

# **2022-2031 Standards and Guidelines for the Multi-Unit Housing Tax Incentive Program**

## ***Introduction***

The following administrative guidance is designed for staff use in analyzing applications for the Multi-Unit Housing Tax Incentive Program and making recommendations to the City Council about their approval or denial. It draws on but does not expand the underlying concepts articulated in the state statute, ORS 307.600-690 (Appendix A), and the local ordinance, SRC 2.790–835 (Appendix B). The *Standards* section reiterates the minimum application and program participation requirements for both the applicant and the City. The *Guidelines* section discusses how to determine the degree to which the applicant’s proposal will meet the intent of the program. This document should be reviewed and revised periodically, as needed.

## ***Standards***

1. Eligibility
  - a. In order to be eligible the multi-unit housing proposal must include at least two dwelling units. Transient accommodations like hotels or motels do not qualify.
  - b. In order to be eligible the project must be located on property within the “Core Area” as defined in SRC 2.800 (c).
  - c. The project must include at least one public benefit as outlined in SRC 2.815. For projects with 50 or more units of multifamily housing, the project must provide at least 15% of the units at rents affordable to households at 80% of the average median income or less for the duration of the incentive. (Because these benefits are broadly defined, staff should use the *Guidelines* section of this document to weigh the value of the proposed project to the public against the loss of public revenue.)
  - d. Unless a project is specifically extended under SRC 2.835, the work must occur entirely within the program window established by the statute and ordinance, i.e. built after January 1, 2022 and completed on or before December 31, 2031.
2. Mandatory Preapplication Conference
  - a. The purpose of the preapplication conference is to determine eligibility, convey information about the program, and give the potential applicant preliminary feedback about the staff’s likely recommendation to the City Council based on the materials submitted.

- b. A preapplication conference must be requested before September 1 of the year prior to the calendar year in which the tax benefit is sought, e.g. an applicant seeking benefit beginning in 2023 must request a preapplication conference before September 1, 2022.
- c. The submission requirements for a preapplication conference are outlined in SRC 2.805 (a) and also on the preapplication form made available by the Urban Development Department. Preapplications containing all the required information but not submitted on department forms should be accepted.
- d. Staff should review the preapplication submission, and prior to meeting with the applicant, consult with other potentially interested parties e.g. departments, agencies, advisory bodies, etc. Concerns expressed by these parties should be conveyed to the applicant at the conference. However, it should be stressed to the applicant that approval of a Multi-Unit Housing Tax Incentive application in no way implies approval of the project by any other public agency or department having jurisdiction over the project.
- e. After the preapplication conference, staff should provide the applicant with a timely written summary of the meeting, including recommendations about items needed to make a viable application, and outlining the application procedure and timeline.

### 3. Application Procedure

- a. A complete application must be received by December 1 of the year prior to the year in which the tax benefit is sought, e.g. an applicant seeking benefit beginning in 2023 must submit a complete application no later than December 1, 2022.
- b. The submission requirements for a complete application are outlined in SRC 2.810 (a) and also on the application form made available by the Urban Development Department. It is important for submissions to be complete and made on the official form. Minor omissions can be rectified after an application is accepted, but substantially incomplete applications should be returned without accepting the fee.
- c. Payment of the application fee as set by the City Council as provided in the City of Salem Master Fee Schedule: <https://www.cityofsalem.net/CityDocuments/city-of-salem-fees.pdf> .
- d. Pursuant to ORS 307.660 (4), if the application is approved, the City, after first deducting expenses attributable to its own administrative costs, conveys the application fee to the County Assessor for deposit in the County General Fund. If

the application is denied, the City retains that portion of the fee attributable to its administrative costs and refunds the balance to the applicant

#### 4. Application Review and Decision

- a. Staff should recommend approval, denial, or approval with reasonable conditions, based on conformance with the criteria outlined in SRC 2.825 (a). An analysis comparing the relative values of the public benefit provided and the foregone taxes should be provided as part of the recommendation. Because some of the public benefit categories are not easy to quantify, the *Guidance* section of this document provides discussion of the intent of the program.
- b. The City Council, at its discretion, may hold a public hearing, and shall make its decision in the form of a resolution, as an approval, an approval with reasonable conditions, or a denial, within 180 days of accepting the application. The resolution must include the owner's name and address, a description of the proposed housing, either a legal description or the assessor's parcel number, and any specific conditions on which the approval is based. Resolutions require significant lead time for legal review.
- c. Applications not acted upon within 180 days of receipt are automatically approved.
- d. If the application is denied, a notice of denial stating the reasons for the denial, must be sent to the applicant within ten days.
- e. For approved applications, a notice of approval must be sent to the applicant on or before the April 1 following approval. The same document must be sent to the county assessor along with a copy of the complete application and the adopted resolution approving the application.
- f. Qualified improvements under this program will be exempt from ad valorem taxation for no more than ten successive years.
- g. On or before December 1 of each year, the owner of a property participating in the program shall submit a report to the Urban Development Director verifying the continuation of all applicable public benefits. The Director will review the report and forward it to the City Council.

