

185043

Chapter 3.101

**PROPERTY TAX EXEMPTION FOR
LOW INCOME HOUSING HELD BY
CHARITABLE NON-PROFIT ORGANIZATIONS**

(Added by Ordinance No. 157768,
effective Aug. 29, 1985.)

Sections:

- 3.101.010 Definitions.
- 3.101.020 Eligible Organizations.
- 3.101.030 Eligible Property.
- 3.101.040 Application Procedure.
- 3.101.050 Review of Application.
- 3.101.060 Annual Application Renewal.
- 3.101.070 Assessment Exemption.
- 3.101.080 Termination.
- 3.101.090 Implementation.

3.101.010 Definitions.

(Amended by Ordinance Nos. 167356 and 182671, effective May 15, 2009.) As used in this Chapter:

- A. **"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.
- B. **"Eligible property"** means land and improvements thereon:
 1. Which are either single or multi-family residential units intended for the exclusive occupancy by low-income persons during the tax year for which approval of the application has been granted ~~and~~ or properties which are not residential units but which will become ~~occupied~~ residential units through rehabilitation improvements or new construction to be occupied by low-income persons and are intended for the exclusive occupancy by low income during the tax year for which approval of the application has been granted;
 2. Which are owned, being purchased, or held under leasehold interest in the property which meet the standards of Subsections 3.101.030 B 1-2 by a charitable organization and non-profit corporation for the purpose of occupancy by low-income persons as described in 26 U.S.C. Section 501

(c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.540 to 307.548~~Chapter 108 Oregon Laws 1993; and~~

3. Which the owner or leaseholder has met all eligibility requirements and made all required agreements described in this Chapter.

~~C. "Governing body" means the City of Portland, which for the purpose of this Chapter is the Bureau of Planning and Sustainability.~~

3.101.020 Eligible Organizations.

~~As used in this Chapter:~~ "Eligible organizations" means only charitable non-profit corporations certified by the Internal Revenue Service of the federal government as a 501 (c) (3) or (4) organization which also provides housing for occupancy by low-income persons as defined by Section 3.101.010 in this Chapter. No other types of non-profit or for-profit organizations are eligible.

3.101.030 Eligible Property.

(Amended by Ordinance No. 167356, effective Feb. 9, 1994.) As used in this Chapter:

- A. "Eligible property" as defined in Subsections 3.101.010 B 1-3 which meets all of the following criteria, pursuant to ORS 307.541~~Chapter 108 Oregon Laws 1993,~~ and other conditions of this Chapter shall be exempt from taxation:
 1. The property is owned or being purchased by a corporation that is exempt from income taxes under 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984, pursuant to ORS 307.541(a)~~Chapter 108 Oregon Laws 1993;~~
 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 occupied by low-income persons as defined by ORS 307.540(2) or held for future development for low income housing pursuant to ORS 307.541(1)(c)(B)~~in 3.101.010 A of this Chapter.~~
 4. The property or portion of the property receiving the exemption is actually and exclusively used for the purposes described in 26 U.S.C. Section 501 (c) (3) or (4) as amended before December 1, 1984.
 5. The exemption has been approved as provided in Section 3.101.040 and 3.101.050 of this Chapter.

- B. For the purposes of this Chapter, pursuant to ORS 307.541(2)~~Chapter 108 Oregon Laws 1993~~, a corporation that has only 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. Pursuant to ORS 307.541(3), a partnership shall be treated the same as a corporation 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.

3.101.040 Application Procedure.

(Amended by Ordinance Nos. 167356 and 182671, effective May 15, 2009.)

- A. To qualify for the exemption the corporation shall file an application for exemption with the Portland Housing Bureau of Planning and Sustainability acting on behalf of the City of Portland for each assessment the year the corporation wants the exemption. The application shall be filed on or before April~~March~~ 1 of the assessment year for which the exemption is applied for, except that when the property designated is acquired after April~~March~~ 1 and 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:
1. The applicant's name, address, and telephone number;
 2. The assessor's property account number for each site;
 3. The number of units and the exempted amount of each property being applied for under this Chapter;
 4. A description of the property for which the exemption is requested; ~~And (e) through (h) and (2), pursuant to Chapter 108 Oregon Laws 1993 as follows:~~
 5. A description of the charitable purpose of the project and whether all or a portion of the property is being used for that purpose;
 6. A description of how the tax exemption will benefit project residents; and

7. A description of how the benefits in the case of leasehold interest in the eligible property accrue to the non-profit and its resident tenants;
8. A certification ~~of and declaration that~~ income levels of low-income occupants ~~are in accordance with 42 U.S.C. Section 1437 (a) (b) (2);~~
9. 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;
10. A description of the development of the property if the property is being held for future low income housing development; and
11. Any other information required by state law or local law or otherwise which is reasonably necessary to effectuate the purposes of this ~~Chapter ordinance~~ at the time the application is submitted.

B. The application shall include the following statements:

1. That the applicant is aware of all requirements for property tax exemption imposed by this Chapter;
2. That the applicant's property qualified or, upon completion of the rehabilitation improvements and subsequent occupancy by low income, will qualify for exemption at the time of application approval or within 30 days of the ~~April~~ March 1 application deadline;
3. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the exemption provided by this Chapter.
4. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter.

C. The applicant shall verify the information in the application, in accordance with Subsections 3.101.040 B 1 through 3 above, by oath or affirmation.

D. Applicants for an exemption under this Chapter shall pay fees for an initial application and any renewals as set by the Portland Housing Bureau ~~fee of \$250. Applicants for annual renewal shall pay \$50. The Portland Housing Bureau of Planning and Sustainability shall pay the County Assessor any reasonable cost incurred to process the exemption onto the tax rolls. In addition to paying the basic fee, the applicant may be required to pay other reasonable costs, which are incurred by the Portland Housing Bureau of Planning and Sustainability or the County Assessor in processing the application. The Portland Housing Bureau of~~

~~Planning and Sustainability~~ shall collect the additional payment, if any, and pay itself, the County Assessor, or any other City bureau an amount equal to the additional costs incurred. If the applicant is denied, the City shall retain that portion of the application fee attributable to its own administrative costs and shall refund the balance to the applicant.

3.101.050 Review of Application.

(Amended by Ordinance Nos. 167356 and 182671, effective May 15, 2009.)

- A. Within 30 days after the April ~~March~~ 1 deadline for the application and payment of the application fee, the Portland Housing Bureau of Planning and Sustainability shall approve or deny the application. The application shall be approved if the Portland Housing Bureau of Planning and Sustainability finds that the property is "eligible property" within the meaning of the paragraphs 1 through 3 of Subsection B of Section 3.101.010 of this Chapter, and that the applicant has submitted the application and paid the fees pursuant to Section 3.101.040 of this Chapter. ~~An application not acted upon within 30 days shall be deemed approved in accordance with Oregon Chapter 108, Oregon Laws 1993.~~
- B. If the application is approved, the Portland Housing Bureau of Planning and Sustainability shall send written notice of approval to the applicant at his or her last known address within 10 days after approval.
- C. If the application is denied, the Portland Housing Bureau of Planning and Sustainability shall state in writing the reasons for denial and send the notice to the applicant at his or her last known address within 10 days after the denial. The Portland Housing Bureau of Planning and Sustainability shall retain that portion of the application fee which is attributable to its own administrative costs and shall refund the balance to the applicant.
- D. Upon denial by the Portland Housing Bureau of Planning and Sustainability, an applicant may appeal the denial to the City Council within 30 days after receipt of the notice of denial. Appeal from the decision of the City Council may be taken as provided by law.
- E. The application shall be assigned an application and receipt number.

3.101.060 Annual Application Renewal.

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

- A. Applicants for property tax exemption must apply each year no later than April ~~September~~ 1 in order to be qualified for property tax exemption for the following upcoming tax year.

- B. The annual application renewal fee shall be set by the Portland Housing Bureau \$50.
- C. ~~Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, and before July 1, 2014.~~

3.101.070 Assessment Exemption.

(Amended by Ordinance Nos. 167356 and 178286, effective April 7, 2004.)

- A. Property for which an application for a property tax exemption has been approved under the provisions of this Chapter shall be exempt from ad valorem taxation for 1 year beginning ~~January~~ July 1 of the tax year immediately following ~~the calendar year in which exemption approval of the exemption has been granted, or~~ when, pursuant to ORS 307.330, the property would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption provided in this Section shall be in addition to any other exemption provided by law.
- B. Applications for property tax exemption under this Chapter shall apply to and may be approved for assessment years beginning on or after January 1, 1985, but no later than January 1, ~~2027~~ 14.
- C. The exemption as provided by this Chapter shall apply to the tax levy of all taxing districts in the City of Portland in which property certified for exemption is located as long as the City of Portland has achieved the approval from such taxing districts whose governing boards agree to the policy of exemption, equal to 51 percent or more of the total combined rate of taxation on the property certified for exemption.

3.101.080 Termination.

(Amended by Ordinance Nos. 167356 and 182671, effective May 15, 2009.)

- A. If, after a certificate of qualification approving the exemption has been filed with the County Assessor, the ~~Portland Housing Bureau of Planning and Sustainability~~ finds that non-compliance has occurred or that any provision of this Chapter is not being complied with, the ~~Portland Housing Bureau of Planning and Sustainability~~ shall give notice in writing to the owner, mailed to the owner's last-known address and to every known lender, by mailing the notice to the last-known address of every known lender, of the proposed termination of the exemption. The notice shall state the reasons for the proposed termination of the exemption and require the owner to appear before the ~~City~~ City Council to show cause at a specified time, not ~~less~~ more than 20 days after mailing of the notice, why the exemption should not be terminated.

