

**ORDINANCE NO. 1999-09-054**

**AN ORDINANCE RELATING TO THE DEVELOPMENT OF MULTI-FAMILY HOUSING, DESIGNATING RESIDENTIAL TARGET AREAS AND ESTABLISHING CRITERIA AND PROCEDURES FOR PROPERTY TAX EXEMPTIONS, ADDING CHAPTER 17.82 TO THE BELLINGHAM MUNICIPAL CODE .**

**WHEREAS** the Washington State Legislature adopted Senate Bill 5387 which provides for exemptions from ad valorem property taxation for qualifying multi-family housing located in residential target areas within mixed-use centers and authorizes the City to adopt necessary procedures to implement the State legislation;

**NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:**

**Section 1.** A new Chapter 17.82 is added to the Bellingham Municipal Code to read as follows:

**17.82.010 Definitions.**

- A. “Multi-family housing”** means buildings having four or more dwelling units designated for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized or substandard buildings.
- B. “Owner”** means the property owner of record as filed with the Whatcom County Assessor’s office.
- C. “Urban Center”** means a center designated as such in the land use element of the City’s comprehensive plan. An Urban Center is an identifiable district containing business establishments, adequate public facilities, and a mixture of uses and activities, where residents may obtain a variety of products and services. Urban Centers include the City Center Master Plan Area and Neighborhood Center, Town Center, and Urban Development Center as identified in the Bellingham Comprehensive Plan.
- D. “Director”** means the director of the City’s Planning and Community Development Department or authorized designee.
- E. “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.
- F. “Rehabilitation improvements”** means modifications to existing structures which are and have been vacant for 12 months or longer, or modification to existing occupied structures which convert non-residential space to residential space and/or increase the number of multi-family housing units.

G. **“Local Housing Standards”** means the Uniform Housing Code as adopted by the City of Bellingham.

H. **“Targeted Residential Area”** means an area in an urban center that has been designated by the City Council as lacking sufficient, available, desirable, affordable, and convenient residential housing to meet the needs of the public.

**17.82.020 Targeted Residential Area Designation and Standards.**

A. **Criteria.** Following a public hearing, the City Council may, in its sole discretion, designate one or more Targeted Residential Areas. Each designated area must meet the following criteria, as determined by the City Council:

1. The targeted area is located in any Urban Center found to be in conformity with RCW 84.14.040 and so designated by City Council;
2. The targeted area lacks sufficient available, desirable and convenient residential housing to meet the needs of the public who would likely live in the Urban Center if desirable, attractive, and livable homes/situations were available; and
3. Provision of additional housing incentives in the targeted area will assist in achieving the following purposes:
  - a. Encourage increased residential opportunities within the targeted area; or
  - b. Stimulate the construction of new multi-family housing and the rehabilitation of existing vacant and under-utilized buildings for multi-family housing.

In designating a Targeted Residential Area, the City Council may also consider other factors including, but not limited to: whether additional housing in the targeted area will attract and retain a significant increase in the resident population; whether an increased residential population will alleviate detrimental conditions and social liability in the targeted area; and whether increasing the residential population in the targeted area will contribute to achieving the planning goals described in the City of Bellingham Comprehensive Plan or by the Growth Management Act under RCW 36.70A.020. The City Council may, by ordinance, amend or rescind the designation of a Targeted Residential Area at any time pursuant to the same procedure as set forth in this chapter for original designation.

B. **Targeted Area Standards and Guidelines.** For each designated area, the Planning and Development Commission shall develop and the City Council shall adopt basic requirements for both new construction and rehabilitation, including the application process and procedures. The City Council 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 access to alternative transportation facilities, height, density, environmental impact, public benefit features, compatibility with surrounding property, or other features intended to enhance the livability of the area for permanent residency.

The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.

**C. Designated Targeted Areas.** The boundaries of the "Targeted Residential Areas" are located within the Urban Centers listed below, and as indicated on the map and accompanying legal descriptions which are incorporated herein by reference and on file in the City Clerk's Office.

**URBAN CENTER**

**TARGETED AREA DESIGNATION**

City Center Master Plan Area

Area 1

**D. Designated Standards and Guidelines for the Bellingham City Center Master Plan Targeted Area.** Projects proposed for exemptions from ad valorem property taxes and located in the City Center Master Plan Targeted area shall meet the standards established in Section 4, Paragraph D of this ordinance. Requests for consideration under this ordinance for projects located in the City Center Master Plan Targeted Area shall be processed under procedures and conditions established in Section 4, Paragraph E, below, including any modification in effect at the time of application.

