

## ORDINANCE NO. 13-12

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON AMENDING CHAPTER 3.80 OF THE COVINGTON MUNICIPAL CODE RELATING TO EXEMPTIONS FROM AD VALOREM PROPERTY TAXATION FOR MULTI-FAMILY HOUSING IN DESIGNATED RESIDENTIAL TARGETED AREAS TO INCLUDE OWNER-OCCUPIED MULTI-FAMILY HOUSING.

WHEREAS, Ordinance 05-12 adopted on February 28, 2012, established Chapter 3.80 of the Covington Municipal Code authorizing the city to approve eight or twelve-year exemptions from ad valorem property taxation for qualifying multi-family housing located in residential targeted areas within urban centers consistent with state regulations; and

WHEREAS, the stated purpose of Chapter 84.14 RCW is to increase residential opportunities by stimulating construction of new multi-family housing and the rehabilitation of existing vacant and underutilized buildings for multi-family housing in areas where the city finds there are insufficient residential opportunities; and

WHEREAS, the current ordinance only applies to renter-occupied multi-family housing and the city council desires to extend the ad valorem property tax exemption to qualifying owner-occupied multi-family housing; and

WHEREAS, the proposed amendments to CMC 3.80 are for the purpose of allowing qualifying owner-occupied multi-family development projects in designated target areas to apply for eight or twelve-year exemptions from ad valorem property taxation consistent with city and state regulations;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COVINGTON, KING COUNTY, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Chapter 3.80 of the Covington Municipal Code entitled "Multi-Family Property Tax Exemptions" is hereby amended as set forth in Exhibit 1 to this ordinance and fully incorporated herein by this reference.

Section 2. This ordinance shall be in full force and effect five (5) days after proper posting and publication. A summary of this ordinance may be published in lieu of publishing the ordinance in its entirety.

Section 3. If any provision of this ordinance, or ordinance modified by it, is determined to be invalid or unenforceable for any reason, the remaining provisions of this ordinance and ordinances and/or resolutions modified by it shall remain in full force and effect.

Passed by the City Council on the 24th day of July, 2012.

  
\_\_\_\_\_  
Mayor Margaret Harto

PUBLISHED: July 27, 2012  
EFFECTIVE: August 1, 2012

ATTESTED:

  
\_\_\_\_\_  
Sharon Scott, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Sara Springer, City Attorney

# ORDINANCE NO. 13-12 EXHIBIT 1

## Chapter 3.80 MULTIFAMILY PROPERTY TAX EXEMPTION

### Sections:

- [3.80.010](#) Purpose.
- [3.80.020](#) Definitions.
- [3.80.030](#) Residential target areas – Criteria – Designation.
- [3.80.040](#) Tax exemption – Eligibility requirements.
- [3.80.050](#) Application procedure.
- [3.80.060](#) Application review and issuance of conditional certificate – Denial – Appeal.
- [3.80.070](#) Extension of conditional certificate.
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- [3.80.110](#) Cancellation of tax exemption.

### **3.80.010 Purpose.**

As provided for in Chapter 84.14 RCW, the purpose of this chapter is to provide limited eight- or ~~twelve~~<sup>12</sup>-year exemptions from ad valorem property taxation for qualified ~~renter-occupied~~ multifamily housing located in residential target areas to:

- (1) Encourage multifamily housing opportunities within the City;
- (2) Stimulate new construction for multifamily housing in specified zoning districts to increase and improve housing opportunities; and
- (3) Accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the City's comprehensive plan.

Any one or a combination of these purposes may be furthered by the designation of a residential targeted area under this chapter. ~~This chapter applies to renter-occupied dwelling units only and does not apply to owner-occupied (condominium) dwelling units.~~ (Ord. 05-12 § 1 (Exh. 1))

### **3.80.020 Definitions.**

When used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:

- (1) "Affordable housing" means the definition provided for in RCW 84.14.010.
- (2) "Director" means the Director of the City of Covington Department of Community Development, or his or her designee.
- (3) "Household" means the definition provided for in RCW 84.14.010.

