

Chapter 3.48

MULTIFAMILY PROPERTY TAX EXEMPTION

REVISIONS IN REDLINE

Sections:

- 3.48.010 Purpose.
- 3.48.020 Definitions.
- 3.48.030 Residential targeted~~ed~~ areas – Criteria – Designation.
- 3.48.040 Residential targeted areas – Types 1 through 3
- 3.48.040 Terms of the tax exemption.
- 3.48.050 Project eligibility.
- 3.48.060 Application procedure.
- 3.48.070 Application review – Issuance of conditional certificate – Denial – Appeal.
- 3.48.080 Extension of conditional certificate.
- 3.48.090 Application for final certificate.
- 3.48.100 Issuance of final certificate.
- 3.48.110 Annual compliance review – Reporting.
- 3.48.120 Cancellation of tax exemption.
- 3.48.130 Conflict of provisions.

3.48.010 Purpose.

As provided for in Chapter 84.14 RCW, the purpose of this chapter is to provide limited exemptions from ad valorem property taxation for multifamily housing in designated residential targeted areas to:

- (1) Encourage increased residential opportunities, including affordable housing units, within areas of the city designated by the city council as residential targeted areas; and/or
- (2) Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multifamily housing in designated residential targeted areas to increase and improve housing opportunities, including affordable housing; and
- (3) Accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the city's comprehensive plan.

3.48.020 Definitions.

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

- (1) "Affordable housing" means the definition provided for in RCW 84.14.010.
- (2) "Department" means the city department of community development.
- (3) "Director" means the director of the department of community development, or designee.

(4) “Fair market rent” means the federal department of housing and urban development’s estimate of what a household seeking a modest rental home in a short amount of time can expect to pay for rent and utilities in the current market, as updated annually.

~~(54) “High-cost area” means the definition provided for in RCW 84.14.010.~~

~~(65) “Household” means the definition provided for in RCW 84.14.010.~~

~~76) “Low income household” means the definition provided for in RCW 84.14.010.~~

(8) “Median family income” means the median family income for the Bremerton-Silverdale Metropolitan Statistical Area, as calculated by the federal department of housing and urban development and updated annually.

(9) “Mixed-use development” means a mix of residential and commercial development, either in the same building or in separate buildings on a site, and involving one or more building types, as permitted by the city’s comprehensive plan, zoning (including any overlay districts), and design regulations.

~~(107) “Moderate income household” means the definition provided for in RCW 84.14.010.~~

(118) “Multifamily housing” (for the purposes of this chapter) means a building having 10 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.

~~(129) “Owner” means the definition provided for in RCW 84.14.010.~~

~~(130) “Permanent residential occupancy” means the definition provided for in RCW 84.14.010.~~

~~(141) “Rehabilitation improvements” means the definition provided for in RCW 84.14.010.~~

~~(152) “Residential targeted area” means the definition provided for in RCW 84.14.010 and the area(s) that have been so designated by the city council pursuant to this chapter.~~

~~(163) “Substantial compliance” means the definition provided for in RCW 84.14.010.~~

~~(174) “Urban center” means the definition provided for in RCW 84.14.010.~~

3.48.030 Residential target~~ed~~ areas – Criteria – Designation.

(1) Following notice and public hearing as prescribed in RCW 84.14.040 of the city council’s intention of designating a residential target~~ed~~ area, the city council may, in its sole discretion, designate one or more residential targeted areas. Each residential target~~ed~~ area must meet the following criteria, as determined by the city council:

(a) The area is within an urban center as designated in the City’s Comprehensive Plan (as a regional, countywide, or local center); ~~or, was previously designated a residential target area as shown on the map labeled Figure 1: Alternative 1 in Port Orchard Ordinance 023-16; and~~

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

(c) Providing additional housing opportunities, including affordable housing, in the area will assist in achieving one or more of the purposes of this chapter.

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

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

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

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

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

(3) At any time the city council may, by resolution, and in its sole discretion, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth in this chapter for original designation.

