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191610

Ordinance

Amend Property Tax Exemption for Multiple-Unit Housing Development Code and Inclusionary Housing Code to make technical corrections and adjust the property tax exemption for multiple-unit housing developments (suspend foregone revenue cap in Ordinance 188358; amend Code Chapter 3.103 and Code Section 30.01.120)

Passed

The City of Portland ordains:

Section 1. The Council finds:

1. In December 2016, the City Council passed Ordinance 188163, adding the inclusionary housing program (“Inclusionary Housing”) to the City’s portfolio of affordable housing development tools to increase the number and types of units available to households’ earning 80 percent of the median family income (“MFI”) or less, with an emphasis on households earning 60 percent MFI or less, in mixed income buildings in high opportunity areas.
2. To ease developers into the Inclusionary Housing obligations, the City Council allowed for a lowered set aside rate which required new buildings with 20 or more new units to provide 15% of the units at regulated affordable rents for households at 0 – 80% MFI or provide 8% of the units at 0 – 60% MFI, with an exception for the Central City Plan District.
3. To reduce the financial impact of the policy on development feasibility, the City established a financial and development offset package including 10-year property tax exemption, construction excise tax exemption, system development charge waiver, development bonus, height bonus, and parking waiver.
4. Subsection 30.01.120.B.3 directs the Portland Housing Bureau to periodically review the Inclusionary Housing options and incentives to determine if they are consistent with City goals and market conditions.
5. In May 2017, City Council adopted Ordinance 188358 to establish a rolling 5 year, \$15 million dollar foregone revenue cap (“Foregone Revenue Cap”) and reaffirmed that existing properties within tax increment finance districts were exempt from the cap.

Introduced by

[Commissioner Carmen Rubio](#)

Bureau

[Housing Bureau](#)

Contact

Jessica Conner

Senior Policy and Planning
Coordinator

✉ Jessica.Conner@portlandoregon.gov

Requested Agenda Type

Time Certain

Date and Time Information

Requested Council Date

January 31, 2024

Requested Start Time

10:00 am

Time Requested

10 minutes

Changes City Code

6. In July 2018, through Ordinance 189071 Council revised the fee-in-lieu schedule.
7. In October 2018, through Ordinance 189213 Council revised the tax exemption eligibility criteria for Central City Plan District.
8. In December 2018, through Ordinance 189302 Council extended the expiration dates for the lower set aside rates outside the Central City Plan District.
9. On March 8, 2020, Governor Kate Brown declared a state of emergency in Oregon due to the COVID-19 pandemic.
10. On March 11, 2020, Mayor Ted Wheeler declared a state of emergency for the City of Portland due to the COVID-19 pandemic.
11. On July 29, 2020, recognizing that the economic disruptions of the COVID-19 pandemic were making it more difficult for housing developers to meet higher affordable housing goal in areas outside of the Central City Plan District, Council passed the Expiration Date Extension project extending the current set aside rates through January 1, 2022.
12. In July 2022, the City Council allocated funds to the Housing Bureau to engage a consultant in performing a periodic review of the Inclusionary Housing program.
13. The Housing Bureau's consultant, BAE Urban Economics, Inc., found that: (1) multifamily development in Portland is challenging under current market conditions; (2) the City's incentives are sufficient to offset the financial impact of the Inclusionary Housing requirements in the Central City Plan District and in low cost areas outside the Central City Plan District; and (3) the City's incentives are insufficient to offset the cost of the Inclusionary Housing requirements in high and moderately high cost areas outside the Central City Plan District.
14. BAE Urban Economics Inc. identified barriers to multifamily development in Portland including significant development cost increases of over 50 percent since 2016, lower increases in prevailing market rate residential rents, increased interest rates, and high investor return requirements among others.
15. Inclusionary Housing units are only provided when market rate development is feasible.
16. BAE found that, all else being equal, for the market to correct itself either rents must increase between 15 and 35 percent; or hard costs must decrease between 15 and 40 percent; or investor rates of return must decrease to pre-pandemic levels.
17. BAE found that reducing the set aside inclusion rates would over incentivize Central City Plan District projects and would have a limited impact outside the Central City Plan District.
18. BAE found that the City's incentives are sufficient to offset the cost of the financial impact of the Inclusionary Housing requirements in the Central City Plan District due to the availability of the property tax exemption on the market rate and income restricted units.
19. BAE found that the City's incentives are sufficient to offset the cost of the financial impact of the Inclusionary Housing requirements in low

