

EUGENE CITY COUNCIL

AGENDA ITEM SUMMARY



Action: Adoption of an Ordinance Concerning Low-Income Housing Property Tax Exemptions and Amending Sections 2.916, 2.920, 2.938, 2.939 and 2.940 of the Eugene Code, 1971

Action: Adoption of Resolution 5028 Adopting Amended Standards and Guidelines for Processing Low-Income Rental Housing Property Tax Exemption Applications

Meeting Date: April 13, 2011
Department: Planning and Development
www.eugene-or.gov

Agenda Item Number: A
Staff Contact: Becky L. Wheeler
Contact Telephone Number: 541-682-5532

ISSUE STATEMENT

Ordinance - The City Council is scheduled to take action on this request to amend the Eugene Code extending the sunset date for the low-income housing property tax exemption program and the 20-year low-income rental housing property tax exemption program. The proposed ordinance would extend the sunset date by 10 years for each program. In addition, the proposed ordinance would enable recipients to reapply for the 20-year low-income rental housing property tax exemption after the initial 20-year period has expired.

Resolution – Provided the above reference ordinance is adopted, the City Council is scheduled to consider a resolution adopting amended Standards and Guidelines for processing 20-year low-income rental housing property tax exemption applications.

BACKGROUND

Ordinance - The City Council held the required public hearing on this item April 11, 2011.

Both the low-income housing property tax exemption and the 20-year low-income rental housing property tax exemption are enabled by state statute. The low-income housing property tax exemption provides an annual exemption for properties that are used for the purposes of a nonprofit corporation. This housing is not required to be rental housing. The 20-year low-income rental housing property tax exemption provides a 20-year exemption for properties offered for rent or held for the purpose of developing low-income rental housing. Applicants requesting a 20-year exemption are not required to be a nonprofit in certain instances.

In 1992, the City Council adopted both programs to facilitate the development of affordable housing for low-income persons. In compliance with provisions enacted by the Oregon Legislature, the City Council adopted Sections 2.910 to 2.922 and Sections 2.937 to 2.940 of the Eugene Code, 1971, which provides procedures for granting exemptions from ad valorem taxes on low-income housing and low-income rental housing developed by non-profits.

The Oregon Legislature extended the sunset for both the low-income housing property tax exemption annual renewal program and the 20-year low-income rental housing property tax exemption program by another 10 years to 2014 and 2020, respectively. In order to continue these programs, current Eugene Code, 1971 must be amended to reflect changes in state law.

Resolution - ORS 307.521(3) provides that local jurisdictions adopt standards and guidelines establishing policy governing basic requirements for approving low-income rental housing tax exemption applications. In accordance with that provision, on February 12, 1990, Resolution No. 4168 was adopted establishing Standards and Guidelines for processing such applications. Resolution No. 4168 has subsequently been amended by Resolution Nos. 4327, 4418 and 4623. By adopting the proposed ordinance, the City Council will amend Sections 2.938, 2.939 and 2.940 of the Eugene Code, 1971. To bring those sections into conformity with amendments to the state statutes, revisions to the Standards and Guidelines are necessary in order to ensure compliance with state law and conformity with Sections 2.937 to 2.940 of the Eugene Code, 1971.

Changes to be Made

Eligible tax years – Subsection (2) of Section 2.916 and subsection (2) of Section 2.920 of the Eugene Code, 1971, need to be amended to extend the tax years in which applicants are eligible to receive an exemption. If approved, applicants may apply for and receive an exemption, if eligible, for tax years beginning on or after July 1, 1994, and before July 1, 2014.

ORS and Eugene Code References – Subsection (1)(g) of Section 2.938, (2)(h) and (3)(d) of Section 2.939 of the Eugene Code, 1971, need to be amended to reflect changes is referenced sections of the ORS and Eugene Code, 1971.

Eligible years to apply and construction deadline – Subsection (3)(c) of Section 2.939 and (1)(a) and (4) of Section 2.940 of the Eugene Code, 1971, need to be amended to reflect the extended date by which an application can be submitted and the date by which construction must be completed. If approved, each date is extended to on or before January 1, 2020.

