

**Date:** July 5, 2022  
**To:** City Council  
**From:** Glen Pickus, AICP, Director of Planning & Development Services  
**Subject: Amend SMC 3.50, Multi-family Property Tax Program**

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**SUMMARY:** The City Council will hold a public hearing to consider adoption of Ordinance 2442 amending Chapter 3.50 Snohomish Municipal Code, Multi-family Property Tax Deferral, to:

- Add the Midtown District as a residential targeted area;
- Require affordable housing units be provided to qualify for both types of exemptions; and
- Improve the clarity of the code.

**BACKGROUND:** On June 7, 2022, as required by RCW 84.14, the City Council approved Resolution 1433 stating its intent to designate the Midtown District as a residential targeted area and setting a July 5, 2022 public hearing date for a decision.

The multi-family property tax exemption was created by the State in 1995 (and amended in 2007 and 2021). The City implemented its program, pursuant to the RCW requirements, in 2019. To qualify for an exemption in the City, the development must be in the Pilchuck District as that is the only area designated as a residential targeted area. No affordable units are necessary to qualify for the 8-year exemption. To qualify for the 12-year exemption, at least 20% of the units must be affordable to low- and moderate-income households.

The City's multi-family property tax exemption program was titled, "Multifamily Housing Property Tax Deferral" to emphasize the temporary nature of the exemptions. However, the use of the word "deferral" has caused some confusion.

**PROPOSALS:** The proposals are to:

- Amend SMC 3.50.030, to add a definition for "very-low income household";
- Amend SMC 3.50.050, to add the Midtown District as a residential targeted area;
- Amend SMC 3.50.060, to change the requirements to qualify for an exemption as follows:
  - Amend Subsection (B)(1) to require at least 10% of the new units be affordable to low-income households in order to qualify for the 8-year exemption ;
  - Amend Subsection (B)(2), to require at least 25% of the new units be affordable to low-income households or at least 10% of the new units be affordable to low-income households and at least 10% of the new units be affordable to very-low income households in order to qualify for the 12-year exemption ; and
  - Add a new Subsection (B)(3), to require the mix of affordable units be the same as or similar to the overall mix of units in the structure in order to qualify for both exemptions ; and

- Change the title of the chapter to “Multi-family Housing Temporary Property Tax Exemption” and throughout the chapter amend references to the exemption by adding “temporary” to the label.

**ANALYSIS:** The MFTE program is a widely used and effective program throughout the state implemented by 43 cities to incentivize multi-family development and the construction of affordable housing units. Statewide, 7,589 multi-family housing units were created in 2021 using the program of which over 1,000 were affordable (see page 3 of Attachment B, the Department of Commerce’s 2021 Annual MFTE Report). The units were in 70 projects built in 20 cities, including Everett and Lynnwood in Snohomish County.

In addition to Snohomish, six other Snohomish County cities have adopted an MFTE program (Bothell, Edmonds, Everett, Lake Stevens, Lynnwood, and Marysville). Eight cities with populations of less than 20,000 have adopted an MFTE program (Blaine, Woodinville, Enumclaw, Lake Forest Park, Port Orchard, Ferndale, Federal Way, and Ellensburg).

#### SMC 3.50.050, Residential Targeted Areas

The proposal is to amend SMC 3.50.050(F) to add the Midtown District as a residential targeted area. Development is eligible for a multi-family tax exemption only if it is located in a residential targeted area. The MFTE is the most readily available tool to stimulate development in the Midtown District and to incentivize the construction of affordable housing units. To make this tool available in the Midtown District it must be designated a residential targeted area.

For an area to be designated a residential targeted area the City Council must determine:

1. The area is located in an urban center;
2. The area lacks sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center if such places to live were available; and
3. That providing additional housing opportunities in the target area will assist in encouraging increased residential opportunities in the targeted area and stimulate the construction of new multifamily housing that will increase and improve residential opportunities within the City’s urban centers.

Other factors the City Council can consider in designating a residential targeted area include whether:

- Additional housing in the targeted area will attract and maintain a significant increase in the number of permanent residents;
- Additional housing in the targeted area will help revitalize the City’s urban center;
- An increased residential population will help improve the targeted area; and
- An increased residential population in the targeted area will help to achieve the planning goals mandated by the Growth Management Act.

SMC 3.50.030(N) defines “Urban center” as a compact identifiable district designated by the City Council where residents may obtain a variety of products and services. Urban centers shall contain several existing or previous businesses, adequate public facilities, and a mixture of land uses and activities. The Midtown District is consistent with this definition.

Currently, the Midtown District has few residential units. Therefore, the second criterion for a targeted residential area is also met.

The vision for the Midtown District is for it to be a mixed-use urban center where a significant amount of the development is of various multi-family unit types. This vision means there will be increased residential opportunities in the Midtown District and designating it as a residential targeted area will stimulate the construction of new multi-family opportunities. Therefore, the requirements of the third criterion are met. In addition, all of the “other factors” are met as well as achieving the Growth Management Act’s goal of having higher density development in urban growth areas.

#### SMC 3.50.060

Staff believes the current eligibility requirements for the 8- and 12-year exemptions are not stringent enough to promote the construction of affordable housing units consistent with the community’s and City Council’s vision. The 8-year exemption does not require any affordable units and the 12-year exemption only requires the units be affordable to moderate-income households, which are those households with incomes less than 115% of the Area Median Income (AMI).

