

AS AMENDED
12-17-09

183448

**Exhibit A
Partial and Full Exemptions for Affordable Housing Developments
Code Amendments**

Replace Subsection 17.13.060B as follows:

B. Affordable housing is exempt pursuant to Section 30.01.095.

Replace Subsection 17.15.050C as follows:

C. Affordable housing is exempt pursuant to Section 30.01.095.

Replace Section 17.36.050 as follows:

17.36.050 Partial and Full Exemptions of Sanitary and Stormwater System Development Charges for Affordable Housing Developments.

The purpose of this section is to reduce the costs of developing permanent affordable housing by waiving sanitary and stormwater system development charges for qualified affordable housing developments. This section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City. Affordable housing is exempt from sanitary and stormwater system development charges pursuant to Section 30.01.095.

Amend Section 21.16.170 as follows:

An applicant for a new water service connection or increase in the size of an old connection within the City limits shall pay a system development charge. The System Development Charge will be based upon calculations provided for in the annual water rate ordinance. New Water Service Connections solely for fire protection purposes **and affordable housing pursuant to Section 30.01.095**, shall be exempt from payment of the System Development Charge. A System Development Charge shall not be assessed for a temporary service (see Section 21.12.090 "Permit for Temporary Service").

Chapter 30.01 is amended as follows to incorporate a new section:

30.01.095 Partial and Full Exemptions of System Development Charges for Affordable Housing Developments.

A. The purpose of this section is to reduce the costs of developing permanent affordable housing by waiving system development charges for qualified affordable housing developments. This

section advances a Council-recognized public policy goal to provide for a diversity of housing types to meet the needs of the citizens of the City.

B. The City will exempt qualified affordable housing developments from paying all or part of system development charges required by this Code. The Applicant must apply for exemptions under this Section prior to the date the City issues the permit on the new development. The City may reject applications received after the date of the first occupancy permit. Where new development consists of only part of one or more of the uses described in this section, only that portion of the development that qualifies under this Section is eligible for an exemption. The balance of the new development that does not qualify for any exemption under this Section is subject to system development charges to the full extent authorized by Code or general ordinance. The Applicant has the burden to prove entitlement to exemptions so requested.

C. To obtain the exemption, the applicant must present to the City, at the time of Application, documentation from Portland Development Commission that the development qualifies for the exemption pursuant to this Chapter. Applicant must also pay an administration fee per unit on rental and/or owner-occupied units as determined by the Portland Housing Bureau.

D. The City shall calculate exemptions in the manner authorized for calculating system development charges rented and owner-occupied residential properties. Non-residential properties or the non-residential portion of mixed-use developments are not eligible for exemptions provided by this Section.

E. The City shall require the recording of real property covenants in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both. Deed restrictions may be used by the Portland Development Commission in order to restrict sale prices and rents charged for exempt units, or to provide remedies for failure to restrict units, or both.

F. Applicants shall meet the following affordable housing qualifications to be exempt from paying all or a portion of system development charges:

1. a. For purposes of this Section, "affordable" for rental housing means that the rent and expenses associated with occupancy such as utilities or fees, does not exceed 30 percent of the gross household income at the level of the rent restrictions.

b. "Affordable" for ownership units means affordable to households earning at or below 100 percent of area median income and shall be sold to persons or households whose incomes are at or below 100 percent of area median family income for a family of four as determined annually for the Portland Metropolitan Area by the U.S. Department of Housing and Urban Development as adjusted upward for a household of more than four persons.

2. Rental Units: The units receiving an exemption shall be affordable to households earning 60 percent or less of area median family income at time of occupancy and shall be leased, rented or made available on a continuous basis to persons or households whose incomes are 60 percent or less of area median family income, as adjusted by household size and as determined by the U.S.

Department of Housing and Urban Development for the Portland Metropolitan Area. Such units shall remain affordable for a period of 60 years.