Several of the properties initially granted 20-year low-income housing property tax exemptions are coming to the end of their exemption period. The proposed ordinance would allow owners of such properties to reapply for this program and effectively extend their commitment to providing affordable housing for another 20 years. Subsection (5) of Section 2.940 of the Eugene Code, 1971, is amended to allow recipients to reapply for the property tax exemption after the initial 20 year period has expired.

Program Impact

Since 1992, Eugene has approved 22 property tax exemptions for low-income developments totaling over 1,000 housing units (Attachment A). The City and other local taxing districts forgo revenue when property is exempted from taxes. A property tax exemption plays a significant role in reducing rents for low- and very-low income residents of Eugene. The benefit of each exemption varies based on development size and appraised tax value, however, estimates suggest the rent reduction amounts to approximately \$100 or more per month per unit. This approximation is based on an average tax savings of between \$1million and \$2.5million dollars per development over the life of the exemption.

With commitment of local subsidies, including continued support from the City Council in the form of property tax exemptions, developers have successfully leveraged highly competitive state and federal

resources for the continued development of quality affordable housing in Eugene. There is significant competition for funding at both the state and federal level. Commitment of local resources gives Eugene projects an advantage in such competitions. The developments also help support the local economy through the creation of construction jobs. The proposed ordinance would allow Eugene projects to continue to access such resources.

There are currently four developments whose property tax exemption will expire in the next five years. This equates to 115 units of affordable housing that potentially could be lost should the property owner be unable to locate alternative subsidies to maintain affordability. If alternative means to subsidize the units cannot be found, impacts could range from increased rents to reductions in resident programming. Many tenants are unable to support an increase in rent due to fixed incomes and may be forced to vacate.

RELATED CITY POLICIES

The City of Eugene established current goals and programs for the development of housing affordable to low-income people through the adopted 2010 HUD Consolidated Plan. The Consolidated Plan guides the use of Home Investment Partnerships Program (HOME) funds and Community Development Block Grant (CDBG) funds over a five-year period. Each year, the City Council approves the allocation of federal funds through a One-Year Action Plan. Affordable housing development programs support of the City Council Adopted Growth Management Policies, as well. The recommendation to amend Eugene Code directly supports the following Growth Management Policies:

- Promote construction of affordable housing.
- Encourage in-fill, mixed-use, redevelopment, and higher density development.
- Improve the appearance of buildings and landscapes.
- Provide for a greater variety of housing types.

Extending the City's tax exemption programs parallels the Envision Eugene pillar of providing affordable housing for all income levels. The draft Envision Eugene proposal presents strategy number 4 to meet the growing and changing housing needs of Eugene residents by supporting subsidized affordable housing projects. Continuing the existing property tax exemption programs has been identified as a way in which this goal can be achieved.

COUNCIL OPTIONS

A. The City Council may consider the following options:

1. Adopt the ordinance as presented;
2. Adopt the ordinance with specific modifications as determined by the City Council;
3. Take no action.

B. If the City Council adopts the ordinance as presented, it may then consider the following options:

1. Adopt the resolution as presented;
2. Adopt the resolution with specific modifications as determined by the City Council;
3. Take no action.

CITY MANAGER'S RECOMMENDATION

The City Manager recommends that the council adopt the ordinance amending the low-income housing property tax exemption provisions of the Eugene Code, 1971, as set out in Attachment A, and the resolution adopting amended standards and guidelines for processing low-income housing property tax exemption provisions, as set out in Attachment B.

SUGGESTED MOTION

I move to adopt an ordinance concerning low-income housing property tax exemptions and amending sections 2.916, 2.920, 2.938, 2.939 and 2.940 of the Eugene Code, 1971.

If the ordinance is adopted:

I move to adopt Resolution 5028 adopting amended standards and guidelines for processing low-income housing property tax exemption provision.

