

ORDINANCE NO. 2010-12-078

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE CHAPTER 17.82 TO INCORPORATE 2007 STATE LEGISLATION CHANGING THE DURATION UNDER WHICH A RESIDENTIAL MULTI-UNIT PROPERTY TAX EXEMPTION IS AUTHORIZED, ADOPT PROVISIONS FOR AFFORDABLE HOUSING, ADOPT CRITERIA FOR REPORTING DATA ANNUALLY TO THE STATE, AMEND TARGETED AREA 1 IN THE CITY CENTER, AND ADD THE SAMISH WAY AND FOUNTAIN DISTRICT URBAN VILLAGES AS TARGETED AREAS ELIGIBLE FOR RESIDENTIAL MULTI-UNIT PROPERTY TAX EXEMPTION

WHEREAS, Ordinance 1999-09-054, 2003-03-011 and 2005-07-062 established criteria and procedures for *ad valorem* property tax exemptions for multi-unit housing located in designated target areas in urban centers pursuant to RCW Chapter 84.14; and

WHEREAS, 2007 State legislative amendments to RCW Chapter 84.14 were adopted that change the duration under which a multi unit property tax exemption is authorized, add provisions for affordable housing, and add criteria by which qualified jurisdictions report related data annually to the State; and

WHEREAS, the Planning and Community Development Department has proposed consideration of amendments to BMC Chapter 17.82 that are intended to promote the goals and policies of the City Center Master Plan, Old Town, Samish Way and Fountain District Urban Village Subarea Plans, and the 2005 Bellingham Comprehensive Plan; and

WHEREAS, the City Center Master Plan, Old Town, Samish Way and Fountain District Urban Village Subarea Plans, and corresponding design and development regulations for each were reviewed and adopted by a legislative process; and

WHEREAS, a duly noticed public hearing before the Bellingham City Council regarding the proposed amendments was held on November 1, 2010; and

WHEREAS, the City Council finds that the amendments are appropriate and consistent with the State Growth Management Act, RCW Chapter 84.14; and the Bellingham Comprehensive Plan;

NOW THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Bellingham Municipal Code (BMC) Section 17.82.010 relating to Definitions is amended as follows:

BMC 17.82.010 - Definitions

A-B. [UNCHANGED]

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 Core, District, Neighborhood, and Pocket Urban Centers as identified in the Bellingham Comprehensive Plan.

D-F. [UNCHANGED]

1 **G. Local Housing Standards** means the International Property Maintenance Code as
2 adopted by the City of Bellingham.

3 **H. [UNCHANGED]**

4 **I. Affordable housing**, for purposes of this chapter, means residential housing that is
5 rented by a person or household whose monthly housing costs, including utilities other
6 than telephone, do not exceed thirty percent of the household's monthly income. For the
7 purposes of housing intended for owner occupancy, "affordable housing" means
8 residential housing that is within the means of low or moderate-income households.

9 **J. Household** means a single person, family, or unrelated persons living together.

10 **K. Low-income household**, for purposes of this chapter, means a single person, family, or
11 unrelated persons living together whose adjusted income is at or below eighty percent of
12 the median family income adjusted for family size, for Whatcom County, as reported by
13 the United States Department of Housing and Urban Development.

14 **L. Moderate-income household**, for purposes of this chapter, means a single person,
15 family, or unrelated persons living together whose adjusted income is more than eighty
16 percent but is at or below one hundred fifteen percent of the median family income
17 adjusted for family size, for Whatcom County, as reported by the United States
18 Department of Housing and Urban Development. See BMC 17.82.030 D. 9. for
19 limitations regarding affordable housing requirements for rental projects.

20
21 **Section 2.** BMC Subsection 17.82.020 is amended as follows:

22 **BMC 17.82.020 Targeted Residential Area Designation And Standards**

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

26 1. [UNCHANGED]

27 2. The targeted area lacks sufficient available, desirable and convenient residential
28 housing, including affordable housing, to meet the needs of the public who would
29 likely live in the Urban Center if affordable, desirable, attractive, and livable
30 homes/situations were available; and

31 3. [UNCHANGED]

32 **B. Targeted Area Standards and Guidelines.** For each designated area, the Planning and
33 Development Commission shall develop and the City Council shall adopt and implement
34 basic requirements for both new construction and rehabilitation, including the application
35 process and procedures. The City Council may also adopt guidelines including the
36 following:

37 1. through 2. [UNCHANGED]

1 3. More stringent income eligibility, rent, or sale price limits, including limits that apply to
2 a higher percentage of units than the minimum conditions under BMC 17.82.030 B.,
3 either as conditions to eight-year exemptions or as conditions to an extended
4 exemption period.

