

CITY OF SILVERTON
RESOLUTION
19-37

A RESOLUTION OF THE SILVERTON CITY COUNCIL ADOPTING THE PROVISIONS OF OREGON REVISED STATUTE 307.515 TO 307.537 ALLOWING PROPERTY TAX EXEMPTION FOR LOW-INCOME HOUSING AND ADOPTING GUIDELINES TO ESTABLISH THE POLICY GOVERNING THE CONSIDERATION OF APPLICATIONS

WHEREAS, the Silverton City Council believes that the availability of affordable housing is a vital aspect of a healthy community; and

WHEREAS, the Silverton City Council believes that engaging in the implementation of solutions to affordable housing issues is an important and appropriate role for local government; and


WHEREAS, the Silverton City Council supports the efforts of low-income housing developers and providers to provide quality and stable housing for the community's lower-income residents.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF SILVERTON, AS FOLLOWS:

Section 1: That the City of Silverton adopts the attached City Council policy allowing property tax exemption for low-income rental housing developments as authorized by Oregon Revised Statute 307.515 to 307.537.


Section 2: That this resolution is and shall be effective after its passage by the City Council.

Resolution adopted by the City Council of the City of Silverton, this 7th day of October, 2019.



Mayor, City of Silverton
Kyle Palmer

ATTEST



City Manager/Recorder, City of Silverton
Christy S. Wurster

City of Silverton

Policy on Low-Income Rental Housing Tax Exemption

1. Intent.

It is the intent of this code to give effect to and adopt the provisions ORS 307.515 through ORS 307.537, as amended.

2. Definitions.

For purposes of this policy, the following words mean:

City Manager. The City Manager of the city of Silverton, or the City Manager's designee.

Lender. The provider of a loan secured by the recorded deed of trust or recorded mortgage made to finance the purchase, construction, or rehabilitation of a property used for low-income housing under the criteria listed in section (4) of this policy.

Low-Income. 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. Income and Rent Limits can be found through Oregon Housing and Community Services LIHTC/Tax-Exempt Bond programs for Marion County.

3. Low-Income Rental Housing Property Tax Exemption—Application.

- (1) An application for exemption from property taxes hereunder for low-income rental housing units shall be filed with the City Manager, on a form provided by the City Manager, which shall contain the following, if applicable:
 - (a) A description of the property, or portion thereof, for which the exemption is requested;
 - (b) A description of the purpose of the project and whether all or a portion of the property will be used for that purpose;
 - (c) A certification of the income levels of low-income occupants;
 - (d) The proposed recommended rent payments reflect the full value of the property tax exemption;
 - (e) A description of how the tax exemption will benefit project occupants;
 - (f) Evidence that, if unoccupied, the property is offered for rental solely as a residence for low-income persons, or is held for the purpose of developing low-income rental housing;
 - (g) Evidence that, if occupied, the property is occupied solely as a residence for low-income persons;
 - (h) Evidence that the property is owned or being purchased by a non-profit corporation that meets the criteria for a public benefit corporation as described in ORS 65.001(35), or a religious corporation as described in ORS 65.001(37);
 - (i) Evidence that the non-profit corporation expends no more than ten percent of its annual income from residential rentals for purposes other than acquisition, maintenance, or

repair of residential rental property for low-income persons, or for the provision of on-site child care services for residents of the rental property;

