



**City of Prineville**  
**DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT**  
**STAFF REPORT**

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**Date:** August 7, 2013  
**To:** Prineville City Council  
**From:** Scott Edelman, Planning Director  
**RE:** Resolution 1219 – Tax Exemption Program for Low-income Housing

Background

At previous meetings City Council has heard and discussed a request from Pacific Crest Affordable Housing that the City adopt a tax exemption program for low-income housing project that meet certain standards. At the last meeting Council instructed staff to draft a resolution for Council to consider that would establish such a program and provide specific standards a project would have to meet to be eligible for tax exemption. Council also requested that Pacific Crest provide an estimate of the annual taxes that would be exempted by the city. They also had some questions about the state law (ORS 317.505 to 317.537) that authorizes low-income housing tax exemption programs.

Update

The attached resolution has been adapted from the resolutions adopted by the City of Bend in 2003 and the City of LaPine in 2008. Staff reviewed the ORS and has found it to be consistent with all of the provisions of that law.

Pacific Crest has provided an estimate of the taxes which the City would be foregoing if their project is approved under this program. This estimate is attached to this staff report and includes the estimated tax exemptions from other districts would be asked to approve. The City of Prineville's portion of the overall rate of taxation is 18%, which comes out to \$884 annually according to the estimate. There are a few important things to note about this estimate:

- Due to key Crook County Assessor staff being on vacation, Pacific Crest was not able to obtain the exception value ratio so this estimate uses the ratio from Deschutes County. Pacific Crest has stated that they will have an updated estimate with the Crook County ratio by the August 13 Council meeting. Since Deschutes County's rate is 100%, the highest the rate can be by law, the revised estimate will either be the same or lower.

- The table with the estimate refers to La Pine. This is not a typo. Pacific Crest used the Little Deschutes Lodge 2 project in La Pine as a basis for the estimate – they left references to La Pine so Council would be fully aware of how they generated this estimate.

One question that came up at the last meeting is how the City's approval of a tax exemption works in relation to such approval by the other taxing districts. According to the ORS, the City's decision is first and independent of the decision by other taxing districts. If the City does not approve the exemption, then there is no opportunity for Pacific Crest to seek exemption from other taxing districts. If the City approves the exemption, then the City and Pacific Crest work together to make a request for exemption from the other taxing districts. If enough taxing districts agree to the policy of the exemption to equal 51% or more of the total combined rate of taxation on the property (including the City's rate) then the exemption applies to all taxing districts. If the 51% threshold is not reached, then the exemption does not apply to any of the taxing districts, other than the City.

#### Council Action

Staff requests that Council makes a decision on whether or not the City should adopt a tax exemption program for low-income housing. If the Council is in favor of such a program, staff further requests that Council review the draft policy included in Resolution 1219 and either:

1. Approve Resolution 1219 as written.
2. Approve Resolution 1219 with changes.
3. Postpone a decision until the August 27 meeting for further consideration.

#### Attachments

1. Resolution 1219 including the draft Policy on Low-Income Rental Housing Tax Exemption.
2. Tax Exemption Estimate provided by Pacific Crest Affordable Housing
3. ORS 307.515 to 307.537

**Resolution 1219**

**A RESOLUTION OF THE PRINEVILLE CITY COUNCIL ADOPTING THE PROVISIONS OF  
OREGON REVISED STATUTE 307.515 TO 307.537 ALLOWING PROPERTY TAX  
EXEMPTION FOR LOW-INCOME RENTAL HOUSING**

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

WHEREAS, the Prineville City Council recognizes that the supply of affordable and adequate rental housing in Prineville is insufficient to meet the community's current housing needs; and

WHEREAS, the Prineville 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 Prineville City Council supports the efforts of low-income housing developers to provide high quality, stable housing for the community's lower-income residents;

NOW, THEREFORE, THE CITY OF PRINEVILLE RESOLVES AS FOLLOWS: The attached City Council policy allowing property tax exemption for low-income rental housing developments (authorized by Oregon Revised Statute 307.515 to 307.537) is hereby adopted.