**17.82.030 Tax Exemptions For Multi-Family Housing In Targeted Residential Areas.**

**A. Intent.** Limited ten-year exemptions from ad valorem property taxation for multi-family housing in Urban Centers are intended to:

1. Provide economic incentives enabling increased residential housing choices and opportunities within Urban Centers designated by the City Council as Targeted Residential Areas.
2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in Targeted Residential Areas to increase and improve housing opportunities;
3. Assist in directing future population growth to designated urban centers with existing available infrastructure thereby reducing development pressure on neighborhoods lacking infrastructure capacities; and
4. Achieve development densities which are more conducive to transit use in designated Urban Centers.

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

**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 to be considered for a property tax exemption:

1. **Location.** The project must be located within a Targeted Residential Area, as designated in Section 3.

2. **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 Local Housing Standard. 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. **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 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. **Permanent Residential Housing.** At least 50 percent of the space designated for multi-family housing must be provided for permanent residential occupancy, as defined in Section 2. E.

5. **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. **Compliance with Guidelines and Standards.** The project shall be reviewed through the City's Planned Contract Review process and 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 Local Housing Standard. New construction must comply with the current Building Code adopted by the City. The project must also

comply with any other standards and guidelines adopted by the City Council for the Targeted Residential 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's Planning and Community Development Department the required application along with any required fees as determined by Council resolution. An additional fee, as determined by Council resolution, may be required to cover the Whatcom County Assessor's administrative costs. If the application shall result in a denial by the City, 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 Bellingham application form setting forth the project's eligibility for the exemption;
  - (b) Preliminary floor and site plans and elevations of the proposed project and narrative or other description of the scope of work to be performed;
  - (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.

For rehabilitation projects, the applicant shall also submit a sworn affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the City verification of property noncompliance with the City's Local Housing Standard.

**F. Application Review and Issuance of Conditional Certificate.** The Director 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 90 days of receipt of a complete application.

1. **Approval.** If an application is conditionally approved, the applicant shall enter into a contract with the City, subject to final approval by resolution of the City Council, regarding the terms and conditions of the project. Upon Council approval of the contract, the Director 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 Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten days of the denial.

An applicant may appeal a denial to the City Council within 30 days of receipt of notice. On appeal, the Director's decision will 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.

**G. Extension of Conditional Certificate.** The Conditional Certificate may be extended by the Director for a period not to exceed 24 consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by any processing fee as determined by Council Resolution. No Conditional Certificate shall be eligible for more than one such extension. An extension may be granted if the Director determines that:

1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
2. The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence;
3. The project will comply with the City's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the extension of the Conditional Certificate is granted; and
4. 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 City's Planning and Community Development Department 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 with evidence of final City inspection of all work completed 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 30 days of receipt of all materials required for a Final Certificate, the Director shall determine which specific improvements satisfy the requirements of this chapter.

**I. Issuance of Final Certificate.** If the Director 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 days, file a Final Certificate of Tax Exemption with the Whatcom County Assessor.

**1. Denial and appeal.** 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.

Within 14 days of receipt of the Director's denial of a Final Certificate, the applicant may file an appeal with the City Council, as provided in Section \_\_\_\_ of the Bellingham Municipal Code. The applicant may appeal the City Council's decision in Whatcom County Superior Court, if the appeal is filed within 30 days of receiving notice of that decision.

**J. Annual Compliance Review.** Within 30 days after the first anniversary of the date of filing the Final Certificate of Tax Exemption and each year thereafter, for a period of ten years, the property owner shall file a notarized declaration with the Director indicating the following:

- 1. A statement of occupancy and vacancy of the multi-family units during the previous year;
- 2. A certification 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 have the right to 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 Director 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 Director and the Whatcom County Assessor within 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 Whatcom 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 Director 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 30 days, specifying the factual and legal basis for the appeal. The City Council will conduct a hearing at which all affected parties may be heard and all competent evidence received. The City Council will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the City Council's decision to the Whatcom County Superior Court.


## Section 2. Severability

Should any section, clause, or provision of this ordinance be declared by the courts to be invalid or unconstitutional, the same shall not affect the validity of the ordinance as a whole or any part thereof, other than the part so declared to be invalid.


## Section 3. Effective Date

This ordinance shall be effective October 1, 1999.


PASSED by Council this 13th day of September, 1999.

  
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Council President

APPROVED by me this 4th day of October, 1999.

