

ORDINANCE NO. 4954

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON AMENDING TITLE 9 OF THE ELLENSBURG MUNICIPAL CODE REGARDING AN EXEMPTION FOR WATER AND SEWER UTILITY CONNECTION FEES FOR AFFORDABLE HOUSING.

WHEREAS, the Washington State Legislature authorized waiver or delay of collection of utility connection fees for qualified affordable housing through adoption of RCW 35.92.380; and

WHEREAS the voters of Ellensburg, in 2017, approved a ballot measure imposing sales and use tax for housing and related services within the City of Ellensburg, as authorized by RCW 82.14.530; and

WHEREAS, affordable housing projects which receive financial assistance from the City and State are subject to income, rent and price restrictions enforced through recorded covenants, ensuring affordability but also limiting funds available for development costs; and

WHEREAS, exemption of utility connection fees will enable affordable housing projects to become more economically viable and encourage production of more affordable housing units; and

WHEREAS, exemption of connection charges is categorically exempt from review under the State Environmental Policy Act;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Chapter 9.30.020 of the Ellensburg City Code, as last amended by Ordinance 4855, is hereby amended to read as follows:**

**9.30.020 - Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

Affordable housing means residential housing whose monthly costs, including utilities other than telephone, do not exceed thirty percent of the monthly income of a household whose income is:

A. For rental housing, 60 percent of the median household income adjusted for household size, for Kittitas County, as reported by the United States Department of Housing and Urban Development; or

B. For owner-occupied housing, 80 percent of the median household income adjusted for household size, for Kittitas County, as reported by the United States Department of Housing and Urban Development.

*BOD (biochemical oxygen demand)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20 degrees centigrade, expressed in parts per million by weight.

*Debt service coverage* or *DSC* means the result of a calculation dividing a utility's margin (profit) for the year by the utility's annual debt payment.

*Domestic strength wastewater* means wastewater having a BOD of 200 milligrams per liter and suspended solids of 250 milligrams per liter.

*Electric demand* means the maximum KW delivered during a 15-minute period in which the consumption of energy is the greatest during the month.

*Emergency shelter* means a facility that provides a temporary shelter for individuals or families who are currently homeless. Emergency shelter may not require occupants to enter into a lease or an occupancy agreement. Emergency shelter facilities may include day and warming centers that do not provide overnight accommodations.

*Income* means all moneys received by the claimant from any source. It includes, but is not limited to: wages, railroad retirement, Social Security benefits, investment income in the form of dividends from stock, interest on savings accounts and bonds, capital gains, gifts and inheritances, net rental income from real estate, disability payments, retirement pay and annuities. Reimbursement for losses shall not be considered as income.

*Low-income disabled citizen* means a person with a combined household income at or below 125 percent of the federally established poverty level who:

- A. Provides documentation of disability from the Social Security Administration of the federal government;
- B. Qualifies for special parking privileges under RCW 46.19.010(a) through (j);
- C. Demonstrates through documentation from a qualified medical professional that he or she has a disability identified in RCW 46.19.010(a) through (j); or
- D. Qualifies as a blind person as defined in RCW 74.18.020.

*Low-income senior citizen* means a person who is 65 years of age or older with a combined household income at or below 125 percent of the federally established poverty level.

*Nonprofit agencies serving the disadvantaged* means agencies with a 501(c)(3) tax exempt designation from the Internal Revenue Service (IRS), a majority of whose clients/customers:

- A. Qualify for the low-income senior citizen rate;
- B. Are persons with disabilities of the types recognized by the city for determining eligibility for the low-income disabled citizen rate, regardless of their actual income level; or
- C. Are persons from families determined to be low income as defined by the poverty guidelines updated periodically in the Federal Register by the U.S. Department of Health and Human Services under the authority of 42 USC Section 9902(2).

*Power factor or PF* means the ratio of the real power to the apparent power, and is a number between zero and one. "Real power" is the capacity of the circuit for performing work in a particular time. "Apparent power" is the product of the current and voltage of the circuit.

*Purchased gas cost adjustment* means the average cost of gas per Ccf paid by the city (including current city and state taxes per Ccf) the month prior to the billing month.

(Ord. 4855 § 1, 2020; Ord. 4844 § 1, 2019; Ord. 4650 § 1, 2013; Ord. 4571 § 1, 2010; Ord. 4555 § 1, 2009; Ord. 4503 § 2, 2007)

**Section 2. Chapter 9.30 of the Ellensburg City Code is amended to add a new section to read as follows:**

**9.30.040 Water and sewer plant investment and meter fee waivers**

A. The director of public works is authorized to determine whether a particular development activity falls within an exemption from specific utility fees identified in this section or under other applicable law.

B. Affordable housing and emergency shelter, as defined in ECC 9.30.020, may qualify for an exemption from the payment of sewer plant investment fees and/or water plant investment and meter fees, subject to the following:

1. Any application for an exemption under this section must be made before payment of the sewer plant investment fees and/or water plant investment and meter fees. Any application not so made shall be deemed ineligible.

2. The application for affordable housing exemption must be accompanied by a draft covenant against the property guaranteeing that the affordable housing requirement will continue for a period of not less than 25 years. Before final approval of the exemption by the city council, the city shall approve the form of the lien and covenant. Within ten days of exemption approval, the applicant shall execute and record the approved lien and covenant with the county auditor at the applicant's cost. The lien and covenant shall run with the land. If an application is approved, the applicant shall enter into a contract with the city regarding the terms and conditions of the exemption.

3. The application for emergency shelter exemption must be accompanied by an operating agreement or plan for the shelter specifying the period for shelter use. If an application is approved, the applicant shall enter into a contract with the city regarding the terms and conditions of the project. If the operator demonstrates compliance with agreement terms and conditions and provides documentation that the emergency shelter continues to operate under the eligibility requirements of ECC 9.30.020, the agreement and waiver shall be renewable administratively.

4. Upon determination by the director that a particular development falls within an exemption for affordable housing, the request will be brought to city council for a

decision on granting a partial or full exemption, or denial of an exemption, based on budget considerations, development activity, affordable housing needs and priorities, provisions of RCW 35.92.385, and such other considerations as deemed appropriate by the city council. Any waived sewer plant investment fee and/or water plant investment and meter fees shall be replaced by another source of funding such as a grant or affordable housing sales and use tax revenues.

5. At such time as an emergency shelter or affordable housing property receiving a waiver is no longer operating under the eligibility requirements of ECC 9.30.020 within the affordability covenant period, plant investment and/or meter fees waived under this section are immediately due and payable to the City.

**Section 3. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

**Section 4. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbers, sections/subsections numbers and any references thereto.

**Section 5. Effective Date.** This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 18<sup>th</sup> day of February, 2025.

  
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MAYOR

ATTEST:

  
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CITY CLERK

Approved as to form:

  
\_\_\_\_\_  
CITY ATTORNEY

Publish: 2-~~20~~-25

I, Beth Leader, City Clerk of said City do certify that Ordinance No. 4954 is a true and correct copy of said Ordinance of like number as the same was passed by said Council and that Ordinance No. 4954 was published as required by law.

  
BETH LEADER