Ordinance No. 3560
(Amending or Repealing Ordinances)

CFN-131 = Zoning Code
CFN-104 = Finance
Passed – 6/5/2001

Multifamily Dwelling tax Exemptions – Amends KCC Title 3 (Sec. 3.25) and Sec. 2.32

Amends Ords. 2469; 2802; 3036; 3169; 3424

Amended by Ord. 3922 (Sec. 3.25)
AN ORDINANCE of the City Council of the City of Kent, Washington, adding a new chapter to Title 3 of the Kent City Code relating to the development of multi-family housing in target areas through the provision of tax exemptions; and further amending Section 2.32 of the Kent City Code relating to appeals of decisions to the hearing examiner.

WHEREAS, the Washington State Legislature amended Chapter 84.14 RCW to provide for exemptions from ad valorem property taxation for qualifying multi-family housing located in residential target areas within urban centers and authorized cities to adopt necessary procedures to implement the state legislation; and

WHEREAS, the City Council held a public hearing on June 5, 2001 on the proposal to include in the residential target area the geographic area of downtown Kent generally bordered by Titus Street, State Route 167, Willis Street, and Cloudy Street, and only including zones that permit multi-family housing; and

WHEREAS; the City Council desires to adopt the proposed residential target area because it lacks sufficient available, desirable, and convenient residential housing to meet the needs of the public who would likely live in the residential target area if more desirable, convenient, attractive, and livable places were available; and
WHEREAS, the City Council desires to adopt the proposed target area as it will encourage increased residential opportunities, stimulate construction of new multi-family housing and the rehabilitation of existing vacant or under-utilized buildings for multi-family housing; and NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF KENT, WASHINGTON, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. A new chapter, chapter 3.25 entitled "Multi-Family Dwelling Tax Exemptions," is hereby added to the Kent City Code to read as follows:

CHAPTER 3.25 MULTI-FAMILY DWELLING TAX EXEMPTIONS

Sec. 3.25.01. Purpose. As provided for in chapter 84.14 RCW, the purpose of this chapter is to provide limited ten (10) year exemptions from ad valorem property taxation for multi-family housing in designated urban centers to:

1. Encourage increased residential opportunities within urban centers designated by the City Council as residential target areas; and/or
2. Stimulate new construction or rehabilitation of existing vacant and under-utilized buildings for multi-family housing in residential target areas to increase and improve housing opportunities; and
3. Assist in directing future population growth in designated urban centers, thereby reducing development pressure on single-family residential neighborhoods; and
4. Achieve development densities which are more conducive to transit use in designated urban centers.

Sec. 3.25.020. Definitions. When used in this chapter, the following terms shall have the following meanings, unless the context indicates otherwise:
1. *Multi-family housing* means building(s) having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

2. *Owner* means the property owner of record.

3. *Planning Manager* means the planning manager of Planning Services office or designee.

4. *Permanent residential occupancy* means multi-unit housing that provides either rental or owner occupancy on a non-transient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one-month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

5. *Rehabilitation improvements* means modifications to existing structures that are vacant for twelve (12) months or longer that are made to achieve a condition of substantial compliance with existing building, fire, and zoning codes, or modification to existing occupied structures which increase the number of multi-family housing units.

6. *Residential target area* means the geographic area of downtown Kent bordered by Titus Street, State Route 167, Willis Street and Cloudy Street, and only including zones that permit multi-family housing. See Appendix 1 for map.

7. *Substantial compliance* means compliance with all local building, fire and zoning code requirements, which are typically required for rehabilitation as opposed to new construction.

Sec. 3.25.030. Terms of the Tax Exemptions for Multi-Family Housing in Residential Target Areas.

A. *Duration of Exemption*. The value of improvements qualifying under this ordinance is exempt from ad valorem property taxation for ten (10) successive years beginning January 1st of the year immediately following the calendar year after issuance of the Final Certificate of Tax Exemption.
B. **Limits on Exemption.** The exemption does not apply to the value of land or to the value of improvements not qualifying under this ordinance, nor does the exemption apply to increases in assessed valuation of land and nonqualifying 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 ordinance. This chapter 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.

**Sec. 3.25.040. Project Eligibility.** A proposed project must meet the following requirements for consideration for a property tax exemption:

A. **Location.** The project must be located within the residential target area as defined in Sec. 3.25.020 “Residential Target Area” above.

