CITY OF OREGON CITY
CITY COMMISSION WORK SESSION
AGENDA

Commission Chambers, 625 Center Street, Oregon City
Tuesday, November 10, 2020 at 6:00 PM

The public is strongly encouraged to relay concerns and comments to the Commission in one of three ways:

- *Email at any time up to 12 p.m. the day of the meeting to recorderteam@orcity.org.*
- *Phone call (Monday – Friday, 8 am – 5 pm) to 503-496-1505, all messages will be relayed and/or citizens can sign-up to be called during the meeting to provide over-the-phone testimony.*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

CONVENE WORK SESSION AND ROLL CALL

FUTURE AGENDA ITEMS

The Commission's adopted goals and available staff resources shall be considered when recommending future agenda items. The Commission may add an item to a future agenda with consensus of the Commission.

1. List of Future Work Session Agenda Items

DISCUSSION ITEMS

2. Marijuana Business Tax Revenue Update

3. Policies for Funding Non-Profit Organizations

4. Construction Excise Tax for Affordable Housing

CITY MANAGER'S REPORT

COMMISSION COMMITTEE REPORTS

A. **Beavercreek Employment Area Blue Ribbon Committee** - *Commissioner Frank O'Donnell*

B. **Brownfield Grant Committee** - *Mayor Dan Holladay*

C. **Citizen Involvement Committee Liaison** - *Commissioner Rachel Lyles Smith*

D. **Clackamas County Coordinating Committee (C4)** - *Mayor Dan Holladay and Commissioner Rachel Lyles Smith*

E. **Clackamas Heritage Partners** - *Commissioner Rocky Smith, Jr.*

F. **Downtown Oregon City Association Board** - *Commissioner Denyse McGriff*

G. **Metro Policy Advisory Committee (MPAC)** - *Commissioner Rachel Lyles Smith*

H. **Oregon Governor's Willamette Falls Locks Commission** - *Mayor Dan Holladay*

I. **South Fork Water Board (SFWB)** - *Mayor Dan Holladay, Commissioners Frank O'Donnell and Rocky Smith, Jr.*

J. **Willamette Falls and Landings Heritage Area** - *Commissioner Denyse McGriff*

K. **Willamette Falls Legacy Project Liaisons** - *Mayor Dan Holladay and Commissioner Frank O'Donnell*

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503 657 0891

Agenda Posted at City Hall, Pioneer Community Center, Library, City Web site.

Video Streaming & Broadcasts: The meeting is streamed live on Internet on the Oregon City's Web site at www.orcity.org and available on demand following the meeting. The meeting can be viewed live on Willamette Falls Television on channel 28 for Oregon City area residents. The meetings are also rebroadcast on WFMC. Please contact WFMC at 503 650 0275 for a programming schedule

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 11/10/2020

From: City Manager Tony Konkol

SUBJECT:

List of Future Work Session Agenda Items

BACKGROUND:

November 18, 2020

Thimble Creek Overlay District

December 8, 2020

Mitigation Bank Program

Senate Bill 1573 Follow-up

City Commission 2021 Draft Calendar

City Commission/PRAC Joint Work Session: Cost Recovery

January 12, 2021

Review of City Commission Polices

Pre-Application Request for Recording Follow-up

Beavercreek Road Funding Discussion

Additional Upcoming Items (These items are in no particular order)

Abandoned Buildings

Beavercreek Road Concept Plan (Thimble Creek) Funding Discussion

Canemah Area - Encroachments in the Right-of-Way Policy Discussion

Clackamas County Water Environmental Services (WES) Rate Differential

Clackamette Park Boat Ramp

Climate Action Plan Presentation (City of Milwaukie)

Code Enforcement Complaint Process

Cross Street and Utility Pole Banners

Marijuana Tax and Funds from the Tax Discussion

Metro Food Waste Program Requirements - Annual Review

Parks Special Event Fees and Application Process

Parking Rate Increase for Permitted Parking in Downtown Oregon City (Green, Purple, Orange, etc. Zones)

Relationship with Willamette Falls Trust

South Fork Water Board - Mountain Line Easements Vacation

Transportation Demand Management (TDM) Plan Implementation Update

Water System Risk and Resiliency Review

Willamette Falls Legacy Project Operations and Maintenance Discussion

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 11/10/2020

From: City Manager Tony Konkol

SUBJECT:

Marijuana Business Tax Revenue Update

STAFF RECOMMENDATION:

Staff presentation

EXECUTIVE SUMMARY:

The Commission requested a work session to discuss the Marijuana Business Tax revenues and how the funds are appropriated. The City receives an allocation of state tax revenues and collects a 3% local tax on retail marijuana sales. The Commission has received a request to allocate a portion of the revenue to a non-profit working to reduce youth access and use of drugs, including marijuana. The City has seen a steady increase in total revenue from $254,879 in 2017-18 to $496,917 in 2019-20. The current budget has allocated these general fund revenues to Police and Parks programs as approved by the Commission.

BACKGROUND:

The Commission requested a work session to discuss the Marijuana Business Tax revenues and how the funds are appropriated. Please find attached to this staff report a breakdown of the revenues and expenditures by fiscal year (attachment 1) and the Marijuana Business Update report that was presented to the Commission on June 12, 2018 (attachment 2).

The City receives an allocation of state tax revenues and collects a 3% local tax on retail marijuana sales. The City has seen a steady increase in total revenue from $254,879 in 2017-18 to $496,917 in 2019-20. The current budget has allocated these general fund revenues to Police and Parks programs as approved by the Commission.

In fiscal year 2019-20 the total actual revenues were $496,917 and the total expenditures were $359,151, which included the Homeless Liaison Officer ($150,294), Homeless Camp Cleanup funds ($28,857) and Parks capital deferred maintenance

($180,000). The first quarter payment for the current fiscal year was $187,459, a significant increase over previous years.

With the recent passage of Oregon Measure 110, there will be a reduction in the city's revenue generated from the tax. Measure 110 has placed a cap on the State portion of the marijuana tax revenue that the City receives. The State will now be redistributing marijuana revenue above a certain amount from existing recipients (local governments) to a Drug Treatment and Recovery Services Fund. It is anticipated that the City could see a decrease of at least $60,000 per year, though the exact impact will not be known until the measure is implemented in early 2021.