~~(4) The following areas are designated as residential targeted areas under this chapter, as shown on the map labeled Figure 1: Alternative 1:~~

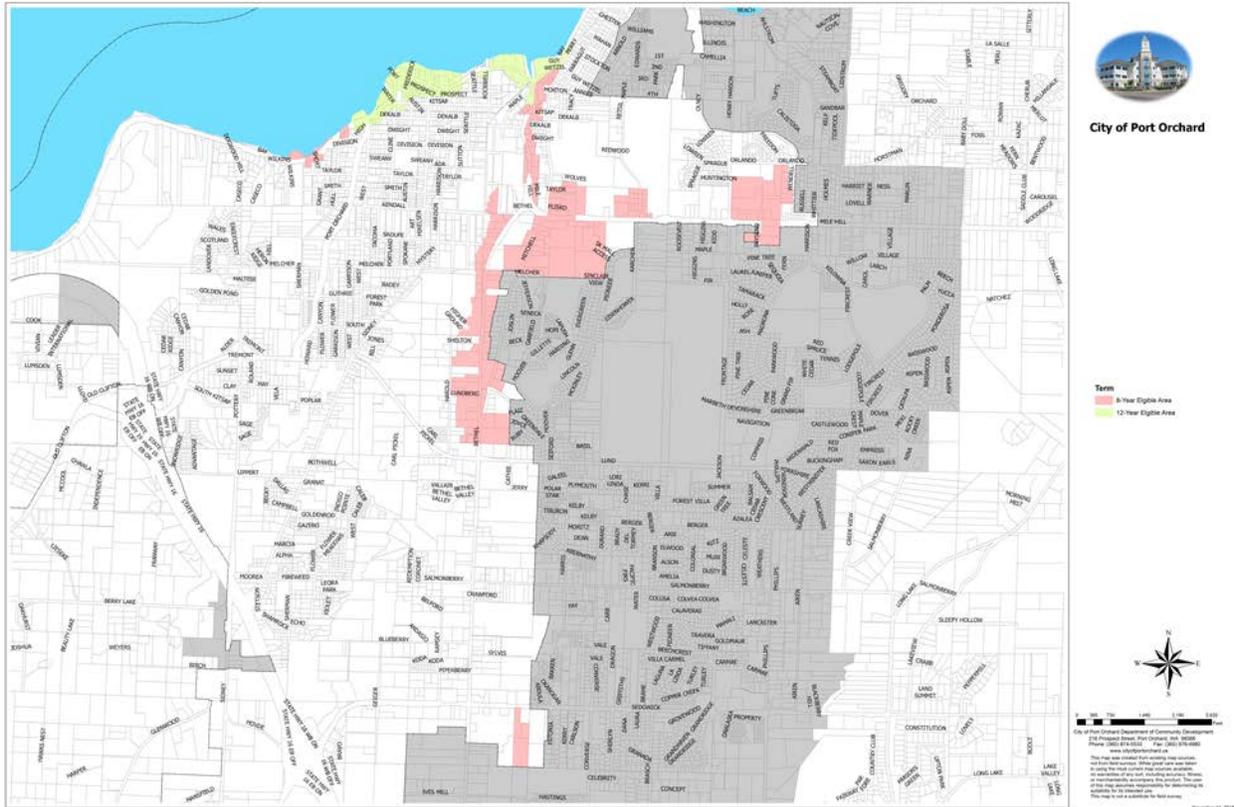


Figure 1: Alternative 1

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

3.48.040 Designated residential targeted areas – Types 1 through 3.

In accordance with section 3.48.030, the City Council has designated three types of designated residential targeted areas, as provided below and as shown on Figures 1 through 3. The maps in Figures 1 through 3 are provided for planning purposes only, and all development that is proposed to qualify for tax exemption within these areas must meet the criteria of this chapter, as well as all other relevant City standards, including but not limited to: the comprehensive plan, zoning code, building code, public works standards, critical areas regulations and the shoreline master program. The project must also comply with any other standards and guidelines adopted by the city council for the specific residential targeted area.

(1) Type 1: Affordable Housing with Transit Access.

