

ORDINANCE NUMBER 35-17

AN ORDINANCE OF THE MASON COUNTY BOARD OF COMMISSIONERS AMENDING TITLE 17 OF THE MASON COUNTY CODE, CHAPTER 17.90 "MULTI-FAMILY HOUSING TAX INCENTIVE PROGRAM", A PROGRAM THAT PROVIDES EXEMPTIONS FROM AD VALOREM PROPERTY TAXATION FOR NEW, CONVERTED, AND REHABILITATED MULTI-FAMILY HOUSING

AN ORDINANCE of the Mason County Board of Commissioners ("Commissioners") to amend Title 17 of the Mason County Code, Chapter 17.90 "Multi-Family Housing Tax Incentive Program", a program that provides exemptions from Ad Valorem Property Taxation for new, converted and rehabilitated multi-family housing to ensure its implementation and increase affordable housing in target areas.

WHEREAS, Mason County Code 17.90, under the authority of Washington State law, Chapter 84.14 Revised Code of Washington 23 (RCW), provides for the exemption from ad valorem property taxation for the value of eligible improvements associated with qualifying multi-family housing located in residential targeted areas and authorizes the County to designate said residential targeted areas; and

WHEREAS, a stated purpose of Chapter 84.14 RCW is to allow unincorporated areas of rural counties that are within urban growth areas to increase residential opportunities by stimulating construction of new multi-family housing and the rehabilitation of existing vacant and under-utilized buildings where there are insufficient residential opportunities; and

WHEREAS, Chapter 84.14 RCW, recognizes rural counties as those with a population between fifty thousand and seventy-one thousand and bordering the Puget Sound; and

WHEREAS, RCW 84.14 limits residential targeted areas designated by a rural county, to areas served by public sewer and adopted as an urban growth area prior to January 1, 2013; and

WHEREAS, the Commissioners support a successful multi-family housing tax incentive program and increased affordable housing in the designated Residential Targeted Areas of Allyn, Belfair, and Shelton urban growth areas through the adoption of Resolution No. 41-14; and

WHEREAS, the Commissioners have determined that amendments to the Mason County Code are necessary to make the Multi-Family Housing Tax Incentive Program viable; and

WHEREAS, the Commissioners find that it is in the public interest to adopt the amendments described above;

NOW THEREFORE, BE IT HEREBY ORDAINED, by the Board of Commissioners of Mason County that:

Title 17, "Zoning", Chapter 17.90 of the Mason County Code is hereby amended as set forth in Attachment A, which is attached hereto and incorporated herein by reference.

DATED this 27 day of June 2017.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

ATTEST:




Melissa Drewry, Clerk of the Board



Kevin Shutty, Chair

APPROVED AS TO FORM:



Tim Whitehead, Chief DPA



Terri Jeffreys, Commissioner



Randy Neatherlin, Commissioner

Chapter 17.90 - MULTIFAMILY HOUSING TAX INCENTIVE PROGRAM

17.90.010 - Purpose.

The purpose of the multifamily housing tax incentive program is to stimulate the construction of new multifamily housing in residential targeted areas of the urban growth areas where housing options, including affordable housing options, are severely limited. This chapter provides the value of new housing construction, conversion, and rehabilitation improvements qualifying under Chapter 84.14 RCW an exemption from ad valorem property taxation for up to eight or twelve years, as provided for in RCW 84.14.020(1)(a)(ii), in order to provide incentives to developers to construct new multifamily housing thereby increasing the number of affordable housing units for low to moderate-income residents in the urban areas of certain rural counties.

This program is intended to make available solutions to the problems of urban sprawl by providing incentive and implementation techniques that encourage residential development in those urbanized areas lacking a sufficient variety of residential opportunities, including affordable housing opportunities, through a tax incentive program as provided by this chapter.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.020 - Authority.

This chapter is applicable to multifamily housing projects located in designated residential targeted areas resulting from new construction, rehabilitation, or conversion of vacant, underutilized, or substandard buildings which seek limited exemptions from ad valorem property taxation in accordance with Chapter 84.14 RCW.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.030 - Definitions.

As used in this chapter, the following terms shall have the following meanings:

- (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 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) "Board of county commissioners" or "commissioners" means the local legislative authority of Mason County having jurisdiction over the property for which an exemption may be applied for under chapter.
- (c) "Construction" means the erection, alteration, or extension of a structure.
- (d) "Conversion" means a change in the use of land or a structure.
- (e) "Director" means the director of community development or his/her designee.
- (f) "Growth Management Act" means Chapter 36.70A RCW.
- (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 fifty 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. The eligibility requirements vary for twelve-year exemption projects. See section 17.90.070(d)ii.