(4) "Low-income household" means the definition provided for in RCW 84.14.010.

(5) "Mixed use" means the definition provided for in Chapter 18.20 CMC.

(6) "Moderate-income household" means the definition provided for in RCW 84.14.010.

(7) "Multifamily housing" means one or more new multistory buildings designed for permanent residential occupancy, each with four or more dwelling units.

(8) "Owner" means the property owner of record.

(9) "Permanent residential occupancy" means the definition provided for in RCW 84.14.010. multifamily housing that provides rental occupancy on a nontransient basis. This includes 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.

(10) "Residential targeted area" means an area within a mixed-use center that has been so designated by the City as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public. (Ord. 05-12 § 1 (Exh. 1))

### **3.80.030 Residential target areas – Criteria – Designation.**

(1) Following notice and public hearing as prescribed in RCW 84.14.040, the City Council may, in its sole discretion, designate one or more residential targeted areas. Each residential target area must meet the following criteria, as determined by the City Council:

(a) The residential targeted area is within a designated mixed-use center;

(b) The residential targeted area lacks sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the mixed-use center if affordable, desirable, attractive, and livable residences were available; and

(c) Providing additional housing opportunities, including affordable housing, in the residential targeted area will assist in achieving one or more of the following purposes:

(i) Encourage increased residential opportunities within the target area; or

(ii) Stimulate the construction of new multifamily housing; or

(iii) Encourage the rehabilitation of existing vacant and underutilized buildings for multifamily housing.

(2) In designating a residential targeted area, the City Council may also consider other factors, including but not limited to:

(a) Additional housing, including affordable housing units, in the residential targeted area will attract and maintain an increase in the number of permanent residents;

(b) An increased permanent residential population in the residential targeted area will help to achieve the planning goals mandated by the Growth Management Act under Chapter 36.70A RCW, as implemented through the City's current and future comprehensive plans;

(c) Encouraging additional housing in the residential targeted area is consistent with public transportation plans; or

(d) Additional housing may contribute to revitalization of a distressed neighborhood or area within the City.

(3) At any time the City Council may, by ordinance, and 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 original designation.

(4) The following areas are designated as residential targeted areas under this chapter:

(a) Town center district (TC) as defined in CMC [18.15.080\(1\)](#).

(b) Mixed housing/office district (MHO) as defined in CMC [18.15.080\(4\)](#).

(c) R-18 (multifamily residential) zone as defined in CMC [18.15.050\(1\)\(b\)](#).

(5) If a part of any legal lot is within a designated residential targeted area then the entire lot shall be deemed to lie within such residential targeted area. Property located outside of, but adjacent to, the described areas is not designated as residential targeted areas. (Ord. 05-12 § 1 (Exh. 1))

### **3.80.040 Tax exemption – Eligibility requirements.**

(1) Eight-Year Exemption Project Eligibility. A project must meet all of the following requirements for consideration for an eight successive year ad valorem property tax exemption on the value of the improvements qualifying under this chapter beginning January 1st of the year immediately following the calendar year after issuance of the final certificate of tax exemption:

(a) Location. The project must be located within one of the residential target areas as ~~listed in this chapter~~ designated in Section 3.80.030.

~~(b) Renter-Occupied. All dwelling units included in the project must be renter-occupied; projects including owner-occupied dwelling units are not eligible for an exemption under this chapter.~~

~~(b)~~ (c) Size. The project must be multifamily housing consisting of at least four dwelling units within a multistory residential structure or mixed-use development. For new construction, A a minimum of four new units must be constructed. or For projects converting or rehabilitating existing

multifamily housing, at least four additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for twelve<sup>12</sup> 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.

(c) Permanent Residential Occupancy Requirement. At least fifty percent of the space in new, converted, or rehabilitated multi-family housing must be for permanent residential occupancy.

