



## **ORDINANCE NO. 2020-2860**

---

---

### **AN ORDINANCE ESTABLISHING A CONSTRUCTION EXCISE TAX AND CREATING CHAPTER 3.60 IN THE NEWBERG MUNICIPAL CODE**

---

---

#### **RECITALS:**

1. The Newberg City Council accepted the recommendations of Housing Newberg to evaluate a construction excise tax on December 18, 2017.
2. The 2016 Oregon Legislature authorized the governing body of a city or county to impose a construction excise tax on new construction to fund Affordable Housing incentives and development programs through Senate Bill 1533 (2016), Chapter 59, Oregon Session Laws, 2016 (codified in ORS 320.170 to 320.195).
3. The Newberg Affordable Housing Commission evaluated the potential for a construction excise between January 2019 and February 2020.
4. Public outreach occurred to the development community related to a construction excise tax which is documented the Request for Council Action.
5. The Newberg Affordable Housing Commission recommended on February 25, 2020 to adopt an ordinance imposing a construction excise tax.
6. The City Council opened the public hearing on October 19, 2020 and received public comments and continued the hearing to November 2, 2020.
7. The City Council held the first reading of the proposed Ordinance No. 202 -2860 on November 2, 2020, took public testimony and scheduled the second reading on the ordinance for November 16, 2020.

#### **THE CITY OF NEWBERG ORDAINS AS FOLLOWS:**

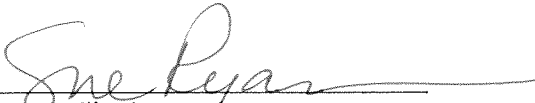
1. A new chapter adopting a construction excise tax (CET) 3.60, is added to and made a part of Title 3, Revenue and Finance, of the Newberg Municipal Code as set forth in attached Exhibit "A" to this ordinance.
2. The city manager is the delegated authority to implement the CET created by this title when administratively feasible, but not sooner than January 1, 2021.
3. 100% of the net revenue of the construction excise tax imposed on commercial and industrial development will be allocated to affordable housing programs.

4. Chapter 3.60 shall remain in effect for six years following the effective date and is repealed unless, following five years after the effective date and preparation of a report analyzing the impacts of the construction excise tax, an extension or re-authorization of Chapter 3.60 is approved by the City Council at a public hearing called for that purpose.

➤ **EFFECTIVE DATE** of this ordinance is 30 days after the adoption date, which is: December 16, 2020.

**ADOPTED** by the City Council of the City of Newberg, Oregon, this 16<sup>th</sup> day of November, 2020, by the following votes: **AYE: 6 NAY: 0 ABSENT: 0 ABSTAIN: 0**

*\*District 5 seat vacant*

  
\_\_\_\_\_  
Sue Ryan, City Recorder

**ATTEST** by the Mayor this 19<sup>th</sup> day of November, 2020.

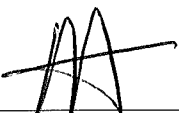
  
\_\_\_\_\_  
Rick Rogers, Mayor

Exhibit "A" - to Ordinance No. 2020-2860  
Construction Excise Tax – File GEN19-0004

**Chapter 3.60**  
**CONSTRUCTION EXCISE TAX**

Sections:

- 3.60.010 Purpose
- 3.60.020 Definitions
- 3.60.030 Imposition of Tax
- 3.60.040 Exemptions
- 3.60.050 Collection of Tax
- 3.60.060 Statement of Full Value of Improvement Required
- 3.60.070 Interest and Penalties
- 3.60.080 Refunds
- 3.60.090 Segregation and Use of Revenue
- 3.60.100 Administrative Fee
- 3.60.110 Appeal Procedure
- 3.60.120 Penalty
- 3.60.130 Duration

**3.60.010 Purpose**

This chapter establishes a construction excise tax on commercial and residential improvements to provide funding for affordable housing in the city.

**3.60.020 Definitions**

The following definitions apply in this chapter.

"**Affordable housing**" means a housing unit for which a person earning 80% or less of area median income would not pay more than 30% of their gross income for housing payments.

"**Area Median Income**" means the Yamhill County median household income by household size as defined by the United State Department of Housing and Urban Development and published periodically.

"**Building Division**" means the Newberg Building Division.