While adding an affordability requirement for the 8-year exemption is desirable, care must be taken to not make the requirement too stringent lest it impede new development. Staff believes requiring 10% of the units to be affordable to low-income households (where household income is less than 80% AMI) strikes a balance between the desires to facilitate development activity while also incentivizing the creation affordable units.

While the 12-year exemption currently requires affordable housing units to be built, the requirement does not target low-income households, the preferred target population per previous City Council discussions. The need to balance between the competing desires to facilitate development activity and to create affordable housing units is still applicable so, while the requirement to qualify for the 12-year exemption should be more stringent than for the 8-year exemption requirement, the same caution about not making it too onerous applies. Staff believes allowing developers to choose between either providing 25% percent of units being affordable to low-income households or providing 10% of the units affordable to low-income and 10% affordable to very-low income households (less than 50% AMI) strikes a reasonable balance and provides flexibility to developers.

By requiring affordable housing in order to qualify for either of the exemptions, the City will have taken a significant step towards incentivizing the creation of housing affordable to low-income households.

The proposal to require the mix of affordable housing units to be the same or similar as the mix of all of the units in a building is intended to ensure the affordable units will offer a variety of unit types and not just studio apartments, which could be the result without this requirement.

### SMC 3.50.030, Definitions

Because the 12-year exemption requirements addresses very-low income households, that term must be defined in the definition section of Chapter 3.50 SMC. Very-low income households are those where the household income is less than 50% of the AMI.

### Improve Clarity

When originally adopted, the chapter was titled as a property tax deferral rather than an exemption in order to show the exemptions being offered were temporary. However, that choice has resulted in some confusion so staff is proposing changing the chapter title to be for a “temporary property tax exemption” rather than a “property tax deferral”. The change does not substantively change the provisions of the code.

To further improve clarity and to promote consistency, the staff proposal includes referring to the exemption as being a “temporary exemption” wherever appropriate throughout the chapter.

### Conclusion

The proposed amendments to Chapter 3.50 SMC are an important next step towards achieving the community’s vision for the Midtown District. The MFTE has proven to be an effective incentive in other cities resulting in increased multi-family development activity and the creation of over 1,000 affordable housing units in the state in 2021.

There is no guarantee adopting these amendments will result in new development in the Midtown District. However, it is a certainty without the MFTE the likelihood of a significant number of affordable units being built in Midtown is small.

Extending the MFTE to the Midtown District does not cost the City anything if no developers take advantage of the program. If they do, though, then the MFTE becomes an investment by the City and the community. The near-term returns will be increased development activity that revitalizes Midtown into a vibrant pedestrian-friendly mixed-use urban center with more utility customers, increases in sales tax revenue, and the added bonus of new affordable housing units being built. The long-term return, after the exemptions expire, will be a continuation of the near-term returns plus significant increases in the total assessed property value in the City that pays off the diversification of the property tax burden for many decades to come.

If the goal is to stimulate development in the Midtown District and to increase housing options and adding affordable housing units, then the adoption of Ordinance 3442 is the logical and necessary next step.

**BUDGETARY IMPACTS:** Temporary property exemptions on multi-family development will not cause a decrease in property tax revenues the City will receive because:

- The exemption is only for new construction; and
- Property taxes are budget based meaning each year the City is allowed to collect a set total amount of property tax revenue. The rate assessed is determined by the total assessed valuation of the real property in the City. While the total assessed valuation will be less during the term of an exemption than it would otherwise have been, the amount collected will not

be. To make up for the lesser total valuation, the other tax paying parcels will be assessed more taxes than what they would otherwise be assessed if there was no exemption. However, this increase will be minimal because it is spread out over 4,000 parcels and the City's \$1.98 billion total assessed valuation.

It is impossible to forecast whether the MFTE will generate new construction in the Midtown District. Nor is it possible to forecast how many projects will use the exemption or what the value of new construction would be for those projects that do qualify and apply for the exemption. Therefore, it is impossible to forecast what the budgetary impact will be if the MFTE is extended to the Midtown District. Any such assertions are mere speculation.

However, the development at 161 Lincoln Avenue can provide a general sense of how an exemption will affect property taxes. That project is a mixed-use development with 3,660 square feet of commercial space and seven dwelling units. The project qualified for a nearly \$2 million exemption, which is the value of the multi-family residential portion of the project (the total value of the construction for the project was \$2.9 million). With the assistance of the Snohomish County Assessor's Office and Chris Collier, the program manager for the Alliance for Housing Affordability, staff estimates the impact of this exemption on the average house/land value, which is \$468,700, will be an increase in their tax bill of approximately \$2.08 in 2023. This number will change in future years as the City's total assessed valuation changes. Reassessments for 2023 plus the high level of construction activity predicted for the next several years means the total assessed valuation will increase so the impact of this exemption on taxpayers will decrease.

**COMPREHENSIVE PLAN REFERENCES:**

**GOAL LU 5:** Accommodate a range of housing types and residential densities to provide living options for the spectrum of ages, lifestyles, and economic segments of the City's population.

**Policy MF 5.6:** Promote a mix of new residential units, sizes and densities and use effective strategies designed to create residences that include those that are affordable to low- and moderate-income households, as defined by the U.S. Department of Housing and Urban Development.

**RECOMMENDATION:** Motion to **ADOPT** Ordinance 2442 amending Chapter 3.50 SMC to designate the Midtown District as a residential targeted area, to require affordable housing units be included to qualify for an exemption, and to improve the clarity of the code language.

