

ORDINANCE NS-2447

AMENDMENT TO BEND MUNICIPAL CODE TITLE 12, REVENUE AND TAXATION, TO CREATE NEW SECTION 12.35, MULTIPLE UNIT PROPERTY TAX EXEMPTION PROGRAM

Findings

1. The provisions of ORS 307.600 to 307.637 enable cities to grant property tax exemptions for multiple-unit housing developments located in core and transit-oriented areas designated by the city.
2. Between December 2021 through May 2022, staff held work sessions with Council and Council subcommittees, hosted four meetings with a work group comprised of members of the City's Affordable Housing Advisory Committee, Core Area Advisory Board, Bend Economic Development Board, Neighborhood Leadership Alliance and with other taxing districts, including Bend Park and Recreation District, as well as other interested parties, to review barriers to development of multiple-unit housing in central areas of Bend, and to identify needed elements of projects that would benefit the community. Staff and the involved community members identified a need for a tax exemption to support urban-scale multiple-unit housing, with certain design and other project elements benefitting the public, financially feasible in the core areas of Bend. Through this public involvement, staff and the work group identified the appropriate areas in the City where multi-unit, urban scale projects are less financially feasible, to apply this program.
3. The availability of housing is a critical aspect of a healthy community and there is a lack of housing in Bend, particularly of urban-scale multi-unit housing in the central area of Bend and transit-oriented areas including the Core Area Tax Increment Finance (TIF) Area, Central Business zoning district, and along adjacent high-capacity transit corridors.
4. The City has taken actions to incentivize the development of urban scale development in core and transit-oriented areas through the following actions:
 - a. The up zoning of various areas including the Bend Central District, Inner Highway 20/Greenwood, KorPine, and East Downtown Opportunity Areas to allow for multi-story mixed-use and multifamily development through the City's 2016 Comprehensive Plan.
 - b. Adoption of an Urban Dwelling Sites Code in response to House Bill 3450 that allows up to 40 acres Adoption of a multi-family SDC deferral program
 - c. Adoption of a multifamily SDC deferral program.

- d. Adoption of a Core Area TIF Area to support redevelopment goals.
 - e. Amendments to the Bend Central District Special Planned District code to remove barriers to housing development including exemptions for parking, particularly for small lot development.
5. Despite these efforts, the areas being designated for this exemption have still seen little to no multi-family or mixed-use development.
6. Construction costs and barriers to development including supply chain concerns, financing, and other challenges have increased development barriers between the actions described in Finding 3, above, and the adoption of this ordinance.
7. The proposed code includes standards and guidelines governing basic elements that must be present for a project to qualify for this property tax exemption, pursuant to ORS 307.606, identified by outreach to the community as described above in Finding 2. The code includes certain required and optional elements, a minimum number of which must be included in the project to qualify for the property tax exemption, including:
 - a. The application must justify any elimination of any housing or businesses on redevelopment sites and demonstrate efforts to mitigate displacement, if any.
 - b. Projects must be at least two stories tall, or three stories if on a lot larger than 10,000 square feet. Other potential design elements include ground floor commercial uses, energy efficiency or green building features, stormwater treatments above code requirements, enhanced landscaping, and parking structures surrounded by commercial or residential uses.
 - c. Projects may offer units available at rental rates or sale prices accessible to a broad range of people at different income levels, including optional minimum numbers of units affordable to households earning up to 60%, 80%, or 120% of area median income.
 - d. Projects may choose to include public benefits that extend beyond the life of the exemption including open space dedication or publicly accessible park or plaza space; transit and mobility supportive amenities as described in the code; common meetings rooms or recreation, senior, and art supportive facilities; electric vehicle charging facilities; onsite childcare facilities; or completion of environmental remediation of a site.
 - e. Projects must include at least three housing units.
8. The Bend City Council held a public hearing on June 1, 2022, and hereby determines that this exemption is needed to stimulate the construction or addition

of multiple-unit housing in the designated core and transit-oriented areas of the City to create places where people can both live and work, and this property tax exemption will encourage the development of vacant or under-utilized sites in the core and transit-oriented areas in Bend. The City Council finds that multiple-unit housing meeting the qualifications of the amendments would not otherwise be built in the designated areas without the benefits provided by this exemption.

9. The designated areas for the multiple-unit property tax exemption are:
 - a. Core Area Tax Increment Finance (TIF) Area,
 - b. Areas zoned for Central Business use,
 - c. High Density Residential (RH zoning) that is located adjacent to the Core Area TIF Area including properties zoned RH along NE Studio Rd, between NE 4th Street and NE 5th Street from NE Webster Avenue to SE Alden Avenue, and between the alleys on either side of NE Irving Avenue from NE 4th Street to NE 8th Street, or
 - d. An area developed under the City's Urban Dwelling Site code standards as defined in Bend Development Code Section 3.8.800.