ATTACHMENTS

- A. Proposed Ordinance
- B. Proposed Resolution

FOR MORE INFORMATION

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ORDINANCE NO. _____

AN ORDINANCE CONCERNING LOW-INCOME HOUSING PROPERTY TAX EXEMPTIONS AND AMENDING SECTIONS 2.916, 2.920, 2.938, 2.939 AND 2.940 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Sections 2.916 and 2.920 of the Eugene Code, 1971, are amended to provide:

- 2.916** **Low-Income Housing Property Tax Exemption - Annual Application Renewal.**
- (1) Applicants who have received a property tax exemption under section 2.912 of this code must reapply each year, following the procedures set forth in section 2.912, no later than March 1 in order to be qualified for property tax exemption for the following tax year.
 - (2) Applicants for property tax exemption under section 2.912 of this code shall apply for, and may be eligible for property tax exemptions for tax years beginning on or after July 1, 1994, and before July 1, [2004] **2014**.
- 2.920** **Low-Income Housing Property Tax Exemption - Assessment Exemption.**
- (1) Property for which an application for a property tax exemption has been approved under the provisions of sections 2.910 to 2.922 shall be exempt from ad valorem taxation for one tax year beginning on or after July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption. The exemption provided for herein shall be in addition to any other exemption provided by law.
 - (2) Applications for property tax exemption under section 2.912 shall apply to and may be approved for tax years beginning before July 1, [2004] **2014**.

Section 2. Subsection (1)(g) of Section 2.938 of the Eugene Code, 1971, is amended to provide:

- 2.938** **Low-Income Rental Housing Property Tax Exemption - Application.**
- (1) An application for exemption from property taxes hereunder for low-income rental housing units constructed after February 12, 1990 shall be filed with the city manager, on a form provided by the city manager, which shall contain the following, if applicable:
 - (g) Evidence that the property is owned or being purchased by a non-profit corporation which meets the criteria for a public benefit corporation as described in ORS 65.001([34]**37**), or a religious corporation, as described in ORS 65.001([33]**39**);

Section 3. Subsections (2)(h), (3)(c) and (3)(d) of Section 2.939 of the Eugene Code, 1971, are amended to provide:

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

- (2) Upon receipt of the city manager's recommendation the council shall consider the application and grant or deny the property tax exemption. 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:
- (h) The proposed development does not cause destruction of historic properties (as defined in section [9.202] **9.0500** of this code), except:
1. Where development has proceeded according to historic property moving and demolition procedures as set forth in sections [9.212] **9.8160, 9.8180 and 9.8185** of this code, or
 2. The property is granted an exception by the council; and,
- (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 council shall grant the exemption upon determining the applicant meets the criteria set forth in subsections (2)(e), (f), (g), (h) and (i) of this section and all the following criteria:
- (c) The applicant's application was filed prior to January 1, [2010]**2020**;
- (d) The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001([31]**37**) or for a religious corporation, as described under ORS 65.001([33]**39**); and

Section 4. Subsections (1)(a), (4) and (5) of Section 2.940 of the Eugene Code, 1971, are amended to provide:

2.940 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 was not completed or on or before January 1, [2010]**2020**, and no extensions or exceptions as provided in subsection (4) hereof have been granted; or,
- (4) Upon receipt of a request from the property owner, the council may, by resolution, extend the deadline beyond January 1, [2010]**2020** for completion of construction of the low-income rental housing for a period not to exceed 12 consecutive months, i.e., January 1, [2011]**2021**, if it finds the failure to complete construction by January 1, [2010]**2020** 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) ~~[In no event shall t]~~The low-income housing granted an exemption by the council **shall** be exempt from ad valorem taxation for ~~[more than]~~ 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 the low-income rental housing unit, 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 sections 2.937 to 2.940 of this code.***

Section 5. The City Recorder, at the request of, or with the consent of the City Attorney, is authorized to administratively correct any reference errors contained herein, or in other provisions of the Eugene Code, 1971, to the provisions added, amended or repealed herein.

Passed by the City Council this

___ day of _____, 201__

Approved by the Mayor this

___ day of _____, 201__

City Recorder

Mayor

RESOLUTION NO. _____

A RESOLUTION ADOPTING AMENDED STANDARDS AND GUIDELINES FOR PROCESSING APPLICATIONS FOR LOW-INCOME RENTAL HOUSING PROPERTY TAX EXEMPTIONS AND REPEALING RESOLUTION NO. 4623.