- (j) A description of the plans for development of the property if the property is being held for future low-income rental housing development;
 - (k) A pro forma income statement showing the rent payments (per unit per month) that would be required without the tax exemption AND a pro forma income statement showing the rent payments (per unit per month) that will be required with the tax exemption. The rents in the latter income statement must reflect the full value of the tax exemption; and.
 - (l) Any other information required by the City Manager.
- (2) The information contained in the application shall be verified by oath or affirmation of the applicant.
 - (3) The application processing fee, if applicable, adopted by Resolution.
 - (4) An application for exemption hereunder shall be filed on or before December 1 of the calendar year immediately preceding the first assessment year for which an exemption is requested. However, if the property is acquired after November 1st, the application shall be made within 30 days after the date of acquisition, but no later than December 31 of that same calendar year, in order to be considered for the following assessment year.
 - (5) An application which does not contain all the required information and is not accompanied by the required fee shall be returned. Any application returned for these reasons shall be deemed not to have been filed.
 - (6) Notwithstanding the dates specified in ORS 307.517 and 307.518, property granted exemption pursuant to an application filed under sections (3) to (5) of this policy before the date specified in ORS 307.523, shall continue to receive the exemption on the same terms, including duration, on which the exemption was granted.

4. Low-Income Rental Housing Property Tax Exemption—Review, Approval or Denial of Application.

- (1) Upon receipt of the application and required fee, the City Manager shall review the application and make a written recommendation thereon to the City Council in sufficient time to allow the City Council to act within 60 days from the date the application is filed.
- (2) Upon receipt of the City Manager's recommendation, the City Council shall consider the application and grant or deny the property tax exemption. The City Manager shall recommend approval of an application, and the City Council shall grant the exemption upon determining satisfactory compliance with or mitigation of the following criteria:
 - (a) If unoccupied, the property, or portion thereof subject to the property tax exemption, is offered for rental solely as a residence for low-income person, or is held for the purpose of developing low-income rental housing;
 - (b) If occupied, the property, or portion thereof subject to the property tax exemption, is occupied solely as a residence by low-income persons;
 - (c) The required rent payment reflects the full value of the property tax exemption;
 - (d) The policies set forth below:
 - 1. Rent Regulatory Agreement. The owner must agree to execute and maintain in effect for the duration of the tax exemption period, a Rent Regulatory

Agreement in a form approved by the City, and which contains, but is not limited to, provisions establishing regular reporting requirements and periodic inspection periods, and demonstrates that the required rent payment reflects the benefit of the property tax exemption.

2. The owner must consent in writing that for the duration of the tax exemption period the City may inspect the property for which the exemption is granted at reasonable times, without prior notice, to ensure the premises are maintained in decent, safe, and sanitary conditions for the occupants.
 3. Each year for the duration of the tax exemption period, the undersigned shall supply the City of Silverton with a copy of the Certificate of Compliance from each state and/or federal affordable housing funding source listed in this application. Certificates of Compliance must be received by the City within 45 days from the date they are issued by the state or federal agency
- (e) The proposed development does not cause displacement of low-income persons unless the City and developer can reach agreement on provisions (to be provided by the developer) that reflect satisfactory mitigation thereof; and
 - (f) The proposed development is otherwise consistent with this code and adopted City regulations and policies.
- (3) As an alternative to an application considered under subsection (2) of this section, the City Manager shall recommend approval of an application, and the City Council shall grant the exemption upon determining the applicant meets the criteria set forth in subsections (2) of this section and all the following criteria:
- (a) If unoccupied, the property is offered for rental solely as a residence for low-income persons, or is held for the purpose of developing low-income rental housing;
 - (b) If occupied, the property is occupied solely as a residence for low-income persons;
 - (c) The applicant's application was filed prior to the dates specified in ORS 307.517 and 307.518;
 - (d) The property is owned or being purchased by a non-profit corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001(31) or for a religious corporation, as described under ORS 65.001(33); and
 - (e) The property is owned or being purchased by a non-profit corporation that expends no more than 10 percent of its annual income from residential rentals for purposes other than acquisition, maintenance or repair of residential rental property for low-income persons, or for the provision of on-site child care services for residents of the rental property.
 - (f) For purposes of this subsection, a non-profit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if the non-profit corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in the rental activity on that property, or the rent payable has been established to reflect the savings resulting from the exemption from taxation.
- (4) At the meeting at which the City Manager's recommendation is considered, the City Council shall adopt a resolution approving the application and granting the property tax exemption, or adopt a resolution disapproving the application and denying the property tax exemption.
- (5) A resolution approving an application shall contain:
- (a) The owner's name and address;
 - (b) The description of the development;

