

CODE

CITY OF REDMOND  
ORDINANCE NO. 2892 (AM)

AN ORDINANCE OF THE CITY OF REDMOND,  
WASHINGTON, ADOPTING RMC 3.38, MULTIFAMILY  
HOUSING PROPERTY TAX EXEMPTION, TO PROVIDE  
ADDITIONAL AFFORDABLE HOUSING AT GREATER  
LEVELS OF AFFORDABILITY, PROVIDING FOR  
SEVERABILITY AND ESTABLISHING AN EFFECTIVE  
DATE

---

WHEREAS, the Redmond City Council desires to encourage the creation of affordable housing opportunities within the City; and

WHEREAS, the City Council desires to accomplish the planning goals required by the Growth Management Act (GMA), Chapter 36.70A RCW, as reflected in Redmond's Comprehensive Plan; and

WHEREAS, the City Council desires to promote community development and affordable housing in the City, especially in Residential Target Areas (RTAs); and

WHEREAS, Revised Code of Washington, Chapter 84.14 RCW allows a short-term exemption from property taxation (known as the Multifamily Housing Property Tax Exemption (MFTE)) for the value of new housing construction in designated RTAs; and

WHEREAS, the MFTE supports City Council priorities as identified in the Affordable Housing Strategies Work Plan approved by the City Council on June 7, 2016, which calls out the Multifamily Tax Exemption Program as a tool to be evaluated,

particularly as a means to enable the creation of affordable homes at greater levels of affordability.

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

Section 1. Classification. This ordinance is of a general and permanent nature and shall become a part of the City Code.

Section 2. Residential Targeted Areas. The Council determines that Overlake Village, and portions of the Downtown and Marymoor area qualify as Residential Targeted Areas (RTAs), each meeting the following criteria under Chapter 84.14 RCW:

(a) They are located within an urban center as defined in Chapter 84.14 RCW;

(b) They lack sufficient available, desirable, and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live in the urban center, if the affordable desirable, attractive, and livable places to live were available; and

(c) The provision of additional housing opportunities, including affordable housing, in the area, will assist in achieving one or more of the stated purposes of Chapter 84.14 RCW.

Section 3. Adoption of Chapter. RMC 3.38, Multifamily Housing Property Tax Exemption, is hereby adopted to read as follows:

Chapter 3.38  
MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

- 3.38.010 Purpose.
- 3.38.020 Authority.
- 3.38.030 Definitions.
- 3.38.040 Director's authority.
- 3.38.050 Residential targeted areas - Criteria -  
Designation - Rescission.
- 3.38.060 Project eligibility.
- 3.38.070 Application procedure and Fee.
- 3.38.080 Application review - Issuance of  
conditional certificate - Denial -  
Appeal.
- 3.38.090 Amendment of MFTE contract.
- 3.38.100 Extension of conditional certificate.
- 3.38.110 Final certificate - Application - Issuance  
- Denial and appeal.
- 3.38.120 Exemption - Duration - Affordability  
requirements - Limits.
- 3.38.130 Annual certification
- 3.38.140 Cancellation of exemption.
- 3.38.150 Appeals to hearing examiner.
- 3.38.160 Annual reporting.
- 3.38.170 Alternative Compliance.
- 3.38.180 Conflicts.
- 3.38.190 Severability.

3.38.010 Purpose.

(A) The purposes of this chapter are:

(1) To increase the supply of multifamily housing opportunities within the City for low and moderate income households;

(2) To promote community development and affordable housing in the City within Residential Targeted Areas;

(3) To encourage additional housing in certain areas to support investment in public transit projects; and

(4) To accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the city's comprehensive plan.

(B) Any one or a combination of these purposes may be furthered by the designation of a Residential Targeted Area under this chapter.

**3.38.020 Authority.**

(A) Purpose. This chapter is adopted under the authority of RCW 84.14 which provides for special valuations for eligible improvements associated with multifamily housing in designated Residential Targeted Areas to improve residential opportunities including affordable housing. The purpose of this section is to define the responsibilities, rules, procedures, and requirements for the interpretation of this chapter.

### 3.38.030 Definitions.

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

- "Affordable housing unit" means a dwelling unit as defined in the Redmond Zoning Code that is reserved for occupancy by eligible households and rented at an affordable rent.

- "Affordable rent" means that the annual rent and other required expenses for the unit does not exceed 30 percent of the percentage of the applicable median income adjusted for household size designated in RMC 3.38.120 for qualifying affordable units.

- "Assessor" means the King County assessor.

- "Director" means the director of the city's Department of Planning and Community Development, or his or her authorized designee.

