AN ORDINANCE of the City Council of the City of Kent, Washington, amending section 3.25 of the Kent City Code, entitled “Multifamily dwelling tax exemptions,” in order to increase the number of permanent residents to support the viability of the City’s urban center.

RECITALS

A. Kent is a Regional Growth Center where a significant share of the Puget Sound Region’s population and employment growth is expected to occur. Centers are characterized by compact, pedestrian-oriented development with a mix of uses. Centers provide proximity to a diverse collection of services, shopping, recreation, and jobs, as well as a variety of attractive and well-designed residences.

B. The State’s multifamily tax exemption program helps to focus future multifamily growth into areas where it is most appropriate and it makes multifamily housing development projects more appealing to investors by freeing up capital and reducing operating costs.

C. In 1998, the City Council passed a tax exemption program to encourage owner-occupied multifamily housing in Kent’s Downtown. The City now desires to increase the usefulness and viability of the program.
D. The goals of the amendment include: creating a vibrant downtown to serve as a destination retail and community gathering place; and to invest in neighborhood livability and development of neighborhood centers.

E. The State Environmental Policy Act (SEPA) responsible official has determined that the proposed Kent City Code amendments are procedural in nature, and further SEPA analysis is not required for these local code amendments.

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

**ORDINANCE**

**SECTION 1.** - *Amendment.* Section 3.25, entitled "Multifamily dwelling tax exemptions," of the Kent City Code is amended as follows:

Sec. 3.25.010. Purpose. As provided for in Chapter 84.14 RCW, the purpose of this chapter is to provide limited ten (10) eight (8) year exemptions from ad valorem property taxation for multifamily housing in designated urban centers to:

1. Encourage increased residential opportunities within urban centers designated by the city council as residential targeted areas; and/or

2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildingsites for multifamily housing in residential targeted areas to increase and improve housing opportunities; and

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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. Administrator means the Kent Economic Development Director or his/her designee.

2. Mixed use means a multi-story multifamily housing residential project with at least one nonresidential use in one or more multi-story multifamily housing buildings in the project, such as retail, office, entertainment, schools, conference centers or a use approved in writing by the Administrator.

3. Multifamily housing means one or more new multi-story buildings(§) designed for permanent residential occupancy, each with 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.

24. Owner means the property owner of record.

3. Planning manager means the planning manager of planning services office or designee.
45. **Permanent residential occupancy** means multi-unit family housing that provides either rental or owner occupancy on a nontransient basis. This includes owner-occupied or rental accommodation that is leased for a period of at least one (1) 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 multifamily housing units.

6. **Residential targeted 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 multifamily 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 multifamily housing in residential target areas.

A. **Duration of exemption.** The value of improvements qualifying under this chapter is exempt from ad valorem property taxation for ten (10) 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 chapter,
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 chapter. 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. At the conclusion of the exemption period, the new housing cost shall be considered as new construction for the purposes of chapter 84.55 RCW.

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 designated residential targeted area as defined in KCC 3.25.020, Definitions, Residential targeted area. If a part of any legal lot is within the residential targeted area, then the entire lot shall be deemed to lie within the residential targeted area.

B. Tenant displacement—prohibited. Prior to approval of an application under KCC 3.25.060, the applicant shall provide the Administrator with documentation satisfactory to the Administrator of the following:

1. all tenants of residential rental structures on the project site have been notified per state statute of the termination of their tenancy,
2. the applicant’s efforts to refer tenants to similar, alternative housing resources, and

3. any other actions the applicant has taken to minimize the hardship on tenants whose tenancies will be terminated.

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) thirty (30) units of new multifamily housing within a multi-story residential structure or as part of an urban development. At least fifty (50) percent of the space within the project shall be intended for permanent residential occupancy. A minimum of four new units must be constructed or at least four (4) additional multifamily units must be added to existing occupied multifamily housing. Existing multifamily housing that has been vacant for twelve (12) months or more does not have to provide additional units.

D. Proposed completion date. New construction of multifamily 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, fire, housing, and zoning codes, Downtown Design Review guidelines.
Multifamily Design Review, Mixed Use Design Review if applicable, and any other applicable regulations. The project must be LEED® Certifiable as confirmed by a LEED® certified independent third party reviewer or must be Built Green™ certified, and must also comply with any other standards and guidelines adopted by the city council for the residential targeted area.

F. Parking. All required residential parking shall be located in structured parking garages, under buildings, or underground.

G. Class A Pedestrian Street. For buildings adjacent to a class A pedestrian street, the first floor of the building facing the street shall consist of residential units, commercial uses, and/or residential amenity uses.

H. Mixed Use Development. The project shall be a mixed use project, unless the mixed use component is waived by the Administrator.

1. The purpose of the mixed-use requirement is to implement the intent of the land use district, maximize the efficient use of land, support transit use, and encourage the development of well-balanced, attractive, convenient, and vibrant urban residential neighborhoods. The additional use excludes any accessory functions related to the residential use. Unless otherwise modified or waived in writing by the Administrator, the nonresidential mixed use shall occupy at a minimum the ground floor along the street frontage with a depth of at least thirty (30) feet for any building in the project. The Administrator may not modify or waive the mixed use requirement, as provided in subsection 3.25.040.H.2, in the DC zoning District, which is governed by KCC 15.04.030(4) and (5).
2. The Administrator may waive the mixed use requirement for the purposes of this chapter, if the applicant can demonstrate that mixed use development is impractical or infeasible due to the following factors:
   a. size or other physical characteristic of the project’s lot(s),
   b. project site is not conducive to commercial use,
   c. classification of street(s) abutting the project, or
   d. other similar type of circumstance that make mixed use impractical for the project.

