



**Eugene City Council**

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[www.eugene-or.gov](http://www.eugene-or.gov)

# EUGENE CITY COUNCIL AGENDA

April 15, 2020

**12:00 p.m. CITY COUNCIL WORK SESSION**

Due to Governor Kate Brown's Stay Home, Save Lives Executive Order to combat the spread of Covid-19, this meeting will be held remotely using virtual meeting technology. Information about online or other options for access and participation will be available at <https://www.eugene-or.gov/3360/Webcasts-and-Meeting-Materials>

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**Meeting of April 15, 2020;  
Her Honor Mayor Lucy Vinis Presiding**

**Councilors**

Emily Semple, President  
Mike Clark  
Chris Pryor  
Betty Taylor

Jennifer Yeh, Vice President  
Greg Evans  
Claire Syrett  
Alan Zelenka

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**12:00 p.m. CITY COUNCIL WORK SESSION**

- 1. WORK SESSION: COVID-19 Update**
- 2. WORK SESSION: Proposed Use of Affordable Housing Trust Fund Resources**

For the hearing impaired, an interpreter can be provided with 48 hours' notice prior to the meeting. Spanish-language interpretation will also be provided with 48 hours' notice. To arrange for these services, contact the receptionist at 541-682-5010. City Council meetings are telecast live on Metro Television, Comcast channel 21, and rebroadcast later in the week.

El consejo de la Ciudad de Eugene agradece su interés en estos asuntos de la agenda. El lugar de la reunión tiene acceso para sillas de ruedas. Se puede proveer a un intérprete para las personas con discapacidad auditiva si avisa con 48 horas de anticipación. También se puede proveer interpretación para español si avisa con 48 horas de anticipación. Para reservar estos servicios llame al 541-682-5010. Las reuniones del consejo de la ciudad se transmiten en vivo por Metro Television, Canal 21 de Comcast y son retransmitidas durante la semana.

For more information, contact the Council Coordinator at 541-682-5010  
or visit us online at [www.eugene-or.gov](http://www.eugene-or.gov).

# EUGENE CITY COUNCIL AGENDA ITEM SUMMARY



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## Work Session: Proposed Use of Affordable Housing Trust Fund Resources

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Meeting Date: April 15, 2020  
Department: Planning and Development  
[www.eugene-or.gov](http://www.eugene-or.gov)

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

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### 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.

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.

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](mailto:SJennings@eugene-or.gov)

**ORDINANCE NO. 20609**

**AN ORDINANCE CONCERNING IMPOSITION OF A CONSTRUCTION EXCISE TAX ON COMMERCIAL AND RESIDENTIAL IMPROVEMENTS AND ADDING SECTIONS 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 AND 3.748 TO THE EUGENE CODE, 1971.**

**THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:**

**Section 1.** Sections 3.730, 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 of the Eugene Code, 1971, are added to provide as follows:

**Construction Excise Tax**

**3.730      Construction Excise Tax - Definitions.** The following words and phrases as used in 3.732, 3.734, 3.736, 3.738, 3.740, 3.742, 3.744, 3.746 and 3.748 of this code shall have the following meanings:

**Area median income.** Lane County median household income by household size as defined by the United States Department of Housing and Urban Development and published periodically.

**City Manager.** The city manager or the city manager's designee.

**Commercial.** Designed or intended to be used, or actually used, for other than residential purposes.

**Construct or construction.** 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.

**Improvement.** 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.

**Net revenue.** Revenues remaining after the administrative fees described in section 3.738 of this code are deducted from the total construction excise tax collected.

**Residential.** Designed or intended to be used, or actually used, for residential purposes including any residential structure, dwelling, or dwelling unit.

**Structure.** Something constructed or built and having a fixed base on, or fixed to, the ground or to another structure.

**Value of improvement.** The total value of the improvement as determined in the process of issuance of the building permit.

**3.732      Construction Excise Tax – Tax Imposed.**

- (1) Each person who applies to construct a commercial improvement in the city shall pay a commercial construction excise tax in the following amounts:
  - (a) From July 1, 2019 through June 30, 2020: 0.33 percent of the value of the improvement.
  - (b) Beginning July 1, 2020: 0.50 percent of the value of the improvement.
- (2) Each person who applies to construct a residential improvement in the city shall pay a residential construction excise tax in the following amounts:
  - (a) From July 1, 2019 through June 30, 2020: 0.33 percent of the value of the improvement.
  - (b) Beginning July 1, 2020: 0.50 percent of the value of the improvement.
- (3) The construction excise tax shall be due and payable prior to the issuance of any building permit.