- cost areas outside the Central City Plan District in large part due to the low differential between market rate rents and income restricted rents.
20. BAE found that the City's incentives are insufficient to offset the cost of the Inclusionary Housing requirements in high and moderately high cost areas outside the Central City Plan District due to the high differential between market rate rents and income restricted rents and due to a property tax exemption on the income restricted units only.
 21. From November 2022 through July 2023, the Housing Bureau convened an external stakeholder work group of industry professionals to assist the bureau in reviewing the development prototype analysis and propose recommended changes.
 22. In July 2023, the Inclusionary Housing external stakeholder work group submitted their recommendations to Council and the Housing Bureau to focus on simplifying program design, building in flexibility, and extending the property tax exemption outside the Central City Plan District for developments that provide units on-site affordable to households earning 60% MFI or less.
 23. In consideration of extending a greater tax exemption outside the Central City Plan District, the Housing Bureau further engaged BAE Urban Economics Inc., for analysis on potential foregone revenue.
 24. BAE's analysis found that (1) any revisions to the Inclusionary Housing property tax exemption policy are likely to stimulate development that otherwise would not have been feasible, at least in the short-term; (2) the tax exemption policy can be seen as a tool to offset the impact of Inclusionary Housing while also supporting development outside of the Central City where the impact of the Inclusionary Housing ordinance is currently imbalanced; and (3) if the City extends the property tax exemption to other areas in the city, this is likely to increase housing production in the near- to medium-term that otherwise would not have occurred.
 25. Review and analysis of the Inclusionary Housing program indicates that there are areas outside the Central City Plan District that need additional support for the development of Inclusionary Housing units.
 26. The proposed amendments to Section 30.01.120 and Chapter 3.103 are necessary to expand the availability of the property tax exemption, simplify code language, and correct scrivener's errors.
 27. The proposed amendments to Section 3.103 include a temporary suspension of the Foregone Revenue Cap until December 31, 2029, which will be reinstated automatically on January 1, 2030.
 28. In furtherance of the Council Clerk's style preference, the City intends to change the capitalized terms into lowercase in Section 30.01.120 and Chapter 3.103. These amendments are not intended to have any substantive impact on the meaning of any defined terms within the Code.
 29. The proposed property tax exemption will be reviewed, analyzed, and adjusted as necessary to meet program goals and market conditions.

NOW, THEREFORE, the Council directs:

- A. City Code Chapter 3.103 is amended as shown in Exhibit A.
- B. City Code Section 30.01.120 is amended as shown in Exhibit B.
- C. The rolling Foregone Revenue Cap is adopted at \$30,000,000 within a five-year period, defined as any current year and the previous four consecutive years, excluding years in which the Foregone Revenue Cap is suspended in accordance with Exhibit A. The following policies will apply: 1) the calculation of an annual time period will be based on a calendar year and 2) properties within urban renewal areas will be exempt from the cap.
- D. Prior to the Foregone Revenue Cap being reinstated after a period of suspension, the City will evaluate residential development feasibility under current market conditions and review the Inclusionary Housing program to determine if the program's options and incentives in Subsection 30.01.120 are balanced with the requirements of the Inclusionary Housing program. The analysis and report of findings will be provided to Portland City Council and the Multnomah County Board of Commissioners on or by December 31, 2027.
- E. This ordinance takes effect March 1, 2024.
- F. Notwithstanding anything stated in City Code Chapter 30.01 or 3.103, this ordinance applies to new development projects, development projects that have not been issued a building permit prior to March 1, 2024, and any development projects with permits that have been issued, but that have not yet received final inspection as of March 1, 2024.

