CITY OF KIRKLAND
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MEMORANDUM

To: **David Ramsay, City Manager**

From: **Dawn Nelson, Planning Supervisor**
Arthur Sullivan, ARCH Program Manager
Eric Shields, Planning Director

Date: **December 5, 2007**

Subject: **Multifamily Property Tax Exemption Update, File MIS07-00032**

RECOMMENDATION

The City needs to update the Multifamily Housing Property Tax Exemption (KMC 5.88) to be in compliance with amendments to RCW 84.14 that were adopted in Engrossed Second Substitute House Bill 1910 last spring. City Council should provide direction to staff to prepare an ordinance for consideration at the January 15, 2008 council meeting. Staff recommends the following elements, discussed in detail on pages 3 through 6 of this memo, for the City's tax exemption program. The proposal includes a two tier approach, with differing lengths of tax exemption and affordability requirements based on allowances in RCW 84.14.

Percent affordable housing required to qualify for tax exemption

- 10% affordable rental units for 8 year tax exemption, exemption applied to entire project (Tier 1)
- No minimum for affordable ownership units for 8 year tax exemption, exemption applied only to affordable units (Tier 1)
- 20% affordable units (rental or ownership) for 12 year tax exemption, exemption applied to entire project for rental and only to affordable units for ownership (Tier 2)

Duration of affordability required

- Life of project for rental units
- 30 years for ownership units

Affordability levels

- 10% of units at 50% of King County median income for rental housing for 8 year exemption (Tier 1)

- 10% of units at 50% of King County median income and 10% of units at 80% of King County median income for rental housing for 12 year exemption (Tier 2)
- Affordable units at 70% of King County median income for ownership housing for 8 year exemption (Tier 1)
- 10% of units at 70% of King County median income and 10% of units at 100% of King County median income for ownership housing for 12 year exemption (Tier 2)

BACKGROUND DISCUSSION

The City of Kirkland adopted KMC 5.88 in May 2004 as part of a package of incentives to encourage the creation of affordable multifamily housing (see Attachment 1). (Staff will be reporting on the incentive program at the January 2, 2008 City Council meeting.) KMC 5.88 allows a ten year exemption of property taxes on the value of new or rehabilitated housing improvements in specific geographic areas of the City. It requires that rental projects provide at least 12.5% of the units affordable to households earning less than 50% of King County median income. The exemption applies to the full value of the residential improvements in rental projects. For owner-occupied projects, only those units that are affordable to households earning less than 70% of King County median income are eligible for the exemption. The units in both rental and ownership projects are required to remain affordable for at least 30 years.

The tax exemption has not yet been used. However, a developer of a property in the TL6A zone along NE 124th Street in Totem Lake is preparing a Conceptual Design Conference submittal for a 180 unit apartment building, taking advantage of the extra height offered in that zone in exchange for providing 10% of the units as affordable housing. They would like to apply for the tax exemption but our regulations are currently out of compliance with RCW 84.14.

The following chart identifies the differences between RCW 84.14 as it existed when Kirkland adopted its exemption program in KMC 5.88 and the amendments to RCW 84.14 adopted last spring (see Attachment 2). The state regulations did not previously require affordable housing to qualify for the tax exemption. However, the City chose to require affordable housing in order for projects to be eligible for the tax exemption. The state still allows an eight year exemption without affordable housing, but now requires 20% of the units in a project to be affordable to achieve a 12 year exemption. The affordability levels required in the state regulations are more relaxed than Kirkland's standards, allowing rental housing to be affordable at levels up to 100% of median income and ownership housing to be affordable at levels up to 150% of median income.

	% Affordable Units Required	Affordability Level – Rental	Affordability Level – Ownership	Duration of Tax Exemption	Minimum Duration of Affordability
Previous RCW 84.14 (2004)	None Required	None Required	None Required	10 Years	None Required
Current RCW 84.14 (2007) Option 1	None Required	None Required	None Required	8 Years	None Required
Current RCW 84.14 (2007) Option 2	Rental or Ownership: 20%	80 - 100% of King County Median Income	80 - 150% of King County Median Income	12 Years	12 Years

RCW 84.14, as amended, allows cities to adopt more stringent program provisions when affordable housing is required in order to access the tax exemption. At a minimum, the City must change the duration of the tax exemption from ten years to eight years to be in compliance with the amendments to RCW 84.14. If only that change were made, the value of the incentive to the developer would be reduced by two years worth of tax exemption. Therefore, staff suggests that we also consider a multi-tier system to allow more flexibility and potentially achieve a greater number of affordable housing units. In this system, the first tier is similar to the current exemption provisions, with minor changes to the minimum percent affordable units required, the length of affordability and the duration of affordability. The affordability levels are consistent with Zoning Code requirements for affordable housing. The second tier would allow for a longer tax exemption period with a larger percentage of affordable units and more variety in the affordability level. Proposed changes are highlighted in red in the following table and discussed below.

	% Affordable Units Required	Affordability Level – Rental	Affordability Level – Ownership	Duration of Tax Exemption	Minimum Duration of Affordability
Current Program KMC 5.88	Rental: 12.5 % Ownership: No minimum - exemption applies only to affordable units	50% of King County Median Income	70% of King County Median Income	10 Years	30 Years
Proposed Tier 1	**Rental: 10%** Ownership: No minimum - exemption applies only to affordable units	50% of King County Median Income	70% of King County Median Income	**8 Years**	**Rental: Life of Project** Ownership: 30 Years
Proposed Tier 2	**Rental: Additional 10%** **Ownership: 20%**	**80% of King County Median Income**	**First 10% at 70% of King County Median Income** **Second 10% at 100% of King County Median Income**	**12 Years**	Rental: Life of Project Ownership: 30 Years

<u>Tier 1 Options</u>

Change duration of tax exemption from 10 years to 8 years.

Pros: This would bring the City's exemption program into compliance with RCW 84.14.

Cons: Taking this action alone reduces the economic value of the tax exemption as an incentive to produce affordable housing by approximately 20%.

Change percent of affordable rental units required from 12.5% to 10%.

Pros: This would be consistent with the percentage of affordable units required to access the extra height allowed in some Totem Lake and Rose Hill zones.
It would simplify administration of the restrictive covenants to have one consistent percentage.
It accounts for the reduced economic value of receiving the property tax exemption for eight years instead of ten years, which is approximately 20% of the value.

Cons: Potential for slightly fewer affordable housing units.

Change duration of affordability for rental developments from 30 years to life of project.

Pros: This would be consistent with the Zoning Code requirements, which would apply anyway if a project were using both Zoning incentives and the tax exemption program.
It would simplify administration of the restrictive covenants to have the duration be consistent for all rental developments.

Cons: Developments not using Zoning incentives may choose not to use this incentive if the duration of affordability makes a difference.

Tier 2 Options

Allow an additional four years of tax exemption (12 years total) with the provision of at least 20% affordable housing units.

Pros: This meets the requirements of RCW 84.14, which requires 20% affordable units (as defined in RCW 84.14) to achieve 12 year tax exemption.
It would result in the potential for a greater number of affordable housing units.
The additional tax exemption could be a big factor in encouraging redevelopment in Totem Lake, where the City is anticipating residential developments that are taller and more dense than other areas of the City.

Cons: City would realize a 20% increase in foregone regular and special levy taxes due to two additional years of exemption (over assumptions made for previous ten year program – see Attachment 3).

Allow a 30% higher income threshold over Tier 1 requirements.

Pros: Allows for a broader mix of incomes within developments, while still providing meaningful affordability in the Kirkland housing market.
The proposed affordability levels and the potential loss of revenue to developers for the second tier of affordable units are commensurate with the value of the property tax

exemption in years 8 through 12. Requiring a lower level of affordability (e.g. 50% or 70% of median) would result in the lost revenue to the developer being greater than the tax benefit in that period.
A broader mix of incomes may be more palatable to developers and result in a greater number of affordable units being constructed.

Cons: The proposed affordability level at 80% of median income for rental units may not be significantly below market for existing rental housing. However, it does help insure against current market trends showing increasing rents, especially in newly developing areas.