5 **C. Designated Targeted Areas.** The boundaries of the "Targeted Residential Areas" are
6 located within the Urban Centers listed below, and as indicated on the maps that are
7 attached to this code as follows:

8			TARGETED AREA
9	MAP EXHIBIT	URBAN CENTER	DESIGNATION
10	EXHIBIT A	City Center Master Plan Area	Area 1
11	EXHIBIT B	Samish Way Urban Village	Area 2
12	EXHIBIT C	Fountain District Urban Village	Area 3

13 **D. Designated Standards and Guidelines for Targeted Areas.** Projects proposed for
14 exemptions from ad valorem property taxes in Targeted Areas shall meet the eligibility
15 requirements in BMC 17.82.030 D. and obtain design review approval consistent with
16 the provisions of BMC Chapter 20.25. Requests for consideration under this ordinance
17 for projects located in Targeted Areas shall be processed under procedures and
18 conditions established in BMC 17.82.030 E., including any modification in effect at the
19 time of application.

20
21 **Section 3.** BMC Subsection 17.82.030 is amended as follows:

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

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

- 25 1. Provide economic incentives enabling increased residential housing choices and
26 opportunities, including affordable housing opportunities, within Urban Centers
27 designated by the City Council as Targeted Residential Areas.
- 28 2. Stimulate new construction or rehabilitation of existing vacant and underutilized
29 buildings for multi-family housing in Targeted Residential Areas to increase and
30 improve housing opportunities, including affordable housing;

31 **3. through 4.** [UNCHANGED]

32 **B. Duration of Exemption.** For properties for which applications for certificates of tax
33 exemption eligibility are submitted under chapter 84.14 RCW on or after July 22, 2007,
34 the value of improvements qualifying under this chapter will be exempt from ad valorem
35 property taxation as follows:

- 36 1. For eight (8) successive years beginning January 1st of the year immediately
37 following the calendar year of issuance of the certificate; or

1 2. For twelve (12) successive years beginning January 1st of the year immediately
2 following the calendar year of issuance of the certificate, if the property otherwise
3 qualifies for the exemption under Chapter 84.14 RCW and meets the conditions in
4 this subsection B.2. For the property to qualify for the twelve-year exemption under
5 this subsection, the applicant must commit to renting or selling at least twenty
6 percent (20%) of the multi-unit housing units as affordable housing units as set forth
7 below:

8 a. **Owner occupancy.** In the case of projects intended exclusively for owner
9 occupancy, the minimum requirement of this subsection B.2 may be satisfied
10 solely through housing affordable to moderate-income households during the
11 authorized exemption period.

12 b. **Rental occupancy.** In the case of projects intended for rental occupancy, the
13 minimum requirement of this subsection B.2 must be satisfied based on
14 affordability requirements outlined in BMC 17.82.030 D. 9.

15 C. **Limits on Exemption.** The exemption does not apply to the value of land or to the
16 value of non-housing related improvements not qualifying under this chapter, nor does
17 the exemption apply to increases in assessed valuation of land and non-qualifying
18 improvements. In the case of rehabilitation of existing buildings, the exemption does not
19 include the value of improvements constructed prior to submission of the completed
20 application required under this chapter. The incentive provided by this chapter is in
21 addition to any other incentives, tax credits, grants, or other incentives provided by law.

22 D. **Project Eligibility.** A proposed project must meet the following requirements to be
23 considered for a property tax exemption:

24 1. **Location.** The project must be located within a Targeted Residential Area, as
25 designated in BMC 17.82.020 C. If a part of any legal lot is within a designated
26 residential targeted area then the entire lot shall be deemed to lie within such
27 residential targeted area. Property located outside of, but adjacent to, the described
28 areas is not designated as a residential targeted area.

29 2. through 4. [NO CHANGE]

30 5. **Affordable Housing.** If applicable, the proposed multi-unit housing project meets
31 the affordable housing requirements as described in BMC 17.82.030 B.2.