- B. If the owner does not appear or if he or she appears and fails to show cause why the exemption should not be terminated, the Portland Housing Bureau 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 that all noncompliance shall be remedied exemption shall be terminated.
- 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 any noncompliance, City Council shall adopt an ordinance or resolution stating its findings that terminate the exemption. A copy of the ordinance or resolution termination shall be filed with the County Assessor and a copy 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.
- ~~C. — However, if the City Council finds that the non-compliance was 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 City Council may continue the exemption or some portion for the duration of the current application.~~
- ~~D. — The decision of the Council may be appealed as provided by law.~~
- DE. ~~If no appeal is taken as provided in Subsection D of this Section, or u~~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 311.207216 to 311.213232, to provide for the assessment and taxation of any value not included in the valuation of the property during the period of exemption prior to termination by ~~the~~City Council or by a court, in accordance with the findings of ~~the~~City Council or the court as the assessment year in which the exemption is to terminate. The County Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207216 to 311.213232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning July 1 of the calendar year in which the non-compliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th day of the months next following the month of correction. If not paid within such period, the additional taxes shall thereafter be considered delinquent on the date they would normally have become delinquent if the time extended on the roll or rolls in the year or years for which the correction was made.

3.101.090 Implementation.

(Amended by Ordinance Nos. 167356 and 182671, effective May 15, 2009.) The Portland Housing Bureau of Planning and Sustainability shall establish procedures and

prepare forms for immediate implementation and administration of this Chapter in order to accept applications prior to the ~~April~~ March 1 filing deadline imposed by ORS 307.545 ~~Chapter 108 Oregon Laws 1993~~.

Chapter 3.102

**PROPERTY TAX EXEMPTION FOR
RESIDENTIAL REHABILITATION AND
NEW CONSTRUCTION OF SINGLE-
UNIT HOUSING IN HOMEBUYER
OPPORTUNITY AREAS**

(Substituted by Ordinance No. 162854;
amended by 176786, effective
September 6, 2002.)

Sections:

- 3.102.010 Definitions.
- 3.102.020 Application for Limited Assessment.
- 3.102.030 Review of Application.
- 3.102.040 ~~Affordability Agreement.~~
- 3.102.050 Certificate of Qualification.
- 3.102.060 Assessment.
- 3.102.070 ~~Annual Statements.~~
- 3.102.080 Termination.
- 3.102.090 Designation of Homebuyer Opportunity Areas.
- 3.102.100 ~~Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.~~
- 3.103.105 Implementation

3.102.010 Definitions.

(Amended by Ordinance Nos. 164769, 170667, 171887, 171977, 176786, 179685 and 182671, effective May 15, 2009.) As used in this Chapter:

- A. **"Distressed area"** means those areas of the City designated by City Council ~~rule by the Bureau of Planning and Sustainability in consultation with the Portland Development Commission, and the Bureau of Housing and Community Development that meet the requirements set out forth in ORS 307.651 to 307.657 308.450 (1), ORS 458.005 (1), and Section 3.102.090 of this Chapter.~~ For the purposes of administering Chapter 3.102, a "distressed area" shall hereafter in this Chapter be called a "homebuyer opportunity area" and be identified as such on any maps and application materials developed for this program.
- B. ~~**"Rehabilitation Improvements"** means modifications to existing structures which are made to achieve a condition of substantial compliance and which may include new construction as part of the overall project.~~

~~C. "Substantial compliance" means compliance with Title 29, "Housing Regulations." It shall not mean that all heating, plumbing and electrical systems be replaced with systems meeting current standards for new construction.~~

BD. "Eligible property" means land and the improvements thereon that meet all of the following criteria in either of the following two categories:

1. ~~Rehabilitated Residential Property:~~

~~a. It is either a single or multi-family residential unit or, if it is not a residential structure, it will be converted to residential units through rehabilitation improvements and a change of occupancy permit;~~

~~b. The following expenditures have been made:~~

~~(1) On property that is 25 years of age or more on January 1, 1986, sums were expended after September 13, 1975 and prior to January 1, 2008 for the purpose of making rehabilitation improvements and which sums in the aggregate equal or exceed five percent (5%) of the assessed value of the land and improvements as reflected in the last equalized assessment roll preceding the application date; or~~

~~(2) On property, regardless of age, sums have been expended after January 1, 1990 for making rehabilitation improvements and which sums in the aggregate equal or exceed fifty percent (50%) of the cash value of the land and improvements as reflected in the last equalized assessment roll preceding the application date;~~

~~c. The property provides not less than 50 percent of their accommodations for residential and not transient occupancy;~~

~~d. The improvements fail to be in substantial compliance at the time the application is filed; and~~

~~e. If owner occupied, the structure is located in a homebuyer opportunity area.~~

2. ~~Newly Constructed Single Unit Housing:~~

1a. The structure has one or more dwelling units and was newly constructed on or after January 1, 1990 and prior to July 1, 2015;

- 2b. The structure is located in a homebuyer opportunity area;
- 3e. Each dwelling unit within the structure is designed to be purchased by and lived in by one household;
- 4d. Each dwelling unit falls within the price limit as provided by Subsection 3.102.090 D.; and
- 5e. It is not a floating home, as defined in ORS 830.700, or a manufactured structure, as defined in ORS 801.333, other than a manufactured home described under ORS 197.307(5)(a) to (f).

~~E. "Owner's equity," as used in Subsection 3.102.060 D., means the greater of either:~~

- ~~1. Equity invested in the subject property including the owner's original cash equity at the time of acquisition and development plus additional cash outlays to the project to cover capital improvements and fund operating deficits. Routine maintenance and repair expenses which are funded from operating reserves as well as depreciation shall not be counted towards owner's cash investment; or~~
- ~~2. Current appraised value less current indebtedness of the property. The Portland Development Commission shall determine owner's equity based on information provided by the applicant.~~

~~F. "Reasonable return," as used in Subsection 3.102.060 D., means a ten percent return on equity.~~

3.102.020 Application for Limited Assessment.

(Amended by Ordinance Nos. 164769, 170667, 176786 and 179685, effective November 18, 2005.)

- A. Any owner desiring to apply for an exemption under the terms of this Chapter shall submit an application to the Portland Housing Bureau ~~Development Commission~~ no later than the December 31st preceding the tax year in which the exemption first applies.
- B. Each applicant shall pay a non-refundable fee as set by the Portland Housing Bureau ~~provided below~~:
 - ~~1. Single and two-family dwellings (occupancy classification R3), \$300;~~
 - ~~2. Multi-unit dwellings (occupancy classification RI); \$300 plus \$5.00 for each dwelling unit in excess of two;~~

3. — Pplus a sum equal to the estimated appraisal costs to be incurred by the Assessors Office to ~~the Portland Development Commission~~ concurrent with the submission of the application to the Portland Housing Bureau. Tthe applicant ~~shall also~~ being liable for all additional costs incurred by the City or County due to the processing of the application for exemption.

C. The application will include provisions so that the applicant can acknowledge:

1. That the applicant is aware of and will comply with all requirements for limited assessment imposed by this Chapter;
2. That the applicant's property will qualify ~~or, for limited assessment~~ upon completion of the ~~rehabilitation improvements or~~ new construction; ~~will qualify for limited assessment;~~
3. — That the applicant agrees, ~~if the structure is not newly constructed single-unit housing and is not intended to be owner-occupied, to negotiate through the Portland Development Commission rental rates to be charged for the rehabilitated rental units during the period of limited assessment;~~
34. That the applicant certifies, ~~if the structure is newly constructed single-unit housing,~~ that the household purchasing the unit has an annual gross household income not greater than one hundred percent of the area median income for a family of four as determined annually for the Portland Metropolitan Area by the United States Department of Housing and Urban Development as adjusted upward for a household of more than four persons. For the purposes of this program, household income shall be the annual gross income of the borrower or the deedholder who will occupy the eligible property;
45. That the unit, once sold, will remain owner-occupied as the principal residence of the household receiving the property tax exemption during the ten year period of the limited assessment. Hardship exception to the owner-occupancy requirement may be granted by the Portland Housing Bureau in accordance with its policies. Such hardship exceptions may include, but are not limited to, the following circumstances: foreclosure of the unit, active military duty outside of the area, temporary relocation to care for an ill or dying family member, or sudden relocation caused by an employer;
56. That subsequent buyers of the structure during the ten year period of the limited assessment will have an annual gross household income not greater than one hundred percent of the area median income for a family of four for the Portland Metropolitan Area as adjusted upward for a household of more than four persons; and

67. That the applicant acknowledges responsibility for compliance with the Code of the City of Portland regardless of whether the applicant obtains the assessment provided by this Chapter.

7. The information in the application is verified by oath or affirmation of the applicant.

D. The applicant shall agree to permit the Portland Housing Bureau~~Development Commission~~ to have executed and recorded in the county real estate records a Subsequent Home-Buyer Notice stating that the property is subject to a limited tax assessment and that any subsequent purchaser is bound by the requirements of this Chapter.

E. The applicant shall furnish other information which is reasonably necessary to fulfill the objectives of this Chapter. The application shall be assigned an application number.

F. If any of the application criteria noted in this Section are violated, the Portland Housing Bureau~~Development Commission~~ shall terminate the limited assessment according to the provisions of Section 3.102.080 Termination.

~~G. An application for exemption that seeks a tax year beginning or before July 1, 2005, as the first year of the exemption may be approved or denied by the Portland Development Commission within 30 days following November 4, 2005. If an application is approved under this Section, the first tax year of the exemption shall be the tax year beginning July 1, 2005.~~

3.102.030 Review of Application.

(Amended by Ordinance Nos. 170667, 171887, 176786, 179685 and 182671, effective May 15, 2009.)

A. Within ~~180~~90 days after receipt of a completed application and payment of all appropriate fees, the Portland Housing Bureau~~Development Commission~~ shall approve application if it finds that the property is an eligible property according to the provisions of Subsection 3.102.010 D. and the application meets all the requirements of this Chapter. Written notice of approval shall be sent to the applicant at his or her last known address within 10 days of approval. ~~In the case of a residential structure to be rehabilitated, the written notice shall verify the structure's noncompliance and specify what rehabilitation improvements must be completed in order that the property be in substantial compliance.~~

B. ~~For newly constructed single-unit housing or owner-occupied single-unit housing to be rehabilitated, t~~The Portland Housing Bureau~~Development Commission~~ shall

determine whether the property location is within a homebuyer opportunity area at the time of application. The Portland Housing Bureau~~Development Commission~~ may approve an application for limited property tax exemption for an eligible structure constructed prior to July 1, 2015 ~~or rehabilitated prior to July 1, 2008~~ within a homebuyer opportunity area. Construction ~~or rehabilitation~~ must begin while the area is designated as a homebuyer opportunity area in order to qualify.

