

AFFORDABLE HOUSING PROPERTY TAX EXEMPTIONS

VanLandingham/McIntosh March 18, 2019

INTRODUCTION: Over the years, the Legislature has authorized several property tax exemptions for needed housing. Local option property tax exemptions (meaning that a local government may choose to adopt it) are one tool local jurisdictions can use to help incentivize and make financially viable affordable housing developments in their communities. Property tax exemptions for housing are critical for several reasons. Some exemptions encourage the development of more dense housing options close to transit and city centers. Some communities may consider adopting local option property tax exemption to help ensure affordable housing is built as part of their communities. Property taxes are an operating expense for housing; property tax exemptions allow the developers of affordable housing to lower their rents. Without these exemptions, some affordable housing projects would not be feasible or would need higher rents, or more public subsidy.

NOTE: There is no comprehensive list of cities or counties that use these exemptions. The examples noted below come from anecdotal experience, surveys of affordable housing providers, and input from the League of Oregon Cities.

A. Local option exemptions for affordable housing

1. Nonprofit corporation low-income housing, ORS 307.540 - .548.

- * Created in 1985; current sunset is 7/1/2027 (last extended in 2011).
- * Local option; 100 percent exemption if approved by jurisdictions representing at least 51 percent of tax rate (usually city plus school district).
- * Currently used by Portland, Beaverton, Forest Grove, Cornelius, Tigard, and Wilsonville. Previously used by Lincoln City and others.
- * Limited to persons at 60 percent AMI or less; local government may choose to allow eligible income to rise to 80 percent after first year of occupancy (Portland).
- * Can be existing housing or new development; includes land held for development.
- * Must be owned or leased by a 501 (c) (3) or (4) charitable corporation. Includes tax credit partnerships.
- * Local government can add additional criteria if not inconsistent with the other criteria for the exemption.
- * Annual application required; no limit on length of exemption if criteria are met.

2. Low-income rental housing, ORS 307.515 - .537.

- * Same as #1 except as noted.
- * Created in 1989; current sunset is 7/1/2020 (last extended in 2010).

* Currently used by Eugene, Bend, Deschutes County, Springfield, and Wilsonville.

* Limited to persons at 60 percent AMI; no increase after first year of occupancy.

* Two different sets of eligible owners/criteria:

a. Any person or entity, for-profit or nonprofit, so long as the rents charged reflect the property tax exemption savings and the housing is constructed after the city adopted the authorizing ordinance. ORS 307.517.

b. A nonprofit, so long as the nonprofit is a public benefit or religious corporation under Oregon law and expends no more than 10 percent of its annual income from residential rentals for purposes other than the acquisition, maintenance, or repair of residential rental property for low income persons or for the provision of on-site child care services for the residents. This exemption is available for use with existing housing, not just with new construction. ORS 307.518.

* Includes land held for development. Can be owned or leased.

* Initial application required, but not thereafter (although practically local government must monitor compliance); limited to 20 years, although can be renewed.

B. Local option exemptions not limited to affordable housing

3. Multiple-unit housing in core areas/transit oriented districts: ORS 307.600 to 307.637.

* Created in 1975; current sunset is 1/1/2022 (last extended in 2011).

* Currently used by Portland (“MULTE”) and Eugene (“MUPTE”); Beaverton is considering adoption.

* Initially created to promote density in urban cores, later expanded to also promote multiple-unit housing promoting transit. Not tied to creation of affordable housing, although a city may choose to use it for affordable housing, as Portland and Eugene do.

* New construction.

* Exemption for ten years of the improvements only, not including the land.

* Can include commercial use on ground floor (e.g., a grocery store).

* In 1999 the legislature expanded this to include “housing that is or becomes subject to a low income housing assistance contract with an agency or subdivision of this state or the United States,” as necessary to preserve the housing. (This was done to help preserve existing subsidized housing projects sometimes referred to as “prepay projects,” because the owner could prepay a contract with the federal government that limited rents and convert the project to market rents.) For this part of MULTE, there is no limit to new construction, to the improvements only, or to ten years.