The Commission, through the current budget, prioritized the marijuana tax revenue for Police and Parks funding. In the current budget the additional revenue was allocated to provide additional resources to address camp cleanups and to establish a new baseline of $300,000 per year for Parks Improvements and Deferred Maintenance, of which $180,000 is allocated from the marijuana tax revenue.

An additional expense for which this revenue could be allocated is the new Mental Health Specialist position that the City has created. This position is partially funded through a COPS grant for the next three years. In the fourth year it is anticipated that this position will cost approximately $150,000 per year.

Any revenues that are not appropriated at the end of the budget cycle are included in the General Fund's ending cash balance.

OPTIONS:

1. Commission discussion and provide direction to staff.

Marijuana Revenue & Expenditures

		FY 17-18	FY 18-19	FY 19-20	FY 20-21
Revenue					
	Total Revenue	254,879	336,427	496,917	
Expense					
	Homeless Liaison Officer (HLO)	(128,486)	(138,963)	(150,294)	(162,318)
	Homeless Camp Cleanup			(28,857)	
	Purchse of truck from HLO				(33,158)
	Parks capital deferred maintenance			(180,000)	(185,400)
	Total Expense	126,393	197,464	137,766	(380,876)

OREGON CITY

City of Oregon City

625 Center Street
Oregon City, OR 97045
503-657-0891

Staff Report

File Number: 18-250

Agenda Date: 6/12/2018

Status: Agenda Ready

To: City Commission

Agenda #: 3c.

From: Finance Director Wyatt Parno

File Type: Report

SUBJECT:
Marijuana Business Update

RECOMMENDED ACTION (Motion):
No action required by the Commission.

BACKGROUND:
In November of 2016, the citizens of Oregon City voted to allow marijuana businesses within city limits and to impose a tax on recreational marijuana sales. In preparation for the vote and after an extensive public outreach process, the City Commission adopted marijuana business regulations in October of 2016. The regulations include a variety of standards, such as zoning designations and separation requirements and were adopted to provide a framework for Oregon City voters when considering if marijuana businesses should be allowed.

Since January 1, 2017, when the local measure went into effect, the City has received twenty-seven business license applications (all for retail sales businesses). Eight applications have been approved, eighteen were withdrawn/expired/denied and one is currently under review.

The City receives an allocation of state tax revenues and collects a 3% local tax on retail marijuana sales. It is anticipated that the City will receive about $183,000 annually in tax revenues. The funds have been placed in General Fund reserves for allocation to Police and Park programs in the next budget cycle. This is consistent with the State distribution formula to support enforcement, and the City's need for Park funding.

BUDGET IMPACT:
Amount: $183,000
FY(s): Annually
Funding Source: State and local taxes

Marijuana Business Update

Status of Marijuana Facilities in Oregon City

June 12, 2018

Marijuana Business Update

- Legislative Background
- Local Regulations
- Licensed Retail Facilities
- Tax Revenues
- Discussion

Legislative Background

- State of Oregon
  - November 1998 – Voters legalized medical marijuana (Measure 67)
  - November 2014 – Voters legalized recreational marijuana (Measure 91)
  - 2015 - 2016 – Oregon Legislature clarified laws
    - Authorized transitional sales periods
    - Revised tax structure
    - Established guidelines
  - January 2017 – Program fully implemented (licensing and sales)

Legislative Background

- Oregon City
  - November 2015 – City preliminarily prohibited facilities
  - City Commission called for local elections (required)
  - October 2016 – Time, place and manner guidelines adopted
    - Significant review by Planning and City Commissions
    - Public process (surveys, open house, public hearings)
  - November 2016 – Oregon City voters approved businesses and imposed local tax

Local Regulations

- OCMC 3.06 – Tax on Recreational Marijuana Sales
  - Oregon Department of Revenue
  - Confidentiality clause
- OCMC 17.54.110 – Marijuana Businesses
  - Location restrictions
  - Prohibitions on home, outdoor, mobile and drive-through businesses
  - Odor and disposal standards

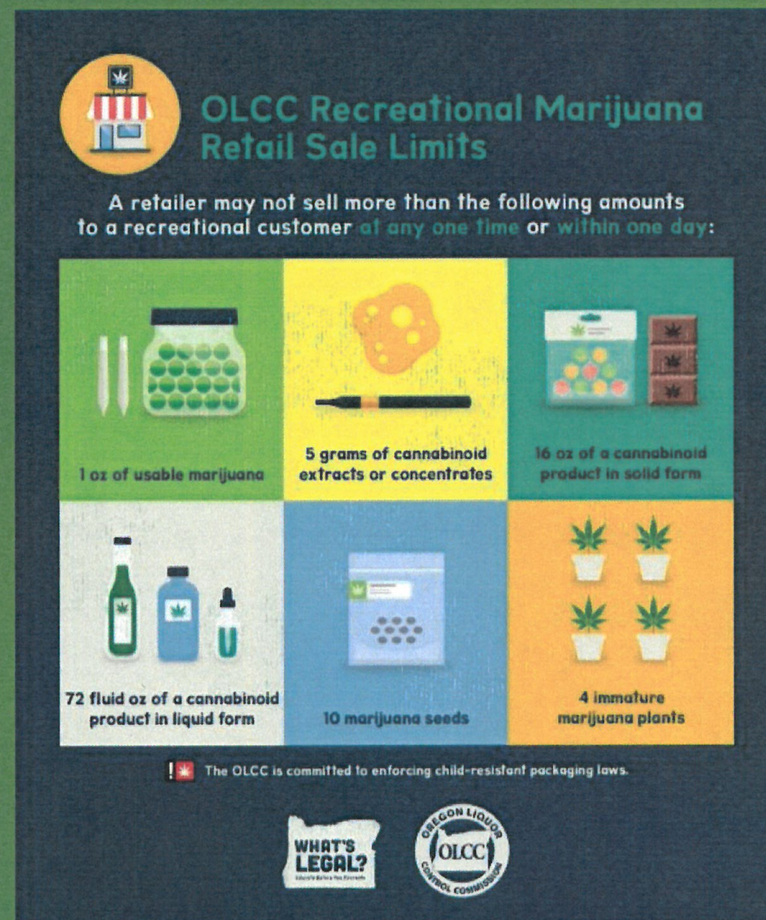
Licensed Retail Facilities

Since January 1, 2017:

- 27 business license applications
- 18 withdrawn, expired or denied
- 8 approved businesses
- 1 under review

General locations:

- 5 along 7th/Molalla
- 2 on Main St
- 1 on Beavercreek



Tax Revenues

- State Tax (17%)

  40% - State School Fund

  20% - Mental Health, Alcohol and Drug Services

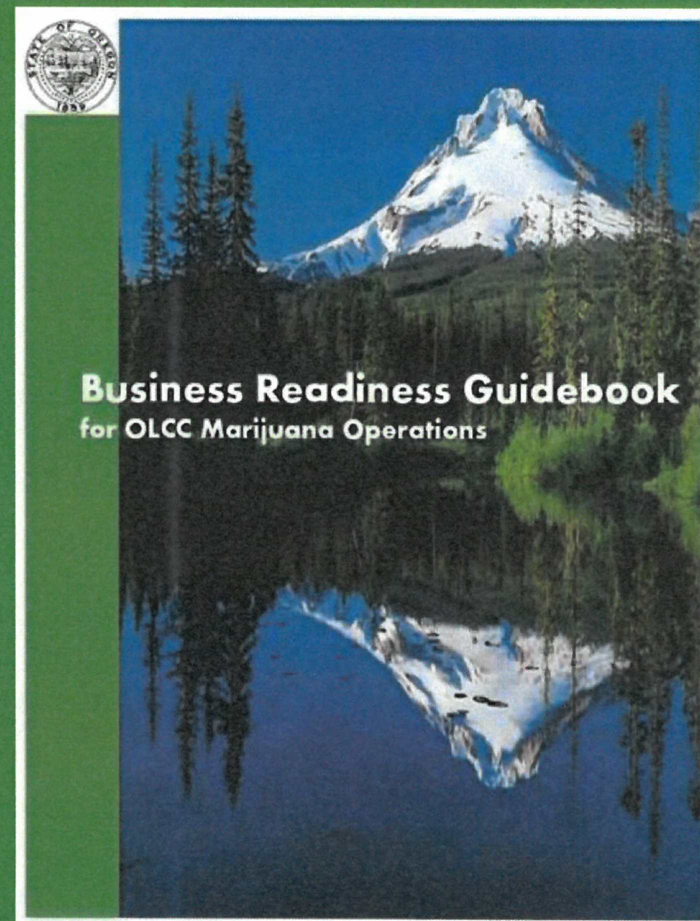
  15% - Oregon State Police

  10% - Oregon Counties

  10% - Oregon Cities

  5% - Oregon Health Authority

- Oregon Cities Distribution
  - Quarterly certification
  - Population/number of licenses

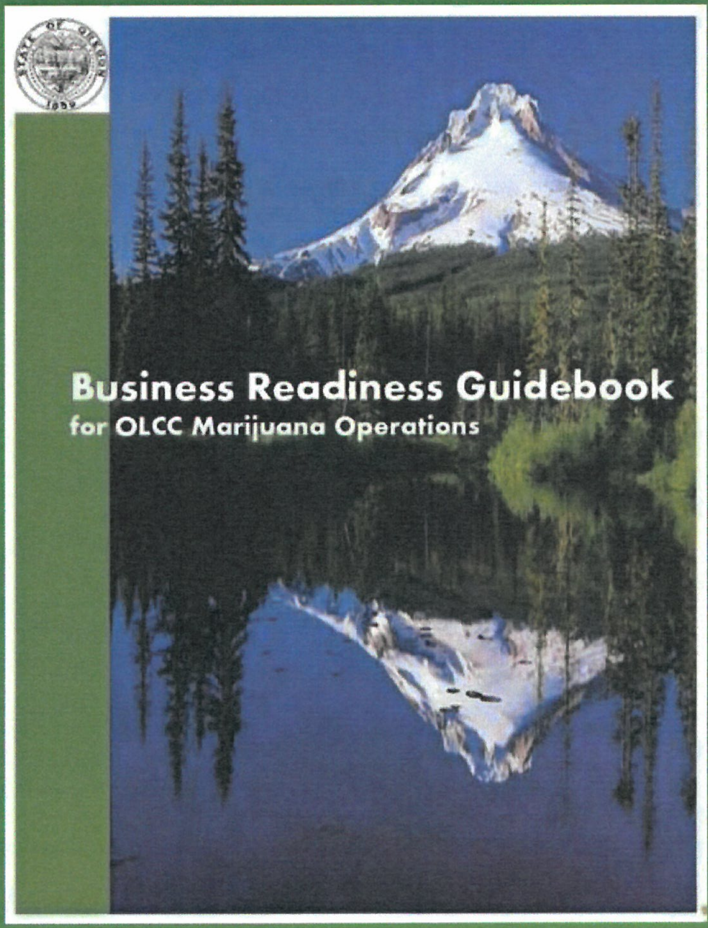


Tax Revenues

- City Tax (3%)
- Combined Annual Revenue:

State Tax	$	94,000
City Tax		89,000
Total	$	183,000

- Police enforcement and Parks
- Request for contribution for prevention program



Discussion

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: City Commission **Agenda Date:** 11/10/2020

From: City Manager Tony Konkol

SUBJECT:

Policies for Funding Non-Profit Organizations

STAFF RECOMMENDATION:

This is a City Commission discussion item.

EXECUTIVE SUMMARY:

The Commission requested a work session to discuss if there is a need for policies to guide decisions on whether or not to fund non-profit organizations. The Commission has received multiple requests to allocate a portion of the marijuana tax revenue to a non-profit working to reduce youth access and use of drugs, including marijuana. The Commission has not allocated funds to fulfill this request through the budget process or through a separate appropriation. The City has allocated funds to other non-profits in the past, some of which have included agreements for services to be provided, such as Downtown Oregon City Association, Willamette Falls Trust, the Willamette Falls Locks Commission and Willamette Falls Landing and Heritage Area.

BACKGROUND:

The Commission has requested a work session to discuss if there is a need for policies and/or criteria to guide decisions on whether or not to approve funding requests from non-profit organizations. As the Commission is aware, the City, in cooperation with Metro, provides grant funding through the Metro Enhancement Grant Process on a yearly basis. In addition, the City has entered into agreements with organizations, such as the Downtown Oregon City and the Willamette Falls Trust, which include the provisions of services and/or a product as part of the investment.