The City Council of the City of Eugene finds that:

A. Issues related to low-income housing have long been given a high priority by the City Council. As an incentive to encourage low-income rental housing within the City of Eugene, and in compliance with provisions enacted by the Oregon Legislature, the City Council adopted Sections 2.937 to 2.940 of the Eugene Code, 1971, which provides procedures for granting exemptions from ad valorem taxes on low-income rental housing.

B. ORS 307.521(3) provides that local jurisdictions adopt standards and guidelines establishing policy governing basic requirements for approving low-income rental housing tax exemption applications. In accordance with that provision, on February 12, 1990, Resolution No. 4168 was adopted establishing Standards and Guidelines for processing such applications. Resolution No. 4168 has subsequently been amended by Resolution Nos. 4327, 4418 and 4623.

C. The City Council has amended Sections 2.938, 2.939 and 2.940 of the Eugene Code, 1971, to bring those sections into conformity with amendments to the state statutes. Therefore, revisions to the Standards and Guidelines are necessary in order to ensure compliance with state law and conformity with Sections 2.937 to 2.940 of the Eugene Code, 1971.

D. Resolution No. 4623 and the Standards and Guidelines adopted by that Resolution, should be repealed, and the amended Standards and Guidelines attached as Exhibit A to this Resolution should be approved and adopted as the process to be followed in reviewing and making recommendations on applications for low-income rental housing property tax exemptions.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EUGENE, a Municipal Corporation of the State of Oregon, as follows:

Section 1. Based upon the above findings which are adopted, the Standards and Guidelines for processing applications for low-income rental housing property tax exemptions attached as Exhibit "A" to this Resolution are adopted as the policies and procedures to be considered in approving applications under Sections 2.937 to 2.940 of the Eugene Code, 1971.

Section 2. Resolution No. 4623, and the Standards and Guidelines adopted by that Resolution, is repealed as of the effective date of this Resolution.

Section 3. This Resolution is effective upon the effective date of Ordinance No. _____ which adopted the most recent amendments to Sections 2.916, 2.920, 2.938, 2.939 and 2.940 of the Eugene Code, 1971, and shall govern both new and pending applications.

The foregoing Resolution adopted the _____ day of _____, 2011.

City Recorder

**STANDARDS AND GUIDELINES
for Processing Low-Income Rental
Housing Property Tax Exemption Applications**

For purposes of these Standards and Guidelines, the following words and phrases mean:

City Manager. The City Manager of the City of Eugene, or his or her designee.

Low-income. Income at or below 60 percent of the area median income as determined by the State Housing Council based on information from the United States Department of Housing and Urban Services.

Low-Income Rental Housing. Rental housing constructed after February 12, 1990 which is occupied by low-income persons.

1. Statement of Program Purpose. The purpose of the low-income rental housing local property tax exemption program is to provide an incentive that will encourage construction of new rental housing for low-income persons.

2. Eligible Property. To be eligible for local property tax exemption hereunder:

2.1 If unoccupied, the property is offered for rental solely as a residence for low-income persons, or held for the purpose of developing low income rental housing;

2.2 If occupied, the property, or portion thereof subject to the property tax exemption, must be occupied solely as a residence for low-income persons;

2.3 The required rent payment must reflect the full value of the property tax exemption;

2.4 The housing units on the property must be constructed after February 12, 1990;

2.5 The property owner must agree to comply with the policies set forth in Section 5 of these Standards and Guidelines;

2.6 The proposed development must be consistent with the City's Housing Dispersal Policy;

2.7 The proposed development will 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;

2.8 The proposed development will not cause destruction of historic properties (as defined in Section 9.0500 of the Eugene Code, 1971) except:

2.8.1 Where development has proceeded according to historic property moving and demolition procedures as set forth in Section 9.8160, 9.8180 and 9.8185 of the Eugene Code, 1971, or

2.8.2 The property is granted an exception by the council;

2.9 The proposed development will be otherwise consistent with provisions of the Eugene Code, 1971 and adopted City regulations and policies; and

2.10 As an alternative to the criteria set forth in subsections 2.1, 2.2, 2.3 and 2.4 of this section, an application shall be approved if it meets the criteria in subsections 2.5, 2.6, 2.7, 2.8 and 2.9 of this section and all of the following criteria:

2.10.1 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;

2.10.2 If occupied, the property, or portion thereof subject to the property tax exemption, is occupied solely as a residence for low-income persons;

2.10.3 The applicant's application was filed prior to January 1, 2020;

2.10.4 The property is owned or being purchased by a nonprofit corporation organized in a manner that meets the criteria for a public benefit corporation, as described under ORS 65.001(37) or for a religious corporation, as described under ORS 65.001(39); and

2.10.5 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.