(a) As shown on Figure 1, the Type 1 residential targeted area is limited to parcels within centers designated in the comprehensive plan that are zoned for multifamily (including mixed use) development within one-half mile of a transit route or ferry terminal. If more than 75% of the buildable portions of the property area are located more than one-half mile from a transit route or ferry terminal, the property is not eligible for inclusion on the Figure 1 map.

(b) Residential development in a Type 1 residential targeted area is eligible to be considered for 12-year tax exemption.

(c) An affordable housing component is required:

1. A minimum of 20 percent of all residential units in the development shall be rented for at least 10 percent below fair market rent for 12 years, to tenants whose household annual income is:

- At or below 40% of median family income, for housing units in congregate residences or small efficiency dwelling units;
- At or below 65% of median family income for one-bedroom units;
- At or below 75% of median family income for two-bedroom units; and
- At or below 80% of median family income for three-bedroom and larger units.

2. If calculations for the minimum 20 percent of the residential units required under 1. of this subsection result in a fraction, then the minimum number of residential units required to meet the affordable housing requirement shall be rounded up to the next whole number.

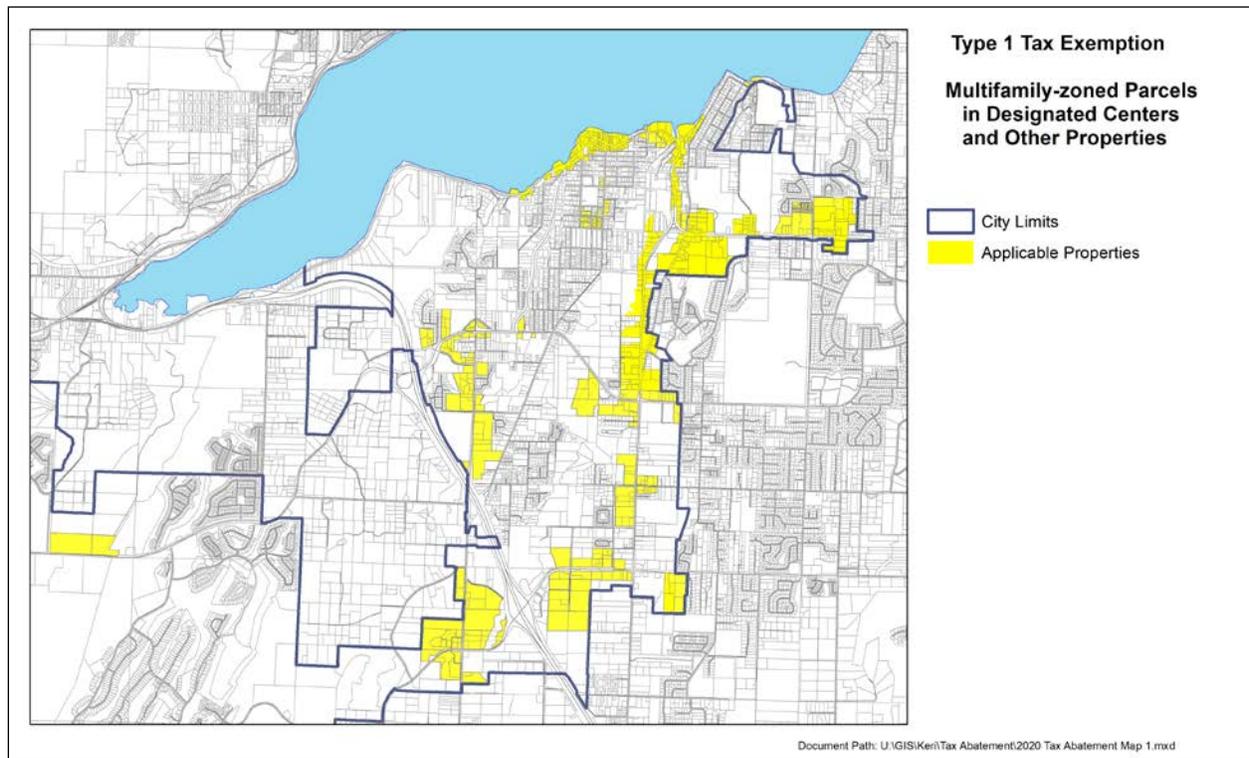


Figure 1: Type 1 Tax Exemption Map

(2) Type 2: Redevelopment Areas.

