

ORDINANCE NO. 1983

AN ORDINANCE OF THE CITY OF DAYTON, WASHINGTON, CREATING A NEW CHAPTER OF THE DAYTON MUNICIPAL CODE AND ADOPTING POLICY AND INCENTIVE FOR MULTIFAMILY DEVELOPMENT IN THE CITY LIMITS

WHEREAS, Chapter 84.14 of the Revised Code of Washington authorizes special valuations for eligible improvements associated with multifamily housing for the purpose of creating additional housing units; and,

WHEREAS, the Affordable Housing Commission has considered state law and local programs, and has developed an ordinance for the council's consideration that includes policies and procedures for implementing a multifamily tax exemption, as well as a recommendation for a residential target area; and,

WHEREAS, the intent of the proposed ordinance is to further stimulate new development in the City of Dayton; and,

WHEREAS, policy in the Dayton Comprehensive Plan directs policy-making that "encourages the availability of different housing types and densities compatible to the needs of the community..." as adopted by the Dayton City Council on November 13th, 2019; and,

WHEREAS, in order to establish a multifamily property tax exemption program, the City must designate one or more residential targeted areas that are consistent with the criteria in RCW 84.14.040 and within which property tax exemption projects may be considered; and,

WHEREAS, RCW 84.14.040(2) states that a governing authority may adopt a resolution of intent to designate one or more areas, thereby notifying the public of its intent; and,

WHEREAS, the Dayton City Council authorized Resolution No. 1471 on f May 12, 2021, setting a public hearing for June 9th, 2021 to take testimony for or against the intent to establish a Multi-Family Tax Exemption Policy and designate the Rock Hill Residential Target Area; and,

WHEREAS, in accordance with RCW 84.14.040(3), notice of the public hearing was published for two consecutive weeks, not less than seven days nor more than thirty days prior to the date of the scheduled hearing.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF DAYTON, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1: Amendments. Chapter 2-31 of the Dayton Municipal Code is hereby adopted as follows:

Chapter 2-31. – Multi- Family Housing Tax Exemption

2-31.010. – Purpose

A. The purposes of this chapter are:

1. To increase the supply of multifamily housing opportunities throughout the City of Dayton; and,

2. To promote community development and affordable housing within residential targeted areas; and,
3. To improve the overall vitality of the City of Dayton; and,
4. To accomplish the planning goals under the Growth Management Act, Chapter 36.70A RCW, as implemented by the City's comprehensive plan.

2-31-020. – Authority

- A. This chapter is adopted under the authority of Chapter 84.14 RCW, which authorizes special valuations for eligible improvements associated with multi-family housing in designated residential targeted areas to improve residential opportunities, including affordable housing. Specifically, Chapter 84.14 RCW authorizes jurisdictions to waive property tax associated with eligible multifamily residential development for a period of eight years, or up to 12 years for certain affordable housing developments. The City of Dayton has adopted an eight-year waiver period and does not require an affordable housing component as a prerequisite for eligibility.

2-31.030. – Definitions

The following definitions are specific to this chapter and shall have the following meanings:

"Assessor" means the Columbia County Assessor.

"Director" means the director of the Department of Planning & Community Development.

"MFTE" means multifamily housing property tax exemption.

"MFTE contract" means the agreements between the property owner and the City regarding the terms and conditions of the project and eligibility for exemption under this chapter.

"Multifamily housing" means building having four 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 rehabilitation or conversion of vacant, underutilized, or substandard buildings to multifamily housing.

"Owner" means the property owner of record.

"Project" means the multifamily housing or portion of the multifamily housing that is to receive the tax exemption.

"Residential targeted area" means an area within an urban center as defined by Chapter 84.14 RCW that the City has so designated by the City Council pursuant to this chapter.

"Urban center" means a compact, identifiable district containing several business establishments, adequate public facilities, and a mixture of uses and activities, where residents may obtain a variety of products and services.

2-31 .040. – Director authority

- A. General authority. The Director of Planning and Community shall administer and enforce this chapter.

