

CITY OF NEWPORT
ORDINANCE NO. 2116

**AN ORDINANCE AMENDING TITLE III OF THE
NEWPORT MUNICIPAL CODE RELATING TO AN AFFORDABLE HOUSING
TAX EXEMPTION PROGRAM FOR NON-PROFIT 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 non-profit corporation low income housing; and

WHEREAS, Goal 1 of the Housing Section of the City's Comprehensive Plan, in support of Oregon Statewide Planning Goal 10, is "to provide for the housing needs of the citizens of Newport in adequate numbers, price ranges, and rent levels which are commensurate with the financial capabilities of Newport households"; and

WHEREAS, Goal 2 of the Housing Section of the City's Comprehensive Plan is "to provide adequate housing that is affordable to Newport workers at all wage levels"; and

WHEREAS, the Newport Housing Needs Analysis, prepared by ECONorthwest in May 2011, identifies lack of affordable workforce housing in Newport as a Key Housing Issue and states that housing in Newport became much less affordable between 2000 and 2010, particularly to working households; and

WHEREAS, the latest American Community Survey data calculate that approximately 47 percent of all housing in Newport is renter occupied and that half of all renter households in Newport earn 60 percent or less of the county's Median Family Income; and

WHEREAS, Implementation Measure 1.4 of the Housing Section of the City's Comprehensive Plan states that the City shall assess the use of creative funding and land use tools to facilitate the development of government assisted housing and workforce housing; and

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

WHEREAS, Provision of 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 Newport.

WHEREAS, in a series of conversations with non-profit developers, tax exemption was cited as a very important tool 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 percent 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 NEWPORT ORDAINS AS FOLLOWS:

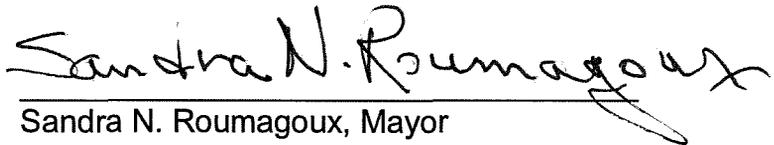
Section 1. Newport Municipal Code Chapter 3.25, Non-Profit Corporation Low-Income Housing Tax Exemption, is hereby established as illustrated in Exhibit "A."

Section 2. The Non-Profit Corporation Low-Income Housing Tax Exemption described in Chapter 3.25 shall become effective upon receipt of written support from a sufficient number of taxing jurisdictions whose combined levying authority on a typical Newport property exceeds 51 percent.

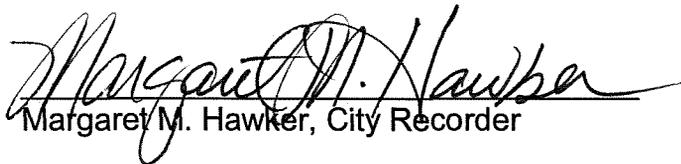
Section 3. This ordinance shall take effect 30 days after passage.

Date adopted and read by title only: August 7, 2017.

Signed by the Mayor on August 8, 2017.


Sandra N. Roumagoux, Mayor

ATTEST:


Margaret M. Hawker, City Recorder

APPROVED AS TO FORM:


Steven E. Rich, City Attorney

Chapter 3.25 Non-Profit Corporation Low-Income Housing Tax Exemption

3.25.010 Purpose.

- A. The City of Newport adopts the provisions of Oregon Revised Statutes ORS 307.540 to 307.548 and establishes a process for exemption from property tax for non-profit corporation low income housing.

3.25.020 Definitions.

- A. "Low-income" means:

1. For the initial year that persons occupy property for which an application for exemption is filed, 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
2. For every subsequent consecutive year that the persons occupy 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.

- B. "Eligible organization" means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by Subsection (1) of this Section. No other types of non-profit or for-profit organizations are eligible.

- C. "Community Development Director" means the Community Development Director or designee.

