



AFFORDABLE HOUSING CET DISTRIBUTION WORK GROUP AGENDA
Thursday, March 25, 2021 - 3:00 PM
City Hall, Council Chambers, 169 SW Coast Hwy, Newport, OR 97365

This will be a hybrid meeting which means that it will be held electronically, via Zoom, with a limited number of people (up to 15, including Committee members and staff) allowed to attend in-person. The meeting will be live-streamed at <https://newportoregon.gov>, and broadcast on Charter Channel 190.

Anyone interested in making public comment is allowed to attend in-person, subject to congregant limitations (up to 15, including Committee members and staff). To submit a written public comment, send the written comment to publiccomment@newportoregon.gov. The e-mail must be received four hours prior to the meeting. For example, if a meeting is to be held at 3:00 P.M., the deadline to submit written comment is 11:00 A.M. If a meeting is scheduled to occur before noon, the written comment must be submitted by 5:00 P.M. the previous day.

The agenda may be amended during the meeting to add or delete items, change the order of agenda items, or discuss any other business deemed necessary at the time of the meeting.

1. INTRODUCTIONS

1.A Committee Roster.
[Roster](#)

2. REVIEW AND AMEND AGENDA, AS NEEDED

3. APPROVAL OF MINUTES

4. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Work Group's attention any item not listed on the agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

5. DISCUSSION ITEMS

5.A Overview of Enclosed Materials.

[Memorandum](#)

5.B Review Construction Excise Tax Ordinance.

[Ordinance No. 2114](#)

[Resolution No. 3787](#)

[City's Affordable Housing CET Calculation Form](#)

[Affordable Housing CET Claimed Exemption Form](#)

5.C Affordable Housing Construction Excise Tax Collections to Date.

[Summary of Revenues and Expenditures](#)

5.D Legal Guidance Regarding Distribution of Funds.

[Memorandum](#)

5.E Committee Model for Distributing Discretionary Dollars.

[Memorandum with Attachments](#)

6. PUBLIC COMMENT

This is an opportunity for members of the audience to bring to the Work Group's attention any item not listed on the agenda. Comments will be limited to three (3) minutes per person with a maximum of 15 minutes for all items. Speakers may not yield their time to others.

7. ADJORN

Affordable Housing CET Distribution Work Group Roster:

- **Kathy Kowtko, Housing Authority of Lincoln County** Affordable Housing Representative
- **Lauren (Lola) Jones, Samaritan House** Non-Profit Representative
- **Todd Woodley, Wyndhaven Ridge Apartments** Market Rate Housing Representative
- **Freddy Saxton, Advantage Real Estate** Commercial Real Estate
- **Doretta Smith, Martek Realty** Residential Real Estate
- **Dustin Capri, Capri Architecture** Residential/Commercial Design
- **Jeff Waarvick, Waarvick & Waarvick, Attorneys** Land Use/Real Estate Legal Expertise
- **Rich Belloni, Lincoln County School District** Institutional Representative
- **Laura Swanson** Vision 2040 Representative
- **Jim Patrick, Chair** Planning Commission
- **Dean Sawyer, Mayor** City Council

Memorandum

To: Affordable Housing Construction Excise Tax Distribution Work Group
From: Derrick I. Tokos, AICP, Community Development Director 
Date: March 18, 2021
Re: Overview of Enclosed Materials

For this first meeting of the Affordable Housing Construction Excise Tax Distribution Work Group, I thought it would be helpful to review the City's affordable housing excise tax ordinance, collections to date, legal sidebars related to use of the funds, and an advisory committee model for distributing the discretionary portion of the funds that the city collects. To that end you will find the following materials in the agenda packet.

Review of Construction Excise Tax (CET) Ordinance. Enclosed are copies of Ordinance No. 2114, Resolution No. 3787, the City's Affordable Housing CET calculation form, and the City's Affordable Housing CET claimed exemption form. They are being provided for your reference, and I'll be prepared to review key provisions of the ordinance.

Affordable Housing CET Collections to Date. CET receipts are directed to the City's Housing Fund. Enclosed is a one-page summary of revenues and expenditures since the City started collecting the tax in the middle of FY 2017-2018.

Legal Guidance Regarding the Distribution of Funds. Attached is a memo prepared by Rebekah Dohrman, an attorney with Speer Hoyt, LLC, providing guidance on the use of Affordable Housing CET funds. It was conveyed as a confidential communication between attorney and client. As the client, I can disclose this memo and such disclosure should not be deemed, and is not, a waiver of any other attorney-client communication related to this issue or any other similar issues. The document is being provided for your reference and we will want to make sure that the recommendations this group makes with regard to distributing the funds is consistent with parameters outlined in the memo.

Committee Model for Distributing Discretionary Dollars. Enclosed is a memo that I put together for the Planning Commission describing how some cities are empaneling advisory committees to distribute the discretionary portion of the affordable housing CET funds that they collect. One option would be for the Planning Commission to fill this role, supplemented by additional members with specific topic area expertise. The Commission is amenable to this approach, and I would like to hear your thoughts about this option or other ways you believe the City might want to allocate the discretionary dollars.

CITY OF NEWPORT

ORDINANCE NO. 2114

**AN ORDINANCE AMENDING TITLE III OF THE
NEWPORT MUNICIPAL CODE TO ESTABLISH A
CONSTRUCTION EXCISE TAX FOR AFFORDABLE HOUSING**

WHEREAS, Oregon's 2016 Legislative Session included the passage of Senate Bill 1533 (SB 1533) authorizing cities and counties to implement Construction Excise Taxes (CETs) to help pay for affordable housing programs; and

WHEREAS, affordable housing, except where otherwise noted in the law, is defined as affordable to households with incomes equal to or higher than 80% median family income for Lincoln County; and

WHEREAS, the City's rural location, terrain, limited infrastructure, and desirability as a vacation destination contribute to there being a lack of affordable housing within the community; and

WHEREAS, Goals 1 and 2 of the Newport Comprehensive Plan call for the provision of housing in adequate numbers, price ranges, and rent levels that are affordable to workers and commensurate to the financial capabilities of Newport households; and

WHEREAS, to achieve these goals the City is committed to assessing the use of creative funding tools, such as the construction excise tax, to facilitate the development of needed housing; and

WHEREAS, the imposition of a construction excise tax, will provide a dedicated source of revenue to support down payment assistance programs, affordable housing development incentives, and other affordable housing programs where none currently exist; and

WHEREAS, while the Council recognizes that substantial upfront development charges can negatively impact the viability of construction projects, the Council anticipates that this excise tax when considered in conjunction with corresponding reductions to System Development Charges instituted with Resolution No. 3786, will not lead to increased negative impacts to the viability of construction projects; and

WHEREAS, the proposed amendments to Title III of the Newport Municipal Code relating to the imposition of a construction excise tax for affordable housing were presented to the Planning Commission at a public hearing on June 26, 2017 and, after considering public testimony and information contained in the record, the Commission voted to recommend adoption of the amendments; and

WHEREAS, the Newport City Council held public hearings on July 17, 2017 and August 7, 2017 and, after considering public testimony, the Planning Commission's recommendation, and information contained in the record, voted to adopt the amendments.

THE CITY OF NEWPORT ORDAINS AS FOLLOWS:

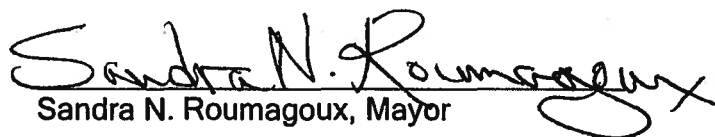
Section 1. Newport Municipal Code Chapter 3.15, Affordable Housing Construction Excise Tax, is hereby established as illustrated in Exhibit "A".

Section 2. The City Council shall reevaluate the construction excise tax no later than ten years.

Section 3. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: August 7, 2017.

Signed by the Mayor on August 8, 2017.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

CHAPTER 3.15 AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX

3.15.005 Purpose

This chapter establishes a construction excise tax on commercial and residential improvements to provide funding for affordable housing in the city.

3.15.015 Definitions

The following definitions apply in this chapter.