3. Owner-Occupied Units.

- a. The units receiving an exemption shall be affordable to households earning at or below 100 percent of area median income and shall be sold to persons or households whose incomes are at or below 100 percent of area median family income for a family of four as determined annually for the Portland Metropolitan Area by the U.S. Department of Housing and Urban Development adjusted upward for a household larger than four persons; and
- b. The units fall within the price limit as provided by Section 3.102.090D

4. Pursuant to Section 30.01.040, the Portland Housing Bureau and Portland Development Commission are responsible for enforcing property covenants and other agreements with applicants that are conditions of receiving exemptions provided by this Section.

a. In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, qualified rental developments must adhere to the 60-year affordability requirements for rental housing developments, including qualifying requirements related to rents and occupancy.

b. In addition to specific covenants and agreements required by the City as a condition of approval of an exemption application, a qualifying ownership project must comply with applicable recapture or retention covenants.

c. In the event that an applicant violates the covenants, agreements or other requirements that were established by the City as a condition of approval of an exemption application, the City shall terminate the exemption and make due and payable all previously exempt portions of system development charges at rates in effect on the date of the submittal of a complete exemption application, plus accrued interest calculated based on the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140, and a processing fee of \$250.

d. For rental properties, if the exemption terminates within five years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$250, and accrued interest from the date of the issuance of the building permit to the date of the termination of the exemption. The reinstated system development charges shall be determined based on rates in effect on the date of the submittal of a complete building permit application. Accrued interest shall be calculated based on the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

e. For owner occupied units, if the units is not sold to a qualifying household, additional charges will be due and owing prior to change of ownership. These charges include a processing fee of \$250, and accrued interest from the date of the issuance of the building permit to the date of the

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termination of the exemption. The reinstated system development charges shall be determined based on rates in effect on the date of the submittal of a complete building permit application. Accrued interest shall be calculated based on the interim interest rate in effect on the date of the termination of the exemption as set by general ordinance pursuant to Section 17.12.140. The City may collect reinstated system development charges, processing fees, carrying charges and the actual costs of collections by recording a property lien pursuant to Title 22.

Exhibit B
Partial and Full Exemptions for Affordable Housing Developments
Amendments to Ordinance No. 182843

Section 11 G of Ordinance No. 182843 is amended as follows:

(G) **Subject to the following conditions, Affordable Housing which meets the following requirements shall be exempt from the Water SDC as follows pursuant to Section 30.01.095:**

- (1) ~~If rental housing, the units receiving an exemption shall be affordable to households earning 60% or less of Area Median Family Income at time of occupancy and shall be leased, rented or made available for 60 years to persons or households whose incomes are 60% or less of Area Median Family Income, as adjusted by unit size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area. If only a percentage of the total units qualify as exempt, the exemption will only apply to that percentage.~~
- (2) ~~If owner occupied housing, the units receiving an exemption shall be affordable to households earning at or below 100% of Area Median Family Income, first time homebuyers, and shall be sold to persons or households whose incomes are at or below 100% of Area Median Family Income, as adjusted by family size and as determined by the U.S. Department of Housing and Urban Development for the Portland Metropolitan Area.~~
- (3) ~~PDC may require that real property covenants be recorded in the deed records for properties receiving exemptions under this Section in order to ensure compliance, or to provide remedies for failure to restrict units, or both.~~
- (4) ~~Pursuant to City Code 30.01.040, the Bureau of Housing and Community Development and the PDC are responsible for determining affordability criteria and approving exemptions for housing developments that meet the income requirements specified in subsection a.11.(G)(1) or (2) and for enforcing the 60 year affordability requirement for rental housing developments. In the event a qualifying rental housing development fails to maintain qualifying rents and/or occupancy requirements or a qualifying ownership project fails to comply with applicable recapture or retention covenants, the exemption shall terminate for that development and the Water SDC, calculated using the rates in effect at the time PDC finds the exemption has been lost, shall be due and owing. If the exemption terminates within two years of initial building permit issuance, additional charges will be due and owing. These charges include a processing fee of \$120.00 and carrying charges of 12% per year (1% per month), added to the SDC rates in effect at the time, charged back to the date the exemption was granted.~~
- (51) For a single family residential, SDC exemption shall not exceed the value of a 5/8" water service SDC.

- (62) Affordable Housing exemptions will not exempt any commercial SDCs associated with the development. Commercial spaces will either be separately metered or pay the full SDC share based on each commercial space's estimated water usage as determined by the Portland Water Bureau Administrator.
- (73) Any applicant seeking an exemption shall specifically request this exemption no later than the time of the City's issuance of the first occupancy permit on the new development.