B. **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 be vacant for a minimum of twelve (12) consecutive months prior to submission of an application and must fail to comply with one or more standards of the UBC or UFC on or after July 23, 1995. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of twelve (12) months has elapsed from the time of most recent occupancy.

C. **Size.** The project must include at least four (4) units of multi-family housing within a residential structure or as part of an urban development. A minimum of four new units must be constructed or at least four (4) additional multi-family units must be added to existing occupied multifamily housing. Existing multi-family housing that has been vacant for twelve (12) months or more does not have to provide additional units.
D. **Proposed Completion Date.** New construction multi-family housing and rehabilitation improvements must be completed within three (3) years from the date of approval of the application.

E. **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 target area.

F. **Type of Occupancy.** At least fifty percent (50%) of the space in a new, converted, or rehabilitated multi-family housing structure must be for permanent residential occupancy. To encourage home ownership consistent with the comprehensive plan, the residences constructed must be owner occupied for the duration of the tax exemption.

G. **Condominium.** All multi-family housing structures shall be condominiums as defined in Kent City Code 15.02.091. The applicant shall agree to file and record a condominium plat pursuant to Chapter 64.32 RCW prior to approval of a development permit by the City.

**Sec. 3.25.050. Application Procedure.** A property owner who wishes to propose a project for a tax exemption shall complete the following procedures:

A. The application provided by the City shall be filed with the Planning Services division along with the required fees.

B. A complete application shall include:
   1. A completed City of Kent 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. An affidavit stating the occupancy record of the property for a period of twelve (12) months prior to filing the application.
   5. Verification by oath or affirmation of the information submitted.
6. For rehabilitation projects, if the applicant proposes replacing the existing units and if the units were occupied within twelve (12) months of application, the applicant shall provide a report prepared by a Registered Architect identifying property noncompliance with the UBC or UFC. 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.

Sec. 3.25.060. Application Review and Issuance of Conditional Certificate. The Planning Manager 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 ninety (90) calendar days of receipt of a complete application.

A. Approval. The Planning Manager may approve the application if he/she finds that:

1. A minimum of four (4) new units are being constructed or in the case of occupied rehabilitation or conversion within twelve (12) months of occupancy, a minimum of four (4) additional multi-family units are being developed.

2. The proposed project is or will be, at the time of completion, in conformance with all applicable local plans and regulations.

3. The owner has complied with all standards and guidelines adopted by the city under this Chapter.

4. The site is located in the residential targeted area.

B. If an application is approved, the applicant shall enter into a contract with the City, regarding the terms and conditions of the project, and the Planning Manager shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate shall expire three (3) years from the date of approval unless an extension is granted as provided in this chapter.
C. If an application is denied, the Planning Manager 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) calendar days of the denial. Per RCW 84.14.070, an applicant may appeal a denial to the City Council within thirty (30) calendar days of receipt of the denial by filing a complete appeal application and fee with the Planning Manager. The appeal before the City Council will be based on the record made before the Planning Manager. The Planning Manager’s decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Planning Manager’s decision. The City Council's decision on appeal will be final.

Sec. 3.25.070. Extension of Conditional Certificate.

A. The Conditional Certificate and time for completion of the project may be extended by the Planning Manager for a period not to exceed a total of twenty-four (24) consecutive months. To obtain an extension, the applicant must submit a written request with a fee stating the grounds for the extension. An extension may be granted if the Planning Manager 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; and
3. All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.

B. If an extension is denied, the Planning Manager shall state in writing the reason for denial and shall send notice to the applicant's last known address within ten (10) calendar days of the denial. An applicant may appeal the denial of an extension to the Hearing Examiner within fourteen (14) calendar days of receipt of the denial by filing a complete appeal application and fee with the Planning Manager. The appeal before the Hearing Examiner shall be as provided in Chapter 12.01 of the Kent City Code for a Process I action. No appeal to the City Council is provided from the Hearing Examiner's decision.
Sec. 3.25.080. 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 certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption by filing with the Planning Manager the following:

A. A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
B. A description of the completed work and a statement of qualification for the exemption; and
C. A statement that the work was completed within the required three-year period or any authorized extension.

Sec. 3.25.090. Issuance of Final Certificate. Within thirty (30) calendar days of receipt of all materials required for a Final Certificate, the Planning Manager shall determine whether the specific improvements satisfy the requirements of the contract, application, and this chapter.