- A. Area Median Income means the Lincoln County median household income by household size as defined by the United State Department of Housing and Urban Development and published periodically.
- B. Commercial means designed or intended to be used, or actually used, for other than residential purposes.
- C. Construct or Construction means erecting, constructing, enlarging, altering, repairing, improving, or converting any building or structure for which the issuance of a building permit is required by Oregon law.
- D. Improvement means a permanent addition to, or modification of, real property resulting in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.
- E. Net Revenue means revenues remaining after the administrative fees described in section 3.15.055 are deducted from the total construction excise tax collected.
- F. Structure means something constructed or built and having a fixed base on, or fixed to, the ground or to another structure.
- G. Value of Improvement means the total value of the improvement as determined in the process of issuance of the building permit.

3.15.020 Imposition of Tax

- A. Each person who applies to construct a commercial or industrial improvement in the City shall pay a commercial construction excise tax in an amount based on a

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

percentage of the full value of the improvement, as set annually by City Council resolution.

- B. Each person who applies to construct a residential improvement in the City shall pay a residential construction excise tax in an amount based on a percentage of the full value of the improvement, as set annually by City Council resolution.
- C. The construction excise tax shall be due and payable, and must be paid, prior to the issuance of any building permit as required by ORS 320.189, as amended by SB 1533 Section 8(4) [2016].
- D. The percentage rate of the construction excise tax shall not exceed that permitted by state law.

3.15.025 Exemptions

- A. The construction excise tax shall not apply to the following improvements:
 - 1. Private school improvements.
 - 2. Public improvements as defined in ORS 279A.010.
 - 3. Public or private hospital improvements.
 - 4. Improvements to religious facilities primarily used for worship or education associated with worship.
 - 5. Agricultural buildings, as defined in ORS 455.315(2)(1).
 - 6. Facilities operated by a non-profit corporation and that are:
 - a. Long term care facilities, as defined in ORS 442.015.
 - b. Residential care facilities, as defined in ORS 443.400
 - c. Continuing care retirement communities, as defined in ORS 101.020.
 - 7. Any other exemption required by Oregon statute.

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

8. Any improvement funded by Construction Excise Tax proceeds, or other dedicated affordable housing funding through the City of Newport. Such exemption is limited to the amount of the city's investment in the improvement.

B. The city manager may require any person seeking an exemption to demonstrate that the improvements are eligible for an exemption and to establish all facts necessary to support the exemption.

3.15.030 Collection of Tax

A. The construction excise tax is payable on issuance of a building permit for the construction of improvements. A building permit may not be issued until the construction excise tax is paid or an agreement is entered to pay in installments as allowed by this chapter.

3.15.035 Statement of Full Value of Improvement Required

A. It is a violation of this Chapter for any person or legal entity to fail to state, or to understate, the full value of improvements to be constructed in the City in connection with an application for a building permit.

3.15.040 Installment Payments

A. The owner of the parcel of land subject to a construction excise tax may apply for payment in twenty 20 semi-annual installments, to include interest on the unpaid balance, in accordance with state law. A shorter payment plan is acceptable if approved by the city. The parcel of land shall be subject to a lien for the unpaid balance.

B. The city manager shall provide application forms for installment payments which shall include a waiver of all rights to contest the validity of the lien, except for the correction of computational errors.

C. An applicant for installment payment shall have the burden of demonstrating the applicant's authority to assent to the imposition of a lien on the parcel and that the property interest of the applicant is adequate to secure payment of the lien.

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

- D. The city manager shall docket the lien in the city's lien docket. From that time the city shall have a lien upon the described parcel for the unpaid balance, together with interest on the unpaid balance. The lien shall be enforceable in any manner authorized or permitted by state law.

3.15.045 Interest and Penalties

- A. All amounts of construction excise tax not paid when due shall bear interest on the entire unpaid amount at the rate of .83 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original date to the 15th day of the month following the date of the payment. Interest amounts may not be waived.
- B. A penalty of five percent of the underpayment of construction excise tax shall apply to:
1. Any underpayment due to the improvements constructed initially failing, or later ceasing, to be exempt affordable housing under section 3.15.025(A)(8).
 2. Any underpayment involving a failure to state or an understatement of the full value of improvements.
- C. If not paid within ten days after billing all interest and penalties shall merge with and become part of the construction excise tax required to be paid under this Chapter. From the point of merger, the previously assessed interest and penalty become part of the tax due for calculation of interest and penalty for subsequent periods.

3.15.050 Refunds

- A. The City shall issue a refund to any taxpayer who has paid a construction excise tax the amount of the tax actually paid.
1. If the taxpayer establishes that the tax was paid for improvements that were otherwise eligible for an exemption under section 3.15.025.
 2. If the taxpayer establishes that construction of the improvements was not commenced and the associated

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

building permit has been cancelled by the Community Development Department.

3. Upon a determination by the city manager or the Council that the amount of any construction excise tax has been erroneously collected or paid to the City under this Chapter.

B. The city manager shall either refund all amounts due under this section within 30 days of the date a written request for refund is filed with the city or give written notice of the reasons why the refund request has been denied.

C. Any request for refund must be submitted within three years from the date of payment.

3.15.055 Segregation and Use of Revenue

A. The percentage of gross revenues from the construction excise tax reserved for program administration shall be established annually by Council resolution. Such amount shall be deposited in the General Fund and may not exceed four percent of the gross revenue.

B. Net revenues from the construction excise are to be segregated by accounting practices from all other funds of the city, then used or transferred in a manner required to meet the obligations set out for these revenues under state law.

C. The city manager shall provide the City Council with an annual accounting, based on the city's fiscal year, for construction excise taxes collected and the projects funded from each account in the previous fiscal year. A list of the amounts spent on each project funded in whole or in part with construction excise tax revenues shall be included in the annual accounting.

3.15.060 Appeal Procedure

A. Any written determination issued by the Community Development Department applying the provisions of this Chapter, believed to be in error, may be reviewed by the city manager if the recipient requests review in writing within ten days after receipt of the written determination together with all documentation required to support the request.

New Newport Municipal Code Chapter 3.15, Affordable Housing
Construction Excise Tax

- B. Appeals of any other decision required or permitted to be made by the city manager under this Chapter must be filed in writing with the city manager within 10 days of the decision.
- C. After providing notice to the appellant, the City Council shall determine whether the city manager's decision or the expenditure is in accordance with the provisions of this Chapter and state law. The Council may affirm, modify, or overrule the decision. The decision of the Council shall be reviewed only by writ or review.
- D. The filing of any appeal shall not stay the effectiveness of the written determination unless the Council so directs.

3.15.065 Penalty

Violation of this chapter is a civil infraction.

**CITY OF NEWPORT
RESOLUTION 3787**

**A RESOLUTION ESTABLISHING THE TAX RATES
FOR AN AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX**

WHEREAS, Ordinance No. 2114 enacted Chapter 3.15 of the Newport Municipal Code; and

WHEREAS, Section 3.15.020 requires that the City Council establish by resolution the percentage rate of the excise tax to be levied on the value of commercial, industrial, and residential improvements to fund affordable housing; and

WHEREAS, Section 3.15.055(A) stipulates that the percentage of gross revenues from the construction excise tax reserved for program administration shall be established by resolution and that such amount is not to exceed four percent; and

WHEREAS, Oregon law provides that after deduction of the administrative fees, the net construction excise tax revenues are to be distributed as follows:

- 50 percent to development incentives for affordable housing, which must include (a) whole or partial fee waivers or reductions, (b) whole or partial waivers of system development charges or impact fees; (c) finance-based incentives, or (d) full or partial exemptions from property taxes.
- 35 percent for other affordable housing programs that may include, but are not limited to (a) affordable housing rehabilitation grants, (b) home buyer down payment assistance and buyer education programs, (c) acquisition of land for affordable housing development; or (d) grants to developers for affordable housing.
- 15 percent to Oregon Housing and Community Services to fund the Department's down payment assistance program.

WHEREAS, Oregon law provides that the rate of the construction excise tax on residential construction may not exceed one percent of the permit value of construction, but imposes no limit on the rate of the construction excise tax on commercial and industrial properties.

Based on these findings,

THE CITY OF NEWPORT RESOLVES AS FOLLOWS:

Section 1. The rate of taxation under Newport Municipal Code Chapter 3.15.020 shall be one percent for residential construction and one percent for commercial and industrial construction.

Section 2. The fee for administration of the construction excise tax pursuant to Newport Municipal Code Chapter 3.15.055(A) shall be four percent of gross revenues.