"**City Manager**" means the Newberg City Manager or the Manager's designee.

"**Commercial**" means designed or intended to be used, or actually used, for other than residential purposes.

"**Commercial and Industrial**" means a structure designed or intended to be used, or actually used, for purposes other than residential purposes. Structures on land zoned Industrial or Commercial are

presumed to be industrial or commercial.

**“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 by Oregon law.

**“Housing units guaranteed to be affordable”** means a residential housing unit for which a deed restriction or contractual obligation guarantees that the housing will remain 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 area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.

**“Improvement”** means 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”** means revenues remaining after the administrative fees described in section 3.60.110 are deducted from the total construction excise tax collected.

**“Partial exemption”** means one-half ( $\frac{1}{2}$ ) the percentage rate of the Construction Excise Tax.

**“Structure”** means something constructed or built and having a fixed base on, or fixed to, the ground or to another structure.

**“Value of Improvement”** means the total value of the improvement as determined in the process of issuance of the building permit.

### **3.60.030 Imposition of Tax**

Unless subject to exemption under Section 3.60.040, each person who applies for a building permit for real property located in the City of Newberg shall pay a construction excise tax, as follows:

A. Commercial or Industrial improvements shall be subject to and pay an excise tax in the amount of 1% of the value of the improvement. 100% of the net revenue of the tax collected shall go towards affordable housing programs, after deducting the administrative fee as set forth in section 110 of this chapter.

B. Residential improvements shall be subject to and pay an excise tax in the amount of 1% of the permit valuation of the improvement. The tax collected shall go towards administration and affordable housing programs per ORS 320.195(3).

C. The Building Division shall calculate the amount of excise tax due under this Chapter based on the documentation provided by the permit applicant at the time of issuance of building permits and shall be based on the total value of all improvements associated with the project regardless of the number of separate building or trade permits involved.

D. The percentage rate of the construction excise tax shall not exceed that permitted by state law.

E. Construction excise taxes may be paid by:

1. The owner of the subject property; or

2. Any agent of the property owner authorized to apply for a building permit on the property owner's behalf.

### **3.60.040 Exemptions**

A. Construction taxes may not be imposed on the following:

- (1) Private school improvements.
- (2) Public improvements as defined in ORS 279A.010 (Definitions for Public Contracting Code).
- (3) 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 area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.
- (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 (Exemption of agricultural buildings, agricultural grading and equine facilities) (2)(a).
- (7) Facilities that are operated by a not-for-profit corporation and that are:
  - (a) Long term care facilities, as defined in ORS 442.015 (Definitions);
  - (b) Residential care facilities, as defined in ORS 443.400 (Definitions for ORS 443.400 to 443.455); or
  - (c) Continuing care retirement communities, as defined in ORS 101.020 (Definitions).
- (8) Any improvements that are exempt from the construction excise tax under state law.
- (9) Any improvement funded by Construction Excise Tax proceeds, or other dedicated affordable housing funding through the City of Newberg. Such exemption is limited to the amount of the city's investment in the improvement.
- (10) Non-living space located on residential property (e.g. shop buildings, garages).
- (11) Accessory dwelling units, accessory farm dwellings, seasonal farm worker housing, and temporary hardship dwellings, as defined in applicable state law or City land use regulations.
- (12) Improvements having a total improvement value of less than \$100,000.

B. Partial exemption of 50% shall apply to residential housing that is subject to a deed restriction requiring that the property remain affordable to households that earn between 81% and 120% of the area median income for a period of at least 60-years following the date of the restriction.

C. The city manager may require any person seeking an exemption to demonstrate that the improvements are eligible for an exemption and to establish all facts necessary to support the exemption.

D. In the event that a property receiving a full or partial exemption under this section as affordable housing is subsequently sold for an amount that no longer qualifies as affordable housing, the seller shall be liable for all of the following:

1. an amount equal to the applicable construction excise tax as of the time of the construction;
2. interest on the tax at an annual rate of 12% from the date of the exemption; and
3. a late fee equal to 5% of total applicable taxes and interest owing under this section.

### **3.60.050 Collection of Tax**

A. The construction excise tax is payable on issuance of a building permit for the construction of

improvements. A building permit may not be issued until the construction excise tax is paid.