**ATTACHMENTS:**

- A. Ordinance 2442
- B. Commerce Department 2021 Annual MFTE Report

**REFERENCES:**

- [Chapter 3.50 SMC, Multifamily Housing Property Tax Deferral](#)
- [RCW 84.14 – New and Rehabilitated Multiple-Unit Dwellings in Urban Areas](#)

# Attachment A

## CITY OF SNOHOMISH Snohomish, Washington

### ORDINANCE 2442

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, AMENDING CHAPTER 3.50 SNOHOMISH MUNICIPAL CODE TO DESIGNATE THE MIDTOWN DISTRICT AS A RESIDENTIAL TARGETED AREA FOR ELIGIBILITY PURPOSES TO APPLY FOR A MULTI-FAMILY TEMPORARY PROPERTY TAX EXEMPTION AND CHANGING THE REQUIREMENTS TO RECEIVE THE 8- AND 12-YEAR TEMPORARY MULTI-FAMILY PROPERTY TAX EXEMPTIONS; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, Chapter 84.14 RCW authorizes cities that have populations of at least 5,000 and are located in a county subject to the provisions of RCW 36.70A.215 to provide for deferrals from property taxation for new multi-family residential development and redevelopment in residential targeted areas; and

**WHEREAS**, the City of Snohomish has a population of approximately 10,160 and is located within the County of Snohomish, which is subject to the provisions of RCW 36.70A.215; and

**WHEREAS**, the City's Comprehensive Plan designates the Midtown District zone as a mixed-use urban center designed to create greater intensities of multi-family and commercial development than elsewhere in the City; and

**WHEREAS**, on April 19, 2011, the City Council passed Resolution 1272 adopting the "Build Snohomish" economic incentive program which included a recommendation to implement the multi-family housing property tax deferral program provided for by RCW 84.14; and

**WHEREAS**, on January 15, 2019, the City Council adopted Ordinance 2366 which created Chapter 3.50 SMC, implementing a multi-family housing property tax exemption program provided for by RCW 84.14 and designating the Pilchuck District as a residential targeted area; and

**WHEREAS**, on June 7, 2022, the City Council passed Resolution 1433 which stated the Council's intent to also designate the Midtown District as a residential targeted area for purposes of the multi-family property temporary tax exemption program, as required by Chapter 84.14 RCW, and set a public hearing for July 5, 2022; and

**WHEREAS**, after publishing notice for two consecutive weeks, on June 11 and June 18, 2022, consistent with the requirements of RCW 84.14.040, the City Council held a public hearing on July 5, 2022, and considered information, including any testimony provided at the public hearing; and

**WHEREAS**, the City Council finds that the Midtown District is an urban center as defined in RCW 84.14(16); and

**WHEREAS**, the City Council finds that the Midtown District lacks sufficient available, desirable and convenient residential housing to meet the needs of the public, and more current and future residents of Snohomish would likely live in the Midtown District if additional desirable, convenient, attractive and livable places to live were available; and

**WHEREAS**, the City Council finds that the development of multi-family housing in the Midtown District will attract and maintain a significant increase in the number of residents, thus making the area more vibrant and will help to stimulate business, entertainment and cultural activities. Accordingly, development of additional housing within the District will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020; and

**WHEREAS**, the temporary property tax exemption provided by Chapter 84.14 RCW is an incentive that will stimulate the creation of new and redeveloped multi-family housing and promote further economic development and enhanced public safety in the Midtown District by creating an influx of new residents who will utilize urban services, consistent with the policies of the Snohomish growth management comprehensive plan, and will benefit and promote public health, safety and welfare; and

**WHEREAS**, the providing of additional housing opportunity in the residential targeted area meets the requirements of Chapter 84.14 RCW; and

**WHEREAS**, it is the City Council's desire to incentivize the construction of housing units affordable to low- and very-low income households and amending Chapter 3.50 SMC to require the provision of at least a minimum number of such housing units in order to qualify for both the 8- and 12-year exemptions is an effective incentive; and

**WHEREAS**, this Ordinance was reviewed under the State Environmental Policy Act and determined to be categorically exempt from a SEPA Checklist under requirements of WAC 197-11-305 and WAC 197-11-800(19) as a procedural action; and

**WHEREAS**, the notice of hearing for the designation of the residential targeted area and the adoption of this Ordinance meets the requirements of Chapter 84.14.040 RCW and Snohomish Municipal Code; and

**WHEREAS**, after public notice as required, the City Council held a public hearing on July 5, 2022, to consider this Ordinance to amend Chapter 3.50 SMC to designate the Midtown District a residential targeted area and to require units affordable to low- and very-low income households be provided in order to qualify for an exemption, and all persons wishing to be heard were heard; and the City Council voted to approve the proposed amendments;

**NOW, THEREFORE THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON DO ORDAIN AS FOLLOWS:**

**Section 1. Adoption of Recitals as Findings.** The City Council hereby adopts each of the recital paragraphs above as findings and hereby incorporates them by reference as though fully stated herein.

**Section 2. Amend Chapter 3.50 Snohomish Municipal Code.** The City Council hereby amends Chapter 3.50, Snohomish Municipal Code, “Multi-family Housing Property Tax Deferral” as set forth in Exhibit “A” which is incorporated herein by this reference as though full contained herein

**Section 3. Severability.** If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

**Section 4. Authority to make necessary corrections.** The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance and attachments including, but not limited to, the correction of scrivener’s clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 5. Effective Date.** This ordinance shall be effective five days after adoption and publication by summary.