Passed by the Prineville City Council on this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Betty J. Roppe, Mayor

ATTEST:

\_\_\_\_\_  
Lisa Morgan, City Recorder



City of Prineville

Policy on Low-Income Rental Housing Tax Exemption

**Section 1.** Purpose

The purpose of this policy is to establish a commitment and a procedure to provide property tax exemption for low-income rental housing, as allowed under ORS 307.515 to ORS 307.537. The policy is intended to provide a mechanism through which the City Council can contribute to and support the development of low-income rental housing in Prineville.

**Section 2.** Policy Statement

It shall be the policy of the City of Prineville to provide property tax exemption for properties used for, or held for the development of, low-income rental housing, in accordance with the provisions of ORS 307.515 to ORS 307.537 and the provisions of this policy.

**Section 3.** Definitions

For purposes of this policy, the following words and phrases are defined as:

**City** – The City of Prineville.

**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 rental housing under the criteria listed in this policy.

**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 Development.

**Section 4.** Criteria for Tax Exemption

4.1 Properties or portions of properties meeting the following criteria shall be eligible for property tax exemption as provided in ORS 307.515 to 307.537:

A. Eligible properties must be:

1) Located within the limits of the City of Prineville;

- 2) Multi-family projects containing three (3) or more units;
- 3) Offered for rent, or held for the purpose of developing qualified rental housing; and
- 4) If occupied, occupied solely by low-income persons.

B. The purchase of property and/or the construction of the housing development (or the low-income portion of the development) must be supported by federal or state affordable housing funding;

C. The required rent payments must reflect the full value of the tax exemption;

D. The housing units on the property are required to have been constructed after August 27, 2013.

E. The tax exemption on the property must be approved by the City Council in accordance with the provisions of ORS 307.523.

4.2 For the purposes of this policy, a person that has only a leasehold interest in the property is deemed to be a purchaser of that property if:

A. The person 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

B. The rent payable has been established to reflect the savings resulting from the exemption from taxation.

## **Section 5. Application for Exemption**

5.1 Persons seeking tax exemption for eligible property shall submit a formal written request and pay the fee established by the City Council and set forth in the City of Prineville fee resolution. The application shall contain the following information:

A. The applicant's name, address and telephone number;

B. A legal description of the property for which the exemption is requested;

C. If only a portion of the property is eligible, a description of the eligible portion of the property for which the exemption is requested, including the number of affordable housing units:

- D. A description of the purpose of the project and whether all or a portion of the property is being used for that purpose;
- E. A certification of income levels of low-income occupants;
- F. A description of how the tax exemption will benefit project residents;
- G. A description of the plans for development of the property if the property is being held for future rental housing development;
- H. A list of secured lienholds with addresses of the lienholders; and
- I. Such other information as requested by the City of Prineville.

5.2 The applicant shall verify the information in the application by oath or affirmation.

5.3 An application which does not contain all of the information required by this section and/or is not accompanied by the payment of the proper fees shall be returned. Any application returned for these reasons shall be deemed not to have been filed.

5.4 An application must be filed on or before December 1 of the calendar year immediately preceding the first assessment year for which the application is requested, and shall be accompanied by the application fee required by the City. However, if the property is acquired after November 1, the application shall be made within 30 days after the date of acquisition.

## **Section 6. Review of Application**

6.1 Applications for the low-income rental housing property tax exemption shall be filed with the City.

6.2 City staff shall process each application and make a written recommendation to the Council in sufficient time to allow the Council to take final action within 60 days of the filing of the application.

6.3 City staff shall recommend approval and the Council shall grant an annual exemption for any property that meets the requirements of this policy.

6.4 Upon receipt of the City Manager's recommendation for approval or denial, the Council shall consider the application and determine if the applicant qualifies for the exemption. Within 60 days of the filing of the



application, the Council shall adopt a resolution or ordinance approving the application or deny the application.