10. This property tax exemption supports redevelopment goals of Bend's Core Area TIF Area including the four identified opportunity areas in the Bend Comprehensive Plan (East Downtown, Bend Central District, Inner Highway 20/Greenwood, and KorPine).

11. The amendments creating a multiple-unit property tax exemption are consistent with ORS 307.600 to 307.637.

12. Council finds that it will be beneficial to the City and other taxing districts for the City to re-evaluate this program and the program requirements annually to evaluate whether the program is still needed to support the financial feasibility of urban-scale multi-unit housing in the Core and transit-oriented area of Bend. Staff is directed to perform this annual evaluation and present the findings and recommendations for continuing, changing, or discontinuing the program to City Council on an annual basis.

Based on these findings, THE CITY OF BEND ORDAINS AS FOLLOWS:

Section 1. The Bend Municipal Code is amended by adding Chapter 12.35 as shown on the attached Exhibit A.

Section 2. All other provisions of Bend Municipal Code Chapter 12 remain unchanged and in full effect.

Section 3. If any provision, section, phrase or word of this ordinance or its application to any person or circumstance is held invalid, the

invalidity does not affect other provisions that can be given effect without the invalid provision or application.


First Reading: June 1, 2022

Second Reading and Adoption by Roll Call Vote: June 15, 2022

YES: Mayor Gena Goodman-Campbell
Mayor Pro Tem Anthony Broadman
Councilor Barb Campbell
Councilor Melanie Kebler
Councilor Megan Perkins

NO: none

ABSTAIN: Councilor Stephen Sehgal
Councilor Mo Mitchell



Gena Goodman-Campbell, Mayor

ATTEST:



Robyn Christie, City Recorder

APPROVED AS TO FORM:



Mary A. Winters, City Attorney

Chapter 12.35 Multiple Unit Property Tax Exemption

Sections:

- 12.35.010 Definitions
- 12.35.015 Eligible Property
- 12.35.020 Application for Exemption
- 12.35.025 Public Benefits
- 12.35.030 Review of Application
- 12.35.035 Termination
- 12.35.040 Extensions
- 12.35.045 Sunset
- 12.35.050 Regulatory Power

12.30.010 Definitions

The following definitions apply in this chapter:

Affordable Housing means housing with a sales price or rental amount as defined below.

1. In the case of dwelling units for sale, "affordable" means housing for households at or below 80 percent AMI for which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, constitute no more than 30 percent of gross annual household income.
2. In the case of dwelling units for rent, "affordable" means housing for households at or below 60 percent AMI for which the rent and utilities constitute no more than 30 percent of gross annual household income.

Applicant means the person seeking the property exemption provided by this chapter.

Area Median Income or AMI means the Area Median Income as determined by the most recent United States Department of Housing and Urban Development for the Bend Metropolitan Statistical Area.

Childcare facilities means an Oregon state licensed childcare facility or provider.

Middle-Income Housing means housing for households at or below 120 percent AMI and, in the case of dwelling units for sale, in which the mortgage, amortized interest, taxes, insurance, and condominium or association fees, if any, or, in the case of dwelling units for rent, housing for which the rent and utilities constitute no more than 30 percent of gross annual household income.

12.30.015 Eligible Property

To be eligible for the property tax exemption provided by this chapter, the housing must be a newly constructed structure(s), story(ies), or other additions to existing structure(s) and structure(s) converted in whole or in part from other use to housing that meets the following criteria:

- A. Includes three or more dwelling units;
- B. Meets the public benefit requirements as described in Section 12.35.030 below;
- C. Must be at least two stories in height. Housing that is on lots larger than 10,000 square feet in size must be at least three stories in height;
- D. Must be located within one of the following areas:
 - 1. Core Area Tax Increment Finance (TIF) Area,
 - 2. Areas zoned Central Business (CB),
 - 3. High Density Residential (RH zoning) that is located adjacent to the Core Area TIF Area including properties zoned RH along NE Studio Rd, between NE 4th Street and NE 5th Street from NE Webster Avenue to SE Alden Avenue, and between the alleys on either side of NE Irving Avenue from NE 4th Street to NE 8th Street, or
 - 4. An area developed under the City's Urban Dwelling Site code standards as defined in Bend Development Code Section 3.8.800;
- E. Include a restriction that does not allow transient oriented uses, including use by any person or group of persons entitled to occupy for rent for a period of less than 30 consecutive days (including bed and breakfast inns, hotels, motels, and short-term rentals);
- F. Is in compliance with all local plans and zoning regulations applicable at the time the application is approved; and
- G. The construction, addition or conversion is completed on or before January 1, 2032.

