

WASHINGTON COUNTY ORDINANCE PRIOR TO ENACTMENT

Pages



ORDINANCE

751

FOR WASHINGTON COUNTY CLERK'S USE ONLY



1 IN THE BOARD OF COUNTY COMMISSIONERS
2 FOR WASHINGTON COUNTY, OREGON

3
4 ORDINANCE No. 751

An Ordinance Amending Washington County Code
Section 3.17, the Transportation Development Tax,
Adopting a Temporary Discount for Change in Use
Developments

6
7 The Board of County Commissioners of Washington County, Oregon, ordains as follows:

8 SECTION 1. FINDINGS:

9 A. The Transportation Development Tax set forth in County Code Chapter 3.17 was
10 adopted by Ordinance 691-A and amended by Ordinances 729 and 741.

11 B. The Transportation Development Tax is an important component of funding for
12 transportation facilities within the county, including within cities.

13 C. The Washington County Coordinating Committee has recommended that the
14 Transportation Development Tax ("TDT") is in need of amendment to provide a temporary TDT
15 discount to redevelopment of existing buildings for which a change of TDT use category occurs.
16 This discount is intended to target a TDT tax benefit to a defined scope of developments, excluding
17 residential uses, that redevelop existing structures, in order to encourage small business
18 development during the continuing economic downturn.

19 D. Exhibit "A" attached hereto and by this reference incorporated herein, includes the
20 changes to the Washington County Code to implement a temporary TDT rate reduction for
21 redevelopment of existing buildings and structures that constitute a change in TDT use category.

22 E. The effect of this change in the Code will result in a decrease in the Transportation

1 Development Tax in some cases, will not cause an increase in any case, and therefore this
2 Ordinance does not require referral to the voters.

3 SECTION 2

4 WCC 3.17 is hereby amended to add new section 3.17.190, as set forth in Exhibit "A" attached
5 hereto and by this reference incorporated herein. New matter is underlined, and deleted matter is
6 ~~stricken~~.

7 SECTION 3

8 The discount adopted by this Ordinance shall be temporary, and shall terminate at the close of
9 business June 30, 2015. In no event shall a change in use discount be granted for any TDT due or
10 paid on or after July 1, 2015, except for amounts paid under a Bancroft agreement executed before
11 that date. On or after that date, the TDT shall be determined under the remaining provisions of
12 County Code Chapter 3.17, without regard to any discount under this Ordinance.

13 SECTION 4

14 If any portion of this Ordinance shall for any reason be held invalid or unconstitutional by a court
15 of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full
16 force and effect. In the event that this Ordinance or any portion thereof is invalidated on
17 jurisdictional grounds, the provisions of Washington County Code Chapter 3.17 amended or
18 repealed by the stricken portion of this Ordinance, shall be revived and again be considered in full
19 force and effect.

20 SECTION 5

21 The Office of County Counsel is authorized to codify this Ordinance, including deleting and adding
22 textual material and maps, renumbering pages or sections, and making any technical changes not

1 affecting the substance of these amendments, as part of the Washington County Code.

2 SECTION 6

3 This Ordinance shall take effect thirty (30) days after adoption.

4 ENACTED this _____ day of _____, 2012, being the _____ reading and
5 _____ public hearing before the Board of County Commissioners of Washington County, Oregon.

6 ENACTED this _____ day of _____, 2012, being the _____ reading and
7 _____ public hearing before the Board of County Commissioners of Washington County, Oregon.

8 **BOARD OF COUNTY COMMISSIONERS**
9 **FOR WASHINGTON COUNTY, OREGON**

10 _____
11 *CHAIRMAN*

12 _____
13 *RECORDING SECRETARY*

14 READING

14 PUBLIC HEARING

15 First _____

15 First _____

16 Second _____

16 Second _____

17 Third _____

17 Third _____

18 Fourth _____

18 Fourth _____

19 Fifth _____

19 Fifth _____

20 VOTE: *Aye*: _____

20 *Nay*: _____

21 Recording Secretary: _____ Date: _____

22

Washington County Code Chapter 3.17 is hereby amended to add the following:

3.17.190 Temporary Discount for Change-In-Use Developments

- A. The purpose of this section is to provide a TDT discount to a defined group of new or altered uses within existing structures. The discount provided in this section is temporary, and will expire at the close of business June 30, 2015. This tax benefit is targeted to developments that reuse or redevelop existing structures, as defined. To receive a Change in Use discount under this section, the building and the proposed change in use must meet all applicable TDT code provisions, and a complete application must be timely filed with the Department, and approved by the Director.
- B. For developments eligible for a Change in Use discount under this section, the applicable TDT shall first be calculated as otherwise provided in this Chapter. The Change in Use discount, if applicable, shall be applied to the TDT as so calculated, following the Director's decision on the application.
- C. Developments eligible for a Change in Use discount shall include all developments, as defined in 3.17.030Q, except those that construct a new building. Demolition of an existing structure followed by construction of a new building is deemed to be construction of a new building, and is not eligible. For any development that adds net square footage to an existing building, the added square footage shall not be eligible for the discount. For purposes of this section, "change in use" is defined as the development or redevelopment of an existing building for which a TDT is required to be paid, and for which a previous lawful use existed and paid TDT or TIF, or was lawfully established prior to the adoption of countywide TIF in 1990.
- D. To receive a Change In Use Discount, the development also must meet the following requirements:
1. The development is a physical alteration to an existing building, or change in use of the building, for which a Transportation Development Tax is otherwise due according to this chapter 3.17, and for which a change in TDT land use category under Appendix A, occurs.
 2. Prior to the Change in Use, the building was lawfully built and occupied with a previous use. The first use or occupancy of a building, regardless of the age of the building, shall not be eligible for a change of use discount.
 3. The TDT or TIF for the previous use was paid, or the previous use was lawfully established prior to the adoption of countywide TIF in 1990.