**3.734      Construction Excise Tax - Exemptions.**

- (1) The construction excise tax shall not apply to any of the following improvements:
  - (a) Private school improvements;
  - (b) Public improvements as defined in ORS 279A.010;
  - (c) 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 city of Eugene, for a period of at least 60 years following the date of construction of the residential housing;
  - (d) Public or private hospital improvements;
  - (e) Improvements to religious facilities primarily used for worship or education associated with worship;
  - (f) Agricultural buildings, as defined in ORS 455.315(2)(a);
  - (g) Facilities that are operated by a not-for-profit corporation and that are:
    1. Long term care facilities, as defined in ORS 442.015;
    2. Residential care facilities, as defined in ORS 443.400; or
    3. Continuing care retirement communities, as defined in ORS 101.020.
  - (h) Residential dwellings sold for \$250,000 or less;
  - (i) Housing for low-income persons that is exempt from systems development charges pursuant to section 7.725(c) of this code; and,
  - (j) Projects granted a multi-unit property tax exemption (MUPTe) by the city.
- (2) Any person seeking an exemption may be required to demonstrate that the improvements are eligible for an exemption and to establish all facts necessary to support the exemption.

**3.736      Construction Excise Tax – Refunds.**

- (1) A construction excise tax may be refunded to a person that:
  - (a) Establishes that the tax was paid for improvements that were otherwise eligible for an exemption under section 3.734 of this code; or
  - (b) Establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the city; or
  - (c) Establishes that the tax had been erroneously collected.
- (2) A request for a refund shall be made within three years from the date of payment of the construction excise tax on forms provided by the city manager. Denial of a request for a refund may be appealed as provided for in section 3.744 of this code.

**3.738      Construction Excise Tax – Allocation.**



- (1) Revenues from the construction excise tax will be allocated to fund programs, incentives, and services related to the housing of households earning 100 percent of area medium income and below, and in accordance with state law.
- (2) Up to 4 percent of the taxes collected may be retained by the city for payment toward the city's administrative expenses related to collection and distribution of the construction excise tax.

**3.740**     **Construction Excise Tax – Interest and Penalties.** In addition to assessing any civil penalties, if the city manager determines that a person has failed to pay to the city all or any part of the construction excise tax due under section 3.732 of this code, interest shall be due on the entire unpaid amount, assessed at the rate of .833 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original due date of the tax.

**3.742**     **Construction Excise Tax – Implementing Rules.** The city manager may adopt administrative rules pursuant to section 2.019 of this code for implementation of sections 3.732, 3.734, 3.736, 3.738, 3.740, 3.744, 3.746 and 3.748 of this code, the billing and collection of the construction excise tax due thereunder, and enforcement of those provisions.

**3.744**     **Construction Excise Tax – Appeal.** Any person aggrieved by any decision under this code may appeal the decision in the manner provided in section 2.021 of this code. The appeal shall be heard and determined as provided in section 2.021 of this code.

**3.746**     **Construction Excise Tax – Violations.** No person required to pay a construction excise tax under section 3.732 of this code may fail to state or to misstate the full value of the improvement.

**3.748**     **Construction Excise Tax – Program Review.** Beginning in 2021, and every two years thereafter, the city council shall review the overall management and outcomes of the construction excise tax program.

**Section 2.** The System Development Charges (SDCs) of persons required to pay the construction excise tax pursuant to Section 3.732 will be calculated in accordance with City Code and the City's adopted SDC Methodology. However, for the period of July 1, 2019 through June 30, 2021, the amount of the construction excise tax the person paid pursuant to Section 3.732 will be subtracted from the total amount of City-imposed SDCs the person owes. The person will owe the total City-imposed SDC amount remaining after the construction excise tax is subtracted. Also, the person will owe in its entirety the Regional Wastewater SDC. If the amount of the construction excise tax the person paid pursuant to Section 3.732 exceeds the total amount of City-imposed SDCs owed, the excess construction excise tax paid will be subtracted from a permit fee the person owes.

**Section 3.** In order to ensure that the City's SDC fund is able to pay for the infrastructure upon which the City's SDC Methodology is based, the City intends to make the SDC fund whole by paying with other City funds the City SDCs not paid pursuant to Section 2 of this Ordinance. Similarly, if any amount is subtracted from a permit fee, the City intends to make the permit fund whole by paying with other City funds the permit fee not paid pursuant to Section 2 of this Ordinance.

**Section 4.** The City intends to designate \$500,000 per year of City funds to the City's Affordable Housing Trust Fund.