### **3.60.060 Statement of Full Value of Improvement Required**

A. It is a violation of this Chapter for any person or legal entity to fail to state, or to understate, the full value of improvements to be constructed in the City in connection with an application for a building permit.

### **3.60.070 Interest and Penalties**

All amounts of construction excise tax not paid when due shall bear interest on the entire unpaid amount at the rate of .83 percent simple interest per month or fraction thereof (10 percent per annum), computed from the original date to the 15th day of the month following the date of the payment. Interest amounts may not be waived. A penalty of five percent of the underpayment of construction excise tax shall apply to:

1. Any underpayment due to the improvements constructed initially failing, or later ceasing, to be exempt affordable housing under section 3.60.040(A)(3).
2. Any underpayment involving a failure to state or an understatement of the full value of improvements. If not paid within ten days after billing all interest and penalties shall merge with and become part of the construction excise tax required to be paid under this Chapter. From the point of merger, the previously assessed interest and penalty become part of the tax due for calculation of interest and penalty for subsequent periods.

### **3.60.080 Refunds**

A. The City shall issue a refund to the owner listed on the permit for which a tax was assessed and paid, in the amount of the tax actually paid, under the following circumstances:

1. If the taxpayer establishes that the tax was paid for improvements that were otherwise eligible for an exemption under section 3.60.040.
2. If the taxpayer establishes that construction of the improvements was not commenced and the associated building permit has been cancelled by the Community Development Department.

B. The city manager shall either refund all amounts due under this section within 30 days of the date a written request for refund is filed with the city or give written notice of the reasons why the refund request has been denied. Such decision is subject to the appeals provisions in 3.60.110.

C. Any request for refund must be initiated within one year from the date of payment.

### **3.60.090 Use of Revenue**

A. Except for funds withheld for administrative costs under Section 3.60.100, all construction excise taxes levied upon projects on commercial, industrial and mixed-use property under Section 3.60.030A shall be used in accordance with Subsections (C) and (D) herein; and

B. Except for funds withheld for administrative costs under Section 3.60.100, construction excise taxes levied upon projects on residential improvements under Subsection 3.060.030(B) shall be used as follows:

1. 50% to fund developer incentives under subsection (C);
2. 15% to the Oregon Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and
3. 35% to fund developer incentives and affordable housing programs under subsections (C) and (D), herein.

C. The City may fund developer incentives allowed or offered pursuant to ORS 197.309(5)(c) and (d) and 197.309(7), including but not limited to:

1. system development; and
2. land acquisition; and
3. local public improvements required by municipal governments.

D. The City may fund affordable housing programs in accordance with Section 9, Chapter 59, Oregon Laws 2016, including but not limited to:

1. Rent buy-downs and subsidies; and
2. Down-payment assistance; and
3. Foreclosure-prevention assistance.

E. Any affordable housing unit built or purchased with construction excise tax funds shall have recorded in its chain of title a deed restriction that requires that the property remain "affordable housing" as defined by this Chapter, for a period of no less than 60 years from the date of restriction.

F. The city manager shall provide the City Council with an annual accounting, based on the city's fiscal year, for construction excise taxes collected and the projects funded from each account in the previous fiscal year. A list of the amounts spent on each project funded in whole or in part with construction excise tax revenues shall be included in the annual accounting.

### **3.60.100 Administrative Fee**

A. As authorized by Sections 8 and 9 of Chapter 59, Oregon Session Laws, 2016, the City shall receive an administrative fee equal to 4% the gross construction excise taxes, without regard to subsequent reductions due to refunds, failed payments, or similar reductions.

B. The City shall deduct the administrative fees directly from the collected construction excise taxes.

C. The City may recover from the construction excise taxes any banking fees or penalties that arise from the collection of construction excise taxes such as returned check charges.

### **3.60.110 Appeal Procedure**

A. Any written determination issued by the Community Development Department applying the provisions of this Chapter, believed to be in error, may be reviewed by the city manager if the recipient requests review in writing within ten days after receipt of the written determination together with all documentation required to support the request.

B. Appeals of any other decision required or permitted to be made by the city manager under this Chapter must be filed in writing with the city manager within 10 days of the decision.

