

ORDINANCE NO. 929

AN ORDINANCE RELATING TO TAXATION, ESTABLISHING A CONSTRUCTION EXCISE TAX; AND DECLARING AN EMERGENCY

THE CITY OF CANBY HEREBY ORDAINS AS FOLLOWS:

Section 1. Short Title. This Chapter shall be known as the "construction excise tax ordinance" and may be so pleaded.

Section 2. Construction. The construction excise tax ordinance and all amendments hereinafter made thereto shall be referred to herein as "this chapter."

Section 3. Definitions. As used in this chapter unless the context requires otherwise:

- A. "Building Official" means any person charged by a municipality with responsibility for the administration and enforcement of a building code.
- B. "Building Permit" means a permit issued in accordance with the most recent State of Oregon Structural and Speciality Code or the State of Oregon One and Two Family Dwelling Specialty Code.
- C. "Construction" means any activity for which a building permit is required.
- D. "Contractor" means any person who performs construction for compensation.
- E. "Improvement" means the habitable living space of any newly constructed structure, modification of any existing structure to include additional habitable living space or manufactured housing for which a building permit or installation permit is required. Improvement does not include such things as decks, storage sheds, garages used for parking of cars, unfinished basements and attics, and other like additions which are not intended to be inhabited by the occupants.
- F. "Installation Permit" means a permit issued in accordance with the most recent State of Oregon Administrative Rules regarding standards for manufactured dwellings.
- G. "Manufactured Dwelling" means any building or structure designed to be used as a residence that is subject to regulations pursuant to ORS ch 446, as further defined in ORS 446.003(26).
- H. "Nonprofit Corporation" means those corporations developing housing projects directed at low to moderate income range residents.
- I. "Person" means and includes individuals, domestic and foreign corporations, societies, joint ventures, associations, firms, partnerships, joint stock companies, clubs or any legal entity whatsoever.

Section 4. Exemptions.

A. No obligation to pay the tax imposed by Section 7 shall arise from the construction of any improvement that is owned by any government entity whether federal, state or local, or upon any commercial construction that is intended for any occupancy other than residential.

B. The City Administrator shall pursuant to Sections 5 and 6 exempt from the duty to pay the tax imposed by Section 7 any person who would be entitled to rebate pursuant to Section 9.

Section 5. Rules and Regulations Promulgation. The City Council may promulgate rules and regulations necessary for the administration and enforcement of this chapter.

Section 6. Administration and Enforcement Authority.

A. The City Administrator shall be responsible for the administration and enforcement of this chapter.

B. In order to carry out the duties imposed by this chapter, the City Administrator shall have the authority to do the following acts, which enumeration shall not be deemed to be exhaustive, namely: Administer oaths; certify to all official acts; to subpoena and require attendance of witnesses before the Municipal Court to determine compliance with this chapter, rules and regulations; to require production of relevant documents at Court hearings; and take testimony of any person by deposition.

Section 7. Rate. An excise tax is imposed on every person who engages in the construction or installation of any improvement, including manufactured dwellings located within the corporate City limits. The tax shall be at the following rates:

<u>Square Footage of Improvement</u>	<u>Tax Rate</u>
The First 1,000 sq. ft.	\$.25/sq. ft.
The Next 500 sq. ft.	\$.50/sq. ft.
The Next 500 sq. ft.	\$.75/sq. ft.
Anything Above 2,000 sq. ft.	\$1.00/sq. ft.

The total tax shall be calculated upon the square footage of the improvement that appears on the building permit or, installation permit.

In the case of multi-family structures, such as duplexes, tri-plexes and apartment complexes, the tax shall be calculated on the square footage of each single unit (not the overall square footage of the building). The amount calculated for each single unit shall then be added together to calculate the total tax for the complex.

The tax shall be due and payable from the issuance of any building permit or installation permit for the improvement by any building authority. Liability for this tax shall be imposed upon every contractor or person who constructs or installs any improvement; provided, however, that only one tax must be paid on the construction or installation of any one improvement.

Section 8. Statement of Entire Floor Area Required. It shall be unlawful for any person to fail to state or to misstate the full floor area of any improvement or

manufactured dwelling. When any person pays the tax, within the time provided for payment of the tax, there shall be a conclusive presumption, for purposes of computation of the tax, that the floor area of the improvement or manufactured dwelling is the floor area as determined by the Building Official at the time of issuance of the building permit or installation permit.

Section 9. Rebates:

A. The City Administrator shall rebate to any person who has paid a tax the amount of tax actually paid, upon the person establishing that:

1. The tax was paid for the construction of a single family residence that was sold to its original occupant for a price less than \$100,000; provided that the maximum amount that may be refunded for any one residence is \$125; or

2, The person who paid the tax is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), or a limited partnership the sole general partner of which is a corporation exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3), the construction is used for residential purposes and the property is restricted to being occupied by persons with income less than fifty (50%) percent of the median income for a period of thirty (30) years or longer; or

3. The person who paid the tax is exempt from federal income taxation pursuant to 42 U.S.C. 501(c)(3) and the construction is dedicated for use for the purpose of providing charitable services to persons with incomes less than fifty (50%) percent of the median income.

Section 10. Refunds.

A. Upon written request, the City Administrator shall refund any tax paid upon the person who paid the tax establishing that construction was not commenced and that any building permit issued has been canceled as provided by law.

B. The City Administrator shall either refund all amounts due under this section within thirty (30) days of a complete application for the refund or give written notice of the reasons why the application has been denied. Any denial of any application may be appealed as provided for in Section 14.

Section 11. Failure to Pay. It shall be unlawful for any person to fail to pay all or any portion of the tax imposed by this chapter.

Section 12. Occupation of Improvement Without Payment Unlawful. It shall be unlawful for any person to occupy any improvement unless the payment of the tax imposed by this chapter has been provided as stated in Section 7 of this chapter.

Section 13. Enforcement by Civil Action. The tax and any penalty imposed by this chapter constitutes a debt of the person liable for the tax as set forth in Section 7 of this chapter and may be collected by the City in an action at law. If litigation is necessary to collect the tax and any penalty, the prevailing party shall be entitled to reasonable attorney fees at trial or on appeal. The Canby City Attorney is authorized to prosecute any action needed to enforce this chapter as requested by the City Administrator.

Section 14. Appeals. Any person who is aggrieved by any determination of the City Administrator regarding liability for payment of the tax, the amount of tax owed, or

the amount of tax that is subject to refund or rebate may appeal the determination to the Canby City Council. All appeals must be in writing and must be filed within ten (10) days of the determination by the City Administrator. No appeal may be made unless the person has first paid the tax due as determined by the City Administrator.

Section 15. Failure to Pay - Penalty. In addition to any other fine or penalty provided by this chapter, failure to pay the tax within fifteen (15) days of the date of issuance of any building permit for any improvement or installation permit for any manufactured dwelling shall result in a penalty equal to the amount of tax owed or \$50.00 whichever is greater.

Section 16. Violation-Penalty. In addition to any other civil enforcement provided herein, violation of this chapter shall be a violation and shall be punishable, upon conviction, by a fine of not more than five hundred dollars (\$500.00).

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, October 19, 1994, ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on Wednesday, November 2, 1994, commencing after the hour of 7:30 p.m., in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.

Marilyn K. Perkett
City Recorder

ENACTED by the Canby City council at a regular meeting thereof on November 2, 1994, by the follow vote: YEAS 4 NAY 2



Scott Taylor, Mayor

ATTEST:



Marilyn K. Perkett
City Recorder