(a) As shown on Figure 2, the Type 2 residential targeted area is limited to parcels within centers designated in the comprehensive plan that are encouraged to redevelop with multifamily or mixed-use development. These include parcels that: (1) have abandoned buildings (vacant or unused for more than two years); underutilized buildings (50% or more vacancy for more than two years); or (3) contain existing structures and improvements with an assessed building value to land ratio of 2:1 or ~~less~~more.

(b) Residential development in a Type 2 residential targeted area is eligible to be considered for 8-year tax exemption.

(c) No affordable housing component is required.

(d) For certain parcels, rezoning may be required for multifamily or ~~mixed-use~~mixed-use development.

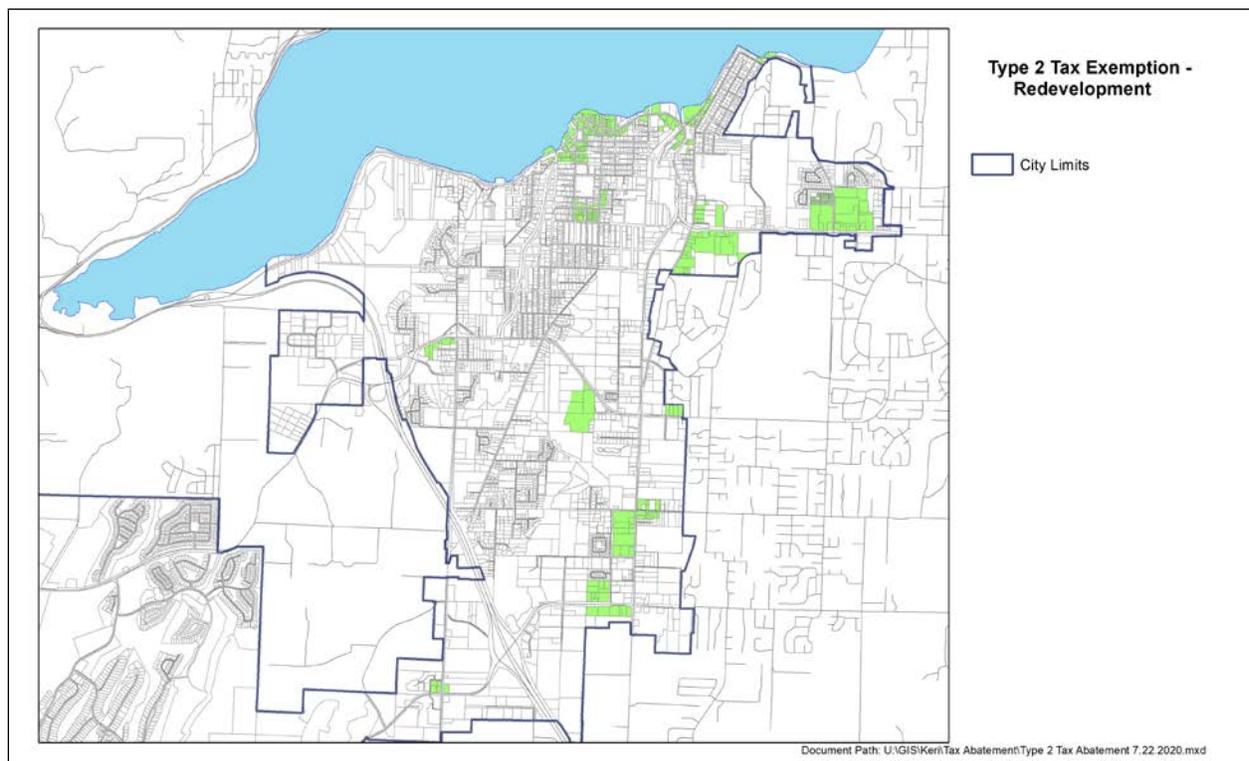


Figure 2: Type 2 Tax Exemption Map

(3) Type 3: Mixed-Use Development with Structured Parking and/or Transfer of Development Rights.