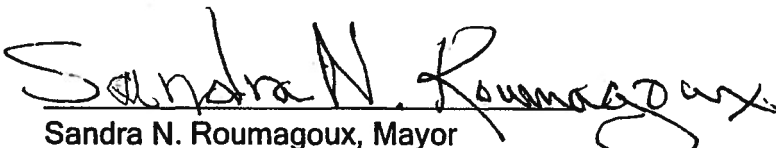
Section 3. An ad hoc work group shall be formed, and approved by the City Council, to determine how to distribute funds collected pursuant to this resolution

Section 4. Construction excise tax funds are to be distributed in accordance with the recommendations of the ad hoc work group as adopted by the City Council.

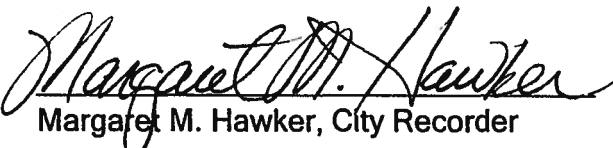
Section 5. The effective date of this resolution is September 6, 2017.

Adopted by a 4-2 vote of the Newport City Council on August 7, 2017.

Signed on August 8, 2017.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney



CITY OF NEWPORT
 Community Development Dept.
 169 SW Coast Hwy
 Newport, OR 97365
 (541) 574-0629
 (541)574-0644 Fax

CITY OF NEWPORT
AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX CALCULATION FORM

Building Permit Applicant:

Name (Printed): _____

Address: _____

Phone Number: _____

Construction Address: _____

Permit Number: _____

Construction Category:

- Residential Improvements
- Commercial Improvements

(Improvements are defined as a permanent addition to, or modification of, real property resulting in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.)

Construction Excise Tax Calculation:

	Construction Valuation
	Total Construction Excise Tax Due (1% x Construction Valuation)

Construction Excise Tax Revenue:

	Administrative Fees (4% of Gross Tax Revenue)
	Total Remaining Revenue
	50% of Remaining Revenue to development incentives for affordable housing, which must include (a) whole or partial fee waivers or reductions, (b) whole or partial waivers of system development charges or impact fees; (c) finance-based incentives, or (d) full or partial exemptions from property taxes.
	35% of Remaining Revenue for other affordable housing programs that may include, but are not limited to (a) affordable housing rehabilitation grants, (b) home buyer down payment assistance and buyer education programs, (c) acquisition of land for affordable housing development; or (d) grants to developers for affordable housing.
	15% of Remaining Revenue to Oregon Housing and Community Services to fund the Department's down payment assistance program.

For questions, please contact the City of Newport, Community Development Department at 541-574-0629.



CITY OF NEWPORT
Community Development Dept.
169 SW Coast Hwy
Newport, OR 97365
(541) 574-0629
(541)574-0644 Fax

CITY OF NEWPORT AFFORDABLE HOUSING CONSTRUCTION EXCISE TAX EXEMPTION FORM

Building Permit Applicant:

Name (Printed): _____

Address: _____

Phone Number: _____

Construction Address: _____

Permit Number: _____

Exemption claimed (check applicable exemption):

- Private school improvements.
 - Public improvements as defined in ORS 279A.010 (Definitions for Public Contracting Code).
 - Residential housing that is guaranteed to be affordable, under guidelines established by the United States Department of Housing and Urban Development, to households that earn no more than 80 percent of the median household income for the area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.
 - Public or private hospital improvements.
 - Improvements to religious facilities primarily used for worship or education associated with worship.
 - Agricultural buildings, as defined in ORS 455.315 (Exemption of agricultural buildings, agricultural grading and equine facilities) (2)(a).
 - Facilities that are operated by a not-for-profit corporation and that are:
 - (a) Long term care facilities, as defined in ORS 442.015 (Definitions);
 - (b) Residential care facilities, as defined in ORS 443.400 (Definitions for ORS 443.400 to 443.455); or
 - (c) Continuing care retirement communities, as defined in ORS 101.020 (Definitions).
- [2007 c.829 §3; 2009 c.534 §2]

Application for above exemption provides consent for the City of Newport to audit applicant's records to verify compliance with exemption requirements.

I certify that I am eligible for this Exemption to the Construction Excise Tax.

_____ Signature	_____ Printed Name	_____ Date
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For questions on this tax, please contact the City of Newport, Community Development Department at 541-574-0629.

Housing Funds - Revenue & Expenditures Summary

	<u>2017-2018</u>	<u>2018-2019</u>	<u>2019-2020</u>	<u>2020-2021</u> ¹
CET Affordable Housing Admin (Acct #101-1900-46429)²	\$ 2,536.00	\$ 2,167.00	\$ 2,462.94	\$ 4,432.89
Housing Fund 212				
Affordable Housing General (Dept 4710)				
Beginning Fund Balance³	\$ 112,742.00	\$ 135,433.00	\$ 146,615.00	\$ 153,697.00
Revenue				
CET Affordable Housing - Flexible Use ⁴	\$ 20,797.00	\$ 18,256.00	\$ 20,689.00	\$ 37,236.00
Interest on Investments	\$ 2,122.00	\$ 3,951.00	\$ 3,675.00	\$ 1,280.00
Total Revenue	<u>\$ 22,919.00</u>	<u>\$ 22,207.00</u>	<u>\$ 24,364.00</u>	<u>\$ 38,516.00</u>
Other Financing Sources				
Transfer from General Fund ⁵	\$ 6,278.00	\$ 6,278.00	\$ -	\$ -
Total Other Financing Sources	<u>\$ 6,278.00</u>	<u>\$ 6,278.00</u>	<u>\$ -</u>	<u>\$ -</u>
Amount Available for Appropriation	<u>\$ 141,939.00</u>	<u>\$ 163,918.00</u>	<u>\$ 170,979.00</u>	<u>\$ 192,213.00</u>
Expenditures				
Financial Professional Services	\$ 132.00	\$ 203.00	\$ 164.00	\$ 69.00
Other Operating Expenses ⁶	\$ -	\$ 16,600.00	\$ 16,600.00	\$ -
Services Provided by General Fund	\$ 6,374.00	\$ 500.00	\$ 518.00	\$ 180.00
Total Expenditures	<u>\$ 6,506.00</u>	<u>\$ 17,303.00</u>	<u>\$ 17,282.00</u>	<u>\$ 249.00</u>
Ending Fund Balance	\$ 135,433.00	\$ 146,615.00	\$ 153,697.00	\$ 191,964.00
Oregon Housing and Community Services (Dept 4720)				
Beginning Fund Balance	\$ -	\$ 7,752.00	\$ 15,630.00	\$ -
Revenue				
CET OHCS Down Payment Assistance	\$ 7,752.00	\$ 7,878.00	\$ 10,592.00	\$ 12,743.00
Total Revenue	<u>\$ 7,752.00</u>	<u>\$ 7,878.00</u>	<u>\$ 10,592.00</u>	<u>\$ 12,743.00</u>
Amount Available for Appropriation	<u>\$ 7,752.00</u>	<u>\$ 15,630.00</u>	<u>\$ 26,222.00</u>	<u>\$ 12,743.00</u>
Expenditures				
CET Expense (OHCS Remittance) ⁷	\$ -	\$ -	\$ 26,222.00	\$ -
Total Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 26,222.00</u>	<u>\$ -</u>
Ending Fund Balance	\$ 7,752.00	\$ 15,630.00	\$ -	\$ 12,743.00
Affordable Housing Development Incentives (Dept 4730)				
Beginning Fund Balance	\$ -	\$ 26,561.00	\$ 52,568.00	\$ 85,177.00
Revenue				
CET Affordable Housing - Restricted ⁸	\$ 26,561.00	\$ 26,007.00	\$ 32,609.00	\$ 53,195.00
Total Revenue	<u>\$ 26,561.00</u>	<u>\$ 26,007.00</u>	<u>\$ 32,609.00</u>	<u>\$ 53,195.00</u>
Amount Available for Appropriation	<u>\$ 26,561.00</u>	<u>\$ 52,568.00</u>	<u>\$ 85,177.00</u>	<u>\$ 138,372.00</u>
Expenditures				
CET Expense	\$ -	\$ -	\$ -	\$ -
Total Expenditures	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
Ending Fund Balance	\$ 26,561.00	\$ 52,568.00	\$ 85,177.00	\$ 138,372.00

¹ Reflects actual collections/expenses through 3/5/21.