Future Considerations

This proposal attempts to balance the economic value of the tax exemption to the developer with the cost of providing the specified affordable housing. One of the challenges in doing that analysis is that even within Kirkland there are different sub-markets for land costs (e.g. downtown, north Kirkland) and a range of types of construction with varying costs. With ever changing market conditions, this indicates that a program such as the property tax exemption should be evaluated on a regular basis to ensure that it reflects shifts in market conditions. While this proposal appears reasonable given current conditions, future adjustments may be warranted as market conditions or other City programs change.

Attachments

1. KMC 5.88 – Multifamily Housing Property Tax Exemption
2. Engrossed Second Substitute House Bill 1910
3. Analysis of 10 Year Property Tax Exemption Program

MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

5.88.010 Purpose.
5.88.020 Definitions.
5.88.030 Residential targeted areas—Criteria—Designation—Rescission.
5.88.040 Project eligibility.
5.88.050 Application procedure—Fee.
5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.
5.88.065 Amendment of contract.
5.88.070 Extension of conditional certificate.
5.88.080 Final certificate—Application—Issuance—Denial and appeal.
5.88.090 Exemption—Duration—Limits.
5.88.100 Annual certification—Cancellation of exemption.
5.88.110 Appeals to hearing examiner.
5.88.120 Annual reporting.

5.88.010 Purpose.

(a) The purposes of this chapter are:

(1) To encourage more multifamily housing opportunities within the city;

(2) To stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing;

(3) To increase the supply of multifamily housing opportunities within the city for low and moderate income households;

(4) To accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the city's comprehensive plan;

(5) To promote community development and affordable housing; and

(6) To encourage additional housing in certain areas to support investment in public transit projects.

(b) Any one or a combination of these purposes may be furthered by the designation of a residential targeted area under this chapter. (Ord. 3937 § 1 (part), 2004)

5.88.020 Definitions.

(a) "Affordable" means: (1) for an owner-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income is less than seventy percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the monthly household income is paid for monthly housing expenses; or (2) for a renter-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income is less than fifty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size.

(b) "Assessor" means the King County assessor.

(c) "Director" means the director of the city's department of planning and community development, or any other city office, department or agency that shall succeed to its functions with respect to this chapter, or his or her authorized designee.

(d) “Eligible household” means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in Section 5.88.040(8), certify that their household annual income does not exceed the applicable percent of the median household income for King County, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD); and who certify that they meet all qualifications for eligibility, including, if applicable, any requirements for recertification on income eligibility.

(e) “Household annual income” means the aggregate annual income of all persons over eighteen years of age residing within the same household for a period of at least four months.

(f) “Multifamily housing” means a building or townhouse project 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.

(g) “Owner” means the property owner of record.

(h) “Permanent residential occupancy” means multifamily housing that provides either rental or owner occupancy for a period of at least one month, and excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(i) “Rehabilitation improvements” means:

(1) Modifications to an existing structure, the residential portion of which has been vacant for at least twelve months prior to application for exemption under this chapter, that are made to achieve a condition of substantial compliance with the applicable building and construction codes contained in Title 21 of this code; or

(2) Modifications to an existing occupied residential structure or mixed use structure that contains occupied residential units, that add at least four multifamily dwelling units.

(j) “Residential targeted area” means an area within an urban center as defined by Chapter 84.14 RCW and the city that has been so designated by the city council pursuant to this chapter.

(k) “Substantial compliance” means compliance with the applicable building and construction codes contained in Title 21 of this code that is typically required for rehabilitation as opposed to new construction. (Ord. 3937 § 1 (part), 2004)

5.88.030 Residential targeted areas—Criteria—Designation—Rescission.

(a) Following notice and public hearing as prescribed in RCW 84.14.040, the city council may designate one or more residential targeted areas, in addition to the areas stated in subsection (d) of this section, upon a finding by the city council in its sole discretion that the residential targeted area meets the following criteria:

(1) The residential targeted area is within an urban center as defined by Chapter 84.14 RCW;

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

(3) Providing additional housing opportunity in the residential targeted area will assist in achieving one or more of the following purposes:

(A) Encourage increased residential opportunities within the city; or

(B) Stimulate the construction of new affordable multifamily housing; or

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

(b) In designating a residential targeted area, the city council may also consider other factors, including:

(1) Whether additional housing in the residential targeted area will attract and maintain an increase in the number of permanent residents;

(2) Whether providing additional housing opportunities for low and moderate

income households would meet the needs of citizens likely to live in the area if affordable residences were available;

(3) Whether 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 comprehensive plan; or

(4) Whether encouraging additional housing in the residential targeted area supports plans for significant public investment in public transit or a better jobs and housing balance.

(c) At any time the city council may, by ordinance, 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.

(d) The following areas, as shown Maps 1 through 4 in this section, meet the criteria of this chapter for residential targeted areas and are designated as such:

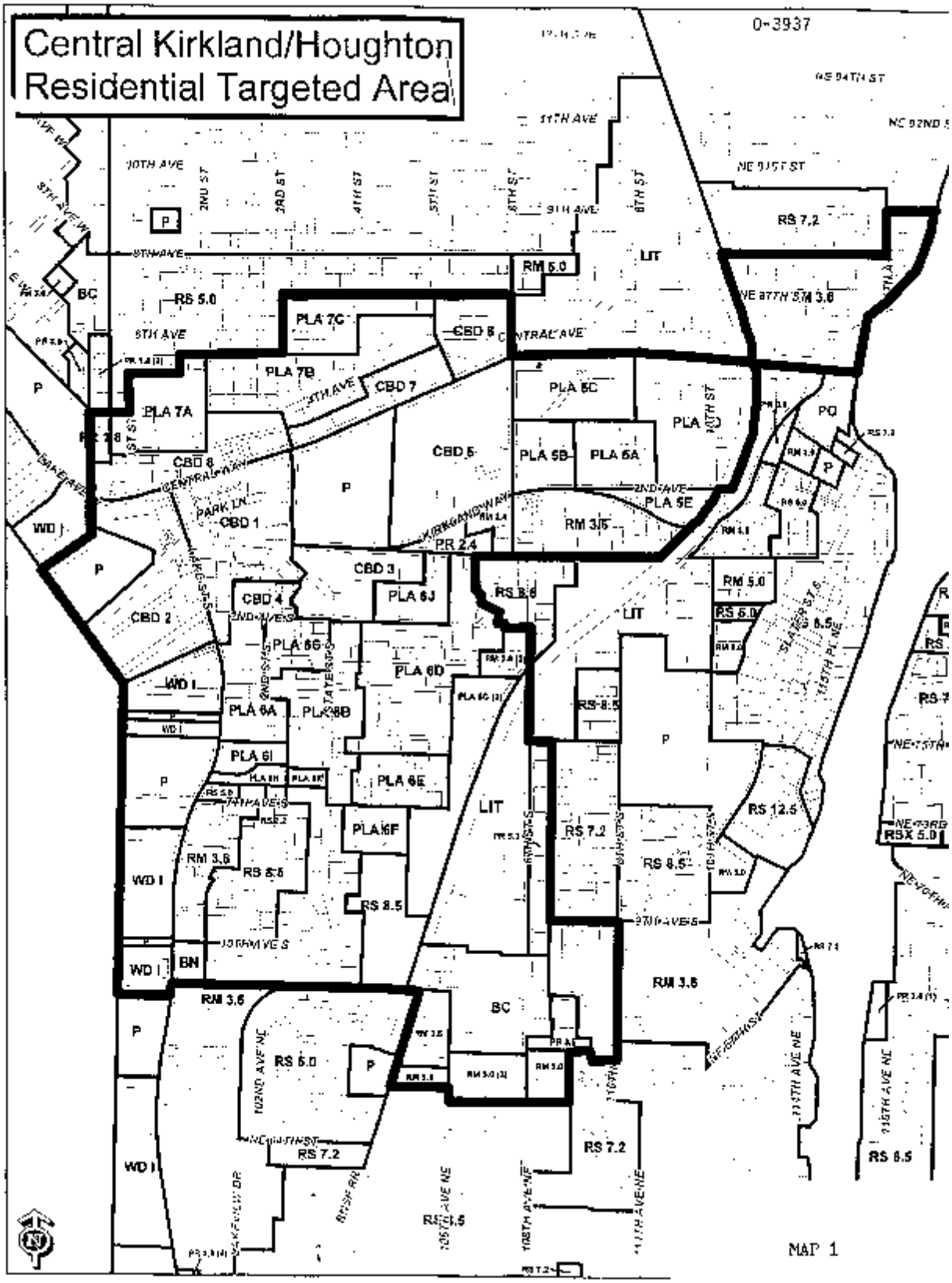
(1) Central Kirkland/Houghton;

