



MEMO

CITY OF BEND

TO: AFFORDABLE HOUSING ADVISORY COMMITTEE

FROM: LYNNE MCCONNELL

DATE: DECEMBER 15, 2021

RE: POSSIBLE NONPROFIT AND MIDDLE INCOME PROPERTY TAX EXEMPTIONS

This memo is intended to provide an overview of two possible property tax exemption programs: Nonprofit and Middle Housing. These were enabled by the State of Oregon (ORS 307), for the City of Bend to implement at its discretion. Consistent with the goals of Council, each program described below is intended to serve as a tool aimed at both encouraging the affordable housing development as well as increasing financial feasibility by lowering annual operating costs.

NONPROFIT PROPERTY TAX EXEMPTION ([ORS 307:540-548](#))

Background

Oregon statute authorizes local governing bodies such as cities, counties and school districts to adopt an ordinance that specifically provides a property tax exemption for nonprofit affordable housing projects. The property tax exemption provides total relief of property taxes paid by the nonprofit and applies to the tax levy of all taxing districts (including local option levies) if 51% of the total rate of taxation within the jurisdiction approves the exemption.

The property tax exemptions for nonprofit owned affordable housing is widely in use across the state of Oregon. The criteria is broad, thus allowing the City of Bend to craft the nonprofit exemption to maximize opportunities to develop affordable housing for its community.

Eligibility Criteria

In order to qualify for the exemption, a property must be owned by a registered nonprofit and occupied by persons at 60% of Area Median Income (AMI) or at the City's discretion, with 60% AMI for the first year and up to 80% AMI ongoing. Undeveloped land is also eligible for the exemption and must be held for future development of affordable housing. To receive the exemption, nonprofit organizations must apply and be approved by the City



annually. By statute, applications must include a description of the charitable purpose of the project, certification of resident income levels and a description of how the tax exemption will benefit property residents.

There is not a unit minimum. Therefore, there is an opportunity to encourage the development of middle housing: duplexes, triplexes and fourplexes.

For existing regulated affordable housing, the property tax savings achieved through this exemption is required by statute, to benefit the low-income residents of the properties. Benefits can take the form of rent stabilization and/or enhanced resident services such as childcare, job and computer training, afterschool programs or other benefits. Over time, the operational savings to the nonprofit property owner may also help to preserve affordable units.

Considerations

- The City has the discretion to require that property tax exempted units are occupied by persons at 60% of AMI and below, or to allow 60% AMI for the first year and up to 80% AMI ongoing. Allowing for property tax exemptions up to 80% AMI after the first year is recommended to account for units whose occupants have some rise in income level.
- Length of time for the exemption – the City is able to approve the exemption for the length of affordability or to adopt a “sunset” for the exemption program in order to allow for an evaluation of program benefits and impacts after a certain period.
- Vacant land held by a nonprofit for affordable housing is also eligible for the property tax exemption. The City may place a limit on how long undeveloped land can be held and exempted before affordable housing is developed.
- Partial exemptions can be granted. This is not a policy decision but rather a program implementation clarification. For example, if a project contains a total of 90 units and only 45 of the units are regulated affordable at 60% or 80% AMI and below, then half of the property’s taxes would be exempted rather than the full amount. The City in administrating this program would work with the County Assessor’s Office to determine the partial exemption amount in such cases. This is particularly appealing for mixed income developments.
- Annual City Council approval – Council may review and approve the exemption for eligible properties annually by resolution or grant City of Bend staff the administrative authority to approve the exemptions contingent on all eligibility requirements being met.

MIDDLE INCOME TAX EXEMPTION [ORS 307.867](#)

Background

The middle-income tax exemption for newly renovated or constructed multiunit rental housing is a relatively new tool for cities and counties to encourage affordable housing development. The parameters of the exemption were approved under [HB 2377 \(2017\)](#) and are outlined in [ORS 307.867](#). Oregon statute authorizes local governing bodies to adopt an ordinance that specifically provides a property tax exemption for newly renovated or constructed multiunit

rental housing within the eligibility criteria. The property tax exemption requires approval from taxing districts representing 51% of total levied property taxes.

Currently, this exemption is in use in Tillamook County and the City of Redmond is considering using it as well.

Eligibility Criteria

The middle-income tax exemption would only apply to newly rehabilitated or constructed dwelling units which are affordable to households making up to 120% of the area median income. It would target middle-income housing, not strictly affordable housing.

Regardless of whether a building was acquired by rehabilitation or new construction, the property tax exemption may only be used one time per building.

For developers that had previously received State or Federal funding and are seeking this exemption for rehabilitation, must limit affordable rents to a population making 80% AMI or less and shall be prohibited from setting rents higher than that limit to which they were previously bound.

As noted above, the legislative framework requires approval from tax districts representing 51% of total levied property tax. This exempts all taxes from all districts during the exemption period. The City may grant the exemption for up to ten consecutive years including improvement and land.

Considerations

An ordinance would be developed to meet the requirements of HB 2377. The County Assessor is tasked by HB 2377 to review the rental prices on an annual basis to ensure compliance. The County Assessor and the City will work together to ensure property owners comply with the rules and can terminate the exemption for noncompliance. Typically, compliance determinations in Deschutes County are delegated to City Housing staff.

The definition of rehabilitation under this exemption recommends that the property is at least 20 years old, is in building code compliance, that the building maintenance is up-to-date, and it includes an anti-displacement measure.

Other considerations:

- Created in 2017; current sunset is 1/2/2027
- These 100% AMI rent “limits” are adjusted according to the number of bedrooms provided
- Utility “fees” count toward rent
- Ensure that exempted units are not used as short-term rentals
- Ensure strict rehabilitation definition to profiteering off exemption
- Can be used for any structure with 3 or more units
- Protections in place to avoid displacing low-income households
- After exemption expires, building is reassessed and taxed as normal

