ORDINANCE 2945

AN ORDINANCE OF THE LAKE OSWEGO CITY COUNCIL AMENDING LOC CHAPTER 24 TO ADD ARTICLE 24.10, PROVIDING FOR A PROPERTY TAX EXEMPTION PROGRAM FOR NONPROFIT CORPORATION LOW INCOME HOUSING PURSUANT TO ORS 307.540 - .548 AND RENAMING CHAPTER 24.

WHEREAS, this Ordinance is in the best interest of the City of Lake Oswego because it implements a Nonprofit Corporation Low Income Housing tax exemption authorized by ORS 307.540 to 307.548, and will lower costs for certain providers of low income housing, which is an identified need in the community per the City's 2023 Housing Needs Analysis.

The City of Lake Oswego ordains as follows:

Section 1. Chapter 24 of the Lake Oswego Code is hereby renamed "Special Taxes and Tax Exemption Programs."

Section 2. The Lake Oswego Code is hereby amended by adding Article 24.10, "Lake Oswego Nonprofit Corporation Low Income Housing Tax Exemption Program" as follows:

LOC 24.10.010 Exemption created. LOC 24.10.010 to 24.10.070 may be referred to as the "Lake Oswego Nonprofit Corporation Low Income Housing Tax Exemption Program."

a. The provisions of ORS 307.540 to 307.548 are hereby adopted, and there is created, as set forth in this article, an exemption from property tax from certain nonprofit owners of low-income housing, for the purpose of encouraging the preservation, maintenance, and development of low-income housing within the city of Lake Oswego.

b. The City Manager shall have the authority to promulgate rules and guidelines consistent with this article to implement LOC 24.10.010 to 24.10.070, including, the authority to impose additional criteria and requirements for eligibility for exemption on a case-by-case basis, which are consistent with the purpose and intent of the Program.

24.10.020 Definitions. Unless the context otherwise specifically requires, terms used in LOC 24.10.010 to 24.10.070 shall have the meanings set forth in this section:

City Manager. The person holding the position of City Manager or person designated by the City Manager.

Low income. (a) For the initial year that persons occupy property for which an application for exemption is filed under ORS 307.545, 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 the 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.

24.10.030 Criteria for Exemption.

a. A property is exempt from property taxation as provided by LOC 24.10.010 to 24.10.070 if:

i. The property is owned or being purchased by a corporation described in section 501(c)(3) or (4) of the Internal Revenue Code that is exempt from income taxation under section 501(a) of the Internal Revenue Code;

ii. 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;

iii. At the time the application is filed, the property is:

A. Occupied by low income persons; or

B. Held for a period not to exceed two years from the date the exemption is granted, for the purpose of developing low income housing.

iv. The property or portion of the property receiving the exemption, if occupied, is actually and exclusively used for the purposes described in section 501(c)(3) or (4) of the Internal Revenue Code;

viii. The exemption has been approved as provided in LOC 24.10.060.

b. For purposes of LOC 24.10.030(a)(i), a corporation that has only a leasehold interest in property is deemed to be a purchaser of that property if:

i. 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

ii. 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 a general partner of the partnership, and responsible for the day-to-day operation of the property that is the subject of the exemption.

24.10.040 Exemption Limited to Levy of City; Exception.

a. Except as set forth in subsection b. of this Section, an exemption granted by the City shall only apply to the tax levy of the City for the property.

b. Pursuant to ORS 307.543(2), to permit the exemption applied for to apply to the combined tax levy for the property of all applicable taxing districts, the City may submit a request to the governing bodies of taxing districts for which the property is certified, whose rate of taxation, when combined with the City's, equal 51 percent or more of the total combined rate of

taxation on the property granted exemption, to agree to the policy of exemption.