(2) Totem Lake and North Rose Hill;

(3) Juanita; and

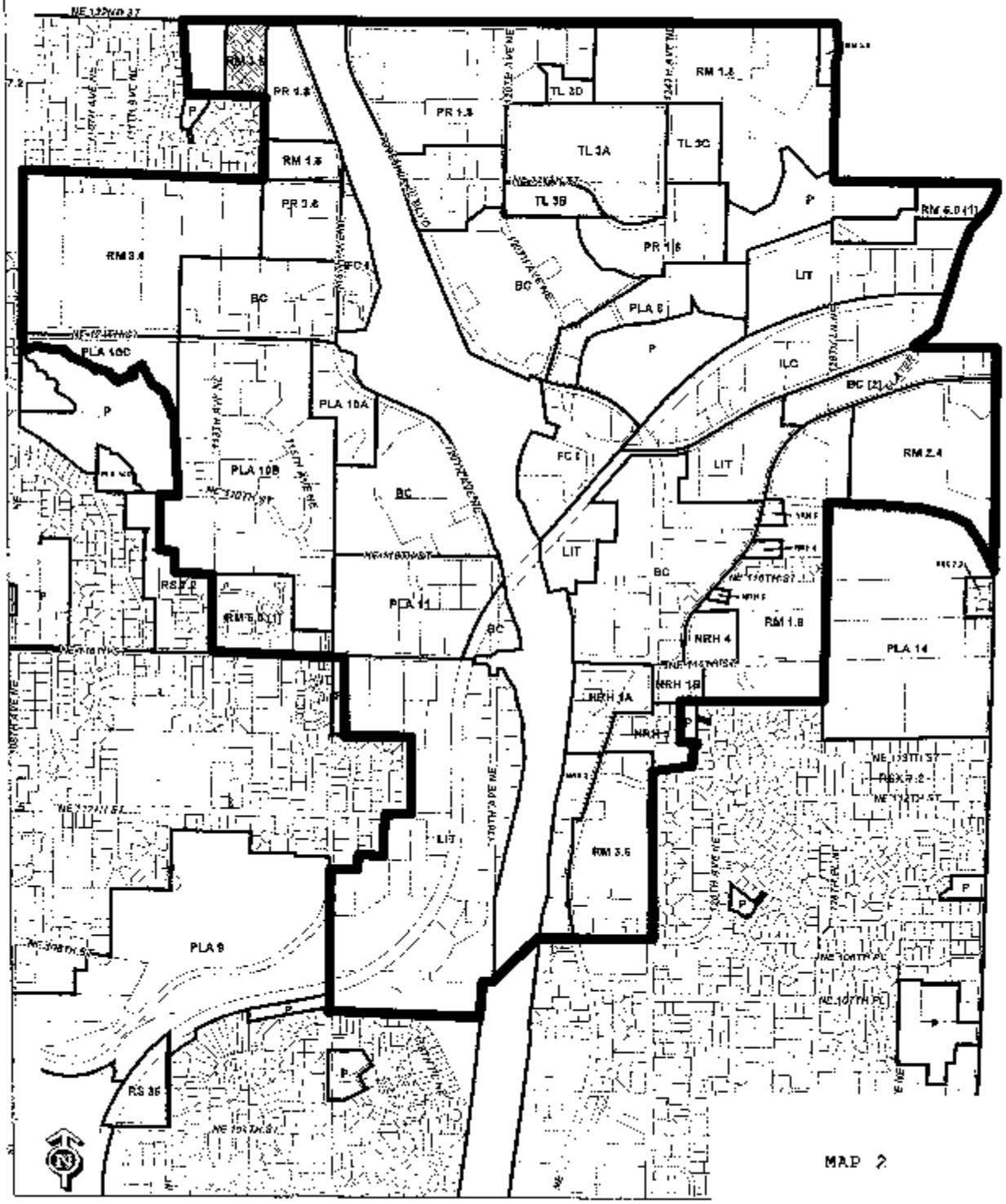
(4) NE 85th Street.

(e) If a part of any legal lot is within a residential targeted area as shown in Maps 1 through 4, then the entire lot shall be deemed to lie within such residential targeted area.