² This revenue account is the 4% the City is allowed by law to take out of CET collections to cover its administrative expenses.

³ FY 17/18 balance is what was left from the original Housing Fund seed money that were proceeds from the sale of a property.

⁴ Represents 35% of CET collections, less administrative expenses. May be used for affordable housing programs or projects as defined by the City.

⁵ Transfer was made to offset "Services Provided by General Fund" expenditure to avoid draining down what at that time was a Housing Fund that did not have a dedicated revenue stream.

⁶ FY 18/19 and FY 19/20 were match for Proud Ground's state funding for down-payment assistance grants.

⁷ Represents 15% of CET collections, less administrative expenses. Must be sent to OHCS who then makes it available for down-payment assistance in Newport.

⁸ Represents 50% of CET collections, less administrative expenses. Must be used to reduce development fees, pay down property taxes, or other financial incentives to developers to construct housing at 80% MFI or less.

Memo

CONFIDENTIAL

To: Derrick Tokos, Community Development Director

From: Rebekah Dohrman, Legal Counsel

Date: March 19, 2018

Re: Guidance Regarding Construction Excise Tax

This memo is a confidential communication between attorney and client and as such, it is not subject to disclosure. Discussion of this communication should only take place in an executive session called under ORS 192.660(2)(f) for the consideration of information or records that are exempt by law from public inspection.

The City of Newport recently adopted Ordinance No. 2114 and Resolution No. 3787 authorizing the City to collect construction excise taxes (CET) on new commercial, industrial, and residential improvements. Now, the City, through an oversight committee, is ready to move to the next step in implementing the CET program – distribution of the CET revenue. The purpose of this memo is to provide guidance to the City as it considers distribution options.

BACKGROUND

Senate Bill 1533 from the 2016 Oregon legislative session, authorized cities and counties to use inclusionary zoning as a tool to boost the number of affordable housing units and to impose construction excise taxes on new developments. Section 9 of Senate Bill 1533 provides general guidance on how construction excise tax revenues must be used:

- (1) *As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to section 8 of this 2016 Act shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.*
- (2) *Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed **four percent** as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.*
- (3) *After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under section 8(2) of this 2016 Act as follows:*

Page 2

- (a) **Fifty percent to fund developer incentives** allowed or offered pursuant to ORS 197.309(5)(c) and (d) and (7);
- (b) **Fifteen percent to be distributed to the Housing and Community Services Department** to fund home ownership programs that provide down payment assistance; and
- (c) **Thirty-five percent for programs and incentives of the city or county** related to affordable housing as defined by the city or county, respectively, for purposes of this section and section 8 of this 2016 Act.
- (4) **After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under section 8(3) of this 2016 Act to fund programs of the city or county related to housing.** [Excerpted from SB 1533. Emphasis added.]

SB 1533 defines “affordable housing” as housing that is affordable to households with incomes equal to or higher than 80 percent of the median family income for the county in which the housing is built. The language in (3)(c) above authorizes the City to adopt its own definition of affordable housing. In the recitals of Ordinance No. 2114, the City provides that “affordable housing, except where otherwise noted in the law, is defined as affordable to households with incomes equal to or higher than 80% median family income for Lincoln County.” Therefore, the City’s definition seems to agree with the definition of affordable housing provided in SB 1533. To facilitate development of affordable housing that is affordable to households with a median family income less than 80% of the median family income for Lincoln County (low-income households), the City may want to consider alternative definitions for affordable housing as authorized by Section 9 (3)(c) of SB 1533.

USE OF CET REVENUE

As provided above, SB 1533 allows the City to take 4% of all CET revenue for costs associated with the program. Net revenues are then broken into residential and commercial/industrial. There are three buckets for CET revenue related to residential improvements and two buckets for CET revenue related to commercial or industrial development. There is some direction on how each of the buckets may be used. Some buckets may be used with more local discretion than others. The table below lists the buckets and direction, if any, on how each can be used:

SB 1533 Requirements for Distribution of Net CET Revenue

Type	%	Required use, if any
RESIDENTIAL CET	50%	Developer incentives for affordable housing (Cites IZ statutes)

RESIDENTIAL CET (cont.)	15%	Directly to the Department of Housing and Community Services
	35%	City programs related to affordable housing
COMMERCIAL/INDUSTRIAL CET	50%	Housing
	50%	Unrestricted

The City has discussed the possibility of making CET revenue available in a single bucket for eligible developments to use for SDC waivers or other types of fee waivers on a first come, first served basis. My understanding is that the developer/applicant would submit an application for the fee waiver at the time a building permit or other permit is requested. The City would like to set this type of program up so that the fee waiver request could be approved or denied over the counter through a simple, objective process.

Based on the requirements for distribution established in SB 1533, I believe that the City could pool three of the five buckets of CET revenue together as a fee waiver fund. Those three funds are the following:

1. Incentives for affordable housing (35% of residential CET)
2. Developer incentives for any housing (50% of commercial/industrial CET)
3. Unrestricted revenue (50% of commercial/industrial CET)

However, if the City pooled these three buckets together to make the fee waiver fund, then only affordable housing, as defined by the City, would be eligible for those fee waiver funds. The City could pool bucket 2 and 3 together and then *any* housing development would be eligible for the fee waivers. Finally, the City could just use bucket 3 for fee waivers and then any development, regardless of type, could receive the fee waiver. Regardless of which option the City chooses from the above, if any, a simple, objective review process could be created.

I do not believe that the 50% residential CET bucket can be pooled with the other three buckets above without subjecting all of those funds to additional review or criteria. First, ORS 197.309 applies to multifamily structures. ORS 197.309(1)(b) defines multifamily structure as "a structure that contains three or more housing units sharing at least one wall, floor, or ceiling surface in common with another unit within the same structure." Section

Page 4

9(3)(a) of SB 1533 provides that 50% of the net CET revenue from residential improvements may be used to fund developer incentives as allowed or offered pursuant to ORS 197.309. Therefore, in my opinion, funds from this bucket may only apply to multifamily structures. The City would need to tie the incentive (fee waiver, etc.) to some condition of approval that has the effect of establishing the sales or rental price for a new multifamily structure; that requires a new multifamily structure to be designated for sale or rent as affordable housing; or some voluntary incentives as listed in ORS 197.309(7). Thus, it may be simplest to keep this bucket of CET revenue separate from the fee waiver fund described above. The City should define what developer incentives it wants to offer multifamily affordable housing developers and how the City will ensure that the development continues to meet or meets the condition imposed in exchange for the incentive.

ORS 197.309 sets parameters for the conditions of approval tied to the 50% residential CET bucket:

- (a) *May only require up to 20 percent of housing units within a multifamily structure be sold or rented as affordable housing;*
- (b) *May only be applied to multifamily structures with at least 20 housing units;*
- (c) *Must provide developers the option to pay in-lieu fee, in an amount determined by the city, in exchange for providing the requisite number of housing units within the multifamily structure to be sold or rented at below-market rates; and*
- (d) *Must offer a developer of multifamily structures, other than a developer that elects to pay an in-lieu fee pursuant to paragraph (c) of this subsection, at least one of the following incentives:*
 - a. *A whole or partial fee waiver or reduction;*
 - b. *Whole or partial waivers of SDCs or impact fees set by the city;*
 - c. *Finance-based incentives; or*
 - d. *Full or partial exemption from property taxes. [Paraphrased from ORS 197.309.]*

The City has adopted a property tax exemption program for market rate and below-market rate housing. I have not reviewed those tax exemption programs, but I assume that program requires some allowance for affordable housing as outlined above. Assuming that is the case, then the City could use one or both of the CET sources referenced above to reimburse itself for the property tax exemption program.

The difference between the construction excise taxes derived from residential improvements and commercial or industrial improvement is that the taxes from residential improvements must go towards *affordable housing*. The taxes from the commercial or industrial improvements must go towards *housing* (and is otherwise unrestricted). Theoretically, the City could use 100% of commercial and industrial improvement taxes and 85% of residential improvement taxes to fund incentives for affordable housing development. In fact, Oregon Housing Alliance is keeping track of the jurisdictions that have passed CET ordinances and how those jurisdictions intend to use the funds. The vast majority are dedicating 100% of

Page 5

the commercial/industrial source to affordable housing. Depending on the community goals, the City of Newport may decide to go in a different direction.