**ADOPTED** by the City Council and **APPROVED** by the Mayor this 5<sup>th</sup> day of July, 2022.

CITY OF SNOHOMISH

\_\_\_\_\_

By \_\_\_\_\_  
LINDA REDMON, MAYOR

ATTEST:

APPROVED AS TO FORM:

By \_\_\_\_\_  
BRANDI WHITSON, CITY CLERK

By \_\_\_\_\_  
EMILY GUILDNER, CITY ATTORNEY

Date of Publication: \_\_\_\_\_

Effective Date (5 days after publication): \_\_\_\_\_

## **Chapter 3.50**

### **MULTI-FAMILY HOUSING TEMPORARY PROPERTY TAX EXEMPTION**

Sections:

- 3.50.010 Findings
- 3.50.020 Purpose
- 3.50.030 Definitions
- 3.50.040 Director's Authority
- 3.50.050 Residential targeted areas
- 3.50.060 Temporary tax exemption for multi-family housing in residential targeted areas
- 3.50.070 Project Eligibility
- 3.50.080 Application procedures
- 3.50.090 Application review and issuance of conditional certificate
- 3.50.100 Final certificate
- 3.50.110 Annual reporting
- 3.50.120 Cancellation of temporary tax exemption
- 3.50.130 Appeals to hearing examiner
- 3.50.140 Severability
- 3.50.150 Effective date of temporary tax exemption
- 3.50.160 Administrative forms

#### **3.50.010 Findings**

- A. The urban center, as defined in this chapter, of the City of Snohomish lacks sufficient available, desirable and convenient residential housing to meet the needs of the public, and more current and future residents of Snohomish would be likely to live in the City's urban center if additional desirable, convenient, attractive and livable places to live were available.
- B. The development of such housing units in the urban center of the City will attract and maintain a significant increase in the number of residents, thus making the area more vibrant and will help to stimulate business, entertainment and cultural activities. Accordingly, development of additional housing within the urban center of the City of Snohomish will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020.
- C. The tax incentive provided by Chapter 84.14 RCW will stimulate the creation of new and enhanced residential structures within the City's urban center, benefiting and promoting the public health, safety and welfare by encouraging residential redevelopment.
- D. This housing tax-incentive program also would promote further economic development and enhanced public safety in the City's urban center by creating an influx of new residents who will utilize urban services, stimulate redevelopment consistent with the policies of the Snohomish growth management comprehensive plan, and encourage increased residential opportunities.
- E. The providing of additional housing opportunity in the residential targeted area described in Section 3.50.050 meets the requirements of Chapter 84.14 RCW.
- F. The notice of hearing given for the designation of the residential targeted area and the adoption of this chapter meets the requirements of RCW 84.14.040.

### **3.50.020 Purpose.**

It is the purpose of this chapter to increase the amount of residential housing units, including affordable housing opportunities, in keeping with the goals and mandates of the Growth Management Act (Chapter 36.70A RCW), by stimulating the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for multi-family housing in residential target areas within urban centers located in the City.

### **3.50.030 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-income households.
- B. “City” means the City of Snohomish, a municipal corporation and political subdivision.
- C. “Director” means the Director of the City of Snohomish’s Department of Planning & Development Services or authorized designee. The Director is authorized by the Snohomish City Council to approve or deny applications filed under this chapter.
- 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 80 percent of the median family income adjusted for family size for Snohomish County, as reported by the United States Department of Housing and Urban Development.
- F. “Moderate-income household” means a single person, family, or unrelated persons living together whose adjusted income is at or below 115 percent of the median family income adjusted for family size for Snohomish County, as reported by the United States Department of Housing and Urban Development.
- G. “Owner” means the property owner of record.
- H. “Multi-family housing” and “multiple-unit housing” are used synonymously in this chapter and mean a building having four or more dwelling units that are not designed or used as transient accommodations and designed for permanent residential occupancy resulting from new construction, rehabilitation or conversion of a vacant, underutilized or substandard building to multi-family housing.
- I. “Multi-family housing contract” means the agreement between the property owner and the City regarding the terms and conditions of the project and eligibility for exemption under this chapter.
- J. “Multi-family housing covenant” means the agreement that is in a form acceptable to the City Attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units as referenced in RMC 3.38.060.
- K. “Permanent residential occupancy” means multi-family housing that provides either owner-occupant housing or rental accommodations that are leased for a period of at least one month on a non-transient basis. Accommodations that offer occupancy on a transient basis, such as

hotels and motels that predominately offer rental accommodations on a daily or weekly basis do not qualify as permanent residential occupancies.

- L. “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 multi-family housing units by at least four units.
- M. “Residential targeted area” means an area within an urban center as defined by RCW 84.14.010, that has been designated by the City Council as lacking sufficient available, desirable, and convenient residential housing to meet the needs of the public.
- N. “Urban center” means a compact identifiable district designated by the City Council where residents may obtain a variety of products and services. Urban centers shall contain several existing or previous businesses, adequate public facilities, and a mixture of land uses and activities.
- O. “Very-low income household” means a single person, family, or unrelated persons living together whose adjusted income is at or below 50 percent of the median family income adjusted for family size for Snohomish County, as reported by the United States Department of Housing and Urban Development.