The Commission currently does not have a policy, criteria or process to review requests from organizations for funding that occur outside of the Metro Enhancement Grant process. The decision to enter into agreements and provide funding to an organization has previously occurred as part of the budget process, has leveraged additional funding and/or a service or product and/or is associated with a larger regional project to which the city is a partner. The existing agreements also have a significant correlation to the Commissions adopted Goals and Policies, such as the Willamette Falls Legacy Project, economic development or tourism.

Through the budget process and the Commission's role as policy maker for the City, there is significant discretion provided to make budgetary decisions. The Commission could consider a process that is similar to a grant application, with criteria, a set amount of money and an application submittal schedule. The benefit is that there would potentially be multiple applications to consider funding. The downside is that the process begins to resemble a grant program rather than a targeted policy decision and investment into an organization that is providing a service and/or product that has been identified as needed.

The Commission could consider broad criteria that would guide decision making, such as a direct link to a Commission goal, a significant community benefit that can be demonstrated, providing a needed service that is lacking or insufficient and/or the public investment will leverage a minimum amount of additional investment. The Commission could consider creating an overall objective statement, eligibility requirements, project types, priority community needs and/or guiding principles.

There are many options available to the Commission. Based on the Commission discussion and direction, staff will work to create a policy, process and/or criteria for the Commission to review during a subsequent work session.

OPTIONS:

1. Commission discussion and provide direction to staff.

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To:	City Commission	**Agenda Date:**	11/10/2020
From:	Community Development Director Laura Terway		

SUBJECT:

Construction Excise Tax for Affordable Housing

STAFF RECOMMENDATION:

Staff recommends the City Commission provide direction regarding whether or not staff should continue to research and refine a CET program in Oregon City.

EXECUTIVE SUMMARY:

In 2016, Senate Bill 1533 enabled jurisdictions to implement a construction excise tax (CET) for affordable housing. The CET would charge a new fee on a percentage of the value of new construction and expansions to subsidize affordable housing. The 2019-2021 Goals and Priorities for the City Commission included a review of CET to reduce housing costs and provide affordable housing opportunities. Staff is seeking City Commission direction regarding if we should continue to research and refine a CET program in Oregon City.

BACKGROUND:

In 2016, Senate Bill 1533 enabled jurisdictions to implement a construction excise tax (CET) for affordable housing. A CET is a fee on the value of construction used to subsidize affordable housing.

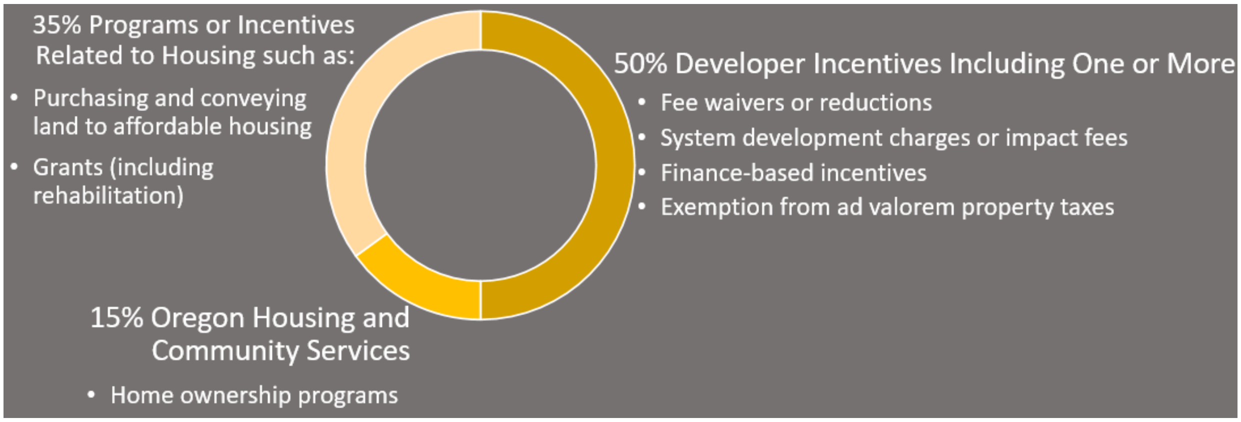
The 2019-2021 Goals and Priorities for the City Commission identify the following:

> *Review the potential implementation of an affordable housing construction excise tax and how revenues could be distributed and invested into programs and projects to reduce housing costs and provide affordable housing opportunities.*

This agenda item is a follow up from previous discussions about CET. The City Commission expressed interest in waiting to assess the potential of a CET for affordable housing once we had had an opportunity to learn from other jurisdictions who had been implementing the program for a while, but also wanted to provide direction in advance of 2021-2023 budgeting.

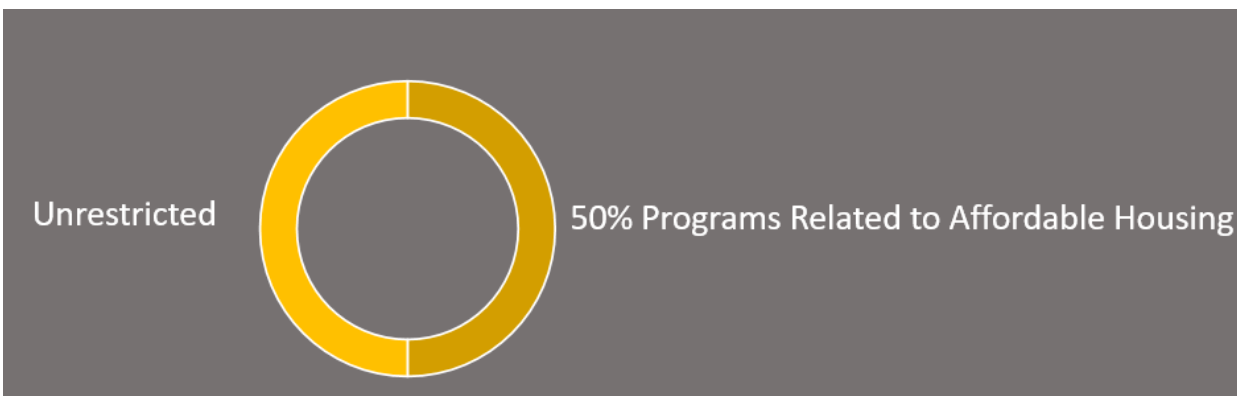
Residential Construction:

Local jurisdictions may levy a tax of up to 1% of the value of construction associated with a permit for residential construction. Up to 4% of the revenue may be used for administrative costs, after that the spending is limited to:



Commercial and Industrial:

Local jurisdictions may levy a limitless tax on the value of commercial and industrial development associated with a permit. Up to 4% of the revenue may be used for administrative costs, after that the spending is limited to:



There are exemptions which apply to construction excise tax. ORS 320.173 requires the following exemptions:

- Private school improvements.
- Public improvements as defined in ORS 279A.010
  "Public improvement" means a project for construction, reconstruction or major renovation on real property by or for a contracting agency. "Public improvement" does not include:
  (A) Projects for which no funds of a contracting agency are directly or indirectly used, except for participation that is incidental or related primarily to project design or inspection; or

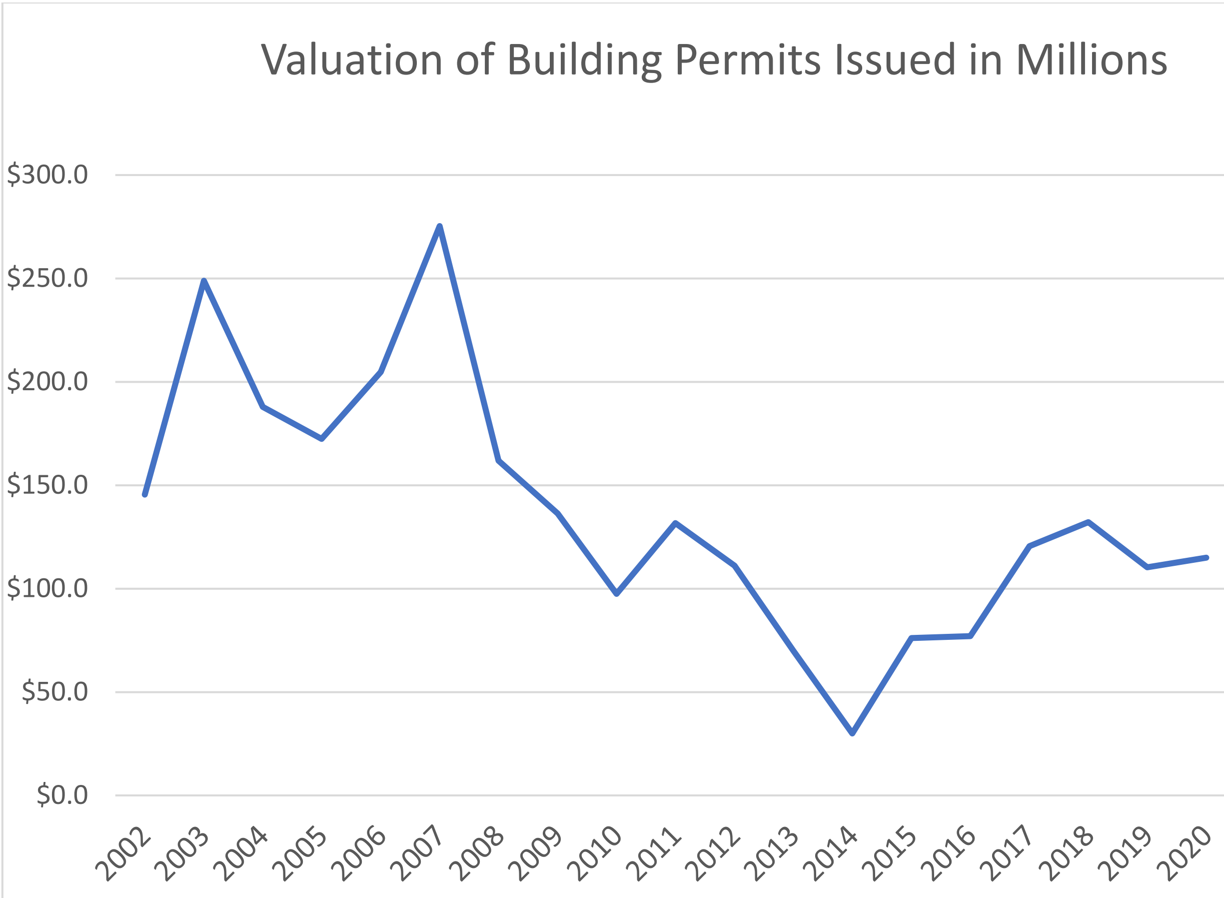
(B) Emergency work, minor alteration, ordinary repair or maintenance necessary to preserve a public improvement.

"Contracting agency" means a public body authorized by law to conduct a procurement. "Contracting agency" includes, but is not limited to, the Director of the Oregon Department of Administrative Services and any person authorized by a contracting agency to conduct a procurement on the contracting agency's behalf. "Contracting agency" does not include the judicial department or the legislative department.

- Residential housing that is guaranteed to be affordable, under HUD guidelines, to households that earn no more than 80 percent of the median household income
- Public or private hospital improvements.
- Improvements to religious facilities primarily used for worship or education
- Facilities that are operated by a not-for-profit corporation and that are:
  - Long term care facilities, as defined in ORS 442.015
  - Residential care facilities, as defined in ORS 443.400
  - Continuing care retirement communities, as defined in ORS 101.020

Some jurisdictions have also added additional exemptions. Examples include:
- Portland exempted improvements valued ≤$100,000, and ADUs for a time period
- Corvallis exempted improvements funded by affordable housing programs

The value of construction projects which have been permitted in Oregon City varies significantly from year to year. For example, in 2014 there was approximately $30M in construction added to the City and in the first six months of 2020 there was $115M. The chart below includes the value of both commercial and residential development.



The following jurisdictions are currently charging a construction excise tax:

- City of Portland https://www.portlandoregon.gov/bds/71270
- Hood River County https://housingtrustfundproject.org/hood-river-sixth-oregon-jurisdiction-to-enact-construction-excise-tax-to-fund-housing/#:~:text=For%20residential%20construction%2C%20the%20tax,the%20rate%20of%20the%20CET
- City of Hood River https://cityofhoodriver.gov/wp-content/uploads/Ordinances/ORD-2042-Construction-Excise-Tax-signed-w-exhibits.pdf
- City of Milwaukie https://www.milwaukieoregon.gov/communitydevelopment/milwaukie-construction-excise-tax-cet
- City of Corvallis https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/60635/Corvallis_CET_Ordinance_and_Resolution.pdf
- City of Seaside
- City of Cannon Beach https://www.ci.cannon-beach.or.us/ordinances/ordinance-17-07
- City of Newport https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/85161/A-0_Agenda_Summary.pdf

- City of Medford

Tillamook County did have a CET which was subsequently repealed by voters and many other jurisdictions have considered adoption as well. Excerpts from other jurisdictions addressing CET are provided below.

