

1 **ORDINANCE BILL NO. 29-17**

2 AN ORDINANCE RELATING TO PROVIDING FOR A PROPERTY TAX
3 EXEMPTION FOR CERTAIN LOW INCOME HOUSING NON-PROFIT OWNERS;
4 CREATING NEW PROVISIONS; AND DECLARING AN EMERGENCY.

5 *The City of Salem ordains as follows:*

6 **Section 1. Findings.** This ordinance is in the best interest of the City of Salem because it
7 implements a Nonprofit Corporation Low Income Housing tax exemption authorized by
8 ORS 307.540 to 307.548, and will lower costs for certain providers of low income
9 housing, which is an identified need in the community.

10 **Section 2.** Sections 2.850 through 2.910 are added to and made a part of the Salem
11 Revised Code, Title I - Government, Chapter 2 as set forth herein.

12 **Sec 2.850 to 2.910** are created to read:

13 **Sec. 2.850. Exemption created.** Sec. 2.850 to 2.910 may be referred to as the “Salem
14 Nonprofit Corporation Low Income Housing Tax Exemption Program.”

15 (a) The provisions of ORS 307.540 to 307.548 are hereby adopted, and there is
16 created, as set forth in this chapter, an exemption from property tax from certain
17 nonprofit owners of low-income housing, for the purpose of encouraging the
18 preservation, maintenance, and development of low-income housing within the city of
19 Salem.

20 (b) The Director shall have the authority to promulgate rules and guidelines consistent
21 with this chapter to implement Sec. 2.850 to 2.910, including, the authority to impose
22 additional criteria and requirements for eligibility for exemption on a case-by-case basis,
23 which are consistent with the purpose and intent of the Program.

24 **Sec. 2.860. Definitions.** Unless the context otherwise specifically requires, terms used in
25 sections 2.850 – 2.910 shall have the meanings set forth in this section;

26 *Low income.* Income at or below 60 percent of the area median income as determined
27 by the Oregon Housing Stability Council based on information from the United States
28 Department of Housing and Urban Development.

29 **Sec. 2.870. Criteria for Exemption.**

30 (a) A property is exempt from property taxation as provided by sec. 2.850 – 2.910 if:

1 (1) The property is owned or being purchased by a corporation described in
2 section 501(c)(d) or (4) of the Internal Revenue Code that is exempt from income
3 taxation under section 501(a) of the Internal Revenue Code;

4 (2) Upon liquidation, the assets of the corporation are required to be applied first
5 in payment of all outstanding obligations, and the balance remaining, in cash and in
6 kind, to be distributed to corporations exempt from taxation and operated exclusively
7 for religious, charitable, scientific, literary or educational purposes or to the State of
8 Oregon;

9 (3) At the time the application is filed, the property is:

10 (A) Occupied by low income persons; or

11 (B) Held for a period not to exceed two years from the date the exemption
12 is granted, for the purpose of developing low income housing.

13 (4) The property or portion of the property receiving the exemption, if occupied,
14 is actually and exclusively used for the purposes described in section 501(c)(3) or (4)
15 of the Internal Revenue Code;

16 (5) The property, at the time of application, and throughout the period of
17 exemption, is maintained in a safe and habitable condition;

18 (6) Within 30 days of the date the exemption is granted by Council, the owner of
19 the property has established, and shall maintain for the period of the exemption, a
20 capital reserve for the property of at least \$100 per housing unit per month. The
21 Director may periodically adjust the required minimum reserve amount per housing
22 unit;

23 (7) The property, and uses on the property, at the time the application is filed, and
24 throughout the period of exemption comply with all applicable laws, regulations, and
25 Council policies; and

26 (8) The exemption has been approved as provided in Sec. 2.900 of this chapter.

27 (b) For purposes of subsection (1) of this section, a corporation that has only a
28 leasehold interest in property is deemed to be a purchaser of that property if;

29 (1) The corporation is obligated under the terms of the lease to pay the ad valorem
30 taxes on the real and personal property used in this activity on that property, or

1 (2) The rent payable by the corporation has been established to reflect the savings
2 resulting from the exemption from taxation.

3 (c) A partnership shall be treated the same as a corporation to which this section
4 applies if the corporation is a general partner of the partnership, and responsible for the
5 day-to-day operation of the property that is the subject of the exemption.

6 **Sec. 2.880. Length of exemption; limited to levy of the City; exception.**

7 (a) An exemption granted by the City under Sec. 2.900 shall be valid for a maximum
8 period ten years from the date of the determination by Council at which time the
9 exemption shall automatically expire, unless terminated earlier as provided by law. An
10 exemption may not be renewed or reauthorized after the ten year period expires, without
11 express approval by Council.

12 (b) Except as set forth in subsection (c) of this Section, an exemption granted by the
13 City shall only apply to the tax levy of the City for the property.

14 (c) Pursuant to ORS 307.543, to permit the exemption applied for to apply to the
15 combined tax levy for the property of all applicable taxing districts, the City may submit
16 a request to the governing bodies of taxing districts for which the property is certified,
17 whose rate of taxation, when combined with the City's, equal 51 percent or more of the
18 total combined rate of taxation on the property granted exemption, to agree to the policy
19 of exemption.