### **3.50.040 Director’s Authority**

- A. General Authority. The Director of the Department of Planning & Development Services is charged with the administration and enforcement of the provisions of this chapter.
- B. Recording. The Director is authorized to cause to be recorded, or to require the owner to record, in the real property records of the Snohomish County Auditor, the Multi-family housing covenant which the City required under SMC 3.50.070, and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the Director deems appropriate for recording, including requirements under this chapter relating to affordability of units.
- C. Power to Correct Errors. The Director may amend an administrative decision to correct errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this chapter.
- D. Power to Clarify. The Director may clarify a statement in a written administrative decision.
- E. Power to Adopt Procedures. The Director may develop, adopt, and carry out procedures as needed to implement this code.
- F. Power to Modify Fees. The Director is also delegated authority to modify fees for the Multi-family housing application and other related procedures in order to cover the costs incurred by the City and the Assessor in administering this chapter; provided, that the increase shall not exceed the most recently published Consumer Price Index (CPI) – Wage Earners and Clerical Workers for the Seattle-Tacoma area, as published by the U.S. Department of Labor – Bureau of Labor Statistics. If an increase greater than the CPI is necessary to cover the City’s costs, the Director shall submit the increase to the City Council for approval.

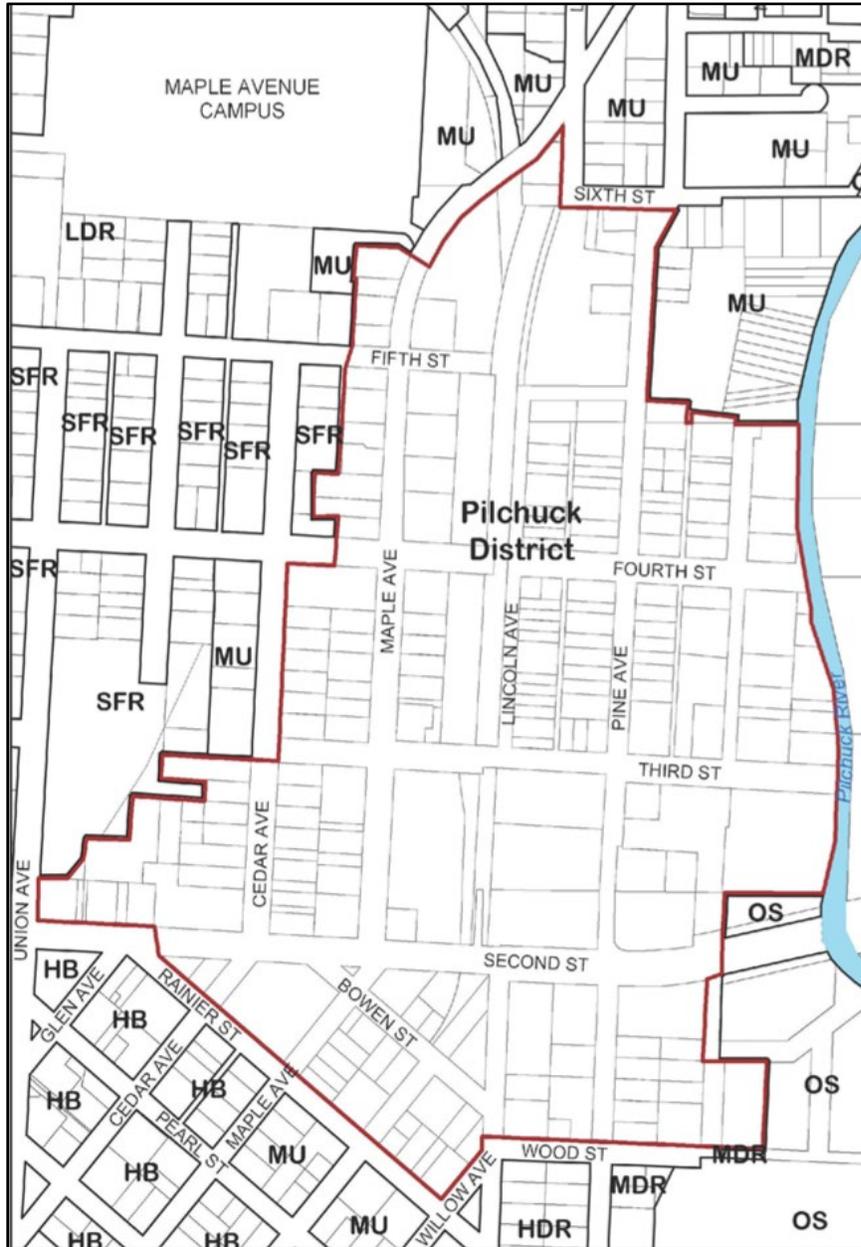
G. Interpretation.

1. Responsibility. The Director of the City's Department of Planning and Community Development or his/her designee shall be responsible for interpreting the provisions of this chapter, except where expressly provided otherwise.
2. Request for Interpretation. Any interested person may apply for an interpretation of this chapter where this chapter, or its application to specific circumstances, is ambiguous, i.e., where this chapter is susceptible to two or more reasonable interpretations. Interpretations of this chapter shall not be considered land use decisions, however, and shall not be subject to appeal to the superior court under the Land Use Petition Act ("LUPA").

