

ORDINANCE NO. 20120524-020

AN ORDINANCE AMENDING CITY CODE CHAPTER 11-1 (*AD VALOREM TAX*) BY ADDING A NEW ARTICLE 4 RELATING TO EXEMPTIONS FOR COMMUNITY LAND TRUSTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. Findings.

- (A) The City is adopting this ordinance for the public purposes set forth in Chapter 373B of the Texas Local Government Code and for the purpose of:
- (1) providing affordable housing for low-income and moderate-income residents in Austin;
 - (2) promoting resident ownership of housing;
 - (3) keeping housing affordable for future residents; and
 - (4) capturing the value of public investment for long-term community benefit.

PART 2. City Code Chapter 11-1 (*Ad Valorem Tax*) is amended by adding a new Article 4 to read as follows:

ARTICLE 4. EXEMPTIONS FOR COMMUNITY LAND TRUSTS.

Division 1. General Provisions.

§ 11-1-100 AUTHORITY; APPLICABILITY.

- (A) The tax exemptions contained in this article are adopted under the authority provided in Chapter 373B of the Texas Local Government Code and Section 11.1827 of the Texas Tax Code.
- (B) These exemptions apply only to City property taxes and not to taxes owing to other taxing units.

§ 11-1-101 DEFINITIONS.

In this article:

- (1) **COMMUNITY LAND TRUST (CLT)** means a non-profit organization that is:
- (a) created to acquire and hold land for the benefit of developing and preserving long-term affordable housing in the City of Austin;

- (b) exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, by being certified as an exempt organization under Section 501(c)(3) of that code; and
- (c) created or designated by the Austin City Council by ordinance as a CLT.

§ 11-1-102 through § 11-1-109 (RESERVED).

Division 2. Exemption Eligibility Criteria.

§ 11-1-110 CRITERIA.

- (A) In addition to any other exemption to which it may be entitled, a CLT is entitled to an exemption from taxation of land owned by the CLT, together with the housing units located on the land if they are owned by the CLT, if:
 - (1) the CLT is operated in a way that does not result in accrual of distributable profits, realization of private gain resulting from payment of compensation in excess of a reasonable allowance for salary or other compensation for services rendered, or realization of any other form of private gain;
 - (2) the CLT uses its assets in performing its affordable housing functions;
 - (3) by charter, bylaw, or other regulation adopted to govern its affairs the CLT requires that on discontinuance of the organization of the CLT by dissolution or otherwise that the assets be transferred to the City of Austin, the State of Texas, the United States, or a similar organization that is qualified as a charitable organization under Section 501(c)(3), Internal Revenue Code of 1986;
 - (4) the CLT owns the land for the purpose of leasing the land and selling or leasing the housing units located on the land as provided by Chapter 373B, Texas Local Government Code;
 - (5) the CLT engages exclusively in the sale or lease of housing as described by Paragraph (4) above and related activities except that the CLT may also engage in the development of low-income and moderate-income housing;
 - (6) by charter, bylaw, or other regulation to govern its affairs the CLT commits to long-term affordability of housing by using a ground lease with a purchase option formula for the purpose of leasing the land and selling or leasing the housing units located on the land as provided by Chapter 373B, Texas Local Government Code;

- (7) the CLT is not controlled by, nor receives direction from, a for-profit entity or corporation;
 - (8) the CLT complies with Section 373B.006 of the Texas Local Government Code by selling or leasing housing units to families described in that section;
 - (9) the CLT has at least one year of experience developing affordable housing;
 - (10) the CLT has paid employee staff, with housing development experience, that has successfully completed affordable housing projects;
 - (11) the CLT is granted the exemption for the current calendar year by the City Council and the exemption is adopted by the City Council before July 1 by ordinance; and
 - (12) the City Council has not repealed this Article 4.
- (B) Notwithstanding Subsection (A) above, property owned by a CLT may not be exempted under Subsection (A) after the third anniversary of the date that the CLT acquires the property unless the CLT is offering to sell or lease or is leasing the property as provided by Chapter 373B, Texas Local Government Code.
- (C) A CLT entitled to an exemption from taxation under Subsection (A) is also entitled to an exemption from taxation of any real or tangible personal property the CLT owns and uses in the administration of its acquisition, construction, repair, sale, or leasing of long-term affordable housing.
- (D) To qualify for an exemption under Subsection (C), property must be used exclusively by the CLT, except that another person may use the property for activities incidental to the CLT's use that benefit the beneficiaries of the CLT.
- (E) To receive an exemption under this section, a CLT must annually have a financial audit prepared by an independent auditor. The audit must include a detailed written report:
- (1) describing the CLT's sources and uses of funds; and
 - (2) including an A-133 analysis of compliance with federal grants, if applicable; an analysis of internal controls; and the auditor's opinion letter to the board of directors and management.

- (F) Not later than the 180th day after the last day of the CLT's most recent fiscal year, the CLT must deliver a copy of the audit required by Subsection (E) to:
- (1) the Director of Neighborhood Housing and Community Development or the Director's designee; and
 - (2) the chief appraiser of the appraisal district in which the property subject to the exemption is located.

§ 11-1-111 through § 11-1-119 (RESERVED).

Division 3. Exemption Application Process.

§ 11-1-120 INITIAL WRITTEN APPLICATION REQUIRED.

- (A) A written application for designation as a CLT and an exemption under this article must be filed with the Director of Neighborhood Housing and Community Development or the Director's designee.
- (B) The Director may specify the format of the application.
- (C) In addition to the written information in Subsections (A) and (B) above, the application will require the CLT to submit:
 - (1) a copy of its corporate bylaws and the ground lease it intends to use;
 - (2) a listing of each parcel or lot of land and each housing unit owned by the CLT, the appraised value of the parcel or lot or housing unit, and the amount of City property taxes the CLT will save as a result of the exemptions; and
 - (3) a copy of the most recent audit required in Section 11-1-110(E).
- (D) The City Council may by ordinance approve an application for tax exemption before July 1.

§ 11-1-121 ANNUAL RE-CERTIFICATION REQUIRED.

- (A) To maintain designation as a CLT and to receive tax exemptions in subsequent years after initial certification, a CLT shall comply with the annual re-certification requirements described in Subsection (B).
- (B) A CLT must submit a written annual statement to the Director of Neighborhood Housing and Community Development or the Director's designee that the CLT continues to qualify for CLT designation and tax exemptions. The statement must include:

- (1) a certification that the information in the CLT's initial application is still true and correct;
- (2) the annual audit required in Section 11-1-110(E);
- (3) the information required in Section 11-1-120(C)(2); and
- (4) a certification that the CLT continues to comply with Section 11-1-110(A)(1) – (11).

PART 3. This ordinance takes effect on June 4, 2012.

PASSED AND APPROVED

May 24, 2012

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§ _____
Lee Leffingwell
Mayor

APPROVED: _____
Karen M. Kennard
City Attorney

ATTEST: _____
Shirley A. Gentry
City Clerk