

ORDINANCE NO. 891

**AN ORDINANCE AMENDING TITLE 3 OF THE
SCAPPOOSE MUNICIPAL CODE RELATING TO AN AFFORDABLE HOUSING TAX
EXEMPTION PROGRAM FOR NONPROFIT HOUSING PROVIDERS**

WHEREAS, State of Oregon statutes ORS 307.540 through 307.548 authorize cities to establish a process for exemption from property tax for nonprofit corporation low income housing; and

WHEREAS, Policy 4 of the Housing Section of the City's Comprehensive Plan is "to provide opportunity for development of housing affordable to low- and moderate-income households, including government assisted housing"; and

WHEREAS, Goal 5 of the Housing Section of the City's Comprehensive Plan is "to support development of low-income and workforce-affordable housing through development of land use policies that allow and encourage affordable housing production and working with agencies and developers of affordable housing"; and

WHEREAS, the 2017 City of Scappoose Housing Needs Analysis indicates that more than half of renter households are cost burdened and recommends that the City develop policies such as a tax abatement program to support the production of affordable housing; and

WHEREAS, the City held 6 work sessions to consider what policies are most appropriate to implement at this time to support the production of affordable housing in the City of Scappoose and Council indicated support at this time for a Nonprofit Low-Income Rental Housing Tax Exemption; and,

WHEREAS, ORS 307.540 to 307.548 provides that if jurisdictions or special district service providers representing more than 51% of a property's total tax obligation resolve to exempt the property from taxation, then the remainder of those taxing districts must follow suit; and,

WHEREAS, over the preceding months staff has met with public agency partners and believes that sufficient support exists to warrant a program; now therefore,

THE CITY OF SCAPPOOSE ORDAINS AS FOLLOWS:

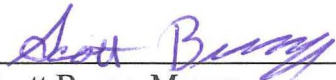
Section 1. The Scappoose Municipal Code Chapter 3.34 – Nonprofit Low-Income Rental Housing Tax Exemption, is hereby established as depicted in Exhibit A.

Section 2. The Nonprofit Low-Income Rental Housing Tax Exemption described in Chapter 3.34 shall become effective upon receipt of written support from a sufficient number of taxing jurisdictions whose combined levying authority on a typical City of Scappoose property exceeds 51%.

Section 3. This ordinance shall take effect 30 days after passage.

PASSED AND ADOPTED by the City Council this 10th day of August 2020 and signed by the Mayor and City Recorder in authentication of its passage.


CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: July 20, 2020
Second Reading: August 10, 2020

Attest:



Susan M. Reeves, MMC
City Recorder

Chapter 3.34

NONPROFIT LOW INCOME RENTAL HOUSING TAX EXEMPTION

Sections:

- 3.34.010 Short title.
- 3.34.020 Definitions.
- 3.34.030 Criteria for Exemption.
- 3.34.040 Application Procedure.
- 3.34.050 Review of Application and Notice to County Assessor.
- 3.34.060 Duration and Extent of Exemption.
- 3.34.070 Termination of Exemption.
- 3.34.080 Delegation of Administrative Authority.

3.34.010 Short title.

The ordinance codified in this chapter shall be known as the "Nonprofit Low Income Rental Housing Tax Exemption" of the city. (Ord. XXX §1, XXXX)

3.34.020 Definitions.

The following words shall have the meanings respectively ascribed to them in this section, when used in this chapter, excepting in those instances where the context indicates a different meaning:

"Low income" means for income 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 for Columbia County during the initial year that persons occupy the subject property; and 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 Columbia County for every subsequent consecutive year that the persons occupy the property.

"Eligible nonprofit corporation" means a corporation described in section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income taxation under section 501(a) of the Internal Revenue Code, subject to the following criteria:

- A. 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.
- B. The corporation is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency.
- C. Officers of the corporation, and former Officers who have worked for the Corporation in the last three years:

1. Have not, within the three-year period preceding the application, been convicted of or had a civil judgment rendered against them 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
 2. Are 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 (C)(1) of this Section.
- D. A partnership shall be considered an eligible nonprofit corporation if a corporation that meets all criteria enumerated in Subsections (A) through (C) of this Section is:
1. A general partner of the partnership; and
 2. Responsible for the day-to-day operation of the property that is the subject of the exemption.

“City Manager” means the City Manager or City Manager’s designee.

“Taxing district consent” means that the governing boards of taxing districts that, when combined with the City of Scappoose’s rate of taxation, equal 51 percent or more of the total combined rate of taxation for the property certified for exemption, have agreed to the policy of exemption.

3.34.030 Eligibility Criteria for Exemption.

Property that meets all of the following criteria shall be eligible for exemption from taxation as provided in this Chapter.

- A. The property is owned or being purchased by an eligible nonprofit corporation. A corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:
 1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or
 2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
- B. The property is:
 1. Occupied by low income persons; or
 2. Held for the purpose of developing low income housing.