(d) Town Center District Diversity of Multifamily Unit Types. In addition to the other requirements in this subsection, projects located in the town center (TC) district shall be located in a multistory, mixed-use structure, as defined-described in CMC 18.31.080, and shall provide a mix of apartment types and sizes for a variety of household types according to the following standards:

(i) A minimum of fifty<sup>50</sup> percent of the total units shall vary in size from other units by at least 250 square feet; or no more than fifty<sup>50</sup> percent of the total planned units shall have the same number of bedrooms.

(ii) In multifamily developments with eighteen<sup>18</sup> units or more, no more than sixty<sup>60</sup> percent of the units may be studios or one-bedroom units.

(e) Completion Deadline. New construction of multifamily housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application, or within an extension of this time limit as authorized by the Director.

(f) Compliance with Guidelines and Standards. The project must comply with the City's comprehensive plan, zoning, environment, and building codes and any other applicable regulations in effect at the time the application is approved.

(fg) Vacancy Requirement. The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a minimum of twelve<sup>six</sup> months prior to submission of application and shall fail to comply with one or more requirements of the building code as set forth in Title 15 of this code. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of twelve<sup>six</sup> months has elapsed from the time of the most recent occupancy.

(2) Twelve-Year Exemption Project Eligibility. A proposed project must meet all of the following requirements for consideration for a twelve<sup>12</sup> successive year ad valorem property tax exemption on the value of the improvements qualifying under this chapter beginning January 1st of the year immediately following the calendar year after issuance of the final certificate of tax exemption:

(a) All requirements set forth in subsection (1) of this section; and

(b) The applicant must commit to ~~designating renting~~ at least ~~twenty~~20 percent of the multifamily housing units as affordable housing units to low- and moderate-income households and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the City under this chapter. Projects intended exclusively for owner occupancy may meet this standard through housing affordable to moderate-income households.

(i) If calculations for the minimum ~~twenty~~20 percent of the multifamily housing units required under this subsection results in a fraction, then the minimum number of multifamily housing units for affordable housing shall be rounded up to the next whole number.

(ii) In projects granted twelve-year exemptions, housing units identified for households with low, affordable, or moderate annual income shall continue to be made available to low, affordable, or moderate households for the length of the exemption period.

(c) The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom) used to meet the requirement for affordable units under this subsection shall be substantially proportional to the mix and configuration of the total housing units in the project.

(d) When a project includes more than one building with multifamily housing units, all of the affordable housing units required in this subsection must not be located in the same building.

(3) 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.

(4) Conclusion 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. (Ord. 05-12 § 1 (Exh. 1))

### **3.80.050 Application procedure.**

A property owner who proposes a project for a tax exemption under this chapter shall complete the following procedures:

(1) A complete application, on a form established by the Director, shall be filed with the City prior to issuance of a building permit for the project. The application shall be accompanied by the required fee as set forth in the City's current fee resolution.

(2) The application shall contain such information as deemed necessary by the Director, including:

(a) A brief written description of the project including timing and construction schedule setting forth the grounds for the exemption.

(b) Floor and site plans of the proposed project, which may be revised by the owner, provided such revisions are made and presented to the Director prior to the City's final action on the exemption application.

(c) If applying for a ~~twelve~~12-year exemption, it shall include information describing how the applicant will comply with the affordability requirements set forth in CMC 3.80.040(2).

(d) A statement from the owner acknowledging the potential tax liability when the project ceases to be eligible for exemption under this chapter.

(e) An affidavit signed by the owner stating the occupancy record of the property for a period of ~~twelve~~12 months prior to filing the application.

(f) Verification of the correctness of the information submitted by the owner's signature and affirmation made under penalty of perjury under the laws of the state of Washington. (Ord. 05-12 § 1 (Exh. 1))

### **3.80.060 Application review and issuance of conditional certificate – Denial – Appeal.**

(1) Director's Decision. The Director may certify as eligible an application that is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 calendar days of receipt of a complete application.

(2) Contract Required.

(a) If an application is approved, the applicant shall enter into a contract with the City, subject to approval by the City Council in the form of a resolution, regarding the terms and conditions of the project and eligibility for exemption under this chapter. This contract shall be a covenant running with the land and shall be binding on the assigns, heirs, and successors of the applicant.