#### 5. Termination

- a. If the Urban Development Department finds the project has not been completed by December 31, 2031, or that any conditions of the approval are not being met,

the Director shall send the owner of the property a notice of termination of the exemption.

- b. The notice will list the reasons for termination and require the owner to appear before the City Council within twenty days to show cause why the exemption should not be terminated.
- c. If the owner does not appear and show cause, the Director will send the notice of termination to all known lenders and allow them thirty days to cure noncompliance or show, to the satisfaction of the Director, how it will be cured in a reasonable amount of time.
- d. If neither the owner nor any lenders show cause why the exemption should not be terminated, the City Council will adopt a resolution stating findings and terminating the exemption. Copies of the adopted resolution will be sent to the owner and the county assessor within ten days of adoption.

6. Extensions

- a. If the City Council finds that, owing to circumstances beyond the control of an owner who is acting in good faith, the multi-unit housing cannot be completed by December 31, 2031, it may grant an extension of up to one year.

***Guidelines***

These materials provide research background for staff in preparing recommendations to the City Council on applications for the Multi-Unit Housing Tax Incentive program. It is important to keep the original mass transit supportive intent of the statute in mind, as expressed in ORS 307.600 1-5, and the local enabling ordinance, as expressed in SRC 2.790 (a). The program is basically established as a balanced exchange of public benefit for an exemption from future property taxation, so recommendations should, to the extent practicable, determine and clearly lay out, those relative values.

The following discussion points are organized around the nineteen forms of public benefit, as listed in SRC 2.815 (a), which the applicant may provide for in a proposal. Some of these benefits are intangible or difficult to quantify. In cases where these are proposed, the staff should nonetheless include discussion in the recommendation. For projects with 50 or more units of multifamily housing, the project must provide at least 15% of the units at rents affordable to households at 80% of the average median income or less for the duration of the incentive. Note that the public benefits do not necessarily have to be open to the public at large.

1. Units at sales prices or rental rates which are accessible to a broad income range of the general public. There are two ways the intent of this benefit could be met: by providing a variety of differently valued units within a development, or by providing units in a value range not well represented in the designated core area, as determined by economic studies or market analysis.
2. Recreation facilities. The term “recreation facility” is not defined, but given the other possible public benefits, should probably be construed rather narrowly to exclude entertainment venues like bingo halls or theaters.
3. Open spaces. Generally these are thought of as occurring at ground level, but roof gardens are also considered open spaces.
4. Common meeting rooms. This would not refer to a conference room internal to a business, but rather to one that is available for rent or free use by any group.
5. Day care facilities. The Salem Revised Code refers to both adult and child day care facilities, and since this ordinance does not differentiate, both would be acceptable as benefits, assuming the underlying zoning allowed them.
6. Facilities supportive of the arts. This broadly stated category can be construed to include facilities like galleries, performance venues, offices for cultural groups, theaters, etc.
7. Facilities for the handicapped. This should not be construed as simply providing compliance with ADA code requirements. It would apply to provisions above and beyond those required by the code, such as including fully accessible dwelling units, or retrofitting a legal but non-conforming building with an elevator.
8. Service or commercial uses which are permitted and needed at the project site but not available for economic reasons. The key in this instance is that the burden of demonstrating economic infeasibility must lie with the applicant.
9. Special architectural features. This very broad category is difficult to interpret, and again the burden of proof lies with the proponent. It could be construed to include such things as the use of extraordinary materials or the restoration of missing historic features based on photographic or physical evidence.
10. Dedication of land or facilities for public use. As used here, the term “public use” appears to refer to dedications like park land or path right of way.
11. Development or redevelopment of underutilized or blighted property. The terms underutilized and blighted are somewhat subjective. Applicants should supply their reasoning in making a determination that the subject property is blighted or underutilized.

12. Provision of pedestrian-oriented design features. As typically used the term “pedestrian-oriented” includes such amenities as storefronts, sidewalk seating, drinking fountains, dedicated pathways, etc.
13. Extra costs associated with infill or redevelopment projects, such as land assembly, environmental cleanup, demolition, and infrastructure replacement or expansion. As above, demonstration of extra cost is the responsibility of the applicant and it should include some comparative basis for the argument.
14. Development in structures that may include ground level commercial space. This category is fairly straightforward. It appears to allow for proposals which do not but could reasonably include commercial space at ground level.
15. Development on sites with existing single-story commercial structures. This is a straightforward criterion.
16. Development on existing surface parking lots. This is a straightforward criterion.
17. Leadership in Energy and Environmental Design Certification of the project. Commonly referred to as LEED Certification, note that the designation is available at several different levels, e.g. platinum, gold, silver, bronze, of varying value as a public benefit. The applicant should provide preliminary certification in support of a claim under this category.
18. Provision of parking spaces within the structure. This provision would be most valuable in dense areas where parking is already at a premium.
19. Provision of amenities and/or programs supportive of the use of mass transit. Note that both actual amenities e.g. bus shelters, and programs, e.g. availability of ride-share participation to residents, are eligible public benefits.