C. After receiving an appeal under subsection B, the City Manager shall schedule the appeal to be heard by the Council, and provide notice to the appellant. The City Council shall determine whether the city manager's decision or the expenditure is in accordance with the provisions of this Chapter and state law. The Council may affirm, modify, or overrule the decision. The decision of the Council shall be reviewed only by writ or review.

D. The filing of any appeal shall not stay the effectiveness of the written determination unless the Council so directs.

**3.60.120 Penalty**

Violation of this chapter is a civil infraction.

**3.60.130 Duration**

A. Chapter 3.60 shall remain in effect for six years following the effective date and is repealed unless, following five years after the effective date and preparation of a report analyzing the impacts of the construction excise tax, an extension or re-authorization of Chapter 3.60 is approved by the City Council at a public hearing called for that purpose.



**Exhibit "B" to Ordinance No. 2020-286**  
**Findings – Construction Excise Tax – File GEN19-0004**

Oregon Revised Statutes Chapter 320 - Miscellaneous Taxes

LOCAL CONSTRUCTION TAXES

320.170 Restriction on construction tax imposed by school district. (1) A school district, as defined in ORS 330.005, may impose a construction tax only in accordance with ORS 320.170 to 320.195.

(2) Construction taxes imposed by a school district must be collected, subject to ORS 320.179, by a local government, local service district, special government body, state agency or state official that issues a permit for structural improvements regulated by the state building code. [2007 c.829 §2; 2009 c.534 §1; 2016 c.59 §2]

**Finding:** Not applicable because the City of Newberg is not a school district.

320.171 Restriction on construction tax imposed by local government, local service district or special government body. (1) A local government or local service district, as defined in ORS 174.116, or a special government body, as defined in ORS 174.117, may not impose a tax on the privilege of constructing improvements to real property except as provided in ORS 320.170 to 320.195.

(2) Subsection (1) of this section does not apply to:

- (a) A tax that is in effect as of May 1, 2007, or to the extension or continuation of such a tax, provided that the rate of tax does not increase from the rate in effect as of May 1, 2007;
- (b) A tax on which a public hearing was held before May 1, 2007; or
- (c) The amendment or increase of a tax adopted by a county for transportation purposes prior to May 1, 2007, provided that the proceeds of such a tax continue to be used for those purposes.

(3) For purposes of ORS 320.170 to 320.195, construction taxes are limited to privilege taxes imposed under ORS 320.170 to 320.195 and do not include any other financial obligations such as building permit fees, financial obligations that qualify as system development charges under ORS 223.297 to 223.314 or financial obligations imposed on the basis of factors such as income. [2007 c.829 §1; 2016 c.59 §4]

**Finding:** The City of Newberg is a local government as established by ORS 174.116(1)(a). The City of Newberg is proposing to impose a construction excise tax in accordance with the provisions of ORS 320.170 to 320.195 and complies with the statute requirements.

320.173 Exemptions. Construction taxes may not be imposed on the following:

- (1) Private school improvements.
- (2) Public improvements as defined in ORS 279A.010.
- (3) 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 area in which the construction tax is imposed, for a period of at least 60 years following the date of construction of the residential housing.
- (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 that are operated by a not-for-profit corporation and that are:
  - (a) Long term care facilities, as defined in ORS 442.015;
  - (b) Residential care facilities, as defined in ORS 443.400; or
  - (c) Continuing care retirement communities, as defined in ORS 101.020. [2007 c.829 §3; 2009 c.534 §2]

**Finding:** The construction excise tax proposal included in Exhibit “A” includes the above list of exemptions and complies with ORS 320.173 Exemptions. In addition Exhibit “A” includes additional exemptions proposed by the Affordable Housing Commission which include:

- (8) Any improvements that are exempt from the construction excise tax under state law.
- (9) Any improvement funded by Construction Excise Tax proceeds, or other dedicated affordable housing funding through the City of Newberg. Such exemption is limited to the amount of the city’s investment in the improvement.
- (10) Non-living space located on residential property (e.g. shop buildings, garages).
- (11) Accessory dwelling units, accessory farm dwellings, seasonal farm worker housing, and temporary hardship dwellings, as defined in applicable state law or City land use regulations.
- (12) Improvements having a total improvement value of less than \$100,000.