1. The Portland Housing Bureau~~Development Commission~~ shall also determine that the new single-unit housing will have a market value, including the cost of the land, of no more than 120 percent of the median sales price of single family homes located within the city. Such median sales price shall be determined by ~~the City Council prior to January 1 of each assessment year~~ Bureau of Planning and Sustainability as provided by Section 3.102.090 D.
2. The issuance of building permits shall indicate compliance with the Code of the City of Portland and shall be sufficient to meet the public benefits and design standards as described in ORS 307.651(4)(a)~~458.010 (4)(b)(e)~~. All other required city reviews that are applicable shall not be waived as part of an application for property tax exemption.
3. The approval shall be in the form of a City Council ordinance or resolution that shall contain the owner's name and address, a legal description of the property or the assessor's property account number and the specific conditions upon which the approval of the application is based. The ordinance or resolution shall direct the County Assessor to exempt the structure from ad valorem taxes as provided in Subsection 3.102.060 C. and pursuant to ORS 307.674(3), pending approval of the certificate of qualification by the Portland Housing Bureau~~Development Commission~~ as provided in Section 3.102.050. A single ordinance or resolution listing all approved properties and submitted annually for City Council consideration before each upcoming tax year shall be sufficient to meet this requirement.

- C. If the application is denied, the Portland Housing Bureau~~Development Commission~~ shall state in writing the reasons for denial, and send it to the applicant within 10 days of denial. An applicant may appeal the denial pursuant to ORS 34.010 to 34.100~~to the City Council within 30 days after receipt of notice of denial.~~

3.102.040 Affordability Agreement.

(Amended by Ordinance No. 171977, effective February 4, 1998.)

(Repeals this section 3.102.040 in its entirety.)

- ~~A. — Before approval of an application for nonowner-occupied rehabilitated structures, an applicant shall execute an Affordability Agreement with the Portland Development Commission, designating the number of units, their bedroom size and rents to remain affordable during the term of the limited assessment. Designated units shall be occupied by and rented at rates affordable to tenants with household income of 60% of median family income or less. At least 20% of the units in a project containing five or more units, 100% of the units in case of a single family house, 50% of the units in a duplex, 30% of the units in a triplex, and 25% of the units in a fourplex shall be affordable. The applicable median incomes and monthly rental rates are determined annually by the Portland Development Commission based on data annually reported by the U.S. Department of Housing and Urban Development.~~
- ~~B. — The Affordability Agreement shall require the applicant to report annually to the Portland Development Commission the property's occupancy information, rental rates, and related property information which is deemed necessary to monitor compliance during the period of limited property tax assessment. Annual reports are to be filed with the Portland Development Commission no later than 60 days following the end of the fiscal year used by the owner for the purpose of reporting federal income tax.~~
- ~~C. — At the Portland Development Commission's option, the Affordability Agreement may be recorded or secured by a covenant against the property receiving limited property tax assessment. The benefit of this limited property tax assessment may be transferred to a new property owner for the remaining term of the limited assessment provided the new owner executes a new Affordability Agreement with the Portland Development Commission.~~
- ~~D. — Should the applicant receive other City of Portland funds or benefits requiring a similar Affordability agreement, the more restrictive agreement shall be used to determine compliance with this ordinance.~~

3.102.050 Certificate of Qualification.

(Amended by Ordinance Nos. 164769, 170667, 171977, 176786 and 179685, effective November 18, 2005.)

- ~~A. Upon completion of the rehabilitation improvement or the new construction, the applicant shall file with the Portland Housing Bureau Development Commission an application for a certificate of qualification and, in the case of a rehabilitated structure intended to be nonowner-occupied, a copy of the Affordability Agreement required by 3.102.040.~~
- ~~B. Within 30 days of receipt of the application, tThe Portland Housing Bureau Development Commission shall determine whether the property qualifies~~

for limited assessment under this Chapter. Approval shall be given if ~~one of the following two alternatives is satisfied:~~

1. ~~The residential rehabilitation improvements were completed within two (2) years from the date of application for limited assessment, the applicant has paid all the appropriate fees, and filed, if required, the appropriate Affordability Agreement; or~~
2. ~~The newly constructed single-unit housing was completed within two (2) years from the date of approval application for limited assessment, construction began while the area was designated a homebuyer opportunity area, the applicant has paid all appropriate fees, and the new construction complies with the code of the City of Portland.~~

- C. A copy of the certificate of qualification shall be sent to the applicant, and filed by the Portland Housing Bureau ~~Development Commission~~ with the Assessor within 20 days. In addition, copies of the application for limited assessment; the notice of approval; ~~the Affordability Agreement (if appropriate); the ordinance or r~~Resolution of approval (if appropriate); and the application for a certificate of qualification shall also be filed with the Assessor and shall be numbered with the applicant's application number, and shall be delivered in a single transmittal.
- D. If it is determined that the ~~rehabilitation or~~ new construction was not completed within two (2) years of ~~the approval~~ application date or the property is otherwise not qualified for the limited assessment provided for under the terms of this Chapter, the Portland Housing Bureau ~~Development Commission~~ shall so state in writing, and send this determination to the applicant within 40 days of the receipt of the application for a certificate of qualification. An applicant may appeal the denial ~~as provided by law to the City Council within 30 days of the mailing of the notice required by this Subsection.~~

3.102.060 Assessment.

(Amended by Ordinance Nos. 164769, 170667, 176786, and 179685 effective November 18, 2005.)

- A. ~~As provided by ORS 308.459, an eligible rehabilitated residential property shall be assessed at no more than its assessed value as it appears in the last equalized assessment roll next preceding the date on which the application for limited assessment is filed with the Portland Development Commission as provided for in 3.102.020. If the certificate of qualification is filed with the Assessor after December 31 but prior to April 1, the limited assessment shall apply with respect to the first assessment roll equalized after that date; or if the certificate of qualification is filed after April 1 but prior to January 1, the limited assessment shall apply as of the following January 1, and shall continue to apply thereafter for a total of 10 consecutive assessment rolls.~~

- ~~B. As provided by ORS 308.456 (4), the limited assessment provided by this Chapter does not apply to increases in assessed valuation made by the assessor or by lawful order of a County Board of Equalization, the Department of Revenue or a court, to a class of property throughout the county or any specific area of the county to achieve the uniformity of assessment or appraisal required by ORS 308.232.~~
- C. As provided by ORS 307.664458.020, eligible newly constructed single-unit housing shall be exempt from ad valorem taxation for no more than 10 successive tax years beginning July 1 of the first tax year following approval of the application under Section 3.102.020 of this Chapter. The exemption provided by this Chapter shall be in addition to any other exemption provided by laws for the property. However, the amount of assessed value exempted under this Chapter may not exceed the real market value of the structure determined as of the date that the property is inspected for purposes of making a determination under this Chapter.
- ~~D. If all residential units in a multiple-unit housing project are subject to a low income rental assistance contract with an agency of the state or federal government, an exemption provided under the terms of this Chapter may be extended beyond the 10-year limitation set in Subsection A above to December 31 of the assessment year during which the termination date of the contract falls. The Portland Development Commission staff shall review all applications for extension. Approval by the Portland Development Commission staff shall be based on findings that:~~
- ~~1. The applicant has made reasonable efforts to obtain approval from the appropriate government agency for an increase in the allowable contract rent. Evidence of reasonable efforts shall include documentation showing contact with appropriate agencies and attempts to obtain written responses from the agency indicating their decision regarding modification of the rental contract.~~
 - ~~2. The loss of the exemption will cause an increase in operating expenses to the extent that operating income for the property will be insufficient to cover operating expenses plus a reasonable return on the owner's equity in the projects. The evaluation of these criteria will be based upon projected average annual income and expense requirements over the extension period; and~~
 - ~~3. The tax exemption is necessary in order to prevent displacement of low- and moderate-income tenants or of a low- and moderate-income housing resource.~~

- ~~E. The Portland Development Commission staff, as part of the approval process under Section 3.102.060 D., may require an independent financial audit of the previous ten year tax abatement period as well as forecasts for the requested extension period. If the annual financial statements submitted by the applicant are found to be incomplete and inaccurate, the applicant will be responsible for audit fees. A denial of an extension requested under 3.102.060 D. may be appealed to the City Council. The appeal shall be filed within 30 days of the date of the mailing of the notice denying the extension.~~
- ~~F. In order to maintain an exemption granted under Section 3.102.060 D the applicant, a least every three years, shall make reasonable efforts as defined in Section 3.102.060 D.1. to obtain increases in the allowable contract rents and submit documentation of such evidence to the Portland Development Commission staff.~~
- ~~G. The Portland Development Commission staff shall review the applicant's compliance with the conditions set forth in Section 3.102.060 D. every five years. If the average annual rate of return to the period exceeds a reasonable rate of return as defined in Section 3.102.010 F., the exemption shall terminate. An applicant may appeal a termination to the City Council within 30 days of the date of the mailing of the notice to terminate.~~

3.102.070 Annual Statements.

(Amended by Ordinance No. 171977, effective February 4, 1998.)

(Repeal Section 3.102.070 in its entirety.)

- ~~A. Within 60 days following the end of the fiscal year as used by the owner for purpose of reporting federal income tax and during the period that the certificate is in effect, the owner of the rehabilitated property that is nonowner-occupied shall file with the Portland Development Commission the following:~~
- ~~1. A statement of occupancy and vacancy of the rehabilitated property during the prior 12 month period; and~~
 - ~~2. A statement of all rental rates, increases thereto and operating costs, during the prior 12 month period; and~~
 - ~~3. An attestation by the owner that the rehabilitated property has been held continuously for the production of rental income since the date of the certificate of qualification.~~
 - ~~4. A Rental/Occupancy Report listing each unit and the rental rate charged and identifying each affordable unit type based on the number of bedrooms and/or floor area, the rent charged, the occupant's household~~

~~size, the occupant's household annual income, and whether utilities are include as part of the rental charge.~~

~~5. Any other information deemed necessary in determining compliance with the Affordability provisions of this ordinance.~~

~~B. Within 30 days of receiving the owner's Rental/Occupancy Report, the Portland Development Commission shall advise the Assessor of whether to continue or terminate assessment limitation.~~

~~C. Should the property be regulated by another agreement regarding affordability and/or operating performance as conditioned by other public funds, the more restrictive agreement shall be used to determine compliance with the ordinance.~~

3.102.080 Termination.

(Amended by Ordinance Nos. 170667, 171887, 171977, 171999, 176786 and 179685, effective November 18, 2005.)