(a) As shown on Figure 3, the Type 3 residential targeted area is limited to parcels within centers designated in the comprehensive plan that are zoned for multifamily (including mixed-use) development.

(b) Residential development in a Type 3 residential targeted area is eligible to be considered for an 8-year tax exemption.

(c) No affordable housing component is required.

(d) The proposed development shall include at least one of the following:

1. At least 50% of the required parking for the proposed use(s) shall be located within the footprint of a building containing multifamily units, in a multistory parking structure, and/or below grade; and the project should achieve at least 50 units per net developable acre (excluding critical areas and buffers, and other land that is undevelopable such as shoreline buffers and tidelands).
2. Construct mixed-use shopfront building type development (refer to POMC 20.32) containing non-residential/non-parking garage square footage that measures at least 40% of the total building footprint square footage for all buildings on the development site. The non-residential/non-parking garage square footage may be in one or more buildings on the site. Live-work units shall be considered as non-residential square footage for the purpose of achieving the required 40% minimum, provided that the units are designed as shopfronts along a public street.
3. Purchase one additional story of building height for one or more buildings through the city's transfer of development rights (TDR) program (refer to POMC 20.41) and construct (a) building(s) that utilizes the additional height allowance.

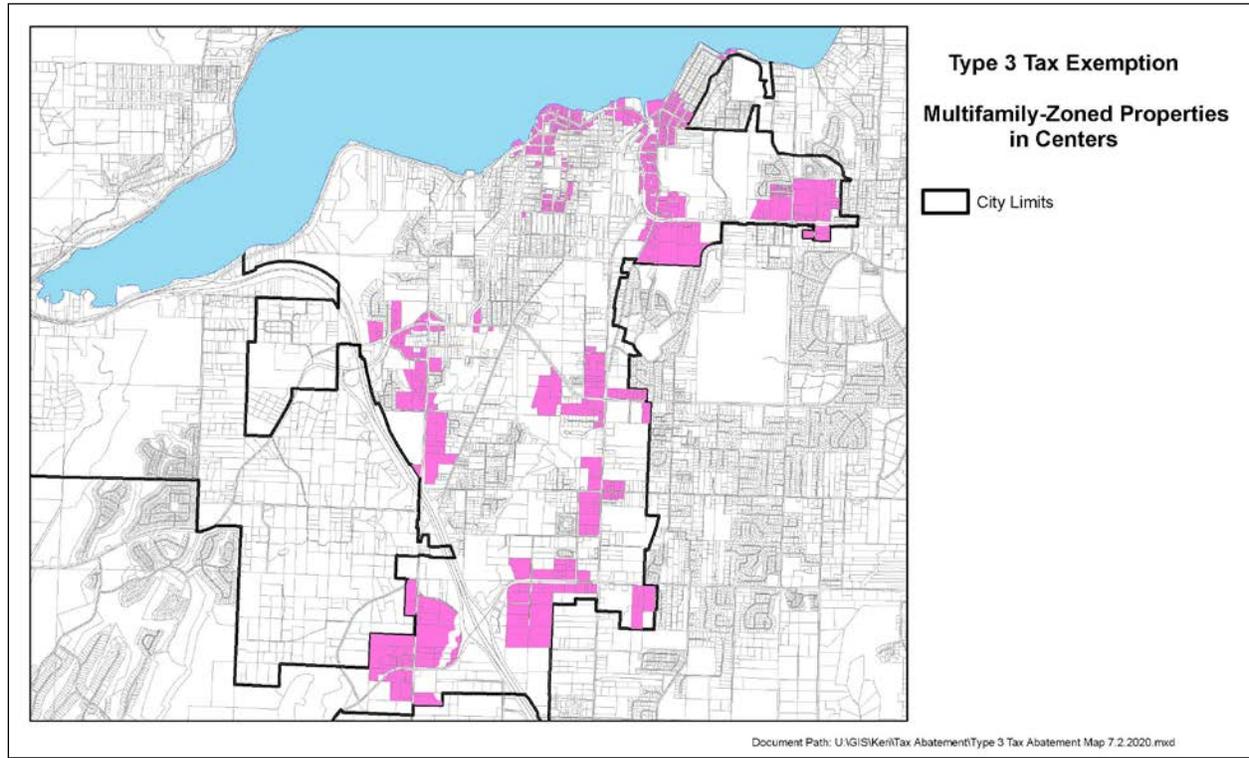


Figure 3: Type 3 Tax Exemption Map

3.48.0540 Terms of the tax exemption.

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

~~(a) Within the areas shown as “8 Year Eligible Area” and “12 Year Eligible Area” in Figure 1 of this chapter, for eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate. No requirements for affordable housing are required for an eight-year tax exemption within either of these areas; or~~

~~(b) Within the area shown as “12 Year Eligible Area” in Figure 1 of this chapter, for 12 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 this chapter and meets the conditions in this subsection. For the property to qualify for the 12-year exemption under this subsection, the applicant must commit to renting or selling at least 20 percent of the multifamily housing units as affordable housing units to low and moderate income households, and the property must satisfy that commitment and any additional affordability and income eligibility conditions adopted by the city under this chapter. In the case of projects intended exclusively for owner occupancy, the minimum requirement of this subsection may be satisfied solely through housing affordable to moderate income households.~~

(a) For both 8-year and 12-year exemptions, the exemption begins on January 1st of the year immediately following the calendar year of issuance of the tax exemption certificate.

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

~~(b)(ii) In projects granted For 12-year exemptions, the number of residential housing units identified to meet the requirements for an affordable housing component per 3.48.040(1)(c) for households with low, affordable, or moderate annual income shall continue to be made available to low, affordable, or moderate households for the length of the exemption period.~~