32 6. **Proposed Completion Date.** New construction multi-unit housing and
33 rehabilitation improvements must be scheduled to be completed within three years
34 from the date of approval of the application.

35 7. **Compliance with Guidelines and Standards.** The project shall be designed to
36 comply with the City's comprehensive plan, building, housing, and zoning codes,
37 and any other applicable regulations in effect at the time the application is
38 approved. Rehabilitation and conversion improvements must comply with the
39 City's Local Housing Standard. New construction must comply with the current
40 Building Code adopted by the City. The project must also comply with any other
41 standards and guidelines adopted by the City Council for the Targeted Residential
42 Area in which the project will be developed.

1 **8. Historic Resource Protection.**

- 2
- 3 a. Applications for new construction that require the demolition of
- 4 structures listed in the Local, State or National Register, or identified
- 5 as contributing to an historic district in the City's historic resource
- 6 inventory are not eligible for the multi-family tax exemption.
- 7
- 8 b. Applications for new construction on a vacant property upon which
- 9 previously stood a structure that was listed in the Local, State or
- 10 National Register, or was identified as contributing to an historic
- 11 district in a City historic resource inventory are not eligible for the
- 12 multi-family tax exemption unless a minimum of five years has lapsed
- 13 between the date of demolition and application for the multi-family tax
- 14 exemption.
- 15
- 16 c. The requirement of subsections 8 a. and b. may be waived if
- 17 demolition is authorized by either the City's Historic Preservation
- 18 Commission for structures on the Local Register or the Director for
- 19 structures identified as contributing to an historic district in the City's
- 20 historic resource inventory or on the State or National Register. The
- 21 demolition waiver determination shall be based on the criteria in BMC
- 22 17.90.060 D. 2. and 3.
- 23

24 **9. Affordable Housing.** Projects intended for rental occupancy seeking a

25 twelve (12) year tax exemption pursuant to BMC 17.82.030 B. 2. shall

26 provide twenty percent (20%) of the multi-unit housing as follows:

27

- 28 a. At least ten percent (10%) of the units shall be available to households whose
- 29 adjusted income is at or below fifty percent (50%) of median family income
- 30 adjusted for family size for Whatcom County.
- 31 b. The balance of affordable housing required not met by subsection 9.a. above
- 32 shall be available to households whose adjusted income is at or below eighty
- 33 percent (80%) of median family income adjusted for family size for Whatcom
- 34 County.

35 **E. [NO CHANGE]**

36 **F. Application Review and Issuance of Conditional Certificate.** The Director may certify

37 as eligible an application which is determined to comply with the requirements of this

38 Chapter. A decision to approve or deny an application shall be made within 90 days of

39 receipt of a complete application.

- 40 **1. Approval.** If an application is conditionally approved, the applicant shall enter into a
- 41 contract with the City regarding the terms and conditions of the project. The Director
- 42 shall issue a Conditional Certificate of Acceptance of Tax Exemption. The
- 43 Conditional Certificate expires three years from the date of approval unless an
- 44 extension is granted as provided in this chapter.
- 45 **2. Denial.** The Director shall state in writing the reasons for denial and shall send notice
- 46 to the applicant at the applicant's last known address within ten days of the denial.
- 47 An applicant may appeal a denial to the City Council within 30 days of receipt of

1 notice. On appeal, the Director's decision will be upheld unless the applicant can
2 show that there is no substantial evidence on the record to support the Director's
3 decision. The City Council's decision on appeal will be final.

4 **G. [NO CHANGE]**

5 **H. Application for Final Certificate.** Upon completion of the improvements agreed upon
6 in the contract between the applicant and the City and upon issuance of a temporary or
7 permanent certificate of occupancy, the applicant may request a Final Certificate of Tax
8 Exemption. The applicant must file with the City's Planning and Community
9 Development Department the following:

10 **1. [NO CHANGE]**

11 **2.** A description of the completed work with evidence of final City inspection of all work
12 completed and a statement of qualification for the exemption;

13 **3.** A statement that the work was completed within the required three-year period or
14 any authorized extension; and

15 **4.** If applicable, a statement that the project meets the affordable housing requirements
16 as described in BMC 17.82.030 B.2.