A. If subsequent to the issuance of a certificate of qualification, it is determined by the Portland Housing Bureau~~Development Commission~~ that the new construction was not completed on or before July 1, 2015, ~~or the rehabilitation improvements were not completed on or before January 1, 2008~~, or that any other provision of this Chapter is not being complied with, the Portland Housing Bureau~~Development Commission~~ shall give notice in writing to the owner, mailed to the owner's last known address, of the proposed termination of the limited assessment. The written notice shall state the reasons for the proposed termination and shall require owner provide a statement of the owner's right to appear not less than 20 days after mailing the notice before the Portland Housing Bureau ~~Development Commission~~ to show cause, if any, why the exemption should not be terminated. ~~The notice shall provide instructions describing how the owner may request a show cause hearing before the Portland Development Commission. Upon request by the owner, the Portland Development Commission shall schedule a hearing for a date not less than 20 days from the date of the request.~~

B. If the owner ~~chooses not to appear, or if they appear and fails to show cause why~~ the limited assessment should not be terminated, the City shall adopt an ordinance or resolution stating its findings and terminating the limited assessment. The Portland Housing Bureau~~Development Commission~~ shall file a copy of the ordinance or resolution with the County Assessor and shall send a copy to the owner at the owner's last known address within 10 days of ~~the~~ the City Council's action.

- C. If, after application has been approved, the City or County Assessor discovers that the single-unit housing or a portion of the single-unit housing is changed to a use that is other than single-unit housing:
1. The limited assessment granted the single-unit housing or portion under ORS 307.651458.005 and 307.657458.015 to 307.677458.065 shall terminate immediately, without right of notice or appeal;
 2. The property or portion shall be assessed and taxed as other property similarly situated is assessed and taxed; and
 3. Notwithstanding ORS 311.235, there shall be added to the general property tax roll for the tax year next following the discovery, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the amount of tax due on the property and the amount of the tax that would have been due on the property had it not been exempt under ORS 307.651458.005 and 307.657458.015 to 307.677458.065 for each of the years, not to exceed the last 10 years, during which the property was exempt from taxation under ORS 307.651458.005 and 307.657458.015 to 307.677458.065.
 - a. If, at the time of discovery, the property is no longer exempt, additional taxes shall be imposed as provided in this section, but the number of years that would otherwise be used to compute the additional taxes shall be reduced by one year for each year that has elapsed since the year the property was last granted exemption.
 - b. The assessment and tax rolls shall show potential additional tax liability for each property granted a limited assessment under ORS 307.651458.005 and 307.657458.015 to 307.677458.065.
 - c. Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.
- D. If the City finds that the new construction was not completed on or before July 1, 2015 ~~or the rehabilitation improvements were not completed by July 1, 2008~~, 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 City may extend the deadline for completion for a period not to exceed an additional 12 consecutive months.
- E. The decision of the City Council may be appealed as provided by ORS 34.010 to 34.100.

- F. ~~As provided by Subsection (4) of ORS 308.477, if~~ no appeal is taken as provided in Subsection ~~ED~~ of this Section, 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 311.207216 to 311.243232, to provide for the assessment and taxation of any value not included in the valuation of the new construction or ~~there habilitation improvements~~ during the period of limited assessment prior to termination by the City Council or by a court, in accordance with the findings of the City Council or the court as to the assessment year in which the limited assessment is to terminate. The Assessor shall make the valuation of the property necessary to permit correction of the rolls, and the owner may appeal the valuation in the manner provided under ORS 311.207216 to 311.243232. Where there has been a failure to comply, as provided in Subsection A of this Section, the property shall be revalued beginning January 1 of the assessment year in 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 thereafter be considered 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.

3.102.090 Designation of Homebuyer Opportunity Areas.

(Amended by Ordinance Nos. 170667, 176786, 179685, 182671 and 184046, effective September 10, 2010.)

- A. ~~The Portland Housing Bureau of Planning and Sustainability shall be the agency responsible for designating homebuyer opportunity areas. The Portland Development Commission and the Bureau of Housing and Community Development shall be consulted in the designation process. The designation of such areas shall occur in the form of a public hearing conducted before the City Planning and Sustainability Commission through a legislative process appealable to City Council. If there is no appeal within 30 days of the decision by the Planning and Sustainability Commission, the decision shall be final. The Portland Housing Bureau of Planning and Sustainability shall make available maps indicating current homebuyer opportunity areas. The designation of the first homebuyer opportunity areas shall be conducted as nearly as possible in conjunction with the adoption of this ordinance implementing tax exemption in such designated areas. From the date of the first designation, a review of the areas for possible amendment of the boundaries of the homebuyer opportunity areas shall occur at least every three years.~~
- B. The criteria for designating homebuyer opportunity areas shall include a consideration of the following factors:
1. The area is primarily a residential area of the city which is detrimental to the safety, health and welfare of the community by reason of deterioration,

inadequate or improper facilities; the existence of unsafe or abandoned structures, including but not limited to a significant number of vacant or abandoned single or multi-family residential units; or any combination of these or similar factors; and,

2. The incentive of limited property tax exemption in a homebuyer opportunity area will help to carry out adopted policies, or area-wide or district plans of the city related to housing or neighborhood revitalization; and.

3. The probability of revitalization in the area without the assistance of the exemption.

C. At no time shall the cumulative land area within the boundaries of homebuyer opportunity areas exceed 20 percent of the total land area of the city.

D. The Portland Housing Bureau of Planning and Sustainability shall also establish the price limit of newly constructed single-unit housing eligible for the limited property tax exemption as provided by this Chapter. The price limit shall not exceed 120 percent of the median sales price of single-family homes located within the city. The median sales price shall be determined, with assistance by the County Assessor, using the sales data collected under ORS 309.200 for the period ending the prior November 30 relative to single-family homes. ~~In addition, the Bureau of Planning and Sustainability may use data made available by the real estate and construction or other appropriate industry.~~ The median sales price shall be established by City Council ordinance or resolution prior to January 1 of each year during the effective time of this program.

3.102.100 Sunset of the Exemption for Owner-Occupied Rehabilitation and New Single-Unit Residences in Distressed Areas.

(Repealed by Ordinance No. 170667, effective Oct. 23, 1996.)

3.102.105 Implementation

The Portland Housing Bureau shall establish procedures and prepare forms for implementation and administration of this Chapter.

Chapter 3.103**PROPERTY TAX EXEMPTION FOR NEW TRANSIT SUPPORTIVE
RESIDENTIAL OR MIXED USE DEVELOPMENT**

(New Section added by Ordinance No. 170667,
effective Oct. 23, 1996)

Sections:

- 3.103.005 Purpose.
- 3.103.010 Definitions.
- 3.103.020 Eligible Projects and Sites.
- 3.103.025 Pre-application Procedure.
- 3.103.030 Application Procedure.
- 3.103.040 Public Benefits.
- 3.103.045 Approval Criteria.
- 3.103.050 Review of Application.
- 3.103.055 Rate of Return Analysis.
- 3.103.060 Exemption.
- 3.103.070 Termination.
- 3.103.080 Extension of Deadline.
- 3.103.090 Implementation.

3.103.005 Purpose.

The purposes of this property tax exemption are to encourage the development of high density housing and mixed use projects affordable to a broad range of the general public on vacant or underutilized sites within walking distance of light rail or fixed route transit service, and to enhance the effectiveness of the light rail or fixed route transit system.

3.103.010 Definitions.

(Replaced by Ordinance No. 180572, effective December 8, 2006.) As used in this Chapter:

- A. **"Full funding agreement"** means an agreement executed by the Federal Transit Administration or other U.S. governmental agency which contains the terms and conditions applicable to the approval of a light rail project and the grant of federal funds for that project, which includes construction of planned stations and other light rail facilities.
- B. **"Light rail station area"** means an area defined, for the purposes of this Chapter, to be within a one-quarter mile radius of an existing or planned light rail

station. A planned light rail station shall be defined as one that has achieved a full funding agreement.

C. **"Multiple-unit housing"** means newly constructed structures, stories or other additions to existing structures, and structures converted in whole or in part from other uses to dwelling units, and existing structures containing low income housing subject to a public assistance contract that meet the following criteria:

1. The structures must have ten or more dwelling units.
2. The structures must not be designed or used as transient accommodation, including but not limited to hotels and motels.
3. The structures must contain design elements benefiting the general public as specified in Section 3.103.040.
4. The structures must:
 - a. Enhance the effectiveness of the light rail or fixed route transit system by providing pedestrian connection to a light rail line or mass transportation system; and
 - b. Contain housing units with rental rates or purchase prices which are accessible to a broad income range of the general public; and
 - c. Provide public benefits and design features which further the purposes of this Chapter as demonstrated by compliance with the provisions of Section 3.103.040.

D. **"Pedestrian connection"** means a continuous, unobstructed, reasonably direct route between two points that is intended and suitable for pedestrian use. Pedestrian connections include but are not limited to sidewalks, walkways, stairways and pedestrian bridges. On developed parcels, pedestrian connections are generally hard surfaced. In parks and natural areas, pedestrian connections may be soft-surfaced pathways. On undeveloped parcels and parcels intended for redevelopment, pedestrian connection may also include rights-of-way or easements for future pedestrian improvements.

E. **"Transit oriented area"** means an area defined in a local transportation, community, neighborhood or other local or regional plan to be within one-quarter mile of a fixed route transit service including bus lines.