4. The proposed use must be one of the land use categories listed in Appendix A to this Chapter that are calculated based on Total Square Foot Gross Floor Area or Total Square Foot Gross Leasable Area. Other land use categories shall not be eligible.

E. Change in Use developments in the following buildings are eligible for a Change in Use discount:

1. Category 1 is a building that is three years old or older, based on the date of the certificate of occupancy of the building, as of the date of submittal of a discount application.
2. Category 2 is a building that is twenty years old or older, based on the date of the certificate of occupancy of the building, as of the date of submittal of a discount application.

F. The temporary discount for Change in Use Developments is as follows:

1. Category 1: Fifty percent of the TDT that would otherwise be due; and
2. Category 2: Seventy-five percent of the TDT that would otherwise be due.

If a building includes a portion that is Category 1, and a portion that is Category 2, and the change in use premises is located in both portions, the discount shall be determined by the square footage within each section of the building.

G. The discount shall be applied to the first five thousand square feet of gross floor area of each proposed use that constitutes a change in use. For any change in use development that exceeds five thousand square feet of gross floor area, the TDT applicable to the remaining square footage shall be calculated as otherwise provided in this Chapter.

H. No more than one Change-in-Use discount shall be allowed for any specific space or premises within a building within any two-year period. No more than one Change in Use discount shall be allowed for a particular land use category listed in Appendix A within a single building, within any two-year period. A discount may be allowed for multiple change in use developments within a single building, so long as they are of different land use categories. In the event multiple discount applications are submitted for one building, the developments otherwise would qualify, but only one discount is allowed under this section, the application submitted first shall receive the discount.

I. Application

1. The Director may adopt an application form for the Change in Use discount.
2. A complete application must be submitted, signed by the property owner, development applicant, and occupant or proposed occupant of the structure or portion

thereof, for which a discount is requested. The Director shall have sixty (60) days in which to render a decision on an application. It is the applicant's responsibility to submit an application in sufficient time to allow for a decision prior to issuance of a building or occupancy permit. Submittal of an application shall constitute consent by the applicant that a building or occupancy permit will not be issued for sixty (60) days from the date of the discount application or the date of the Director's decision, if earlier. The application shall state the name of the person or entity who will be paying the TDT. No application for the TDT Change in Use discount shall be accepted or acted upon after the TDT has been paid. An application for Change in Use discount may be withdrawn at any time by written notice to the Director, signed by the applicant, owner, and proposed occupant.

3. The application must include all information required in this section 3.17.190 to make a determination of applicability of the change in use discount. It shall provide satisfactory evidence of each fact relating to the eligibility of the development for the discount, including but not limited to building age, payment of prior TIF or TDT, and the nature and extent of the previous use and the proposed use. The applicant has the burden of proof as to every fact necessary to make a determination as to eligibility for the Change in Use discount under this section.
 4. If an application is incomplete, the Director shall notify the applicant within ten (10) days. The applicant shall have ten (10) days from the date the notice was sent to provide additional information needed to complete the application. If the applicant does not submit sufficient information following notice, the Director may deny the application.
 5. The application shall include a drawing depicting the building and the premises within the building to which the Change In Use discount will apply.
 6. The application shall state the TDT use category for the previous use and for the proposed use, and the names of the occupants of the previous use and proposed use.
 7. The application shall include a statement of the square footage of the proposed use. If the proposed use is part of a building alteration that increases the net square footage, the application shall indicate if the proposed use is to be located in whole or in part within the newly built portion of the building.
- J. The Director shall consider the information in the application, and may review additional information relating to the application, including records of building permits, tax records, and any other information that he or she deems credible to determine or verify any matter required for his or her decision.

- K. If the Director finds that an application for the Change in Use discount includes a material misstatement of fact, that determination shall be grounds for denial of the application.
- L. The Director shall render a decision on an application for the Change in Use Discount in writing within sixty (60) days. The Director shall approve the application in whole or in part, or deny the application. If the decision is to approve in part or deny the application, the decision shall state the reasons for the denial. An applicant who disagrees with the Director's decision may appeal as provided in Section 3.17.150B.
- M. If the Director's decision is to approve, in whole or in part, the application for the Change in Use discount, the approved discount as stated in subsections F and G above shall be applied to the TDT assessment as otherwise calculated in this Chapter 3.17.
- N. The Change In Use discount provided in this section shall apply only to TDT taxes that are paid in full on or before June 30, 2015, or for which a complete application for installment (Bancroft) payment is received by that date. Developments that defer payment of TDT to occupancy shall be eligible for the Change In Use discount only if the TDT is paid in full by June 30, 2015. Except as provided in this paragraph for Bancroft payment, the discount provided in this Section shall terminate at the close of business on June 30, 2015. TDT for all developments paid on or after July 1, 2015, shall be determined as otherwise provided in this Chapter, without regard to the discount provided in this section 3.17.190.