(b) For any development project including owner-occupied units, the contract with the City shall also require that an owners association organized under RCW 64.34.300 be formed for all owner-occupied units within the development for the length of the exemption period granted to assume the responsibility for collecting the necessary information and documents from all individual unit owners to complete the annual reporting requirements and for filing the required annual report with the city for each of the individual homeowners pursuant to CMC 3.80.100.

(3) Issuance of Conditional Certificate. Upon City Council approval of 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 City Council approval unless an extension is granted as provided in this chapter.

(4) Application Denial. If an application is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ~~ten~~10 calendar days of issuance of the denial.

(5) Application Appeal. Per RCW 84.14.070, an applicant may appeal a denial to the City Council within ~~thirty~~<sup>30</sup> calendar days of receipt of the denial by filing a complete appeal application and appeal fee, as set forth in the City's current fee resolution, with the City Clerk. The appeal before the City Council shall be based on the record made before the Director. The Director's decision shall 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 is final.

(6) Amendment of Contract. Within three years of the date from the City Council's approval of the contract, an owner may request an amendment(s) to the contract by submitting a request in writing to the Director. The fee for an amendment is as set forth in the City's current fee resolution. The Director shall have authority to approve minor changes to the contract that are reasonably within the scope and intent of the contract approved by the City Council. Amendments that are not reasonably within the scope and intent of the approved contract, as determined by the Director, shall be submitted to the City Council for review. The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension set forth in CMC 3.80.070 are met. (Ord. 05-12 § 1 (Exh. 1))

#### **3.80.070 Extension of conditional certificate.**

(1) The Director may approve an extension to the conditional certificate and time of completion of the project for a period not to exceed a total of ~~twenty-four~~<sup>24</sup> consecutive months. To obtain an extension, the applicant must submit a written request stating the justification for the extension together with a processing fee as set forth in the City's current fee resolution. An extension may be granted if the Director determines that:

(a) The anticipated failure to complete construction within the required time period is due to circumstances beyond the control of the owner;

(b) The owner has shown good faith progress and could reasonably be expected to continue to act in good faith and with due diligence; and

(c) All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.

(2) If an extension is denied, the Director shall state in writing the reason for denial and shall send notice to the applicant's last known address within ~~ten~~<sup>10</sup> calendar days of issuance of the denial. An applicant may appeal the denial of an extension to the Hearing Examiner within ~~fourteen~~<sup>14</sup> calendar days of receipt of the denial by filing a complete appeal application and Hearing Examiner appeal fee with the City Clerk. The appeal before the Hearing Examiner shall be as provided in Chapter 14.45 CMC. No appeal to the City Council is provided from the Hearing Examiner's decision. (Ord. 05-12 § 1 (Exh. 1))

#### **3.80.080 Application for final certificate.**

Upon completion of the improvements or new construction 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 by filing with the Director such information as the

Director may deem necessary or useful to evaluate the eligibility for the final certificate. The application shall include the fee as set forth on the City's current fee resolution and the following:

- (1) A statement of expenditures made with respect to each multifamily 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) The total monthly rent or total sale amount of each multifamily housing unit rented or sold to date;
- (4) Any additional information requested by the City pursuant to meeting any reporting requirements under Chapter 84.14 RCW;
- (5) A statement that the work was completed within the required three-year period or any authorized extension; and
- (6) If a ~~twelve~~42-year exemption, information on the applicant's compliance with the affordability requirements of this chapter. (Ord. 05-12 § 1 (Exh. 1))

**3.80.090 Issuance of final certificate.**

(1) Director's Decision. Within ~~thirty~~30 calendar days of receipt of all materials required for a final certificate, the Director shall determine whether the work completed and the affordability of the units, if applicable, satisfy the requirements of the application and the conditional contract approved by the City and is qualified for a limited tax exemption under Chapter 84.14 RCW. The City shall also determine which specific improvements completed meet the intent of this chapter and the required findings of RCW 84.14.060.