3.103.020 Eligible Projects and Sites.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A. The property tax exemption permitted by this Chapter is intended to benefit projects that emphasize:
1. The development of vacant or underutilized sites rather than sites where sound or rehabilitable multiple-unit housing exists;
 2. The development of multiple-unit housing, with or without parking, in structures that may include ground-level commercial space;
 3. The development of multiple-unit housing, with or without parking, on sites with existing single-story commercial structures;
 4. The development of multiple-unit housing, with or without parking, on existing surface parking lots; and
 5. The development of units at rental rates or purchase prices which are accessible to a broad income range of the general public.
 6. Preservation of existing low income housing subject to a public assistance contract to provide low income housing.
- B. Eligible ~~projects~~multiple-unit housing shall be constructed, converted, or preserved after the date of adoption of this program, and completed on or before January 1, 2022~~12~~.
- C. For the purposes of this Chapter, eligible multiple-unit housings~~sites~~ must be located within the following areas:
1. Light rail station areas within a one-quarter mile radius of an existing light rail station or a light rail station under construction on or before January 1, 2009, except that the site must be located outside the boundaries of the Central City Plan District as shown on Map 510-1 of Chapter 33.510 of the Portland Zoning Code. The distance from an eligible light rail station shall be measured from the center line of the light rail line tracks on which the station is located. Maps showing these areas are found at the end of this Chapter as Maps 3.103-2 through 3.103-3 (Maps 1 of 3 through 3 of 3) through Map 3.103-5, Map 3.103-7 (Maps 1 of 3 through 3 of 3), Map 3.103-8 (Maps 1 of 4 through 4 of 4) and 3.103-11 (Map 10 of 6 through 6 of 6). If a portion of the project site falls within the one-quarter mile distance, the entire site shall qualify as a property eligible to apply for this exemption; and
 2. Transit oriented areas within the Gateway Plan District as included on Map 526-1 of Chapter 526 of Title 33, Planning and Zoning, and shown at the end of this Chapter as Maps 3.103-6 (Maps 1 of 5 through 5 of 5); and

3. Transit oriented areas within the Lents Town Center as delineated on Map 11 of the adopted Outer Southeast Community Plan and shown at the end of this Chapter as Maps 3.103-9 (Maps 1 of 4 through 4 of 4); and
4. Transit oriented areas along the Foster Road Main Street from Holgate Boulevard to SE 79th Avenue adjacent the Lents Town Center and shown at the end of this Chapter as Map 3.103-10; and
5. Hollywood light rail station area and transit oriented areas along Sandy Boulevard and the Broadway Main Street shown at the end of this Chapter as Map 3.103-3. (Maps 1 of 3 through 3 of 3); and
6. Transit oriented areas along the Martin Luther King Jr. Boulevard Main Street between Lombard and Broadway Streets as shown at the end of this Chapter on Map 3.103-12 Maps 1 of 4 through 4 of 4); and
7. Transit oriented areas within a portion of the Northwest Plan District as shown at the end of this Chapter on Map 3.103-13.
8. Transit-oriented area around the intersection of SW Barbur and Terwilliger Boulevards as shown at the end of this Chapter on Map 3.103-14.
9. Transit oriented areas within the Hillsdale Town Center as shown at the end of this chapter on Map 3.103 -15.

D. In addition to the eligible areas noted above, the following criteria apply to individual multiple-unit housing projects:

1. Projects located on sites zoned R5, R7, R10, R20, or RF Single Dwelling Zones, as defined by Title 33, Planning and Zoning, are not eligible for the property tax exemption permitted by this Chapter.
2. Multiple-unit housing projects which do not include ground floor commercial space must contain at least 35 housing units per net acre of site area to be eligible for the property tax exemption permitted by this Chapter.
3. Mixed use projects containing ground floor commercial space must incorporate at least two times the amount of residential floor area to non-residential floor area and contain at least 20 housing units per net acre of site area.

4. For the purposes of this Chapter, a rowhouse or townhouse development containing for sale or rental units is eligible so long as all other eligibility criteria of this Chapter are met.
- E. All eligible projects shall demonstrate that property tax exemption is necessary to achieve economic feasibility for the residential use, taking into account the additional costs incurred by the design features, public benefits, or minimum densities required in return for the incentives allowed by this Chapter.
- F. The City shall periodically review the areas eligible for the exemption granted to transit supportive development in response to transportation and/or community planning and policy initiatives which indicate the need to encourage desired development in other light rail station areas or transit oriented areas as defined in this Chapter. Such review shall occur at least every ~~five~~^{three} years. The basis for considering the inclusion of new light rail station areas shall be the establishment of a full funding agreement.

3.103.025 Pre-application Procedure.

- A. A pre-application meeting will be required with the Portland Housing Bureau~~Development Commission~~ staff prior to submitting a complete application. On forms provided by staff, the prospective applicant shall include the following:
 1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
 2. A statement describing the location of the proposed development; the number, size, and type of individual dwelling units; a preliminary pro forma showing expected rents or purchase prices of the dwelling units; the dimensions of the multiple-unit structure(s); the approximate amount of floor area dedicated to the types of uses envisioned; public and private access; parking and circulation plans; a description of the public benefits proposed; and any additional information that would demonstrate the eligibility of the project for the property tax exemption, including its physical and functional connection to the nearest transit service. However, certain items of information may be waived for projects under design or if applicants request guidance in order to submit material sufficient for a complete application.
- B. Prior to the meeting, the staff shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest in, the proposed development.

- C. The applicant shall meet with staff and discuss the proposed development. Thereafter, the Portland Housing Bureau~~Development Commission~~ staff shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application. Staff guidance shall be provided indicating the minimum requirements for meeting the provisions of Section 3.103.040 of this Chapter.

3.103.030 Application Procedure.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A. A person seeking an exemption under the terms of this Chapter shall apply to the Portland Housing Bureau on or before September 1 of the calendar year immediately preceding~~Development Commission not later than February~~ the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Portland Housing Bureau~~Commission~~ staff and include the following information:
1. The applicant's name, address, and telephone number;
 2. A legal description of the property and property account number;
 3. A detailed description of the project, including the number, size, and type of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of building, and amount of open space; type of construction; expected rents or purchase prices of the dwelling units; public and private access; parking and circulation plan; number of residential and commercial off-street parking spaces; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed amount of floor area dedicated to residential and nonresidential uses; a description of the public benefit(s) prescribed in Section 3.103.040 included in the project including any extension of public benefits from the project beyond the period of the exemption; and economic feasibility studies or market analysis, when appropriate. In addition, the application shall contain a detailed construction and operating cost analysis to demonstrate the applicant's economic need for the tax exemption. Evidence of cost comparisons may be required when appropriate;
In addition, the application shall contain a detailed construction and development cost analysis, sources and uses of funds analysis, operating income and expense analysis, and projected ten-year operating cash flow analyses for two scenarios:
 - a. ~~(1) modeling the project's operations with the tax exemption~~abatement; and

- b.** ~~(2)~~ modeling the project's operations without the tax ~~exemption~~ ~~abatement~~. Each of these projected ten-year operating cash flow analyses shall include a calculation of the internal rate of return for the project. Internal rate of return is the annual discount rate, expressed as a percent, on a series of annual cash flows at which the net present value of an initial investment is equal to zero.

The foregoing economic analyses shall be used to demonstrate the applicant's economic need for the tax exemption. In determining this economic need the Portland ~~Housing Bureau~~ ~~Development Commission~~ shall verify the applicant's projected internal rate of return for the project based on invested cash, equity, economic conditions, and other related factors as prescribed in Subsection 3.103.050 ~~AB~~.

4. A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;
5. A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, or a scale suitable for reproduction on 8-1/2" by 11" paper, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and
6. Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter, including a demonstration of the project's physical and functional connection to the nearest transit service. The applicant shall verify the information in the application by oath or affirmation.

- B.** Concurrent with the submission of the application, an application fee as established by the Portland ~~Housing Bureau~~ ~~Development Commission~~ shall be required. The applicant may be required to pay such other reasonable costs, including appraisal costs, incurred by the Assessor in processing the application. The Portland Housing Bureau shall collect payment for any additional cost to pay the Assessor.

3.103.040 Public Benefits.

(Replaced by Ordinance No. 180572; Amended by Ordinance Nos. 182389, 182671 and 184046, effective September 10, 2010.)

- A. Purpose. The purpose of this Section is to achieve the type of higher density, mixed-income, transit oriented development desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to meet an affordability requirement and achieve one or more public benefits.
- B. Except for the provisions of Subsection 3.103.040 D below, all rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must comply with one of the following affordability requirements in either paragraph B.1 or paragraph B.2. These affordable units shall be subject to an Extended Use Agreement (EUA) requiring that they be rented in accordance with these rent and income restrictions for a period that is 5 years longer than the tax ~~exemption~~abatement period (for example, a 10-year tax ~~exemption~~abatement period would result in a 15-year EUA). The EUA will be recorded against the property and will appear as a lien on the property's title. Compliance with the EUA shall be certified by the owner to the Portland ~~Housing Bureau~~Development Commission on a yearly basis. The EUA will be administered as described in Section 3.103.055. The units meeting the affordability requirement must match the unit mix in the project as a whole in terms of number of bedrooms.
1. The project must include within the project and for the term of the exemption at least 20 percent of the units, or residential square footage dedicated to units, for rent at rates which are affordable to households earning 60 percent or less of the area median income:
 - a. For the units affordable to households earning 60 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 60 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 60 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
 - b. Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio

apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate which does not exceed 30 percent of the monthly gross income for a family earning 60 percent or less of the area median income.

2. In the alternative to Subsection 3.103.040 B.1, the project must include within the project and for the term of the exemption at least 10 percent of the units, or residential square footage dedicated to units, for rent at rates which are affordable to households earning 30 percent or less of the area median income:

- a. For the units affordable to households earning 30 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 30 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 30 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.
- b. Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate which does not exceed 30 percent of the monthly gross income for a family earning 30 percent or less of the area median income.

- C. All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.