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

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

(2) Limits on Exemption. The exemption does not apply:

(a) To the value of land or to the value of non-housing-related improvements not qualifying under this chapter.

(b) In the case of rehabilitation of existing buildings, to the value of improvements constructed prior to submission of the completed application required under this chapter.

(c) To increases in assessed valuation made by the Kitsap County Assessor on nonqualifying portions of building or other improvements and value of land nor to increases made by lawful order of a county board of equalization, the Department of Revenue, or Kitsap 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.

(3) Conclusion of Exemption. At the conclusion of the exemption period, the new or rehabilitated housing cost shall be considered as new construction for the purposes of Chapter 84.55 RCW.

3.48.0650 Project eligibility.

A proposed multifamily housing project must meet all of the following requirements for consideration for a property tax exemption:

(1) Location. The project must be located within a residential targeted area as ~~provided defined~~ in POMC 3.48.0430.

(2) Tenant Displacement Prohibited. The project must not displace existing residential tenants of structures that are proposed for redevelopment. 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.

(3) Noncompliance with Building Codes. Existing dwelling units proposed for rehabilitation must fail to comply with one or more standards of the applicable state or city building codes.

(4) Size of Project. The new, converted, or rehabilitated multiple-unit housing must provide for a minimum of 50 percent of the space ~~(excluding structured parking)~~ for permanent residential occupancy. The project, whether new, converted, or rehabilitated multiple-unit housing, must include

at least 10 units of multifamily housing within a residential structure or as part of an urban development. In the case of existing multifamily housing that is occupied or which has not been vacant for 12 months or more, the multifamily housing project must also provide for a minimum of four additional multifamily units for a total project of at least 10 units including the four additional units. Existing multifamily housing that has been vacant for 12 months or more does not have to provide additional units.

(5) Proposed Completion Date. New construction of multifamily housing and rehabilitation improvements must be completed within three years from the date of approval of the application.

~~(6) 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. The project must also comply with any other standards and guidelines adopted by the city council for the residential targeted area.~~ (moved to 3.48.040)

3.48.0760 Application procedure.

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

(1) The exemption application provided by the city shall be completed and filed with the department prior to issuance of a building permit for the project. The completed application shall be accompanied by the application fee as authorized by RCW 84.14.080 and as set forth in the city's current fee resolution.