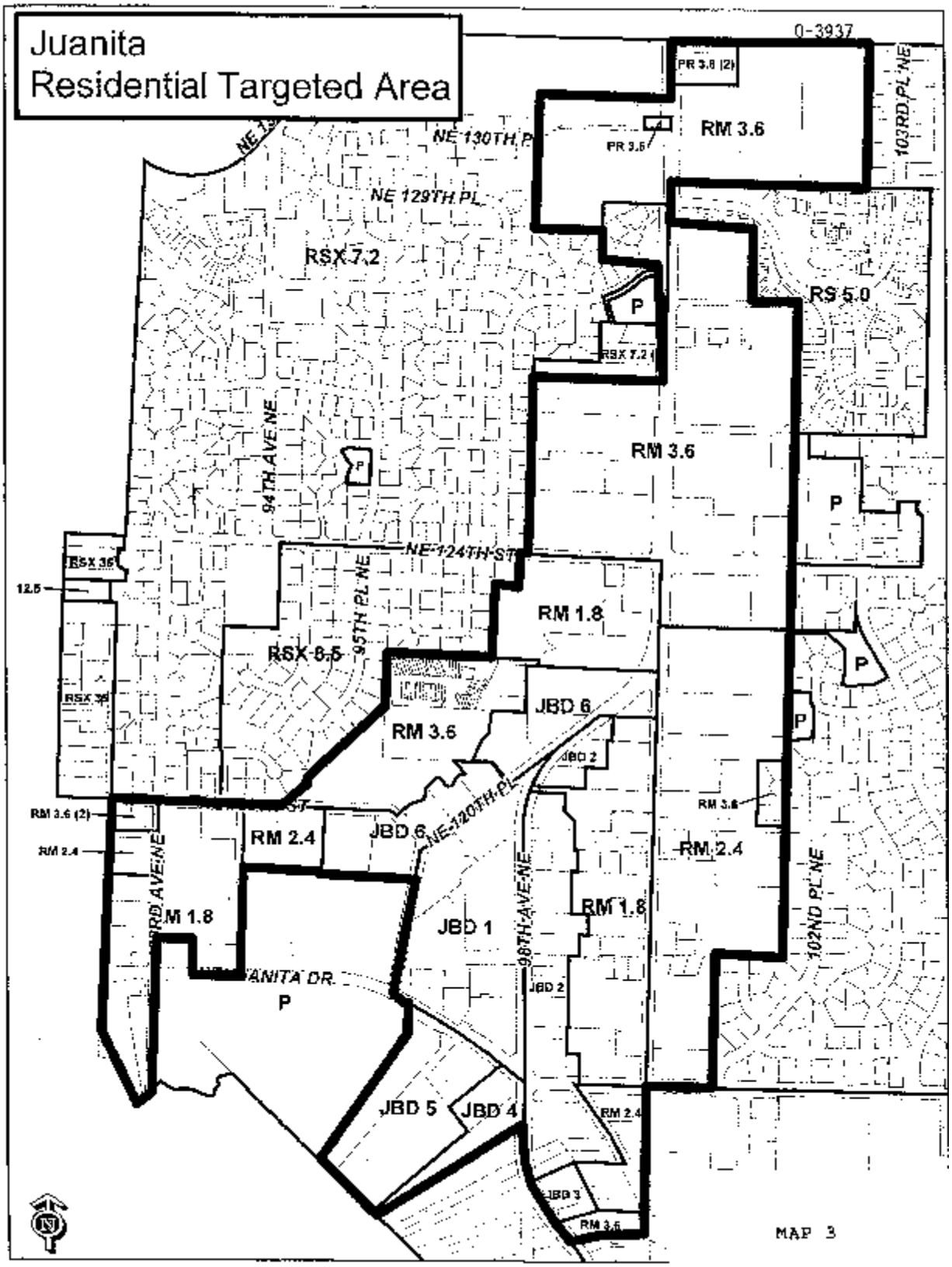

Central Kirkland/Houghton
Residential Targeted Area
0-3937
MAP 1

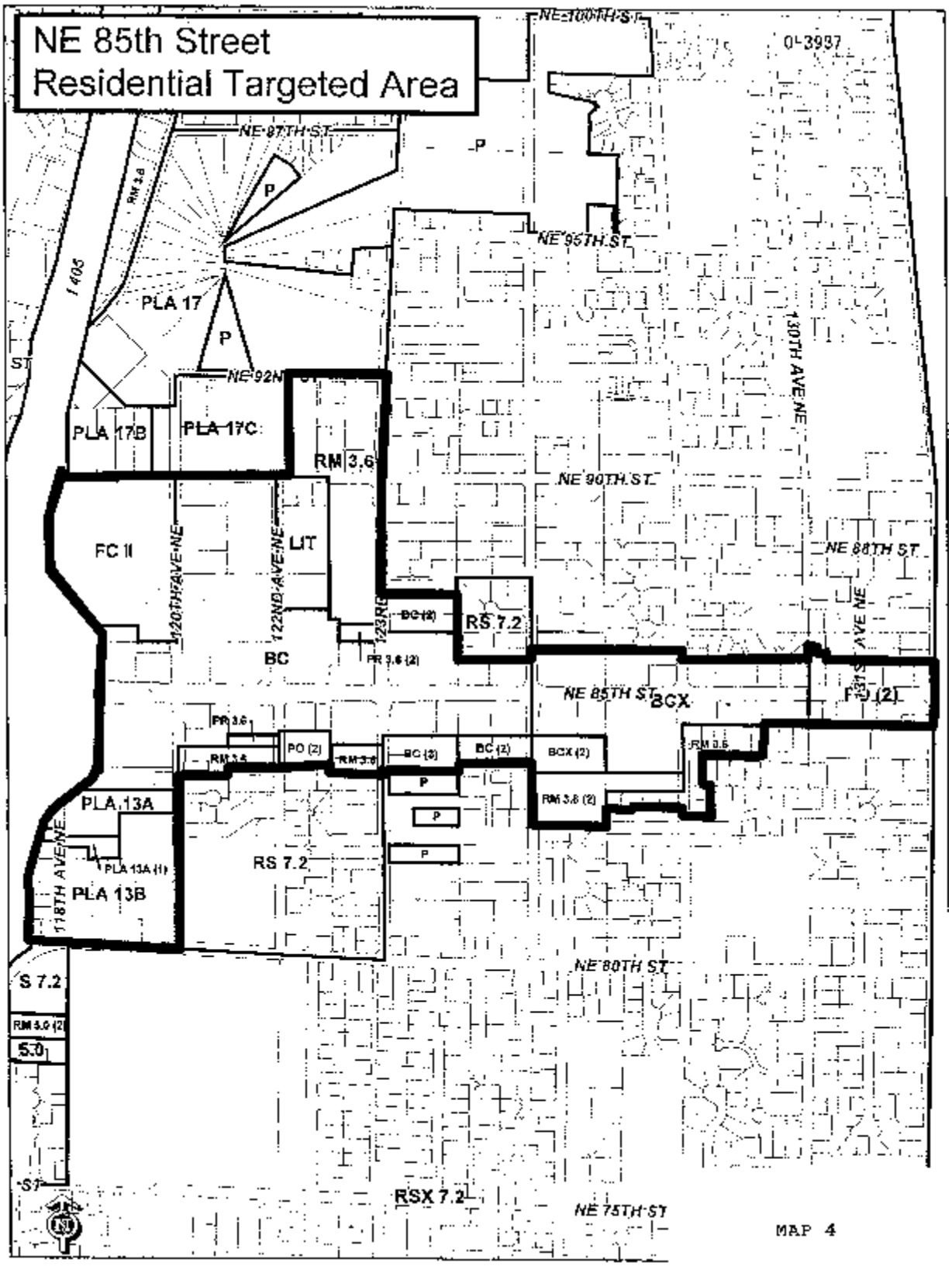
Totem Lake and North Rose Hill Residential Targeted Area

0-3937



MAP 2


Juanita
Residential Targeted Area
0-3937
NE 130TH PL
NE 129TH PL
103RD PL NE
RM 3.6
RSX 7.2
RS 5.0
P
94TH AVE NE
NE 124TH ST
95TH PL NE
RM 1.8
RSX 8.5
JBD 6
JBD 2
NE 120TH PL
RM 2.4
JBD 1
98TH AVE NE
102ND PL NE
ANITA DR
JBD 5
JBD 4
JBD 3
12.5
MAP 3



(Ord. 3937 § 1 (part), 2004)

5.88.040 Project eligibility.

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

(1) The property must be located in a residential targeted area.

(2) The project must be multifamily housing consisting of at least four dwelling units within a residential structure or as part of a mixed use development, in which at least fifty percent of the space within such residential structure or mixed use development is intended for permanent residential occupancy.

(3) For new construction, a minimum of four new dwelling units must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added.

(4) Existing dwelling units proposed for rehabilitation shall have been unoccupied for a minimum of twelve months prior to submission of an application and shall fail to comply with one or more requirements the building code as set forth in Title 21 of this code.

(5) No application may result in the net loss of existing affordable housing which receives housing assistance through federal low or moderate income housing programs (e.g., HUD Section 8 program).

(6) For rental projects to receive an exemption for the entire residential portion of the project, at least twelve and one-half percent of the units shall be affordable as defined in Section 5.88.020(a), or shall have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption if a lesser amount of affordability is provided. The amount of the partial exemption shall be proportional to the amount of affordability provided relative to that required for a full exemption. (For example, if a project includes six and one-quarter percent of the units affordable at fifty percent of median income, the property will receive an exemption on fifty percent of the residential portion of the project.) If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66.

(7) For owner-occupied projects, the property tax exemption shall apply only to those units that are affordable as defined in Section 5.88.020(a) or that have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code.

(8) Prior to issuing a certificate of occupancy, an agreement 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 King County department of records and elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. Affordable housing units that are provided under this section shall remain as affordable housing for a minimum of thirty years from the date of initial occupancy.

(9) The owner may request that the city approve a partial or full exemption in circumstances where less affordability is proposed than is required in subsection (6) or (7) of this section. Criteria for considering such requests shall include the owner's inability to utilize some or all of the incentives available in Chapter 112 of the Kirkland Zoning Code. Requests under this subsection (9) require city council approval and shall be made at the sole discretion of the city council.

(10) The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under subsections (6), (7) and (9) of this section shall be substantially proportional to the mix and configuration of the total housing units in the project.

(11) For owner-occupied projects, the contract with the city required under

Section 5.88.060 shall identify those units that shall be eligible per subsection (7) of this section.

(12) The project shall comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of the Kirkland Municipal Code.

(13) 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. (Ord. 3937 § 1 (part), 2004)

5.88.050 Application procedure—Fee.

(a) The owner of property applying for exemption under this chapter shall submit an application to the director, on a form established by the director. The owner shall verify the application by oath or affirmation. The application shall contain such information as the director may deem necessary or useful, and shall include:

(1) A brief written description of the project and preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located;

(2) A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter;

(3) Information describing how the applicant will comply with the affordability requirements in Sections 5.88.040(6) or (7) of this chapter; or if applicable, request for approval under Section 5.88.040(9) of this chapter and their justification for such request; and

(4) In the case of rehabilitation of an existing vacant structure under Section 5.88.020(i)(1), verification from the fire and building department of non-compliance with applicable building and housing codes as required under Section 5.88.020(i)(1), and an affidavit from the owner verifying that the existing dwelling units have been vacant for a period of twelve months prior to filing the application.

(b) At the time of application under this section, the applicant shall pay to the city an initial application fee as established by ordinance. In addition, at the time of application under this section, the applicant shall pay to the city a fee of one hundred fifty dollars to cover the county assessor's administrative costs. If the director approves the application pursuant to Section 5.88.080, the city shall forward the fee for the county assessor's administrative costs to the county assessor. If the director denies the application pursuant to Section 5.88.080, the city shall refund the fee for the assessor's administrative costs to the applicant.

