

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Public Hearing – Housing Services

Agenda Title: SECOND READING AND FIRST PUBLIC HEARING OF PROPOSED ORDINANCE NO. 761, AN ORDINANCE AUTHORIZING TAX EXEMPTIONS FOR NONPROFIT ORGANIZATIONS OWNING OR HOLDING REAL PROPERTY FOR USE AS LOW-INCOME HOUSING AND DECLARING AN EMERGENCY

Presented by: Adolph 'Val' Valfre, Jr., Director of Housing Services

SUMMARY:

On February 19, 2013, your Board authorized filing an ordinance to enable Washington County to provide property tax exemption under ORS 307.540 to 307.548 to nonprofit owners or purchasers of property located in Washington County that is occupied by or planned for future occupancy by low-income persons in Washington County. Proposed Ordinance 761 declares an emergency to address the immediate need for additional low income housing in Washington County and will take effect upon enactment. Proposed Ordinance 761 will amend Title 3 of Washington County Code by adding Chapter 3.48.

Attachment: Proposed Ordinance 761, including its Exhibit A.

DEPARTMENT'S REQUESTED ACTION:

Conduct second reading, first public hearing, and adopt proposed Ordinance 761, an ordinance which provides a tax exemption for nonprofit organizations who own property occupied by or planned for future occupancy by low-income persons in Washington County.

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

ADOPTED

Agenda Item No.	<u>5.a.</u>
Date:	03/26/12

IN THE BOARD OF COUNTY COMMISSIONERS

FOR WASHINGTON COUNTY, OREGON

ORDINANCE No. 761

An Ordinance Amending Washington County Code Title 3 to Add Chapter 3.48 Relating To Tax Exemptions For Property Owned Or Being Purchased By Nonprofit Organizations For Use As Low Income Housing And Declaring An Emergency

The Board of County Commissioners of Washington County, Oregon, (Board) ordains as follows:

SECTION 1.

A. The Board finds that providing property tax exemption incentives for nonprofit organizations that own or purchase property for use as low income housing will encourage the further development of much needed low income housing units in Washington County;

B. The Board finds that delaying adoption of the property tax exemption for qualifying nonprofit organizations will further delay the development of much needed additional low income housing units in Washington County;

C. The Board finds that it is necessary to declare an emergency and adopt the property tax exemption as quickly as possible to ensure that the exemption is available to qualifying nonprofit owners and purchasers of low income housing during the upcoming tax year;

and

///

///

1 D. The Board finds and takes public notice that it is in receipt of all information
2 necessary to consider this Ordinance in an adequate manner, and that this Ordinance complies
3 with the requirements set forth in the Washington County Charter and the Washington County
4 Code.

5 SECTION 2.

6 Washington County Code Title 3 is hereby amended to add new Chapter 3.48, as fully set
7 forth in Exhibit "A" attached hereto and incorporated herein.

8 SECTION 3.

9 A. Nothing herein is intended, nor shall it be construed, as amending, replacing, or
10 otherwise being in conflict with any other ordinances of Washington County unless expressly so
11 stated.

12 B. If any portion of this Ordinance, including the exhibit, shall for any reason be held
13 invalid or unconstitutional by a court of competent jurisdiction, the remainder shall not be
14 affected thereby and shall remain in full force and effect.

15 SECTION 4.

16 The Office of County Counsel is authorized to codify this Ordinance, including deleting
17 and adding textual material, renumbering pages or sections, and making any technical changes not
18 affecting the substance of this Ordinance as part of the Washington County Code.

19 SECTION 5.

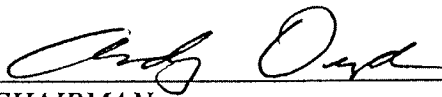
20 This Ordinance being necessary to ensure that nonprofit owners and purchasers of low
21 income housing are immediately incentivized to develop additional low income housing in
22 Washington County and to ensure that they are able to receive the exemption for the upcoming

1 tax year, an emergency is hereby declared and this Ordinance shall take effect immediately upon
2 enactment.

3 ENACTED this 26th day of March, 2013, being the second reading
4 and first public hearing before the Board of County Commissioners of Washington
5 County, Oregon.

6 BOARD OF COUNTY COMMISSIONERS
7 FOR WASHINGTON COUNTY, OREGON

8 **ADOPTED**

9 
CHAIRMAN

10 
RECORDING SECRETARY

11 READING

12 PUBLIC HEARING

13 First 03/12/13
14 Second 03/26/13
15 Third _____
Fourth _____
Fifth _____

13 First 03/26/13
14 Second _____
15 Third _____
Fourth _____
Fifth _____

16 VOTE: Aye: ALL AYE

Nay: _____

17 Recording Secretary:  Date: 03/26/13

Chapter 3.48

**NONPROFIT CORPORATION LOW-
INCOME HOUSING TAX
EXEMPTIONS**

Sections

- 3.48.010** **Definitions.**
- 3.48.020** **Nonprofit Corporation
Low-Income Housing
Exemption; Criteria.**
- 3.48.030** **Application for Exemption.**
- 3.48.040** **Determination of Eligibility
For Exemption; Notice To
County Assessor.**
- 3.48.050** **Termination of Exemption.**
- 3.48.60** **Delegation of
Administrative Authority.**

- 3.48.010** **Definitions.**
 - A. "Governing body" means the Washington County Board of County Commissioners.
 - B. "Low-income" means 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 Development. (Ord. 761)

3.48.020 **Nonprofit Corporation
Low-Income Housing
Exemption; Criteria.**

- A. Property that meets all of the following criteria shall be exempt from taxation as provided in this section:
 - 1. The property is owned or being purchased by a corporation that is

exempt from income taxes under section 501(c)(3) or (4) of the Internal Revenue Code as amended before December 1, 1984.

