

Ordinance No. 00452

ORDINANCE NO. 452

AN ORDINANCE of the City Council of the City of Lakewood, Washington amending Chapter 3.64 of the Lakewood Municipal Code entitled Tax Incentive Urban Use Center Development.

WHEREAS, Effective July 2007, Chapter 84 of the Revised Code of Washington was amended to specifically include affordable housing considerations as well as changes to the tax exemption program; and

WHEREAS, The City has previously passed Ordinance 286 establishing Chapter 3.64 of the Lakewood Municipal Code related to availability of tax exemptions for multi-family housing; and

WHEREAS, It is necessary to amend Chapter 3.64 to reflect the new legislative changes;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON DO ORDAIN as follows:

Section 1. That chapter 3.64 of the Lakewood Municipal Code entitled Tax Incentive Urban Use Center Development is hereby amended to read as follows:

Chapter 3.64
Tax Incentive Urban Use Center Development

Sections:
3.64.010 Definition.
3.64.020 Residential Target Area Designation and Standards.
3.64.030 Tax Exemptions for Multi-family Housing in Residential Target Areas.

03.64.010 - Definitions

A. ~~Administrator~~ means the ~~Administrator of the Lakewood Redevelopment/Economic Development Division~~ City Manager or authorized designee.

B. ~~Affordable housing~~ means residential housing that is rented by a person or household whose 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.?

C. ~~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.?

D. ~~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.?

E. ~~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.

~~B F.~~ ~~Multi-family housing~~ means a building having four or more dwelling units designed for permanent residential occupancy resulting from new construction, rehabilitation or conversion of vacant, underutilized or substandard buildings. Multi-family housing units as designated herein shall not be designed or used for transient accommodations and do not include hotels and motels.

~~E. G.~~ ~~Owner~~ means the property owner of record.

~~D. H.~~ ~~Permanent residential occupancy~~ means multi-family housing that provides either rental or owner occupancy for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

E. ~~I.~~ ~~Rehabilitation improvements~~ means modifications to existing structures that are vacant for 12 months or longer, or modifications to existing occupied structures which convert non-residential space to residential space and/or increase the number of multi-family housing units.

F. ~~J.~~ ~~Residential Target Area~~ means an area within the Tax Incentive Urban Use Center that has been designated by the City Council as lacking sufficient, available, desirable and convenient residential housing to meet the needs of the public.

~~G. K.~~ ~~Tax Incentive Urban Use Center~~ means a compact, identifiable district where urban residents may obtain a variety of products and services. A Tax Incentive Urban Use Center must contain:

- 1) Several existing or previous existing, or a combination of existing and previously existing, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;
- 2) Adequate public facilities, including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and
- 3) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial and/or office use.

(Ord. 286 ? 1 (part), 2002.)

03.64.020 - Residential Target Area Designation and Standards

A. Existing Designation. The initial designation shall be as shown in the boundaries of the Tax Incentive Urban Use Center(s) as indicated on the map attached hereto, marked as Exhibit "A" and incorporated herein by this reference and on file in the City Clerk's Office, having been duly adopted after public hearing.

B. Public Hearing. For the purposes of designating a Residential Target Area or areas, the City Council must adopt a resolution of intention to so designate an area or areas described in the resolution. The resolution must state the time and place of a hearing to be held by the City Council to consider the designation of any such area and may include such other information pertaining to the designation as the City Council determines to be appropriate to apprise the public of the action intended. Notice of such a hearing shall be made by publication once each week for two consecutive weeks, not less than seven days nor more than thirty (30) days before the date of the hearing in a paper having general circulation in the city where the proposed Residential Target 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 Target Area.

C. Criteria. Following the public hearing, the City Council may, in its sole discretion, designate one or more Residential Target Areas. Each designated Residential Target Area must meet the following criteria, as determined by the City Council:

- 1) The target area is located within a designated Tax Incentive Urban Use Center;
- 2) The target area lacks sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would likely live in the Urban Use Center if desirable, attractive and livable places were available; and
- 3) The providing of additional housing opportunity, including affordable housing, in the target area will assist in achieving at least one the following purposes:
 - (a) Encourage increased residential opportunities within the target area; or
 - (b) Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and under-utilized buildings for multi-family housing.
- 4) In designating a Residential Target Area, the City Council may consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain a significant increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions and social liability in the target area; and whether an increased residential population in the Residential Target Area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The City Council may, by ordinance, amend or rescind the designation of a Residential Target Area at any time pursuant to the same procedure as set forth in this chapter for designation of such areas.

