

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

In the Matter of an Ordinance)
Establishing a Construction Excise)
Tax on Commercial and Residential)
Housing to Fund Affordable Housing)
Initiatives)

ORDINANCE #83

The Board of Commissioners for Tillamook County ORDAINS as follows:

Ordinance #83 - Construction Excise Tax

Section 1. Title

This ordinance shall be known as the Tillamook County Construction Excise Tax ordinance.

Section 2. Purpose.

This Ordinance establishes a Construction Excise Tax on commercial and residential improvements to provide funding for workforce housing in Tillamook County.

Section 3 Definitions.

As used in this Ordinance, unless the context requires otherwise:

- A. **“Commercial”** means any structure designed or intended to be used, or actually used, for occupancy for other than residential purposes.
- B. **“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 pursuant to the provisions of Oregon law.
- C. **“Improvement”** means any improvements to real property resulting in a new structure, additional square footage added to an existing structure, or the addition of living space to an existing structure.
- D. **“Median Family Income”** means median family income by household size for the Tillamook County as defined by the United States Department of Housing and Urban Development as adjusted for inflation and published periodically.
- E. **“Net Revenue”** means revenues remaining after the administrative fees described in Section 14 are deducted from the total Construction Excise Tax collected.

- F. **“Residential”** means structure designed or intended to be used, or actually used, for occupancy for residential purposes including any residential structure, dwelling, or dwelling unit.
- G. **“Value of Improvement”** means the total value of the improvement as determined by the construction permit or building permit for the Improvement. The Department of Community Development will calculate the total value by determining the value per square foot based on building type using the International Code Council Building Valuation Data Tables and multiplying that value by the area of the new structure or additional square footage from the exterior surface of the outside wall.

Section 4. Administration and Enforcement Authority.

- A. The Department of Community Development is responsible for the administration of this Ordinance as described in Sections 6 and 7. In exercising the responsibilities of this section, the Department of Community Development may act through designated representatives.
- B. Except as provided in Subsection 4(A)., the Department of Community Development is responsible for administration and enforcement of this Ordinance. In exercising the responsibilities of this Section, the Department of Community Development may act through designated representatives.

Section 5. Administrative Authority Rulemaking.

After the passage of this Ordinance, the Director of Community Development, or his or her assigned designee, shall draft rules for the implementation of this Ordinance. These rules shall be subject to final approval by the Tillamook County Board of Commissioners. A copy of the approved rules shall be made available on the Department’s website, as well as to be provided upon request in person at the Department of Community Development at the standard per page rate for copies as established in the Community Development Fee Schedule.

Section 6. Imposition of Tax.

- A. Each person who applies to construct a commercial improvement in Tillamook County shall pay a commercial Construction Excise Tax in the amount of 1 percent of the value of the improvement.
- B. Each person who applies to construct a residential improvement in Tillamook County shall pay a residential Construction Excise Tax in the amount of 1 percent of the value of the improvement.
- C. The Construction Excise Tax shall be due and payable prior to the issuance of any building permit by the Department of Community Development.

Section 7. Exemptions.

- A. No tax imposed under this Ordinance shall be imposed upon the following improvements:
1. Residential housing units 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 a period of at least 30 years following the date of issuance of the Certificate of Occupancy for the residential housing.
 2. Private school improvements;
 3. Public improvements as defined in ORS 279A.010;
 4. Public or private hospital improvements;
 5. Improvements to religious facilities primarily used for worship or education associated with worship;
 6. Agricultural buildings, as defined in ORS 455.315(2)(a);
 7. Facilities owned and operated by 501(c)(3) a not-for-profit corporation.
- B. The Department of Community Development may require any person seeking an exemption to demonstrate that the person is eligible for an exemption and to establish all necessary facts to support the exemption.

Section 8. Failure to Pay.

The Department of Community Development may not issue a building permit to any person who has failed to pay the tax required by Section 6 of this Ordinance.

Section 9. Statement of Entire Value of Improvement Required.

It is a violation of this Ordinance for any person to fail to state or to misstate the full value of the improvement.

Section 10. Interest and Penalties for Failure to Comply.

- A. **Interest.** If the Director of the Department of Community Development determines that a person has failed to pay the County all or any part of the Construction Excise Tax due under this Ordinance, interest shall be due on the entire unpaid amount, assessed at the rate of 0.833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the fee to the 15th day of the month following the date of the underpayment. Interest amounts property assessed

in accordance with this Section may not be waived or reduced by the Director.