6.5 If the application is approved, the resolution or ordinance shall contain findings on the criteria for approval and shall certify to the Crook County Tax Assessor that all or a portion of the property shall be exempt from the ad valorem property tax levy of the City of Prineville.

6.6 If the application is denied, the City shall state in writing the reasons for denial and send the notice of denial to the applicant with the right to appeal under ORS 307.533.

6.7 On or before April 1 following approval, the City shall file with the Crook County assessor and send to the applicant a copy of the resolution approving the application. If the application is approved, the copy shall contain or be accompanied by a notice explaining the grounds for possible termination of the exemption prior to the end of the exemption period or thereafter, and the effects of termination. In addition, the City shall file with the county assessor on or before April 1 a document listing the same information otherwise required to be in a resolution as to each application deemed approved.

**Section 7. Property Tax Exemption**

7.1 Property tax exemptions approved under this policy shall be for a period not to exceed 20 years.

7.2 Applications for property tax exemption under this policy may be eligible for property tax exemptions for tax years beginning on or before July 1, 2014.

7.3 The exemption provided for herein shall be in addition to any other exemption provided by law.

**Section 8. Termination**

Termination of tax exemption will be accomplished under the conditions and pursuant to the procedures and subject to the remedies contained in ORS 307.515 to 307.537.

**Section 9. Regulatory Power**

The City may issue rules, processes and requirements necessary for the implementation of this policy.

## Hypothetical SAV Calculation and Tax Estimate

Hypothetical Specially Assessed Value & Property Tax Estimate for a Low Income Housing Tax Credit (LIHTC) senior affordable housing project located in Prineville, OR based on first-year, proforma financials for Little Deschutes Lodge 2, located in La Pine, OR as reviewed & approved by Oregon Housing and Community Services, Enterprise Community Partners and the Network for Oregon Affordable Housing.\* This was prepared by R. Roy of Pacific Crest Affordable Housing for demonstration purposes only on August 6, 2013.

Assumptions		Source & Guidance
Specially Assessed Rate	11.04%	See Determination Below
Tax Rate - Code 2 Area (Subject Site)	16.4272	Crook County Summary of Assessment & Tax Roll 2013-14
M-50 Changed Property Ratio (CPR)	100.0%	Exception Value Ratio - Deschutes County LIH 2013-14**
City of La Pine % Share	18.4%	Crook County Summary of Assessment & Tax Roll 2013-14

Income		Source & Guidance
Potential Rental Income	\$ 142,253	Little Deschutes Lodge 2 - 1st year proforma financials
Vacancy & Credit Loss	\$ (7,604)	"
Other Income	\$ 9,828	"
<i>Effective Gross Income</i>	<i>\$ 144,477</i>	"
Expenses		Source & Guidance
Off-Site Management	\$ 10,200	Little Deschutes Lodge 2 - 1st year proforma financials
On-Site Management	\$ 12,316	"
Resident Services	\$ 3,262	"
Insurance	\$ 3,428	"
Administration	\$ 7,740	"
Professional Fees	\$ 8,886	"
Repairs & Maintenance	\$ 25,359	"
Utilities	\$ 30,586	"
Other	\$ -	"
Capital Reserves	\$ 10,400	"
<i>Total Operating Expense</i>	<i>\$ 112,177</i>	"
<i>Net Operating Income</i>	<i>\$ 32,300</i>	"

Output		Source & Guidance
Special Assessed Value (SAV)	\$ 292,500	Net Operating Income/Specially Assessed Rate
Maximum Specially Assessed Value (MSAV)	\$ 292,500	SAV X CPR
Estimated Annual Property Tax	\$ 4,805	(MSAV/1000) X Tax Rate
City of La Pine Estimated \$ Share	\$ 884	Annual Property Tax X La Pine % Share

Specially Assessed Rate Determination		Source & Guidance
Market Extracted Cap Rate	8.00%	From Dana Bratton Appraiser 8.02.13
Risk Rate	117.50%	From Mark Skelte Appraiser 6.03.10
Selected Rate	9.40%	Market Extracted Cap Rate X Risk Rate
Effective Property Tax Rate	1.64%	(Tax Rate/1000) X CPR
Specially Assessed Rate	11.04%	Total + Effective Property Tax Rate

