

**MEMORANDUM**

TO: Mayor and City Council

FROM: Eric Mongan, City Planner

SUBJECT: FIRST VOTE FOR ORDINANCE AMENDING THE COTTAGE GROVE MUNICIPAL CODE BY ADDING CHAPTER 3.11 REGARDING THE ESTABLISHMENT OF A LOW-INCOME RENTAL HOUSING PROPERTY TAX EXEMPTION PROGRAM

DATE: June 5, 2024

Background:

The Low-Income Rental Housing Property Tax Exemption Program (LIRHPTE) program was proposed as a recommended mechanism for creating regulated affordable housing within the City of Cottage Grove by the Affordable Housing Implementation Plan (AHIP). The AHIP and its recommendations was adopted by Council on February 27, 2023. The program as recommended by the AHIP closely follows the requirements of ORS 307.515 through 307.523, the State enabling legislation for LIRHPTE.

If the Ordinance is adopted, Staff will request resolutions of support from our Partner Taxing Districts in July, 2024. The LIRHPTE program would become effective upon receipt of written support from a sufficient number of taxing jurisdictions whose combined levying authority exceeds 51%.


It is now appropriate that Council consider the proposed ordinance. This ordinance has been available for more than one week prior to this meeting and staff is recommending adoption.

Recommendation

After Council deliberation it is recommended that City Council hold the first vote on the attached Ordinance to establish a LIRHPTE program in the City of Cottage Grove. The Ordinance was prepared and has been available for at least one week prior to this meeting. This Ordinance could be adopted at one meeting.

Cost

None

  
\_\_\_\_\_  
Mike Sauerwein, City Manager

  
\_\_\_\_\_  
Eric Mongan, City Planner

ORDINANCE \_\_\_\_\_

AN ORDINANCE AMENDING THE COTTAGE GROVE MUNICIPAL CODE BY ADDING CHAPTER 3.11 REGARDING THE ESTABLISHMENT OF A LOW-INCOME RENTAL HOUSING PROPERTY TAX EXEMPTION PROGRAM

WHEREAS, State of Oregon statutes 307.515 through 307.523 authorize cities to establish and design programs to attract new development of multiple-unit housing in core areas and transit oriented areas by means of a local property tax exemption; and

WHEREAS, Policy 2 of the City of Cottage Grove's Comprehensive Plan Housing Element states that the City shall "provide opportunities for housing development to meet the City's identified housing needs", including the objective to "identify opportunities to increase residential development in Cottage Grove through removing or lowering barriers to residential development;" and

WHEREAS, Policy 3 Affordable Housing of the City of Cottage Grove's Comprehensive Plan Housing Element includes the objective to "support development of all types of multifamily affordable housing, market rate or government-subsidized affordable housing, through use of tools to lower development or operational costs;" and

WHEREAS, the 2022 Cottage Grove Affordable Housing Implementation Plan, adopted by the Council, recognizes a severe shortage of regulated affordable housing, as fewer than 20 , regulated affordable housing units have been developed in Cottage Grove in the last 20 years and vacancy rates are under 2% throughout the community; and

WHEREAS, the 2018 Housing Needs Analysis found that Cottage Grove needs to develop 1,379 new dwelling units over the next 20 years to meet future needs, including many severe low-income housing units; and

WHEREAS, the 2018 Housing Analysis states that in order to meet this housing need, Cottage Grove should develop policies to support development of low-income and workforce affordable housing, and recommends that Cottage Grove "develop a tax abatement program, such as the multiple-unit limited tax exemption program, to promote development of affordable and market-rate multifamily housing;" and

WHEREAS, a Low-Income Rental Housing Property Tax Exemption Program enabled through 307.515 to 307.523 will encourage development of much needed regulated affordable housing in the City of Cottage Grove; and

WHEREAS, new multiple-unit housing does not pencil out "but for" this tax exemption, as shown by the lack of multiple-unit housing developed over the last 20 years, and this Multiple-Unit Tax Exemption will facilitate new development of multiple-unit housing that otherwise would not occur in the existing market; and