- 2. Upon liquidation, the assets of the corporation are required to be applied first in payment of all outstanding obligations, and the balance remaining, in cash and in kind, to be distributed to corporations exempt from taxation and operated exclusively for religious, charitable, scientific, literary or educational purposes or to the State of Oregon.
 - 3. The property is:
 - a. Occupied by low income persons; or
 - b. Held for future development as low income housing.
 - 4. The property or portion of the property receiving the exemption, is actually and exclusively used for the purposes described in section 501(c)(3) or (4) of the Internal Revenue Code as amended before December 1, 1984.
 - 5. The exemption has been approved as required in section 3.48.040.
- B. For purposes of subsection A of this section, a corporation that only has a leasehold interest in property is deemed to be a purchaser of that property if:
- 1. The corporation is obligated under the terms of the lease to pay the ad valorem taxes on the real and personal property used in this activity on that property; or

2. The rent payable by the corporation has been established to reflect the savings resulting from the exemption from taxation.
- C. A partnership shall be treated the same as a corporation to which this section applies if the corporation is:
1. A general partner of the partnership; and
 2. Responsible for the day to day operation of the property that is the subject of the exemption. (Ord. 761)

3.48.030 Application for Exemption.

- A. To qualify for the exemption provided by section 3.48.020, the corporation shall file an application for exemption with the governing body for each assessment year the corporation wants the exemption. The application shall be filed on or before April 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after April 1 but before July 1, the claim for that year shall be filed within 30 days after the date of acquisition. The application shall include the following information, as applicable:
1. A description of the property for which the exemption is requested;
 2. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 3. A certification of income levels of low income occupants;

4. A description of how the tax exemption will benefit project residents;
5. A description of the development of the property if the property is being held for future low income housing development; and
6. A declaration that the corporation has been granted an exemption from income taxes under 26 U.S.C. section 501(c)(3) or (4) as amended before December 1, 1984.

- B. The applicant shall verify the information in the application by oath or affirmation. (Ord. 761)

3.48.040 Determination of Eligibility for Exemption; Notice To County Assessor.

- A. Within 30 days of the filing of an application under section 3.48.030, the governing body shall determine whether the applicant qualifies for the exemption under section 3.48.020. If the governing body determines the applicant qualifies, the governing body shall certify to the County Assessor that all or a portion of the property shall be exempt from taxation under the levy of the certifying governing body.
- B. Upon receipt of certification under subsection A of this section, the County Assessor shall exempt the property from taxation to the extent certified by the governing body. (Ord. 761)

3.48.050 Termination of Exemption

- A. If the governing body determines that property that has received an exemption

- under this Chapter 3.48 in anticipation of future development of low income housing that the property is being used for any purposes other than the provision of low income housing, or that any provision of this Chapter 3.48 is not being complied with, the governing body shall give notice of the proposed termination of the exemption to the owner by mailing the notice to the last known address of the owner, and to every known lender, by mailing the notice to the last known address of every known lender. The notice shall state the reasons for the proposed termination and require the owner to appear at a specified time, not less than 20 days after mailing the notice, to show cause, if any, why the exemption should not be terminated.
- B. If the owner fails to appear and show cause why the exemption should not be terminated, the governing body shall notify every known lender, and shall allow any 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 assurance to the governing body that all noncompliance shall be remedied.
- C. 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 of the cure of noncompliance, the governing body shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution shall be filed within 10 days after its adoption with the County Assessor, and a copy shall be sent to the owner at the owner's last known address and to the lender at the last known address of the lender within 10 days after its adoption.
- D. Upon the County Assessor's receipt of the governing body's termination findings:
1. The exemption granted to the housing unit or portion under this Chapter 3.48 shall terminate immediately, without right of notice or appeal;
 2. The property shall be assessed and taxed as other property similarly situated is assessed and taxed;
 3. Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the presentation or discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the taxes assessed against the property and the taxes that would have been assessed against the property had it not been exempt under this Chapter 3.48 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under this Chapter 3.48.
- E. The assessment and tax rolls shall show potential additional tax liability for each property granted an exemption under this Chapter 3.48 because the property is being held for future development of low income housing.
- F. Additional taxes collected under this section shall be deemed to have been

imposed in the year to which the additional taxes relate. (Ord. 761)

**3.48.060 Delegation of
Administrative Authority.**

The governing body hereby delegates to the Director of Housing Services, or his/her designee, all authority necessary to make all determinations and otherwise administer the provisions of this Chapter, excepting determinations and actions required to be made or taken by the governing body pursuant to section 3.48.050. (Ord. 761)