

ORDINANCE NS-2446

AN ORDINANCE AMENDING BEND MUNICIPAL CODE CHAPTER 12, REVENUE AND TAXATION, TO CREATE NEW CHAPTER 12.30, NON-PROFIT TAX EXEMPTION

Findings

- A. The Bend City Council has determined that the availability of affordable housing is a critical aspect of a healthy community and that there is a lack of affordable housing in Bend. This ordinance is intended to further the Bend City Council's goal of increasing the supply of affordable housing in Bend by stimulating the creation of and maintaining existing affordable units in the city.
- B. In 1985, the Oregon legislature authorized a property tax exemption for low-income housing held by charitable, non-profit organizations. Recently, the legislature has renewed and extended this program to 2027.
- C. The Non-Profit Affordable Housing Property Tax Exemption, codified by ORS 307.540 to 307.548, will lower costs for certain providers of low-income housing, which is an identified need in the community, and support a diverse housing stock for all City residents. The amendments to chapter 12.30 made by this ordinance are consistent with ORS 307.540 to 307.548.
- D. The City of Bend now wishes to adopt this property tax exemption into the Bend Municipal Code for ease of administration.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Municipal Code is amended by adding Chapter 12.30 as shown on the attached Exhibit A.

Section 2. As required by ORS 307.543(1), the City Council hereby elects to define "low-income" to mean for the initial year that persons occupy property for which an application is filed under ORS 307.545, income at below 60% of the Area Median Income as determined by the Oregon Housing Stability Council based on information from the United State Department of Housing and Urban Development; and for every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of the Area Median Income as determined by the Oregon Housing Stability

Council based on information from the United States Department of Housing and Urban Development.

For housing units on property that is awarded tax credits through the federal Low Income Housing Tax Credit program and is a qualified low-income housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), income at or below 80 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development, provided the average area median income of all housing units on the property is at or below 60 percent of the area median income as determined by the Oregon Housing Stability Council based on information from the United States Department of Housing and Urban Development.

First Reading: June 1, 2022

Second Reading and Adoption by Roll Call Vote: June 15, 2022

YES: Mayor Gena Goodman-Campbell
Mayor Pro Tem Anthony Broadman
Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Megan Perkins

NO: none

ABSTAIN: Councilor Stephen Sehgal
Councilor Mo Mitchell



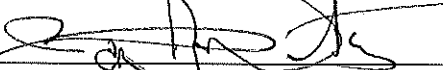
Gena Goodman-Campbell, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

Chapter 12.30 Non-Profit Property Tax Exemption

Sections:

12.30.010 Definitions

12.30.015 Criteria for Exemption

12.30.020 Application for Exemption

12.30.025 Determination of Eligibility for Exemption; Notice to the County Assessor

12.30.030 Property Tax Exemption

12.30.035 Termination

12.30.040 Regulatory Power

12.30.010 Definitions

The following definitions apply in this chapter:

(A) **Area Median Income** or **AMI** means the Area Median Income as determined by the most recent United States Department of Housing and Urban Development for the Bend Metropolitan Statistical Area at the time of the household's application for housing.

(B) **Low-income Person or Persons** means, for the initial year that persons occupy property for which an application for exemption is filed, households with income at or below 60 percent of AMI, and for every subsequent consecutive year that the persons occupy the property, income at or below 80 percent of AMI; and, in cases where an approved Low Income Housing Tax Credit (LIHTC) development is using income averaging as approved by Oregon Housing and Community Services, means households with income at or below 80% AMI.

12.30.015 Criteria for Exemption

The City Council shall approve a property tax exemption under this chapter if all of the criteria below are satisfied:

(A) The property is owned or being purchased by a corporation described in Section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income taxation under 501(a) of the Internal Revenue Code, and upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for

religious, charitable, scientific, literary or educational purposes or to the State of Oregon.

(1) For purposes of subsection 1 of this section, a corporation that only has a leasehold interest in property is deemed to be a purchaser of that property if:

- (a) The corporation is obligated under the terms of the lease to pay the valorem taxes on the real and personal property used in this activity on that property; or
- (b) The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.

(2) A partnership shall be treated the same as a corporation to which this section applies if the corporation is:

- (a) A general partner of the partnership; and
- (b) Responsible for the day-to-day operation of the property that is the subject of the exemption

(B) The property is:

- (1) Occupied by low-income persons or held for the purpose of developing low-income housing;
- (2) At the time of application, and throughout the period of exemption, maintained in a safe and habitable condition; and
- (3) Located in the Bend city limits.