F. Type of occupancy. At least fifty (50) percent of the space in a new, converted, or rehabilitated multifamily 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 multifamily housing structures shall be condominiums as defined in KCC 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 Administrator along with the required fees initial application fee of one thousand dollars ($1,000). The application shall be filed prior to the issuance of the building permit for the project.

B. A complete application shall include:
1. A completed city of Kent application form setting forth the grounds for the exemption.

2. Preliminary floor plans of the proposed project, which may be revised by the owner provided such revisions are made and presented to the Administrator prior to the City’s final action on the exemption application.

3. A statement from the owner acknowledging the potential tax liability when the project ceases to be eligible for exemption under this chapter.

4. An affidavit signed by the owner stating the occupancy record of the property for a period of twelve (12) months prior to filing the application.

5. Verification of the correctness of the information submitted by the owner’s signature or affirmation made under penalty of perjury under the laws of the State of Washington 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 Administrator 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 multifamily 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, and design guidelines.

3. The owner has complied with all standards and guidelines adopted by the city under this chapter, including but not limited to the project eligibility and application requirements.

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

B. Contract Required. If an application is approved, the applicant shall enter into a contract with the city, approved by the City Council, regarding the terms and conditions of the project, under this chapter.

C. Issuance of Conditional Certificate. Following approval of the contract, and the planning manager shall issue a conditional certificate.
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.

CD. **Application Denial.** 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 **Council Appeal 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.

E. **Amendment of Contract.** An owner may request an amendment(s) to the contract by submitting a request in writing to the Administrator, together with a fee of five hundred dollars ($500), at any time within three (3) years of the date of the approval of the contract. The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension set forth in 3.25.070 are met.
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, along with a processing fee of fifty dollars ($50), 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 Appeal of Administrative Decision fee with the planning manager. The appeal before the hearing examiner shall be as provided in Ch. 12.01 KCC 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 temporary or permanent certificate of occupancy, the applicant may request a final certificate of tax exemption by filing with the planning manager the following, along with a one thousand dollar ($1,000) fee:

A. A statement of expenditures made with respect to each multifamily 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. The total monthly rent or total sale amount of each multifamily housing unit rented or sold to date;

D. Any additional information requested by the city pursuant to meeting any reporting requirements under Chapter 84.14 RCW; and

E. A statement that the work was completed within the required three (3) 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 (30) day review period above, file a final certificate of tax exemption with the King County assessor.

B. **Recording.** The Administrator is authorized to cause to be recorded, at the owner's expense, in the real property records of the King County Department of Records and Elections, the contract with the city, as amended if applicable, and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the Administrator deems appropriate for recording.

BC. **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 Appeal of Administrative Decision fee with the planning manager. The appeal before the hearing examiner shall be as provided in Ch. 12.01 KCC 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 certification and report.** Within thirty (30) calendar days after the first anniversary of the date of filing the city issued the final certificate of tax exemption and each year thereafter for a period of ten (10) years the duration of the tax exemption period, the property owner shall file a notarized declaration and annual report with the planning manager indicating the following:

A. A statement of occupancy and vacancy of the multifamily units during the previous twelve (12) months;

B. A certification that the property has not changed use and continues to be in compliance with the contract with the city and this chapter; and

C. A description of any subsequent improvements or changes to the property made after the city issued the final certificate of tax exemption.

D. The total monthly rent of each multifamily housing unit rented or the total sale amount of each multifamily housing unit sold to an initial

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purchaser during the twelve (12) months ending with the anniversary date;

E. A breakdown of the number, type and specific multifamily housing units rented or sold during the twelve (12) months ending with the anniversary date; and

F. Any additional information requested by the city pursuant to meeting any reporting requirements under Chapter 84.14 RCW.

City staff may also conduct onsite verification of the declaration and reporting. Failure to submit the annual declaration and report shall result in a review of the exemption per RCW 84.14.110.

Sec. 3.25.110. Cancellation of tax exemption.

A. If the planning manager Administrator determines (a) the owner is not complying with the terms of the contract or this chapter; (b) the use of the property is changed or will be changed to a use that is other than residential; (c) the project violates applicable zoning requirements, land use regulations, building or fire code requirements; or (d) 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. 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 multifamily housing to another use, the owner shall notify the planning manager Administrator and the King County assessor in writing within sixty (60) calendar 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.
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 (20) 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 multifamily 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 administrator shall notify the owner by
mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal and Appeal of Administrative Decision fee 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 Ch. 12.01 KCC 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.

Sec. 3.25.120. Sunset of exemption for applications for conditional certificates. The city shall not accept new applications for conditional certificates as provided in this chapter after June 30, 2014, unless extended by City Council action. Incomplete applications for conditional certificates as of June 30, 2014 shall be returned to owners. Notwithstanding the above, the city shall process (1) pending complete applications for a conditional certificate and (2) applications for extension of the conditional certificate or final certificate received after June 30, 2014, as provided in this chapter. This chapter shall continue to apply to all properties that have been or are issued a final certificate of tax exemption under this chapter until expiration, termination, or cancellation of the tax exemption.

SECTION 2. - 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 3. - Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage as provided by law.

Suzette Cooke, Mayor

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I hereby certify that this is a true copy of Ordinance No. 3922 passed by the City Council of the City of Kent, Washington, and approved by the Mayor of the City of Kent as hereon indicated.