointed pursuant to the Interlocal

Agreement, currently the City Council, as the same shall be duly and regularly constituted from time to time.

“Lodging Business” means a business located within the Bellingham Whatcom County Tourism Promotion Area that furnishes lodging taxable by the State under chapter 82.08 RCW that has 40 or more lodging units.

“Operator” or “Operator of a Lodging Business” means an operator of a Lodging Business, whether in the capacity of owner, general manager, lessee, sublessee, mortgagee in possession, license or any other similar capacity.

“Resolution of Intent” means Resolution No. 2021-06 of the City Council passed on April 12, 2021.

“State” means the State of Washington.

“TPA Act” means chapter 35.101 RCW, as it now exists and may be amended in the future.

“TPA Charge” means the levy (charge) imposed on the Operators of Lodging Businesses within the Bellingham Whatcom County Tourism Promotion Area and subsequently passed on to the guests of the Lodging Business, under the authority of the TPA Act, for the purpose of providing funding of Tourism Promotion.

“Tourism Promotion” has the meaning set forth in RCW 35.101.010, including but not limited to, actions and expenditures designed to increase domestic and international tourism, such as promotion, branding, advertising, publicizing, marketing, and the preparation and distribution of information for the purpose of encouraging and welcoming travelers, visitors, and tourists to the Bellingham Whatcom County Tourism Promotion Area. Such activities include, but are not limited to: strategic planning, market research, creative development, media placement, metrics, sales activities, and designing, hosting and communicating about events relating to promotion and marketing of the Bellingham Whatcom County Tourism Promotion Area, operating tourism destination marketing organizations, or contracting with such organizations or other similar organizations, to administer the operation of the Bellingham Whatcom County Tourism Promotion Area, and administration, operation, and management support for such services, including but not limited to, overhead costs, staff costs, professional costs, and auditing costs, and funding reserve funds to fund any such activities.

Section 3. Resolution of Intent and Public Hearing. Pursuant to RCW 35.101.080 and the Interlocal Agreement, the City hereby provides the following information:

(a) *Resolution of Intent.* The City Council adopted the Resolution of Intent on April 12, 2021. The title of the Resolution of Intent is as follows:

A RESOLUTION OF THE CITY OF BELLINGHAM, WASHINGTON, PROVIDING FOR CERTAIN MATTERS RELATING TO THE FORMATION OF A TOURISM PROMOTION AREA; PROVIDING NOTICE OF INTENT TO ESTABLISH A TOURISM PROMOTION AREA; CALLING FOR A PUBLIC HEARING ON THE CREATION OF A TOURISM PROMOTION AREA IN ACCORDANCE WITH CHAPTER 35.101 RCW; AUTHORIZING THE EXECUTION AND DELIVERY OF AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF BELLINGHAM AND WHATCOM COUNTY RELATING TO THE PROPOSED TOURISM PROMOTION AREA; AND AUTHORIZING OTHER MATTERS RELATED THERETO.

(b) *Public Hearing.* Notice of the public hearing was provided as required in RCW 35.101.060, which included publishing the Resolution of Intent in the *Bellingham Herald*, a newspaper of general circulation in the jurisdiction in which the proposed Bellingham Whatcom County Tourism Promotion Area is to be established, and mailing a complete copy of the Resolution of Intent to each Lodging Business in the proposed area. Publication and mailing were completed at least 10 days prior to the public hearing.

A public hearing was held at 7:00 [p.m.] on April 26, 2021, at the [City Hall Council Chambers], located at Bellingham City Hall, 210 Lottie Street, Bellingham, Washington 98225, Bellingham, Washington 98225. In accordance with Washington State Governor Inslee's emergency proclamation No. 20-28 issued on March 24, 2020, as amended and supplemented, temporarily suspending portions of the Open Public Meetings Act (chapter 42.30 RCW), the public was invited to remotely participate in the public hearing through the following means: online (<https://cob.org/cczoom>.) or listen on the phone at (253) 215-8782.

At the public hearing, the City Council received comments and testimony concerning formation of the proposed Bellingham Whatcom County Tourism Promotion Area. Protests on the proposed Bellingham Whatcom County Tourism Promotion Area were not received by Lodging Businesses which would pay a majority of the proposed charges.

Section 4. Establishment of the Tourism Promotion Area; Boundaries.
The City Council has received the Initiation Petition, adopted the Resolution of Intent, and held a public hearing as required by the TPA Act and the Interlocal Agreement. As Legislative Authority of the proposed tourism promotion area, the City Council hereby establishes a tourism promotion area to be called the "Bellingham Whatcom County Tourism Promotion Area." The boundaries of the Bellingham Whatcom

County Tourism Promotion Area shall include the incorporated areas of the City and the unincorporated area of Whatcom County.

Section 5. Assessment Rate. The TPA Charges to be levied and imposed on those Lodging Businesses located in the Bellingham Whatcom County Tourism Promotion Area are as follows:

Zone	TPA Charge (RCW 35.101.050)	Additional TPA Charge (RCW 35.101.057)	Total TPA Charge
Zone A:	\$2.00 per room/day	\$1.00 per room/day	\$3.00 per room/day
Zone B:	\$2.00 per room/day	\$1.00 per room/day	\$3.00 per room/day

Zone A. Lodging Businesses that are classified as hotels or motels with 40 or more lodging units that are located within the incorporated area of the City of Bellingham.