2-31.050. – Residential targeted areas

- A. The following area, as shown on the map in section 2-31.050(A)(1), meets the criteria of this chapter and RCW 84.14.040 for residential targeted areas and is hereby designated as such.

5. The City Council may, by ordinance, in its sole discretion, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth within this chapter for making the original designation.

2-31.060. – Project eligibility

- A. To be eligible for exemption from property tax valuation under this chapter, a property shall satisfy all of the following requirements:
 1. The property must be located in a residential targeted area.
 2. The project must be construction of new multifamily housing of at least four attached or detached units, or, conversion or rehabilitation of an existing structure to create four attached or detached units.
 3. The project must not displace existing residential units, unless the units are certified by the Director to not meet current building and housing codes. The units can then be rehabilitated or replaced and included in the qualified portion of the project to receive the property tax abatement. If the units slated for replacement or demolition do not meet current code, then the size of the project needs to be increased by the number of units that are being replaced or demolished and those replacement units would not qualify for the property tax abatement. Property proposed to be rehabilitated or developed must be vacant at least (12) months before submitting an application.
 4. New construction of multifamily housing and rehabilitation improvements must be scheduled to be completed within three (3) years from the date of the approval of the application.
 5. The project must be designed to comply with the city's comprehensive plan, building, housing, and zoning codes, and any other applicable regulations in effect at the time the application is approved. Rehabilitation and conversion improvements must comply with all applicable housing codes. New construction must comply with the building code. The project must also comply with any other standards and guidelines adopted by the City Council for the residential target area in which the project will be developed.

2-31.070. – Application requirements—Procedures

An owner of property seeking tax incentives under this chapter must complete the following procedures:

- A. In the case of rehabilitation or where demolition or new construction is required, the owner must secure from the Director, before commencement of rehabilitation improvements or new construction, verification of property noncompliance with applicable building and housing codes.
- B. In the case of new and rehabilitated multifamily housing, the owner must apply to the city on forms provided from the city. The application must contain the following:
 1. A description of the project and site plan, including the floor plan of units and other information requested;
 2. A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter;

3. The applicant must verify the application by oath or affirmation; and
 4. The application must be accompanied by the application fee, if any, required under RCW 84.14.080. The governing authority may permit the applicant to revise an application before final action by the governing authority.
- C. The deadline for application shall be any time before the date the first building permit is issued for the multifamily housing structure. The Director may determine if a project's circumstances warrant allowing flexibility in the timing of application submittal.

2-31.080. – Criteria for approval

- A. The director may approve the application if the following findings are confirmed:
1. A minimum of four new units are being constructed, or, in the case of rehabilitation or conversion, a minimum of four additional units are being developed; and,
 2. The proposed project, at the time of completion, is or will be in conformance with all local plans and regulations that apply at the time the application is approved; and.
 3. The owner has complied with all standards and guidelines adopted by the city or county under this chapter; and,
 4. The site is located in a residential targeted area as designated by the City Council under DMC 2-31.050.

2-31.090. – Application procedure

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

- A. Application. An application needs to be filed with the Community Development Department. The fee as established by the Master Fee Schedule adopted by the Dayton City Council shall be submitted alongside the permit application. A complete application shall include:
1. A completed City of Dayton application form setting forth the grounds for the exemption.
 2. Preliminary floor and site plans of the proposed project.
 3. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter.
 4. Verification by oath or affirmation of the information submitted.
 5. For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve (12) months prior to filing the application.

2-31.100. – Conditional Certificate

- A. The Director may certify as eligible an applicant who is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within thirty (30) days of receipt of a complete application.
1. Approval. If an application is approved, the applicant shall enter into a contract with the city, subject to public hearing and approval by the City Council, regarding the terms and conditions of the project. Upon City Council approval of

the contract, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption ("Conditional Certificate"). The Conditional Certificate expires three (3) 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 (10) days of the denial. An applicant may appeal the Director's denial in accordance with the provisions of DMC 10.06.040.
- B. Extension of Conditional Certificate. The Director may administratively extend the Conditional Certificate for a period not to exceed twenty-four (24) consecutive months. The applicant must submit a written request stating the grounds for extension. An extension may be granted if it is determined that:
 1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
 2. The owner has been acting, and could reasonably be expected to continue to act, in good faith and with due diligence; and
 3. All the conditions of the original contract between the applicant and the city will be satisfied upon completion of the project.