(2) The exemption application shall contain and require such information as deemed necessary by the director, including:

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

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

(c) For rehabilitation projects, the applicant shall provide a report prepared by a registered architect identifying property noncompliance with current building codes. This report shall identify specific code violations and must include supporting data that satisfactorily explains and proves the presence of a violation. Supporting data must include a narrative and such graphic materials as needed to support this application. Graphic materials may include, but are not limited to, building plans, building details, and photographs.

(d) If applying for a 12-year exemption, it shall include information describing how the applicant will comply with the affordability requirements set forth in POMC 3.48.040(1)(c**b**).

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

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

(g) Verification of the correctness of the information submitted by the owner's signature and affirmation made under penalty of perjury under the laws of the state of Washington.

3.48.0870 Application review – Issuance of conditional certificate – Denial – Appeal.

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

(2) Approval of Application – Contract Required. If an application is approved, the applicant shall enter into a contract with the city, regarding the terms and conditions of implementation of the project, and pursuant to the following:

(a) The contract shall be subject to approval by the city council, in the form of a resolution, regarding the terms and conditions of the project and eligibility for exemption under this chapter. This contract shall be a covenant running with the land and shall be binding on the assigns, heirs, and successors of the applicant.

(b) For any development project including owner-occupied units, the contract with the city shall also require that an owners' association organized under RCW 64.34.300 be formed for all owner-occupied units within the development, for at least the length of the exemption period granted, to assume the responsibility for collecting from all individual unit owners the information and documents required to complete the annual reporting requirements and for filing the required annual report with the city for each of the individual homeowners pursuant to POMC 3.48.1240.

(c) Amendment of Contract. Within three years of the date from the city council's approval of the contract, an owner may request an amendment(s) to the contract by submitting a request in writing to the director. The fee for an amendment is as set forth in the city's current fee resolution. The director shall have authority to approve minor changes to the contract that are reasonably within the scope and intent of the contract approved by the city council, as solely determined by the director. Amendments that are not reasonably within the scope and intent of the approved contract, as solely determined by the director, shall be submitted to the city council for review and approval. The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension set forth in POMC 3.48.0980 are met.

(3) Issuance of Conditional Certificate. Upon city council approval of the contract required under subsection (2) of this section, the director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three years from the date of city council approval unless an extension is granted as provided in this chapter.

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

(5) Appeal. Per RCW 84.14.070, an applicant may appeal a denial to the city council within 30 calendar days of receipt of the denial by filing a complete appeal application and fee, as set forth in the city's current fee resolution, with the director. The appeal before the city council will be based on the record made before the director. The director's decision shall be upheld unless the applicant can show that there is no substantial evidence on the record to support the director's decision. The city council's decision on appeal will be final.

3.48.0980 Extension of conditional certificate.

(1) Extension. The conditional certificate and time for completion of the project may be extended by the director for a period not to exceed a total of 24 consecutive months. To obtain an extension, the applicant must submit a written request with a fee, as set forth in the city's current fee resolution, stating the grounds for the extension. An extension may be granted if the director determines that:

(a) The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner; provided, that financial hardship, regardless of the cause or reason, shall not be considered by the director as a circumstance beyond the control of the owner in order to grant an extension;

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

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

(2) Denial of Extension. If an extension is denied, the director shall state in writing the reason for denial and shall send notice to the applicant's last known address within 10 calendar days of issuance of the denial.

(3) Appeal. An applicant may appeal the denial of an extension to the hearing examiner within 14 calendar days of receipt of the denial by filing a complete appeal application and appeal fee with the director. The appeal before the hearing examiner shall be processed as a closed record hearing. No appeal to the city council is provided from the hearing examiner's decision.

3.48.10090 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 by filing with the director such information as the director may deem necessary or useful to evaluate the eligibility for the final certificate, including the following:

(1) A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;

(2) A description of the completed work and a statement of qualification for the exemption;

(3) The total monthly rent or total sale amount of each multifamily housing unit rented or sold to date;

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

(5) If a 12-year exemption, information on the applicant's compliance with the affordability requirements of this chapter; and

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

3.48.1~~10~~ Issuance of final certificate.

