



**PLEASE NOTE:** This meeting will be held at City Hall, 920 SE Cedar Falls Way, North Bend, WA. Members of the public may choose to attend in person or by teleconference. As the in-person/teleconference hybrid meeting option is new technology to City Staff it is strongly encouraged that members of the public that are attending by teleconference provide comments in advance of the meeting. Please email comments on any agenda items prior to the meeting to the City Clerk at [soppedal@northbendwa.gov](mailto:soppedal@northbendwa.gov). Please provide comments by 5 p.m., Tuesday, February 21, 2023 so a copy can be provided to the City Council prior to the meeting.

Members of the public that wish to attend by teleconference may do so by using the Zoom Meetings platform. Instructions on how to access the meeting and provide public comment are available at the following link: [February 21, 2023 City Council Meeting Calendar Item](#). You will be required to have a registered Zoom account and display your full name to be admitted to the online meeting.

Zoom Meeting Information:  
To Sign Up for a Zoom Account: <https://zoom.us/join>  
Meeting ID: 881 2610 1456  
Password: 658184  
Call In Phone Number: 1-253-215-8782

## **CITY COUNCIL MEETING**

### **February 21, 2023 – Agenda**

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

#### **7:00 P.M. – CALL TO ORDER, ROLL CALL, FLAG SALUTE**

**EXECUTIVE SESSION** – To Discuss Current Litigation, pursuant to RCW 42.30.110(1)(i)

#### **CONSENT AGENDA:**

		Pg.#
1) Minutes	City Council Meeting of February 7, 2023	1
2) Payroll	February 3, 2023 – 28597 through 28603, in the amount of \$328,921.29	
3) Checks	February 21, 2023 – 73609 through 73676, in the amount of \$1,456,333.94	

#### **CITIZEN'S COMMENTS:** (Please restrict comments to 3 minutes)

#### **ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:**

<b>4) Presentation</b>	Police Services Update	Police Chief Phipps
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## **COMMISSION AND COMMITTEE REPORTS:**

Planning Commission

Parks Commission

Economic Development Commission

Regional Committees

Community & Economic Development – Councilmember Miller

Finance & Administration – Councilmember Gothelf

Public Health & Safety – Councilmember Rosen

Transportation & Public Works – Councilmember Loudenback

Mayor Pro Tem – Councilmember Koellen

Eastside Fire & Rescue Board – Councilmember Gothelf

## **INTRODUCTIONS:**

**5) AB23-022**      Ordinance – Adopting NBMC 3.78 Multifamily Tax Exemption      Ms. Marshall      **7**

**MAYOR, COUNCIL & ADMINISTRATOR CONCERNS AND INITIATIVES:** (Business and general information presented that may be deliberated upon by the Council. Formal action may be deferred until a subsequent meeting; immediate action may be taken upon a vote of a majority of all members of the Council.)

## **ADJOURNMENT:**

**NORTH BEND CITY COUNCIL MINUTES**

**February 7, 2023**

City Hall, 920 SE Cedar Falls Way, North Bend, Washington

**CALL TO ORDER, ROLL CALL:**

Mayor McFarland called the regular meeting to order at 7:02 p.m.

**Councilmembers Present:** Elwood, Gothelf, Joselyn, Koellen, Loudenback, Miller and Rosen.

Councilmember Gothelf **MOVED**, seconded by Councilmember Elwood to table to the February 21, 2023 City Council meeting AB23-021 – Motion Authorizing 1<sup>st</sup> Amendment to Epicenter Services Contract. The motion **PASSED** 5-2 (Joselyn, Loudenback).

Mayor McFarland announced AB23-014 – Motion Authorizing On-Call Contract with Keithly Electric would be pulled from tonight's consent agenda.