(c) The director shall notify the applicant within twenty-eight days of the application being filed if the director determines that an application is not complete and shall identify what additional information is required before the application will be complete. Within fourteen days of receiving additional information, the director shall notify the applicant in writing if the director determines that the application is still not complete, and what additional information is necessary. An application shall be deemed to be complete if the director does not notify the applicant in writing by the deadlines in this section that the application is incomplete; however, a determination of completeness does not preclude the director from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter.

(d) The application shall be submitted any time before, but no later than, the date the building or other construction permit is issued under Title 21 of this code. (Ord. 3937 § 1 (part), 2004)

5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.

(a) Other than requests under Section 5.88.040(9), the director shall approve or deny an application under this chapter. If the application is approved, the applicant shall enter into a contract with the city, subject to approval by resolution of the city

council, regarding the terms and conditions of the project and eligibility for exemption under this chapter. The city council's resolution to approve the applicant's contract with the city shall take place within ninety days of the director's receipt of the completed application. Upon city council approval of the contract, the director shall execute the contract as approved by the city council, and 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.

(b) If the application is denied, the director shall state in writing the reasons for the denial and send notice of denial to the applicant's last known address within ten days of the denial.

(c) An applicant may appeal the director's denial of the application to the city council by filing a notice of appeal with the city clerk along with the appeal fee as established by ordinance within thirty days of the date of the denial. The appeal before the city council shall be based upon the record before the director, and 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. (Ord. 3937 § 1 (part), 2004)

5.88.065 Amendment of contract.

(a) Any applicant seeking amendment(s) to the contract approved by the city council may do so by submitting a request in writing to the director at any time within three years of the date of the city council's approval of the contract.

(b) The director shall have authority to approve amendments to the contract between the applicant and the city 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 approval by resolution.

(c) Any applicant seeking amendments to the approved contract, which in the sole discretion of the director require approval by the city council, shall pay to the city an amendment application fee as established by ordinance.

(d) The date for expiration of the conditional certificate shall not be extended by contract amendment unless: (1) all the conditions for extension set forth in Section 5.88.070 are met, or (2) the conditions set forth in Section 5.88.070(1) and (2) are met and the city council specifically approves the extension. (Ord. 3937 § 1 (part), 2004)

5.88.070 Extension of conditional certificate.

The conditional certificate may be extended by the director for a period not to exceed twenty-four consecutive months. The applicant shall submit a written request stating the grounds for the extension together with a fee as established by ordinance. The director may grant an extension 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;

(2) The owner 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. (Ord. 3937 § 1 (part), 2004)

5.88.080 Final certificate—Application—Issuance—Denial and appeal.

(a) Upon completion of the rehabilitation improvements or new construction as provided in the contract between the applicant and the city, and upon issuance of a certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant shall file with the director such information as the director may deem necessary or useful to evaluate eligibility for the final certificate, and shall include:

(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) A statement that the work was completed within the required three-year period or any approved extension; and

(4) Information on the applicant's compliance with the affordability requirements in Section 5.88.040(6), (7) and/or (9).

(b) Within thirty days of receipt of all materials required for a final certificate, the director shall determine whether the completed work is consistent with the application and contract approved by the city council and is qualified for limited exemption under Chapter 84.14 RCW, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060.

(c) If the director determines that the project has been completed in accordance with subsection (a) of this section, the city shall file a final certificate of tax exemption with the assessor within ten days of the expiration of the thirty-day period provided under subsection (b) of this section.

(d) The director is authorized to cause to be recorded, or to require the applicant or owner to record, in the real property records of the King County department of records and elections, the contract with the city required under Section 5.88.060(a), 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.

(e) The director shall notify the applicant in writing that the city will not file a final certificate if the director determines that the project was not completed within the required three-year period or any approved extension or was not completed in accordance with subsection (b) of this section; or if the director determines that the owner's property is not otherwise qualified under this chapter or if the owner and the director cannot agree on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multiuse new construction.

(f) Within thirty days of the date of notice of denial of final certificate, the applicant may file a notice of appeal with the city clerk along with the appeal fee as established by ordinance specifying the factual and legal basis for the appeal. The appeal shall be heard by the city's hearing examiner pursuant to Section 5.88.110. (Ord. 3937 § 1 (part), 2004)

5.88.090 Exemption—Duration—Limits.

(a) The value of new housing construction and rehabilitation improvements qualifying under this chapter shall be exempt from ad valorem property taxation for ten successive years as provided in RCW 84.14.020(1).

(b) The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, to increases in assessed valuation of land and nonqualifying improvements, or to increases made by lawful order of the King County board of equalization, Washington State Department of Revenue, State Board of Tax Appeals, or King County, to a class of property throughout the county or a specific area of the county to achieve uniformity of assessment or appraisal as required by law. 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. (Ord. 3937 § 1 (part), 2004)

5.88.100 Annual certification—Cancellation of exemption.

(a) A property or individual affordable ownership unit that receives a tax exemption under this chapter shall continue to comply with the contract and the requirements of this chapter in order to retain its property tax exemption.

(b) Within thirty days after the first anniversary of the date the city filed the final certificate of tax exemption and each year thereafter, for a period of ten years, the property owner shall file a certification with the director, verified upon oath or affirmation, which shall contain such information as the director may deem necessary or useful, and shall include the following information:

(1) A statement of occupancy and vacancy of the multifamily units during the previous year;

(2) A certification that the property has not changed use since the date of filing of the final certificate of tax exemption, and continues to be in compliance with the contract with the city and the requirements of this chapter;

(3) A description of any improvements or changes to the property made after the filing of the final certificate or last declaration, as applicable; and

(4) Information demonstrating the owner's compliance with the affordability requirements of Section 5.88.040(6), (7), (8) and/or (9).

(c) Failure to submit the annual declaration may result in cancellation of the tax exemption.

(d) For the duration of the exemption granted under this chapter, the property shall have no violation of applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of the Kirkland Municipal Code for which the designated city department shall have issued a notice of violation or notice of civil infraction that is not resolved by a certificate of compliance, certificate of release, or withdrawal within the time period for compliance provided in such notice of violation or notice of civil infraction and any extension of the time period for compliance granted by the director.

(e) For owner-occupied affordable units, in addition to any other requirements in this chapter, the affordable owner-occupied units must continue to meet the conditions of Section 5.88.040(7). In the event of a sale of an affordable owner-occupied unit to a household other than an eligible household, or at a price greater than prescribed in the regulatory agreement referenced in Section 5.88.040(8), the property tax exemption for that affordable owner-occupied unit shall be cancelled pursuant to this section.

(f) For property with renter-occupied dwelling units, in addition to any other requirements in this chapter, the affordable renter-occupied units must continue to meet the conditions of Section 5.88.040(6). In the event of a rental of an affordable renter-occupied unit to a household other than an eligible household, or at a rent greater than prescribed in the regulatory agreement referenced in Section 5.88.040 (8), the property tax exemption for the property shall be cancelled pursuant to this section.

(g) If the owner converts the multifamily housing to another use, the owner shall notify the director and the county assessor within sixty days of the change in use. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest and penalty imposed pursuant to state law.

(h) The director shall cancel the tax exemption for any property or individual unit that no longer complies with the terms of the contract or with the requirements of this chapter. Upon cancellation, additional taxes, interest and penalties may be imposed pursuant to state law. Upon determining that a tax exemption shall 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 along with the appeal fee established by ordinance within thirty days of the date of notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the hearing examiner pursuant to Section 5.88.110. (Ord. 3937 § 1 (part), 2004)

5.88.110 Appeals to hearing examiner.

(a) The city's hearing examiner is provided jurisdiction to hear appeals of the decisions of the director on the final certificate of tax exemption and cancellation

thereof.