17 Within 30 days of receipt of all materials required for a Final Certificate, the Director shall
18 determine which specific improvements, and the affordability of the units, satisfy the
19 requirements of this chapter.

20 **I. Issuance of Final Certificate.** If the Director determines that the project has been
21 completed in accordance with the contract between the applicant and the City and has
22 been completed within the authorized time period, the City shall, within 10 days, file a
23 Final Certificate of Tax Exemption with the Whatcom County Assessor.

24 **1. Denial and appeal.** The Director shall notify the applicant in writing that a Final
25 Certificate will not be filed if the Director determines that:

26 **a. [NO CHANGE]**

27 **b.** The improvements were not completed in accordance with the contract between
28 the applicant and the City;

29 **c.** If applicable, the affordable housing requirements as described in BMC
30 17.82.030 B.2 were not met; or

31 **d.** The owner's property is otherwise not qualified under this chapter.

32 Within 14 days of receipt of the Director's denial of a Final Certificate, the applicant
33 may file an appeal with the Hearing Examiner, as provided in Section 2.56.050B of
34 the Bellingham Municipal Code. The applicant may appeal the Hearing Examiner's
35 decision to Whatcom County Superior Court, if the appeal is filed within 30 days, or
36 as otherwise required by law, of receiving notice of that decision.

37 **J. Annual Compliance Review.** Within 30 days after the first anniversary of the date of
38 filing the Final Certificate of Tax Exemption and each year thereafter, for the tax

1 exemption period, the property owner shall file a notarized declaration with the Director
2 indicating the following:

- 3 1. A statement of occupancy and vacancy of the multi-family units during the previous
4 year;
- 5 2. A certification that the property continues to be in compliance with the contract with
6 the City, including any affordable housing requirements;
- 7 3. A description of any subsequent improvements or changes to the property; and
- 8 4. A report on affordable housing requirements, if applicable, including:
 - 9 a. The total monthly rent or total sale amount of each unit produced;
 - 10 b. The income of each renter household at the time of initial occupancy and the
11 income of each initial purchaser of owner-occupied units at the time of purchase
12 for each of the units receiving a tax exemption; and
 - 13 c. Any additional information requested by the City in regards to the units receiving
14 a tax exemption.

15 City staff shall have the right to conduct on-site verification of the declaration. Failure to
16 submit the annual declaration may result in the tax exemption being canceled.

17 **K.** The City shall report annually by December 31st of each year to the Washington State
18 Department of Commerce. The report must include the following information:

- 19 1. The number of tax exemption certificates granted;
- 20 2. The total number and type of units produced or to be produced;
- 21 3. The number and type of units produced or to be produced meeting affordable
22 housing requirements;
- 23 4. The actual development cost of each unit produced;
- 24 5. The total monthly rent or total sale amount of each unit produced;
- 25 6. The income of each renter household at the time of initial occupancy and the income
26 of each initial purchaser of owner-occupied units at the time of purchase for each of
27 the units receiving a tax exemption and a summary of these figures for the city; and
- 28 7. The value of the tax exemption for each project receiving a tax exemption and the
29 total value of tax exemptions granted.

30 **L. Cancellation of Tax Exemption.** If the Director determines the owner is not complying
31 with the terms of the contract, the tax exemption will be canceled. This cancellation may
32 occur in conjunction with the annual review or at any other time when non-compliance
33 has been determined. If the owner intends to convert the multi-family housing to another
34 use, the owner must notify the Director and the Whatcom County Assessor within 60
35 days of the change in use.

36 **1. through 2.** [NO CHANGE]

1 **M. Conflict of Provisions.** If any provision of this chapter is in legal conflict with the
2 provisions of Chapter 84.14 RCW, the provisions of Chapter 84.14 RCW shall apply as if
3 set forth in this chapter.

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6 **PASSED** by the Council this 13th day of December, 2010.

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12 _____
13 Council President

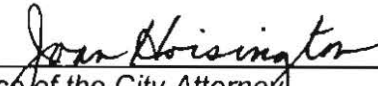
14
15 **APPROVED** by me this 16th day of December, 2010.

