

**ORDINANCE NO. XXXX**

**AN ORDINANCE OF THE CITY OF ENUMCLAW, KING COUNTY, WASHINGTON, ADOPTING A NEW CHAPTER 3.60 OF THE ENUMCLAW MUNICIPAL CODE, RELATING TO THE IMPOSITION OF A MULTI-FAMILY HOUSING TAX EXEMPTION PROGRAM.**

**Whereas**, chapter 84.14 RCW authorizes a multi-family housing tax exemption to encourage increased residential opportunities in cities where the city's governing authority has found there are insufficient housing opportunities; and

**Whereas**, the purpose of the exemption is to stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for such housing in urban centers having insufficient housing opportunities; and

**Whereas**, the City Council finds there are insufficient housing opportunities in the City's urban center; and

**Whereas**, the City Council finds that adoption of a multi-family housing tax exemption will encourage increase residential opportunities and stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for such housing and for other beneficial purposes; and

**Whereas**, the City Council finds that the construction of multi-family housing (excluding senior housing) not been constructed within the city since

90's; and

Ordinance No. XXXX

Date:

Ordinance Requested By:

Page 1

**Whereas**, on the basis of the foregoing, the City Council finds that adopting a multi-family housing tax exemption is in the public interest;

**Now, therefore, the City Council of the City of Enumclaw, King County, Washington do ordain as follows:**

**Section 1:** Enumclaw Municipal Code, Section 3.60, is hereby added which reads as follows:

**3.60.010 Purpose.**

It is the purpose of this ordinance to encourage new private multi-housing development and redevelopment within designated residential target areas to accommodate future population growth, provide places to live close to employment, shopping, entertainment, and transit services and encourage affordable housing where appropriate.

**3.60.020 Definitions.**

- 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. “Director” means the Community Development Director or authorized designee.
- C. “Growth management act” means chapter 36.70A RCW.
- D. “Household” means a single person, family or unrelated persons living together.
- E. “Low-income household” means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty 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 percent of the median family income adjusted for family size, for the county where the project is located.
- F. “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

Ordinance No. XXXX

Date:

Ordinance Requested By:

Page 2

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.

- G. “Multi-family housing” means buildings(s) having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.
- H. “Owner” means the property owner of record.
- I. “Permanent residential occupancy” means multi-family housing that provides either rental or owner occupancy for a period of at least one month. This excludes hotels and motels that predominantly offer rental accommodation on a daily or weekly basis.
- J. “Rehabilitation improvements” means modifications to existing structures, that are vacant for twelve months or longer, or modification to existing occupied structures which convert non-residential space to residential space and/or increase the of multi-family housing units.
- K. “Residential target area” means and area within an urban center or urban growth area that has been designated by the City Council as a residential targeted area in accordance with this chapter.
- L. “Urban center” means a compact identifiable district or districts containing several business establishments, adequate public facilities, and a mixture of uses and activities, where residents may obtain a variety of products and services. An urban center must contain:
  - 1. Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;
  - 2. Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and
  - 3. A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

### **3.60.030 Residential target area designation and standards.**

- A. Criteria. Following a public hearing, the city council may, in its sole discretion, designate one or more residential target areas. Each designated target area must meet the following criteria, as determined by the city council:
  - 1. The target area is located within an urban center or urban growth area;
  - 2. The target area lacks sufficient, available, desirable, affordable, and convenient residential housing to meet the needs of the public who would likely live in an urban center or urban growth area; and

Ordinance No. XXXX

Date:

Ordinance Requested By:

Page 3

3. The providing of additional housing opportunity in the target area will assist in achieving the following purposes
    - a. Encourage increased residential opportunities within the target area, including affordable housing opportunities; or
    - b. Stimulate the construction of new multi-family housing and/or the rehabilitation of existing vacant and under-utilized building for multi-family housing; or
    - c. Where appropriate, stimulate the construction, rehabilitation or conversion of existing vacant and underutilized multi-family rental units to owner occupied multi-family housing as such property as such property redevelops.
  4. In designating a residential target area, the city council may also consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain an increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions in the target area; whether an increased residential population in the target area will help achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The city council may, by ordinance, amend or rescind the designation of a residential target area at any time pursuant to the same procedures as set forth in this chapter for original designation.
  5. When designating a residential target area, the city council shall give notice of a hearing to be held on the matter and that notice shall be published once each week for two consecutive weeks, not less than seven days nor more than 30 days before the date of the hearing. The notice must state the time, date, place and purpose of the hearing and generally identify the area proposed to be designated.
- B. Target Area Standards and Guidelines. After designation of a residential target area, the city council shall adopt and implement standards and guidelines for both new construction and rehabilitation, including the application process and procedures and requirements that address demolition of existing structures and site utilization. The decision making process must include findings of compliance with RCW 84.14.060. The city council may also include parking, height, density, environmental impact, home ownership, public benefit features, compatibility with the surrounding property and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the residential target area. The

Ordinance No. XXXX

Date:

Ordinance Requested By:

Page 4

required (if any) amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.

