

ORDINANCE NO. 4047

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADDING A NEW CHAPTER 3.38 ENTITLED “MULTI-FAMILY HOUSING TAX EXEMPTION”; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Chapter 84.14 of the Revised Code of Washington (RCW) provides for temporary special valuations for eligible improvements associated with multifamily housing, especially within urban centers deficient in planned residential development; and

WHEREAS, in order to establish a Multi-family Housing Tax Exemption program, the City must designate one or more residential targeted areas within which the temporary special valuation may be granted to qualifying residential improvements; and

WHEREAS, in accordance with RCW 84.14.040(2), the Edmonds City Council passed a Resolution of Intent on July 26, 2016 to designate the Westgate Mixed-Use Zone District a residential targeted area; and

WHEREAS, after complying with all the corresponding requirements set out in RCW 84.14.040, on August 16, 2016 the Edmonds City Council designated the Westgate Mixed-Use Zone District, as defined by Edmonds Community Development Code Chapter 16.110 and the city’s official zoning map, as a residential targeted area for the purposes of establishing a Multi-family Housing Tax Exemption program; and

WHEREAS, the Mayor and City Council find it to be in the public interest to promote redevelopment in the Westgate Mixed-Use Zone District, especially including market-rate and affordable housing;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. A new Chapter 3.38, entitled “Multi-Family Housing Tax Exemption,” is added to the Edmonds City Code, as follows:

**CHAPTER 3.38
MULTI-FAMILY HOUSING TAX EXEMPTION**

3.38.010	Purpose.
3.38.020	Definitions.
3.38.030	Tax exemption – Duration – Valuation – Exceptions.
3.38.040	Residential targeted areas – Designation.
3.38.050	Project eligibility.
3.38.060	Application Procedure.
3.38.070	Application review – Approval – Required findings – Issuance of conditional certificate – Denial – Appeal.
3.38.080	Amendment of contract.
3.38.090	Extension of conditional certificate – Required findings – Denial – Appeal.
3.38.100	Final certificate – Application – Issuance – Denial – Appeal.
3.38.110	Annual certification.
3.38.120	Cancellation of tax exemption – Appeal.

3.38.010 Purpose.

The purpose of this chapter, pursuant to Chapter 84.14 RCW, is to stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing, which may include affordable housing opportunities, in keeping with the goals and mandates of the Growth Management Act (particularly Chapter 36.70A RCW), within urban centers designated as Residential Targeted Areas where the City has found insufficient housing opportunities, including affordable housing opportunities. To achieve these purposes, this chapter provides for special valuations in residentially deficient urban centers for eligible improvements associated with multiunit housing, which may include affordable housing.

3.38.020 Definitions.

Unless expressly provided for below, in construing the provisions of this chapter, definitions of key terms in this chapter shall follow the definitions as set out in RCW 84.14.010.

A. “City” means the city of Edmonds, Washington.

B. “Director” means the director of the city’s department of development services or authorized designee.

C. “Residential targeted area” means any urban center so designated by the Edmonds city council in accordance with this chapter and Chapter 84.14 RCW, and which has been found by the city council to be lacking sufficient available, convenient, attractive, livable, and desirable residential housing to meet the needs of the public.

D. “Urban center” means any district or subarea of the City of Edmonds designated as a mixed-use center through a subarea or comprehensive planning process, where urban residents may obtain a variety of products and services including several business establishments, such as shops, offices, banks, restaurants, medical facilities, governmental agencies and a mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office uses, or both uses.

3.38.030 Tax exemption – Duration – Valuation – Exceptions.

A. The value of new housing construction, conversion, and rehabilitation improvements qualifying under this chapter is exempt from ad valorem property taxation for 12 successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption if the property otherwise qualifies for the exemption under this chapter and the applicants commits 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.

B. The exemption does not apply to the value of land or to the value of nonhousing improvements not qualifying under ECC 3.38.050, nor does the exemption apply to increases in assessed valuation of land and nonqualifying improvements. This article also does not apply to increases in assessed valuation made by the assessor on nonqualifying portions of building and value of land, nor to increases made by lawful order of a county board of equalization, the Department of Revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

3.38.040 Residential targeted areas – Designation.

A. The following area is designated by the City Council as a residential targeted area, consistent with the requirements of RCW 84.14.040:

1. Westgate Mixed Use (WMU) Zoning District.

B. If part of any legal lot is within a residential targeted area, the entire lot shall be deemed to lie within the residential targeted area.