A. Granting of Final Certificate. If the Planning Manager 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 ten (10) calendar days of the expiration of the thirty-day review period above, file a Final Certificate of Tax Exemption with the King County Assessor.

B. Denial and Appeal. The Planning Manager shall notify the applicant in writing that a Final Certificate will not be filed if the Planning Manager determines that:
   1. The improvements were not completed within the authorized time period;
   2. The improvements were not completed in accordance with the contract between the applicant and the City; or
   3. The owner’s property is otherwise not qualified under this chapter.
An applicant may appeal a denial to the Hearing Examiner within fourteen (14) calendar days of issuance of the denial of a Final Certificate by filing a complete appeal application and fee with the Planning Manager. The appeal before the Hearing Examiner shall be as provided in Chapter 12.01 of the Kent City Code for a Process I action. No appeal to the City Council is provided from the Hearing Examiner's decision. The applicant may appeal the Hearing Examiner's decision to the King County Superior Court, under RCW 34.05.510 through 34.05.598, if the appeal is filed within thirty (30) calendar days of receiving notice of that decision.

Sec. 3.25.100. Annual Compliance Review. Within thirty (30) calendar 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 (10) years, the property owner shall file a notarized declaration with the Planning Manager indicating the following:
A. A statement of occupancy and vacancy of the multi-family units during the previous twelve (12) months;
B. A certification that the property continues to be in compliance with the contract with the City and this ordinance; and
C. A description of any subsequent improvements or changes to the property.

City staff may also conduct on-site verification of the declaration. Failure to submit the annual declaration shall result in a review of the exemption per RCW 84.14.110.

Sec. 3.25.110. Cancellation of Tax Exemption. If the Planning Manager determines the owner is not complying with the terms of the contract or this ordinance, the tax exemption shall be canceled. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the owner intends to convert the multi-family housing to another use, the owner shall notify the Planning Manager and the King County Assessor in writing within sixty (60) calendar days of the change in use.

Multi-Family Dwelling Tax Exemptions
A. **Effect of Cancellation.** If a tax exemption is canceled due to a change in use or other noncompliance, the following taxes and penalties will apply:

1. Additional real property tax, plus interest, shall be imposed based upon the value of the nonqualifying improvements. 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 nonqualifying improvements dated back to the date that the improvements were converted to a nonqualifying use.

2. A penalty shall be imposed amounting to twenty percent of the value of the additional property tax plus interest.

3. The interest is calculated at the same statutory rate charged on delinquent property taxes from the dates on which the additional property tax could have been paid without penalty if the improvements had been assessed at full value without regard to this tax exemption program.

4. The additional taxes, interest and penalties 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. The lien has priority over and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

B. **Notice and Appeal.** Upon determining that a tax exemption is to be canceled, the Planning Manager shall notify the owner by mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the City Clerk within thirty (30) calendar days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing under Chapter 12.01 for a Process I action. An aggrieved party may appeal the Hearing Examiner's decision to the King County Superior Court under RCW 34.05.510 through 34.05.598.
SECTION 2. Chapter 2.32 of the Kent City Code, entitled “Office of the Hearing Examiner,” is hereby amended as follows:

Sec. 2.32.090. Duties. The hearing examiner shall have the following duties with respect to applications of matters submitted before him or her.

... B. The hearing examiner shall have the following duties with respect to appeals submitted before him or her.

1. All process I appeals as follows:

   ... c. Appeals from the Planning Manager’s decision to deny an extension of a Conditional Certificate, and to deny or cancel a Final Certificate of tax exemption under the City of Kent’s Tax Exemption for Multi-family Housing in Residential Target Areas.

SECTION 3. – Severability. If any one or more section, subsections, or sentences of this Ordinance are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

SECTION 4. – Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after passage, as provided by law.

JIM WHITE, MAYOR

ATTEST:

BRENDA JACOBER, CITY CLERK
I hereby certify that this is a true copy of Ordinance No. 3560 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.

BRENDA JACOBER, CITY CLERK

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Multi-Family Dwelling Tax Exemptions
Residential Target Area
Tax Exemption for Multi-family Housing

Kent Downtown Districts

Legend

\( \text{Zoning Districts} \)
\( \text{Target Area} \)