- (i) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen 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. The eligibility requirements vary for twelve-year exemption projects. See section 17.90.070(d)ii.
- (j) "Multiple-unit housing" means a building having four 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) "Owner" means the property owner of record.
- (i) "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 month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.
- (m) "Rehabilitation" means the physical improvement, remodeling, or partial reconstruction of existing structures rather than their demolition or replacement.
- (n) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.
- (o) "Residential targeted area" means an area within an urban growth area that has been designated by the governing authority as a residential targeted area in accordance with Chapter 84.14 RCW.
- (p) "Rural county" means a county with a population between fifty thousand and seventy-one thousand, and bordering Puget Sound.
- (q) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.040 - Residential targeted area designation criteria.

Following a public hearing, as prescribed in RCW 84.14.040, the board of county commissioners, in its sole discretion, shall designate one or more residential targeted areas. Each designated residential targeted area must meet the following criteria, as determined by the commissioners:

- (a) The targeted area is located within an urban growth area; and
- (b) The targeted area lacks sufficient available, desirable, and convenient residential housing to meet the needs of the public who would likely live in the urban growth area if desirable, attractive, and livable places were available; and
- (c) The providing of additional housing opportunity in the targeted area will assist in achieving the stated purpose of this chapter; and
- (d) The targeted area must be served by a sewer system at the time of occupancy.

i. Capital Facility Charges for connection to the Belfair Sewer System will be reduced to \$5000 per dwelling unit. No further reductions per ERU would apply.

ii. If the tax exemption is canceled prior to the sunset date, Capital Facilities Charges would be reinstated at the rate which was current at the time of application less those charges already paid.

iii. The reduction in connection charges will sunset with the multi-family housing tax incentive.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.050 - Residential targeted area standards and guidelines.

For each designated residential targeted area, the commissioners shall adopt standards and guidelines, including an application process as required under RCW 84.14.060. The requirements for new construction, conversion, and rehabilitation supported by the property tax exemption for multifamily housing including the following:

- (a) Application process and procedures;
- (b) Requirements that address demolition of existing structures and site utilization; and
- (c) A property owner seeking tax incentives under this chapter must commit to renting or selling a percentage of the multifamily housing units as affordable housing units to low and moderate-income households. In the case of multiunit housing intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.060 - Designated residential targeted areas.

Residential Targeted Areas. The following areas are designated as residential targeted areas for the purposes of this chapter:

- (a) Allyn Residential Targeted Area. This includes eligible parcels located in the following zoning districts: Rural recreational (R-1R), medium-density multifamily residential (R-2), high-density multifamily residential (R-3), and residential platted (R-1P).
- (b) Belfair Residential Targeted Area. This includes eligible parcels located in the following zoning districts: Low-density residential (R-4), medium density residential (R-5), multifamily residential (R-10), festival retail (FR), and mixed use (MU).
- (c) Shelton Residential Targeted Area. This includes eligible parcels located in the following zoning districts: Neighborhood residential (NR) and low-intensity mixed use (MU).

(Ord. No. 06-15, § 1(att. A), 2-10-2015)

17.90.070 - Property tax exemption: requirements and process.

- (a) Intent. Limited exemptions from ad valorem property taxation for multifamily housing in urban growth areas are intended to:
 - i. Encourage increased residential opportunities within the targeted area; and
 - ii. Stimulate the construction of new multifamily housing and the conversion or rehabilitation of existing vacant and underutilized buildings for multifamily housing; and
 - iii. Reduce sprawl by encouraging residential development in the urban area help achieve the planning goals mandated by the Growth Management Act.

- (b) Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation for eight or twelve successive years (depending on the percentage of affordable housing units as described in subsections (d)i. and (d)ii. below, beginning January 1 of the year immediately following the calendar year of issuance of the final certificate of tax exemption.
- (c) Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.
- (d) Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:
 - i. Eight-Year Exemption Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:
 - (1) Location. The project must be located within a residential target area, as designated in section 17.90.060.
 - (2) Percentage of Affordable Housing Units. 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 under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate-income households.
 - (3) Size. The project must include at least four units of multifamily housing within a residential structure. A minimum of four new units must be constructed or at least four additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for twelve months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multifamily housing.
 - (4) Permanent Residential Occupancy. At least fifty percent of the space designated for multifamily housing must be provided for permanent residential occupancy/ as defined in section 17.90.030.
 - (5) Proposed Completion Date. New construction multifamily housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.
 - (6) Compliance With Guidelines and Standards. The project must be designed to comply with the county's comprehensive plan, building, housing, and zoning codes and any other applicable regulations in effect at the time the application is approved. Rehabilitation and conversion improvements must comply with the county's minimum housing code. New construction must comply with the uniform building code. The project must also comply with any other standards and guidelines adopted by the board of county commissioners for the residential target area in which the project will be developed.
 - ii. Twelve-Year Exemption Project Eligibility. A proposed project must meet the following requirements for consideration for a twelve-year property tax exemption:
 - (1) All requirements set forth in subsection i. above, with the exception of (2); and
 - (2) The applicant must commit to renting or selling at least 50 percent of the multifamily housing units as affordable housing units to low and moderate-income households respectively, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted under this chapter. "Low-income" includes households with incomes at or below fifty percent of the area median income as defined by the United States Department of Housing and Urban Development ("HUD"). "Moderate-

income" includes households with incomes at or below eighty percent as defined by HUD. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate income households whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by HUD.

