

## HOUSING POLICY BOARD

The mission of the Housing Policy Board is to increase the availability of decent, affordable housing for low and very low income families and individuals in Lane County.

Date: 12/4/2017  
To: Eugene City Council  
From: Intergovernmental Housing Policy Board  
Subject: The Affordable Housing Trust Fund and How to Fund It

Eugene City Council asked the Housing Policy Board to develop a recommendation for the creation of a local dedicated source of funding for affordable housing in its work session on April 12, 2017. Over the past year, members of the Housing Policy Board have gathered research on newly developed local funding sources in other Oregon communities and have worked to develop a recommendation for Council consideration. Over the past three months, the Housing Policy Board has met six times and members have reached out to multiple community stakeholders to inform its recommendation.

As a result of these conversations, it is clear there is significant and growing concern about access to affordable housing within Eugene and Lane County. Conversations with local affordable housing providers reveal that a local dedicated source of funding would greatly increase their ability to move forward a wide range of affordable housing developments. In particular, this resource would have much greater flexibility than federal and state resources that are currently available.

### Background Information

Hundreds of local jurisdictions around the country have created housing trust funds to support the development and preservation of affordable housing. These trust funds typically augment federal and state grants with a locally controlled flexible resource. Eugene has previously created such a fund, but has never been able to establish a sustained source of revenue to adequately support it.

In 2016, the Oregon legislature created a new way to generate funding that can be used for affordable housing through the adoption of Senate Bill (SB) 1533. As a result of this legislation, local jurisdictions may choose to: 1) adopt a tax on construction permits (called a Construction Excise Tax or "CET") to generate revenue for affordable housing; and 2) implement inclusionary housing requirements (commonly called inclusionary zoning or "IZ"). This document discusses the first of those, the proceeds of which can go into a housing trust fund. A local jurisdiction may choose to adopt a CET without also adopting IZ.

Eugene may adopt a construction excise tax to support affordable housing. The tax may not exceed 1% for residential construction; there is no limit on the rate for commercial or industrial construction. The tax is assessed on the permit valuation of the improvements. The land value is not included. For residential construction, it includes both new construction and improvements to existing structures that add square footage to the living space.

If a jurisdiction implements a residential CET but does not implement a mandatory IZ program, the proceeds may be used as follows:

- 81% must be allocated to programs and incentives related to affordable housing as defined by the city.
- 15% must be transferred to Oregon Housing and Community Services (OHCS) to fund home ownership programs. (OHCS determines how these resources will be used and has communicated that these resources will be made available to the community where they were generated.)
- 4% may be retained to cover administrative expenses.

If a jurisdiction implements a residential CET and also implements a mandatory IZ program, the proceeds must be used as follows:

- 50% of the resources must be reserved for incentives to compensate a developer for IZ developments.
- 31% must be allocated to programs and incentives related to affordable housing as defined by the city.
- 15% must be transferred to Oregon Housing and Community Services (OHCS) to fund home ownership programs. (OHCS determines how these resources will be used and has communicated that these resources will be made available to the community where they were generated.)
- 4% may be retained to cover administrative expenses.

If a jurisdiction implements a commercial CET, the proceeds must be used as follows:

- 48% must be used to fund programs “related to housing” as defined by the City.
- 48% may be used by the city without restriction (including for administration of this program).
- 4% may be retained to cover administrative expenses.

There are numerous statutory exemptions from the tax including: 1) construction by governmental entities (for example, the school districts and the University of Oregon); 2) affordable housing developments that meet the state’s long-term affordability restrictions; 3) public or private hospitals; 4) religious facilities; 5) private schools; 6) nonprofit long-term care facilities, residential care facilities, and continuing care retirement facilities; and 7) agricultural buildings. The local jurisdiction may add more exemptions, such as Accessory Dwelling Units (ADUs), low income homeownership programs, etc.

### **What Other Jurisdictions Are Doing**

Portland, Hood River County, Hood River City, Corvallis, Newport, Cannon Beach and Milwaukie have all adopted a CET pursuant to SB 1533. Portland is the only jurisdiction to adopt a mandatory IZ ordinance, though Corvallis has adopted a voluntary IZ ordinance. In addition, Sisters, Astoria, McMinnville, Salem, and Newberg are also considering a CET.

The adopted ordinances are quite similar but with a few substantive differences. All have adopted a 1% tax on all construction, except Corvallis which assesses a 1.5% tax on non-residential construction. Several allow for the rate to be set annually by the city council. Hood River County has a special rate

for new or replaced manufactured homes, at 75¢ per square foot.

Portland has added several exemptions including: ADUs (though the City will review this after two years); improvements valued at \$100,000 or less; and owner-occupied homes that qualify for Portland’s low-income single-family property tax exemption. Hood River City and County also add both ADUs and some other minor exemptions. Tillamook exempts any facilities owned and operated by a 501(c)(3) corporation.

