

**AN ORDINANCE TO REPEAL THE SUNSET CLAUSE AND ADOPT AMENDMENTS TO BEAVERTON MUNICIPAL CODE SECTION 3.20.00-3.20.070 (NONPROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTIONS)**

- WHEREAS,** according to a 2015 Housing Needs Analysis prepared for the City of Beaverton, there is a significant deficiency of rental units affordable to the City's low-income residents; and
- WHEREAS,** the City desires to offer incentives to non-profit developers to increase the number of housing units affordable to the City's low-income residents; and
- WHEREAS,** on August 14, 2013, the City adopted Ordinance No. 4619 "An Ordinance to Adopt New City Code Chapter 3.20 Enabling the City of Beaverton to Administer an Affordable Housing Tax Exemption Program for Non-profit Housing Providers"; and
- WHEREAS,** Ordinance No. 4619 includes a two-year sunset provision allowing the Council to monitor and reassess the affordable housing tax exemption program's performance, and to lobby the state legislature to adopt amendments to ORS 307.540-.548 that would enable local governments to exert more local control in administering their programs; and
- WHEREAS,** on June 10, 2015, the Oregon Legislature adopted HB 2130 giving local jurisdictions the ability to apply criteria above and beyond what was previously allowed under ORS 307.540-.548; and
- WHEREAS,** code revisions contained in Exhibit A of the Ordinance effectively implement HB 2130 by empowering the City of Beaverton to impose criteria as necessary to address City Council concerns; and
- WHEREAS,** after monitoring the program's performance over the specified two-year program test period, the Council finds that the level of subsidy is within acceptable limits; now, therefore

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON:**

- Section 1.** The City Council finds that the Amendments in attached Exhibit A provide adequate safeguards to the City's affordable housing tax exemption program to resolve concerns previously specified at the program's inception.
- Section 2.** City of Beaverton Municipal Code Section 3.20 shall be amended consistent with attached Exhibit A of this Ordinance.

**Section 3.** Nothing herein is intended, nor shall be construed, as amending, replacing, or otherwise being in conflict with any other ordinance of Beaverton unless expressly so stated.

**Section 4.** 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.

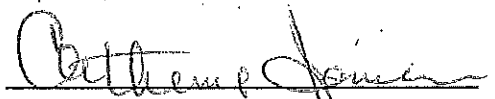
First reading this 10th day of November, 2015

Second reading and passage this, 1st day of December, 2015

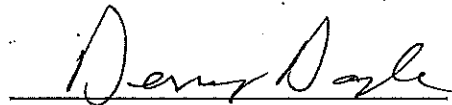
Approved by the Mayor this 2nd day of December, 2015

ATTEST:

APPROVED:



CATHERINE JANSEN, City Recorder



DENNY DOYLE, Mayor

**Chapter 3.20**  
**NONPROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTIONS**

## Sections:

- 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 Council Approval for an Extension of Time.
- 3.20.060 Termination of Exemption.
- 3.20.070 Delegation of Administrative Authority.

**3.20.010 Definitions.**

- A. "Debarment" means action taken by a debaring official under federal or state law to exclude a contractor from government contracting and government-approved subcontracting for a reasonable, specified period.
- B. "Governing body" means the Beaverton City Council.
- C. "Low-income" means income at or below 60 percent 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. 4619, 8/13/13]

**3.20.020 Nonprofit Corporation Low-Income Housing Exemption; Criteria.**

- A. The governing body shall use the following criteria to determine whether property is exempt from taxation as provided in this section:
  - 1. 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.
  - 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 the purpose of developing low-income housing for a period of not more than six years. If the corporation requires additional time to develop the property for low-income housing and still seeks an exemption under this ordinance, the corporation shall seek approval from the governing body for an extension of time in the manner described in BC 3.20.050.

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.

5. The corporation:

a. Is not presently debarred, suspended, proposed for debarment, or declared ineligible by any federal or state agency;

b. 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

c. 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 b.

B. In applying the criteria identified in BC 3.20.020(A) to determine whether the property qualifies for exemption, the governing body may consider any information provided by the corporation regardless of whether that information was included in the application or was otherwise provided by the corporation. If the corporation does not complete the application as provided under BC 3.20.030, however, then the governing body may reject the application.

C. 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.

D. 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, 8/13/13]

### **3.20.030 Application for Exemption.**

A. To seek the exemption provided by BC 3.20.020, the corporation shall file an application for exemption with the City for each assessment year the corporation wants the exemption.

B. The application shall be filed before March 1st of the assessment year for which the exemption is applied for, unless the property designated is acquired after March 1st but before July 1st. If the property designated is acquired after March 1st but before July 1st, the claim for that year shall be filed within 30 days after the date of acquisition.

C. 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;

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

7. A certification that the corporation meets the criteria provided for in BC 3.20.020(A)(5).

B. The applicant shall verify the information in the application by oath or affirmation. [BC 3.20.030, added by Ordinance No. 4619, 8/13/13]

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

A. Except as otherwise provided in BC 3.20.040(B), within 30 days of the filing of an application under BC 3.20.030, the governing body shall determine whether the applicant qualifies for the exemption granted under BC 3.20.020. If the governing body determines the applicant qualifies, then the governing body 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. If the governing body has previously determined that the applicant qualified for the exemption granted under this ordinance, then the governing body 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.

C. 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 governing body. [BC 3.20.040, added by Ordinance No. 4619, 8/13/13]

### **3.20.050 Council Approval for an Extension of Time.**

A. If a corporation requires additional time to develop the property for low-income housing and seeks to extend the property-tax exemption previously approved by the governing body, then it shall provide a written request to the governing body and include supporting documentation with the request. The written request shall be on a form supplied by the City.

B. If the corporation submits a written request with supporting documentation, the governing body shall review the request. The governing body 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;

4. Whether the corporation has made any site improvements towards development of low-income housing on the property; or

5. 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.

C. The governing body shall determine whether to grant or deny an extension within 30 days of receiving the written request and supporting documentation from the corporation.

### **3.20.060 Termination of Exemption.**

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 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 governing body shall adopt a

resolution stating its findings that terminate the exemption. A copy of the 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 governing body's termination findings:

1. The exemption granted to the housing unit or portion under this chapter 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 property in question, 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.

E. The assessment and tax rolls shall show potential additional tax liability for each property granted an exemption under this chapter 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, 8/13/13]

### **3.20.070 Delegation of Administrative Authority.**

The governing body 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 governing body pursuant to BC 3.20.040, 3.20.050, and 3.20.060. [BC 3.20.060, added by Ordinance No. 4619, 8/13/13]