16
17
18 
19 _____
20 Mayor

21 **ATTEST:**

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23 
24 _____
25 Finance Director

26
27 **APPROVED AS TO FORM:**

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30 _____
31 Office of the City Attorney

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34 **Published:** December 17, 2010

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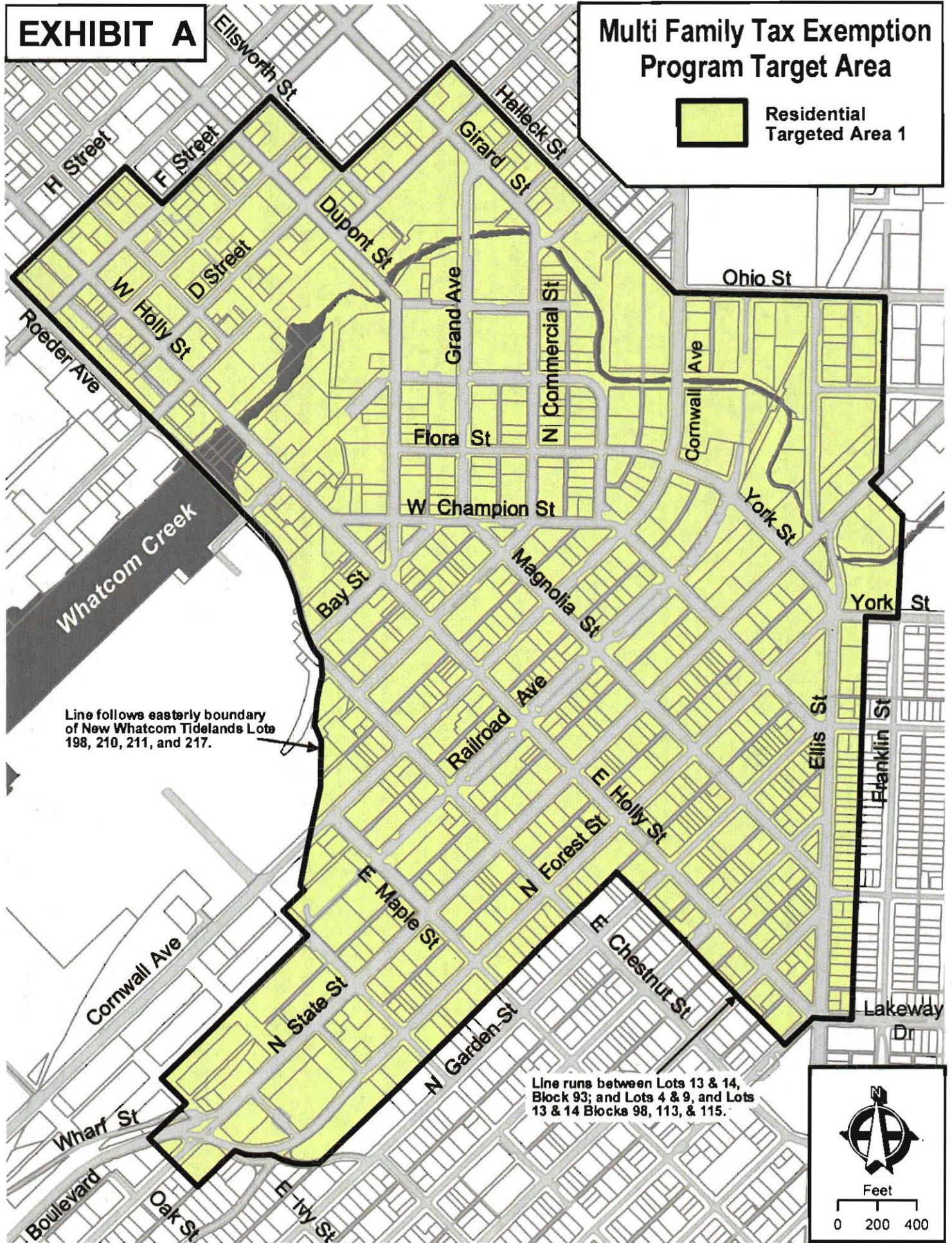
EXHIBIT A:

[DELETE LEGAL DESCRIPTION – INSERT TARGET AREA 1 AS EXHIBIT A]

EXHIBIT A

Multi Family Tax Exemption Program Target Area

 Residential Targeted Area 1



Line follows easterly boundary of New Whatcom Tidelands Lots 198, 210, 211, and 217.

Line runs between Lots 13 & 14, Block 93; and Lots 4 & 9, and Lots 13 & 14 Blocks 98, 113, & 115.