**3.50.050 Residential targeted areas.**

- A. Designation. By ordinance or resolution, the City Council may, in its sole discretion, designate a residential targeted area. As required by RCW 84.14.040, adoption of a resolution designating a residential targeted shall follow a public hearing noticed once each week for two consecutive weeks in a newspaper with general circulation within the City, not less than seven nor more than 30 days before the date of the hearing.
- B. Criteria. Residential target areas shall satisfy, at a minimum, the following criteria:
  1. The targeted area shall be located within an urban center as determined by the City Council;
  2. The targeted area shall lack, as determined by the City Council, sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the urban center, if such places to live were available; and
  3. The providing of additional housing opportunity in the targeted area should assist in achieving the stated purposes of RCW 84.14.007, namely:
    - a. Encourage increased residential opportunities within the targeted area; or
    - b. Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for multi-family housing that will increase and improve residential opportunities within the City's urban centers.
- C. Other factors. In designating the residential targeted area, the City Council may also consider other factors, including, but not limited to, whether additional housing in the targeted area will attract and maintain a significant increase in the number of permanent residents, whether additional housing in the targeted area will help revitalize the City's urban center, whether an increased residential population will help improve the targeted area and whether an increased residential population in the targeted area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020;
- D. Portion of lot in designated area. If any portion of a lot is within a residential targeted area, the entire lot shall be deemed to lie within the residential targeted area.
- E. Amending or rescinding designation. At any time the City Council may, by ordinance or resolution, in its sole discretion, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth in this chapter for the original designation.

- F. The following area(s), meet the criteria of this chapter for Residential Targeted Areas and are designated as such:
1. Pilchuck District zone
  2. Midtown District zone





### **3.50.060 Temporary tax exemption for multi-family housing in residential targeted areas.**

- A. Intent. Limited exemptions from ad valorem property taxation for multi-family housing are intended to:
1. Encourage increased residential opportunities within the residential target area as designated by the City Council;
  2. Increase the number of affordable residential housing units within the residential target area as designated by the City Council;
  3. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in the residential targeted area to increase and improve housing opportunities;
  4. Assist in directing future population growth in the designated urban center, thereby reducing development pressure on single-family residential neighborhoods; and
  5. Achieve development densities that are more conducive to transit use in the designated urban center.
- B. Duration of Exemption. The value of new construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation for either eight or 12 successive years, in accordance with RCW 84.14.020, beginning January 1<sup>st</sup> of the year immediately following the calendar year after issuance of the final certificate of tax exemption.
1. A project qualifies for an eight-year exemption if it meets all of the eligibility requirements described in Section 3.50.070 and if the owner records a covenant running with the land requiring at least 10 percent of the multi-family housing units to be affordable to low-income households as defined in this chapter. In the case of projects intended exclusively for owner occupancy, 100 percent of the housing units shall be affordable to low-income households.
  2. A project qualifies for a 12-year exemption if it meets all of the eligibility requirements described in Section 3.50.070 and if the owner records a covenant running with the land requiring at least 25 percent of the multi-family housing units to be affordable to low-income households or requiring 10 percent of the multi-housing units to be affordable to low-income households and 10 percent of the multi-family housing units to be affordable to very-low income households as defined in this chapter. In the case of projects intended exclusively for owner occupancy, 100 percent of the housing units shall be affordable to low-income households.
  3. The mix of unit types provided to qualify for an exemption, as described by the number of bedrooms, shall be the same as or similar to the mix of unit types for the entire structure in order to qualify for either of the above exemptions.
- C. Limits on Exemption. The exemption does not apply to the value of the land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land or nonqualifying 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. End of exemption. At the conclusion of the exemption period, any new housing costs shall be considered as new construction for the purposes of Chapter 84.55 RCW.

### **3.50.070 Project Eligibility.**

To qualify for temporary exemption from property taxation under this chapter, the property shall satisfy all of the following requirements:

- A. Location. The project shall be located within a residential targeted area as designated pursuant to Section 3.50.050.
- B. Size. The project shall include a minimum of four units of multi-family housing within a residential structure or part of a mixed-use development. A minimum of four new units shall be constructed or at least four additional multi-family units shall be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for 12 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 multi-family housing.
- C. Permanent Residential Housing. At least 50 percent of the space designated for multi-family housing shall be provided for permanent residential occupancy, as defined in this chapter.
- D. Proposed Completion Date. New construction multi-family housing and rehabilitation improvements shall be completed within three years from the date of approval of the application, plus any extension of time granted under Section 3.50.090(F).
- E. Compliance with Guidelines and Standards. The project shall comply with:
  1. All applicable requirements of the Snohomish Municipal Code, included but limited to Title 14 – Land Use Development Code; Title 15 – Sewer, Water, and Stormwater; and Title 19 – Buildings and Construction;
  2. The City’s Comprehensive Plan;
  3. All relevant design standards adopted by City Council Ordinance or Resolution; and
  4. Any other applicable regulations in effect at the time the owner/applicant submits a fully completed application to the Director.
- F. The property shall be used or developed in a way that increases or preserves property valuation, and the use or development of the property shall represent an increased investment in the property and property maintenance that results in an increase in the overall property values in the target area.
- G. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building and housing ordinance requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. Failure to meet this requirement could result in cancellation of the tax exemption as provided for in Section 3.50.120.
- H. Rehabilitation Requirements. 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, the owner/ applicant shall provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.
- I. Tenant Displacement Prohibited. The project shall not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation shall have been unoccupied for a minimum of 12 months prior to submission of an application and must fail to comply with one or more requirements of the City’s building code, as now in effect or as amended. Applications for new construction cannot be submitted

for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.