Documents and Exhibits

 [Exhibit A \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a_chapter-3.103-dbedit.docx\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-a_chapter-3.103-dbedit.docx) 31.3 KB

 [Exhibit B \(https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b_section-30.01.120-dbedits.docx\)](https://www.portland.gov/sites/default/files/council-documents/2024/exhibit-b_section-30.01.120-dbedits.docx) 25.58 KB

An ordinance when passed by the Council shall be signed by the Auditor. It shall be carefully filed and preserved in the custody of the Auditor (City Charter Chapter 2 Article 1 Section 2-122)

Passed by Council
January 31, 2024

Auditor of the City of Portland
Simone Rede

Impact Statement

Purpose of Proposed Legislation and Background Information

The purpose of the proposed legislation is to provide a property tax exemption in high and moderately high cost neighborhoods outside the Central City for developments that provide Inclusionary Housing units on-site affordable to households earning 60 percent of the median family income or less, to remove the foregone revenue cap, and to establish a sunset and review stipulation on foregone revenue for the property tax exemption outside the Central City.

On February 1, 2017, Ordinance 188163 went into effect, adding the Inclusionary Housing program to the City's portfolio of affordable housing development tools. Under Portland's Inclusionary Housing program, all buildings proposing 20 or more new residential units must provide a percentage of the new units at rents affordable to household earning 80 percent of the median family income or less, with an emphasis on households earning 60 percent of the median family income or less. In addition to the mandatory requirements, the City also adopted additional regulatory options to provide developers flexibility in meeting their Inclusionary Housing obligation.

To reduce the financial impact of the Inclusionary Housing program on development feasibility, the City offers a range of incentives including property tax exemption, construction excise tax exemption, system development charge waivers, and other development incentives.

With the adoption of the mandatory Inclusionary Housing program, City Council, through the Housing Bureau as the program administrator, committed to periodically reviewing the program and making any necessary adjustments. City Council has regularly reviewed and made necessary revisions to the Inclusionary Housing program based on policy intent, market conditions, and program goals. From fall 2022 through fall 2023, the Housing Bureau performed a periodic review of the Inclusionary Housing program with the assistance of a economic consultant, external stakeholder work group, and internal city work group.

Based on the analyses, the City's incentives to developers meeting the Inclusionary Housing requirements in the Central City is sufficient to offset the financial impact of the reduced rents for the affordable units. This is attributed to the availability of a property tax exemption on the affordable and market rate units. Outside the Central City in high and moderately high cost neighborhoods, the City's incentives are insufficient to offset the financial impact of the reduced rents for the affordable units. This is attributed to the limited property tax exemption that is available only for the affordable units.

Financial and Budgetary Impacts

The financial and budgetary impacts of making a larger tax exemption available for a greater number of buildings will be dependent on market conditions outside the City's control. However, tax abatements and system development charge waivers come at a cost to other city and county priorities. The property tax exemption is limited to 10 years.

If market conditions do not improve and development does not increase to the level to meet the City's housing needs, then there will be no to limited financial and budgetary impact. If market conditions do improve and development does increase to the level needed to meet the City's housing needs, then it is anticipated that annual foregone revenue could increase from approximately \$2 – 4 million (today) to approximately \$7 – 10 million annually.

Property taxes will still be generated on any non-residential uses and on the value of the land. Additionally, new development triggers a property tax reassessment which would increase the value of the land, partially offsetting foregone revenue.

Community Impacts and Community Involvement

From November 2022 – July 2023, the Housing Bureau convened an industry stakeholder work group for the Inclusionary Housing Calibration Study to support review of analyses findings and discuss potential recommended program changes. The work group consisted of development and housing professionals representing the private, public, and community development sectors. The guidepost for the work group's recommendations was to support Council's defined program goals of prioritizing units on-site in mixed-income buildings, units affordable to households earning 60 percent of the median family income or less, and family size units.