(2) Granting of Final Certificate. If the Director determines that the project has been completed in accordance with this chapter and the contract between the applicant and the City and has been completed within the authorized time period the City shall, within ~~ten~~10 calendar days of the expiration of the ~~thirty~~30-day review period above, file a final certificate of tax exemption with the King County Assessor.

(3) Recording. The Director is authorized to cause to be recorded, at the owner's expense, in the real property records of the King County Department of Records and Elections, the contract with the City, as amended if applicable, 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.

(4) 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; or

(b) The improvements were not completed in accordance with the contract between the applicant and the City; or

(c) The owner's property is otherwise not qualified under this chapter.

(5) Appeal. An applicant may appeal a denial of a final certificate to the Hearing Examiner within ~~fourteen~~<sup>14</sup> calendar days of issuance of the denial by filing a complete appeal application and Hearing Examiner appeal fee with the City Clerk. The appeal before the Hearing Examiner shall be as provided in Chapter 14.45 CMC. No appeal to the City Council is provided from the Hearing Examiner's decision. (Ord. 05-12 § 1 (Exh. 1))

### **3.80.100 Annual certification and report.**

A property that receives a tax exemption under this chapter shall continue to comply with the approved contract and the requirements of this chapter in order to retain its property tax exemption. Within ~~thirty~~<sup>30</sup> calendar days after the first anniversary of the date the City issued the final certificate of tax exemption and each year thereafter for the duration of the tax exemption period, the property owner shall file a notarized declaration and annual report with the Director indicating the following:

(1) A statement of occupancy and vacancy of the multifamily units during the previous ~~twelve~~<sup>12</sup> months;

(2) A certification that the property has not changed use and continues to be in compliance with the contract with the City and this chapter;

(3) A description of any subsequent improvements or changes to the property made after the City issued the final certificate of tax exemption;

(4) The total monthly rent of each multifamily housing unit rented or the total sale amount of each unit sold during the ~~twelve~~<sup>12</sup> months ending with the anniversary date;

(5) A breakdown of the number, type, and specific multifamily housing units rented or sold during the 12 months ending with the anniversary date;

(6) If granted a ~~twelve~~<sup>12</sup>-year exemption, information demonstrating the owner's compliance with the affordability requirements of this chapter, including, but not limited to, the income of each renter household at the time of initial occupancy or the income of each purchaser of owner-occupied units at the time of purchase;

(7) The value of the tax exemption for the project; and

(8) Any additional information requested by the City pursuant to meeting any reporting requirements under Chapter 84.14 RCW.

City staff may also conduct on-site verification of the declaration and reporting. Failure to submit the annual declaration and report may result in cancellation of the tax exemption and shall result in a review of the exemption per RCW 84.14.110. (Ord. 05-12 § 1 (Exh. 1))

**3.80.110 Cancellation of tax exemption.**

(1) Cancellation of the tax exemption may result if the Director determines that:

- (a) The owner is not complying with the terms of the contract or this chapter;
- (b) The use of the property is changed or will be changed to a use that is other than residential;
- (c) The project violates applicable zoning requirements, land use regulations, building or fire code requirements; or
- (d) The owner fails to submit the annual declaration and report specified in CMC [3.80.100](#).

(2) If the property no longer qualifies for the tax exemption, the tax exemption shall be canceled and the King 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.

(3) Cancellation may occur in conjunction with the annual review or at any such time noncompliance has been determined.

(4) If the owner intends to convert the multifamily housing to another use, the owner shall notify the Director and the King County Assessor in writing within ~~sixty~~60 calendar days of the change in use. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest, and penalties shall be imposed pursuant to State law.

(5) Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Director shall notify the owner by mail, return receipt requested. The owner may appeal the determination by filing a notice of Hearing Examiner appeal and appeal fee with the City Clerk within ~~thirty~~30 calendar days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing pursuant to Chapter [14.45](#) CMC. (Ord. 05-12 § 1 (Exh. 1))