**CONSENT AGENDA:**

**Minutes** – Special Council Workstudy of November 29, 2022, Special Council Workstudy of January 10, 2023, City Council Meeting of January 17, 2023 & Council Workstudy of January 24, 2023

**Payroll** – **January 20, 2023 – 28590** through **28596**, in the amount of **\$305,681.87**

**Checks** – **February 7, 2023 – 73530** through **73608**, in the amount of **\$753,218.38**

**AB23-013** – Motion Authorizing Purchase Order with EnviroTech Services

**AB23-015** – Resolution 2056 Accepting Chinook Lumber Infrastructure Improvements

**AB23-016** – Motion Authorizing Department of Commerce Agreement RE Comprehensive Plan Update

Councilmember Gothelf **MOVED**, seconded by Councilmember Elwood to approve the consent agenda as amended. The motion **PASSED** 7-0.

**CITIZEN'S COMMENTS:**

**Debra Landers**, 14615 438<sup>th</sup> Ave. SE, reported North Bend Arts & Industry was looking for a new facility but would love to continue renting their current location at the North Bend Train Depot. She provided an update on activities which include a Midwinter Break STEM Camp, Makers Meet Up, Art Classes and an upcoming fundraising event.

**Wendy Weiker**, 4808 East Mercer Way, Mercer Island, Republic Services, apologized for the January 2022 service interruptions and their inability to provide billing credits for residents due to lack of applicable language and rate modeling in the current contract. She

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noted a solution going forward was to ensure customer credits were included in any new contract language and suggested steps going forward regarding the current Request for Proposals (RFP).

**Logan Harvey**, 611 South State Street, Tacoma, Recology King County, addressed the current RFP for Solid Waste & Recycling Services and suggested Council carefully evaluate each submittal to determine which provider would best meet the City's vision of a more sustainable and equitable future. He mentioned Recology was employee owned with a philosophy of zero waste and extended customer service hours and would commit to contract language rebating monies back to the community in event of a labor disruption.

**Marcus Morissette**, 12629 468<sup>th</sup> Ave. SE, requested Council consider the following with regards to Sallal Water Association (SWA): protecting watershed, environment and river, House Bills regarding mitigation obligations and property rights/takeover, overruling of Foster, contract negotiations, SWA management, SWA purchase, and Growth Management Act obligations. He concluded by imploring Council to think about water as not an impediment to growth and to think about their actions.

**ANNOUNCEMENTS, PRESENTATIONS, APPOINTMENTS:**

**AB23-017** – Appointment to Planning Commission

**Audio: 19:26**

Mayor McFarland recommended the appointment of Errol Tremolada to Position No. 6, on the Planning Commission.

Councilmember Koellen **MOVED**, seconded by Councilmember Elwood to approve AB23-017, confirming the Planning Commission appointment for Errol Tremolada to Position No. 6, term expiring May 18, 2026. The motion **PASSED** 7-0.

**Presentation** – Parks Commission Report & 2023 Work Plan

**Audio: 26:39**

Parks Commission Chair Rudd presented the Commission's 2022 Summary Report which detailed the year's expenditures and activities. She noted the 2023 Tentative Work Program for the Commission included recommendations on the proposed Parks Element of Comprehensive Plan, site plans for William H. Taylor Park and Riverfront Park, coordination with Si View Metropolitan Parks District on grand opening of Tollgate Farmhouse and Farmstead project, Parks Commission picnic/retreat and annual parks tour, parks directional signage improvements, coordinating with Public Works future park and trail related improvements, Parks Commission booth at local events, Park Capital Facilities planning, grand opening celebration for Dahlgren Family Park, review of Tree Canopy Assessment and urban forestry improvements, Tree Board and Arbor Day planning activities and park review for new developments.

**INTRODUCTIONS:**

**AB23-018** – Motion Authorizing Contract with Gray & Osborne for Water System Plan Amendment

**Audio: 38:30**

Deputy City Administrator/Public Works Director Rigos provided the staff report.

The following individual commented on the agenda item:

**Marcus Morissette**, 12629 468<sup>th</sup> Ave. SE

Councilmember Koellen **MOVED**, seconded by Councilmember Rosen to postpone to the February 21, 2023 City Council meeting AB23-018 - Motion Authorizing Contract with Gray & Osborne for Water System Plan Amendment. The motion **PASSED** 4-3 (Joselyn, Loudenback, Miller).