D. Residential Target Area Standards and Guidelines. For each designated Residential Target Area the City Council ~~must shall~~ adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under RCW 84.14.060 basic requirements for both new construction and rehabilitation, including the application process and procedures. The City Council ~~must may~~ also adopt guidelines including the following:

- 1) Requirements that address demolition of existing structures and site utilization; and
- 2) Building requirements that may include elements addressing parking, height, density, environmental impact, public benefit features, compatibility with the surrounding property, and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the Residential Target Area. The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.

E. Designated Residential Target Areas. The proposed boundaries of the Residential Target Areas must be within the boundaries of the Tax Incentive Urban Use Center(s) as designated and as indicated on the map attached hereto, marked as Exhibit "A" and incorporated herein by this reference and accompanying legal descriptions which are incorporated herein by reference and on file in the City Clerk's Office; provided that the Residential Target Areas shall also include the Urban Use Center(s) designated as noted above and as may hereafter be amended.

(Ord. 383 ? 1, 2005 ("Exhibit A" Revised map on file in the City Clerk's Office); Ord. 286 ? 1 (part), 2002.)

03.64.030 - Tax Exemptions for Multi-Family Housing in Residential Target Areas

A. Intent. Limited ten-year eight or twelve year exemptions from ad valorem property taxation for multi-family housing in Tax Incentive Urban Use Center(s) are intended to:

1. Encourage increased residential opportunities within mixed-use centers designated by the City Council as Residential Target Areas.
2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in Residential Target Areas to increase and improve housing opportunities;
3. Assist in directing future population growth to designated Tax Incentive Urban Use Centers, thereby reducing development pressure on single-family residential neighborhoods; and
4. Achieve development densities which are more conducive to transit use in designated Tax Incentive Urban Use Centers.
5. Encourage development of additional and desirable affordable housing units.

B. Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation for ~~eight or twelve ten~~ successive years beginning January 1 of the year immediately following the calendar year after issuance of the Final Certificate of Tax Exemption.

1) For properties which applications for certificates of tax exemption eligibility are submitted under this section, the value is exempt for eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate.

2) 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, 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.

C. Limits on Exemption. The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

D. Project Eligibility. A proposed project must meet the following requirements for consideration for a property tax exemption:

1. Location. The project must be located within a Residential Target Area, as designated in Section 3.64.020.

~~2. Project Applicability. New or qualifying multifamily or mixed use projects under construction as of the effective date of this Ordinance and where a certificate of occupancy permit has not been issued for M or R2 occupancy groups as defined by the International Building Code.~~

~~2.3: Tenant Displacement Prohibited. 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 12 months prior to submission of an application and must have one or more violations of the City's minimum housing code. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.~~

~~3.4: Size. The project must include at least four units of multi-family housing within a residential structure or as part of a mixed-use development. A minimum of four new units must be constructed or at least four additional multi-family units must be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for twelve (12) months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multi-family housing.~~

~~4.5: Permanent Residential Housing. At least fifty (50) percent of the space designated for multi-family housing must be provided for permanent residential occupancy, as defined in Section 3.64.010.~~

~~5.6: Proposed Completion Date. New construction multi-family housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.~~

~~6.7: Compliance with Guidelines and Standards. The project must be designed to comply with the City's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. Rehabilitation and conversion improvements must comply with the City's minimum housing code. New construction must comply with the ~~Uniform International Building Code~~. The project must also comply with any other standards and guidelines adopted by the City Council for the Residential Target Area in which the project will be developed.~~

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

1. File with the City of Lakewood, as directed in the procedures for participation in the City's Tax Incentive Urban Use Center Development Program, the required application along with the required fees. The initial application fee shall be set by the Master Fee Schedule, consist of a base fee of \$150, plus \$25 per multi-family unit, up to a maximum total fee of \$300. An additional \$100 fee to cover the Pierce County Assessor's administrative costs shall be paid to the City. ~~if The application fee is non-refundable, is denied by the City Council, the City will retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.~~

2. A complete application shall include:

- (a) A completed City of Lakewood application form setting forth the grounds for the exemption;
- (b) Preliminary floor and site plans of the proposed project;

(c) A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter; and

(d) Verification by oath or affirmation of the information submitted.