- C. Designated Target Areas. The “following residential target areas” are designated in the City of Enumclaw:
1. Downtown District: Located within the CB1, CB2, HCB & GO Zoning districts located within the mixed-use overlay zones.
  2. Multi-family zoning: All properties in the city zoned R-4 Multifamily Residential District.
  3. Multi-family uses: Existing multi-family structures that meet the definition of “Multi-family housing” in this chapter and all other requirements..

**3.60.040 Tax exemptions for multi-family housing in residential target areas.**

- A. Intent. Limited eight or twelve year exemption from ad valorem property taxation for multi-family housing in urban areas are intended to:
1. Encourage increased residential opportunities within urban centers designated by the city council as residential target areas; and
  2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in residential target areas to increase and improve housing opportunities; and
  3. Assist in directing future population growth to designated urban centers, thereby reducing development pressure on single-family residential neighborhoods; and
  4. Achieve development densities which are more conducive to transit use in designated urban centers; and
  5. Encourage new construction or rehabilitation of owner-occupied multi-family housing where identified as desirable; and
  6. Encourage affordable housing.
- B. Duration of Exemption. The value of improvement qualifying under this chapter will be exempt from ad valorem property taxation for: (1) Eight successive years where all applicable criteria under this chapter except affordability criteria referenced at EMC 3.60.040(D)(8) are met, or (2) Twelve successive years if all applicable criteria herein including affordability are met. In both cases the duration of exemption shall be measured beginning January 1 of the year immediately following the calendar year after issuance of the Final Certificate of Tax Exemption.

- C. Limits on Exemption. The exemption does not apply to the value of land or the value of improvements not qualifying under this chapter, nor does the exemption apply to increase 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:
1. Location. The project must be located within a residential target area, as designated in Section 3.60.030.
  2. Tenant Displacement Prohibited. Property proposed to be rehabilitated must be vacant at least twelve months before submitting an application and fail to comply with one or more standards of applicable City adopted state or local building codes.
  3. Size. The project must include at least four units of multi-family housing within a single structure or as part of a mixed-use development. A minimum of four new units must be constructed or at least four additional multi-family units must be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for twelve (12) months or more does not have to provide additional units so long as the projects provides at least four units of new, converted, or rehabilitated multi-family housing.
  4. Proposed Completion Date. New construction multi-family housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.
  5. Compliance with Guidelines and Standards. The project must be designed to comply with the city's comprehensive plan, building, and zoning codes and any other applicable regulations in effect at the time of the application is approved. Rehabilitation, conversion and new improvements must comply with all applicable building codes. The project must also comply with any other standards and guidelines adopted by the city council for the residential target area in which the project will be developed.
  6. Owner Occupancy. Project within a residential target area that are developed for owner-occupancy shall include an agreement or other guarantee acceptable to the Director ensuring that some or all of the units within the project are used for purposes of owner-occupancy.

Ordinance No. XXXX

Date:

Ordinance Requested By:

Page 6

7. Affordability. To be eligible for twelve (12) year tax abatements under this chapter, applicants must commit to renting or selling at least 20% of units as affordable to low and moderate income households as defined herein. Projects intended exclusively for owner occupancy may meet this standard through housing affordable to moderate-income households.

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

1. File with the City's Community Development Department the required application and required fees. All recording fees shall be paid by the applicant at the time of recording. Fees will be set forth in the city's fee resolution.
2. A complete application shall include:
  - a. A complete City of Enumclaw multi-family limited tax exemption application form setting forth the grounds for the exemption;
  - b. Preliminary floor and site plan for the proposed project demonstrating compliance with the guidelines and standards within this chapter and other requirements required in the Enumclaw Municipal Code;
  - c. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter;
  - d. Verification by affirmation of the information submitted.
  - e. A detailed project budget, financing plan and operating projection; and
  - f. For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the city verification of property noncompliance with the city's minimum building code.