1. In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.

D. In addition to the applicable provisions of Subsections 3.103.040 A through C above, the project must include three of the following:

1. At least 20 percent of the rental units must be dedicated and fully accessible during the term of the exemption by covenant to households which include persons with special needs, such as the mentally or physically disabled or other categories of persons as defined by the Federal Fair Housing Amendments Act of 1988;
2. At least 10 percent of the rental units must include three or more bedrooms;
3. The project must provide child care on-site or support child care through a service provider with a facility located within 1200 feet of a light rail station or within 400 feet of a transit stop at 25 percent of the annual value of the property tax exemption for each year of the term of the exemption, such in-lieu support being dedicated to project residents or other households earning 60 percent or less of the area median income;
4. The project must provide a residential unit per acre density equivalent to at least 80 percent of the applicable maximum density as allowed by the base zone as established by Title 33, Portland Zoning Code, except that this alternative shall not be available to projects on sites with R1 zoning. For sites with RH, IR, CN, CO, CM, CS, or CG zoning, this requires at least 68 units per net acre. For sites with RX, CX, EX, or other zoning, this requires at least 139 units per net acre;
5. Ground floor service or commercial use which is permitted and serves project residents, neighboring residents, and transit riders;
6. Office space or meeting room for community organizations;
7. Permanent dedications for public use including open space, community gardens, or pedestrian and bicycle connections to public trails and adjoining neighborhood areas;

8. Family oriented recreational facilities for the children of project residents;
9. Dedicated car-share space(s);
10. Structured parking;
11. LEED Silver certification from the US Green Building Council;
12. Twice the percentage of affordable units, or residential building square footage dedicated to affordable units, than is required by subsection B of this section; or.
13. Other benefits as proposed by the developer and approved by City Council~~the Planning and Sustainability Commission~~.
14. Transportation improvements above those required by development standards approved by the Bureau of Transportation and the Planning and Sustainability Commission.
15. An agreement to sell off-street parking spaces separate from condominium units so that a unit can be purchased without a parking space.

E. Staff from the Portland Housing Bureau~~Development Commission~~ shall confer, at a minimum, with the staffs of the Bureau of Planning and Sustainability and the Bureau of Transportation for advice and confirmation regarding compliance with the relevant public benefits, plan policies, and transit oriented design features applicable to the project. Other bureaus or agencies indicating interest shall also be invited to comment. Written comments received from staff shall be entered into the record of the adopting report and recommendation presented before the Planning and Sustainability Commission.

3.103.045 Approval Criteria.

(Replaced by Ordinance Nos. 180572 and 184046, effective September 10, 2010.) An application may be recommended for approval if the Portland Housing Bureau~~Development Commission~~ staff establishes conditions which ensure that:

- A. ~~Within 60 days of receipt of a complete application, the staff of the Portland Development Commission shall review the application for economic feasibility and other requirements of this chapter and shall recommend to the Planning and Sustainability Commission that the application be denied or approved subject to conditions. If~~ The anticipated internal rate of return for the project for the period of the exemption shall not exceeds ten percent, ~~the Portland Development Commission staff shall recommend that the application be denied. Portland Development Commission staff may require modifications to the project design in order to further the public goals of this Chapter.~~

- B. The project containing these public benefits and affordable units would not otherwise be financially feasible without the benefit provided by the property tax exemption;
- C. The construction project will, at the time of completion, conform with the applicable provisions of Titles 17, 24, 32, 33, 34; and
- D. The applicant has complied with Sections 3.103.010, 3.103.020, 3.103.030, and 3.103.040.

3.103.050 Review of Application.

(Replaced by Ordinance Nos. 180572, 182671 and 184046, effective September 10, 2010.)

- A. Within 60 days of receipt of a complete application, the staff of the Portland Housing Bureau~~Development Commission~~ shall review the application for economic feasibility and other requirements of this chapter and shall recommend to the Planning and Sustainability Commission that the application be denied or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Housing Bureau~~Development Commission~~ staff shall recommend that the application be denied. Portland Housing Bureau~~Development Commission~~ staff may require modifications to the project design in order to further the public goals of this Chapter.
- B. If the recommendation is for approval, the report shall contain a recommendation stating the terms and conditions of approval, which shall be made available to the applicant, the Planning and Sustainability Commission, and any interested agencies or individuals at least 14 days prior to consideration of the recommendation at a hearing conducted before the Planning and Sustainability Commission.
- C. Within 60 days of receiving the report and recommendation of the Portland Housing Bureau~~Development Commission~~ staff, the Planning and Sustainability Commission shall review the application to determine if the development is consistent with the public benefit requirements of this chapter and recommend to deny or to approve it subject to conditions.
- D. The Portland Housing Bureau ~~Commission~~ shall ~~instruct Bureau of Planning and Sustainability staff to~~ forward to City Council an ordinance within 30 days of the Planning and Sustainability Commission's action that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions

imposed and upon which the recommendation for approval of the application is based.

- E. City Council shall approve or deny the application by ordinance within 30 days of the Planning and Sustainability Commission's recommendation. Final action will be in the form of an ordinance that includes all conditions imposed and upon which the approval of the application is based. An application not acted upon within 180 days from the date of application shall be deemed approved.
- F. If the application is denied, the Portland Housing Bureau shall send a notice of denial ~~shall be sent~~ to the applicant within 10 days following the denial. The notice shall state the reasons for denial.
- G. If the application is approved, the Portland Housing Bureau of Planning and Sustainability shall on or before April 1 file with the Assessor a copy of the ordinance approving the application.

3.103.055 Rate of Return Analysis.

(Added by Ordinance Nos. 180572 and 182671, effective May 15, 2009.)

- A. The owner shall provide financial data on an annual basis to the Portland Housing Bureau ~~Development Commission~~ for each tax year that the exemption is in effect. The financial data shall be provided to the Portland Housing Bureau ~~Development Commission~~ no later than 120 days from the close of the owner's fiscal year. The financial data shall include, but is not limited to, full project-based financial statements, Internal Revenue Service tax information, a ten-year operating cash flow statement showing actual cash flow for all prior years and the current year and shall include a to-date calculation of the internal rate of return for the project, and any other information deemed necessary by the Portland Housing Bureau ~~Development Commission~~ to calculate or otherwise evaluate the owner's internal rate of return for the project.
- B. For each year of the exemption, the Portland Housing Bureau ~~Development Commission~~ shall prepare an annual analysis of the owner's financial data within 90 days of receipt of all required financial data from the owner. The analysis shall include a to-date calculation of the internal rate of return for the project. The Portland Housing Bureau ~~Development Commission~~ shall calculate the internal rate of return by the same method utilized in its initial recommendation for the tax exemption ~~abatement~~.
- C. The Portland Housing Bureau ~~Development Commission~~ shall advise the owner annually in writing as to whether the financial analysis demonstrates that the projected internal rate of return for the project will exceed ten percent for the entire exemption period and could result in an Accrued Payment Liability ("APL") as calculated pursuant to Subsection 3.103.055 D.

- D. The EUA will be terminated at the end of the tax ~~exemption~~abatement period, if the internal rate of return for the project is less than or equal to 10 percent.

If the 10-year internal rate of return for the project is greater than 10 percent, then:

1. The EUA shall be maintained on a portion or all of the units covered by the EUA as calculated in Section 3.103.055; or
2. The property owner shall pay an APL that shall be paid as calculated pursuant to this Section.

If as a result of the analysis prepared after the final year of the exemption, the Portland ~~Housing Bureau~~Development Commission has calculated that the internal rate of return during the term of the exemption has exceeded ten percent, the Portland ~~Housing Bureau~~Development Commission shall notify the Bureau of Planning and Sustainability. The Bureau of Planning and Sustainability shall send a notice to the last known address of the owner stating that the owner, at its option, shall either pay the APL to the City in order to have the EUA terminated or, alternatively, be subject to the EUA for the remainder of the EUA as calculated in this Section.

The amount of the APL shall be equal to (1) the net present value, using a 10 percent annual discount rate of the difference between the project's actual annual cash flows over the ~~exemption~~abatement period and the proforma projected cash flows for the project that would provide a 10 percent internal rate of return for the ~~exemption~~abatement period or (2) equal to the maximum amount of property taxes that would have been assessed if no exemption had been granted, whichever is less.

If the internal rate of return for the project is calculated to be greater than 10 percent and the project owner elects not to pay the APL, then the EUA will be maintained on the number of units required to reduce net present value, using a 10 percent annual discount rate, of the project's projected market-rate (unrestricted) annual cash flows, during the 5-year EUA period after the end of the tax ~~exemption~~abatement period, by an amount equal to the APL.

3.103.060 Exemption.

(Replaced by Ordinance No. 180572, effective December 8, 2006.)

- A. Except as provided for under Subsection 3.103.060 D, multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption. The exemption shall not include the land upon which the

project is located, nor any improvement not part of the multiple-unit housing except for those improvements deemed a public benefit as specified in Section 3.103.040. The exemption provided in this section shall be in addition to any other exemption provided by law.

- B. In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be eligible for the exemption.
- C. In either case, the value of the exemption shall not exceed 100 percent of its real market value.
- D. If multiple-unit housing is subject to a public assistance contract to provide low income housing, the term of the exemption shall be through June 30 of the tax year during which the termination date of the contract falls.

3.103.070 Termination.

(Amended by Ordinance Nos. 178286, 179844 and 180572, effective December 8, 2006.)
If, after an application has been approved under this Chapter, the City finds that the construction of the multiple-unit housingwork was not completed on or before January 1, 2022~~12~~; that any provision of this Chapter has not been complied with including a determination by the Portland Housing BureauDevelopment Commission as provided in Section 3.103.055 that the internal rate of return for the project exceeds ten percent for the exemption period; or that any agreement by the owner or requirement imposed is not being satisfied; the Portland Housing BureauDevelopment Commission staff shall send a notice of proposed termination of the exemption to the owner's last known address and to every known lender by mailing the notice to the last-known address of every known lender.

- A. The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the Portland Housing BureauCity Council 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 Portland Housing Bureau shall further notify every known lender and shall allow the lender a period of not less than 30 days, beginning with the date that the notice of failure to appear and show cause is mailed to the lender, to cure any noncompliance or to provide assurance that is adequate, as determined by the governing body, to assure the governing body that the noncompliance will be remedied.
- CB. If the owner fails to show cause why the exemption should not be terminated, and a lender fails to cure or give adequate assurance that any noncompliance will be cured, the City Council shall adopt an ordinance or resolution terminating the

exemption. The Portland Housing Bureau shall file aA copy of the resolution shall be filed with the County Assessor and send a copy sent to the owner at owner'shis last known address, and to any lender at the lender's last-known address, within 10 days after its adoption.