- B. Penalties.** In addition to assessing interest, the Director of the Department of Community Development may assess a penalty of 5 percent of the otherwise applicable tax liability upon:
1. Any person that initially qualifies for an exemption under Subsections 7(A)(2) and 7(A)(3) and the housing units subsequently fail to qualify for the exemption;
 2. Any person who intentionally fails to state the full value of an improvement or otherwise misrepresents the proposed construction in a manner that would negate, either in part or in full, the amount of Construction Excise Tax due.
- C. Penalties and Interest Merged with Tax.** Any accrued interest and imposed penalties under the provisions of this Section shall be merged with and become a part of the Construction Excise Tax required to be paid under this Ordinance. If delinquency continues, requiring additional penalty and interest calculations, previously assessed penalty and interest are added to the tax due. This amount becomes the new base for calculating new interest amounts.

Section 11. Enforcement by Civil Action.

The Construction Excise Tax, and any assessed interest and penalties, due and owing under this Ordinance constitutes a debt owing to the County by the person liable for the tax as set forth in Section 6 of this Ordinance.

Section 12. Refunds.

- A.** The Department of Community Development shall issue a refund to any person who has paid a Construction Excise Tax the amount of the tax actually paid:
1. If the person establishes that the tax was paid for improvements that were otherwise eligible for an exemption under Section 7 of this Ordinance.
 2. If the person establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the Department of Community Development.
 3. Upon a determination by either the Director of the Department of Community Development or the Code Hearings Officer that the amount of any Construction Excise Tax, penalty, or interest has been erroneously collected or paid to the County under this Ordinance.
- B.** The Department of Community Development shall either refund all amounts due under this Section within 30 days of a complete application for the refund or give written notice of the reasons why the application has been denied. Claims for refunds

shall be made upon forms provided by the Department of Community Development. The request for the refund must be submitted within three years from the date of payment of the Construction Excise Tax.

- C. Denial of an application for refund may be appealed as provided for in Section 13 of this Ordinance.

Section 13. Appeals.

- A. **Administrative Review.** Any written determination issued by the Department of Community Development applying the provisions of this Ordinance, believed to be in error may be reviewed by the Director of the Department of Community Development if requested in writing by the recipient. The request for administrative review must be received within 10 days of the determination and must include all documentation supporting the request. The Director's determination in the administrative review shall be served by regular mail.
- B. **Appeals.** Any written determination from the Department of Community Development applying the provision of this Ordinance regarding the liability for payment of Construction Excise Taxes, the valuation of construction, or any other issue related to the imposition of the Construction Excise Tax on an individual permit, may appeal such determination of the Tillamook County Housing Commission.
- C. The filing of any notice of appeal shall not stay the effectiveness of the written documentation unless the Code Hearings Officer so directs.

Section 14. Dedication of Revenue.

- A. The Department of Community Development may retain up to 4 percent of the taxes collected for payment towards the Department's administrative expenses related to the collection and distribution of the tax.
- B. For the tax imposed on residential improvements, the net revenues will be distributed as follows:
 - 1. Fifteen percent of the net revenue will be remitted to the Oregon Department of Housing and Community Services to fund home ownership programs.
 - 2. Fifty percent of net revenue will be transferred to the Community Development Workforce Housing Fund to fund finance-based incentives for programs that require affordable housing.
 - 3. Thirty-five percent of net revenue will be transferred to the Community Development Workforce Housing Fund to support the production and preservation of affordable housing units at and below 80 percent median family income.

C. For the tax imposed on commercial improvements, 100 percent of net revenues will be distributed to the Community Development Workforce Housing Fund to support the production and preservation of workforce housing units at or below 200 percent median family income.

Section 15. Effective Date

This Ordinance shall be effective on August 1, 2017.

Date of First Reading: _____, 2017.

Date of Second Reading: _____, 2017.

ADOPTED this ____ day of _____, 2017.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Aye Nay Abstain/Absent

Bill Baertlein, Chair

____ ____ ____ / ____

Tim Josi, Vice Chair

____ ____ ____ / ____

David Yamamoto, Commissioner

____ ____ ____ / ____

ATTEST: Tassi O'Neil, County Clerk

APPROVED AS TO FORM:

By _____
Special Deputy

William K. Sargent, County Counsel