(e) For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve (12) months prior to filing the application and shall secure from the City verification of property noncompliance with the City's minimum housing code.

(f) If applicable, a statement that the project meets the affordable housing requirements as described in RCW 84.14.020.

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

1. Approval. If an application is approved, the applicant shall enter into a contract with the City, subject to approval by resolution of the City Council, regarding the terms and conditions of the project. Upon City Council approval of the contract, the Administrator shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this chapter.

2. Denial. The Administrator 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) days of the denial. An applicant may appeal a denial to the City Council within fourteen (14) days of receipt of notice. On appeal to the City Council, the Administrator's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Administrator's decision. The City Council's decision on appeal will be final.

G. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Administrator for a period not to exceed twenty-four (24) consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a \$50 processing fee as specified in the Master Fee Schedule. An extension may be granted if the Administrator 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.

H. Application for Final Certificate. Upon completion of the improvements agreed upon in the contract between the applicant and the City and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant must file with the ~~Lakewood Redevelopment, Economic Development Division~~ City Manager or authorized designee the following:

1. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
2. A description of the completed work and a statement of qualification for the exemption; and
3. A statement that the work was completed within the required three-year period or any authorized extension. Within thirty (30) days of receipt of all materials required for a Final Certificate, the Administrator shall determine which specific improvements satisfy the requirements of this chapter including, if applicable, the affordability of the units.

I. Issuance of Final Certificate. If the Administrator determines that the project has been completed in accordance with the contract between the applicant and the City and has been completed within the authorized time period, the City shall, within ten (10) days, file a Final Certificate of Tax Exemption with the Pierce County Assessor.

1. Denial and Appeal. The Administrator shall notify the applicant in writing that a Final Certificate will not be filed if the Administrator determines that:

- (a) The improvements were not completed within the authorized time period;
- (b) The improvements were not completed in accordance with the contract between the applicant and the City; or
- (c) The owner's property is otherwise not qualified under this chapter.

(d) or if applicable the affordable housing requirements as described in RCW 84.14.020 were not met.

2. Within ten (10) days of receipt of the Administrator's denial of a Final Certificate, the applicant may file an appeal with the City's Hearing Examiner, as provided in Chapter 1.36 of the Lakewood Municipal Code (LMC). The applicant may appeal the Hearing Examiner's decision in Pierce County Superior Court under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty (30) days of notification by the City to the owner of the decision being challenged.

J. Annual Compliance Review. Within thirty (30) days after the first anniversary of the date of filing the Final Certificate of Tax Exemption and each year thereafter, for ~~the tax exemption period a period of ten (10) years~~, the property owner shall file a notarized declaration with the ~~City Manager or designated agent~~ Administrator indicating the following:

1. A statement of occupancy and vacancy of the multi-family units during the previous year;
2. A certification by the owner 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 that the property continues to be in compliance with the contract with the City; and

3. A description of any subsequent improvements or changes to the property.
City staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.

K. Cancellation of Tax Exemption. If the Administrator determines the owner is not complying with the terms of the contract, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when non-compliance has been determined. If the owner intends to convert the multi-family housing to another use, the owner must notify the Administrator and the Pierce County Assessor within sixty (60) days of the change in use.

1. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Pierce County Assessor may impose an additional tax on the property, together with interest and penalty, and a priority lien may be placed on the land, pursuant to State legislative provisions.

2. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Administrator shall notify the property owner by certified mail. The property owner may appeal the determination by filing a notice of appeal with the City Clerk within thirty (30) days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which all affected parties may be heard and all competent evidence received. The Hearing Examiner will affirm, modify or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the Hearing Examiner's decision to the Pierce County Superior Court, in accordance with RCW sections 34.05.510 through 34.05.598.

(Ord. 383 ? 2, 2005; Ord. 286 ? 1 (part), 2002.)

L. Annual Report by City:

The City shall report annually by December 31st of each year 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.

Section 2. Severability. If any portion of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 3. Effective Date. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary.

PASSED by the City Council this 20th day of August, 2007.

CITY OF LAKEWOOD

_____ Claudia B. Thomas, Mayor

Attest:

Alice M. Bush, MMC, City Clerk

Approved as to form:

Heidi Ann Wachter, City Attorney