



SCHOOL DISTRICT

Preparing children for an ever changing world

504 N. Third Ave. / PO Box 28
Rockaway Beach, OR 97136

Phone: 503-355-2222

Fax: 503-355-3434

www.nknsd.org

Date: Thursday, October 1, 2020

To: School Board

From: Mark Sybouts, Business Manager *Mark*

RE: Construction Excise Tax update

The School Board adopted Resolutions 08-4 on March 10, 2008 and Resolution 08-9 on June 23, 2008 regarding the implementation of a Construction Excise Tax, as authorized by ORS 320.170 to 320.189 (see attached). The Construction Excise Tax (CET) became effective September 1, 2008. All three school districts in Tillamook County authorized the tax during 2008. The CET is limited to a one time excise tax on new residential and commercial structures with many exemptions identified in law and the Intergovernmental Agreement that we entered into with the County and five of the six cities within the District. The state law allows the tax rate to increase each year, but Neah-Kah-Nie School District 56 chose to keep the original rates of \$1.00 per square foot of new residential buildings and \$0.50 per square foot for new commercial buildings. I have included information sheets that identify how to apply the construction excise tax to new structures within the district and what structures are exempt from the excise tax.

We have collected the following amounts over the years:

2008-09	\$ 74,452.25	2015-16	\$120,755.00
2009-10	\$ 77,159.00	2016-17	\$128,502.50
2010-11	\$ 91,187.00	2017-18	\$108,118.50
2011-12	\$ 74,720.00	2018-19	\$125,176.00
2012-13	\$ 52,433.90	2019-20	\$140,402.88
2013-14	\$ 80,072.50	2020-21	\$ 44,992.85
2014-15	\$ 75,431.50		

Please note that 2008-09 was only ten (10) months, and 2020-21 is only three (3) months.

We pay a 1% administrative fee to the County or City that collects and send the checks for the Construction Excise Tax to the District per our intergovernmental agreements.



**SCHOOL
DISTRICT**

Preparing children for an ever changing world

504 N. Third Ave. / PO Box 28
Rockaway Beach, OR 97136

Phone: 503-355-2222

Fax: 503-355-3434

www.nknsd.org

Implementation of the Construction Excise Tax required the development and regular update of a facilities plan that has evolved into our current Capital Improvement Plan that the School Board approves each year. The first page of that plan indicates the amount of Construction Excise Tax needed to help pay for the various capital improvements.

The following is a summary of the projects that the Construction Excise Tax has funded or has helped fund:

Renovation and energy efficiency upgrade for District office 2011-13
Preschool Brain Gym remodel 2014-15
High school fencing and gym hot water heater 2015-16
High school wheel chair lift replacement 2016-18
Garibaldi loading dock replacement 2016-18
High School Community Track replacement (portion of cost) 2017-18
High School Library/faculty room/art room roof replacement 2017-18
Garibaldi emergency supply shed construction 2017-18
District office ADA front door replacement 2017-18
Remodel of High School pole barn for Bussette indoor parking 2018-19
Welding Shop remodel (portion of costs) 2018-19
Restoration work on Football Field Grandstands 2018-19
Portable scoreboard for Softball 2018-19
High School Chemistry Lab remodel 2019-20
New Preschool doors 2019-20
Complete roof replacement at High School & Preschool (portion of cost) 2020-21

LOCAL CONSTRUCTION TAXES

320.170 Construction taxes imposed by school district. (1) Construction taxes may be imposed by a school district, as defined in ORS 330.005, in accordance with ORS 320.170 to 320.189.

(2) Notwithstanding subsection (1) of this section, construction taxes imposed by a school district may be collected by another local government, local service district or special government body pursuant to a written agreement with a school district. [2007 c.829 §2]

Note: 320.170 to 320.189 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapters 305 to 324 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

Note: Sections 1 and 9, chapter 829, Oregon Laws 2007, provide:

Sec. 1. (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 sections 2 to 8 of this 2007 Act [320.170 to 320.189].

(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 this section and sections 2 to 8 of this 2007 Act, construction taxes are limited to privilege taxes imposed under sections 2 to 8 of this 2007 Act 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]

Sec. 9. Section 1 of this 2007 Act is repealed on January 2, 2018. [2007 c.829 §9]

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). [2007 c.829 §3]

Note: See notes under 320.170.

320.176 Rates; limitations; adjustment by Department of Revenue. (1)

Construction taxes imposed under ORS 320.170 to 320.189 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]

Note: See notes under 320.170.

320.179 School district resolutions; 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 adopting a resolution under subsection (1) of this section, a school district shall enter into an intergovernmental agreement with each local government, local service district or special government body collecting the tax that establishes:

(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 collecting the tax may retain to recoup its expenses in collecting the tax, not to exceed one percent of tax revenues. [2007 c.829 §5]

Note: See notes under 320.170.

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 320.189 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]

Note: See notes under 320.170.

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

Note: See notes under 320.170.

320.189 Payment of taxes. Construction taxes shall be paid by the person undertaking the construction at the time that a permit authorizing the construction is issued. [2007 c.829 §8]

Note: See notes under 320.170.

