

Chapter 35.101 RCW
TOURISM PROMOTION AREAS

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RCW 35.101.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Area" means a tourism promotion area.

(2) (a) Except as otherwise provided in this subsection, "legislative authority" means the legislative authority of any county, or of any city or town within such a county, including unclassified cities or towns operating under special charters.

(b) Except as provided in (c) of this subsection, in any county with a population of one million or more, "legislative authority" means two or more jurisdictions acting jointly as the legislative authority under an interlocal agreement created under chapter 39.34 RCW for the joint establishment and operation of a tourism promotion area.

(c) For a city incorporated after January 1990, with a population greater than eighty-nine thousand, and located in a county described in (b) of this subsection, "legislative authority" means the city's legislative authority.

(3) "Lodging business" means a person that furnishes lodging taxable by the state under chapter 82.08 RCW that has forty or more lodging units.

(4) "Tourism promotion" means activities and expenditures designed to increase tourism and convention business, including but not limited to advertising, publicizing, or otherwise distributing information for the purpose of attracting and welcoming tourists, and operating tourism destination marketing organizations.

(5) "Tourist" means a person who travels for business or pleasure on a trip:

(a) Away from the person's place of residence or business and stays overnight in paid accommodations;

(b) To a place at least fifty miles away one way by driving distance from the person's place of residence or business for the day or stays overnight. However, island communities without land access are exempt from the mileage requirement under this subsection (5)(b); or

(c) To another country or state outside of the person's place of residence or business. [2020 c 215 § 1; 2015 c 131 § 1; 2009 c 442 § 1; 2003 c 148 § 1.]

RCW 35.101.020 Establishment—Petition. For the purpose of establishing a tourism promotion area, an initiation petition must be presented to the legislative authority having jurisdiction of the area in which the proposed tourism promotion area is to be located. The initiation petition must include the following:

(1) A description of the boundaries of the proposed area;

(2) The proposed uses and projects to which the proposed revenue from the charge shall be put and the total estimated costs;

(3) The estimated rate for the charge with a proposed breakdown by class of lodging business if such classification is to be used; and

(4) The signatures of the persons who operate lodging businesses in the proposed area who would pay sixty percent or more of the proposed charges. [2003 c 148 § 2.]

RCW 35.101.030 Resolution of intention to establish area—Hearing. A legislative authority shall, after receiving a valid initiation petition under RCW 35.101.020, adopt a resolution of intention to establish an area. The resolution must state:

(1) The time and place of a hearing to be held by the legislative authority to consider the establishment of an area;

(2) A description of boundaries in the proposed area;

(3) The proposed area uses and projects to which the proposed revenues from the charge shall be dedicated and the total estimated cost of projects; and

(4) The estimated rate or rates of the charge with a proposed breakdown of classifications as described in RCW 35.101.050. [2003 c 148 § 3.]

RCW 35.101.040 Limitations on area included—Interlocal agreements. (1) Except as provided in subsection (2) of this section, no legislative authority may establish a tourism promotion area that includes within the boundaries of the area:

(a) Any portion of an incorporated city or town, if the legislative authority is that of the county; and

(b) Any portion of the county outside of an incorporated city or town, if the legislative authority is that of the city or town.

(2) By interlocal agreement adopted pursuant to chapter 39.34 RCW, 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 party to the agreement. [2003 c 148 § 4.]

RCW 35.101.050 Lodging charge—Limitations. A legislative authority may impose a charge on the furnishing of lodging by a lodging business located in the area.

(1) There shall not be more than six classifications upon which a charge can be imposed.

(2) Classifications can be based upon the number of rooms, room revenue, or location within the area.

(3) Each classification may have its own rate, which shall be expressed in terms of nights of stay.

(4) In no case may the rate under this section be in excess of two dollars per night of stay. [2003 c 148 § 5.]

RCW 35.101.052 Lodging charge—Contract for administration and collection of by department of revenue. (1) A legislative authority shall contract, prior to the effective date of an ordinance imposing a lodging charge under RCW 35.101.050, for the administration and collection of the charge by the state department of revenue. The department may deduct a percentage amount, as provided by contract, for the administration and collection expenses incurred by the department.

(2) This section only applies to a legislative authority consisting of a county with a population of one million or more or a city or town within such a county. [2009 c 442 § 2.]

RCW 35.101.055 Lodging charge—Exemption for temporary medical housing. The lodging charge authorized in RCW 35.101.050 does not apply to temporary medical housing exempt under RCW 82.08.997. [2008 c 137 § 6.]

Effective date—2008 c 137: See note following RCW 82.08.997.

RCW 35.101.057 Lodging charge—Additional charge. (Expires July 1, 2027.) (1) In addition to the two dollar charge authorized by RCW 35.101.050, a legislative authority may impose an additional charge of up to three dollars per night of stay on the furnishing of lodging by a lodging business located in the area. To impose the additional charge, signatures of the persons who operate lodging businesses who would pay sixty percent or more of the proposed charges must be provided together with the proposed uses and projects to which the proposed revenue from the additional charge shall be put, the total estimate costs, and the estimated rate for the charge with a proposed breakdown by class of lodging business if such classification is to be used.

(2) This section expires July 1, 2027. [2020 c 215 § 2.]