**AB23-019** – Motion Authorizing Contract with Raftelis for Appraisal Services

**Audio: 1:06:22**

Deputy City Administrator/Public Works Director Rigos provided the staff report.

Councilmember Loudenback **MOVED**, seconded by Councilmember Miller to approve AB23-019, authorizing a Professional Services Contract with Raftelis, in an amount not to exceed \$16,000, in a form and content approved by the City Attorney. The motion **PASSED** 4-3 (Elwood, Gothelf, Rosen).

**AB23-020** – Motion Authorizing 1<sup>st</sup> Amendment to Gray & Osborne Contract RE Meadowbrook ULID

**Audio: 1:11:22**

Deputy Public Works Director Mohr provided the staff report.

Councilmember Loudenback **MOVED**, seconded by Councilmember Miller to approve AB23-020, authorizing Amendment No. 1 to the Contract with G&O for the Meadowbrook Sewer ULID Project, in a form and content approved by the City Attorney, in an amount not to exceed \$98,900.00. The motion **PASSED** 7-0.

**MAYOR, COUNCIL, AND ADMINISTRATOR CONCERNS AND INITIATIVES:**

Councilmember Rosen wished local resident Burt Mann a happy 100<sup>th</sup> birthday.

Councilmember Joselyn acknowledged and thanked Public Works staff for the ongoing effort to clean up debris as a result of the recent windstorm.

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Councilmember Elwood echoed Councilmember Joselyn's comments regarding the clean up effort by City staff and announced the production of "I & You" would be running February 3<sup>rd</sup> through 19<sup>th</sup> at Valley Center Stage.

Councilmember Miller wished Burt Mann a happy 100<sup>th</sup> birthday. She mentioned a video production that included best wishes by community members and City staff for Mr. Mann and the decorating effort of "Burt's Bench" near the Post Office. Additionally, she echoed fellow Councilmember's comments regarding Public Works storm cleanup efforts.

Councilmember Gothelf commended Public Works staff for the storm cleanup effort and thanked them for hosting a Special Yard Waste Recycling event on January 21, 2023.

Councilmember Koellen noted she looked forward to Spring.

City Administrator Miller reported on the first session of the Citizens Academy which took place yesterday evening at City Hall.

Mayor McFarland spoke regarding the following items:

- Burt Mann's 100<sup>th</sup> Birthday
- Housing Action Plan Survey & March 1<sup>st</sup> Open House 5:30 – 6:30 p.m. @ City Hall
- King Conservation District Board of Supervisors Election
- Helpful Tips RE Vehicle Thefts
- February 14, 2023 Special Council Workstudy

**EXECUTIVE SESSION:**

Mayor McFarland recessed the regular meeting for an Executive Session at 8:27 p.m. to discuss collective bargaining negotiations, pursuant to RCW 42.30.140(4) and potential litigation, pursuant to RCW 42.30.110(1)(i). No action was anticipated as a result of the Executive Session, which was expected to last thirty minutes and videotaping of the meeting ceased.

At 8:55 p.m. it was announced to audience members outside the adjournment room that the Executive Session was expected to last an additional ten minutes.

The regular meeting reconvened at 9:03 p.m.

**ADJOURNMENT:**

Councilmember Loudenback **MOVED** to adjourn, seconded by Councilmember Koellen. The motion **PASSED** 7-0.

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The meeting adjourned at 9:03 p.m.

ATTEST:

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Rob McFarland, Mayor

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Susie Oppedal, City Clerk

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## City Council Agenda Bill

SUBJECT:	Agenda Date: February 21, 2023	AB23-022
<b>Ordinance Adopting a New Chapter 3.78 of the North Bend Municipal Code Relating to a Multifamily Tax Exemption Program</b>	Department/Committee/Individual	
Cost Impact: N/A	Mayor Rob McFarland	
Fund Source: N/A	City Administrator – David Miller	
Timeline: Immediate	City Attorney – Lisa Marshall	X
	City Clerk – Susie Oppedal	
	Administrative Services – Lisa Escobar	
	Comm. & Economic Development – Rebecca Deming	
	Finance – Richard Gould	
	Public Works – Mark Rigos	

**Attachments:** Ordinance, Exhibit A

### SUMMARY STATEMENT:

Under chapter 84.14 RCW, Washington cities with a population of 15,000 or more may establish a tax exemption program (“MFTE”) to stimulate the construction of new, rehabilitated, or converted multi-family housing within designated areas, including affordable housing. In addition, cities in “Buildable Lands” counties under RCW 36.70A.215 and the largest city in a GMA county where no city has 15,000 or more population may also utilize the MFTE Program. North Bend qualifies as a city in a “Buildable Lands” county and may use the MFTE Program.