3.25.030 Eligibility Requirements.

- A. Properties that satisfy the following requirements are eligible for tax exemption:

1. The property is owned or being purchased by a corporation that qualifies as an "eligible organization," as described in 3.25.020 Subsection (2) of this Chapter, that is exempt from income taxation under 501(a) of the Internal Revenue Code.
2. The property is:
 - i. Occupied by low-income persons; or
 - ii. Held for the purpose of developing low-income housing for a period of not more than three years. If the corporation requires additional time to develop the property for low-income housing and still seeks an exemption under this

chapter, the corporation shall seek approval from the Community Development Director for an extension of time in the manner described in 3.25.060.

3. The property or portion of the property receiving the exemption is actually and exclusively used in a manner authorized by Section 501(c)(3) or (4) of the Internal Revenue Code.
4. The corporation:
 - i. Is not presently debarred, suspended, proposed for debarment, or declared ineligible by any Federal or State agency;
 - ii. 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
 - iii. 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 (A)(4)(II) of this Section.
- 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.

3.25.040 Application Procedure.

- A. To seek the exemption provided by NMC 3.25.030, the corporation shall file an application for exemption with the Community Development Director, acting on behalf of the City, for each assessment year the corporation wants the exemption through an application furnished by the Community Development Department.

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. The applicant's name, address, and telephone number;
2. The assessor's property account number for each site;
3. A description of the property for which the exemption is requested;
4. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
5. A certification of income levels of low-income occupants;
6. A description of how the tax exemption will benefit project residents;
7. A description of the development of the property if the property is being held for future low-income housing development;
8. 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
9. A declaration that the corporation meets the criteria provided for in NMC 3.25.030(A)(4); and
10. A declaration that, upon liquidation of the property, the assets of the corporation will be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, will be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.

D. Applicants seeking an exemption under this Chapter shall pay fees for an initial application and any renewals as set by resolution of the Newport City Council, in the amount necessary to offset City administrative costs as well as administrative costs incurred by the County Assessor to process the exemption.

3.25.050 Review of Application and Notice to County Assessor.

A. Except as otherwise provided in Subsection (B) of this Section, within 30 days after the March 1 deadline for the application and payment of the application fee, the Community Development Director shall approve or deny the application. The

application shall be approved if the Community Development Director finds that the property is eligible for exemption under NMC 3.25.030. If the Community Development Director determines the applicant qualifies, then the City shall certify to the County Assessor that all or a portion of the property shall be exempt from taxation.

- B. If the Community Development Director has previously determined that the applicant qualified for the exemption granted under this chapter, then the Community Development 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.
- C. If the application is approved, the City shall send written notice of approval to the applicant.
- D. If the application is denied, the City 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.
- E. Upon denial by the Community Development Director, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.
- F. Upon receipt of certification of approval under Subsection (A) of this Section, the County Assessor shall exempt the property from taxation to the extent certified by the Community Development Director.

3.25.060 Community Development Director 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 Community Development Director, then it shall provide a written request to the Community Development Director and include supporting documentation with the request. The written request shall be on a form supplied by the Community Development Department.
- B. If the corporation submits a written request with supporting documentation, the Community Development Director shall review the request. The Community Development Director 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.
- C. The Community Development Director shall determine whether to grant or deny an extension within 30 days of receiving the written request and supporting documentation from the corporation.

3.25.070 Assessment 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. At any time, the City Council may, by motion or upon request by the Lincoln County Board of Commissioners, set a limit on the maximum amount of foregone tax revenue provided as a benefit of the exemption under this Chapter for new projects.
- D. The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Newport in which property certified for exemption is located as long as the City of Newport has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.25.080 Termination of Exemption.

- A. If, after a property has received exemption under this Chapter, the City finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the City shall give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice shall

state the reasons for the proposed termination of the exemption and require the owner to appear before the Community Development Director to show cause at a specified time, not less than 20 days after mailing of the notice, 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 Community Development Director 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 Community Development Director shall make a recommendation to the City Council to 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 City's termination findings in the form of a resolution, the County officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS 311.216 to 311.232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by City Council or by a court, in accordance with the findings of City Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.216 to 311.232. Where there has been a failure to comply, as provided in Subsection (A) of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.25.080 Delegation of Administrative Authority.

The Newport City Council hereby delegates to the Community Development Director 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.