IDEAS FROM OTHER JURISDICTIONS

The following are some ideas on how to use the CET revenue that were slightly different than the majority of cities/counties.

- Use the 50% Commercial/Industrial CET for housing that is affordable at a slightly higher percentage of the median – for instance 120%.
- Use the unrestricted 50% Commercial/Industrial CET for economic development programs.
- Use the 50% Residential CET to fund voluntary developer incentives to create housing affordable to lower-income households than SB 1533 targets (less than 80% of average median income (AMI) for home owner programs; less than 60% of AMI for renter programs).
- Use the 35% Residential CET to fund incentives, programs, and program administration (affordable housing).

The City of Corvallis lumps the commercial/industrial CET revenue with the 35% residential CET revenue to fund affordable housing incentives, programs, and program administration. In essence, the City of Corvallis breaks the CET buckets down into four categories:

1. Admin costs (4%)
2. 15% to Department of Housing and Community Services (OHCS)
3. 50% net residential CET for developer incentives for housing voluntarily built for renters and owners
4. The remainder applied to affordable housing incentives, programs, and program administration

SPECIAL ISSUES

What about improvements that are exempt from CET? Are they eligible to receive the benefits of CET?

SB 1533 provides that the construction excise tax applies to improvements to residential real property and improvements to commercial and industrial real property, including the commercial and industrial portions of mixed use property.

The City's Ordinance No. 2114 provides a list of exemptions from the construction excise tax. Section 3.15.025. Those exemptions include:

“Any improvement funded by Construction Excise Tax proceeds, or other dedicated affordable housing funding through the City of Newport. Such exemption is limited to the amount of the City's investment in the improvements.”

Page 6

What this means is that the investment that the City makes in an improvement will not count toward the value of the improvement for purposes of assessing the construction excise tax.

Assume the City adopts a fee waiver program funded by CET revenue and a development applies for the fee waiver. The fee waiver itself is an incentive and not funding for the development itself. Therefore, my opinion is that the development in this hypothetical would not be exempt from paying CET.

On the other hand, if the City decides to use CET revenue to fund a development, then the City's funding contribution (CET or otherwise) would be deducted from the overall value of the development for purposes of calculating the CET due.

Residential 50% CET – Developer Incentives

SB 1533, Section 9(3) provides that, after deducting an administrative fee, revenues derived from residential construction must be allocated as follows:

- (a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309(5)(c) and (d) and (7);*

Because the City has not adopted inclusionary zoning regulations, the City may use this CET bucket to fund voluntary developer incentives, if the developer proposes to:

- (a) Increase the number of affordable housing units in a development.*
- (b) Decrease the sale or rental price of affordable housing units in a development.*
- (c) Build affordable housing units that are affordable to households with incomes equal to or lower than 80 percent of the median family income for the county in which the housing is built. (ORS 197.309(7).)*

Residential 35% CET – Other Affordable Housing Programs

SB 1533, Section 9 (3) provides that after deducting an administrative fee, revenues derived from residential construction must be allocated as follows:

- (d) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and section 8 of this 2016 Act.*

Other jurisdictions are interpreting this to apply to programs, incentives, and program administration. The law leaves this bucket fairly open for interpretation. I read that one jurisdiction will use this bucket to backfill the budget for administration of that City's HUD and CDBG programs as those federal sources seem to be decreasing.

The City may want to use this money to boost current programs offered by the city that are related to affordable housing or create a new program. Some ideas include using CET revenue to purchase land for affordable housing; provide grants to developers of affordable housing; providing affordable housing rehabilitation grants; develop a revolving loan fund for

Page 7

housing rehabilitation (work with CSC); or provide matching funds to make projects eligible for state or federal funding.

Commercial/Industrial CET Revenues

After subtracting the allowable administrative fees, the City may allocate 50% of the revenues derived from commercial/industrial construction to fund city housing programs. The other 50% is unrestricted. Most examples available demonstrate that other jurisdictions are directing 100% of the commercial/industrial construction derived revenues towards affordable housing.

- (5) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under section 8(3) of this 2016 Act to fund program of the city or county related to housing.*

LEGAL ISSUES, GENERALLY

I welcome the opportunity to review the ideas and direction from the oversight committee on how to distribute the CET revenue. I believe it would be a good idea to review any proposed methodology or criteria that will be applied to determine whether a development is eligible for CET funded incentives or funding. In addition, I am available to review any application forms that may be developed for developers to use when requesting CET funded incentives or funding. I would also be happy to help set up accounting safeguards around the two types of CET and also the five buckets, depending on how the City chooses to proceed.

In general, a simple, objective, over the counter fee waiver program could work with the proper criteria and documentation. However, please note my concerns above about adding the 50% residential CET for developer incentives into the fee waiver fund.

CONCLUSION


When considering all of the options, the oversight committee might find it useful to review relevant planning documents to think about the community's goals for housing – especially affordable housing – and how this potential new source of revenue can help the community move closer to realizing those goals. Another thing to keep in mind is that, your smaller community may not be projecting to receive millions of dollars in CET on an annual basis. Therefore, it may be a good idea to pool as much of those funds as possible. In that way, the City could focus on solving one or two of the issues that contribute to local affordable housing issues.

When the City implements its CET program, consider establishing a baseline regarding affordable housing development in your community. Perhaps you could keep track of the number of building permits issued for affordable housing or the number of units developed using CET funded incentives or programming. If you keep track of these data points from the beginning, it will be easier to evaluate the performance of the CET program in five or ten years. At that point, you will know whether the program will be worthwhile to continue, needs alterations, or should be discontinued. These data points can also be helpful along the way to tell the story of the CET program in your community.

Page 8

I hope that this memo provides some answers to your questions as you determine how best to implement the CET program in your community. Feel free to contact me for any clarifications or follow-up questions.

Memorandum

To: Planning Commission/Commission Advisory Committee 

From: Derrick I. Tokos, AICP, Community Development Director

Date: March 5, 2021

Re: Commission Role in the Distribution of Affordable Housing CET Funds

With Resolution No. 3907, the City Council updated the composition of an Ad-Hoc Work Group to assist the City in developing a framework for how Affordable Housing Construction Excise Tax (CET) Funds should be distributed. They appointed individuals to serve on the Work Group, which will meet for the first time at 3pm on March 25, 2021.

Municipalities that have put in place an affordable housing construction excise tax direct the revenue to a dedicated fund. These are often referred to as Housing Trust Funds. The City of Newport is no different, with CET revenue being directed to its Housing Fund (Fund 212). I had previously distributed a summary of collections, which I have updated through March 5th of this year (enclosed).

Local governments often elect to distribute funds out of a Housing Trust Fund by way of a competitive application process, such as a Request for Proposals (RFP) or a Notice of Funding Availability (NOFA). Advisory Committees are often established and staffed to facilitate the process. Examples from Medford and Eugene are attached. These cities are considerably larger and better resourced than Newport, and their excise tax revenue is quite a bit higher than what we are collecting. With that in mind, I would like to pitch the concept to the Ad-Hoc Work Group but wonder if a small city model might involve the Planning Commission taking on this role. Another approach might be to establish a Committee, with Planning Commission representation, that meets on a less frequent basis, maybe biannually or quarterly. This is what I would like to discuss with you, as it would be helpful to have a sense of your comfort level before I more fully flesh out options for the Ad Hoc Work Group.

Funds in the City's "Affordable Housing General" account are the most flexible, and can be used for a wide range of housing or housing related services. I have enclosed examples of how Medford and Eugene have distributed CET funds, to give you a sense of the types of issues an advisory committee might need to work through.