\* Please note that the Little Deschutes Lodge 2 projected is located in La Pine, OR. It is a 26-unit, LIHTC, senior affordable housing project funded by Oregon Housing and Community Services, Network for Affordable Housing, Enterprise Community Partners and Pacific Crest Affordable Housing LLC. The building opened in March 2013. The hypothetical Prineville project is assumed to be the same number of units, the same square footage and the same quality of construction. Additionally it is assumed to be a LIHTC, senior affordable housing project funded by the same funding partners. The assumed total development cost is \$5,500,000 which is about 5% (inflation allowance) more than the total development cost of the recently completed Little Deschutes Lodge 2 project.

\*\* This needs to be replaced with the Crook County Exception Value Ratio for (LIH) Low Income Housing 2013-14



## Breakout by District

### CODE 2 AREA (subject site)

Estimated Taxes (SAV)

\$ 4,805

TAXING DISTRICT	RATE	PERCENT	TAXES
Crook County	3.8702	23.6%	\$ 1,132
AG Extension Svc	0.1207	0.7%	\$ 35
Crook County Fire & Rescue	1.59	9.7%	\$ 465
Crook County Parks & Rec	0.7569	4.6%	\$ 221
Crook County Cemetary	0.0994	0.6%	\$ 29
Vector Control	0.2114	1.3%	\$ 62
City of Prineville	3.0225	18.4%	\$ 884
Historical Local Option	0.06	0.4%	\$ 18
High Desert ESD	0.0964	0.6%	\$ 28
Crook County Schools	4.7856	29.1%	\$ 1,400
COCC	0.6204	3.8%	\$ 181
Library Bond	0.1398	0.9%	\$ 41
School Bond	0.9204	5.6%	\$ 269
COCC Bond & Interest	0.1335	0.8%	\$ 39
	<b>16.4272</b>	<b>100%</b>	<b>\$ 4,805</b>

## § 307.515<sup>1</sup>

### Definitions for ORS 307.515 to 307.523

As used in ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#):

(1) Governing body means the city or county legislative body having jurisdiction over the property for which an exemption may be applied for under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#).

(2) Lender means 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 ORS [307.517 \(Criteria for exemption\)](#) or [307.518 \(Alternative criteria for exemption\)](#).

(3) 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. [1989 c.803 §1; 1991 c.930 §3; 1993 c.168 §3]

## § 307.517<sup>1</sup>

### Criteria for exemption

(1) Property or a portion of the property that meets the following criteria shall be exempt from taxation as provided in ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#):

(a) The property:

(A) Is offered for rent; or

(B) Is held for the purpose of developing low income rental housing.

(b) The property, if occupied, is occupied solely by low income persons.

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

(d) The exemption has been approved as provided in ORS [307.523 \(Time for filing application\)](#).

(e) The housing units on the property were constructed after the local governing body adopted the provisions of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#).

(2) For the purposes of subsection (1) of this section, a person that has only a leasehold interest in property is deemed to be a purchaser of that property if:

(a) The person 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

(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation. [1989 c.803 §2; 1997 c.752 §5; 2005 c.94 §36]

### **§ 307.518<sup>1</sup>**

#### **Alternative criteria for exemption**

(1) Property or a portion of property that meets all of the following criteria shall be exempt from taxation as provided under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#):

(a) If unoccupied, the property:

(A) Is offered for rental solely as a residence for low income persons; or

(B) 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) An exemption for the property has been approved as provided under ORS [307.523 \(Time for filing application\)](#), pursuant to an application filed before January 1, 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 \(Definitions\)](#) (37) or for a religious corporation, as described under ORS [65.001 \(Definitions\)](#) (39).

(e) The property is owned or being purchased by a nonprofit corporation that expends no more than 10 percent of its annual income from residential rentals for purposes other than the 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.

