

ORDINANCE NO. 1469-22

AN ORDINANCE CREATING TUALATIN MUNICIPAL CODE CHAPTER 14-1,
NONPROFIT CORPORATION LOW-INCOME HOUSING TAX EXEMPTIONS.

WHEREAS, ORS 307.540-548 provides authority for local taxing jurisdictions to exempt certain nonprofit low income housing from property taxes;

WHEREAS, if jurisdictions or special district service providers representing more than 51 percent of a property's total tax obligation resolve to exempt a property owned by a nonprofit corporation that is being used for low income housing from taxation, then all property taxes for such property will be exempt; and

WHEREAS, the City believes it is in the public's best interests to exempt such properties from City taxation in order to assist with achieving this 51 percent threshold;

WHEREAS, the City Council held a work session and engaged in discussions with City staff on the topic of tax exemption as an effective means of attracting affordable housing to the City; and

WHEREAS, 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 benefit project tenants and encourage further development of much needed low-income housing units in the City.

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Tualatin Municipal Code Chapter 14-1 is created to read as follows:

TMC 14-1-010 – Definitions

As used in this Chapter, the following means:

Low Income means:

A. For the initial year a person occupies property for which an application for exemption is filed under this Chapter, 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; and

B. For every subsequent consecutive year that the person occupies 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.

TMC 14-1-020 – Nonprofit Corporation Low-Income Housing Exemption - Criteria

1. Property that meets all of the following criteria shall be exempt from taxation as provided in this section:
 - 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 Section 501(a) of the Internal Revenue Code;
 - b. 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;
 - c. The property is:
 - i. Occupied by low-income persons; or
 - ii. Held for the purpose of future development as low-income housing, for a period not exceeding three years;
 - d. The property or portion of the property receiving the exemption, if occupied, is actually and exclusively used for the purposes described in Section 501(c)(3) or (4) of the Internal Revenue Code; and
 - e. The exemption has been approved as required in Section 14-1-040.
2. 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:
 - a. 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
 - b. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
3. 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.

TMC 14-1-030 – Application for Exemption.

1. To qualify for the exemption provided by Section 14-1-020, 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 March 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after March 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:
 - a. A description of the property for which the exemption is requested;
 - b. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 - c. A certification of income levels of low-income occupants;
 - d. A description of how the tax exemption will benefit project residents;
 - e. A description of the development of the property if the property is being held

- for future low-income housing development; and
- f. 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.
2. The applicant shall verify the information in the application by oath or affirmation.

TMC 14-1-040 – Determination of Eligibility for Exemption – Notice to County Assessor

1. Within 30 days of the filing of an application under Section 14-1-030, the Council shall determine whether the applicant qualifies for the exemption under Section 14-1-020. If the Council determines the applicant qualifies, the City shall certify to the County Assessor, as set forth in ORS 307.547, that all or a portion of the property shall be exempt from taxation under the City's tax levy.
2. 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.

TMC 14-1-050 – Termination of Exemption

1. If the City determines that property that has received an exemption under this Chapter 14-1 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 is not being complied with, the City shall give notice of the proposed termination of the exemption to the owner(s) by mailing the notice to the last known address of the owner(s), 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(s) 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.
2. If the owner(s) fail 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 City that all noncompliance shall be remedied.
3. If the owner(s) fail 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 Council 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(s) 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.
4. Upon the County Assessor's receipt of the City's termination findings:
 - a. The exemption granted to the housing unit or portion under this Chapter shall terminate immediately, without right of notice or appeal;
 - b. The property shall be assessed and taxed as other property similarly situated is assessed and taxed;
 - c. 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.

5. 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.
6. Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.

TMC 14-1-070 – Delegation of Administrative Authority.

The City Manager, or the City Manager’s designee, is granted 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.

Section 2. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction, the remainder of this ordinance remains in full force and effect.

Section 3. Effective Date. As provided in the Tualatin Charter, this ordinance is effective 30 days from the date of adoption.

ADOPTED by the City Council this 8th day of August, 2022.

CITY OF TUALATIN OREGON

BY _____
Mayor

APPROVED AS TO LEGAL FORM

ATTEST

BY _____
City Attorney

BY _____
City Recorder