

AN ORDINANCE TO ADOPT A NEW CITY CODE CHAPTER 3.20 ENABLING THE CITY OF BEAVERTON TO ADMINISTER AN AFFORDABLE HOUSING TAX EXEMPTION PROGRAM FOR NON-PROFIT HOUSING PROVIDERS

- WHEREAS,** Goal 10 of Oregon's Statewide Planning Goals and Guidelines require that "...plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility on housing location, type, and density"; and
- WHEREAS,** the latest American Community Survey data calculates that approximately 30 percent of the city's households earn less than 60 percent of the area median income and over nine percent live in poverty; and
- WHEREAS,** the City of Beaverton recently commissioned a study (the Beaverton Civic Plan) that found higher income households occupy a large segment of housing that would otherwise be affordable to low-income households; therefore, the City's low-income households are forced to devote a disproportionate share of their income on housing; and
- WHEREAS,** area non-profit housing providers fulfill a unique role in building and maintaining housing which, due to subsidy stipulations contained within their financing framework, are restricted specifically to serve low-income households that need them; and
- WHEREAS,** sections 4.3.2.1(d) and 4.2.3.2(b) of the City's Comprehensive Plan stipulate that it is City policy to work in partnership with non-profit housing providers to build and preserve housing affordable to households at or below 60 percent of median family income; and
- WHEREAS,** in a series of interviews with local non-profit developers, tax exemption was cited repeatedly as the most effective tool in building and maintaining housing affordable to low-income households; and
- WHEREAS,** in 2004 the City took preliminary steps to consider tax relief as an affordable housing tool when it adopted Ordinance 4319 which amended the City's Comprehensive Plan to add Section 4.2.3.2(b) Action 9 which directed the City to "Establish criteria that qualify affordable housing development proposals for property tax abatements"; and
- WHEREAS,** ORS 307.540-548 provides that if jurisdictions or special district service providers representing more than 51 percent of a property's total tax obligation resolve to exempt the property from taxation, then the remainder of those taxing districts local jurisdictions must follow suit; and
- WHEREAS,** over the past several years, Washington County has lead a coordinated effort to implement ORS307.540-548; and

WHEREAS, on September 9, 2012, the Beaverton City Council heard a presentation and engaged in related discussion with City staff, Washington County staff, and interested parties on the topic of tax exemption as an effective means of attracting affordable housing to the City; and

WHEREAS, at the close of that meeting, the City Council directed staff to meet with its public agency and special service district partners to assess if sufficient support exists to warrant development of a program consistent with ORS 307.540-548; and

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

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** The Council finds that providing a property tax exemption enabled through ORS 307.540-548 which applies specifically to non-profit organizations that own or purchase property for use as low-income housing will encourage further development of much needed low-income housing units in the City of Beaverton.
- Section 2.** A new Beaverton City Code Chapter 3.20 shall be added to the Beaverton City Code as provided in Exhibit A to this ordinance, which Chapter implements the property tax exemption enabled through ORS 307.540-548.
- Section 3.** The property tax exemption enabled through ORS 307.540-548 shall be effective only upon receipt of formal support from a sufficient number of taxing jurisdictions whose combined levying authority on a typical Beaverton property exceeds 51%. Such support is anticipated to come from Washington County, Tualatin Valley Fire and Rescue District, Metro, and Portland Community College, which combined with the City of Beaverton, together represent more than 51 percent of the dollar amount levied against a typical Beaverton property.
- Section 4.** Nothing herein is intended, nor shall it be construed, as amending, replacing, or otherwise being in conflict with any other ordinance of Beaverton unless expressly so stated.
- Section 5.** If any portion of this Ordinance shall for any reason be held invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be affected thereby and shall remain in full force and effect.

First reading this 16th day of July, 2013.

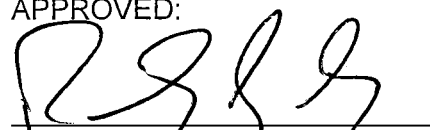
Second reading and passage this 13th day of August, 2013.