WHEREAS, the Multiple-Unit Property Tax Exemption program being adopted prohibits units from being used as vacation rentals and requires the inclusion of one or more public benefits as well as compliance with existing Comprehensive Plan and Development Code requirements, thereby generating multiple benefits for workers and residents; and

THE CITY OF COTTAGE GROVE ORDAINS AS FOLLOWS:

Section 1. Purpose. The purpose of this ordinance is to adopt the Cottage Grove Multiple-Unit Tax Exemption Program, as shown in Exhibit A, as Chapter 3.1 of the Cottage Grove Municipal Code.

Section 2. Procedural Compliance. This amendment is based upon the City Council determination, after a public hearing, that the adoption of the Multiple-Unit Tax Exemption program, as detailed in Exhibit "A", is in compliance with ORS 307.600 to 307.637 and with the City of Cottage Grove Comprehensive Plan Housing Element. Its adoption, therefore, is in the public interest and will serve the health, safety, and welfare of the citizens of the City of Cottage Grove.

Section 3. Enactment. The Cottage Grove Municipal Code is hereby amended to add Chapter 3.1, attached as Exhibit A and incorporated into this Ordinance by this reference.

Section 4. Effective Date. The Multiple-Unit Property Tax Exemption described in Chapter 3.1 shall become effective upon receipt of written support from a sufficient number of taxing jurisdictions whose combined levying authority on a typical Cottage Grove property exceeds 51 percent.

PASSED BY THE COUNCIL AND APPROVED BY THE MAYOR THIS 10<sup>TH</sup> DAY OF JUNE, 2024.

\_\_\_\_\_  
Candace Solesbee, Mayor

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Mike Sauerwein, City Manager

Dated: \_\_\_\_\_

EXHIBIT A

Chapter 3.11

LOW-INCOME RENTAL HOUSING PROPERTY TAX PROGRAM

Sections:

- 3.11.010 Purpose.
- 3.11.020 Definitions.
- 3.11.030 Pre-application conference.
- 3.11.040 Application.
- 3.11.050 Low-Income Rental Housing Property Tax Exemption – Review, Approval or Denial of Application.
- 3.11.060 Termination.

**3.11.010 Purpose.**

The City of Cottage Grove adopts the provisions of Oregon Revised Statutes 307.515 through 307.523, and administers a low income rental housing property tax exemption program as authorized under those statutes.

**3.11.020 Definitions.**

For purposes of Chapter 3.11, the following words and phrases mean:

*City manager.* The city manager of the city of Cottage Grove, or the manager's designee.

*Constructed.* Construction, as the term is used under 3.11.040(3)(e), may include the conversion of existing housing units into low-income housing, provided that all other criteria under 3.11.050(3) are met.

*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 3.11.050 of this code.

*Limited equity cooperative.* A cooperative corporation formed under Chapter 62 of the Oregon Revised Statutes (ORS), whose articles of incorporation, in addition to the other requirements of ORS Chapter 62, prohibit members from selling their ownership interests:

- (1) To any person other than a low income person; or
- (2) For a sales price that exceeds the sum of:
  - a. The price the member paid for the ownership interest;

- b. The cost of any permanent improvements the member made to the housing unit during the member's ownership;
- c. Any special assessments the member paid to the limited equity cooperative during the member's ownership that were expended to make permanent improvements to the building in which the member's housing unit is located; and
- d. A return on the amounts described in (a) – (c) above, computed from the year in which the respective amount was paid, that equals the greater of the result of:
  1. Adjusting each amount by the percentage increase, if any, in the Consumer Price Index for All Urban Consumers, West Region (All Items), as published by the Bureau of Labor Statistics of the United States Department of Labor; or
  2. Increasing each amount by three percent compounded annually.