  
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Mayor

ATTEST:

  
\_\_\_\_\_  
Finance Director

APPROVED AS TO FORM:

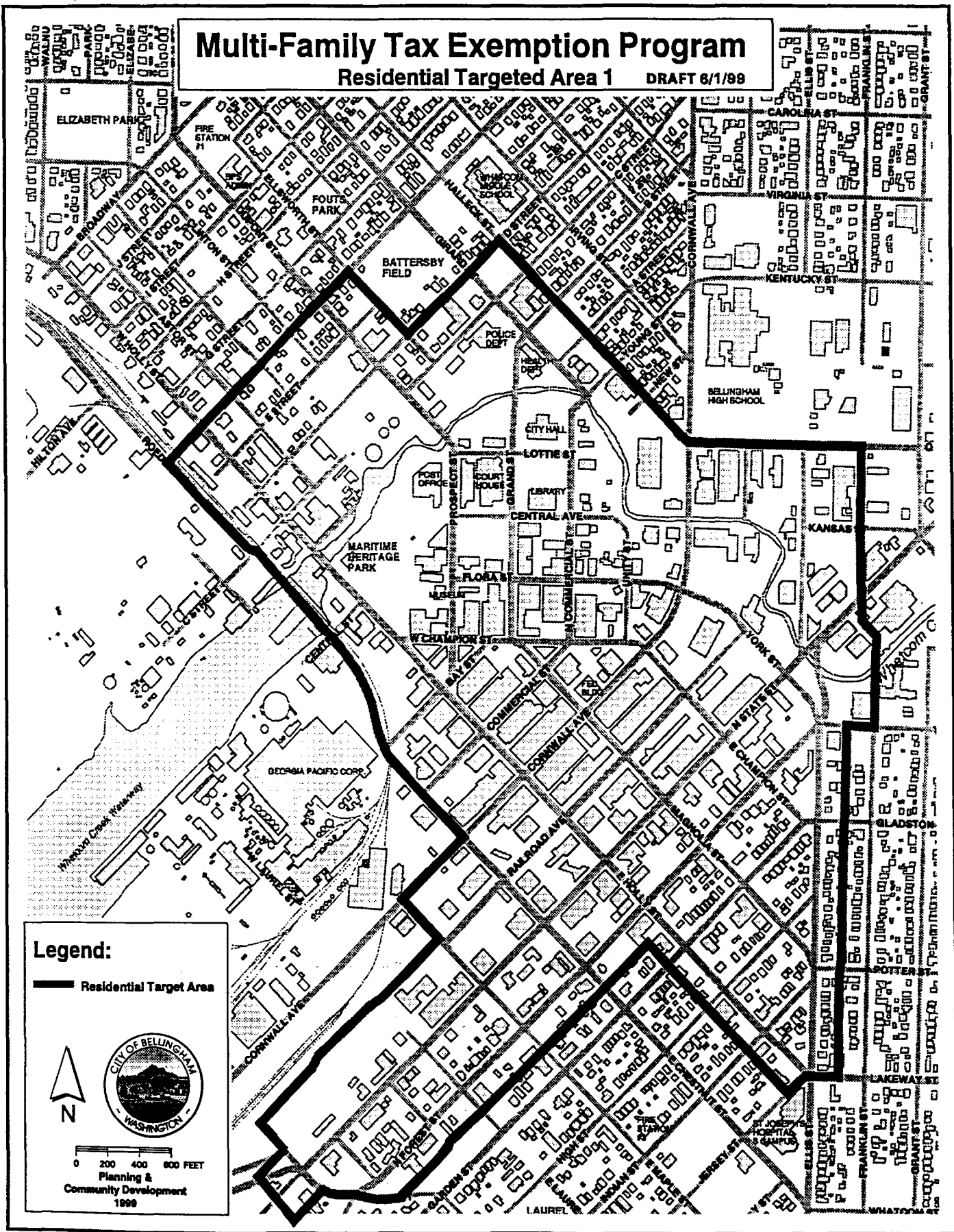
  
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Office of the City Attorney

Published: 9/17/99

# Multi-Family Tax Exemption Program

Residential Targeted Area 1

DRAFT 6/1/99



EXH A

Residential Target Area 1 Description

Beginning at the intersection of Roeder Ave and F Street following Roeder Ave and E Chestnut to Cornwall Ave. Then following Cornwall Ave to E Maple St. Then following E Maple St to Railroad Ave. Then following the Railroad Ave right of way to Ivy St. Then following Ivy St to the alley between the Railroad Ave right of way and N State St. Then following said alley to the center of the block bounded by E Ivy and E Oak Streets. Then crossing N State St to the Alley between N State St and N Forest St. Then following said alley to E Ivy St. Then following E Ivy St to the alley between N Forest St and N Garden St. Then following said alley to the back line of the lots abutting the southwest side of E Holly St. Then following said backline paralleling E Holly St to Jersey St. Then following Jersey St to Lakeway Dr. Then following Lakeway Dr to the alley between Ellis St and Franklin St. Then following said alley to York St. Then following York St to Franklin St. Then following the Franklin St right of way to Ohio St. Then following Ohio St to Halleck St. Then following Halleck St to D Street. Then following D Street to Ellsworth St. Then following Ellsworth St to F Street. Then following F Street to the point of beginning.