C. The area(s) designated in subsection A of this section may be amended and other areas may be added by action of the City Council consistent with requirements of RCW 84.14.040. Any amendment to the residential targeted areas shall not affect the status of a project for which the City has received a complete application for property tax exemption under this chapter.

3.38.050 Project eligibility.

To qualify for temporary exemption from property taxation under this chapter, the property shall satisfy all of the following requirements.

A. The property must be located in a designated residential targeted area.

B. The project must consist of at least twenty dwelling units of multifamily housing, located within a residential structure or a mixed-use development, in which at least 50 percent of the space within such residential structure or mixed-use development is intended for permanent residential occupancy.

C. The project must comply with all zoning requirements, land use regulations, and building code requirements contained in the Edmonds City Code and applicable upon land use permit approval or submittal of a complete building permit application, whichever occurs sooner.

D. For the duration of the exemption granted under this chapter, the property shall have no violations of applicable zoning requirements, land use regulations, or building code requirements contained in the Edmonds Community Development Code for which the development services department shall have issued an order to correct (“OTC”) or notice of violation (“NOV”) that are not resolved by a voluntary correction agreement, vacation by the hearing examiner, or action of the property owner in compliance with the applicable code requirements as determined by the

director, within the time period for compliance provided in such OTC or NOV and any extension of the time period for compliance granted by the director.

E. New construction multifamily housing must be completed within three years from the date of approval of the application or by any extended deadline granted by the director pursuant to ECC 3.38.090.

F. The owner must enter into a contract with the city, approved by the mayor, under which the owner has agreed to the implementation of the development on terms and conditions satisfactory to the city and in compliance with this chapter.

3.38.060 Application Procedure.

The owner of property applying for exemption under this chapter shall submit an application to the director on a form established by the director. The owner shall verify the correctness of the information contained in the application by his/her signature and affirmation made under penalty of perjury under the laws of the state of Washington. The application shall contain such information as the director may deem necessary or useful, which at a minimum shall include:

- A. A completed City of Edmonds application form, including information setting forth the grounds for tax exemption;
- B. A brief written description of the project, and schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located;
- C. Floor and site plans of the proposed project, which plans may be revised by the owner provided such revisions are made prior to the city's final action on the exemption application;
- D. A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter;
- E. At the time of initial application under this section, the owner shall pay to the city an initial application fee of \$1,000.00, plus an amount necessary to cover recording fees as set out in the City's Development Fee Table;
- F. Except as otherwise provided for in subsection G, the application shall be submitted any time before a complete application for a building or other construction permit is submitted;

G. If, on the effective date of the ordinance codified in this chapter, the owner has applied for a permit identified in subsection F of this section, then application for exemption under this section may be submitted any time prior to issuance of a building permit.

3.38.070 Application review – Approval – Required findings – Issuance of conditional certificate – Denial – Appeal.

A. The director may approve an application if he or she finds that:

1. A minimum of twenty new units are being constructed;
2. The proposed project is or will be, at the time of completion, in conformance with all approved plans, and all applicable requirements of the Edmonds City Code or other applicable requirements or regulations in effect at the time the application is approved;
3. The owner has complied with all of the requirements of this chapter, including but not limited to project eligibility requirements contained in ECC 3.38.050 and application requirements contained in ECC 3.38.060;
4. The project site is located within a designated residential targeted area; and
5. If applicable, the proposed multiunit housing project meets the affordable housing requirements as described in ECC 3.38.030.

B. The director shall deny an application if the foregoing criteria are not met.

C. If the application is approved, the owner shall enter into a contract with the city, approved by the mayor, who is hereby authorized to approve such contracts, regarding the terms and conditions of the project under this chapter.

D. Following mayor approval of the contract, the director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three years from the date of approval unless an extension is granted as provided in ECC 3.38.090.

E. If the application is denied, the director shall state in writing the reasons for the denial and send notice of denial to the owner's last known address within 10 days of the denial.

F. An owner may appeal a denial of a tax exemption application to the hearing examiner by filing a notice of appeal with the city clerk within 30 calendar days of receipt of notice of the denial. The appeal before the hearing examiner shall follow the procedures for appeal of Type II decisions, shall be based upon the record before the director, and the director's decision will be upheld unless the owner can show that there is no substantial evidence on the record to support the director's decision. The hearing examiner's decision on appeal shall constitute the final action of the city.

3.38.080 Amendment of contract.

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

B. Any owner seeking amendments to the approved form of contract shall pay to the city an amendment application fee of \$200.00 for administrative costs, plus any amount necessary to cover recording fees as set out in the City's Development Fee Table.

C. The director may approve amendments to the contract that comport with the intent of the original contract approved by the mayor.