2-31.110. – Final Certificate

- A. 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 ("Final Certificate"). The applicant must file with the Department of Planning and Community Development the following:
 1. A statement of expenditures made with respect to all affected multi-family housing units 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. A statement that the work was completed within the required three (3) year period plus any authorized extension.
- B. Within thirty (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.
- C. 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 Director shall, within ten (10) days, file a Final Certificate of Tax Exemption with the Columbia 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:
 - i. The improvements were not completed within the authorized time period.
 - ii. The improvements were not completed in accordance with the contract between the applicant and the city.

- iii. The owner's property is otherwise not qualified under this chapter.
- 2. An applicant may appeal the Director's denial in accordance with the provisions of DMC 10.06.040.

2-31.120. – Annual compliance review

- A. Within thirty (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 eight (8) 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 prior year.
 - 2. A certification that the property continues to be in compliance with the contract with the city.
 - 3. A description of any subsequent improvements or changes to the property.
- B. City staff shall also conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being cancelled.

2-31.130. – Cancellation of tax exemption

- A. If the Director determines the owner is not complying with the terms of the contract, the tax exemption may be cancelled. 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 subject multi-family housing to another use, the owner must notify the Director and the Columbia County Assessor within sixty (60) days of the change in use.
- B. Effect of cancellation. If a tax exemption is cancelled due to a change in use or other non-compliance, the Columbia County Assessor may impose the additional real property tax on the value of the non-qualifying improvements in the amount that would normally be imposed, plus a penalty of twenty percent (20%). This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the non-qualifying improvements dated back to the date that the improvements were converted to a non-multi-family use. The tax must include interest upon the amount of the additional tax as determined by the Assessor, and the additional tax owed, together with interest and penalty, will become a lien on the land and attach at the time the property or portion of the property is removed from multi-family use or the amenities no longer meet applicable requirements.
- C. Notice of Appeal. Upon determining that a tax exemption is to be cancelled, and after the Director's review with the City Administrator, the Director shall notify the property owner by mailing notice via certified mail. The property owner may appeal the Director's decision in accordance with the provisions of DMC 10.06.040.

2-31.140. – Appeals to Hearing Examiner


Any appeals of decisions made pursuant to this chapter shall follow the appeal process described by DMC 10-06.040 and DMC 10-06.050.

Section 2: Severability. The provisions of this chapter are severable. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, or phrase of this ordinance.

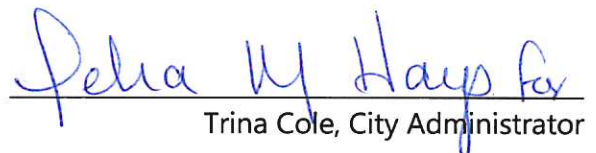
Section 3: Effective Date. A summary thereof of this Ordinance consisting of its title shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR OF THE CITY OF DAYTON, WASHINGTON, AT A REGULAR MEETING THIS 9th DAY OF JUNE 2021.

City of Dayton


Zac Weatherford, Mayor

Attested/Authenticated by:


Trina Cole, City Administrator

Approved as to form:


Quinn Plant, City Attorney

**ORDINANCE SUMMARY BY TITLE ONLY FOR PUBLICATION PURPOSES
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The full text of Ordinance 1983 adopted the 9th day of June 2021, is available for examination at the Dayton City Hall, 111 South 1st Street, Dayton, WA during normal business hours, 7:00 a.m. to 4:00 p.m., Monday – Friday.

By: /s/ Zac Weatherford, Mayor

Attest: /s/ Trina Cole, City Administrator

Approved as to from: /s/ Quinn Plant, City Attorney

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