Neah-Kah-Nie School District No. 56
Construction Excise Tax
Quick lookup sheet

Subject to the following
per Square Foot Rates

Description	\$1.00	\$0.50	Exempt
Gross living area of Residential Single & multi-unit houses	X		
Sunroom - openings into house without doors/windows that can be closed	X		
Unfinished basements	X		
Bonus rooms	X		
Garage			X
Carport			X
Covered walkway			X
Exterior deck			X
Covered Exterior porch			X
Patio cover (screened or open)			X
Accessory structures: garden shed, shops, ramadas			X
Sunroom - with closing doors/windows between it and a house			X
Residential structure moved from a different property	X		
Structure moved or replaced on same property			X
Manufactured dwelling	X		
Sunroom - openings into house without doors/windows that can be closed	X		
Cabanas	X		
Garage			X
Carport			X
Covered walkway			X
Exterior deck			X
Covered Exterior porch			X
Patio cover (screened or open)			X
Accessory structures: garden shed, shops, ramadas			X
Sunroom - with closing doors/windows between it and a house			X
Manufactured dwelling replacing existing dwelling in a manufactured home park			X
Hotel, Motel, Transient Boarding Houses, Convents, College Dormitories, Fraternity and Sorority uses		X	
Other commercial, industrial or non-residential structures		X	
Roof replacement - residential or commercial/non-residential			X
Habitat for Humanity homes			X
Private School Improvements - ORS 320.173 (1)			X
Public Improvements as defined in ORS 279A.010 - ORS 320.173 (2)			X
HUD affordable housing - ORS 320.173 (3)			X
Public or private hospital improvements - ORS 320.173 (4)			X
Improvements to religious facilities - ORS 320.173 (5)			X
Agricultural buildings, as defined in ORS 455.315 (2)(a) - ORS 320.173 (6)			X
Replacement residential or non-residential structure up to same square footage on record			X
Replacement residential structure over same square footage on record	X		
Replacement non-residential structure over same square footage on record		X	

For other items, please see two page Construction Excise Tax Implementation Information sheet.

Neah-Kah-Nie School District No. 56
Construction Excise Tax Implementation Information

The following method is to be used to determine if the Construction Excise Tax (CET) is applicable and how it is to be calculated:

- Square footage of residential uses shall include single-unit and multiple-unit houses including non-transient boarding houses, adult foster homes, and congregate living facilities; and dormitories (as defined in the State Building Code) shall include the gross floor area of the building or addition measured from the outside of the wall to the outside of the wall and shall include the square footage of unfinished basements or bonus rooms, but shall not include the gross floor area of a garage, carport, covered walkway, exterior deck, covered exterior porch, patio cover (screened or open), sunroom (unless the sunroom has openings into the house that are without doors or windows that can be closed), and accessory structures such as garden sheds or shops and ramadas.
- Square footage of residential use shall include the gross floor area of a manufactured dwelling or an addition thereto measured from the outside of the wall to the outside of the wall and include the area of cabanas, but shall not include the gross floor area of a garage, carport, covered walkway, exterior deck, covered exterior porch, patio cover (screened or open), sunroom (unless the sunroom has openings into the house that are without doors or windows that can be closed), and accessory structures such as garden sheds or shops and ramadas. Square footage of residential use shall not include a manufactured home that replaces an existing manufactured home located in a manufactured home park.
- Square footage of a residential use shall include the gross floor area of a moved residential building (unless it is moved to a different location on the same property) measured from the outside of the wall to the outside of the wall and shall include the square footage of unfinished basements or bonus rooms but shall not include the gross floor area of a garage, carport, covered walkway, exterior deck, covered exterior porch, patio cover (screened or open), sunroom (unless the sunroom has openings into the house that are without doors or windows that can be closed), and accessory structures such as garden sheds or shops and ramadas.
- Square footage of hotel, motel, transient boarding houses, convents, college dormitories, fraternity, and sorority uses shall be considered nonresidential uses.
- Square footage of non-residential uses shall include the gross floor area of the building or addition measured from the outside of the wall to the outside of the wall or where no wall exist shall include the useable area under the horizontal projection of the roof or floor above.
- Where an existing residential or non-residential use is removed from a property (in part to in total), a credit towards the CET for a new use shall be applied based on the square footage and use of existing building. No CET credit shall be applied if there is no record of the square footage of the existing use. Unless authorized by the District, credits are non-transferable to other properties.
- The CET shall be applicable to building permit applications received on or after the effective date of the Intergovernmental Agreement (IGA) between the District and the

City and or County that will be collecting the CET. Should an increase in the CET be authorized, the new rate shall be applicable to all building permit applications received on or after the effective date of the increase. Any building permit application received prior to the effective date of the IGA or increase shall be subject to the CET or increase if the fee has not been paid or the building permit issued within six months of the effective date of the IGS or increase.

- The CET shall not apply to structures that do not require a building permit, cell towers, water tanks, retaining walls, swimming pools, private bridges, roof replacements, or covered play structures.
- CET fees may be refunded if they are collected in error or the CET is paid for a development that will not be constructed. Requests for refund must be in writing and submitted to the District at Neah-Kah-Nie School District No. 56, P.O. Box 28, Rockaway Beach, OR 97136-0028, not more than 12 months from the date the CET was paid.