320.176 Limitations; rates; adjustment by Department of Revenue. (1) Construction taxes imposed by a school district pursuant to ORS 320.170 may be imposed only on improvements to real property that result in a new structure or additional square footage in an existing structure and may not exceed:

- (a) \$1 per square foot on structures or portions of structures intended for residential use, including but not limited to single-unit or multiple-unit housing; and
- (b) \$0.50 per square foot on structures or portions of structures intended for nonresidential use, not including multiple-unit housing of any kind.

(2) In addition to the limitations under subsection (1) of this section, a construction tax imposed on structures intended for nonresidential use may not exceed \$25,000 per building permit or \$25,000 per structure, whichever is less.

(3)(a) For years beginning on or after June 30, 2009, the limitations under subsections (1) and (2) of this section shall be adjusted for changes in construction costs by multiplying the limitations set forth in subsections (1) and (2) of this section by the ratio of the averaged monthly construction cost index for the 12-month period ending June 30 of the preceding calendar year over the averaged monthly construction cost index for the 12-month period ending June 30, 2008.

(b) The Department of Revenue shall determine the adjusted limitations under this section and shall report those limitations to entities imposing construction taxes. The department shall round the adjusted limitation under subsection (2) of this section to the nearest multiple of \$100.

(c) As used in this subsection, “construction cost index” means the Engineering News-Record Construction Cost Index, or a similar nationally recognized index of construction costs as identified by the department by rule. [2007 c.829 §4; 2016 c.59 §5]

**Finding:** This ORS requirement is not applicable because the City of Newberg is not a school district imposing a construction excise tax and ORS 320.176 does not apply.

320.179 School district resolutions; collections; requirements. (1) A school district imposing a construction tax shall impose the tax by a resolution adopted by the district board of the school district. The resolution shall state the rates of tax, subject to ORS 320.176.

(2) Prior to collecting a construction tax, a school district shall enter into an intergovernmental agreement with each local government, local service district, special government body, state agency or state official collecting the tax that includes:

- (a) Collection duties and responsibilities;
- (b) The specific school district accounts into which construction tax revenues are to be deposited and the frequency of such deposits; and
- (c) The amount of the administrative fee that the entity or official collecting the tax may use to recoup expenses incurred in collecting the construction tax, either through retention or reimbursement. An administrative fee under this paragraph may not exceed four percent of tax revenues. [2007 c.829 §5; 2009 c.534 §§3,4]

**Finding:** The provisions of ORS 320.179 do not apply because the City of Newberg is not a school district.

320.183 Long-term facilities plan for capital improvements. (1) After deducting the costs of administering a construction tax and payment of refunds of such taxes, a school district shall use net revenues only for capital improvements.

(2) A construction tax may not be imposed under ORS 320.170 to 320.195 unless the school district imposing the tax develops a long-term facilities plan for making capital improvements. The plan shall be adopted by resolution of the district board of the school district.

(3) As used in this section, “capital improvements”:

(a) Means:

- (A) The acquisition of land;
- (B) The construction, reconstruction or improvement of school facilities
- (C) The acquisition or installation of equipment, furnishings or other tangible property;
- (D) The expenditure of funds for architectural, engineering, legal or similar costs related to capital improvements and any other expenditures for assets that have a useful life of more than one year; or
- (E) The payment of obligations and related costs of issuance that are issued to finance or refinance capital improvements.

(b) Does not include operating costs or costs of routine maintenance. [2007 c.829 §6]

**Finding:** The provisions of ORS 320.183 do not apply because the City of Newberg is not a school district.

320.186 Payment of obligations. A school district may pledge construction taxes imposed pursuant to ORS 320.170 to the payment of obligations issued to finance or refinance capital improvements as defined in ORS 320.183. [2007 c.829 §7; 2016 c.59 §6]

**Finding:** The provisions of ORS 320.186 do not apply because the City of Newberg is not a school district.

320.189 Payment of taxes. Construction taxes must be paid by the person undertaking the construction at the time that a permit authorizing the construction or the expansion of square footage of a facility or building is issued. [2007 c.829 §8; 2009 c.534 §5]

**Finding:** Exhibit “A” Section 3.60.050 A. states the following on payment of the construction excise tax “The construction excise tax is payable on issuance of a building permit for the construction of improvements. A building permit may not be issued until the construction excise tax is paid.” The provisions in Exhibit “A” are in compliance with ORS 320.189.

