

**IN THE CITY COUNCIL
FOR THE CITY OF HOOD RIVER, OREGON**

ORDINANCE NO. 2069

**An Ordinance amending Title 3 (Revenue and Finance) of the Hood River
Municipal Code by creating a new chapter - Chapter 3.40 (Non-Profit
Corporation Low-Income Housing Tax Exemption) implementing ORS
307.540 to 307.548 establishing an affordable housing tax exemption program
for qualifying non-profit housing providers.**

The Hood River City Council finds as follows:

WHEREAS, ORS 307.540 to 307.548 authorize Oregon cities to establish a process for exempting certain non-profit corporations from property taxes when they develop low income housing to address local shortages in available and affordable housing; and

WHEREAS, Hood River recently adopted an Affordable Housing Strategy (May 2022) that implements Statewide Planning Goal 10 and calls for, among other things, the establishment of the Nonprofit Low-Income Rental Housing Tax Exemption pursuant to ORS 307.540 to 307.548 as one means of encouraging construction of affordable housing in the City; and

WHEREAS, non-profit housing developers and builders fulfill a critical role in building and maintaining housing, which, due to subsidy stipulations contained in their financing framework, are restricted to specifically serve low-income households that need it; and

WHEREAS, adoption of a property tax exemption under ORS 307.540 to 307.548, focused on non-profit organizations that own or purchase property for use as low-income housing, will encourage further development of much needed low-income housing in the City of Hood River; and

WHEREAS, in a series of conversations with non-profit housing developers, tax exemptions were cited as important tools in building and maintaining housing that is affordable to low-income households and in helping to stabilize a developer's investment over the lifetime of the project; 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 agree to exempt the property from taxation, then the remainder of those taxing districts must follow suit to make the entire property tax exempt; and

WHEREAS, over the preceding months City staff have met with public agency partners and local developers and concluded that sufficient support exists for the establishment of a low income housing tax exemption program envisioned in ORS 307.540 to 307.548.

NOW THEREFORE, the Hood River City Council ordains as follows:

Section 1. Amendment. Title 3 (Revenue and Finance) of the Hood River Municipal Code is amended to include a new Chapter 3.40 (Non-Profit Corporation Low-Income Housing Tax Exemption), which shall read as set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid, unlawful or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and that holding shall not affect the validity of the remaining portions thereof.

Read for the First Time on _____, 2022.

Read for the Second Time and approved on _____, 2022.

This Ordinance shall take effect on the 31st day following the second reading.

AYES: _____

NAYS: _____

ABSTAIN: _____

ABSENT: _____

Kate McBride, Mayor

ATTEST:

Approved as to form:

Jennifer Gray, City Recorder

Daniel Kearns, City Attorney

EXHIBIT A
Chapter 3.40

Non-Profit Corporation Low-Income Housing Tax Exemption

Section:

3.40.010 Purpose

3.40.020 Definitions

3.40.030 Nonprofit Corporation Low Income Housing Eligibility Criteria

3.40.040 Application For Exemption

3.40.050 Determination Of Eligibility For Exemption; Notice To County Assessor

3.40.060 Duration and Extent of the Exemption.

3.40.070 Termination of Exemption, Additional Taxes Due.

3.40.080 Delegation of Administration Authority.

3.40.010 Purpose. The City of Hood River adopts the authority of ORS 307.540 to 307.548 and establishes a process for exempting from property tax certain low-income housing developed by non-profit corporations.

3.40.020 Definitions. The following definitions shall apply in the interpretation and administration of this Chapter:

- A. “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:
1. 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.
 2. The corporation is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency.
 3. Officers of the corporation, and former Officers who have worked for the Corporation in the last three years:
 - a. 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
 - b. 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.

4. 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:
 - 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. "Finance Director" means the Hood River Finance Director or that person's designee.

- C. "Governing body" means the Hood River City Council.

- D. "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 for Hood River County during the initial year that people occupy the subject property. For each successive consecutive year after the initial year that people occupy the property, "low income" means income at or below 80% 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 Hood River County.

- E. "Taxing district consent" means that the governing boards of taxing districts that, when combined with the City of Hood River's rate of taxation, equal 51% or more of the total combined rate of taxation for the property certified for exemption, have agreed to the policy of exemption.

3.40.030 Nonprofit Corporation Low Income Housing Eligibility Criteria. Property that meets all of the following criteria shall be exempt 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.

3.40.040 Application For Exemption.

- A. To qualify for the exemption described in section 3.40.030, the corporation shall file an application for exemption with the Finance Director 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 and 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:

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; and
5. 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.

3.40.050 Determination Of Eligibility For Exemption; Notice To County Assessor.

- A. Within 30 days of the filing of an application under section 3.40.040, the Finance Director shall determine whether the applicant qualifies for the exemption under the criteria in section 3.40.030.
- B. If the Finance Director determines the applicant qualifies, the Finance Director shall notify the applicant and certify to the Hood River County Assessor that all or a portion of the property is exempt from taxation.
- C. If the Finance Director has previously determined that the applicant qualified for the exemption described in this chapter, then the Finance Director 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 Finance Director shall send written notice of approval to the applicant.
- E. If the application is denied, the Finance Director 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 Finance Director 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 Hood River County Assessor shall exempt the property from taxation to the extent certified by the City.

3.40.060 Duration and Extent of the 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 Hood River has secured taxing district consent, as defined in section 3.40.010.

3.40.070 Termination of Exemption, Additional Taxes Due.

- A. If the City of Hood River 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 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 subsection shall state the reasons for the proposed termination and shall require the owner to appear before the governing body 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 governing body 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 governing body shall adopt a decision stating its findings based upon the evidence in the record and the criteria in section 3.40.030 and terminate the exemption.
- E. Within 10 days of the governing body's decision being reduced to writing, the City shall file a copy of the decision described in this subsection with the county assessor, and send a copy of the decision to the owner at the owner's last-known address and to the lender at the lender's last-known address.
- F. Upon the county assessor's receipt of the governing body's termination decision:
 - 1. The exemption granted the housing unit or portion under ORS 307.540 to 307.548 shall terminate immediately;

2. From that point forward, 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 ORS 307.540 to 307.548 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 307.540 to 307.548.
- 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 ORS 307.540 to 307.548 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.

3.40.080 Delegation of Administration Authority. The Hood River City Council hereby delegates to the City's Finance Director and 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.