When a project is approved under the attached Ordinance, the value of eligible multifamily housing improvements is exempted from property taxes for 8 or 12 years. Land, existing improvements, and non-residential improvements are not exempt. Only multiple unit projects with 4 or more units are eligible for either the 8- or 12-year exemption, and only property owners who commit to renting or selling at least 20 percent of units as affordable housing units to low and moderate income households are eligible for a 12-year exemption. If the property use changes in a manner inconsistent with program requirements before the 8- or 12-year exemption ends, back taxes are recovered based on the difference between the taxes paid and the taxes that would have been paid without the tax exemption.

Here, the target area in Appendix A to the Ordinance (the property subject to the MFTE Program) is the property located at 43600 SE 136th Street, North Bend, on three legal parcels identified as King County Tax Parcel Nos. 142308-9136, 142308-9135, 142308-9132.

At any time, the City may revise the Ordinance at any time to expand further the target area.

**APPLICABLE BRAND GUIDELINES:** Sustainable Managed Growth, Affordability

### COMMITTEE REVIEW AND RECOMMENDATION:

**RECOMMENDED ACTION:** **MOTION to approve AB23-022, an ordinance adopting North Bend Municipal Code 3.78 relating to a Multifamily Tax Exemption Program, as a first reading.**

### RECORD OF COUNCIL ACTION

Meeting Date	Action	Vote
February 21, 2023		



# ORDINANCE

**AN ORDINANCE OF THE CITY OF NORTH BEND,  
WASHINGTON, ADOPTING A NEW CHAPTER 3.78 OF  
THE NORTH BEND MUNICIPAL CODE RELATING TO  
A MULTIFAMILY TAX EXEMPTION PROGRAM;  
PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE**

**WHEREAS**, As provided for in Chapter 84.14 RCW, the City of North Bend desires to provide limited exemptions from ad valorem property taxation for multifamily housing in designated residential targeted areas; and

**WHEREAS**, Chapter 84.14 RCW sets forth the requirements of providing limited exemptions of a multifamily tax exemption (“MFTE”) Program; and

**WHEREAS**, the MFTE Program will encourage increased residential opportunities, including affordable housing units, within areas of the City designated by the City Council as residential targeted areas; and/or

**WHEREAS**, the MFTE Program will stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in designated residential targeted areas to increase and improve housing opportunities, including affordable housing; and

**WHEREAS**, the MFTE Program will assist in directing future population growth to designated residential targeted areas, thereby reducing development pressure on single-family residential neighborhoods; and

**WHEREAS**, the MFTE Program will achieve development densities which are more conducive to transit use in designated residential targeted areas;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:**

**Section 1.** A new North Bend Municipal Code Chapter 3.78, to be entitled “Multifamily Tax Exemption” attached hereto as Exhibit A and by this reference fully incorporated herein, is hereby adopted.

**Section 2. Severability:** Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

**Section 3. Effective Date:** This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL OF THE CITY OF NORTH BEND,  
WASHINGTON, AT A REGULAR MEETING THEREOF, THIS \_\_\_\_ DAY OF  
\_\_\_\_\_, 2023.**

**CITY OF NORTH BEND:**

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**Rob McFarland, Mayor**

**APPROVED AS TO FORM:**

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**Lisa Marshall, City Attorney**

**ATTEST/AUTHENTICATED:**

Published:

Effective:

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**Susie Oppedal, City Clerk**

**Chapter 3.78**

**MULTIFAMILY PROPERTY TAX EXEMPTION**

Sections:

- 3.78.010 PURPOSE.
- 3.78.020 DEFINITIONS.
- 3.78.030 APPLICABILITY.
- 3.78.040 TERMS OF THE TAX EXEMPTION.
- 3.78.050 PROJECT ELIGIBILITY.
- 3.78.060 APPLICATION PROCEDURE.
- 3.78.070 APPLICATION FOR CONDITIONAL CERTIFICATE.
- 3.78.080 EXTENSION OF CONDITIONAL CERTIFICATE.
- 3.78.090 APPLICATION FOR FINAL CERTIFICATE.
- 3.78.100 ISSUANCE OF FINAL CERTIFICATE.
- 3.78.105 AFFORDABLE HOUSING CAPITAL FUND.
- 3.78.110 ANNUAL COMPLIANCE REVIEW.
- 3.78.120 CANCELLATION OF TAX EXEMPTION.
- 3.78.130 CONFLICT OF PROVISIONS.

**3.78.010 PURPOSE.**

As provided for in Chapter 84.14 RCW, the purpose of this chapter is to provide limited exemptions from ad valorem property taxation for multifamily housing in designated residential targeted areas to:

- (a) Encourage increased residential opportunities, including affordable housing units, within areas of the City designated by the City Council as residential targeted areas; and/or
- (b) Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in designated residential targeted areas to increase and improve housing opportunities, including affordable housing; and
- (c) Assist in directing future population growth to designated residential targeted areas, thereby reducing development pressure on single-family residential neighborhoods; and
- (d) Achieve development densities which are more conducive to transit use in designated residential targeted areas.

**3.78.020 DEFINITIONS.**

When used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- (a) "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty (30) percent of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low- or moderate-income households.
- (b) "Building codes" means the City and state building and fire codes as set forth in this Code.
- (c) "City" means the City of North Bend.
- (d) "Department" means the City Department of Community Development.
- (e) "Director" means the Director of the Department of Community Development, or designee.

## EXHIBIT A

(f) "High-cost area" means a county where the third quarter median house price for the previous year as reported by the Washington Center for Real Estate Research at Washington State University is equal to or greater than one hundred thirty (130) percent of the statewide median house price published during the same time period.

(g) "Household" means a single person, family, or unrelated persons living together.

(h) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty (80) percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development. For cities located in high-cost areas, "low-income household" means a household that has an income at or below one hundred (100) percent of the median family income, adjusted for family size, for the county where the project is located.

(i) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty (80) percent but is at or below one hundred fifteen (115) percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States Department of Housing and Urban Development. For cities located in high-cost areas, "moderate-income household" means a household that has an income that is more than one hundred (100) percent, but at or below one hundred fifty (150) percent, of the median family income adjusted for family size, for the county where the project is located.

(j) "Multifamily housing" means a building having ten (10) or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

(k) "Multifamily property tax exemption" means an exemption from ad valorem property taxation for multifamily housing.

(l) "Owner" means the property owner of record.

(m) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a non-transient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one (1) month. This excludes hotels and motels that predominantly offer rental accommodation on a daily or weekly basis.

(n) "Rehabilitation improvements" means modifications to existing structures that are vacant for twelve (12) months or longer that are made to achieve a condition of substantial compliance with existing building, fire, and zoning codes, or modification to existing occupied structures which increase the number of multifamily housing units.

(o) "Residential targeted area," also "residential target area," means the geographic area located within the areas set forth in attached Appendix A, as may now or hereafter be modified.

(p) "Substantial compliance" means compliance with all local building, fire and zoning code requirements, which are typically required for rehabilitation as opposed to new construction.

### **3.78.030 APPLICABILITY.**

Multifamily housing projects in designated residential targeted areas resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings may be entitled to a limited exemption from ad valorem property taxation as set forth in this chapter.

### **3.78.040 TERMS OF THE TAX EXEMPTION.**

(a) Duration of Exemption. The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

(i) For properties for which applications for certificates of tax exemption eligibility are submitted under this chapter, the value is exempt:

## EXHIBIT A

(A) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate; or

(B) For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate if the property otherwise qualifies for the exemption under this chapter and meets the conditions in this section. For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this section may be satisfied solely through housing affordable to moderate-income households; and

(C) Such additional periods as may be authorized under Chapter 84.14 RCW and approved by the City under the contract required by NBMC 3.78.070(b).