Zone B. Lodging Businesses that are classified as hotels or motels with 40 or more lodging units that are located in unincorporated Whatcom County.

The TPA Charges will not be imposed upon rooms: (a) in which the occupant has stayed 30 or more continuous days as provided for in WAC 458-20-166, as may be amended; (b) in which the United States government is paying for the room as provided for in WAC 459-20-166, as may be amended; and (c) as provided for in RCW 35.101.055, consisting of temporary medical housing exempt under RCW 82.09.997, as may be amended. The TPA Charges are not a tax on the "sale of lodging" for the purposes of chapter 82.14 RCW.

Section 6. Use of TPA Charge Revenue

(a) All of the revenue from the TPA Charge collected within the Bellingham Whatcom County Tourism Promotion Area shall be used exclusively for Tourism Promotion as provided in the Interlocal Agreement, including for the following purposes:

(i) Tourism Promotion within the Bellingham Whatcom County Tourism Promotion Area and as specified in the Bellingham Whatcom County Tourism Promotion Area business plan to be adopted annually;

(ii) Preparing and implementing a comprehensive plan for tourism recovery from the economic impact of the 2019 novel coronavirus pandemic and subsequent recession, rebuilding the greater Bellingham-Whatcom County area as a tourist destination, encouraging tourism innovation and investment in the area, and working with local business, local governments and Lodging Businesses to build a stronger tourist economy;

(iii) Marketing convention, conferences and trade shows that benefit local tourism and Lodging Business in the Bellingham Whatcom County Tourism Promotion Area;

(iv) Marketing of the greater Bellingham-Whatcom County area to the travel industry in order to benefit local tourism and Lodging Businesses in the Bellingham Whatcom County Tourism Promotion Area;

(v) Marketing of the greater Bellingham-Whatcom County area to recruit sporting, athletic, recreational, entertainment, performing arts and cultural events in order to benefit tourism and Lodging Businesses in the Bellingham Whatcom County Tourism Promotion Area, and for the purpose of increasing overnight visitor stays within the greater Bellingham-Whatcom County region;

(vi) Providing marketing and event assistance for qualifying events that represent a substantial likelihood of benefiting tourism and Lodging Businesses in the Bellingham Whatcom County Tourism Promotion Area, and for the purpose of increasing overnight visitor stays within the greater Bellingham-Whatcom County area; and

(vii) For any other purpose consistent the TPA Act and approved as provided in the Interlocal Agreement.

Included within the scope of Tourism Promotion is the administration, operation, formation, and start-up costs associated with the Bellingham Whatcom County Tourism Promotion Area and the ongoing management and maintenance of the Bellingham Whatcom County Tourism Promotion Area.

(b) The City Council shall adopt a budget for the use of the TPA Charges as required by the Interlocal Agreement. The City shall also contract with Bellingham Whatcom County Tourism for the administration, management and operation of the Bellingham Whatcom County Tourism Promotion Area pursuant to the Interlocal Agreement and RCW 35.101.130.

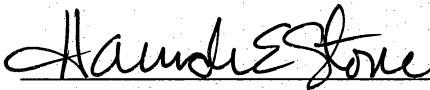
Section 7. Modification or Disestablishment of the Tourism Promotion Area. The Bellingham Whatcom County Tourism Promotion Area may be modified and/or disestablished as provided in the TPA Act and in the Interlocal Agreement.

Section 8. General Authorization; Ratification. The City Mayor, the City Finance Director, and other proper officials of the City are authorized and directed to undertake all action necessary and to execute all documents required to carry out the purposes of this ordinance. All acts taken pursuant to the authority granted in this ordinance but prior to its effective date are hereby ratified and confirmed.

Section 9. Severability. If any provision of this ordinance, or its application to any person or circumstance is held invalid the remainder of this ordinance or its application of the provisions to other persons or circumstances is not affected.

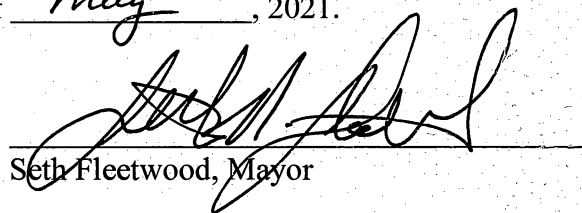
Section 10. Effective Date. This ordinance shall be effective 15 days after its final passage; provided, however, the TPA Charges authorized herein shall become effective no earlier than 75 days after the City shall have entered into a contract for the administration and collection of such charges with the State Department of Revenue pursuant to the TPA Act.

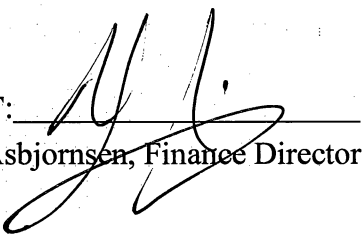
PASSED by the Council this 10th day of May, 2020.



Hannah Stone, Council President

APPROVED by me this 12th day of May, 2021.


Seth Fleetwood, Mayor

ATTEST: 
Andy Asbjornsen, Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

Published:

May 14, 2021