3.34.040 Application Procedure.

- A. To qualify for the exemption under this chapter, an eligible nonprofit corporation must file an application for exemption with the City of Scappoose for each assessment year the corporation wants the exemption. The application must be filed on or before March 1 of the assessment year for which the exemption is sought, 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. The application must include the following information, as applicable:

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 development of the property if the property is being held for future low income housing development; and
 6. A declaration 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 meets the criteria specified in 3.34.010.
- B. The applicant shall verify the information in the application by oath or affirmation.

3.34.050 Review of Application and Notice to County Assessor.

- A. Within 30 days of the filing of an application under 3.34.040, the City Manager shall determine whether the applicant qualifies for the exemption granted under this chapter.
- B. If the City Manager determines that the applicant qualifies, the City Manager shall certify to the Columbia County assessor of the county where the real property is located, as set forth in ORS 307.512, that all or a portion of the property is exempt from taxation.
- C. If the City Manager has previously determined that the applicant qualified for the exemption granted under this chapter, then the City Manager shall use the criteria that were in place when the applicant was first granted the exemption for the property each year the applicant reapplies for the exemption.
- D. If the application is approved, the City Manager shall send written notice of approval to the applicant.
- E. If the application is denied, the City Manager shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial.
- F. Notwithstanding subsection (B) of this section, the City Manager may send the certification required under this subsection 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.
- G. Upon receipt of certification sent pursuant to subsection (B) of this section, the county assessor shall exempt the property from taxation to the extent certified by the governing body.

3.34.060 Duration and Extent of Exemption.

- A. Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning July 1 of the tax year immediately following approval of the exemption, or

when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.

- B. Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years specified as eligible for exemption in ORS 307.540 through 307.548.
- C. For property held for future low income housing development, the exemption shall be granted for a maximum of five years unless an extension is approved by the City Council. Council may use any of the following factors to determine whether to grant or deny an extension to the corporation including, but not limited to:
 - 1. Whether the corporation has created any designs for the proposed development of low-income housing on the property;
 - 2. Whether the corporation has applied for, or received, any permits relating to development of low-income housing on the property;
 - 3. Whether the corporation has applied for, or received, any private or public funding for development of low-income housing on the property, including any tax credits;
 - 4. Whether the corporation has contracted with another party to begin development of low-income housing on the property;
 - 5. Whether the corporation has made any site improvements towards development of low-income housing on the property; or
 - 6. Whether there was any uncontrollable or unforeseeable act or circumstance beyond the corporation's reasonable control that caused or is causing the delay in developing the low-income housing on the property.
- D. The exemption shall apply as follows:
 - 1. If occupied, to the portion of the property, including land and improvements, that is actually and exclusively used for the purposes described in section 501(c)(3) or (4) of the Internal Revenue Code.
 - 2. If held for the purpose of developing low income housing, to the land only.
- E. At any time, the City Council may, by motion or upon request by the governing boards of overlapping taxing districts, set a limit on the maximum amount of foregone tax revenue provided as a benefit of the exemption under this Chapter for properties that are applying for the exemption for the first time.
- F. The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in which the property certified for exemption is located provided that the City of Scappoose has secured taxing district consent, as defined in 3.34.010.

3.34.070 Termination of Exemption.

- A. If the City of Scappoose has granted an exemption under this Chapter to property in anticipation of future development of low income housing in connection with the exempt property finds that the property is being used for any purpose other than the provision of low income housing, or that any provision of this Chapter is not being complied with, the City shall 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.
- B. The notice required under this section shall state the reasons for the proposed termination and shall 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.
 - C. If the owner fails to appear and show cause why the exemption should not be terminated, the City shall notify every known lender, and shall allow any lender not less than 30 days after the date the notice of the failure to appear and show cause is mailed to cure any noncompliance or to provide assurance adequate to the governing body that all noncompliance will be remedied.
 - D. 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 any noncompliance, the City Council shall adopt an ordinance or resolution stating its findings that terminate the exemption.
 - E. A copy of the ordinance or resolution required under this section shall be filed within 10 days after its adoption with the county assessor, and a copy shall 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 after its adoption.
 - F. Upon the county assessor's receipt of the City's termination findings:
 - 1. The exemption granted the housing unit or portion under this Chapter terminates immediately, without right of notice or appeal;
 - 2. The property shall be assessed and taxed as other property similarly situated is assessed and taxed; and
 - 3. Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the presentation or discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property had it not been exempt under this Chapter for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under this Chapter, beginning with the calendar year in which the non-compliance first occurred.
 - G. Notwithstanding subsection (F) of this section, if at the time of presentation or discovery, the property is no longer exempt, additional taxes may be collected as provided in subsection (F) of this section, except that the number of years for which the additional taxes shall be collected shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption, beginning with the oldest year for which additional taxes are due.
 - H. The assessment and tax rolls shall show potential additional tax liability for each property granted exemption under this Chapter because the property is being held for future development of low income housing.
 - I. Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.

3.34.080 Delegation of Administrative Authority.

The Scappoose City Council hereby delegates to the City Manager and Scappoose City Attorney all authority necessary to make all determinations and otherwise administer the provisions of this chapter, excepting determinations and actions required to be made or taken by the City Council as specified herein.