In the mid to long-term, Portland residents seeking market rate or affordable housing will have greater options. The technical corrections are in response to guidance from both legal and auditor counsel. This legislation is also in response to the recommendations provided to the Housing Bureau by the Inclusionary Housing Calibration Study stakeholder work group to clarify, simplify, and create flexibility in the Inclusionary Housing program while maintaining the programs overarching goals.

100% Renewable Goal

This legislation does not have an impact on the City's renewable energy goals.

Budget Office Financial Impact Analysis

The purpose of the proposed legislation is to provide a property tax exemption in high and moderately high-cost neighborhoods outside the Central City for developments that provide Inclusionary Housing units on-site affordable to households earning 60% of the median family income or less, to remove the foregone revenue cap, and to establish a sunset and review stipulation on foregone revenue for the property tax exemption outside the Central City. To reduce the financial impact of the Inclusionary Housing program on development feasibility, the City offers a range of incentives including property tax exemption, construction excise tax exemption, system development charge waivers, and other development incentives. City Council has regularly reviewed and made necessary revisions to the Inclusionary Housing program based on policy intent, market conditions, and program goals.

From fall 2022 through fall 2023, PHB performed a periodic review of the Inclusionary Housing program with the assistance of an economic consultant, external stakeholder work group, and internal city work group. Based on the analyses, the City's incentives to developers meeting the Inclusionary Housing requirements in the Central City is sufficient to offset the financial impact of the reduced rents for the affordable units. This is attributed to the availability of a property tax exemption on the affordable and market rate units. Outside the Central City in high and moderately high-cost neighborhoods, the City's incentives are insufficient to offset the financial impact of the reduced rents for the affordable units. This is attributed to the limited property tax exemption that is available only for the affordable units.

The financial and budgetary impacts of making a larger tax exemption available for a greater number of buildings will be dependent on market conditions outside the City's control. However, tax abatements and system development charge waivers come at a cost to other City and county priorities. The property tax exemption is limited to 10 years. If market conditions do not improve and development does not increase to the level to meet the City's housing needs, then there will be no to limited financial and budgetary impact. If market conditions do improve and development does increase to the level needed to meet the City's housing needs, then it is anticipated that annual foregone revenue could increase from approximately \$2-\$4 million (today) to approximately \$7-\$10 million annually. Property taxes will still be generated on any non-residential uses and on the value of the land. Additionally, new development triggers a property tax reassessment which would increase the value of the land, partially offsetting foregone revenue.

Little impact on the forecast for property taxes to the City is expected because implicit in that forecast is an assumption of very little new development. One primary concern is that the City would subsidize development that would happen regardless and therefore lose expected revenue. Given current market conditions, it is likely that will be somewhat minimal in the near term. If market conditions change substantially in the

next three to five years, then the City could be subsidizing development that would take place without this policy. However, that seems unlikely, and if it occurs, the improvement in such conditions would be a positive development. The five-year review allows an opportunity to evaluate and possibly provide the option to pause or end the program if market conditions were to improve considerably so that the City would not be subsidizing development that would occur regardless.

Agenda Items

**33 Time Certain in [January 10-11, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/1/10)
(<https://www.portland.gov/council/agenda/2024/1/10>)**

Passed to second reading

Passed to second reading January 31, 2024 at 10:00 a.m. Time Certain

**91 Time Certain in [January 31, 2024 Council Agenda](https://www.portland.gov/council/agenda/2024/1/31)
(<https://www.portland.gov/council/agenda/2024/1/31>)**

Passed

Commissioner Carmen Rubio Yea

Commissioner Dan Ryan Yea

Commissioner Rene Gonzalez Yea

Commissioner Mingus Mapps Yea

Mayor Ted Wheeler Yea