3.38.090 Extension of conditional certificate – Required findings – Denial – Appeal.

A. The conditional certificate may be extended by the director for a period not to exceed 24 consecutive months. The owner shall submit a written request stating the grounds for the extension together with a fee of \$300.00 for the city's administrative cost to process the request.

The director may grant an extension if the director finds that:

1. The anticipated failure to complete construction within the required time period is due to circumstances beyond the control of the owner; and
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 owner and the city will be satisfied upon completion of the project.

B. If an extension is denied, the director shall state in writing the reason for denial and shall send notice to the owner's last known address within 10 calendar days of the denial. An owner may appeal the denial of an extension to the hearing examiner, using the process for appeals of Type II decisions.

3.38.100 Final certificate – Application – Issuance – Denial – Appeal.

A. Upon completion of the construction as provided in the contract between the owner and the city, and upon issuance of a certificate of occupancy, the owner may request a final certificate of tax exemption. The owner shall file with the director such information as the director may deem necessary or useful to evaluate eligibility for the final certificate, which shall at a minimum include:

1. A statement of expenditures made with respect to each multifamily housing unit and the total expenditures made with respect to the entire property;
2. A description of the completed work and a statement of qualification for the exemption;
3. If applicable, a statement that the project meets the affordable housing requirements as described in ECC 3.38.030;
4. A statement that the work was completed within the required three-year period or any approved extension.

B. At the time of application for final certificate under this section, the owner shall pay to the city a fee of \$300.00 to cover the city's administrative costs, in addition to recording costs.

C. Within 30 days of receipt of all materials required for a final certificate, the director shall determine whether the completed work, and the affordability of the units if applicable, is consistent with the contract between the city and owner, whether all or a portion of the completed work qualifies for exemption under this chapter and, if so, which specific improvements satisfy the requirements of this chapter.

D. If the director determines that the project has been completed in accordance with the contract between the owner and the city and the requirements of this chapter, the city shall file a final certificate of tax exemption with the assessor within 10 days of the expiration of the 30-day period provided under subsection C of this section.

E. The director is authorized to cause to be recorded, or to require the owner to record, in the real property records of the Snohomish County Auditor's Department, Recording Division, the contract with the city required under ECC 3.38.070.C, or such other document(s) as will identify such terms and conditions of eligibility for exemption under this article as the director deems appropriate for recording.

F. The director shall notify the owner in writing that the city will not file a final certificate if the director determines that the project was not completed within the required three-year period or any approved extension, or was not completed in accordance with the contract between the owner and the city and the requirements of this chapter, or, if applicable, the affordable housing requirements as described in ECC 3.38.030 were not met, or the owner's property is otherwise not qualified for the limited exemption under this chapter.

G. The owner may appeal the director's decision to the hearing examiner by filing a notice of appeal with the city clerk within 14 calendar days after issuance of the notice of the denial. The appeal before the hearing examiner shall follow the provisions for appeals of Type II decisions. The owner may appeal the hearing examiner's decision to the Snohomish County superior court according to the procedures contained in RCW 34.05.510 through 34.05.598, as provided in RCW 84.14.090(6), within 30 days of notification by the city to the owner of the decision.

3.38.110 Annual certification.

A. Within 30 days after the first anniversary of the date the city filed the final certificate of tax exemption and each year thereafter during the tax exemption period, the property owner shall file a certification with the director, verified upon signed affirmation under penalty of perjury under the laws of the state of Washington. The certification shall contain such information as the director may deem necessary or useful, and shall at a minimum include the following information:

1. A statement of occupancy and vacancy of the multifamily units during the previous year;
2. A certification that the property has not changed use and, if applicable, that the property has been in compliance with the affordable housing requirements as described in ECC 3.38.030 since the date of filing of the final certificate of tax exemption, and continues to be in compliance with the contract with the city and the requirements of this article;
3. A description of any improvements or changes to the property made after the filing of the final certificate or most recent certification, as applicable.

B. Failure to submit the annual certification may result in cancellation of the tax exemption.

3.38.120 Cancellation of tax exemption – Appeal.

A. If at any time the director determines that the property no longer complies with the terms of the contract or with the requirements of this chapter, or the use of the property is changed or will be changed to a use that is other than residential, or if the owner intends to discontinue compliance with the affordable housing requirements as described in ECC 3.38.030, or the property for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law.

B. If the owner intends to convert the multifamily housing to another use or intends to discontinue compliance with the affordable housing requirements as described in ECC 3.38.030, the owner must notify the director and the Snohomish County assessor within 60 days of the change in use. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest and penalties imposed pursuant to state law.