(b) The exemptions provided in this section do not include the value of land or nonhousing-related improvements not qualifying under this Chapter.

(c) For properties receiving an exemption as provided in (a)(ii)(B) of this subsection that are in compliance with existing contracts and where the certificate of tax exemption is set to expire after June 11, 2020, but before December 31, 2021, the exemption is extended until December 31, 2021, provided that the property must satisfy any eligibility criteria or limitations provided in this chapter as a condition to the existing exemption for a given property continue to be met. For all properties eligible to receive an extension pursuant to this subsection (1)(c), the City Administrator shall notify the King County Assessor and the applicant of the extension of the certificate of tax exemption.

(d) Following the City's adoption of guidelines pursuant to RCW 84.14.030(2) and includes conditions that must be satisfied with respect to individual dwelling units, rather than with respect to the multiple-unit housing as a whole or some minimum portion thereof, the exemption may, at the City's discretion, be limited to the value of the qualifying improvements allocable to those dwelling units that meet the guidelines.

(e) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to the submission of the application required under this Chapter. The incentive provided by this Chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

(e) This chapter does not apply to increases in assessed valuation made by the assessor on non-qualifying portions of building and value of land nor to increases made by lawful order of the county board of equalization, the department of revenue, or King County, to a class of property throughout the county or specific area of the County to achieve the uniformity of assessment or appraisal required by law.

(f) At the conclusion of the exemption period, the new or rehabilitated housing cost shall be considered as new construction for the purposes of chapter 84.55 RCW

#### **3.78.050 PROJECT ELIGIBILITY.**

A proposed multifamily housing project must meet the following requirements for consideration for a property tax exemption:

(a) Location. The project must be located within a residential targeted area as defined in NBMC 3.78.020 and as set forth in Figures 3.78(a) through 3.78(g), and depicted in Appendix A..

(b) Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. If the property proposed to be rehabilitated is not vacant, an applicant shall provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.

## EXHIBIT A

(c) Noncompliance with Building Codes. Existing dwelling units proposed for rehabilitation must fail to comply with one or more standards of the applicable State or City building codes.

(d) Size of Project. The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty (50) percent of the space for permanent residential occupancy. The project, whether new, converted, or rehabilitated multiple-unit housing, must include at least ten (10) units of multifamily housing within a residential structure or as part of an urban development. In the case of existing multifamily housing that is occupied or which has not been vacant for twelve (12) months or more, the multifamily housing project must also provide for a minimum of four (4) additional multifamily units for a total project of at least ten (10) units including the four (4) additional units. Existing multifamily housing that has been vacant for twelve (12) months or more does not have to provide additional units.

(e) Proposed Completion Date. New construction of multifamily housing and rehabilitation improvements must be completed within three (3) years from the date of approval of the application.

(f) Compliance with Guidelines and Standards. The project must be designed to comply with the City's Comprehensive Plan, building, housing, and zoning codes, and any other applicable regulations. The project must also comply with any other standards and guidelines adopted by the City for the residential targeted area.

### **3.78.060 APPLICATION PROCEDURE.**

A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

(a) The application provided by the City shall be filed with the Department along with the required fees as established pursuant to RCW 84.14.080.

(b) A complete application shall include:

- (1) A completed City of North Bend application form setting forth the grounds for the exemption.
- (2) Preliminary floor and site plans of the proposed project.
- (3) A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter.
- (4) An affidavit stating the occupancy record of the property for a period of twelve (12) months prior to filing the application.
- (5) Verification by oath or affirmation of the information submitted.

(6) For rehabilitation projects, the applicant shall provide a report prepared by a registered architect identifying property noncompliance with the building codes. This report shall identify specific code violations and must include supporting data that satisfactorily explains and proves the presence of a violation. Supporting data must include a narrative and such graphic materials as needed to support this application. Graphic materials may include, but are not limited to, building plans, building details, and photographs.