(2) For the purposes of this section, a nonprofit corporation that has only a leasehold interest in property is considered to be a purchaser of that property if:

(a) 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



(b) The rent payable has been established to reflect the savings resulting from the exemption from taxation.

(3) A partnership shall be considered a nonprofit corporation for purposes of this section if:

(a) A nonprofit corporation is a general partner of the partnership; and

(b) The nonprofit corporation is responsible for the day-to-day operation of the property that is the subject of the exemption under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#). [1991 c.930 §2; 1993 c.168 §4; 1995 c.79 §121; 1995 c.702 §1; 1997 c.541 §127; 1997 c.752 §6; 1999 c.487 §1; 2001 c.315 §55; 2005 c.94 §37; 2010 c.29 §6]

### **§ 307.519<sup>1</sup>**

#### **Exemption limited to tax levy of governing body that adopts ORS 307.515 to 307.523**

- **exception**

(1) Except as provided in subsection (2) of this section, the exemptions provided by ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) only apply to the tax levy of a governing body that adopts the provisions of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#).

(2) The exemptions provided by ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) shall apply to the tax levy of all taxing districts in which property certified for exemption is located when, upon request of a governing body that has adopted the provisions of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#), the rates of taxation of such taxing districts whose governing boards agree to the policy of exemption under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#), when combined with the rate of taxation of the governing body that adopts the provisions of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#), equal 51 percent or more of the total combined rate of taxation on the property certified for exemption. [1989 c.803 §3; 1991 c.930 §4]

### **§ 307.521<sup>1</sup>**

#### **Application for exemption**

- **policies for approving application**

(1) To qualify for an exemption provided by ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#), the person shall file an application for exemption with the governing body. The exemption shall be for a period of 20 years. The

application shall be filed as set forth in ORS [307.523 \(Time for filing application\)](#). The application shall include the following information, if applicable:

- (a) A description of the property or a portion of the property for which the exemption is requested;
- (b) A description of the purpose of the project and whether all or a portion of the property is being used for that purpose;
- (c) A certification of income levels of low income occupants;
- (d) A description of how the tax exemption will benefit project residents;
- (e) If the exemption is an exemption described under ORS [307.518 \(Alternative criteria for exemption\)](#), evidence satisfactory to the governing body that the corporation is nonprofit and meets the criteria for a public benefit corporation or a religious corporation; and
- (f) A description of the plans for development of the property if the property is being held for future low income rental housing development.

(2) The applicant shall verify the information in the application by oath or affirmation.

(3) Prior to accepting an application under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#), a local jurisdiction shall adopt standards and guidelines to be utilized in considering applications and making determinations required by ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.537 \(Application\)](#). The standards and guidelines shall establish policy governing basic requirements for approving an application. Policies considered may include, but are not limited to:

- (a) Rent regulatory agreements or other enforcement mechanisms to demonstrate that the required rent payment reflects the full value of the property tax exemption.
- (b) Enforcement mechanisms to ensure that housing that is exempt under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) is maintained in decent, safe and sanitary conditions for the occupants.
- (c) Methodology and timing for submitting evidence of use of rentals received from low income persons. [1989 c.803 §4; 1991 c.459 §63; 1991 c.930 §5; 1997 c.752 §7; 2005 c.94 §38]

## § 307.523<sup>1</sup>

### Time for filing application

- • certification of exemption



(1) Application shall be made on or before December 1 of the calendar year immediately preceding the first assessment year for which exemption is requested, and shall be accompanied by the application fee required under ORS [307.527 \(Ordinance approving or disapproving application\)](#). However, if the property is acquired after November 1, the application shall be made within 30 days after the date of acquisition.

(2) Within 60 days of the filing of an application under ORS [307.521 \(Application for exemption\)](#), the governing body shall take final action upon the application as provided under ORS [307.527 \(Ordinance approving or disapproving application\)](#), and certify the results of the action to the county assessor.