*Low-income.* Low Income means:

- (1) 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;
- (2)
  - a. For the initial year that persons occupy property for which an application for exemption is filed under Section 3.11.040, 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 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; or
- (3) For housing units on property that is awarded tax credits through the federal Low-Income Housing Tax Credit Program and is a qualified low income housing project meeting the requirements of 26 U.S.C. 42(g)(1)(C), 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, provided the average

area median income of all housing units on the property is 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.

*Rent.* Rent includes charges paid by the holder of a proprietary lease in a limited equity cooperative for occupancy of a housing unit owned by the cooperative.

### **3.11.030 Pre-application conference.**

A. The applicant shall request that the public works and development director schedule a pre-application conference no later than December 31st of the calendar year immediately prior to the first assessment year for which the exemption is requested. Each applicant shall submit in writing, on forms furnished by the public works and development director, the following information:

1. The applicant's name, address, and telephone number.
2. A preliminary sketch, drawn to approximate scale of one inch equals twenty feet, which shows the site plan and major features of the proposed development.
3. A written statement which generally describes the location of the proposed development; the number, size, and type of dwelling units; dimensions of structures; public and private access; parking and circulation plans; landscaping; uses; and a description of the public benefit(s) the applicant proposes to include in the project.

B. Prior to the pre-application conference, the public works and development department shall review the information supplied by the applicant and contact, for purposes of facilitating the application process, advisory bodies, departments, or agencies which may be affected by or have an interest in the proposed development.

C. The applicant shall meet with staff of the public works and development department in the pre-application conference and discuss the applicant's proposed development. After this conference, the public works and development department shall provide the applicant with a written summary of the meeting, including recommendations to inform and assist the applicant in preparation of the exemption application.

### **3.11.040 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) A description of how the tax exemption will benefit project residents;
  - (e) If the application will rely on the approval criteria in Subsection 3.11.050 (3) or (4):
    - 1. 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; and
    - 2. Evidence that, if occupied, the property is occupied solely as a residence for low-income persons;
  - (f) If the application will rely on the approval criteria in Subsection 3.11.050 (4):
    - 1. Evidence that the property is owned or being purchased by a non-profit corporation which meets the criteria for either a public benefit corporation or a religious corporation, as defined in ORS 65.001; or
    - 2. Evidence that the nonprofit 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 the residents of the rental property;
  - (g) If the application will rely on the approval criteria in Subsection 3.11.050 (6), evidence that the housing units are owned by a limited equity cooperative as defined in Section 3.11.010 that meets the criteria for a cooperative corporation under ORS Chapter 62.
  - (h) A description of the plans for development of the property if the property is being held for future low income rental housing development; and
  - (i) 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) At the time the application is filed, the applicant shall submit the application fee established by Ordinance No. 2361, the City of Cottage Grove Comprehensive Fee Schedule.
- (4) An application for exemption hereunder shall be filed on or before December 1 of the calendar year immediately preceding the first tax year for which an exemption is requested.

However, if the property is acquired after November 1, the application shall be filed within 30 days after the date of acquisition, but no later than January 1 of the next calendar 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.

**3.11.050 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 council in sufficient time to allow the council to act within 60 days from the date the application is filed.

(2) Upon receipt of the city manager's recommendation the council shall consider the application and grant or deny the property tax exemption.

(3) The city manager shall recommend approval of an application, and the 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:

1. Is offered for rental solely as a residence for low income persons; or
2. 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 by low-income persons;

(c) The required rent payment reflects the full value of the property tax exemption;

(d) The applicant's application was filed before July 1, 2030;

(e) The housing units on the property were constructed after February 12, 1990; and

(f) The proposed development is consistent with the policies set forth in the Standards and Guidelines for Low-Income Rental Housing Property Tax Exemption adopted by council resolution;



(g) 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;

(h) The proposed development does not cause destruction of historic properties (as defined in Section 14.26.310 of this code), except:

1. Where development has proceeded according to historic property moving and demolition procedures as set forth in Section 14.26.370 of this code, or

2. The property is granted an exception by the council; and,

(i) The proposed development is otherwise consistent with this code and adopted city regulations and policies.