**Section 5.** The City intends to convene a citizen advisory committee to make recommendations regarding how construction excise tax revenues should be allocated in accordance with Section 3.732.

**Section 6.** The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this  
8<sup>th</sup> day of April, 2019.

  
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Deputy City Recorder

Approved by the Mayor this  
10<sup>th</sup> day of April, 2019.

  
\_\_\_\_\_  
Mayor



# Construction Excise Tax

## What Is the Construction Excise Tax?

In 2016, Oregon Legislature passed Senate Bill 1533 authorizing Oregon cities and counties to establish a construction excise tax (CET). In May of 2019, the Eugene City Council passed an ordinance establishing the tax in Eugene. The tax will create a dedicated source of funding for affordable housing. The law authorizes a city or county to tax new residential and commercial buildings, additions, and alterations. Specifically, it 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.

## Why is this tax needed?

Eugene City Council and State Legislature both recognize traditional funding sources for affordable housing – especially federal sources – have declined. Because of this decline, our community has fallen far behind in meeting the housing needs of Eugene residents with limited incomes. The money collected from the CET will be put into the Affordable Housing Trust Fund. This fund will provide critical funding and is one part of a larger effort to help address the housing challenge.

## What does the CET pay for?

Money collected from the CET will go into the Affordable Housing Fund, which 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. Examples of how these funds may be used include:

- Gap financing for the development of new affordable housing
- Acquisition of existing housing that will become affordable
- Acquisition of land for future affordable housing development
- Down payment assistance for home buyers
- Rental or security deposit assistance for people who rent their homes.

CET resources will be used to supplement the

limited federal resources that support the City's existing federal affordable housing programs. Revenues will be allocated to fund projects, programs, incentives, and services related to the housing of households earning 100% of area medium income and below, and in accordance with state law.

The City is in the process of forming a citizen advisory committee that will advise on the use of Affordable Housing Trust Funds resources. It is anticipated that funds will be allocated to housing programs and projects starting in early 2020.

## Who needs to pay and when?

The CET is required to be paid by the developer or property owner who is developing property within Eugene city limits. The CET applies to certain improvements to property that result in additional square footage or improvements which create additional living space. The CET is paid when the permit is issued.

The CET goes into effect July 1, 2019. For the first two years of implementation, the CET will be offset by a reduction in system development charges (SDC) equal to the amount of the CET. If the SDCs are less than the total of the CET, permit fees will be reduced to offset the total of the CET. This means, for the first two years, there will be no additional cost to development.

## Who is exempt from paying the CET?

The following are exempt from the CET:

- Private school improvements
- Public improvements as defined in [ORS 279A.010](#)
- Residential housing that is guaranteed to be affordable to households that earn no more than 80% of the median household income for a period of at least 60 years following the date of construction
- Public or private hospital improvements
- Improvements to religious facilities



primarily used for worship or education associated with worship

- Agricultural building as defined by ORS 455.315
- Long term care facilities operated by a not-for-profit corporation, as defined in ORS 442.015
- Residential care facilities operated by a not-for-profit corporation, as defined in ORS 443.400
- Continuing care retirement communities operated by a not-for-profit corporation, as defined in ORS 101.020
- Residential dwellings sold for \$250,000 or less
- Housing for low-income persons that is exempt from systems development charges (SDCs) pursuant to section 7.725c
- Projects granted a multi-unit property tax exemption (MUPT) by the city.

To demonstrate a project is exempt from the CET a [Construction Excise Tax Exemption Form](#) must be completed, signed, and submitted with the building permit application identifying what exemptions are applicable to the project.

## How much is the CET?

For the first year, the CET will be 0.33% of the value of permitted work and will increase to 0.5% the following year. It is

projected to remain at 0.5% for every year thereafter.

## How long is the CET active?

Based on legislation adopted in 2016, the City can continue levying the tax for an indefinite amount of time. Eugene City Council will review the overall management and outcomes of the program every two years.

## Whom can I contact for more information?

If you have additional questions, you may contact the City of Eugene's Building and Permit Services by phone: (541) 682-5086.

Additional information on the affordable housing programs and the advisory committee can be found at:

[eugene-or.gov/affordablehousingfund](http://eugene-or.gov/affordablehousingfund)

## What is "affordable housing" and how can I learn more about City affordable housing programs and resources?

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 City of Eugene has supported the creation of affordable housing using both federal and local funds for over 40 years.

[www.eugene-or.gov/bps](http://www.eugene-or.gov/bps)