4. Vertical housing development zones: ORS 307.841 to 307.867.

* Created in 2003; current sunset is 1/1/2026.

* Currently used by Beaverton, Tigard, Fairview, Canby, and Hillsboro. Has been used by other cities, but oversight is local now, so there is no comprehensive list of active

zones.

- * Created to promote density, not affordable housing. Several cities have used it for an affordable housing project: The Royal Building apartments by St. Vincent de Paul, in Springfield; five-story building with ground floor commercial and 33 one-bedroom units for people at 50 percent of AMI or less. Beaverton has also incorporated affordable units into housing density projects.

- * Previously administered by Business Oregon and then (2005) by OHCS, but changed to local operation in 2017 (SB 310).

- * Partial exemption based on number of “equalized floors;” partial land exemption for including affordable housing (80 percent AMI) units.

- * Exemption limited to the new development, not the land (unless affordable housing included); limited to ten years.

- * Taxing districts may opt out.

5. Newly rehabilitated or constructed multiunit rental housing: 2017 Or Laws, ch.624 (HB 2377, Rep. Brock Smith); follows ORS 307.867.

- * Created in 2017; current sunset is 1/2/2027.

- * Newly rehabilitated or constructed rental housing.

- * 100 percent exemption if approved by 51 percent of tax rate.

- * Length of exemption is tied to a formula created by the local government to reflect the number of units affordable to people up to 120 percent AMI, up to ten years.

6. Single unit housing: ORS 307.651 – 687.

- * Created in 1989 (?); current sunset is 1/1/2025 (last extended in 2013).

- * Currently used by Portland as the “Homebuyer Opportunity Limited Tax Exemption” program.

- * Purpose at creation was to promote single-family homeownership units in distressed areas; the “distressed area” requirement was deleted in 2013.

- * Not tied to affordable housing, though units must have a market value of no more than 120 percent of median sales prices in the city.

- * New or existing units. Could be a condo or a manufactured home, but not a floating home. Limited to the structure, not the land.

- * 100 percent exemption if approved by 51 percent of the tax rate, except for Portland, where Multnomah County must also approve.

- * Ten years.

C. Other

7. Property owned or leased by a charitable institution and operated as low-income housing: ORS 307.130.

- * Created before ORS (which occurred in 1953); no sunset.

- * Local option, in that eligibility is determined by the local tax assessor.

- * 100 percent exemption.
- * No time limit, although the assessor can withdraw the exemption at any time.
- * Some assessors granted exemptions to affordable housing projects, such as the

Lane County assessor for projects developed by St. Vincent de Paul (outside of Eugene, where SVDP could have used the ORS 307.515 exemption adopted by Eugene). Linn County did the same for projects developed by Willamette Neighborhood Housing Services. In 2012, at the urging of DOR, county assessors stopped granting exemptions for affordable housing and withdrew some that had been granted. A lawsuit resulted; the Oregon Tax Court decision supported DOR's position. (There are multiple, conflicting, and confusing Oregon appellate court decisions on the issue of defining "charity.") To settle a pending appeal of the Tax Court decision, the parties agreed to a moratorium, preventing new exemptions under ORS 307.130 but preserving those granted prior to 7/1/2014. The legislature adopted that moratorium, with the understanding that a permanent agreement could be worked out, defining "charity." That has not happened. The moratorium currently has a sunset of 7/1/2022; it has been extended once before.

8. Land owned by a nonprofit and held for building residences for low-income individuals: ORS 307.513.

- * Created in 2015; no sunset.
- * Local option, in that eligibility is determined by the local tax assessor, although it appears there is no discretion.
- * 100 percent exemption.
- * Time limit: Transfer of title to the homeowner or seven years (with possible three year extension), whichever comes first.
- * Homeownership, serving people at 80 percent AMI or below.
- * Habitat.

9. Property owned or leased by a public housing authority: ORS 307.092.

10. DEAD; not extended: Rehabilitated residential property: ORS 308.450. Sunset 1/1/2015.

11. DEAD: Cancellation of back taxes upon donation to a nonprofit for AH: ORS 311.796. Repealed, 2017 Or Laws ch. 315, SB 148.

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