- (c) The legal description of the property or the county assessor's property account number;
 - (d) Any specific conditions upon which the approval is based;
 - (e) If only a portion of the property is approved, a description of the portion approved; and
 - (f) A certification that the property or portion thereof is exempt from ad valorem taxation.
- (6) Within 10 days from the date of the approval resolution, the City Manager shall forward to the applicant a copy of the resolution adopted by the City Council approving an application, and, on or before April 1 following approval, shall file a copy thereof with the county assessor. The copy shall contain therein or be accompanied by a notice explaining to the applicant the grounds for possible termination of the exemption prior to the end of the exemption period or thereafter, and the effects of termination.
- (7) A resolution denying an application shall state the reasons for denial, shall be forwarded to the applicant within 10 days of its adoption, and shall inform the applicant of the right to appeal in the manner set forth in ORS 34.010 to 34.100

5. Low-Income Rental Housing Property Tax Exemption—Termination.

- (1) If, after a resolution approving an application for exemption hereunder has been filed with the county assessor, the City Manager finds that:
- (a) Construction or development of the exempt property differs from the construction or development described in the application for exemption, or on or before the dates specified in ORS 307.529, and no extensions or exceptions as provided in subsection (4) hereof have been granted; or
 - (b) The applicant has failed to comply with the provisions of ORS 307.515 to 307.523, the provisions of this code, any provisions of the standards and guidelines adopted by City Council resolution; or
 - (c) The applicant has failed to comply with any conditions imposed in the resolution approving the application.

The City Manager shall recommend to the City Council, and notify the owner of the property, at the owner's last known address, and every known lender, at the last known address of each such lender, of the manager's recommendation that the exemption be terminated. The notice shall clearly state the reasons for the proposed termination, and shall require the owner to appear before the City Council, at a time specified in the notice, which shall not be less than 20 days from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.

- (2) If the owner fails to appear before the City Council at the time specified in the notice, or if the owner appears and fails to show cause why the exemption should not be terminated, the City Manager shall notify every known lender and shall allow each such 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 City Council that all noncompliance shall be remedied. 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 any noncompliance will be cured, the City Council shall adopt a resolution terminating the exemption, which shall contain its findings in support thereof. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last address, and the lender, at the lender's last known address, within 10 days from the date adopted. If a determination is made that the

exemption should continue as previously granted, the City Council shall adopt a motion rejecting the manager's recommendation, and notify the property owner of that action within 10 days from the date of the hearing.

- (3) All reviews of the City Council action in denying an application or terminating an exemption shall be governed by the procedures set forth in ORS 34.010 to 34.100 and correction of assessments and tax rolls and the evaluation of the property shall be in conformity with subsection (2) of ORS 307.533. The City Council's action on an exemption shall not be a land use decision for purposes of administrative review.
- (4) Upon receipt of a request from the property owner, the City Council may, by resolution, extend the deadline beyond the dates specified in ORS 307.535, for completion of construction of the low-income rental housing for a period not to exceed 12 consecutive months, if it finds the failure to complete construction by the dates specified in ORS 307.535, was due to circumstances beyond the control of the owner, and that the owner had been and could reasonably be expected to act in good faith and with due diligence. If property granted an exemption hereunder is subsequently destroyed by fire or act of God, or is no longer capable of owner-occupancy due to circumstances beyond the control of the owner, the exemption shall cease, but no additional taxes shall be imposed upon the property under ORS 307.531 or 307.533.
- (5) Any exemption granted by the City Council shall terminate immediately without right of notice or appeal, in the event the county assessor determines that a change of use to other than that allowed has occurred for the housing unit, or portion thereof, or a declaration as defined in ORS 100.005 is presented to the county assessor or tax collector for approval under ORS 100.100. Termination shall be in accordance with the provisions of ORS 307.531.