12.35.020 Application for Exemption

The applicant shall apply to the City no later than February 1 of each calendar year, immediately preceding the first assessment year for which the exemption is requested.

The applicant shall submit an application for exemption in writing on forms furnished by the City which must show:

- A. The applicant's name, address, and telephone number.
- B. A legal description of the property and the assessor's property account number for the site, and indication of site control.
- C. A detailed description of the project, including the number, size, and type of dwelling units; dimensions of structures, parcel size, proposed lot coverage of buildings, and amount of open space; type of construction, public and private access; parking and circulation plans; landscaping; uses; and a description of the public benefit(s) which the applicant proposes to include in the project.
- D. A description of the existing use of the property, including a justification for the elimination of existing sound housing or commercial uses on the property and what efforts or strategies the applicant has made to mitigate displacement impacts to existing businesses or residences, if the project is anticipated to displace any existing businesses or residents.
- E. A site plan and supporting materials, drawn to a minimum scale of one inch equals 20 feet, which shows in detail the development plan of the entire project, showing streets, driveways, sidewalks, pedestrian ways, off-street parking, and loading areas, location and dimension of structures, use of land and structures, major landscaping features, and design of structures.
- F. A letter from the City's Private Development Engineering Division stating that the proposed use can be served by existing sewer and water services and/or has coordinated with the Division on all necessary infrastructure mitigation requirements.
- G. A description and the monetary value of any other public assistance, including, but not limited to, grants, loans, loan guarantees, rent subsidies, fee waivers, or other tax incentives, which the property is receiving or which the applicant plans to seek.
- H. A proforma that demonstrates that the proposed project including the public benefits associated with the proposed project could not financially be built "but for" the tax exemption and that absent the exemption, the project would not be financially viable. The proforma will be reviewed by a City selected independent financial consultant.
- I. At the time the application is submitted, applicants shall pay an application fee as prescribed by resolution of the Council. The City shall pay the County Assessor for each application which is an approved amount provided for in the resolution.

12.35.025 Public Benefits

In order to qualify for the exemption provided by this chapter, the applicant must propose, and agree to include in the proposed project, three or more of the following

public benefits. At least one of these public benefits must be selected from 12.35.030 (A) through (E).

A. Affordable Housing. 10% of the units provided as Affordable Housing for the duration of the exemption.

B. Middle Income Housing. 30% of the units provided as Middle-Income Housing for the duration of the exemption

C. Childcare Facilities. Provide childcare facilities within the proposed project and demonstrate how those facilities will be provided beyond the duration of the exemption.

D. Open Space and Publicly Accessible Park or Plaza Space. Dedicate more than 10% of the site area as publicly accessible open space, park or plaza with usable amenities. To meet this criterion, the applicant must submit a letter from the Bend Park and Recreation District (District) stating that the applicant has coordinated with the District on the proposed open space or publicly accessible park and demonstrate how the applicant considered the comments of the District.

E. High Standard of Energy Efficiency/Green Building Features.

- Energy Trust New Buildings Path to Net Zero; or
- LEED Platinum; or,
- Earth Advantage Platinum or higher.

F. Additional Energy Efficiency/Green Building Features.

- Energy Trust of Oregon New Building Whole Building; or
- Energy Trust Multifamily Market Solutions Best; or
- Earth Advantage Silver or higher; or
- LEED Silver; or
- Solar installation that will supply some of the building's energy using solar.

G. Transit Supportive Amenities. Provide transit supportive amenities such as covered shelters, fare purchase kiosks, and improved lighting; To meet this criterion, the applicant must submit a letter from Cascade East Transit (CET) stating that the applicant has coordinated with CET on the proposed transit and mobility supportive amenities and demonstrate how the applicant considered the comments of CET.

H. Mobility Supportive Amenities. Provide mobility hub elements including but not limited to shared micromobility facilities (meeting the requirements of Bend Code Chapter 7.60 if proposed in the public right-of-way), enhanced pedestrian and bicycle facilities, amenities, and storage such as secure bike lockers, upgraded crosswalks, street lighting, curb bulb-outs, pedestrian plazas, and dedicated spaces for bikeshare, or shared vehicle, or taxi pick-up and drop-off. To meet this criterion, the applicant must submit a letter from the City's Community and Economic Development Department

stating that the applicant has coordinated with the City on any facilities proposed to be located in public rights-of-way.

I. Ground floor commercial. Provide more than 35% of the ground floor as commercial uses. This criteria is only available to projects in zones that allow ground floor commercial use.

J. Stormwater. The site is developed to retain and treat stormwater from more than a 25-year storm event.

K. Environmental Remediation. Demonstrate how and on what timeline any environmental remediation of the site will be completed.