RCW 35.101.058 Lodging charge—Additional charge—Program review. Each tourism promotion area must conduct a program review of the additional tourism promotion area charge established in RCW 35.101.057. The review must be completed and submitted to the appropriate committees of the legislature by January 1, 2026. The review must:

(1) Analyze how tourism promotion area charge funds were used during the period when the additional charge was imposed;

(2) Identify additional marketing and promotional measures conducted or purchased with additional funds beyond the current two dollar charge;

(3) Assess whether additional tourism promotion area charges above two dollars contributed to an actual increase in the number of tourists, as defined in RCW 35.101.010; and

(4) Assess the average additional cost per visit per tourist due to additional tourism promotion area charges above two dollars. [2020 c 215 § 4.]

RCW 35.101.060 Notice of hearing. Notice of a hearing held under RCW 35.101.030 shall be given by:

(1) One publication of the resolution of intention in a newspaper of general circulation in the city or county in which the area is to be established; and

(2) Mailing a complete copy of the resolution of intention to each lodging business in the proposed area.

Publication and mailing shall be completed at least ten days prior to the date and time of the hearing. [2003 c 148 § 6.]

RCW 35.101.070 Conduct of hearing—Termination of proceedings.

Whenever a hearing is held under RCW 35.101.030, the legislative authority shall hear all protests and receive evidence for or against the proposed action. The legislative authority may continue the hearing from time to time. Proceedings shall terminate if protest is made by the lodging businesses in the area which would pay a majority of the proposed charges. [2003 c 148 § 7.]

RCW 35.101.080 Establishment of area—Ordinance. Only after an initiation petition has been presented to the legislative authority under RCW 35.101.020 and only after the legislative authority has conducted a hearing under RCW 35.101.030, may the legislative authority adopt an ordinance to establish an area. If the legislative authority adopts an ordinance to establish an area, the ordinance shall contain the following information:

(1) The number, date, and title of the resolution of intention pursuant to which it was adopted;

(2) The time and place the hearing was held concerning the formation of the area;

(3) The description of the boundaries of the area;

(4) The initial or additional rate of charges to be imposed with a breakdown by classification, if such classification is used;

(5) A statement that an area has been established; and

(6) The uses to which the charge revenue shall be put. Uses shall conform to the uses declared in the initiation petition under RCW 35.101.020. [2003 c 148 § 8.]

RCW 35.101.090 Administration, collection of lodging charge.

(1) The charge authorized by this chapter shall be administered by the department of revenue and shall be collected by lodging businesses

from those persons who are taxable by the state under chapter 82.08 RCW. Chapter 82.32 RCW applies to the charge imposed under this chapter.

(2) At least seventy-five days prior to the effective date of the resolution or ordinance imposing the charge, the legislative authority shall contract for the administration and collection by the department of revenue.

(3) The charges authorized by this chapter that are collected by the department of revenue shall be deposited by the department in the local tourism promotion account created in RCW 35.101.100. [2003 c 148 § 9.]

RCW 35.101.100 Local tourism promotion account created. The local tourism promotion account is created in the custody of the state treasurer. All receipts from the charges for tourism promotion must be deposited into this account. Expenditures from the account may only be used for tourism promotion. The state treasurer shall distribute the money in the account on a monthly basis to the legislative authority on whose behalf the money was collected. [2003 c 148 § 10.]

RCW 35.101.110 Charges are in addition to special assessments. The charges imposed under this chapter are in addition to the special assessments that may be levied under chapter 35.87A RCW. [2003 c 148 § 11.]

RCW 35.101.120 Charges are not a tax on sale of lodging. The charges imposed under this chapter are not a tax on the "sale of lodging" for the purposes of RCW 82.14.410. [2003 c 148 § 12.]

RCW 35.101.130 Legislative authority has sole discretion concerning use for tourism promotion—Contracts for operation of area—Lodging charge removal. (1) The legislative authority imposing the charge shall have sole discretion as to how the revenue derived from the charge is to be used to promote tourism that increases the number of tourists to the area. However, the legislative authority may appoint existing advisory boards or commissions to make recommendations as to its use, or the legislative authority may create a new advisory board or commission for that purpose.

(2) The legislative authority may contract with tourism destination marketing organizations or other similar organizations to administer the operation of the area, so long as the administration complies with all applicable provisions of law, including this chapter, and with all county, city, or town resolutions and ordinances, and with all regulations lawfully imposed by the state auditor or other state agencies.

(3) If a majority of those lodging businesses assessed the charges imposed under RCW 35.101.050 or 35.101.057 petition in writing to the legislative authority that the charge be removed, the legislative authority must remove the charge. The legislative authority may determine the timing of when to remove the charge so that the effective date of the expiration of the charge will not adversely impact existing contractual obligations not to exceed twelve

months. The legislative authority may not be held liable for any financial obligations, contractual obligations, or damages for removing the charge.

(4) Any legislative authority with a charge in place under RCW 35.101.050 as of January 1, 2020, shall not have the charge be amended as provided under subsection (3) of this section unless the legislative authority has adopted an increase to the charge as authorized in RCW 35.101.057. [2020 c 215 § 3; 2003 c 148 § 13.]

RCW 35.101.140 Disestablishment of area—Hearing—Resolution.

The legislative authority may disestablish an area by ordinance after a hearing before the legislative authority. The legislative authority shall adopt a resolution of intention to disestablish the area at least fifteen days prior to the hearing required by this section. The resolution shall give the time and place of the hearing. [2003 c 148 § 14.]