Attachments

Newport Housing Fund Revenue and Expenditure Summary, 3/5/21
Housing Trust Fund and Advisory Committee Information (Eugene and Medford)

Housing Funds - Revenue & Expenditures Summary

	<u>2017-2018</u>	<u>2018-2019</u>	<u>2019-2020</u>	<u>2020-2021</u> ¹
CET Affordable Housing Admin (Acct #101-1900-46429)²	\$ 2,536.00	\$ 2,167.00	\$ 2,462.94	\$ 4,432.89
Housing Fund 212				
Affordable Housing General (Dept 4710)				
Beginning Fund Balance³	\$ 112,742.00	\$ 135,433.00	\$ 146,615.00	\$ 153,697.00
Revenue				
CET Affordable Housing - Flexible Use ⁴	\$ 20,797.00	\$ 18,256.00	\$ 20,689.00	\$ 37,236.00
Interest on Investments	\$ 2,122.00	\$ 3,951.00	\$ 3,675.00	\$ 1,280.00
Total Revenue	\$ 22,919.00	\$ 22,207.00	\$ 24,364.00	\$ 38,516.00
Other Financing Sources				
Transfer from General Fund ⁵	\$ 6,278.00	\$ 6,278.00	\$ -	\$ -
Total Other Financing Sources	\$ 6,278.00	\$ 6,278.00	\$ -	\$ -
Amount Available for Appropriation	\$ 141,939.00	\$ 163,918.00	\$ 170,979.00	\$ 192,213.00
Expenditures				
Financial Professional Services	\$ 132.00	\$ 203.00	\$ 164.00	\$ 69.00
Other Operating Expenses ⁶	\$ -	\$ 16,600.00	\$ 16,600.00	\$ -
Services Provided by General Fund	\$ 6,374.00	\$ 500.00	\$ 518.00	\$ 180.00
Total Expenditures	\$ 6,506.00	\$ 17,303.00	\$ 17,282.00	\$ 249.00
Ending Fund Balance	\$ 135,433.00	\$ 146,615.00	\$ 153,697.00	\$ 191,964.00
Oregon Housing and Community Services (Dept 4720)				
Beginning Fund Balance	\$ -	\$ 7,752.00	\$ 15,630.00	\$ -
Revenue				
CET OHCS Down Payment Assistance	\$ 7,752.00	\$ 7,878.00	\$ 10,592.00	\$ 12,743.00
Total Revenue	\$ 7,752.00	\$ 7,878.00	\$ 10,592.00	\$ 12,743.00
Amount Available for Appropriation	\$ 7,752.00	\$ 15,630.00	\$ 26,222.00	\$ 12,743.00
Expenditures				
CET Expense (OHCS Remittance) ⁷	\$ -	\$ -	\$ 26,222.00	\$ -
Total Expenditures	\$ -	\$ -	\$ 26,222.00	\$ -
Ending Fund Balance	\$ 7,752.00	\$ 15,630.00	\$ -	\$ 12,743.00
Affordable Housing Development Incentives (Dept 4730)				
Beginning Fund Balance	\$ -	\$ 26,561.00	\$ 52,568.00	\$ 85,177.00
Revenue				
CET Affordable Housing - Restricted ⁸	\$ 26,561.00	\$ 26,007.00	\$ 32,609.00	\$ 53,195.00
Total Revenue	\$ 26,561.00	\$ 26,007.00	\$ 32,609.00	\$ 53,195.00
Amount Available for Appropriation	\$ 26,561.00	\$ 52,568.00	\$ 85,177.00	\$ 138,372.00
Expenditures				
CET Expense	\$ -	\$ -	\$ -	\$ -
Total Expenditures	\$ -	\$ -	\$ -	\$ -
Ending Fund Balance	\$ 26,561.00	\$ 52,568.00	\$ 85,177.00	\$ 138,372.00

¹ Reflects actual collections/expenses through 3/5/21.

² This revenue account is the 4% the City is allowed by law to take out of CET collections to cover its administrative expenses.

³ FY 17/18 balance is what was left from the original Housing Fund seed money that were proceeds from the sale of a property.

⁴ Represents 35% of CET collections, less administrative expenses. May be used for affordable housing programs or projects as defined by the City.

⁵ Transfer was made to offset "Services Provided by General Fund" expenditure to avoid draining down what at that time was a Housing Fund that did not have a dedicated revenue stream.

⁶ FY 18/19 and FY 19/20 were match for Proud Ground's state funding for down-payment assistance grants.

⁷ Represents 15% of CET collections, less administrative expenses. Must be sent to OHCS who then makes it available for down-payment assistance in Newport.

⁸ Represents 50% of CET collections, less administrative expenses. Must be used to reduce development fees, pay down property taxes, or other financial incentives to developers to construct housing at 80% MFI or less.

Affordable Housing Trust Fund

Request for Proposals (RFP) for Affordable Housing Development

The City of Eugene invites proposals from affordable housing developers for the development of rental housing affordable to low and moderate-income households. Resources offered through this Request for Proposals (RFP) are Affordable Housing Trust Funds (AHTF) generated by the City of Eugene's Construction Excise Tax. An Evaluation Committee and the AHTF-Advisory Committee (AHTF-AC) will assess and rank proposals, then scores and ranking(s) will be presented to the Eugene City Council, who will make final decisions for AHTF funding.

RFP Documents

[Request for Proposals \(RFP\) Document](#)

[Application Word Document \(Appendix A\)](#)

[Application Pro Forma \(Appendix B\)](#)

Background

In 2016, Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a construction excise tax (CET) on commercial and residential improvements. The tax applies to all improvements which result in a new structure, additional square footage to an existing structure, or addition of living space to an existing structure.

In May 2019, the Eugene City Council passed [Ordinance No. 20609](#) establishing the tax in Eugene. [An information sheet](#) about Eugene's construction excise tax is available. The tax will create a dedicated source of funding for affordable housing, called the Affordable Housing Trust Fund. This fund will pay for projects and programs that increase availability and access to owner- and renter-occupied housing that is affordable to lower income community members.

The City of Eugene has supported the creation of affordable housing using both federal and local funds for over 40 years. To learn more about the recent use of federal funds, affordable housing developments, rehabilitation projects and human service programs, see the Housing and Human Service Plans [webpage](#).

What is Affordable Housing?

Across the United States, housing costs are considered "affordable" if the monthly rent or mortgage, plus utilities, add up to no more than one-third (or 30%) of gross household earnings. Affordable housing developments receive public subsidies in exchange for a commitment to provide homes with limited rents for people with limited incomes.

The Fund will support projects, programs, incentives, and services related to the housing of households earning 100% of area median income (AMI). AMI is a federal calculation based on census data from every geographic area. Households earning less than the AMI, are very likely to be adversely affected by housing costs.

To learn more about affordable housing and non-profit partners in Eugene, please visit the [Looking for an Affordable Home webpage](#).

If you would like to keep informed about the Affordable Housing Trust Fund, [please sign up to join the list for interested parties](#). Information including notifications of meetings, events, committee recruitment, and participation opportunities will be delivered to your inbox.

Resources

[Construction Excise Tax Information Sheet](#)

[Construction Excise Tax Exemption Form](#)

[Building Fees, including Construction Excise Tax](#)

Contact

Questions about Construction Excise Tax collection

Lydia Kaye

Email: LKaye@eugene-or.gov

Phone: 541-682-5482

Questions about utilizing the Affordable Housing Trust Fund for affordable housing

Nicole Stehlar

Email: NStehlar@eugene-or.gov

Phone: 541-682-5529

August 8, 2019

For information, contact:
Stephanie Jennings
SJennings@ei.eugene-or.gov
City of Eugene



- PURPOSE** The objective of the Affordable Housing Trust Fund Advisory Committee is to advise City of Eugene staff on:
- Development of goals and programs related to the use of Affordable Housing Trust Fund resources
 - Allocation of Affordable Housing Trust Fund resources
 - Review of specific project proposals to be supported by Affordable Housing Trust Fund resources
- MEETS** Up to twice monthly during the first year, then monthly in subsequent years
- MEMBERSHIP** Overall committee membership will consist of nine members, representing a wide variety of experiences and backgrounds. Some members may represent multiple perspectives, depending on their backgrounds, including:
- Three at-large members
 - Three members from the private sector, such as business owner, homebuilder, and realtor
 - Three housing and population advocates, including housing consumer, member of the Human Rights Commission, and a housing advocate
- TERM** Two years; Committee members may reapply to be considered for additional terms.
- SCOPE** The Advisory Committee will work on goals set within the City Ordinance. Potential focus areas:
- Expand supply of new affordable housing
 - Preserve existing affordable housing
 - Direct assistance to renters and homebuyers
 - Recommendations that emerge from the Housing Tools and Strategies process, the Consolidated Plan, and lessons from other jurisdictions
- TIMEFRAME**
- August-September: Form the Advisory Committee
 - September: Advisory Committee holds first meeting
 - January 2020: Staff present to City Council recommendations for programs and proposed allocation of funds

EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



Work Session: Proposed Use of Affordable Housing Trust Fund Resources

Meeting Date: April 15, 2020
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: 2
Staff Contact: Stephanie Jennings
Contact Telephone Number: 541-682-5529

ISSUE STATEMENT

Eugene City Council and State Legislature both recognize traditional funding sources for affordable housing—especially federal sources—have declined over time. The reduction in resources available for affordable housing has challenged our community’s ability to meet the housing needs of Eugene residents with limited incomes. To help address this issue, Eugene City Council passed Ordinance No. 20609 (Attachment A) in April 2019 implementing a local construction excise tax that will contribute to an Affordable Housing Trust Fund. The ordinance went into effect on July 1, 2019. Eugene City Council also dedicated \$500,000 in General Fund dollars through Senate Bill 1 in December 2019.