- J. Contract with the City. The owner shall enter into a contract with the City, as approved by the Director, under which the owner agrees to the implementation of the development on terms and conditions satisfactory to the City.
- K. Prior to issuing a certificate of occupancy, a Multi-family housing covenant in a form acceptable to the City Attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with the Snohomish County Auditor . This Multi-Family housing covenant shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the owner. Affordable units that are provided under this section shall remain as affordable housing for the life of the project from the date of initial occupancy.

### **3.50.080 Application procedures.**

- A. Application. Prior to the application for any building permit therefor, a property owner who wishes to propose a project for a temporary tax exemption shall submit an application to the Director, on a form established by the Director along with the required fees as established by City Council resolution.
- B. Complete Application. A complete application shall contain such information as the Director may deem necessary or useful, and shall include, at a minimum:
  - 1. A brief written narrative statement:
    - a. Describing the project;
    - b. Preliminary schematic site and floor plans of the multi-family units and the structure(s) in which they are proposed to be located; and
    - c. Argument setting forth the grounds for how the project qualifies for the exemption.
  - 2. A statement from the owner/applicant acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and
  - 3. A proposed form of covenant for review and approval by the City Attorney limiting rental of the dwelling units to low- and/or very low-income households.
  - 4. Verification of the correctness of the information submitted by the owner/applicant's signature and affirmation made under penalty of perjury under the laws of the state of Washington.
  - 5. For rehabilitation projects, the owner/applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve months prior to filing the application.

### **3.50.090 Application review and issuance of conditional certificate.**

- A. Decision Timeframe. A decision to approve or deny an application shall be made within ninety days of receipt of a complete application. An application may be approved subject to such terms and conditions as deemed appropriate by the Director to ensure the project meets the requirements of this chapter and is consistent with Title 14, Snohomish Municipal Code, Land Use Development Code.
- B. Approval of Application. The Director may approve an application for a conditional certificate of acceptance of temporary property tax exemption if it is determined that:

1. A minimum of four new multi-family residential units are being constructed, converted or rehabilitated.
  2. The proposed project is or will be, at the time of completion, in conformance with all approved plans and all applicable requirements of the City's municipal code and adopted standards.
  3. The project site is planned and located to meet the project eligibility requirements contained in Section 3.50.070.
  4. If applicable, the proposed multi-unit housing project meets the affordable housing requirements as described in RCW 84.14.020.
  5. The owner/applicant has complied with applicable requirements of this chapter, including but not limited to application requirements contained in Section 3.50.080.
- C. Denial of Application. The Director shall deny an application if any of the criteria in subsection B of this section is not met. The Director shall state in writing the reasons for denial and shall send notice to the owner/applicant at the owner/applicant's last known address within ten days of the denial. An owner/applicant may appeal a denial to the City Council by filing a written appeal with the City Clerk within thirty days of notification by the City to the owner/applicant the application is denied. The appeal will be based upon the record made before the Director with the burden of proof on the owner/applicant to show that there is no substantial evidence on the record to support the Director's decision. The decision of the City Council in denying or approving the application is final. All other appeals of the Director's decisions related to this Chapter shall be made to the hearing examiner as directed herein.
- D. Execution of Conditional Certificate. If the application is approved, the owner/applicant shall enter into a contract with the City in order to establish the temporary property tax exemption. When the contract is executed, the Director shall issue the owner a conditional certificate of acceptance of temporary property tax exemption. The conditional certificate expires three years from the date of approval unless an extension is granted as provided in Section 3.50.090(F).
- E. Amendment of Conditional Certificate. The owner/applicant may request an amendment to the executed contract by filing a request with the Director. The contract amendment request shall contain such information as deemed necessary by the Director and at a minimum shall include a description of the status of the project, proposed language for a contract amendment, and the reason(s) for amending the contract. The request shall be accompanied by the fee as established by City Council resolution.
- F. Extension of Conditional Certificate. The conditional certificate may be extended by the Director for a period not to exceed twenty-four consecutive months. The owner/applicant shall submit a written request at least 30 days prior to the expiration of the Conditional Certificate, stating the grounds for the extension, accompanied by a processing fee as established by City Council resolution. 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/ applicant;
  2. The owner/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 owner/applicant and the City will be satisfied upon completion of the project.