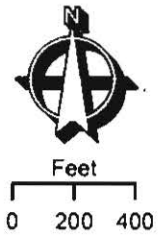


EXHIBIT B

Multi Family Tax Exemption Program Target Area



Residential Targeted Area 2

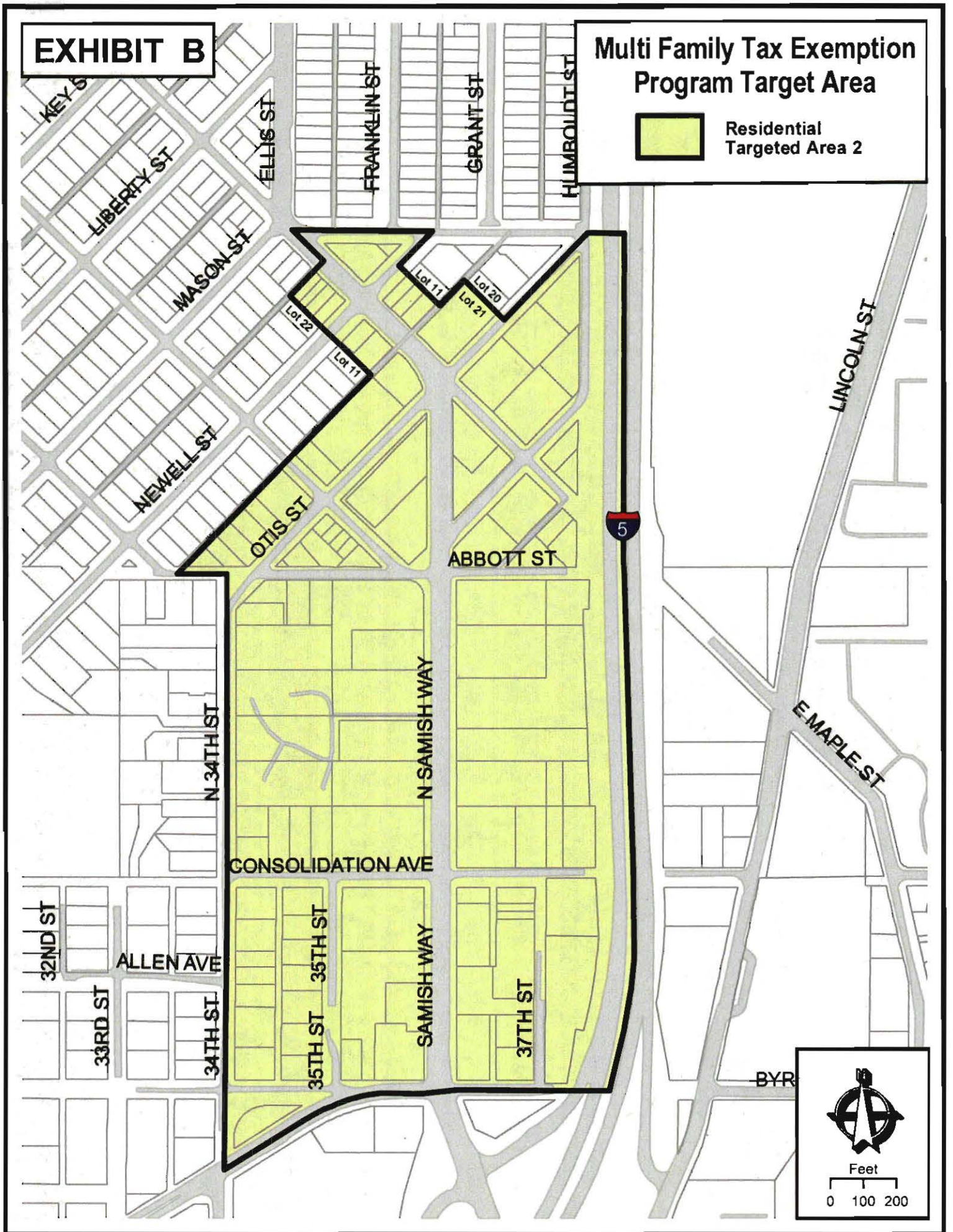


EXHIBIT C

Multi Family Tax Exemption Program Target Area

 Residential Targeted Area 3