City of Corvallis, Oregon
In approximately four years, about a million dollars is in the fund. The fund has paid for a position and earlier this year the Housing & Community Development Advisory Board voted to disburse $500,000 to a mixed project in south Corvallis (though since being awarded the project has scaled down).

City of Hood River, Oregon
CET comes in three streams based on what type of developments produced the money and what programs it must be spent on (see table below). While the legislation allows 50% of revenue from commercial development to be unrestricted, Hood River has dedicated this money to affordable housing programs

	6/30/2018	6/30/2019	6/30/2020	6/30/2021	Total
Developer Incentives	30,307	61,701	73,941	10,780	**176,729**
Local Housing Program	50,506	153,542	76,028	3,443	**283,518**
Oregon Housing and Community Services	9,092	19,187	51,025	7,546	**86,850**

All of State of Oregon earmarked money has been passed through. The City retains the legislatively authorized 4% revenues “off the top” and used the local revenue source to borrow money to purchase approximately 7 acres for a future affordable housing development. So, while they have collected $460,247 ($176,729+$283,518), the revenue source has allowed the City to buy a $1.2 Million property.

Some considerations for the Commission to consider include:
- Need - As 25.5% of our community is spending more than half their income on rent, there is a need for more affordable housing options in Oregon City.
- Equity – The CET can provide a significant means to support those in the community who need it.
- Exemptions - There is a significant amount of construction in Oregon City that is by government entities, schools, the hospital, care facilities, or religious institutions which is exempt from CET.
- Cost of Development – One portion of development which the City influences is system development charges. SDCs are one-time fees based on a new or expanded use which increases the impact to City infrastructure (such as the need for a larger sewer pipe in the roadway). A typical system development charge for a single-family home is currently $35,088, multi-family/accessory dwelling units are $20,793, townhomes are $23,242, duplexes are $21,166, and manufactured homes in a park are $26,854.

- Use of the Funding – Though portions of the funds are restricted and/or allocated throughout the state, the City has an opportunity to use the remaining funds in a variety of ways.
- Administration of the Program and Monitoring Projects – The time to administer the program and monitor projects over time is significant, though up to 4% of the initial funding to be allocated toward administration of the program.
- Other Strategies for Housing Affordability - There may be other mechanisms to increase affordable housing other than CET, such as working closely with Clackamas County or other housing providers to better understand the housing barriers and support increased affordable housing in Oregon City.

If the City Commission is interested in proceeding with a construction excise tax (CET) for affordable housing, staff suggests another series of work sessions to further articulate what the funding would be used for and further refine the administration of the program.

OPTIONS:

1. Continue to research and refine a CET program in Oregon City with additional work sessions on the matter.
2. Do not Continue to research and refine a CET program in Oregon City.

BUDGET IMPACT:

Amount: Unknown

FY(s):

Funding Source(s):

Inclusionary Zoning and Construction Excise Tax FAQ

Inclusionary Zoning

What is "inclusionary zoning"?

Inclusionary zoning is a land use ordinance that works to create affordable housing units in market-rate developments. The term "inclusionary zoning" is in contrast to "exclusionary zoning," land use policies that functioned to exclude more affordable kinds of housing from communities.

Inclusionary zoning may be mandatory, in which all new development must designate a certain percentage of units as affordable, or voluntary, in which a developer can build affordable housing in exchange for governmental incentives, such as fee waivers or tax abatements.

What is the background of inclusionary zoning in Oregon?

Until 2016, Oregon prohibited local jurisdictions from requiring affordable housing set-asides in market development. This tool is widely used across the United States.

This ban was lifted with Senate Bill 1533 in 2016, allowing cities and counties to implement inclusionary zoning within certain parameters. (SB 1533 also established the authority for a new construction excise tax, discussed below.) The portion of SB 1533 on inclusionary zoning is codified in Oregon Revised Statutes 197.309.

Who can implement inclusionary zoning?

Either a city or county may implement inclusionary zoning for development within its jurisdiction covered by its land use ordinances. A county may implement land use ordinances requiring affordable housing set-asides in regions of land that are unincorporated and governed by the county. A city or county can adopt an inclusionary zoning regulation on or after November 29, 2016.

Why would my city or county want to adopt inclusionary zoning?

We want all members of our communities to have a safe place to call home. Inclusionary zoning is one tool local jurisdictions can use to help meet the housing needs of people who live in their communities.

How many units can a jurisdiction require to be set aside as affordable?

A jurisdiction may require that up to 20% of units be set aside as affordable.

How is "affordability" defined?

SB 1533 defines "affordable housing" as housing units affordable to households with incomes at or above 80% of the area median income (AMI), an approximate income level earned by workers such as teachers, firefighters, and nurses. Affordable developments funded by state and federal resources do not traditionally fund housing for families at this income level. Today, the private sector is not building housing units for this demographic either, meaning inclusionary zoning can be an important tool to serve these working families.

Which developments can be required to include affordable units?

For sale or rentals: A jurisdiction may require affordable housing units in for-sale or rental developments.

Multifamily structures of 20 units or more: A jurisdiction can only require an affordable unit set-aside in developments consisting of a multifamily structure(s) of 20 units or more. A "multifamily structure" is defined as a structure that contains three or more housing units that share at least one wall, floor, or ceiling surface with another unit in the same structure.

New developments: Inclusionary zoning regulations adopted pursuant to ORS 197.309 can only apply to new developments that have not already submitted a permit application. If a project has not been completed within the period required by the permit, a new permit must be sought, which may be subject to inclusionary zoning regulations.

Does a developer have to actually build the units in its development?

A jurisdiction must allow developers to pay a fee in lieu of actually constructing the units. A fee in lieu allows the developer to pay a jurisdiction a set amount of money that can then be used by the jurisdiction to support affordable housing in another location. There is no cap on where a jurisdiction may set the in-lieu fee. While it must allow for an in-lieu fee, a jurisdiction may but does not have to offer the developer the option to build affordable units off-site in order to fulfill the affordable housing requirements.

Does a jurisdiction need to offer any incentives to developers?