- DE.** If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, 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 311.205216 to 311.235232, to provide for the assessment and taxation of any property for which exemption was terminated or modified by the City or by a court, in accordance with the finding of the City 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 311.207216 to 311.213232. Where there has been a failure to comply with ORS 307.670624, the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th 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.

3.103.080 Extension of Deadline.

(Amended by Ordinance Nos. 178286 and 179844, effective December 21, 2005.) Notwithstanding the provision of 3.103.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 202242, due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

3.103.090 Implementation.

The Portland Housing Bureau~~Development Commission~~ shall establish procedures and prepare forms for implementation, administration, and monitoring for compliance with the provisions of this Chapter.

Chapter 3.104**PROPERTY TAX EXEMPTION FOR
NEW, MULTIPLE-UNIT
HOUSING**

(Substituted by Ordinance No. 162854,
effective Mar. 22, 1990.)

Sections:

- 3.104.010 Eligible Property.
- 3.104.020 Pre-application Conference.
- 3.104.030 Application Procedure.
- 3.104.040 Public Benefits.
- 3.104.045 Approval Criteria.
- 3.104.050 Review of Application.
- 3.104.055 Rate of Return Analysis
- 3.104.060 Exemption.
- 3.104.070 Termination.
- 3.104.080 Extension of Deadline.
- 3.104.085 Program Review.
- 3.104.090 Implementation.

3.104.010 Eligible Property.

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) To be eligible for the property tax exemption provided for by this Chapter a structure must meet all of the following criteria:

- A. Be a multiple-unit structure having 10 or more dwelling units, and that include design elements benefiting the public as described in this Chapter and approved by City Council, including new construction and structures converted in whole or part from other uses, but not designed, used or intended to be used as transient accommodations, hotels or motels.
- B. Be constructed after July 1, 1975, and completed on or before January 1, 2022~~12~~; and
- C. Located within either of the following described areas:
 - 1. The Central City Plan District boundary as shown on Map A. Portland City Code Chapter 33.702; or

2. Within the boundaries of any urban renewal or redevelopment area formed pursuant to ORS Chapter 457.
- D. Demonstrate that property tax ~~exemption~~abatement is required to achieve economic feasibility for the residential use intended.

3.104.020 Pre-application Conference.

(Amended by Ordinance No. 182671, effective May 15, 2009.)

- A. An applicant shall request a pre-application conference with the Portland Housing Bureau of Planning and Sustainability, and at least 14 days prior to the date scheduled for the conference the applicant shall submit, on forms provided by the Portland Housing Bureau, the following:
 1. A schematic drawing, showing the site plan, including major features and dimensions of the proposed development;
 2. A statement describing the location of the proposed development; the number, size and type of individual dwelling units; the dimensions of the multiple-unit structure(s), public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; landscaping; proposed residential and nonresidential uses; and a description of the public benefit prescribed in Section 3.104.040.
- B. Prior to the conference, the Portland Housing Bureau shall review the information supplied and contact, for purposes of facilitating the application process, those bureaus, bodies, or other governmental agencies which may be affected by, or have an interest, in the proposed development.
The applicant shall meet with staff and discuss the proposed development. Thereafter, the Portland Housing Bureau shall provide the applicant with a summary of the meeting, including recommendations designed to assist the applicant in the preparation of the exemption application.

3.104.030 Application Procedure.

(Amended by Ordinance Nos. 170667, 171977, 179487 and 182671, effective May 15, 2009.)

- A. A person seeking an exemption under the terms of this Chapter, shall apply to the Portland Housing Bureau of Planning and Sustainability ~~not later than on or before February~~ September 1 of the calendar year immediately preceding prior to the first assessment year for which the exemption is requested. The application for the exemption shall be on forms prescribed by the Bureau and include the following information:
 1. The applicant's name, address and telephone number;

2. A legal description of the property and property account number;
3. A detailed description of the project including the number, size and type, of dwelling units; dimensions of the multiple-unit structure(s), parcel size, proposed lot coverage of buildings, and amount of open space; type of construction; public and private access; parking and circulation plans; the source of water and proposed method of sewage disposal; other utilities requirements; landscaping; proposed residential and nonresidential uses; a description of the public benefit(s) prescribed in 3.104.040 included in the project. The applicant shall provide cost comparisons and market studies if requested.

In addition, the application shall contain a detailed construction and development cost analysis, sources and uses of funds analysis, operating income and expense analysis, and projected ten-year operating cash flow analyses for two scenarios:

- a. ~~(1) modeling the project's operations with the tax exemption~~abatement; and
- b. ~~(2) modeling the project's operations without the tax exemption~~abatement. Each of these projected ten-year operating cash flow analyses shall include a calculation of the internal rate of return for the project. Internal rate of return is the annual discount rate, expressed as a percent, on a series of annual cash flows at which the net present value of an initial investment is equal to zero.

The foregoing economic analyses shall be used to demonstrate the applicant's economic need for the tax exemption. In determining this economic need the Portland ~~Housing Bureau Development Commission~~ shall verify the applicant's projected internal rate of return for the project based on invested cash, equity, economic conditions, and other related factors as prescribed in Subsection 3.104.050 B.

4. A description of the existing use of the property, including if appropriate a justification for the elimination of existing sound and rehabilitable housing;
5. A site plan and supporting maps, drawn to a minimum scale of one inch equal to 16 feet, showing the development plan of the entire project including streets, driveways, sidewalks, pedestrian ways, off street parking, loading areas, location, design, and dimension of structures, use of land and structure(s), major landscaping features, existing and proposed

utility systems, including sanitary and storm sewers, water, electric, gas and telephone lines; and

6. Such other information required by state or local law or otherwise which is reasonably necessary to effectuate the purposes of this Chapter. The applicant shall verify the information in the application by oath or affirmation.

- B. Concurrent with the submission of the application, an application fee as determined by the Portland Housing Bureau of Planning and Sustainability and the Portland Development Commission shall be required. In addition to the application fee, the applicant may be required to pay such other reasonable costs, including appraisal costs, incurred by the Assessor in processing the application. The Portland Housing Bureau of Planning and Sustainability shall collect any additional cost and pay the Assessor for the additional costs.

3.104.040 Public Benefits.

(Amended by Ordinance Nos. 178740, 179487 and 184046, effective September 10, 2010.)

- A. Purpose. The purpose of this Section is to achieve the type of higher density, transit oriented development in the Central City and urban renewal areas desired by the adoption of this Chapter in addition to furthering other public policy goals of the City and the County. Therefore, a number of options are presented to the applicant in order to achieve one or more public benefits.
- B. All rental projects containing more than 15 units applying for the exemption under the terms of this Chapter must include within the project and for a term of up to 15 years, but in no event less than the term of the exemption, at least 15 percent of the units for rent at rates which are affordable to and restricted to households earning 80 percent or less of the area median income. These affordable units shall be subject to an Extended Use Agreement (EUA) requiring that they be rented in accordance with these rent and income restrictions for a period that is 5 years longer than the tax ~~exemption~~ abatement period (for example, a 10-year tax ~~exemption~~ abatement period would result in a 15-year EUA). The EUA will be recorded against the property and will appear as a lien on the property's title. Compliance with the EUA shall be certified by the owner to the Portland Housing Bureau ~~Development Commission~~ on a yearly basis. The EUA will be administered as described in Section 3.104.055.
 1. For the units affordable to households earning 80 percent or less of the area median income under the terms of this Chapter, the units must be rented to households whose incomes do not exceed 80 percent of the area median income upon initial occupancy of the unit by that household. Subsequent monitoring of the incomes of these households is not required

EXHIBIT D

until the affordable unit again becomes available for rent, at which time it must be rented to an income qualified household earning 80 percent of the area median income for the remaining term of the property tax exemption, unless another unit has subsequently been rented at an equivalent affordable rate to a qualified household so that the project continues to comply with all provisions of this Section.

2. Measurement of household income shall be determined using the U.S. Department of Housing and Urban Development's, or its successor agency's, annual household income for the Portland Metropolitan Area for a family of one person (for a studio apartment), two persons (for a one-bedroom apartment), three persons (for a two-bedroom apartment), or four persons (for a three-bedroom apartment). Affordability shall be defined as a rental rate, which does not exceed 30 percent of the monthly gross income for a family earning 80 percent or less of the area median income.

C. All projects containing housing units available for individual purchase shall receive the property tax exemption only for those for-sale units which are available at an initial purchase price which does not exceed 95 percent of the Federal Housing Administration mortgage maximum for a single unit in the Portland Metropolitan area. The unit must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.

1. In order to qualify for this exemption, such units must be owner-occupied during the term of the exemption. Should any unit become available for sale during the term of the exemption, it must be sold to a household earning no more than 100 percent of the area median income for a family of four as established by the U.S. Department of Housing and Urban Development, or its successor agency, during the year of sale in order to retain its property tax exempt status.

D. In addition to the applicable provisions of Subsections 3.104.040 B. and C. above, the project must include at least one of the following:

1. Open spaces available to the general public;
2. Day care facilities;
3. Permanent dedications for public use;
4. LEED Silver certification from the US Green Building Council;

5. 20 percent of the rental units have 3 or more bedrooms;
6. A total of 25 percent of the rental units are affordable to households at 80 percent MFI; or
7. Other public benefits approved by the ~~Planning and Sustainability Commission and the City Council~~. The City Council shall specify the public benefit which is to be included in the proposed project. If the applicant fails to agree to include the public benefit as specified by the Council, the application shall be denied.

3.104.045 Approval Criteria.

An application may be approved if the reviewing body finds:

- A. The construction includes one or more design elements specified in Section 3.104.040;
- B. The construction project will at the time of completion, conform with the provisions', of Titles 24, 32, 33, 34, and the Comprehensive Plan; and
- C. The applicant has complied with Sections 3.104.010, 3.104.020, 3.104.030, and 3.104.040.

3.104.050 Review of Application.

(Amended by Ordinance Nos. 178740, 179487, 182671 and 184046, effective September 10, 2010.)