During this work session, staff will provide a recommended allocation in accordance with the guidance provided by council during the work session held on July 24, 2019. At this time, a total of an estimated \$800,000 in AHTF resources are available for allocation.

BACKGROUND

In 2016, Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a construction excise tax. The law authorizes a city or county to tax new residential and commercial buildings, additions, and alterations. A CET is a one-time tax imposed on new construction where an established tax rate (percentage) is multiplied by the permit valuation of the construction permit. The CET is assessed at the time building permits are issued.

On April 8, 2019, City Council passed an ordinance establishing a local CET. From July 1, 2019, through June 30, 2020, residential and commercial projects will be taxed at .33 percent of the permitted value of eligible improvements. Beginning July 1, 2020, and thereafter, the tax increases to .50 percent. During the first two years, CET charges will be offset by a reduction in System Development Charges and permit fees so that additional costs are not added to improvements subject to the tax. The revenue generated through the CET will accrue in the City’s Affordable Housing Trust Fund to support programs, incentives and services related to the housing of households earning 100 percent of area medium income and below. In addition, the City intends to designate \$500,000 per year of City funds to the Affordable Housing Trust Fund. A fact sheet regarding the tax and its implementation is included as Attachment B.

April 15, 2020, Work Session – Item 2

On July 24, City Council held a work session discuss implementation of the AHTF including a proposed timeline, advisory committee structure, and potential uses for AHTF resources. During this work session, a motion passed directing that the vast majority of funds be used for direct assistance to renters and homebuyers.

In October, the City Manager selected nine community residents to participate in the AHTF Advisory Committee. Five meetings occurred between October and February and included sessions on analysis of housing needs, renter housing development and assistance, homeownership housing and assistance, and lessons learned from other jurisdictions. The committee heard presentations from 10 guest speakers from area agencies, representatives of the Renter Protections Committee of the Housing Policy Board, and from the City of Bend.

The Advisory Committee was unable to meet in late March due to coronavirus safety concerns. At the same time, there has been a substantial shift in the housing market and conditions and growing concerns regarding renter and homeowner stability. While significant additional federal resources are coming through direct payments and other funding, there is a significant need for renter assistance counseling and services as well as foreclosure prevention counseling in the near term. In addition, existing affordable rental housing for low-income persons may need short-term funding to maintain operations and critical resident services given expected delays and losses in rental income. Lastly, additional city staff capacity is needed to quickly create and implement entirely new programs in partnership with community agencies.

There is a total of \$800,000 in AHTF resources available for allocation. This includes \$500,000 in General Fund dollars dedicated as a part of the Supplemental Budget process in December 2019 and an estimated \$300,000 in CET revenue. The following potential allocation of AHTF resources for consideration is based on committee discussions, recommendations from the HPB Renter Protections Committee, recent discussions with affordable housing and social service providers, and a staff assessment of current conditions.

- **Renter Counseling and Assistance - \$225,000** – Expand nonprofit agency capacity to provide renter counseling, hotline services, and support benefit applications to access rental assistance funds to maintain housing stability and prevent homelessness.
- **Foreclosure Counseling and Assistance - \$225,000** – Expand nonprofit agency capacity to provide foreclosure prevention counseling for homeowners in order to maintain housing stability and prevent homelessness.
- **Operating Support/Rental Assistance for Existing Affordable Housing - \$350,000** – Existing affordable housing development typically have very limited reserves in order to provide low rents for residents. Many residents of affordable housing also may have greater health risks in the current environment. Project-based operating funds could be used to pay for critical operating costs and resident services due to reduced rental income. These resources would also provide an opportunity for agencies to adjust rents as needed to maintain housing stability and prevent homelessness.

April 15, 2020, Work Session – Item 2

Staff are continuing to work through how to administer this program as efficiently as possible in order to maximize impact of the AHTF. It is anticipated that some administrative costs will be shared by the AHTF.

PREVIOUS COUNCIL DIRECTION

[April 12, 2017 Work Session](#) - City Council received an introductory presentation on SB 1533 and directed staff to pursue development of policy options for a CET in collaboration with HPB.

[December 13, 2017 Work Session](#) – City Council reviewed a set of recommendations from the HPB for implementation of a CET. Council directed staff to continue engaging community stakeholders on implementation of a CET.

[April 9, 2018 Work Session](#) – City Council continued discussion of options for a CET and directed staff to return with a process for council consideration that would identify existing barriers to housing affordability, availability and diversity of type.

[January 14, 2019 Council Meeting](#) – City Council directed staff to create a draft CET ordinance and to schedule a public hearing.

[February 19, 2019 Public Hearing](#) – Thirty-four people testified at the public hearing on an ordinance imposing a CET on residential and commercial improvements.

[April 8, 2019 Council Meeting](#) – City Council adopted an Ordinance Concerning Imposition of a Construction Excise Tax on Commercial and Residential Improvements.

[July 24, 2019 Work Session](#) – City Council discussed next steps for AHTF implementation and directed that the vast majority of funds be used for direct assistance to renters and homebuyers.

COUNCIL OPTIONS

1. Approve the allocation of Affordable Housing Trust Fund resources as outlined in the AIS.
2. Amend and approve the allocation of Affordable Housing Trust Fund resources.
3. Take no action.

CITY MANAGER'S RECOMMENDATION

Approve the allocation of Affordable Housing Trust Fund resources as outlined in the AIS. Direct staff to return to council when future funds are available for allocation. Staff will continue to work with the AHTF Advisory Committee to explore possible uses.

SUGGESTED MOTION

Move to direct the City Manager to allocate Affordable Housing Trust Fund resources as outlined in the AIS and return to Council when future funds are available for allocation.

ATTACHMENTS

- A. Ordinance No. 20609
- B. Eugene Construction Excise Tax Overview and Frequently Asked Questions

FOR MORE INFORMATION

Staff Contact: Stephanie Jennings, Community Development Division
Telephone: 541-682-5529
Staff E-Mail: SJennings@eugene-or.gov

Housing Advisory Commission

On February 1, 2019, the Medford Housing Advisory Commission replaced the Housing and Community Development Commission.

Municipal Code:

The Medford Housing Advisory Commission shall consist of nine voting members as follows:

Two (2) members representing the construction and development community; one (1) member representing a local lending institution; two (2) members representing local realtors and multifamily housing operators; two (2) members representing affordable housing developers; one (1) member representing a tenant organization; and one (1) member-at-large encouraging representation from throughout the whole community. Voting members of the Commission shall be appointed by the Mayor and Council for terms of three years.

The Medford Housing Advisory Commission shall adopt rules of procedure, as necessary, and shall by resolution establish either a regular meeting date or rules of procedure under which a meeting may be called. Five voting members shall constitute a quorum.

The Medford Housing Advisory Commission shall administer the City's affordable housing program and advise the City Council on matters related to the City's housing stock and its development.

The Medford Housing Advisory Commission shall act as an advisor to the City Council on matters affecting housing development pertaining to the Community Development Block Grant (CDBG) Program in the city of Medford.

The duties of the Medford Housing Advisory Commission shall include, but not be limited to the following:

- Administer annual public solicitation and selection process (for example a Request for Proposals) for Construction Excise Tax (CET) eligible housing development proposals. Recommend selections to City Council for final approval;
- Identify and make recommendations to the Council regarding housing policy for housing that meets the needs of households at all income levels;
- Make recommendations to Council regarding the development of new programs and the enhancement of existing programs. Advise Council on possible opportunities;
- Review current land use policies and zoning regulations and promote the adoption of policies and regulations supporting housing affordability;
- Serve in an advisory capacity on any and all housing matters pertinent to the City of Medford's CDBG entitlement program. Review housing-related grant award recommendations made by the Community Development Grants Commission, make and communicate final CDBG housing-related grant award recommendations to City Council; and
- Other duties as directed by Council.

