



COUNCIL ORDINANCE NO. 20609

COUNCIL BILL 5202

**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.**

ADOPTED: April 8, 2019

SIGNED: April 10, 2019

PASSED: 5

REJECTED:

OPPOSED: 3

ABSENT:

EFFECTIVE: May 11, 2019



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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 (MUPTTE) 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
8th day of April, 2019.


Deputy City Recorder

Approved by the Mayor this
10th day of April, 2019.


Mayor