

CHAPTER 3.103

PROPERTY TAX EXEMPTION FOR MULTIPLE-UNIT HOUSING DEVELOPMENT

(Chapter replaced by Ordinance No. 185477,
effective August 1, 2012.)

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3.103.010 Purpose.

- A.** The City of Portland adopts the provisions of Oregon Revised Statutes 307.600 through 307.637, and administers a property tax exemption program for multiple-unit housing development authorized under those provisions.
- B.** In addition to meeting the legislative goals set forth in ORS 307.600, the program also seeks to accomplish the following additional core goals:
 - 1.** Stimulate the construction of affordable housing and other public benefits where such housing or benefits may not otherwise be made available.
 - 2.** Leverage market activities to advance housing and economic prosperity goals by aligning those activities with the goals of the Portland Plan and the Portland Housing Bureau's Strategic Plan.
 - 3.** Provide transparent and accountable stewardship of public investments.

3.103.020 Definitions.

As used in this Chapter:

- A. **“Accrued Payment Liability”** means the amount determined by the Portland Housing Bureau that must be paid to Multnomah County if a rental project’s rate of return exceeds the maximum rate of return allowed under this program.
- B. **“Administrative Rules”** means the tax exemption program administrative rules developed by the Portland Housing Bureau and approved through City Council which set forth the program requirements, processes, and procedures.
- C. **“Applicant”** means the individual or entity who is either the owner or a representative of the owner who is submitting an application for the tax exemption program.
- D. **“Extended Use Agreement”** means a recorded agreement between the owner and the Portland Housing Bureau stating the approval and compliance criteria of a project’s tax exemption.
- E. **“Multiple-unit housing”** has the meaning set forth in ORS 307.603(5).
- F. **“Owner”** means the individual or entity holding title to the exempt project and is legally bound to the terms and conditions of an approved tax exemption, including but not limited to any extended use agreement and any compliance requirements under this Chapter.
- G. **“Project”** means property on which any multiple-unit housing is located, and all buildings, structures, fixtures, equipment and other improvements now or hereafter constructed or located upon the property.

3.103.030 Benefit of the Exemption; Annual Maximum Exemption Amount.

- A. Multiple-unit housing that qualifies for an exemption under this Chapter is exempt from property taxes to the extent provided under ORS 307.612 and the Administrative Rules.
- B. However, the maximum amount of estimated foregone tax revenue provided as a benefit of the exemption under this Chapter may not exceed the amount approved annually by Council.

3.103.040 Minimum Threshold Requirements.

In order to be considered for an exemption under this Chapter, an applicant must verify by oath or affirmation in the application that the project meets the following minimum threshold requirements:

- A.** Financial need for the exemption
 - 1.** Rental projects
 - a.** The project would not otherwise be financially feasible without the benefit provided by the property tax exemption.
 - b.** The applicant must submit proof that the anticipated internal rate of return for the project for the period of the exemption will not exceed 10 percent.
 - 2.** For-sale projects
 - a.** Units receiving tax exemption will be sold to buyers meeting the affordability requirements contained in this Section.
- B.** Property eligibility
 - 1.** Projects must be located within identified Designated Plan Areas/Metro 2040 Centers, within a quarter mile radius of Max Station Areas, or within a quarter mile from either Metro 2040 Main Streets with Transit Service or Metro 2040 Corridors with Frequent Transit Service within the City of Portland.
 - 2.** Projects must conform to City of Portland's zoning and density requirements.
 - 3.** Applications for tax exemption must be submitted and approved prior to application for the project's building permit.
- C.** Affordability
 - 1.** For rental projects, during the term of the exemption, a minimum of 20 percent of the number of units must be affordable to households earning 60 percent or less of the area median family income, with possible allowance to have units affordable to households earning 80 percent or less of the area median family income based on the market for similar units in the same

geographic area. The units meeting the affordability requirements must match the unit mix in the project as a whole in terms of number of bedrooms.

2. For projects containing for-sale units, those units receiving the exemption must not exceed the maximum price established under City Code Section 3.102.040 at initial sale and must sell to an initial homebuyer who income qualifies and occupies the unit as established under City Code Section 3.102.040. During the term of the exemption, the unit must be occupied by a homebuyer as established under City Code Section 3.102.040.

D. Equity

1. Applicants must provide a plan to meet Portland Housing Bureau's business equity goals for participation of Minority, Women, and Emerging Small Businesses (MWESB) in professional services and construction contracting and City workforce training and hiring goals.
2. Applicants must describe their efforts to engage community stakeholders and integrate feedback in the project concept plan, including but not limited to: neighborhood impacts, plan for commercial tenants, the use of gathering and commercial space in the project, and outreach and marketing of residential units to target markets.

E. Green Building

The project must be built to meet healthy and resource efficient environmental building standards.