(b) 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 hearing 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 the date of the notification by the city to the appellant of that decision. (Ord. 3937 § 1 (part), 2004)

5.88.120 Annual reporting.

Annually, beginning in 2005, the director or designee shall review the program established by this chapter and provide a report to the city council outlining development activity, types and numbers of units produced and their locations, rent and sales prices, information regarding the number of low and moderate income households benefiting from the program, and other appropriate factors. These reports may include recommendations on whether any neighborhoods should be added or removed, whether affordability limits should be changed in certain areas, and will analyze any issues related to the use of the program for homeownership units. The annual report shall be submitted to the city council no later than March 30th of each year the program is in effect, starting in 2005; each report shall include information for the previous year. (Ord. 3937 § 1 (part), 2004)

TOC < >

Attachment 2
Multifamily Property Tax
Exemption Update

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1910

60th Legislature
2007 Regular Session

Passed by the House April 14, 2007
Yeas 63 Nays 31

Speaker of the House of Representatives

Passed by the Senate April 9, 2007
Yeas 41 Nays 2

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

I, Richard Nafziger, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1910** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

FILED

Secretary of State
State of Washington

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1910

AS AMENDED BY THE SENATE

Passed Legislature - 2007 Regular Session

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Finance (originally sponsored by Representatives Ormsby, Fromhold, Miloscia, Dunshee, Kenney, Appleton, Darneille, Hasegawa and Morrell)

READ FIRST TIME 03/05/07.

AN ACT Relating to tax incentives for certain multiple-unit dwellings in urban centers that provide affordable housing; amending RCW 84.14.005, 84.14.007, 84.14.010, 84.14.020, 84.14.030, 84.14.040, 84.14.050, 84.14.060, 84.14.090, 84.14.100, and 84.14.110; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 84.14.005 and 1995 c 375 s 1 are each amended to read as follows:

The legislature finds:

(1) That in many of Washington's urban centers there is insufficient availability of desirable and convenient residential units<u>, including affordable housing units,</u> to meet the needs of a growing number of the public who would live in these urban centers if these desirable, convenient, attractive, <u>affordable,</u> and livable places to live were available;

(2) That the development of additional and desirable residential units<u>, including affordable housing units,</u> in these urban centers that will attract and maintain a significant increase in the number of permanent residents in these areas will help to alleviate the

detrimental conditions and social liability that tend to exist in the absence of a viable mixed income residential population and will help to achieve the planning goals mandated by the growth management act under RCW 36.70A.020; and

(3) That planning solutions to solve the problems of urban sprawl often lack incentive and implementation techniques needed to encourage residential redevelopment in those urban centers lacking a sufficient variety of residential opportunities, and it is in the public interest and will benefit, provide, and promote the public health, safety, and welfare to stimulate new or enhanced residential opportunities, including affordable housing opportunities, within urban centers through a tax incentive as provided by this chapter.

Sec. 2. RCW 84.14.007 and 1995 c 375 s 2 are each amended to read as follows:

It is the purpose of this chapter to encourage increased residential opportunities, including affordable housing opportunities, in cities that are required to plan or choose to plan under the growth management act within urban centers where the ((~~legislative body~~)) governing authority of the affected city has found there is insufficient housing opportunities, including affordable housing opportunities. It is further the purpose of this chapter to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in urban centers having insufficient housing opportunities that will increase and improve residential opportunities, including affordable housing opportunities, within these urban centers. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing ((~~in residentially deficient urban centers~~)), which includes affordable housing.

Sec. 3. RCW 84.14.010 and 2002 c 146 s 1 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "City" means either (a) a city or town with a population of at least ((~~thirty~~)) fifteen thousand ((~~or~~)), (b) the largest city or town,

if there is no city or town with a population of at least ((~~thirty~~)) fifteen thousand, located in a county planning under the growth management act, or (c) a city or town with a population of at least five thousand located in a county subject to the provisions of RCW 36.70A.215.

(2) "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.

(3) "Household" means a single person, family, or unrelated persons living together.

(4) "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.

(5) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county where the project is located, as reported by the United States department of housing and urban development. For cities located in high-cost areas, "moderate-income household" means a household that has an income that is more than one hundred percent, but at or below one hundred fifty percent, of the median family income adjusted for family size, for the county where the project is located.

(6) "High cost area" means a county where the third quarter median house price for the previous year as reported by the Washington center for real estate research at Washington State University is equal to or greater than one hundred thirty percent of the statewide median house price published during the same time period.

(7) "Governing authority" means the local legislative authority of

a city having jurisdiction over the property for which an exemption may be applied for under this chapter.

((~~(3)~~)) (8) "Growth management act" means chapter 36.70A RCW.

((~~(4)~~)) (9) "Multiple-unit housing" means a building having four or more dwelling units not designed or used as transient accommodations and not including hotels and motels. Multifamily units may result from new construction or rehabilitated or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

((~~(5)~~)) (10) "Owner" means the property owner of record.

((~~(6)~~)) (11) "Permanent residential occupancy" means multiunit housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

((~~(7)~~)) (12) "Rehabilitation improvements" means modifications to existing structures, that are vacant for twelve months or longer, that are made to achieve a condition of substantial compliance with existing building codes or modification to existing occupied structures which increase the number of multifamily housing units.

((~~(8)~~)) (13) "Residential targeted area" means an area within an urban center that has been designated by the governing authority as a residential targeted area in accordance with this chapter.

((~~(9)~~)) (14) "Substantial compliance" means compliance with local building or housing code requirements that are typically required for rehabilitation as opposed to new construction.

((~~(10)~~)) (15) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both, use.

Sec. 4. RCW 84.14.020 and 2002 c 146 s 2 are each amended to read as follows:

(1)(a) The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation, as follows:

(i) For properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW before the effective date of this act, the value is exempt for ten successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate ((~~of tax exemption eligibility. However, the exemption does not include the value of land or nonhousing-related improvements not qualifying under this chapter~~));

and

(ii) For properties for which applications for certificates of tax exemption eligibility are submitted under chapter 84.14 RCW on or after the effective date of this act, the value is exempt:

(A) For eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate; or

(B) For twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate, if the property otherwise qualifies for the exemption under chapter 84.14 RCW and meets the conditions in this subsection (1)(a)(ii)(B). For the property to qualify for the twelve-year exemption under this subsection, the applicant must commit to renting or selling at least twenty percent of the multifamily housing units as affordable housing units to low and moderate-income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the local government under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection (1)(a)(ii)(B) may be satisfied solely through housing affordable to moderate-income households.

(b) The exemptions provided in (a)(i) and (ii) of this subsection do not include the value of land or nonhousing-related improvements not qualifying under this chapter.

(2) When a local government adopts guidelines pursuant to RCW 84.14.030(2) and ((~~the qualifying dwelling units are each on separate~~

~~parcels for the purpose of property taxation~~)) includes conditions that must be satisfied with respect to individual dwelling units, rather than with respect to the multiple-unit housing as a whole or some minimum portion thereof, the exemption may, at the local government's discretion, be limited to the value of the qualifying improvements allocable to those dwelling units that meet the local guidelines.

((~~(2)~~)) (3) In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to the submission of the application required under this chapter. The incentive provided by this chapter is in addition to any other incentives, tax credits, grants, or other incentives provided by law.

((~~(3)~~)) (4) This chapter does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

((~~(4)~~)) (5) At the conclusion of the ((~~ten-year~~)) exemption period, the new or rehabilitated housing cost shall be considered as new construction for the purposes of chapter 84.55 RCW.

Sec. 5. RCW 84.14.030 and 2005 c 80 s 1 are each amended to read as follows:

An owner of property making application under this chapter must meet the following requirements:

(1) The new or rehabilitated multiple-unit housing must be located in a residential targeted area as designated by the city;

(2) The multiple-unit housing must meet ((~~the~~)) guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, ((~~low-income or moderate-~~))income limits for occupancy ((~~requirements~~)), limits on rents or sale prices, and other adopted requirements indicated necessary by the city. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(3) The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of fifty percent of the space for permanent residential occupancy. In the case of existing occupied multifamily

development, the multifamily housing must also provide for a minimum of four additional multifamily units. Existing multifamily vacant housing that has been vacant for twelve months or more does not have to provide additional multifamily units;

(4) New construction multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application;

(5) Property proposed to be rehabilitated must fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995. If the property proposed to be rehabilitated is not vacant, an applicant shall provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate; and

(6) The applicant must enter into a contract with the city approved by the governing ((~~body~~)) authority, or an administrative official or commission authorized by the governing authority, under which the applicant has agreed to the implementation of the development on terms and conditions satisfactory to the governing authority.

