



COUNCIL ORDINANCE NO. 20697

**AN ORDINANCE CONCERNING LOW-INCOME RENTAL HOUSING
PROPERTY TAX EXEMPTION AND AMENDING SECTIONS 2.937, 2.938,
2.939, AND 2.940 OF THE EUGENE CODE, 1971.**

ADOPTED: October 25, 2023

SIGNED: October 30, 2023

PASSED: 8:0

REJECTED:

OPPOSED:

ABSENT:

EFFECTIVE: November 30, 2023



ORDINANCE NO. 20697

AN ORDINANCE CONCERNING LOW-INCOME RENTAL HOUSING
PROPERTY TAX EXEMPTION AND AMENDING SECTIONS 2.937, 2.938,
2.939, AND 2.940 OF THE EUGENE CODE, 1971.

THE CITY OF EUGENE DOES ORDAIN AS FOLLOWS:

Section 1. Section 2.937 of the Eugene Code, 1971, is amended to add the definitions of “limited equity cooperative” and “rent” and to amend the definition of “low income” to provide as follows:

2.937 Low-Income Rental Housing Property Tax Exemption – Definitions.

For purposes of sections 2.938 to 2.940, the following words and phrases mean:

City manager. The city manager of the city of Eugene, or the 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 2.939 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 EC 2.938, 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.

Section 2. Section 2.938 of the Eugene Code, 1971, is amended by amending the introductory language in subsection (1); amending subsection (1)(c); amending subsection (1)(d); amending subsection (1)(e); amending subsection (1)(f) and renumbering it as (1)(e)2.; amending subsections (1)(g) and (1)(h) and renumbering subsections (1)(g) and (1)(h) as (1)(f); adding a new subsection (1)(g); renumbering subsection (1)(i) as (1)(h); and renumbering subsection (1)(j) as (1)(i) to provide as follows:

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 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 EC 2.939(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 EC 2.939(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; and
 - 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;
- (g) If the application will rely on the approval criteria in EC 2.939(6), evidence that the housing units are owned by a limited equity cooperative as defined in EC 2.937 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.

Section 3. Section 2.939 of the Eugene Code, 1971, is amended by amending subsection (2); adding a new subsection (3); renumbering subsections (2)(a)-(c) as (3)(a)-(c); adding subsection (3)(d); renumbering subsection (2)(d) as (3)(e); amending subsection (2)(e) and renumbering it as (3)(f); renumbering subsections (2)(f) through (2)(i) as (3)(g) through (3)(j); amending subsection (3) and renumbering it as (4); renumbering the final paragraph in subsection (3) as (5) and (5)(a); adding a new subsection (5)(b); adding a new subsection (6); and renumbering subsections (4) through (7) as (7) through (10) to provide as follows:

2.939 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:

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;

(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 is consistent with the city's housing dispersal policy;

(h) 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;

(i) The proposed development does not cause destruction of historic properties (as defined in section 9.0500 of this code), except:

1. Where development has proceeded according to historic property moving and demolition procedures as set forth in sections 9.8160, 9.8180 and 9.8185 of this code; or

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

(j) 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 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)(d), (f), (g), (h) (i) and (j) of this section and all the following criteria:

- (a) The property is owned by a limited equity cooperative;
- (b) The property 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.

Section 4. Section 2.940 of the Eugene Code, 1971, is amended by amending subsection (1); amending subsection (1)(a); amending subsection (1)(c) and renumbering part of subsection (1)(c) as (2); amending subsection (2) and renumbering it as (3); amending subsection (3) and renumbering it as (4); amending subsection (4) and renumbering it as (5);

amending subsection (5) and renumbering it as (6); amending subsection (6) and renumbering it as (7) to provide as follows:

2.940 Low-Income Rental Housing Property Tax Exemption – 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 sections 2.937 to 2.940 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 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.

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

25th day of October, 2023



City Recorder

Approved by the Mayor this

30 day of October, 2023



Mayor