3.103.050 Application Review and Scoring of Public Benefits.

- A. The Portland Housing Bureau will review and approve or deny applications consistent with ORS 307.621.
- B. Applications which satisfy the requirements of Section 3.103.040 will be scored as part of a competitive process. Applicants must demonstrate additional public benefits beyond the threshold requirements in their applications. Additional benefits may include but are not limited to the following:
 1. Affordability in addition to threshold requirements described in Section 3.103.040 for rental projects or units available for sale below prices for comparable properties in the area;

2. Applicant’s demonstration in its MWESB and community engagement plans of how the project will help Portland Housing Bureau achieve the vision contained in Portland Housing Bureau’s Guiding Principles on Equity and Social Justice;
3. A portion of or all units fully “accessible” to persons with special needs and incorporation of established accessible design features at both unit and site level;
4. Family sized units in areas lacking housing units with two or more bedrooms, with appropriate family friendly amenities;
5. Access to grocery stores, schools, day care, etc.;
6. Quality gathering space available to the community at large; and
7. A portion of units reserved for and an established partnership with an agency to provide services to vulnerable populations, including but not limited to youth who have transitioned or are transitioning out of foster care.

3.103.060 Application Approval.

- A. Portland Housing Bureau shall select the applications which meet the minimum threshold requirements (see Section 3.103.040) and provide the most public benefit to the City (see Section 3.103.050). The Portland Housing Bureau Housing Investment Committee shall review the selected applications and determine which should proceed towards approval. Applicants with selected applications shall pay an application fee.
- B. Portland Housing Bureau shall present the selected applications to the Portland Housing Advisory Commission at a public hearing, for which notice will be given and public testimony will be heard.
- C. Portland Housing Bureau shall take applications to City Council for approval in the form of an ordinance and deliver a list of the approved applications to Multnomah County within the timeframe set forth in ORS 307.621.
- D. If construction of an approved project is not completed or an application for exemption is not received within the timeframe described in ORS 307.637, Portland Housing Bureau may extend the deadline consistent with ORS 307.634.

3.103.070 Rental Project Rate of Return.

- A.** The owner of a rental project approved for exemption will be required to sign an extended use agreement (“EUA”) to be recorded on the title to the property.
- B.** During the exemption period, the owner must submit project financial information annually to the Portland Housing Bureau.
- C.** Portland Housing Bureau will prepare an annual analysis of the project’s financial data including a to-date calculation of the rate of return for the project.
- D.** Portland Housing Bureau will advise the owner in writing whether the projected rate of return will exceed 10 percent for the entire exemption period and may result in an Accrued Payment Liability (“APL”).
- E.** If Portland Housing Bureau determines that the number and unit mix of affordable units is less than the approved percentage or does not match the unit mix of the project, the next available units must be rented to households meeting the income requirements and the project must be brought into compliance before the next reporting period.
- F.** At the end of the final year of the exemption, Portland Housing Bureau will calculate the rate of return for the project during the exemption.
 - 1.** If the rate of return does not exceed 10 percent, then the EUA terminates at the end of exemption.
 - 2.** If the rate of return exceeds 10 percent, then Portland Housing Bureau sends a written notice to the last known address of the owner requiring the owner to elect one of the following:
 - a.** The EUA may remain in full force and effect for an additional 5 years after the end of the tax exemption , extending the affordability requirements approved for the exemption; provided that the number of units subject to the rent restrictions as approved is the same number necessary to reduce the net present value, using a 10 percent annual discount rate of the project’s projected market-rate (unrestricted) annual cash flows by an amount equal to the APL; or
 - b.** The owner pays an APL in an amount equal to the lesser of either:

- (1) The net present value using a 10 percent annual discount rate of the difference between the project's actual annual cash flows during the exemption and the proforma projected cash flows for the project that would provide a 10 percent rate of return during the exemption; or
- (2) The maximum amount of the property taxes that would have been assessed if no exemption had been granted.

3.103.080 For-Sale Unit Compliance.

- A. Approved applicants must execute a document to be recorded on title of the project requiring Portland Housing Bureau verification of homebuyer affordability and owner-occupancy qualification prior to the sale of each for-sale unit to an initial homebuyer.
- B. For-sale units which sell to homebuyers who do not meet the affordability or owner occupancy qualifications at initial sale will have the tax exemption removed as of the next tax year.
- C. For-sale units which sell over the established sale price at initial sale will have the tax exemption terminated according to Section 3.103.100 and require the owner to repay any exempted taxes consistent with ORS 307.631.

3.103.090 Extension of the Exemption for Low Income Housing Projects.

Projects subject to a low income housing assistance contract may be eligible for extension pursuant to ORS 307.612.

3.103.100 Termination of the Exemption.

If the Portland Housing Bureau determines that the project fails to meet any of the provisions of ORS 307.600 to 307.637 or this Chapter, the Portland Housing Bureau will terminate the exemption consistent with ORS 307.627.

3.103.110 Implementation.

Portland Housing Bureau may adopt, amend and repeal the administrative rules, and establish procedures, and prepare forms for the implementation, administration and compliance monitoring consistent with the provisions of this Chapter.