24.10.050 Application for Exemption; Annual Certification; When Due.

a. Application for Exemption. Before a request for exemption will be considered, an applicant must file an application for exemption with the City Manager, containing all information and material necessary to consider the application, on or before December 1 of the year preceding the assessment year for which the exemption is sought. The City Manager may, in the City Manager's sole discretion, grant a variance for good cause shown to allow a complete application to be filed after December 1. An application must contain the following:

i. A description of the property for which the exemption is requested,

ii. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;

iii. A certification of income levels of low income occupants,

iv. A description of how the tax exemption will benefit project residents,

v. If, at the time the application is submitted, the property is being held for future low income housing development, a declaration that:

A. The low income housing development will be completed and a certificate of occupancy obtained, for uses consistent with the exemption within five years of the date the exemption is granted:

B. A description of the anticipated low income housing development,

C. The minimum number of housing units to be provided, and

vi. A declaration that the corporation has been granted exemption from income taxation under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3) or 501(c)(4) of the Internal Revenue Code.

vii. A description of how the corporation and the property, respectively meet the criteria set forth in LOC 24.10.030,

viii. Any other information reasonably required by the City Manager,

ix. An oath or affirmation signed by a person with authority to bind the corporation verifying the accuracy of the information submitted in the application, and

x. Payment of the applicable fees as set by resolution of Council.

b. Annual certification; request for extension. After an exemption has been granted, by December 1 of each year prior to the assessment year for which the exemption is sought, the owner shall submit a request to the City Manager that the exemption be extended for an additional year. The request must be accompanied by a certification from the owner attesting that the property continues to comply with Council's determination granting the exemption, and all the information and applicable fees identified in LOC 24.010.040.a.

i. After review of the request and inspection of the property, if the City Manager finds that the property continues to meet the requirements of Council's determination, the City Manager shall, in writing, grant the extension for an additional year.

ii. If the City Manager finds that the property no longer meets the requirements of Council's determination, the City Manager shall submit a recommendation to Council that the exemption be terminated pursuant to LOC 24.10.070.

iii. Applications for exemption and requests for extension will be reviewed for completeness by the City Manager, and untimely or incomplete applications or requests will be rejected, and an explanation of the rejection provided to the applicant, which explains the basis for the rejection and what information or materials must be submitted to make the application complete.

24.10.060. Determination of eligibility; notice to county assessor. Within 60 days of receipt of a complete application for exemption, and any payment of fees due, the City Manager shall:

a. For all applications, prepare a report to Council, including preliminary findings whether the application meets the criteria set forth in LOC 24.10.030, and whether the exemption should be granted.

b. Within 120 days of the filing of a complete application and payment of the applicable fees under LOC 24.10.050, the Council shall adopt a resolution determining whether the property shall be granted the exemption, and specifying:

i. What portion of the property, if any, is exempt from taxation,

ii. Any conditions that shall be met to qualify for and maintain the exemption,

c. If Council determines that the applicant qualifies for the exemption, Council shall certify to the assessor of the county where the real property is located, as set forth in ORS 307.512, that all or a portion of the property is exempt from taxation under the levy of the City.

d. Notwithstanding LOC 24.10.060(4), Council may send the certification on or before the deadline specified in ORS 307.512, or as promptly as practicable after making its determination, whichever is later.

e. Upon issuance of Council's resolution granting an exemption, pursuant to ORS 307.543(2) and Council approval to request approval from other taxing districts of the policy per LOC 24.10.040(c), the applicant shall be approved to seek agreement to the policy of exemption from other taxing districts in order qualify for an exemption from the total combined rate of taxation on the property pursuant to LOC 24.10.040.

24.10.070. Termination of exemption; additional taxes. If, after an exemption is granted, the property is being used for any purpose inconsistent with the Council's determination granting the exemption, the City Manager shall follow the procedures for termination set forth in ORS 307.548, except that any final decision to terminate an exemption shall be made by Council.

Section 3. **Severability.** The provisions of this ordinance that exceed the statutory requirements of ORS 307.540 - .548 are severable. If any said portion(s) of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance.

Enacted at the regular meeting of the City Council of the City of Lake Oswego held on the 7th day

of May, 2024.

AYES: Mayor Buck, Verdick, Mboup, Rapf, Corrigan, Afghan, Wendland

NOES: None

ABSTAIN: None

EXCUSED: None

Joseph M. Buck, Mayor

ATTEST:

Kari Linder, City Recorder

APPROVED AS TO FORM:

Ellen Osoinach, City Attorney