~~A. The Bureau of Planning and Sustainability shall send the Portland Development Commission a copy of the application within 10 days of its submission to the Bureau.~~

AB. The Portland Housing Bureau~~Development Commission~~ shall ~~thereupon~~ review the application for economic feasibility and economic need and make a recommendation within 60 days thereafter recommend to the Planning and Sustainability Commission that the application be approved, denied, or approved subject to conditions. If the anticipated internal rate of return for the project for the period of the exemption exceeds ten percent, the Portland Housing Bureau~~Development Commission~~ shall recommend that the application be denied.

BC. Within 60 days of the recommendation of the Portland Housing Bureau~~Development Commission~~, the Planning and Sustainability Commission shall review the application to determine whether the scope and nature of public benefits recommended for the proposed development are consistent with the City's Comprehensive Plan. A recommendation shall thereafter be forwarded to the City Council that the application be approved subject to those conditions

necessary to achieve the purposes of this Chapter.—~~The Planning and Sustainability Commission shall specify in its recommendation to the Council the scope and nature of public benefit recommended for the proposed project.~~

- CD.** ~~The City Council shall review the application within 180 days of the date of application and approve, deny, or approve subject to conditions. Copies of the application shall be supplied the City Council at least 14 days prior to the Council's review.~~ City Council shall approve or deny the application by ordinance within 30 days of the Planning and Sustainability Commission's recommendation. Final action upon the application shall be in the form of an ordinance or resolution that shall include: the owner's name and address; a description of the multiple-unit housing; the legal description of the property and the Assessor's property account number; and all conditions imposed and upon which approval of the application is based. An application not acted upon within 180 days from the date of application shall be deemed approved.
- DE.** If the application is denied, the Portland Housing Bureau shall send a notice of denial ~~shall be sent to the applicant~~ within 10 days following the denial. The notice shall state the reasons for denial.
- EF.** If the application is approved, the Portland Housing Bureau of Planning and Sustainability shall on or before the ensuing April 1 file with the Assessor a copy of the ordinance or resolution approving the application.
- FG.** If the application is approved, the recipient(s) of the tax exemption must agree to a condition of approval to provide financial information to the Portland Housing Bureau ~~Development Commission~~ by July 1 in years 5 and 9 of the tax exemption and two years after the tax exemption has expired. The purpose of this requirement is to provide information to the Planning and Sustainability Commission and City Council for their review of the program described in Section 3.104.085. The Portland Housing Bureau of Planning and Sustainability will notify tax exemption recipients ~~and the Portland Development Commission~~ 60 days in advance of the reporting requirement. Recipients will submit the required information on the Portland Housing Bureau ~~Development Commission's~~ Electronic Operating Statement (EOS) or similar form that might replace the EOS. ~~Portland Development Commission staff will review the statement and prepare a report within 60 days that will then be forwarded to the Bureau of Planning and Sustainability. Bureau of Planning and Sustainability staff will periodically convey these reports to the Planning and Sustainability Commission for use in their review described in 3.104.085.~~

3.104.055 Rate of Return Analysis.

(Added by Ordinance Nos. 179487 and 182671, effective May 15, 2009.)

- A. The owner shall provide financial data on an annual basis to the Portland Housing Bureau~~Development Commission~~ for each tax year that the exemption is in effect. The financial data shall be provided to the Portland Housing Bureau~~Development Commission~~ no later than 120 days from the close of the owner's fiscal year. The financial data shall include, but is not limited to, full project-based financial statements, Internal Revenue Service tax information, a ten-year operating cash flow statement showing actual cash flow for all prior years and the current year and shall include a to-date calculation of the internal rate of return for the project, and any other information deemed necessary by the Portland Housing Bureau~~Development Commission~~ to calculate or otherwise evaluate the owner's internal rate of return for the project.
- B. For each year of the exemption, the Portland Housing Bureau~~Development Commission~~ shall prepare an annual analysis of the owner's financial data within 90 days of receipt of all required financial data from the owner. The analysis shall include a to-date calculation of the internal rate of return for the project. The Portland Housing Bureau~~Development Commission~~ shall calculate the internal rate of return by the same method utilized in its initial recommendation for the tax exemption~~abatement~~.
- C. The Portland Housing Bureau~~Development Commission~~ shall advise the owner annually in writing as to whether the financial analysis demonstrates that the projected internal rate of return for the project will exceed ten percent for the entire exemption period and could result in an Accrued Payment Liability ("APL") as calculated pursuant to Subsection 3.104.055 D.
- D. The EUA will be terminated at the end of the tax exemption~~abatement~~ period, if the internal rate of return for the project is less than or equal to 10 percent. If the 10-year internal rate of return for the project is greater than 10 percent, then:
1. the EUA shall be maintained on a portion or all of the units covered by the EUA as calculated in Section 3.104.055; or
 2. the property owner shall pay an APL that shall be paid as calculated pursuant to this Section.

If as a result of the analysis prepared after the final year of the exemption, the Portland Housing Bureau~~Development Commission~~ has calculated that the internal rate of return during the term of the exemption has exceeded ten percent, the Portland Housing Bureau~~Development Commission~~ shall notify the Bureau of Planning and Sustainability. The Portland Housing Bureau of Planning and Sustainability shall send a notice to the last known address of the owner stating that the owner, at its option, shall either pay the APL to the City in order to have the EUA terminated or, alternatively, be subject to the EUA for the remainder of the EUA as calculated in this Section.

The amount of the APL shall be equal to (1) the net present value, using a 10 percent annual discount rate of the difference between the project's actual annual cash flows over the ~~exemption~~abatement period and the proforma projected cash flows for the project that would provide a 10 percent internal rate of return for the ~~exemption~~abatement period or (2) equal to the maximum amount of property taxes that would have been assessed if no exemption had been granted, whichever is less.

If the internal rate of return for the project is calculated to be greater than 10 percent and the project owner elects not to pay the APL, then the EUA will be maintained on the number of units required to reduce net present value, using a 10 percent annual discount rate, of the project's projected market-rate (unrestricted) annual cash flows, during the 5-year EUA period after the end of the tax ~~exemption~~abatement period, by an amount equal to the APL.

3.104.060 Exemption.

(Amended by Ordinance Nos. 170667 and 179487, effective August 10, 2005.)

- A. Except as provided for under Subsection 3.104.060 B., multiple-unit housing for which an exemption has been approved under the terms of this Chapter shall be exempt from ad valorem taxation for up to 10 successive years beginning July 1 of the year immediately following the calendar year in which construction is completed, determined by that stage in the construction process when, pursuant to ORS 307.330, the improvement would have gone on the tax rolls in the absence of the exemption provided for in this Chapter. The exemption shall not include the land upon which the project is located, nor any improvement(s) not part of the multiple-unit housing except those improvements deemed a public benefit as specified in Section 3.104.040. The exemption provided in this section shall be in addition to any other exemption provided by law.
- B. In the case of a structure converted in whole or in part from other uses to multiple family, only the increase in value attributed to the conversion shall be subject to the exemption

3.104.070 Termination.

(Amended by Ordinance Nos. 170667, 178286, 179487, 179844 and 182671, effective May 15, 2009.) If, after an application has been approved under this Chapter, the City finds that the work was not completed on or before January 1, 2022~~12~~; that any provision of this Chapter has not been complied with; including a determination by the ~~Portland Housing Bureau~~Development Commission as provided in Section 3.104.055 that the internal rate of return for the project exceeds ten percent for the exemption period; or that any agreement by the owner or requirement imposed by City Council is not being satisfied, the ~~Portland Housing Bureau of Planning and Sustainability~~mayshall send a notice of proposed termination of the exemption to the owner's last known address, and to every known lender by mailing the notice to the last-known address of every known lender.

- A. The notice shall state the reasons for the proposed termination, and shall require the owner to appear before the Portland Housing Bureau~~City Council~~ 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 Portland Housing Bureau shall further notify every known lender and shall allow the lender a period of not less than 30 days, beginning with the date that the notice of failure to appear and show cause is mailed to the lender, to cure any noncompliance or to provide assurance that is adequate, as determined by the governing body, to assure the governing body that the noncompliance will be remedied.
- CB. If the owner fails to show cause why the exemption should not be terminated, and a lender fails to cure or give adequate assurance that any noncompliance will be cured, the City Council shall adopt an ordinance or resolution terminating the exemption. The Portland Housing Bureau shall file aA copy of the ordinance or resolution shall be filed with the County Assessor and send a copy sent to the owner at owner'shis last known address and to any lender at the lender's last-known address, within 10 days after its adoption.
- DC. If the owner does not seek review of the termination of an exemption pursuant to ORS 34.010 to 34.100, 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 311.205216 to 311.235232, to provide for the assessment and taxation of any property for which exemption was terminated or modified by the City or by a court, in accordance with the finding of the City 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 311.207216 to 311.243232. Where there has been a failure to comply with ORS 307.670624, the property shall become taxable beginning July 1 of the calendar year in which the noncompliance first occurred. Any additional taxes becoming due shall be payable without interest if paid in the period prior to the 16th 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.

3.104.080 Extension of Deadline.

(Amended by Ordinance Nos. 170667, 178286 and 179844, effective December 21, 2005.) Notwithstanding the provision of 3.104.070, if the City finds that construction of the multiple-unit housing was not completed by January 1, 202242, due to circumstances beyond the control of the owner, and that the owner has been acting and could reasonably

be expected to act in good faith and with due diligence, the City may extend the deadline for completion of construction for a period not to exceed 12 consecutive months.

3.104.085 Program Review.

(Added by Ordinance No. 178740; Amended by Ordinance No. 184046, effective September 10, 2010.) The Portland Housing Bureau~~Planning and Sustainability Commission~~ will review the program requirements every five years and, after consulting with the County and other City bureaus, make a recommendation to City Council on possible changes to the program. This review will take into consideration the information gathered from tax exemption recipients as required by Subsection 3.104.050 G. and any other information the Portland Housing Bureau~~Commission~~ considers relevant.

3.104.090 Implementation.

(Amended by Ordinance No. 182671, effective May 15, 2009.) The Portland Housing Bureau~~of Planning and Sustainability and the Portland Development Commission~~ shall establish procedures and prepare forms for implementation and administration of this Chapter.