20 **Sec. 2.890. Application for exemption; annual certification; when due.**

21 (a) Application for Exemption. Before a request for exemption will be considered, an
22 applicant must file an application for exemption with the Director, containing all
23 information and material necessary to consider the application, on or before September 1
24 of the year preceding the assessment year for which the exemption is sought. The
25 Director may, in the Director's sole discretion, grant a variance for good cause shown to
26 allow a complete application to be filed after September 1. An application must contain
27 the following:

- 28 (1) A description of the property for which the exemption is requested,
29 (2) A description of the charitable purpose of the project and whether all or a
30 portion of the property is being used for that purpose;
(3) A certification of income levels of low income occupants,

- 1 (4) A description of how the tax exemption will benefit project residents,
- 2 (5) If, at the time the application is submitted, the property is being held for future
- 3 low income housing development, a declaration that;
- 4 (i) The low income housing development will be completed and a certificate
- 5 of occupancy obtained, for uses consistent with the exemption within two
- 6 years of the date the exemption is granted;
- 7 (ii) A description of the anticipated low income housing development,
- 8 (iii) The minimum number of housing units to be provided, and
- 9 (iv) Identification of any features or amenities that will be provided as part of
- 10 the development.
- 11 (6) A declaration that the corporation has been granted exemption from income
- 12 taxation under section 501(a) of the Internal Revenue Code as an organization
- 13 described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code,
- 14 (7) A description of how the corporation and the property, respectively meet the
- 15 criteria set forth in Sec. 2.870 of this chapter,
- 16 (8) Any other information reasonably required by the Director,
- 17 (9) An oath or affirmation signed by a person with authority to bind the
- 18 corporation verifying the accuracy of the information submitted in the
- 19 application, and
- 20 (10) Payment of the applicable fees as set by resolution of Council.

21 (b) Annual certification; request for extension. After an exemption has been granted,

22 by September 1 of each year prior to the assessment year for which the exemption is

23 sought, the owner shall submit a request to the Director that the exemption be extended

24 for an additional year. The request must be accompanied by a certification from the

25 owner attesting that the property continues to comply with Council's determination

26 granting the exemption, and all the information and applicable fees identified in

27 subsection (a) of this section.

28 (1) After review of the request and inspection of the property, if the Director finds

29 that the property continues to meet the requirements of Council's

30 determination, the Director shall, in writing, grant the extension for an

additional year.

1 (2) If the Director finds that the property no longer meets the requirements of
2 Council's determination, the Director shall submit a recommendation to
3 Council that the exemption be terminated pursuant to Sec. 2.910 of this
4 chapter.

5 (c) Applications for exemption and requests for extension will be reviewed for
6 completeness by the City, and untimely or incomplete applications or requests will be
7 rejected, and an explanation of the rejection provided to the applicant, which explains the
8 basis for the rejection and what information or materials must be submitted to make the
9 application complete.

10 **Sec. 2.900. Determination of eligibility, notice to county assessor.** Within 60 days of
11 receipt of a complete application for exemption, and any payment of fees due, the
12 Director shall;

13 (a) If the property is already developed with low income housing, schedule an
14 inspection of the property during normal working hours, and prepare written findings
15 determining whether the property is maintained in a safe and habitable condition,

16 (b) For all applications, prepare a report to Council, including preliminary findings
17 whether the application meets the criteria set forth in Sec. 2.870, and whether the
18 exemption should be granted.

19 (c) Within 120 days of the filing of a complete application and payment of the
20 applicable fees under Sec. 2.890 of this chapter, the Council shall adopt a resolution
21 determining whether the property shall be granted the exemption, and specifying;

22 (1) What portion of the property, if any, is exempt from taxation,

23 (2) Any conditions that shall be met to qualify for and maintain the exemption,

24 and

25 (d) If Council determines that the applicant qualifies for the exemption, Council shall
26 certify to the assessor of the county where the real property is located, as set forth in
27 307.512, that all or a portion of the property is exempt from taxation under the levy of the
28 City.

29 (e) Notwithstanding subsection (d) of this section, Council may send the certification
30 on or before the deadline specified in ORS 307.512, or as promptly as practicable after
making it determination, whichever is later.

1 (f) Upon issuance of Council’s resolution granting an exemption, the applicant shall
2 be approved to seek agreement to the policy of exemption from other taxing districts in
3 order qualify for an exemption from the total combined rate of taxation on the property
4 pursuant to sec. 2.880 of this chapter.

5 **Sec. 2.910. Termination of exemption, additional taxes.** If, after an exemption is
6 granted, the property is being used for any purpose inconsistent with the Council’s
7 determination granting the exemption, the Director shall follow the procedures for
8 termination set forth in ORS 307.548, except that any final decision to terminate an
9 exemption shall be made by Council.

10 **Section 3. Codification.** In preparing this ordinance for publication and distribution, the
11 City Recorder shall not alter the sense, meaning, effect or substance of this ordinance, but
12 within such limitations, may:

- 13 (a) Renumber sections and parts of sections of the ordinance;
- 14 (b) Rearrange sections;
- 15 (c) Change reference numbers to agree with renumbered chapters, sections or other
16 parts;
- 17 (d) Delete references to repealed sections;
- 18 (e) Substitute the proper subsection, section or chapter, or other division numbers;
- 19 (f) Change capitalization and spelling for the purpose of uniformity;
- 20 (g) Add headings for purposes of grouping like sections together for ease of
21 reference; and
- 22 (h) Correct manifest clerical, grammatical or typographical errors.

23 **Section 4. Severability.** Each section of this ordinance, and any part thereof, is
24 severable, and if any part of this ordinance is held invalid by a court of competent
25 jurisdiction, the remainder of this ordinance shall remain in full force and effect.

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Section 5. Emergency Clause. This act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this ordinance shall be in full force and effect from and after the date of its passage.

PASSED by the City Council this _____ day of _____, 2018.

ATTEST:

City Recorder

Approved by City Attorney: _____

Checked by: K.Retherford