Approved by the Mayor this 14th day of August, 2013.

ATTEST:


CATHY JANSEN, City Recorder

APPROVED:


DENNY DOYLE, Mayor
by Randy Ealy, Mayor Pro Tem

Chapter 3.20

NONPROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTIONS

- 3.20.010 Definitions.
- 3.20.020 Nonprofit Corporation Low-Income Housing Exemption; Criteria.
- 3.20.030 Application for Exemption.
- 3.20.040 Determination of Eligibility For Exemption; Notice To County Assessor.
- 3.20.050 Termination of Exemption.
- 3.20.060 Delegation of Administrative Authority.

3.20.010 Definitions.

- A. "Governing body" means the Beaverton City Council.
- B. "Low-income" means income at or below 60% of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Development. [BC 3.20.010 added by Ordinance No. 461908/13/13]

3.20.020 Nonprofit Corporation Low-Income Housing Exemption; Criteria.

- A. Property that meets all of the following criteria shall be exempt from taxation as provided in this section:
 - 1. The property is owned or being purchased by a corporation that is exempt from taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended before December 1, 1984.
 - 2. 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.
 - 3. The property is:
 - a. Occupied by low income persons; or
 - b. Held for future development as low income housing.
 - 4. 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 (4) of the Internal Revenue Code as amended before December 1, 1984.
 - 5. The exemption has been approved as required in Section 3.20.040.
- B. For purposes of subsection A of this section, a corporation that only has 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.

- C. A partnership shall be treated the same as a corporation to which this section applies if the corporation 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. [BC 3.20.020 added by Ordinance No. 4619 08/13/13]

3.20.030 Application for Exemption.

- A. To qualify for the exemption provided by section 3.20.020, the corporation shall file an application for exemption with the City for each assessment year the corporation wants the exemption. The application shall be filed on or before April 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after April 1 but before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. The application shall 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 an exemption from income taxes under 26 U.S.C. section 501(c)(3) or (4) as amended before December 1, 1984.
- B. The applicant shall verify the information in the application by oath or affirmation. [BC 3.20.030 added by Ordinance No. 4619, 08/13/13]

3.20.040 Determination of Eligibility for Exemption; Notice To County Assessor.

- A. Within 30 days of the filing of an application under section 3.20.030, the City shall determine whether the applicant qualifies for the exemption under section 3.20.020. If the governing body determines the applicant qualifies, the City shall certify to the County Assessor that all or a portion of the property shall be exempt from taxation under the levy of the certifying governing body.
- B. Upon receipt of certification under subsection A of this section, the County Assessor shall exempt the property from taxation to the extent certified by the City. [BC 3.20.040 added by Ordinance No. 4619, 08/13/13]

3.20.050 Termination of Exemption.

- A. If the City determines that property that has received an exemption under this Chapter 3.20 in anticipation of future development of low income housing that the property is being used for any purposes other than the provision of low income housing, or that any provision of this Chapter 3.20 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. The notice shall 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 shall notify every known lender, and shall 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 shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution 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 of its adoption.
- D. Upon the County Assessor's receipt of the City's termination findings:
1. The exemption granted to the housing unit or portion under this Chapter 3.20 shall terminate immediately, without right of notice or appeal;
 2. The property shall be assessed and taxed as other property similarly situated is assessed and taxed;
 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 3.20 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under this Chapter 3.20.
- E. The assessment and tax rolls shall show potential additional tax liability for each property granted an exemption under this Chapter 3.20 because the property is being held for future development of low income housing.
- F. Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [BC 3.20.050 added by Ordinance No. 4619, 08/13/13]

3.20.060 Delegation of Administrative Authority.

The City Council hereby delegates to the Mayor or his/her designee, 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 pursuant to 3.20.040 and 3.20.050.

3.20.070 Sunset

Effective September 1, 2015, no application relating to property not previously approved for the exemption provided by section 3.20.020 may be filed with the City.