Sec. 6. RCW 84.14.040 and 1995 c 375 s 7 are each amended to read as follows:

(1) The following criteria must be met before an area may be designated as a residential targeted area:

(a) The area must be within an urban center, as determined by the governing authority;

(b) The area must lack, as determined by the governing authority, 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 urban center, if the affordable, desirable, attractive, and livable places to live were available; and

(c) The providing of additional housing opportunity, including affordable housing, in the area, as determined by the governing authority, will assist in achieving one or more of the stated purposes of this chapter.

(2) For the purpose of designating a residential targeted area or areas, the governing authority may adopt a resolution of intention to so designate an area as generally described in the resolution. The resolution must state the time and place of a hearing to be held by the

governing authority to consider the designation of the area and may include such other information pertaining to the designation of the area as the governing authority determines to be appropriate to apprise the public of the action intended.

(3) The governing authority shall give notice of a hearing held under this chapter by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed residential targeted area is located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a residential targeted area.

(4) Following the hearing, or a continuance of the hearing, the governing authority may designate all or a portion of the area described in the resolution of intent as a residential targeted area if it finds, in its sole discretion, that the criteria in subsections (1) through (3) of this section have been met.

(5) After designation of a residential targeted area, the governing authority ((~~shall~~)) must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060. The standards and guidelines must establish basic requirements for both new construction and rehabilitation ((~~including~~)), which must include:

(a) Application process and procedures((~~. These guidelines may include the following:~~));

((~~(a)~~)) (b) Requirements that address demolition of existing structures and site utilization; and

((~~(b)~~)) (c) Building requirements that may include elements addressing parking, height, density, environmental impact, and compatibility with the existing surrounding property and such other amenities as will attract and keep permanent residents and that will properly enhance the livability of the residential targeted area in which they are to be located.

(6) The governing authority may adopt and implement, either as conditions to eight-year exemptions or as conditions to an extended exemption period under RCW 84.14.020(2), or both, more stringent income eligibility, rent, or sale price limits, including limits that apply to

a higher percentage of units, than the minimum conditions for an extended exemption period under RCW 84.14.020(2).

Sec. 7. RCW 84.14.050 and 1999 c 132 s 2 are each amended to read as follows:

An owner of property seeking tax incentives under this chapter must complete the following procedures:

(1) In the case of rehabilitation or where demolition or new construction is required, the owner shall secure from the governing authority or duly authorized ((~~agent~~)) representative, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes;

(2) In the case of new and rehabilitated multifamily housing, the owner shall apply to the city on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption including information indicated on the application form or in the guidelines;

(b) A description of the project and site plan, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

(3) The applicant must verify the application by oath or affirmation; and

(4) The application must be accompanied by the application fee, if any, required under RCW 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.

Sec. 8. RCW 84.14.060 and 1995 c 375 s 9 are each amended to read as follows:

The duly authorized administrative official or committee of the city may approve the application if it finds that:

(1) A minimum of four new units are being constructed or in the case of occupied rehabilitation or conversion a minimum of four additional multifamily units are being developed;

(2) If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in RCW 84.14.020;

(3) The proposed project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

((~~(3)~~)) (4) The owner has complied with all standards and guidelines adopted by the city under this chapter; and

((~~(4)~~)) (5) The site is located in a residential targeted area of an urban center that has been designated by the governing authority in accordance with procedures and guidelines indicated in RCW 84.14.040.

Sec. 9. RCW 84.14.090 and 1995 c 375 s 12 are each amended to read as follows:

(1) Upon completion of rehabilitation or new construction for which an application for a limited tax exemption under this chapter has been approved and after issuance of the certificate of occupancy, the owner shall file with the city the following:

(a) A statement of the amount of rehabilitation or construction expenditures made with respect to each housing unit and the composite expenditures made in the rehabilitation or construction of the entire property;

(b) A description of the work that has been completed and a statement that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption under this chapter; ((~~and~~))

(c) If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020; and

(d) A statement that the work has been completed within three years of the issuance of the conditional certificate of tax exemption.

(2) Within thirty days after receipt of the statements required under subsection (1) of this section, the authorized representative of the city shall determine whether the work completed, and the affordability of the units, is consistent with the application and the contract approved by the ((~~governing authority~~)) city and is qualified for a limited tax exemption under this chapter. The city shall also determine which specific improvements completed meet the requirements and required findings.

(3) If the rehabilitation, conversion, or construction is completed within three years of the date the application for a limited tax exemption is filed under this chapter, or within an authorized extension of this time limit, and the authorized representative of the city determines that improvements were constructed consistent with the application and other applicable requirements, including if applicable, affordable housing requirements, and the owner's property is qualified for a limited tax exemption under this chapter, the city shall file the certificate of tax exemption with the county assessor within ten days of the expiration of the thirty-day period provided under subsection (2) of this section.

(4) The authorized representative of the city shall notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(a) The rehabilitation or new construction was not completed within three years of the application date, or within any authorized extension of the time limit;

(b) The improvements were not constructed consistent with the application or other applicable requirements; ((~~or~~))

(c) If applicable, the affordable housing requirements as described in RCW 84.14.020 were not met; or

(d) The owner's property is otherwise not qualified for limited exemption under this chapter.

(5) If the authorized representative of the city finds that construction or rehabilitation of multiple-unit housing was not completed within the required time period due to circumstances beyond the control of the owner and that the owner has been acting and could reasonably be expected to act in good faith and with due diligence, the governing authority or the city official authorized by the governing authority may extend the deadline for completion of construction or rehabilitation for a period not to exceed twenty-four consecutive months.

(6) The governing authority may provide by ordinance for an appeal of a decision by the deciding officer or authority that an owner is not entitled to a certificate of tax exemption to the governing authority, a hearing examiner, or other city officer authorized by the governing authority to hear the appeal in accordance with such reasonable procedures and time periods as provided by ordinance of the governing

authority. The owner may appeal a decision by the deciding officer or authority that is not subject to local appeal or a decision by the local appeal authority that the owner is not entitled to a certificate of tax exemption in superior court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty days of notification by the city to the owner of the decision being challenged.

Sec. 10. RCW 84.14.100 and 1995 c 375 s 13 are each amended to read as follows:

(1) Thirty days after the anniversary of the date of the certificate of tax exemption and each year for ((~~a period of ten years~~)) the tax exemption period, the owner of the rehabilitated or newly constructed property shall file with a designated ((~~agent~~)) authorized representative of the city an annual report indicating the following:

((~~(1)~~)) (a) A statement of occupancy and vacancy of the rehabilitated or newly constructed property during the twelve months ending with the anniversary date;

((~~(2)~~)) (b) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in RCW 84.14.020 since the date of the certificate approved by the city; ((~~and~~

~~(3)~~)) (c) A description of changes or improvements constructed after issuance of the certificate of tax exemption; and

(d) Any additional information requested by the city in regards to the units receiving a tax exemption.

(2) All cities, which issue certificates of tax exemption for multiunit housing that conform to the requirements of this chapter, shall report annually by December 31st of each year, beginning in 2007, to the department of community, trade, and economic development. The report must include the following information:

(a) The number of tax exemption certificates granted;

(b) The total number and type of units produced or to be produced;

(c) The number and type of units produced or to be produced meeting affordable housing requirements;

(d) The actual development cost of each unit produced;

(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 units receiving a tax exemption and a summary of these figures for the city; and

(g) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

Sec. 11. RCW 84.14.110 and 2002 c 146 s 3 are each amended to read as follows:

(1) If improvements have been exempted under this chapter, the improvements continue to be exempted ((~~and~~)) for the applicable period under RCW 84.14.020, so long as they are not ((~~be~~)) converted to another use ((~~for at least ten years from date of issuance of the certificate of tax exemption~~)) and continue to satisfy all applicable conditions. If the owner intends to convert the multifamily development to another use, or if applicable, if 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 assessor within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the ((~~city or assessor or agent~~)) authorized representative of the governing authority discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the ((~~governing authority~~)) city and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements dated back to the date that the improvements were converted to a nonmultifamily use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from multifamily use or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority <u>or authorized representative</u> shall notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority <u>or authorized representative,</u> within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer shall either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598.