(e) Application Requirements.

- i. The project must be located within a residential targeted area, as designated in MCC section 17.90.060.
- ii. The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy. In the case of existing occupied multifamily development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units.
- iii. New construction of multifamily housing and conversion or rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.
- iv. Property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995. If the property proposed to be rehabilitated is not vacant, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate; and
- v. The applicant must enter into a contract with the county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority. The applicant must commit to renting or selling a percentage of the multifamily housing units as affordable housing units to low and moderate-income households, based on the length of the exemption, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the county under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate income households.

(f) Application Procedure. A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

- i. File with the department of community development the required application along with the required fees.
- ii. A complete application shall include:
 1. A completed application form setting forth grounds for the exemption;
 2. Preliminary floor plan, site plan, and building elevation of the proposed project;
 3. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter;
 4. Verification by oath or affirmation of the information submitted; and
 5. For rehabilitation projects and for new development on property upon which an occupied residential rental structure previously stood, the applicant shall also submit an affidavit that the dwelling units have been unoccupied for a period of twelve prior to filing the application.

(g) Application Review and Issuance of 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 forty-five days of receipt of a complete application.

- i. Approval. If an application is approved, the applicant shall enter into a contract with the county, subject to approval by resolution of the commission, regarding the terms and conditions of the project. This contract may include provisions for discounting Capital Facilities Charges related to sewer connection. This CFC discount shall be no lower than .5 multiplied by the number of dwelling units (ERUs for a multifamily structure not receiving the Multi-Family Housing Tax Incentive are currently defined as the number of dwelling units multiplied by 0.7). Upon commission approval of the contract, the director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate expires three years from the date of approval unless an extension is granted as provided in this chapter. An application may not be approved on or after January 11 2020 (RCW 84.14.060(3)).
 - ii. Denial. 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 days of the denial. An applicant may appeal a denial to the hearing examiner within fourteen days of receipt of notice (section 15.11.020 MCC). On appeal, 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 hearing examiner's decision on appeal will be final.
- (h) Extension of Conditional Certificate. The conditional certificate may be extended by the director one time for a period not to exceed twenty-four consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by the required processing fee. An extension may be granted if the director determines that:
- i. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
 - ii. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
 - iii. All the conditions of the original contract between the applicant and the county will be satisfied upon completion of the project.
- (i) Application for Final Certificate. Upon completion of the improvements agreed upon in the contract between the applicant and the county and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant must file with the department of community development the following:
- i. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
 - ii. A description of the completed work and a statement of qualification for the exemption;
 - iii. A statement that the work was completed within the required three-year period or any authorized extension; and
 - iv. A statement that the project meets the affordable housing requirements described in MCC 17.90.070(e)v. Within thirty days of receipt of all materials required for a final certificate, the director shall determine which specific improvements satisfy the requirements of this chapter.
- (j) Issuance of Final Certificate. If the director determines that the project has been completed in accordance with the contract between the applicant and the county and has been completed within the authorized time period, the county shall, within ten days, file a final certificate of tax exemption with the Mason County Assessor's Office.
- i. Denial and Appeal. 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 authenticated time period;
 - (2) The improvements were not completed in accordance with the contract between the applicant and the county; or
 - (3) The owner's property is otherwise not qualified under this chapter.

- ii. Within fourteen days of receipt of the director's denial of a final certificate, the applicant may file an appeal with the hearing examiner, as provided in section 15.11.020 MCC. The hearing examiner's decision on appeal will be final.
- (k) Annual Compliance Review.
- i. Within thirty days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter for a period of twelve years, the property owner shall file a notarized declaration with the director indicating the following:
 - (1) A statement of occupancy and vacancy of the multifamily units during the previous year;
 - (2) A certification that the property continues to be in compliance with the contract with the county and, if applicable, a certification of affordability based on documentation that the property is in compliance with the affordable housing requirements as described in MCC 17.90.070(e)v.; and
 - (3) A description of any subsequent improvements or changes to the property. County staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.
 - ii. The director shall report all issued certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, annually by December 31 of each year, beginning in 2007, to the department of commerce. 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 or county; and
 - (7) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.
- (l) Cancellation of Tax Exemption. If the director determines the owner is not complying with the terms of the contract, the tax exemption will 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 must notify the director and the Mason County Assessor within sixty days of the change in use.
- i. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Mason County Assessor may impose an additional tax on the property, together with interest and penalty, and a priority lien may be placed on the land pursuant to state legislative provisions.
 - ii. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the director shall notify the property owner by certified mail. The property owner may appeal the determination by filing a notice of appeal in accordance with chapter 15.11 MCC within fourteen days specifying the factual and legal basis for the appeal. The hearing examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The hearing examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. The hearing examiner's decision shall be final.

(Ord. No. 06-15, § 1(att. A), 2-10-2015)