C. Upon determining that a tax exemption shall be canceled, the director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the city clerk, within 30 days after issuance of the decision by the director, specifying the factual and legal basis for the appeal. The appeal before the hearing examiner shall follow the procedures set forth for appeals of Type II decisions. At the appeal hearing, all affected parties may be heard and all competent evidence received. The hearing examiner shall affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. The hearing examiner shall give substantial weight to the director's

decision to cancel the exemption, and the burden of proof and the burden of overcoming the weight accorded to the director's decision shall be upon the appellant. An aggrieved party may appeal the hearing examiner's decision to the Snohomish County superior court in accordance with the procedures in RCW 34.05.510 through 34.05.598, as provided in RCW 84.14.110(2), within 30 days after issuance of the decision of the hearing examiner

Section 2. Severability. If any section, subsection, clause, sentence, or phrase of this ordinance should be held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:



MAYOR DAVE EARLING

ATTEST/AUTHENTICATED:



CITY CLERK, SCOTT PASSEY

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY 

JEFF TARADAY

FILED WITH THE CITY CLERK: October 14, 2016
PASSED BY THE CITY COUNCIL: October 18, 2016

PUBLISHED:
EFFECTIVE DATE:
ORDINANCE NO.

October 23, 2016
October 28, 2016
4047

SUMMARY OF ORDINANCE NO. 4047

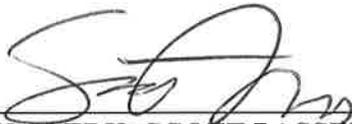
of the City of Edmonds, Washington

On the 18th day of October, 2016, the City Council of the City of Edmonds, passed Ordinance No. 4047. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS,
WASHINGTON, ADDING A NEW CHAPTER 3.38
ENTITLED "MULTI-FAMILY HOUSING TAX
EXEMPTION"; PROVIDING FOR SEVERABILITY;
AND ESTABLISHING AN EFFECTIVE DATE.

The full text of this Ordinance will be mailed upon request.

DATED this 19th day of October, 2016.



CITY CLERK, SCOTT PASSEY

RECEIVED

OCT 26 2016

EDMONDS CITY CLERK

Affidavit of Publication

State of Washington }
County of Snohomish } ss

Kathleen Landis being first duly sworn, upon oath deposes and says: that he/she is the legal representative of the Everett Daily Herald a daily newspaper. The said newspaper is a legal newspaper by order of the superior court in the county in which it is published and is now and has been for more than six months prior to the date of the first publication of the Notice hereinafter referred to, published in the English language continually as a daily newspaper in Snohomish County, Washington and is and always has been printed in whole or part in the Everett Daily Herald and is of general circulation in said County, and is a legal newspaper, in accordance with the Chapter 99 of the Laws of 1921, as amended by Chapter 213, Laws of 1941, and approved as a legal newspaper by order of the Superior Court of Snohomish County, State of Washington, by order dated June 16, 1941, and that the annexed is a true copy of EDH727996 ORDINANCE 4045-4047 as it was published in the regular and entire issue of said paper and not as a supplement form thereof for a period of 1 issue(s), such publication commencing on 10/23/2016 and ending on 10/23/2016 and that said newspaper was regularly distributed to its subscribers during all of said period.

The amount of the fee for such publication is \$48.16.

Kathleen Landis

Subscribed and sworn before me on this 24 day of October, 2016.

Aubrey Knapp

AUBREY KNAPP
Notary Public
State of Washington
My Commission Expires
July 30, 2018

Notary Public in and for the State of Washington.

ORDINANCE SUMMARY
of the City of Edmonds, Washington
On the 18th day of October, 2016, the City Council of the City of Edmonds, passed the following Ordinances, the summaries of the content of said ordinances consisting of titles are provided as follows:

ORDINANCE NO. 4045
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING ORDINANCE NO. 4038 AS A RESULT OF UNANTICIPATED TRANSFERS AND EXPENDITURES OF VARIOUS FUNDS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE

ORDINANCE NO. 4046
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING THE PARKING PROVISIONS OF CHAPTER 8.64 OF THE EDMONDS CITY CODE; PROVIDING FOR SEVERABILITY; AND SETTING AN EFFECTIVE DATE

ORDINANCE NO. 4047
AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, ADDING A NEW CHAPTER 3.38 ENTITLED "MULTI-FAMILY HOUSING TAX EXEMPTION"; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

The full text of these Ordinances will be mailed upon request.
DATED this 19th day of October, 2016.

CITY CLERK, SCOTT PASSEY
Published: October 23, 2016. EDH727996

86