(3) Upon determination by the governing authority or authorized representative to terminate an exemption, the county officials having possession of the assessment and tax rolls shall correct the rolls in the manner provided for omitted property under RCW 84.40.080. The

county assessor shall make such a valuation of the property and improvements as is necessary to permit the correction of the rolls. The value of the new housing construction, conversion, and rehabilitation improvements added to the rolls shall be considered as new construction for the purposes of chapter 84.55 RCW. The owner may appeal the valuation to the county board of equalization under chapter 84.48 RCW and according to the provisions of RCW 84.40.038. If there has been a failure to comply with this chapter, the property must be listed as an omitted assessment for assessment years beginning January 1 of the calendar year in which the noncompliance first occurred, but the listing as an omitted assessment may not be for a period more than three calendar years preceding the year in which the failure to comply was discovered.

NEW SECTION. **Sec. 12.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

--- END ---

ANALYSIS OF USING THE 10 YEAR PROPERTY TAX EXEMPTION PROGRAM AS AN INCENTIVE FOR THE CREATION OF AFFORDABLE HOUSING UNITS IN KIRKLAND

Background

One strategy identified in the Housing Task Force Recommendation Report is use of the statewide property tax exemption program for multifamily housing as an incentive for creation of affordable housing. The state legislation allows cities to exempt new multifamily housing (or significantly rehabilitated housing) located in designated urban center areas from property taxes assessed on the housing's improvement value for a period of ten years. The urban center areas under this program would be designated by the City as areas that are compact, identifiable districts where shops, services and adequate public facilities are available. Centers would likely include downtown Kirkland and the Juanita, Totem Lake, and Rose Hill business districts.

Value of Exemption

At this time, the legislation allows only a full exemption of the property taxes on the eligible improvements for rental properties. An exemption on a unit by unit basis is available for owned housing units (such as condominiums). In a rental situation, the value of this exemption per unit is estimated to be in the range of $7,700 to $9,900. Therefore, depending on the percentage of affordable housing in a development, a property tax incentive could provide a large part of the incentive needed to offset the cost of providing an affordable housing unit (estimated to be between $90,000 and $137,000, based on a variety of factors such as unit size and property location). For example, if 10% of the units are affordable, and the entire development receives a 10 year property tax exemption, the value of the property tax exemption per affordable unit could be $77,000 to $99,000.

Tax Impacts to City

The information on the attached spreadsheet outlines the financial impact to the City of Kirkland of adopting a program that would allow a full exemption for rental properties in urban center areas that include affordable housing units. (The attached analysis was reviewed by the Finance Department.) Sections C.1 and C.2 represent two different assumptions about the value of the improvements that would be exempt. Section C.1, which estimates the upper end of the anticipated impact, uses a top-down approach based on historic tax trends and results in an average improvement value of about $258,000 per unit. Section C.2, which estimates the lower end of the anticipated impact, uses a bottom-up approach based on an assumed average improvement value of $145,000 per unit. Assuming 50% of new housing in the designated urban centers utilize the property tax exemption, the impacts of the program are estimated to be:

- Between $10,231 and $18,238 in forgone regular levy taxes for the first year, peaking at between $102,305 and $182,382 in forgone regular levy taxes in the tenth year of the program;
- Between $784 and $1,398 in forgone special levy taxes for the first year, peaking at between $7,840 and $13,980 in forgone special levy taxes in the tenth year of the program;

- The amount of regular levy taxes that would be foregone represents between 5.8% and 10.4% of the City's portion of the taxes from new construction.

Several assumptions have gone into these calculations, including:

- The City's annual increase in assessed valuation due to new construction will be 2.0%. Historically, it has been between 2.0% and 2.5%.
- 28.1% of new assessed valuation will continue to be from new multifamily units.
- 74% of new multifamily development in Kirkland will be in the identified urban center areas, which is equal to their proportion of the City's multifamily residential capacity.
- 54 new multifamily units using the tax exemption program will be developed in the urban center areas each year (50% of anticipated development in these areas).

This last assumption is an aggressive one that anticipates high usage of the tax exemption program.

Partial Exemption

One way for the City to create a better balance between the incentive and the cost of providing affordable units would be to utilize a partial exemption of property taxes. For example, if 10% of the units in a project are affordable, 20% or some other set percentage of the units in the project would be exempt from taxes. This would also reduce the amount of tax revenue lost to the City. A partial exemption is explicitly allowed for ownership units, but does not appear to be allowed at this time for rental housing. If exemptions can only be provided for an entire building, then the amount of affordability the City may want in exchange for the tax exemption could be higher than what a developer is interested in providing. If a partial exemption can be provided, then a relatively low proportion of affordability (e.g. 10% - 20%) could be required, which appears to be more acceptable to builders.

ESTIMATE OF INCREMENTAL PROPERTY TAX INCREASE

Attachment 3
Multifamily Property Tax
Exemption Update

A. EXISTING PROPERTY TAX ASSESSMENT

KIRKLAND TOTAL ASSESSED VALUATION (2002)			$ 6,727,972,285
TOTAL PROPERTY TAXES	Assessment rate/ $1,000 value	$ 10.31	$ 69,365,394
KIRKLAND PROPERTY TAXES			
Regular Levy	Assessment rate/ $1,000 value	$ 1.31	$ 8,780,004
Excess Levy	Assessment rate/ $1,000 value	$ 0.13	$ 888,092
Special Levy (Parks)	Assessment rate/ $1,000 value	$ 0.10	$ 672,797
TOTAL	Assessment rate/ $1,000 value	$ 1.54	$ 10,340,893

B. PROPERTY TAX ASSESSMENT FROM NEW CONSTRUCTION

ANNUAL PERCENT INCREASE IN ASSESSED VALUATION Due to new construction / additions			**2.0%**
ANNUAL DOLLAR INCREASE IN ASSESSED VALUATION Due to new construction / additions			$ 134,559,446
Total Property Taxes	Assessment rate	$ 10.31	$ 1,387,308
Kirkland Property Taxes			
Regular Levy	Assessment rate	$ 1.31	$ 175,600
Excess Levy	Assessment rate	$ 0.13	$ 17,762
Special Levy (Parks)	Assessment rate	$ 0.10	$ 13,456
TOTAL	Assessment rate	$ 1.54	$ 206,818

C. POTENTIAL IMPACT OF 10 YEAR EXEMPTION PROGRAM

2001 - 2022 GMA HOUSING TARGET	5480 units
PROJECTED AVERAGE ANNUAL GROWTH	249 units
PROPOSED 'URBAN CENTER' RESIDENTIAL CAPACITY	2,467 units
As Percent of total residential capacity	#REF!
As Percent of total multifamily capacity	#REF!
PORTION OF 'URBAN CENTER' HOUSING UTILIZING EXEMPTION	50%
New units per year utilizing 10 year exemption	54 units

IMPACT ON PROPERTY TAXES (Property Taxes Foregone)

1. Approach Utilizing Historic Tax Trends

Kirkland Property Taxes (Estimated Annual Impact)	
Regular Levy	**$ 18,238**
Special Levy	**$ 1,398**
Excess Levy	**Not applicable**
Percent of New Taxes from New Construction	**10.4%**
PEAK ANNUAL TOTAL PROPERTY TAX EXEMPTION AFTER 10 YEARS	
Regular Levy	**$ 182,382**
Special Levy	**$ 13,980**

2. Approach Utilizing Per Unit Assessment

Kirkland Property Taxes (Estimated Annual Impact)	
Regular Levy	**$ 10,231**
Special Levy	**$ 784**
Excess Levy	**Not applicable**
Percent of New Taxes from New Construction	**5.8%**
PEAK ANNUAL TOTAL PROPERTY TAX EXEMPTION AFTER 10 YEARS	
Regular Levy	**$ 102,305**
Special Levy	**$ 7,840**

Assumpations for Analysis:

1) Projected housing growth over next 20 years is expected to occur at 2/3rds the rate of the last 10 years (249 per year versus 377 per year)
2) Urban Center' as defined under property tax exemption law, not GMA 'Urban Center Definition' Included mixed use and multifamily zones around the Downtown, Rose Hill, Totem Lake, and Juanita
3) While multifamily units have averaged 63% of all new housing units, on average they account for 28% of new assessment.
4) For Per Unit assessment calculation, average assessment of a new multifamily unit is $145,000