L. Public facilities. Provide common meeting rooms, recreation supportive facilities, senior or youth supportive facilities, and/or art supportive facilities that will be accessible to the general public, including but not limited to public meeting spaces, athletic facilities, play-ground equipment, swimming pools, spas, and saunas, galleries, performance venues, theatres, or offices or facilities for cultural groups, youth, or seniors. Public facilities provided by this section are not necessarily required to be available to the public at large if the Council finds the design elements proposed by the applicant provide sufficient public benefit.

M. Enhanced landscaping. Provide native, pollinator-friendly, and water-wise landscaping.

N. Provide electric vehicle (EV) charging stations. Provide at least 10% more parking spaces with EV charging infrastructure, conduit for future electric vehicle charging stations, than the minimum required. If no EV charging infrastructure is required, the project must provide charging infrastructure to a minimum of one space, and at least 10% of parking spaces provided with EV charging infrastructure.

O. Wrapped parking structures. For projects that provide above-grade parking structures, the applicant will provide retail and residential uses on the street-level for any frontage on a street with a higher-level classification than an alley.

P. Other public benefits that will extend beyond the period of the exemption, as specifically authorized by City Council in the resolution approving the exemption.

12.35.030 Review of Application

A. The Council may approve the application if it finds, in accordance with standards and guidelines adopted by resolution of the council, that:

1. The property is eligible as provided in Section 12.30.015;
2. The project is in conformance with the comprehensive plan and zoning regulation; and

3. The project has provided all of the information required as provided in Section 12.30.025; and

4. The public benefit the property will receive meets the requirements provided in Section 12.30.030.

B. The Council will review the application within one hundred eighty days of filing and approve, deny, or approve subject to reasonable conditions, the application. Final action by the Council will be by resolution that contains the owner's name and address, a description of subject housing, either the 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. An application not acted upon within one hundred eighty days following the date of application shall be deemed approved.

C. The tax exemption may be approved for up to ten consecutive years beginning July 1st of the tax year after completion of construction.

D. If the application is denied, the resolution and a notice of denial shall be sent to the applicant within ten days following the denial. The notice shall state the reasons for denial. Review of a denial shall be as provided in ORS 34.010 to 34.100.

E. If the application is approved, on or before the April 1st following such approval, the City shall file with the county assessor and send to the applicant at the applicant's last known address a copy of the resolution approving the application. In addition, for each application which is approved, the City shall file with the county assessor, on or before the April 1st following such approval, a document listing the same information otherwise required to be in a resolution approving an application under this chapter.

F. The property tax exemption provided under this chapter applies only to the tax levy of the City, except that the tax exemption shall apply to the ad valorem property taxes of all taxing districts when upon request of the City, the rates of ad valorem taxation of taxing districts whose governing boards agree by resolution to the tax exemption for the project, when combined with the rate of taxation of the City, equal 51 percent or more of the total combined rate of taxation levied on the property which is tax exempt under ORS 307.600 to 307.637.

12.35.035 Termination

A. If, after an application has been approved, the City finds that construction of the housing was not completed on or before the deadline specified in this chapter, or that any provision of this chapter is not being complied with, or any provision of the resolution granting the exemption is not being or has not been complied with, the City shall send a notice of the proposed termination of the exemption to the owner's last known address.

B. The notice of termination shall state the reasons for the proposed termination, and shall require the owner to appear before the Council at a specific time, not less than

twenty days after mailing the notice, to show cause, if any, why the exemption should not be terminated.

C. If the owner fails to appear and show cause why the exemption should not be terminated, the City shall further notify every known lender and shall allow the lender a period of not less than thirty 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 City, to ensure that the noncompliance will be remedied.

D. If the owner fails to appear and 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 Council shall adopt a resolution stating its findings and terminating the exemption. A copy of the resolution shall be filed with the county assessor and a copy sent to the owner at the owner's last known address, and to any lender at the lender's last known address, within ten days after its adoption.

E. Review of a termination shall be as provided by ORS 34.010 to 34.100.

12.35.040 Extensions

Notwithstanding Section 12.35.045, if the Council finds that construction, or addition of, or conversion to, the housing approved for an exemption under this chapter was not completed by January 1, 2031, 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 Council may extend the deadline for completion of construction for a period not to exceed twelve consecutive months.

12.35.045 Sunset

The property tax exemption authorized under this chapter will automatically sunset and no further applications will be accepted after February 1, 2030. Exemptions granted under this chapter for applications received on or before February 1, 2030, will not be abrogated by this sunset.

12.35.050 Regulatory Power

The City Manager may issue rules necessary for the implementation of this exemption.