### **3.78.070 APPLICATION FOR CONDITIONAL CERTIFICATE.**

The Director may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within ninety (90) calendar days of receipt of a complete application.

(a) Application. The Director may approve the application if he/she finds that:

(1) A minimum of ten (10) new units are being constructed or in the case of occupied rehabilitation or conversion within twelve (12) months of occupancy, a minimum of four (4) additional multifamily units for a total project of at least ten (10) units including the four (4) additional multifamily units are being developed.

(2) The proposed project is or will be, at the time of completion, in conformance with all applicable local plans and regulations.

## EXHIBIT A

- (3) The owner has complied with all standards and guidelines adopted by the City under this chapter.
- (4) The site is located in the residential targeted area.
- (5) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in this Code.

(b) Approval of Application. If an application is approved, the applicant shall enter into a contract with the City, regarding the terms and conditions of implementation of the project, and the Director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three (3) years from the date of approval unless an extension is granted as provided in this Chapter. For purposes of this Chapter, a development agreement entered with the City under Chapter 36.70B RCW may constitute the contract regarding the MFTE and project approval.

(c) Denial of Application. If an application is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten (10) calendar days of the denial.

(d) Appeal. Under RCW 84.14.070, an applicant may appeal a denial to the City's hearing examiner within thirty (30) calendar days of receipt of the denial by filing a complete appeal application and fee with the Director. The appeal will be based on the record made before the Director. The Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The City hearing examiner's decision on appeal will be final.

### **3.78.080 EXTENSION OF CONDITIONAL CERTIFICATE.**

(a) Extension. The conditional certificate and time for completion of the project may be extended by the Director for a period not to exceed a total of twenty-four (24) consecutive months. To obtain an extension, the applicant must submit a written request with a fee stating the grounds for the extension. An extension may be granted if the Director determines that:

- (1) The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
- (2) The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
- (3) All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.

(b) Denial of Extension. If an extension is denied, the Director shall state in writing the reason for denial and shall send notice to the applicant's last known address within ten (10) calendar days of the denial.

(c) Appeal. Pursuant to RCW 84.14.090(6), an applicant may appeal the denial of an extension to the Hearing Examiner within fourteen (14) calendar days of receipt of the denial by filing a complete appeal application and fee with the Director. The appeal before the Hearing Examiner shall be processed as a Type I Director decision pursuant to Chapter 2.20 NBMC. No appeal to the City Council is provided from the Hearing Examiner's decision. The applicant may appeal the Hearing Examiner's decision to the King County Superior Court, under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty (30) calendar days of receiving notice of that decision.

### **3.78.090 APPLICATION FOR FINAL CERTIFICATE.**

Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a certificate of occupancy, the applicant may request a final certificate of tax exemption by filing with the Director the following:

- (a) A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
- (b) A description of the completed work and a statement of qualification for the exemption;

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- (c) A statement that the work was completed within the required three (3) year period or any authorized extension; and
- (d) If applicable, that the project meets the affordable housing requirements as described in RCW 84.14.020.

**3.78.100 ISSUANCE OF FINAL CERTIFICATE.**

Within thirty (30) calendar days of receipt of all materials required for a final certificate, the Director shall determine whether the specific improvements satisfy the requirements of the contract, application, and this chapter.

(a) **Granting of Final Certificate.** If the Director determines that the project has been completed in accordance with this chapter and the contract between the applicant and the City, and has been completed within the authorized time period, the City shall, within ten (10) calendar days of the expiration of the thirty (30) day review period above, file a final certificate of tax exemption with the King County Assessor.

(b) **Denial of Final Certificate.** The Director shall notify the applicant in writing that a final certificate will not be filed if the Director determines that:

- (1) The improvements were not completed within the authorized time period;
- (2) The improvements were not completed in accordance with the contract between the applicant and the City; or
- (3) The owner's property is otherwise not qualified under this chapter.

(c) **Appeal.** Pursuant to RCW 84.14.090(6), an applicant may appeal a denial to the Hearing Examiner pursuant to Chapter 2.20 NBMC within fourteen (14) calendar days of issuance of the denial of a final certificate by filing a complete appeal application and fee with the Director. No appeal to the City Council is provided from the Hearing Examiner's decision. The applicant may appeal the Hearing Examiner's decision to the King County Superior Court, under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty (30) calendar days of receiving notice of that decision.