A city or county <u>must</u> offer at least one of the following incentives:

- Whole or partial fee waivers or reductions
- Whole or partial waivers of system development charges or impact fees set by the city or county
- Finance-based incentives
- Full or partial exemptions from property taxes (If a city or county uses any state statute authorizing property tax exemptions for "low income housing"—meaning housing affordable at or below 60% AMI—the city or county must instead use 80% AMI as the standard for affordability when using the exemption to fulfill the inclusionary zoning incentive requirement.)

A city or county <u>may</u> offer any of the following incentives in addition to the required incentive(s):

- Density adjustments
- Expedited permitting
- Modification of height, floor area, or other site-specific requirements
- Other incentives as determined by the city or county

Can a city still offer voluntary incentives to develop affordable housing without inclusionary zoning?
Yes. Nothing in the bill restricts a city or county, regardless of whether the pass an inclusionary zoning regulation, from offering voluntary incentives to increase the supply of affordable units in a development, decrease the sale or rental price of units, or deepen the affordability of units that are required under mandatory inclusionary zoning policies.

Construction Excise Tax

What is the construction excise tax (CET) in SB 1533?
Cities and counties are preempted from passing any taxes on construction unless otherwise allowed in statute. SB 1533 changes state law to allow cities and counties to pass a new construction tax (commonly referred to as a "construction excise tax") designed to support affordable housing. A construction excise tax can be imposed on residential, commercial, and/or industrial construction, with certain parameters.

Residential Construction Excise Tax: A city or county may impose a construction excise tax set at 1% or less of the permit valuation on residential development, including both new structures and construction that results in additional square footage to an existing residential structure.

Commercial and industrial Construction Excise Tax: A city or county may also impose a construction excise tax on commercial and industrial development, including the commercial and industrial portions of a mixed-use property, that results in a new structure or additional square footage. There is no cap on the rate of the tax.

Who can implement a CET under SB 1533?
A city or county which issues building permits may adopt a construction excise tax as of June 2, 2016. Metro does not have the authority to establish a construction excise tax under SB 1533.

How are the revenues distributed?
The city or county may retain up to 4% of construction excise tax revenues as an administrative fee to cover its costs incurred in implementing the construction excise tax. After the administrative fee has been deducted from total revenues, the allocation of revenue must be as follows:

Residential construction excise tax
- All revenue is distributed toward affordable housing:
  - 50% for incentives
  - 35% for other affordable housing
  - 15% to Oregon Housing and Community Services to be used toward programs which offer down payment assistance

Commercial or industrial construction excise tax
- 50% of revenues must be dedicated toward programs of the city or county related to housing.
- The remaining 50% of revenue is unrestricted in its allocation.

Does a jurisdiction need to have inclusionary zoning in place, either mandatory or voluntary, in order to levy a construction excise tax?

No, there is no requirement under SB 1533 that a city or county must adopt an inclusionary zoning ordinance (either voluntary or mandatory) in order to adopt a residential, industrial, or commercial construction excise tax. The design of the construction excise tax complements mandatory or voluntary inclusionary zoning, but it can be adopted on its own.

How does a jurisdiction have to spend revenues from a construction excise tax?

If a jurisdiction adopts both a mandatory inclusionary zoning ordinance and a residential construction excise tax ordinance, 50% of the residential construction excise tax revenue must be used for the things listed in ORS 197.309 (5) (c) and (d) and (7),. The things listed in (7) include the incentive(s) that a jurisdiction must offer a developer when implementing mandatory inclusionary zoning.

If a city adopts a residential construction excise tax but not a mandatory inclusionary zoning ordinance, 50% of the revenue still must go toward things listed in ORS 197.309 (5) (c) and (d) and (7). The things listed in (7) could be used to assist any developer creating affordable housing, including nonprofit affordable housing developers.

Can both a city and county adopt a construction excise tax pursuant to SB 1533? What if the cumulative tax rates exceed the 1% residential construction excise tax **cap?**
Only the entity that issues the building permits may impose a construction excise tax. Since either the city or the county issues a building permit and not both, there is no issue with a cumulative tax exceeding the 1% cap.

For communities with an existing construction excise tax, does the existing construction excise tax count toward the 1% cap on residential construction excise taxes allowed under SB 1533?

The 1% cap only applies to a new residential construction excise tax adopted pursuant to SB 1533. A jurisdiction does not need to include any existing construction excise tax rates in the 1% cap on residential construction excise taxes.

Who has implemented a construction excise tax? Who is interested?

The City of Bend adopted a construction excise tax of 0.3% on residential, commercial, and industrial development in 2006, with the revenues dedicated toward affordable housing. The fee has allowed Bend to lend about $13.5 million for the development of affordable housing. In 2007, the Legislature preempted local jurisdictions from implementing additional construction excise taxes.

The City of Portland implemented a 1% construction excise tax on residential, commercial, and industrial development that will go into effect on August 1, 2016. The City of Portland decided to allocate all proceeds from the commercial and industrial construction excise tax to affordable housing.

A number of jurisdictions around the state have expressed interest in a construction excise tax.