(4) As an alternative to an application considered under subsection (3) of this section, the city manager shall recommend approval of an application, and the council shall grant the exemption upon determining the applicant meets the criteria set forth in subsections (3)(d), (f), (g), (h) (i) and (j) of this section and all 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 persons, 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 for low-income persons;

(c) The applicant's application was filed prior to July 1, 2030;

(d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for either a public benefit corporation or a religious corporation, as those terms are defined in ORS 65.001; and

(e) The property is owned or being purchased by a nonprofit corporation that 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 the residents of the rental property.

(5) For purposes of subsection (4):

- (a) A nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if the nonprofit 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; and
  - (b) A partnership shall be considered a nonprofit corporation if the nonprofit corporation is a general partner of the partnership and the nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the application for exemption.
- (6) The city manager shall recommend approval of an application, and the council shall grant the exemption upon determining the applicant meets the criteria set forth in subsections (3)(c), (d), (f), (g), (h) and (i) of this section and all the following criteria:
- (a) The property, or portion thereof subject to the property tax exemption, is owned by a limited equity cooperative;
  - (b) The property, or portion thereof subject to the property tax exemption, is occupied by low income persons holding a proprietary lease in the limited equity cooperative; and
  - (c) The housing units on the property were constructed, or converted to limited equity cooperative ownership, after February 12, 1990.
- (7) At the meeting at which the city manager's recommendation is considered the 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.
- (8) A resolution approving an application shall contain:
- (a) The owner's name and address;
  - (b) A description of the housing unit;
  - (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.

(9) Within ten days from the date of its adoption, the city manager shall forward to the applicant a copy of the resolution adopted by the 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.

(10) A resolution denying an application shall state the reasons for denial, shall be forwarded to the applicant within ten 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.

### **3.11.060 Termination.**

(1) An exemption may be terminated if 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 was not completed on or before July 1, 2030, and no extensions or exceptions as provided in subsection (5) of this section 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, or any provisions of the standards and guidelines adopted by council resolution; or,

(c) The applicant has failed to comply with any conditions imposed in the resolution approving the application.

(2) If, after a resolution approving an application for exemption hereunder has been filed with the county assessor, the city manager finds that any of the conditions described in subsection (1) of this section apply to the exempt property, the city manager shall recommend to the 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 council, at a time specified in the notice, which shall be 20 days or more from the date the notice was mailed, to show cause, if any exists, why the exemption should not be terminated.

(3) If the owner fails to appear before the 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 adequate assurances to the 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 that any noncompliance will be cured, the council shall adopt a resolution terminating the exemption, which shall contain the council's findings in support of the termination. Copies of the resolution shall be filed with the county assessor and mailed to the property owner, at the owner's last address, and to the lender, at the lender's last known address, within 10 days from the date the resolution is adopted. If a determination is made that the exemption should continue as previously granted, the 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.

(4) All reviews of 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 council's action on an exemption is not a land use decision.

(5) Upon receipt of a request from the property owner, the council may, by resolution, extend the deadline beyond July 1, 2030 for completion of construction of the low income rental housing for a period not to exceed 12 consecutive months, i.e., July 1, 2031, if it finds the failure to complete construction by July 1, 2030 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.

(6) The low income housing granted an exemption by the council shall be exempt from ad valorem taxation for 20 successive years beginning with the tax year commencing immediately following the calendar year in which the application was approved. The exemption shall apply only to the land and improvements located thereon that are a part of a low income rental housing development, or land that is being held for future development of low income rental housing. The exemption shall be in addition to any other exemption provided by law. In the final year of low income housing tax exemptions, applications for subsequent low income housing tax exemptions for the property may be submitted. Such applications shall be processed in accordance with Section 3.11.040 of this code.

(7) Any exemption granted by the council shall terminate immediately, without right of notice or appeal, and in accordance with the provisions of ORS 307.531, in the event:

(a) The exempt property, or portion thereof subject to the property tax exemption, is being held for future development of low income rental housing and it is used for any purpose other than the provision of low income rental housing; or

(b) 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 100.110.

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