(C) The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in Section 501(c)(3) or of the Internal Revenue Code.

(D) The corporation:

- (1) Is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency;
- (2) Has not, within the three-year period preceding the application, been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; or been convicted of any Federal or State statutes of embezzlement, theft, forgery, bribery, falsification, destruction of records, making false statements, receiving stolen property, or any other offense indicating a lack of business integrity or business honesty; and

(3) Is not presently indicted for or otherwise criminally or civilly charged by a Federal, State, or local government entity with commission of any of the offenses enumerated in subsection (A)(5)(b) of this section.

12.30.020 Application for Exemption

(A) To seek the exemption the corporation shall file an application for exemption with the City for each assessment year the corporation wants the exemption. The applicant shall verify the information in the application by oath or affirmation.

(B) The application must be filed on or before March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 1 and before July 1, the application for that year must be filed within 30 days after the date of acquisition.

(C) The application must include the following information:

- (1) A description of the property for which the exemption is requested;
- (2) A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
- (3) A certification of income levels of low-income occupants;
- (4) A description of how the tax exemption will benefit project residents;
- (5) A description of the planned development of the property if the property is being held for low-income housing development;
- (6) A declaration certifying that the corporation has been granted exemption from income taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code; and
- (7) A description of how the corporation and the property meet the criteria provided in 12.030.015.

12.30.025 Determination of Eligibility for Exemption; Notice to the County Assessor

(A) Within 30 days of the filing of an application, the City Council must determine whether the applicant qualifies for the exemption granted, and if the property has multiple uses, what portion of the property is used for housing for Low-Income Persons. Only the portion of the property used for housing for Low-Income Persons is eligible for a property tax exemption under this chapter.

(B) If the City Council determines the applicant qualifies, then the City must certify to the County Assessor that all or a portion of the property is exempt from taxation under the levy of the City.

(1) Notwithstanding paragraph (A) of this section, the City may send the certification required under this section on or before the deadline specified in ORS 307.512, or as promptly as practicable after making the determination under subsection (A) of this section, whichever is later.

(C) Upon receipt of certification under subsection B of this section by the County Assessor, the property will be exempt from taxation as described in ORS 307.547(3) to the extent certified by the City.

12.30.030 Property Tax Exemption

(A) The exemption granted under this chapter applies only to the tax levy of the City, except that the tax exemption applies to the ad valorem property taxes of all taxing districts when upon request of the City, the rates of ad valorem taxation of taxing districts whose governing boards agree by resolution to the tax exemption for the project, when combined with the rate of taxation of the City, equal 51 percent or more of the total combined rate of taxation levied on the property which is tax exempt under ORS 307.600 to 307.637.

(B) Application is required for each assessment year the property tax exemption is desired.

(C) Applications for property tax exemption under this chapter are eligible for property tax exemptions for tax years beginning on or after July 1, 2023.

(D) The exemption provided for in this chapter is in addition to any other exemption provided by law.

12.30.035 Termination

(A) If the City determines that property that has received an exemption under this chapter in anticipation of future development of low-income housing is being used for any purposes other than the provision of low-income housing, or that any provision of this chapter is not being complied with, the City must give notice of the proposed termination of the exemption to the owner by mailing the notice to the last known address of the owner, and to every known lender by mailing the notice to the last known address of every known lender. The notice must state the reasons for the proposed termination and require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

(B) If the owner fails to appear and show cause why the exemption should not be terminated, the City must notify every known lender, and must allow any lender not less than 30 days after the date the notice of failure to appear and show cause is mailed to cure any noncompliance or to provide adequate assurance to the governing body that all noncompliance shall be remedied.

(C) If the owner fails to appear and show cause why the exemption should not be terminated, and the lender fails to cure or give adequate assurance of the cure of noncompliance, the City Council must adopt a resolution stating its findings that terminate the exemption. A copy of the resolution must be filed within 10 days after its adoption with the County Assessor, and a copy must be sent to the owner at the owner's last known address and to the lender at the last known address of the lender within 10 days of its adoption.

(D) Pursuant to ORS 307.548(4), upon the County Assessor's receipt of the governing body's termination findings, the exemption granted to the housing unit or portion under this chapter terminates immediately, without right of notice or appeal and the provisions of ORS 307.548(4) apply to taxation of the property.

12.30.040 Regulatory Power

The City Manager may issue rules necessary for the implementation of this exemption.