(1) Director's Decision. Within 30 calendar days of receipt of all materials required for a final certificate, the director shall determine whether the specific improvements satisfy the requirements of the contract, application, and this chapter.

(2) Granting of Final Certificate. If the director determines that the project has been completed in accordance with this chapter and the contract between the applicant and the city, and has been completed within the authorized time period, the city shall, within 10 calendar days of the expiration of the 30-day review period above, file a final certificate of tax exemption with the Kitsap County assessor. The director is authorized to cause to be recorded, at the owner's expense, in the real property records of the Kitsap County department of records, the contract with the city, as amended if applicable, and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the director deems appropriate for recording, including requirements under this chapter relating to affordability of units.

(3) Denial of Final Certificate. The director shall notify the applicant in writing that a final certificate will not be filed if the director determines that:

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

(4) Appeal. An applicant may appeal a denial of a final certificate to the hearing examiner within 14 calendar days of issuance of the denial of a final certificate by filing a complete appeal application and appeal fee with the director. The appeal before the hearing examiner shall be processed as a closed record hearing. No appeal to the city council is provided from the hearing examiner's decision.

3.48.1~~20~~ Annual compliance review – Reporting.

(1) Within 30 calendar days after the first anniversary of the date of filing the final certificate of tax exemption and each year for the tax exemption period, the property owner shall be required to file a notarized declaration with the director indicating the following:

- (a) A statement of occupancy and vacancy of the multifamily units during the previous 12 months;
- (b) A certification by the owner that the property has not changed use and continues to be in compliance with the contract with the city and the applicable requirements of this chapter;
- (c) A description of changes or improvements to the property made after the city's issuance of the final certificate of tax exemption;
- (d) The total monthly rent of each multifamily housing unit rented or the total sale amount of each unit sold during the 12 months ending with the anniversary date;
- (e) A breakdown of the number, type, and specific multifamily housing units rented or sold during the 12 months ending with the anniversary date;
- (f) If granted a 12-year exemption, information demonstrating the owner's compliance with the affordability requirements of this chapter, including, but not limited to, the income of each renter

household at the time of initial occupancy or the income of each purchaser of owner-occupied units at the time of purchase;

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

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

(2) City staff may also conduct on-site verification of the declaration and reporting required under this section. Failure to submit the annual declaration and report may result in cancellation of the tax exemption pursuant to this chapter and shall result in a review of the exemption per RCW 84.14.110.

(3) If the city issues final tax exemption certificates pursuant to this chapter, the director shall submit the report required by RCW 84.14.100 to the state Department of Commerce by December 31st of each year.

3.48.13020 Cancellation of tax exemption.

(1) The director may cancel a tax exemption on a property if he/she determines any of the following:

(a) The owner is not complying with the terms of the contract or this chapter;

(b) The use of the property is changed or will be changed to a use that is other than residential;

(c) The project violates applicable zoning requirements, land use regulations, building, or fire code requirements; or

(d) The owner fails to submit the annual declaration and report specified in POMC 3.48.1210.

(2) If the owner intends to convert the multifamily housing to another use, the owner shall notify the director and the Kitsap County assessor in writing within 60 calendar days of the change in use.

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

(4) Upon cancellation of the tax exemption, additional taxes, interest, and penalties shall be imposed on the property, and a priority lien may be placed on the land, pursuant to state law.

(5) Notice of Cancellation. Upon determining that a tax exemption is to be canceled, pursuant to RCW 84.14.110(2), the director shall notify the owner by mail, return receipt requested.

(6) Appeal of Cancellation. The owner may appeal the determination of cancellation to the hearing examiner by filing a notice of appeal and appeal fee with the city clerk within 30 calendar days of the date of the notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the hearing examiner as a closed record hearing. No appeal to the city council is provided from the hearing examiner's decision.

3.48.14030 Conflict of provisions.

If any provision of this chapter is in legal conflict with the provisions of Chapter 84.14 RCW, as currently adopted or hereafter amended, the provisions of Chapter 84.14 RCW shall apply as if set forth in this chapter.