**3.78.105 AFFORDABLE HOUSING CAPITAL FUND.**

If an application for the multifamily tax exemption is approved, the project has completed construction, and a final certificate of property tax exemption has been issued as set forth in NBMC 3.78.100, the City Administrator, or designee, shall transfer to the affordable housing capital fund revenues based on the anticipated sales tax received or to be received by the City for the construction of the project. The Director shall determine the value of the sales tax revenues to be transferred to the fund based on (1) the City's portion of the current sales tax rate for the construction, and (2) the estimated cost of construction as established in the building permit application and other relevant information as the Director deems appropriate. Once established, the funds will be transferred to the affordable housing capital fund at the beginning of the next fiscal year. The funds shall be used for affordable housing projects approved by the City Council, unless the funds are otherwise allocated by the City Council.

**3.78.110 ANNUAL COMPLIANCE REVIEW.**

(a) Within thirty (30) calendar days after the first anniversary of the date of filing the final certificate of tax exemption and each year for the tax exemption period, the property owner shall be required to file a notarized declaration with the Director indicating the following:

- (1) A statement of occupancy and vacancy of the multifamily units during the previous twelve (12) months;
- (2) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the City;
- (3) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and
- (4) Any information needed by the City to file its report pursuant to subsection (b) of this section and any additional information requested by the City in regards to the units receiving a tax exemption.

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(b) The City shall report annually by December 31st of each year after 2021 to the Department of Community, Trade, and Economic Development. The report must include the following information:

- (1) The number of tax exemption certificates granted;
- (2) The total number and type of units produced or to be produced;
- (3) The number and type of units produced or to be produced meeting affordable housing requirements;
- (4) The actual development cost of each unit produced;
- (5) The total monthly rent or total sale amount of each unit produced;
- (6) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption and a summary of these figures for the City; and
- (7) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

(c) City staff may also conduct on-site verification of the declaration. Failure to submit the annual declaration shall result in a review of the exemption per RCW 84.14.110.

**3.78.120 CANCELLATION OF TAX EXEMPTION.**

If the Director determines the owner is not complying with the terms of the contract or this chapter, the tax exemption shall be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multifamily housing to another use, the owner shall notify the Director and the King County Assessor in writing within sixty (60) calendar days of the change in use.

(a) Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the following taxes and penalties will apply:

- (1) Additional real property tax, plus interest, shall be imposed based upon the value of the nonqualifying improvements. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonqualifying use.
- (2) A penalty shall be imposed amounting to twenty (20) percent of the value of the additional property tax plus interest.
- (3) The interest is calculated at the same statutory rate charged on delinquent property taxes from the dates on which the additional property tax could have been paid without penalty if the improvements had been assessed at full value without regard to this tax exemption program.
- (4) The additional taxes, interest and penalties will become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable requirements. The lien has priority over and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(b) Notice of Cancellation. Pursuant to RCW 84.14.110(2), upon determining that a tax exemption is to be canceled, the Director shall notify the owner by mail, return receipt requested.

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(c) **Appeal.** The property owner may appeal the determination of cancellation of the tax exemption to the Hearing Examiner pursuant to Chapter 2.20 NBMC by filing a notice of appeal with the City Clerk within thirty (30) calendar days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing under Chapter 2.20 NBMC for a Process I action. An aggrieved party may appeal the Hearing Examiner's decision to the King County Superior Court under RCW 34.05.510 through 34.05.598.

**3.78.130 CONFLICT OF PROVISIONS.**

If any provision of this Chapter 3.78 NBMC is in legal conflict with the provisions of Chapter 84.14 RCW, the provisions of Chapter 84.14 RCW shall apply as if set forth in this chapter.

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#### **“Residential Targeted Area” includes:**

The property located at 43600 SE 136th Street, North Bend, on three legal parcels identified as King County Tax Parcel Nos. 142308-9136, 142308-9135, 142308-9132.