

Chapter 3.78

MULTIFAMILY PROPERTY TAX EXEMPTION

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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/or
- C. Assist in directing future population growth to designated Residential Targeted Areas, thereby reducing development pressure on single-family residential neighborhoods; and/or
- 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 Department of Community and Economic Development.
- E. “Director” means the Director of the Department of Community and Economic Development, or designee.
- 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 a High-Cost Area, “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 a High-Cost Area, “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, or modification to existing occupied structures which increase the number of Multifamily Housing units.

O. “Residential Targeted 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:

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

a. For eight (8) successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate and 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); or

b. For twelve (12) successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate and 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) 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 (20) 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.

B. The exemptions provided in this section do not include the value of land or nonhousing-related improvements not qualifying under this chapter.

C. Following the City's adoption of guidelines pursuant to RCW 84.14.030(2) including 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.

D. 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 described 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;

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; and

F. Compliance with Guidelines and Standards. The project must be designed to comply with the City's Comprehensive Plan, building, housing, zoning codes, associated development agreement, 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.

An 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; and
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;
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; and
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 into 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;
- 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;
3. The improvements do not comply with a development agreement associated with the project; or
4. 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 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.

B. The City is authorized by RCW 84.14.080 to collect from the Owner an estimated fee representing the City's administrative costs associated with conducting the annual compliance review; failure of the Owner to submit the required fee to the City is a prerequisite to the City's completion of the annual compliance review herein and completion of the annual report set forth in NBMC 3.78.110(c).

C. The City shall report annually by December 31st of each year after 2023 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.

D 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; and
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.

C. Appeal. The 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.

APPENDIX A

“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.