(3) Upon receipt of certification under subsection (2) of this section, the county assessor shall exempt the property from taxation to the extent certified by the governing body. [1989 c.803 §5; 1991 c.459 §64; 1991 c.930 §6; 1997 c.541 §128]

### **§ 307.525<sup>1</sup>**

#### **Action against landlord for failure to reduce rent**

In addition to any other provision of law, if a landlord violates ORS [307.517 \(Criteria for exemption\)](#) (1)(c), a tenant may recover damages in an amount triple the actual damages sustained as a result of the violation. The court may award reasonable attorney fees to the prevailing party in an action under this section. [1989 c.803 §6; 1995 c.618 §62]

### **§ 307.527<sup>1</sup>**

#### **Ordinance approving or disapproving application**

- **application fee**

(1) Final action upon an application by the governing body shall be in the form of an ordinance or resolution that shall contain the owners name and address, a description of the housing unit, either the legal description of the property or the county assessors property account number, any specific conditions upon which the approval of the application is based and if only a portion of the property is approved, a description of the portion that is approved.

(2) On or before April 1 following approval, the governing body shall file with the county assessor and send to the applicant a copy of the ordinance or resolution approving or disapproving the application. The copy shall contain or be accompanied by a notice explaining the grounds for possible termination of the exemption prior to the end of the exemption period or thereafter, and the effects of termination. In addition, the governing body shall file with the county assessor on or before April 1 a document listing the same information otherwise required to be in an ordinance or resolution under subsection (1) of this section, as to each application deemed approved under this section.



(3) If the application is denied, the governing body shall state in writing the reasons for denial and send the notice of denial to the applicant within 10 days after the denial. The notice shall inform the applicant of the right to appeal under ORS [307.533 \(Review\)](#).

(4) The governing body, after consultation with the county assessor, shall establish an application fee in an amount sufficient to cover the cost to be incurred by the governing body and the county assessor in administering ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#). The application fee shall be paid to the governing body at the time the application for exemption is filed. If the application is approved, the governing body shall pay the application fee to the county assessor for deposit in the county general fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing body shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant. [1989 c.803 §7; 1995 c.79 §122]

#### **§ 307.529<sup>1</sup>**

##### **Notice of proposed termination of exemption**

- • grounds
- • ordinance terminating exemption

(1) Except as provided in ORS [307.531 \(Termination of exemption without notice\)](#), if, after an application for exemption under ORS [307.517 \(Criteria for exemption\)](#) has been approved under ORS [307.527 \(Ordinance approving or disapproving application\)](#), the governing body finds that construction or development of the exempt property differs from the construction or development described in the application for exemption, or is not completed on or before January 1, 2020, or that any provision of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) is not being complied with, or any provision required by the governing body pursuant to ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) 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 shall 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.

(2) 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 assurance adequate to the governing body that all noncompliance shall be remedied.

(3) 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 any noncompliance, the governing body shall adopt an ordinance or resolution stating its findings terminating the exemption. A copy of the ordinance or resolution shall be filed with the county assessor, and a copy shall be sent to the owner at the owners last-known address and to the lender at the last-known address of the lender within 10 days after its adoption. [1989 c.803 §8; 1991 c.459 §65; 1991 c.930 §7; 1993 c.168 §5; 1997 c.541 §129; 1997 c.752 §8; 1999 c.487 §2; 2010 c.29 §7]

### **§ 307.530<sup>1</sup>**

#### **Termination if property held for future development or other purpose**

An exemption granted under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) shall be immediately terminated and additional taxes imposed as provided in ORS [307.531 \(Termination of exemption without notice\)](#) if the exempt property:

- (1) Is being held for future development of low income rental housing; and
- (2) Is used for any purpose other than the provision of low income rental housing. [1997 c.752 §10]

### **§ 307.531<sup>1</sup>**

#### **Termination of exemption without notice**

- **grounds**
- **additional taxes after termination**

(1) If, after application has been approved under ORS [307.527 \(Ordinance approving or disapproving application\)](#), a declaration as defined in ORS [100.005 \(Definitions\)](#) with respect to the property is presented to the county assessor or tax collector for approval under ORS [100.110 \(Approval of declaration, supplemental declaration or amendment required\)](#), or if the governing body should file its termination findings with the county assessor pursuant to ORS [307.529 \(Notice of proposed termination of exemption\)](#):

- (a) The exemption granted the housing unit or portion under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) shall terminate immediately, without right of notice or appeal;
- (b) The property or a portion of the property shall be assessed and taxed as other property similarly situated is assessed and taxed; and
- (c) Notwithstanding ORS [311.235 \(Bona fide purchaser\)](#), 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 ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#).