F. Application Review and Issuance of Conditional Certificate. The director may certify as eligible an applicant who is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 days of receipt of a complete application.

1. Approval. If an application is approved, the applicant shall enter into a contract with the city, subject to approval by the city council in a form of a resolution, regarding the terms and conditions of the project. Upon council approval the contract,

the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate shall expire three years from the date of approval unless an extension is granted as provided in this chapter.

2. Denial. If an applicant is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant within ten days of the denial. An applicant may appeal a denial to the city council within 30 days of receipt of notice. 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 city council's decision on appeal will be final.

G. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Director for a period not to exceed 24 consecutive months. The applicant must submit a written request 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 applicant;
2. The applicant 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.

H. Application for Final Certificate.

1. Upon completion of the improvements agreed upon in the contract between the applicant and the City, 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 City's Community Development Department the following:
  - a. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
  - b. A description of the completed work and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption;
  - c. If applicable, a statement that the project meets affordable housing requirements as described in RCW84.14.020; and

- d. A statement that the work was completed within the required three-year period plus any authorized extension.
  - e. The total monthly rent or total sale amount of each unit produced
  - f. 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 affordable units receiving a tax exemption and a summary of these figures for the city or county.
2. Within 30 days of receipt of all materials required for Final Certificate, the Director shall determine which specific improvements satisfy the requirements where the work completed, and the affordability of the units, is consistent with the application and the contract approved by the city and is qualified for a limited tax exemption under this chapter.
- I. Issuance of Final Certificate
1. Annual Report. By December 31 of each year the city has any outstanding limited multi-family tax exemption the city shall submit a report to the State providing the information required by RCW 84.14.
  2. Review and Approval. If, after reviewing, the application for Final Certificate, the Director determines that the project has been completed in accordance with the contract between the applicant and the city and has been completed within the authorized time period, the city shall, file a Final Certificate of Tax Exemption with King County.
  3. Denial. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:
    - a. The improvements were not completed within the authorized time period;
    - b. The improvements were not completed in accordance with the owner's application of contract between the applicant and the city; including, if applicable, affordable housing requirements; or
    - c. The owner's property is otherwise not qualified under this chapter.
  4. Appeal. Within 14 days of receipt of the Director's denial of Final Certificate, the applicant may file an appeal with the city council. 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 city council's decision on appeal will be final.

J. Annual Compliance Review. Thirty days after the first anniversary of the date of issuance of the Final Certificate of Tax Exemption and each year thereafter, for the duration of the tax exemption, the owner of the rehabilitated or newly constructed property shall file a notarized declaration within the Director that includes the following:

1. A statement identifying the total number of occupied and vacant multi-family units receiving a property tax exemption;
2. A certification that the property continues to be in compliance with the contract with the city including any provisions related to affordable housing; including the income, rent and household size for each affordable unit rented or the income and sale price for each affordable unit sold.
3. A description of any improvements or changes to the property constructed after the issuance of the certificate of tax exemption;

The property owner must maintain records supporting this declaration and those records and the multi-family units are subject to inspection by the city. Failure to submit the annual declaration or maintain adequate records may result in the tax exemption being canceled.

K. 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 non-compliance has been determined. If the owner intends to convert the multi-family housing to another use or otherwise discontinues compliance with this chapter, the owner must notify the Director and the King County Assessor within 60 days of the change in use.

1. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the King County Assessor may impose an additional tax on the property, together with the interest and penalty, and a priority lien may be placed on the land, pursuant to RCW84.14.
2. Notice of Appeal. Upon determination that a tax exemption is to be canceled, the Director shall notify the property owner by mail and certified mail. The property owner may appeal the determination by filing a notice of appeal with the city clerk within 30 days, specifying the factual and legal basis for the appeal. The city council will conduct a hearing at which all affected parties may be heard and all competent evidence received. The city council will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the city council's decision to the King County Superior Court.

**Section 2:** If any provision of this ordinance is determined to be invalid or unenforceable for any reason, the remaining provisions shall remain in force and affect.

**Section 3:** This ordinance shall take effect and be in force five (5) days from and after its passage, approval and publication as required by law.

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Mayor Jan Molinaro  
INTRODUCED \_\_\_\_\_  
PASSED \_\_\_\_\_  
APPROVED \_\_\_\_\_  
PUBLISHED \_\_\_\_\_

Attested:

\_\_\_\_\_  
Maureen Burwell  
City Clerk

Approved as to form:

\_\_\_\_\_  
Michael J. Reynolds  
City Attorney