**3.50.100 Final certificate.**

- A. Final Certificate Request. Upon completion of the improvements provided in the contract between the owner and the City and upon issuance of a temporary or permanent certificate of occupancy, the owner may request a final certificate of temporary tax exemption.
- B. Procedure to Request Final Certificate. The owner shall file with Director such information as the Director may deem necessary or useful to evaluate eligibility for the final certificate and shall include, at a minimum:
  - 1. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
  - 2. A description of the completed work and a statement of qualification for the exemption;
  - 3. Any additional information requested by the City pursuant to meeting any reporting requirements under Chapter 84.14 RCW;
  - 4. A statement that the work was completed within the required three-year period or any authorized extension;
  - 5. If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020;
  - 6. If applicable, an executed covenant in recordable form as approved by the City Attorney limiting rental of the dwelling units to low- and/or moderate-income households.
- C. Final Certificate Decision. Within thirty days of receipt of all materials required for a final certificate, the Director shall determine whether the improvements satisfy the requirements of this chapter.
  - 1. If the Director determines that the project has been completed in accordance with the contract between the owner and the City and has been completed within the authorized time period, the City shall, within ten days following the expiration of the thirty-day period specified in Section 3.50.100(C), file a final certificate of temporary tax exemption with the Snohomish County assessor.
  - 2. Within ten days following the expiration of the thirty-day period specified in Section 3.50.100(C), the City shall notify the owner 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 contract between the owner/applicant and the City;
    - c. The owner's property is otherwise not qualified under this chapter;
    - d. The owner and the Director cannot come to an agreement on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multi-use new construction;
    - e. If applicable, the project does not meet the affordable housing requirements as described in RCW 84.14.020.
- D. Appeal of Denial. Within thirty days of notification by the City to the owner of the Director's denial of a final certificate of tax exemption, the owner may file with the City clerk a written appeal specifying the factual and legal basis for the appeal along with the appropriate fee as established by City Council resolution. Said appeal shall be heard by the City's hearing examiner.

### **3.50.110 Annual reporting.**

- A. Property owner report. Within thirty days after the first anniversary of the date of filing the final certificate of temporary tax exemption and each year thereafter for the tax exemption period, the property owner shall file a notarized declaration with the Director.
1. The report shall indicate the following:
    - a. A statement of occupancy and vacancy of the multi-family units during the previous year;
    - b. A certification that the property continues to be in compliance with the contract with the City;
    - c. A description of any subsequent improvements or changes to the property; and
    - d. If applicable, that the property has been in compliance with the affordable housing requirements of RCW 84.14.020.
  2. Failure to submit the annual declaration may result in the temporary tax exemption being canceled pursuant to Section 3.50.120.
  3. The property owner shall allow City staff to conduct on-site verification of the declaration.
- B. City report. The City shall annually report by December 31st of each year to the Washington State Department of Commerce 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. Director Report. The Director shall annually report to the City Council each January indicating the status of applications for the multiple-family housing property tax exemption filed in the preceding year, the number of projects and dwelling units that have been completed under the program in the preceding year, identifying changes to the state law affecting the City's program, and other relevant matters.

### **3.50.120 Cancellation of temporary tax exemption.**

- A. Involuntary cancellation. Pursuant to RCW 84.14.110, if at any time the Director determines the owner/applicant has not complied with the terms of the contract or with the requirements of this chapter, or that the property no longer complies with the terms of the contract or with the requirements of this chapter, or for any reason no longer qualifies for the temporary tax exemption, the temporary tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined.
- B. Voluntary cancellation. If the owner intends to convert the multi-family housing to another use, or, if applicable, the owner intends to discontinue compliance with the affordable

housing requirements as described in RCW 84.14.020, or any other condition to exemption, the owner shall notify the Director and the Snohomish County assessor within sixty days of the change in use or intended discontinuance. Upon such change in use or discontinuance, the temporary tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law.

- C. Effect of Cancellation. If a temporary tax exemption is canceled due to a change in use or other noncompliance, the Snohomish County assessor shall comply with applicable state law to impose additional taxes, interest and penalties on the property, and a priority lien may be placed on the land, pursuant to state law.
- D. Notice and Appeal. Upon determining that a temporary tax exemption is to be canceled, the Director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the City Clerk within thirty days, specifying the factual and legal basis for the appeal. The hearing examiner shall conduct a hearing at which the owner and the City will be heard and all competent evidence received. The hearing examiner shall affirm, modify, or repeal the decision to cancel the exemption based on the evidence received.

### **3.50.130 Appeals to hearing examiner.**

- A. Hearing Examiner's Authority. The City's land use hearing examiner is hereby provided jurisdiction to hear appeals of the decisions of the Director under this chapter. Said appeals shall be as follows:
  - 1. Appeal of a decision of the Director that the owner /applicant is not entitled to a final certificate of temporary tax exemption, filed with the City Clerk within thirty days of notification by the City to the owner/ applicant of denial of a final certificate of temporary tax exemption.
  - 2. Appeal of a cancellation of temporary tax exemption, filed with the City Clerk within thirty days of the notification by the City to the owner/applicant of cancellation.
- B. Appeal Hearing Procedures. The hearing examiner's procedures shall apply to hearings under this chapter to the extent they are consistent with the requirement of this chapter and Chapter 84.14. RCW. The hearing examiner shall give substantial weight to the Director's decision and the burden of overcoming the weight shall be on the appellant. The decision of the examiner constitutes the final decision of the City. An aggrieved party may appeal the decision to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within thirty days of notification by the City to the appellant of that decision.

### **3.50.140 Severability.**

Should any section, subsection, paragraph, sentence, clause or phrase of this chapter or its applications to any person or situation be declared unconstitutional or invalid for any reason, such decisions shall not affect that validity of the remaining portions of this chapter or its application to any other person or situation. The City Council hereby declares that it would have adopted the ordinance codified in this chapter and each section, subsection, paragraph, sentence, clause, or phrase or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases or portions thereof be declared invalid or unconstitutional.

**3.50.150 Effective date of temporary tax exemption.**

This chapter is applicable only to new construction multiple-unit housing and rehabilitation improvements the commencement of development of which is implemented after the effective date of the ordinance codified in this chapter.

**3.50.160 Administrative forms.**

The Director is authorized to prepare application and other forms to implement and administer this chapter.