320.192 City or county ordinance or resolution to impose tax; requirements; payment of taxes. (1) The governing body of a city or county may impose a construction tax by adoption of an ordinance or resolution that conforms to the requirements of this section and ORS 320.195.

(2)(a) A tax may be imposed on improvements to residential real property that result in a new residential structure or additional square footage in an existing residential structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate of the tax. The tax may not exceed one percent of the permit valuation for residential construction permits issued by the city or county either directly or through the Building Codes Division of the Department of Consumer and Business Services.

**Finding:** The City of Newberg is proposing adoption of an ordinance for a construction excise tax. Exhibit “A” Section 3.60.030B. imposes a tax of 1% on new residential construction. The proposed ordinance additionally identifies a construction excise tax for adding additional living space, but if the permit value is under \$100,000 there is no construction excise tax imposed. The proposed ordinance is in compliance with ORS 320.192(2)(a) and (b).

(3)(a) A tax may be imposed on improvements to commercial and industrial real property, including the commercial and industrial portions of mixed-use property, that result in a new structure or additional square footage in an existing structure, including remodeling that adds living space.

(b) An ordinance or resolution imposing the tax described in paragraph (a) of this subsection must state the rate and base of the tax.

**Finding:** The City of Newberg is proposing adoption of an ordinance for a construction excise tax. Exhibit “A” Section 3.60.030A. imposes a tax of 1% on new commercial or industrial improvements. 100% of the tax is identified to go to affordable housing after deducting the administrative fee. The proposed ordinance is in compliance with ORS 320.192(3)(a) and (b).

(4) Taxes imposed pursuant to this section shall be paid at the time specified in ORS 320.189 to the city or county that imposed the tax.

**Finding:** Exhibit “A” Section 3.60.050 A. states the following on payment of the construction excise tax “The construction excise tax is payable on issuance of a building permit for the construction of improvements. A building permit may not be issued until the construction excise tax is paid..” The provisions in Exhibit “A” are in compliance with ORS 320.192.

(5)(a) This section and ORS 320.195 do not apply to a tax described in ORS 320.171 (2).

(b) Conformity of a tax imposed pursuant to this section by a city or county to the requirements of this section and ORS 320.195 shall be determined without regard to any tax described in ORS 320.171 (2) that is imposed by the city or county. [2016 c.59 §8]

**Finding:** The City of Newberg did not have a construction excise tax in place as of May 1, 2007, and had not held a public hearing before May 1, 2007.

320.195 Deposit of revenues; required uses. (1) As soon as practicable after the end of each fiscal quarter, a city or county that imposes a construction tax pursuant to ORS 320.192 shall deposit the construction tax revenues collected in the fiscal quarter just ended in the general fund of the city or county.

(2) Of the revenues deposited pursuant to subsection (1) of this section, the city or county may retain an amount not to exceed four percent as an administrative fee to recoup the expenses of the city or county incurred in complying with this section.

(3) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use the remaining revenues received under ORS 320.192 (2) as follows:

- (a) Fifty percent to fund developer incentives allowed or offered pursuant to ORS 197.309 (5)(c) and (d) and (7);
- (b) Fifteen percent to be distributed to the Housing and Community Services Department to fund home ownership programs that provide down payment assistance; and
- (c) Thirty-five percent for programs and incentives of the city or county related to affordable housing as defined by the city or county, respectively, for purposes of this section and ORS 320.192.

(4) After deducting the administrative fee authorized under subsection (2) of this section and paying any refunds, the city or county shall use 50 percent of the remaining revenues received under ORS 320.192 (3) to fund programs of the city or county related to housing. [2016 c.59 §9]

**Finding:** The Finance Department has researched the requirements of ORS 320.195(1) and concluded the collected revenues will be deposited in Fund 14 Economic Development Fund. The City of Newberg will retain 4% of the funds collected as an administrative fee to administer the program in compliance with ORS 320.195(2). Expenditure of funds will occur out of Fund 14 Economic Development Fund in compliance with ORS 320.195(3). The expenditures are identified in Exhibit "A" Section 3.60.090 in compliance with ORS 320.195(3). All funds generated from the construction excise tax will be used for housing programs as identified in Exhibit "A" Section 3.60.090 related to housing in compliance with ORS 320.195(4).