	Portland	Hood River County	Hood River City	Corvallis	Cannon Beach	Tillamook County	Newport	Bend	Sisters	Eugene	Astoria	McMinville	Salem	Newburg	Lane County	Washington County	City of Milwaukie	Medford	Grants Pass	Talent	Ashland	Estacada
Date adopted	June 29, 2016	June 19, 2017	July 24, 2017	November 7, 2016	June 6, 2017	5/17/2017; Repealed by voters 11/7/2017	August 7, 2017	2006	Under consideration	Under consideration	Under consideration	Under consideration*	Under consideration*	Under consideration	Considered; Not moving forward at this time.	Under consideration	11/21/17	2/15/18	Possibly under discussion	Under discussion	Under discussion	Under Consideration
Ordinance	Ch. 6.08	Ch. 3.24	Ch. 15.17	Ch. 8.16	Ch. 3.20	Ord. 83	Ord. No. 2114								Considered 10/31/17		https://www.milwaukieoregon.gov/sites/default/files/fileattachments/ordinance/83011/or2154.pdf	http://www.ci.medford.or.us/files/CC%20Agenda%2002-15-18%20Packet.pdf (ordinance begins on p. 67)				
Amount of residential CET dedicated to housing	50% IZ incentives; 35% for housing <60% AMI; 15% to state for homeownership	50% to fund developer incentives, 35% to fund affordable housing programs and developer incentives, 15% to OHCS	50% for developer incentives, 35% for city-defined affordable housing programs, 15% to HCS	50% to fund developer incentives, 35% to fund affordable housing programs and developer incentives, 15% to OHCS	50% to Affordable Housing Fund for developer incentives; 35% to Affordable Housing Fund to support City affordable housing program, 15% to state for homeownership	50% to Community Development Workforce Housing Fund to fund finance-based incentives for programs that require affordable housing; 35% to the CDWHF to support the production and preservation of housing affordable <80% AMI; 15% to OHCS	15% to OHCS, remainder for local affordable housing. The City Council intends to create a workgroup to determine how the money is spent.				does not recommend a residential CET						50% to developer incentives to build affordable housing; 35% to city affordable housing programs; 15% to state for down payment assistance	50% to developer incentives to build affordable housing; 35% to city affordable housing programs; 15% to state for down payment assistance				
Amount of commercial CET dedicated to housing	100% for affordable housing <60% AMI	50% to expenses with a nexus to housing creation	100% for city-defined affordable housing & incentives	100% for city-defined affordable housing & incentives	100% to Affordable Housing Fund to support City's affordable housing program	100% to CDWHF to support production & preservation of units <200% AMI	The City Council intends to create a workgroup to determine how the money is spent.										50% to developer incentives to build affordable housing; 50% to economic development	100% to affordable housing				
Value of CET	1% of permit value for both	1% of permit value for both	1% of permit value for both	1% residential; 1.5% commercial and industrial	1% of permit value for residential and commercial	1% of permit value for residential and commercial	1% on both, to be set annually by City Council resolution	1/3 of 1% of permit value									1% of the permit value for both	1/3 of 1% of permit value; Maximum $50,000 for construction or industrial				
Expected revenue	$8.1 million		$165,000	$660,000	$96,000	$300,000	$100,000-$150,000		$66,300									$500,000				
Department overseeing CET	Portland Housing Bureau			Community Development/Housing & Neighborhood Services Division	City manager	Department of Community Development												Planning Department				
City contact								Lynne McConnell		Stephanie Jennings							Christina Fadenrecht; fadenrechtC@milwaukieoregon.gov; 503-786-7517					Matt Lorenzen; Lorenzen@cityofestacada.org
Additional info		p. 154-163, http://www.co.hood-river.or.us/vertical/sites/%7B4BB5BFDA-3709-449E-9B16-B62A0A0DD6E4%7D/uploads/6.19.17_Packet_.pdf		https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/60635/Corvallis_CET_Ordinance_and_Resolution.pdf		https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/85161/A-0_Agenda_Summary.pdf	https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/85161/A-0_Agenda_Summary.pdf		http://www.ci.sisters.or.us/pdf/Recordings/Approved/cc081816ws.pdf	https://ompnetwork.s3-us-west-2.amazonaws.com/sites/134/documents/cc_agenda_04-12-17.pdf	http://astoria.or.us/Assets/dept_3/pm/pdf/03-20-17_cc%20memo%20_housing%20update.pdf				http://www.lanecounty.org/UserFiles/Servers/Server_3585797/File/Government/BCC/2017/2017_AGENDAS/091917agenda/T.7.B.pdf		Page 65: https://www.milwaukieoregon.gov/sites/default/files/fileattachments/city_council/meeting/packets/74491/2017-1121-rs_packet.pdf	Page 64: http://www.ci.medford.or.us/files/CC%20Agenda%2002-15-18%20Packet.pdf				
Notes		Affordability at 120% AMI; 50 year affordability period					http://www.newportoregon.gov/dept/cdd/documents/CET_Res3787SettingCETRates.pdf	https://olis.leg.state.or.us/liz/2016R1/Downloads/CommitteeMeetingDocument/89626				*Included in Newport memo in list of jurisdictions considering a CET	*Included in Newport memo in list of jurisdictions considering a CET		The Commissioners decided not to move forward after a presentation and discussion.		https://www.milwaukieoregon.gov/communitydevelopment/milwaukie-construction-excise-tax-cet		https://www.grantspassoregon.gov/1158/Housing-Advisory-Committee-Reference-Doc			
Media	http://www.oregonlive.com/portland/index.ssf/2016/06/portland_oks_construction_tax.html		https://www.gorgeradio.com/hr-city-council-approves-construction-excise-tax-affordable-housing/	http://www.gazettetimes.com/news/local/new-tool-in-battle-for-affordable-housing/article_17d440e6-a9e4-5552-b942-fecca5cb26f5.html	http://www.dailyastorian.com/Local_News/20170607/cannon-beach-approves-excise-tax-for-housing	https://www.tillamookheadlightherald.com/news_paid/county-plans-to-adopt-percent-tax-on-construction/article_07682808-34f7-11e7-9fbf-8367bbf9319f.html	More info at agenda: http://newportoregon.gov/citygov/comm/cc/agenda/City_Council_Regular_Session_Agenda_July_17_2017.pdf		https://www.bendbulletin.com/localstate/6311206-151/sisters-looking-at-tax-for-affordable-housing	https://ompnetwork.s3-us-west-2.amazonaws.com/sites/134/documents/cc_agenda_04-12-17.pdf	http://www.dailyastorian.com/Local_News/20170209/astoria-may-impose-construction-tax-to-increase-housing					http://portlandtribune.com/pt/9-news/376458-262218-board-considers-housing-finance-options	http://portlandtribune.com/cr/24-news/379456-265899-milwaukie-city-council-enacts-1-percent-tax-on-new-construction	https://kobi5.com/news/city-medford-working-increase-housing-supply-69683/				
						http://www.northcoastcitizen.com/2017/05/county-adopts-1-percent-tax-construction/	https://legistarweb-production.s3.amazonaws.com/uploads/attachment/pdf/91422/A-1_CET_White_Paper_v4.pdf		http://www.nuggetnews.com/main.asp?SectionID=7&SubSectionID=88&ArticleID=25169	http://registerguard.com/rg/news/local/36079001-75/public-meetings.html.csp							https://www.milwaukieoregon.gov/sites/default/files/fileattachments/ordinance/83011/or2154.pdf	https://kobi5.com/news/medford-city-council-considers-tax-fund-affordable-housing-71862/				
						Revenue will also help fund a county housing coordinator position.	http://www.newportoregon.gov/dept/cdd/documents/Housing_tools_2017.pdf											http://www.mailtribune.com/news/20180217/affordable-housing-excise-tax-approved-unanimously				