(2) If, at the time of presentation or discovery, the property is no longer exempt, additional taxes shall be collected as provided in this section, but the number of years for which the additional taxes shall be collected shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption beginning with the oldest year for which additional taxes are due.

(3) The assessment and tax rolls shall show potential additional tax liability for each property granted exemption under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#).

(4) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate. [1989 c.803 §9; 1991 c.459 §66; 1991 c.930 §8]

### § 307.533<sup>1</sup>

#### Review

- • **correction of tax rolls**
- • **payment of tax after exemption terminates**

(1) Review of a denial of an application under ORS [307.527 \(Ordinance approving or disapproving application\)](#), or of the termination of an exemption under ORS [307.529 \(Notice of proposed termination of exemption\)](#), shall be as provided by ORS [34.010 \(Former writ of certiorari as writ of review\)](#) to [34.100 \(Power of court on review\)](#).

(2) If no review of the termination of an exemption as provided in subsection (1) of this section is effected, or upon final adjudication, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under ORS [311.216 \(Notice of intention to add omitted property to rolls\)](#) to [311.232 \(Mandamus to require placing omitted property on roll\)](#) to provide for the assessment and taxation of any property for which exemption was terminated by the governing body or by a court, in accordance with the finding of the governing body or the court as to the assessment year in which the exemption is first to be terminated. The county assessor shall make such valuation of the property as shall be necessary to permit such correction of the rolls. The owner may appeal any such valuation in the same manner as provided for appeals under ORS [311.216 \(Notice of intention to add omitted property to rolls\)](#) to [311.232 \(Mandamus to require placing omitted property on roll\)](#).



(3) Where there has been a failure to comply with ORS [307.529 \(Notice of proposed termination of exemption\)](#), the property shall become taxable beginning January 1 of the first assessment year following the date on which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the month next following the month of correction. If not paid within such period, the additional taxes shall be delinquent on the date they would normally have become delinquent if timely extended on the roll or rolls in the year or years for which the correction was made. [1989 c.803 §10; 1991 c.459 §67; 1991 c.930 §9; 1997 c.541 §131]

## **§ 307.535<sup>1</sup>**

### **Extension of deadline for completion**

- • **exception to imposition of additional taxes**

Notwithstanding any provision of ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#):

(1) If the governing body finds that construction of the housing unit otherwise entitled to exemption under ORS [307.517 \(Criteria for exemption\)](#) was not completed by January 1, 2020, due to circumstances beyond the control of the owner, and that the owner had been acting and could reasonably be expected to act in good faith and with due diligence, the governing body may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

(2) If property granted exemption under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) is destroyed by fire or act of God, or is otherwise 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 \(Termination of exemption without notice\)](#) or [307.533 \(Review\)](#). [1989 c.803 §11; 1991 c.459 §68; 1991 c.930 §10; 1997 c.541 §132; 1999 c.487 §3; 2010 c.29 §8]

## **§ 307.537<sup>1</sup>**

### **Application**

The amendments to ORS [307.521 \(Application for exemption\)](#) (1) by section 5, chapter 930, Oregon Laws 1991, changing the period of the exemption provided under ORS [307.515 \(Definitions for ORS 307.515 to 307.523\)](#) to [307.523 \(Time for filing application\)](#) from 10 to 20 years, apply to property granted exemption pursuant to applications filed on or after September 29, 1991. [1989 c.803 §12; 1991 c.459 §69; 1991 c.930 §11; 1997 c.752 §16; 2001 c.114 §15]