For purposes of this subsection, 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.

3. Application for Exemption. Prior to December 1 of the calendar year immediately preceding the first assessment year for which the exemption is requested, or, if the property is acquired after November 1, within 30 days of the date of acquisition, but no later than January 1 of the next calendar year, the applicant shall submit to the City Manager, on a form provided by the City Manager, an application for exemption, containing the following information:

3.1 A description of the property or portion thereof, for which the exemption is requested;

3.2 A description of the purpose of the project and whether all or a portion of the property will be used for that purpose;

3.3 A certification of the income levels of low-income occupants;

3.4 A description of how the tax exemption will benefit project occupants;

3.5 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;

3.6 Evidence that, if occupied, the property is occupied solely as a residence for low-income persons;

3.7 If the application is for an exemption described in subsection 2.10, evidence that the property is owned or being purchased by a nonprofit corporation which meets the criteria for a public benefit corporation as described in ORS 65.001(37), or a religious corporation, as described in ORS 65.001(39); and 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;

3.8 A description of the plans for development of the property if the property is being held for the future development of low income rental housing; and

3.9 Any other information required by the City Manager.

The application shall be verified by oath or affirmation of the applicant and submitted with an application and processing fee to be set by the City Manager pursuant to Section 2.020 of the Eugene Code, 1971, which shall include therein the fee to be paid to the County Assessor by

the City as the County's agreed processing fee for those applications receiving Council approval. The amount of the basic fee shall be prominently displayed on the application, together with a statement that the applicant may be required to pay other reasonable costs, including appraisal costs, if any are incurred by the City or the County in processing the application. Any additional costs shall be paid to the City by the applicant prior to the granting of any final approval. In the event an application is denied, the portion of the fee reserved for the County Assessor will be refunded to the applicant by the City. An application which does not contain all the required information and is not accompanied by the required fee shall be returned to the applicant. Any application returned for these reasons shall be deemed not to have been filed.

4. Duration of Tax Exemption. An exemption from ad valorem taxes may be granted for a period of twenty successive years for the land and the improvements located thereon that are a part of the newly-constructed low-income rental housing or for land that is being held for future development of low income rental housing. 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 and acted upon in accordance with sections 2.937 to 2.940 of this code and any applicable state law.

5. Policies. In addition to the criteria set forth in Section 2.939(2) of the Eugene Code, 1971, and Section 2 above, unless the land is being held for future development of low income rental housing, the applicant must demonstrate compliance with the following policies in order to be eligible for a property tax exemption hereunder:

5.1 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 full value of the property tax exemption.

5.2 Inspection of Premises. 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 insure that the premises are maintained in decent, safe and sanitary conditions for the occupants.

6. Recommendations on Applications. Upon receipt of an application for property tax exemption hereunder, the City Manager shall:

6.1 Review the application and all supportive material to verify that the applicant has provided the information required and paid the required fee. The City Manager shall promptly notify the applicant of any omissions.

6.2 Solicit recommendations or comments from interested City departments, agencies, and the affected neighborhood group(s). Within 20 days of forwarding referrals, written comments shall be submitted to the City Manager

by the agencies, departments and groups to whom referral is made. Failure to respond within 20 days will be deemed approval of the proposal as submitted.

6.3 If necessary to address comments or recommendations received, establish a meeting with the applicant, or the applicant's authorized representative to review the application.

6.4 Within 30 days from the date the application is filed, forward his or her recommendation to the Council that the application be denied, approved, or approved subject to conditions. The recommendation shall be based upon and contain findings of compliance or non-compliance with these Standards and Guidelines, Sections 2.937 to 2.940 of the Eugene Code, 1971, Council resolutions, ordinances and adopted policies, and applicable State statutes, that support his or her recommendation.