There are some variations regarding the use of proceeds, targeting different Area Median Income (AMI) levels:

- Portland targets affordable housing units at or below 60% of AMI for its non-IZ incentives; under SB 1533, its IZ incentives must serve people at 80% AMI and above.
- Corvallis targets affordable rental housing for those below 60% AMI and home ownership for those below 80%.
- Hood River County targets affordable housing up to 120% AMI.
- Hood River City targets affordable housing below 80% of AMI.
- Tillamook directs the residential CET to affordable housing below 80% of AMI, and all of the commercial CET to workforce housing below 200% of AMI.

These jurisdictions direct CET revenue into their own housing trust funds to support affordable housing programs. In addition, their ordinances do not provide specific definitions of affordable housing.

In Eugene, the Area Median Income for a family of four is \$59,000. A reasonable housing budget for this family would be up to \$1,475 for rent and utilities (about \$1,300 for rent alone). For a household of two, the Area Median Income is \$41,300, which translates into a monthly affordable housing budget of \$1,032 for rent and utilities (about \$900 for rent alone). Table 1 shows information on 100% AMI, 80% AMI, and 60% AMI income levels by household size in our region as defined by HUD HOME and CDBG programs. Table 2 shows gross rents for the corresponding income levels by unit size, which includes utility costs.

**Table 1: Income Limits by Household Size**

Income	Number of people					
	1	2	3	4	5	6
60% AMI*	\$24,780	\$28,320	\$31,860	\$35,400	\$38,280	\$41,100
80% AMI*	\$33,050	\$37,800	\$42,500	\$47,200	\$51,000	\$54,800
100% AMI**	\$41,300	\$47,200	\$53,100	\$59,000	\$63,800	\$68,500

\* HUD HOME program

\*\* HUD CDBG program

**Table 2: Gross Rents for Corresponding Income Limits, Which Includes Utilities**

Rent Limits	0 Bd	1 Bd	2 Bd	3 Bd	4 Bd	5 Bd
60% AMI	\$620	\$708	\$797	\$885	\$957	\$1,028
80% AMI	\$826	\$945	\$1,062	\$1,180	\$1,275	\$1,370
100% AMI	\$1,032	\$1,180	\$1,328	\$1,475	\$1,595	\$1,712

## Potential Impact

CET revenue will fluctuate with real estate cycles. Based on Eugene construction activity over the last two years, a 1% tax on all construction is likely to generate about \$3 million per year. If the City decides on a different tax rate, the proceeds are likely to be as follows:

Commercial @ 0.5%	Commercial @ 1.0%	Commercial @ 1.5%	Residential @ 0.5%	Residential @ 1.0%
974,671	1,949,342	2,924,013	527,889	1,055,778

Because the use of CET proceeds is so flexible (especially without an accompanying mandatory IZ ordinance), it will enable expanding and preserving the supply of affordable housing. This can be done by providing additional gap financing to make housing more affordable. Other possible uses include funding for transitional housing, “housing first” projects, housing related operational support, permanent supportive housing, “missing middle” housing, conestoga huts, tiny housing, shelters, and land banking. Especially important is that these could be accomplished without the sometimes overwhelming, costly, and counter-productive HUD requirements. In addition, the funds could be used for projects when federal funds are prohibited.

## Housing Policy Board Recommendation

The Housing Policy Board recommends that the City adopt a construction excise tax with the following policy elements:

**Tax rate** - The HPB recommends that the rate be set at 1% for all types of construction.

**Exemptions** - Besides the statutorily required exemptions, the HPB recommends exempting affordable housing developments that received an Affordable Housing System Development Charge exemption from the City.

**Use of funds** – The HPB recommends that all CET revenue (including the discretionary 48% from commercial) be used for affordable housing production and implementation costs (collection costs plus 1.0 FTE). The desired outcome of implementing the CET is to see a dramatic increase in affordable housing production. For rental units, the HPB recommends an emphasis for households earning 60% AMI and below. However, the guidelines should be set at 80% AMI and below to allow for greater flexibility. For home ownership units, the HPB recommends an emphasis on households earning 80% AMI and below. However, the guidelines should be set at 100% AMI and below to allow for greater flexibility. HPB anticipates the City would provide deeper subsidies for projects serving lower income residents and shallower subsidies for higher income levels within the above ranges.

**Process for making funds available** - The HPB recommends that the City put the proceeds into Eugene’s Affordable Housing Trust Fund, that staff develop an RFP process (similar to the process for HOME and CDBG funds) with proposed uses reviewed by an advisory committee which would contain some members of the HPB, and that City Council makes final funding decisions.