Established**Meetings****Length of Term**

Pursuant to 2018-72; June 21, 2018 Second Wednesday of each month at 12:00 p.m. 3 years

Members

Name	Email	Title	Term Begin	Term End
Clay Bearnson	council@cityofmedford.org	Council Liaison	1/17/2019	
Angela Durant	angela.durant@cityofmedford.org	Staff Liaison	2/1/2019	
Jason Elzy		Local Realtor & Multifamily Housing Operator Representative	2/1/2019	1/31/2022
Randell Embertson		Affordable Housing Representative	2/1/2020	1/31/2023
Steve Erb		Lending Institution Representative	2/1/2019	1/31/2024
Randy Jones		Construction & Development Representative	2/1/2019	1/31/2022
Alexander Knecht		Affordable Housing Developer	2/1/2021	1/31/2024
Debra Lee		Tenant Organization Representative	2/1/2020	1/31/2023
John Michaels		At-Large	12/5/2019	1/31/2022
Alex Poythress	council@cityofmedford.org	Alt Council Liaison	1/21/2021	
John Stranahan		Local Realtor & Multifamily Housing Operator Representative	7/18/2019	1/31/2024
Paul Tanner		Construction & Development Representative	2/1/2019	1/31/2024

Upcoming Calendar Events

Date	Start	End	Event Description	Location
3/10/2021	12:00 PM	1:30 PM	Housing Advisory Commission Meeting Details »	
4/14/2021	12:00 PM	1:30 PM	Housing Advisory Commission Meeting Details »	

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Agendas & Minutes

March 10 [Housing Advisory Commission Meeting](#)

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Please note: Municipal Court is conducting business by phone. Please call 541-774-2040.

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HOMELESSNESS INITIATIVES

Homelessness Initiatives



The Mayor, City Council, and staff receive several communications from residents and business owners on a weekly basis asking what the City is doing to address homelessness in our area. It's no secret that municipal and county agencies throughout the country are struggling to find a balance to provide appropriate services including housing, which is the single biggest issue we face today.



Homelessness is a complex, challenging issue and a priority for the City. We're actively working with partners to reduce hardships that lead to the homelessness of our residents and families with children and increase access to affordable housing for those at-risk of becoming homeless.

The City recently completed a **Homeless System Action Plan** producing five recommended goals and 32 actions to address homelessness in Medford. City Council is currently in the process of reviewing the recommended actions for potential implementation during the 2019-21 biennium.

Council also allocated \$100,000 towards the implementation of the Action Plan; and \$50,000 to create a homeless reunification program to reunite homeless individuals with family or friends outside of Medford, as appropriate.

Housing Opportunity Funds:

Two Medford area nonprofits were awarded a combined \$400,000 to increase permanent housing for veterans and provide shelter for homeless youth.

On November 7 the Medford City Council approved the Housing Advisory Commission's (HAC) recommendation to award funds collected from the Construction Excise Tax (CET) to Hearts with a Mission Homeless and Columbia Care.

Hearts with a Mission received \$150,000 in gap funding to complete the construction of a 12-bed homeless

youth shelter serving youth ages 10-17. Columbia Care received \$250,000 to develop 16 units of permanent supportive housing for low-income Veterans. The housing complex will offer single-room occupancy and family living occupancy with onsite support services.

The HAC received and evaluated six proposals from local organizations seeking funding. Projects were evaluated based on their ability to accomplish a least one of the following objectives:

- Create new rental units
- Increase homeownership opportunities
- Facilitate land acquisition and infrastructure development for housing
- Purchase and preserve existing affordable housing
- Develop permanent supportive housing for homeless and special needs populations
- Support transitional housing for homeless
- Support homeless shelter development

The CET was established by City Council in February 2018 and is a one-third of one percent tax on the value of residential, commercial, and industrial improvements to provide funding for affordable housing in Medford.

These projects are a direct result of City Council prioritizing affordable housing and homelessness in our community.

Development of Programs:

Two programs have been developed in an effort to address homelessness in our community.

- **Clean Sweep program** - The City has partnered with a local organization, Rogue Retreat, to create the Clean Sweep Program which helps address downtown clean-up needs as well as provides meaningful work experience and volunteer opportunities for homeless individuals. [Click here for more details about this program.](#)
- **Livability Team** - City Council approved funding for the creation of a dedicated Livability Team which focuses on addressing livability issues such as homelessness and bullying behavior along the Bear Creek Greenway and downtown area. The team will also work to address neighborhood issues such as abandoned autos, accumulation of garbage, and repeated calls-for-service that lead to chronic nuisance properties. This program would add dedicated police and code enforcement personnel to the downtown area and Bear Creek Greenway. [Click here for more details about this program.](#)

Support of Social Services:

- **City General Fund Grant Program** - Over \$510,000 from the City's General Fund Grant program has been allocated to local non-profits providing essential safety net services, including efforts to reduce

and prevent homelessness in our area.

- **Continuum of Care** – The City of Medford supports a region-wide commitment to the goal of addressing homelessness through a coordinated system known as the Continuum of Care or CoC. In November, Council approved \$30,000 to fund a CoC Coordinator position. And our City Manager, Brian Sjothun served as the CoC Executive Committee Chair from January - December of 2018.

The CoC is a board made up of local non-profit organizations with a mission to address homelessness in the Rogue Valley.

Organizations working collaboratively will help eliminate the duplication of services and help increase impact on individuals seeking to end their homelessness cycle. Contrary to some public beliefs, this is the goal of the majority of homeless individuals we see and don't see on a daily basis.

Clean-Up Efforts:

- Our Parks and Recreation department collects up to 400 cubic yards of trash each month from public right-of-ways and parks. This monthly clean-up effort costs \$4,000.
- **Monthly Health and Safety Operations** are conducted along the Bear Creek Greenway by Medford Police in partnership with Jackson County and local organizations. The purpose of these operations is to improve the safety, security, and cleanliness in the area and are used as a way to provide help to homeless individuals.
 - As a result of the Health and Safety Operations, 50 homeless veterans are off the street and living in homes.

Housing and Shelter Availability:

- **Neighborhood Stabilization Program** – The City reserved over \$700,000 in NSP 1 funds (passed down through the State/OHCS) to facilitate the acquisition and rehabilitation of three foreclosed properties. We are partnering with Habitat for Humanity to rehab the homes. Once complete, these homes will be sold to low-income families.
- **Receivership Program** – We successfully implemented a Receivership Program that is addressing blighted homes. Since January 2017, 42 properties have been identified as blighted (building/housing code violations). To date, 36 or 86% have come into full compliance.

The Receivership program has sparked partnerships with nonprofit and private developers through negotiations with owners of blighted homes interested in selling their property. To date, four properties have been purchased which will result in nine new homeowner units and three rental units.

We will continue to participate and lead, where necessary, in addressing these issues, which will take time and patience in order to strike a balance between a hand-up, hand-out, and enforcement approaches.

Community partnerships are key in this work and we are focused on collaborating with many organizations to address Medford's livability for everyone.

Community Collaboration

In the spring of 2018, the City had the opportunity to be a part of something special. The City of Medford, Hayden Homes, First Story and 24 local business partners came together to rebuild a local Vietnam Veteran's condemned home. Here's a look at the story.

Because of the generous support of our local businesses a man, who proudly served his country, was able to remain on his property where he has resided for 42 years. This project is a demonstration of our community's collaborative philanthropy which resulted in helping Mr. Verschoor avoid homelessness.

Additional Department Information

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HOUSING AND COMMUNITY DEVELOPMENT DEPARTMENT CONTACTS

200 S Ivy St
Medford, OR 97501
Phone: 541-774-2380
Hours: 8:00 a.m. - 5:00 p.m.

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WEATHER

MEDFORD WEATHER

64°F
clear sky

Thu	Fri	Sat	Sun	Mon	Tue	Wed
64°F 41°F	59°F 37°F	48°F 36°F	48°F 34°F	52°F 34°F	54°F 34°F	50°F 34°F

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