- "Eligible household" means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in RMC 3.38.060(F), certify that their household annual income does not exceed the applicable percent of the King County median income, adjusted for household size, and who certify that they meet all qualifications for eligibility, including, if

applicable, any requirements for recertification on income eligibility.

- "Household annual income" means the aggregate annual income of all persons over 18 years of age residing within the same household for a period of at least four months.

- "King County median income" means the median income for the Seattle-Bellevue, WA HUD Metro FMR Area as most recently determined by the Secretary of Housing and Urban Development (the "Secretary") under Section 8(f)(3) of the United States Housing Act of 1937, as amended. In the event that HUD no longer publishes median income figures for King County, the City may use or determine such other method as it may choose to determine the King County median income, adjusted for household size

- "MFTE" means multifamily housing property tax exemption.

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

- "MFTE covenant" means the agreement that is in a form acceptable to the City Attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units as referenced in RMC 3.38.060.

- "Multifamily housing" means a structure per RZC 21.78 Definitions, designed for permanent residential occupancy resulting from new construction.

- "Owner" means the property owner of record.

- "Permanent residential occupancy" means multifamily housing that provides rental occupancy for a period of at least one month, and excludes transient lodging.

- "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.

**3.38.040 Director's authority.**

(A) General Authority. The Director of the Department of Planning and Community Development is charged with the administration and enforcement of the provisions of this chapter.

(B) Recording. The Director is authorized to cause to be recorded, or to require the owner to record, in the real property records of the King County Department of Records and Elections, the MFTE covenant with the City required under RMC 3.38.060, and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the Director deems appropriate for recording, including requirements under this chapter relating to affordability of units.

(C) Power to Correct Errors. The Director may amend an administrative decision to correct errors clearly identifiable from the public record. Such a correction does not affect any time limit provided for in this chapter.

(D) Power to Clarify. The Director may clarify a statement in a written administrative decision.

(E) Power to Adopt Procedures. The Director may develop, adopt, and carry out procedures as needed to implement this code.



(F) Power to Modify Fees. The Director is also delegated authority to modify fees for the MFTE application and other related procedures in order to cover the costs incurred by the City and the Assessor in administering this chapter; provided, that the increase shall not exceed the most recently published Consumer Price Index (CPI) - Wage Earners and Clerical Workers for the Seattle-Tacoma area, as published by the U.S. Department of Labor - Bureau of Labor Statistics. If an increase greater than the CPI is necessary to cover the City's costs, the Director shall submit the increase to the City Council for approval.

(G) Interpretation.

(1) Responsibility. The Director of the City's Department of Planning and Community Development or his/her designee shall be responsible for interpreting the provisions of this chapter, except where expressly provided otherwise.

(2) Request for Interpretation. Any interested person may apply for an interpretation of this chapter where this chapter, or its application to specific circumstances, is ambiguous, i.e. where this chapter is susceptible to two or more reasonable interpretations. Applications for administrative

interpretation of this chapter shall be processed using the same procedures as are set forth for Type I reviews in the Redmond Zoning Code 21.76, Review Procedures, and shall be subject to the same criteria. Interpretations of this chapter shall not be considered land use decisions, however, and shall not be subject to appeal to the superior court under the Land Use Petition Act ("LUPA").

**3.38.050 Residential targeted areas - Criteria - Designation - Rescission.**

(A) Following notice and public hearing as prescribed in RCW 84.14.040 (now or as hereafter amended), the City Council may designate one or more Residential Targeted Areas, in addition to the areas stated in subsection D of this section, upon a finding by the City Council in its sole discretion that the Residential Targeted Area meets the following criteria:

(1) The Residential Targeted Area is within an urban center as defined by Chapter 84.14 RCW or as hereafter amended;

(2) The Residential Targeted Area lacks sufficient available, desirable and convenient residential housing, including affordable housing, to meet the needs of the public who would be likely to live

in the urban center if the affordable, desirable, attractive and livable residences were available; and

(3) Providing additional housing opportunity in the Residential Targeted Area will assist in achieving one or more of the following purposes:

(a) Encourage increased multifamily residential opportunities within the City; or

(b) Stimulate the construction of new affordable multifamily rental housing.

(B) In designating a Residential Targeted Area, the City Council may also consider other factors, including:

(1) Whether additional housing in the Residential Targeted Area will attract and maintain an increase in the number of permanent residents;

(2) Whether providing additional housing opportunities for low and moderate income households would meet the needs of individuals likely to live in the area if affordable residences were available;

(3) Whether an increased permanent residential population in the Residential Targeted Area will help to achieve the planning goals mandated by the Growth Management Act under Chapter 36.70A RCW, as implemented through the City's Comprehensive Plan; or

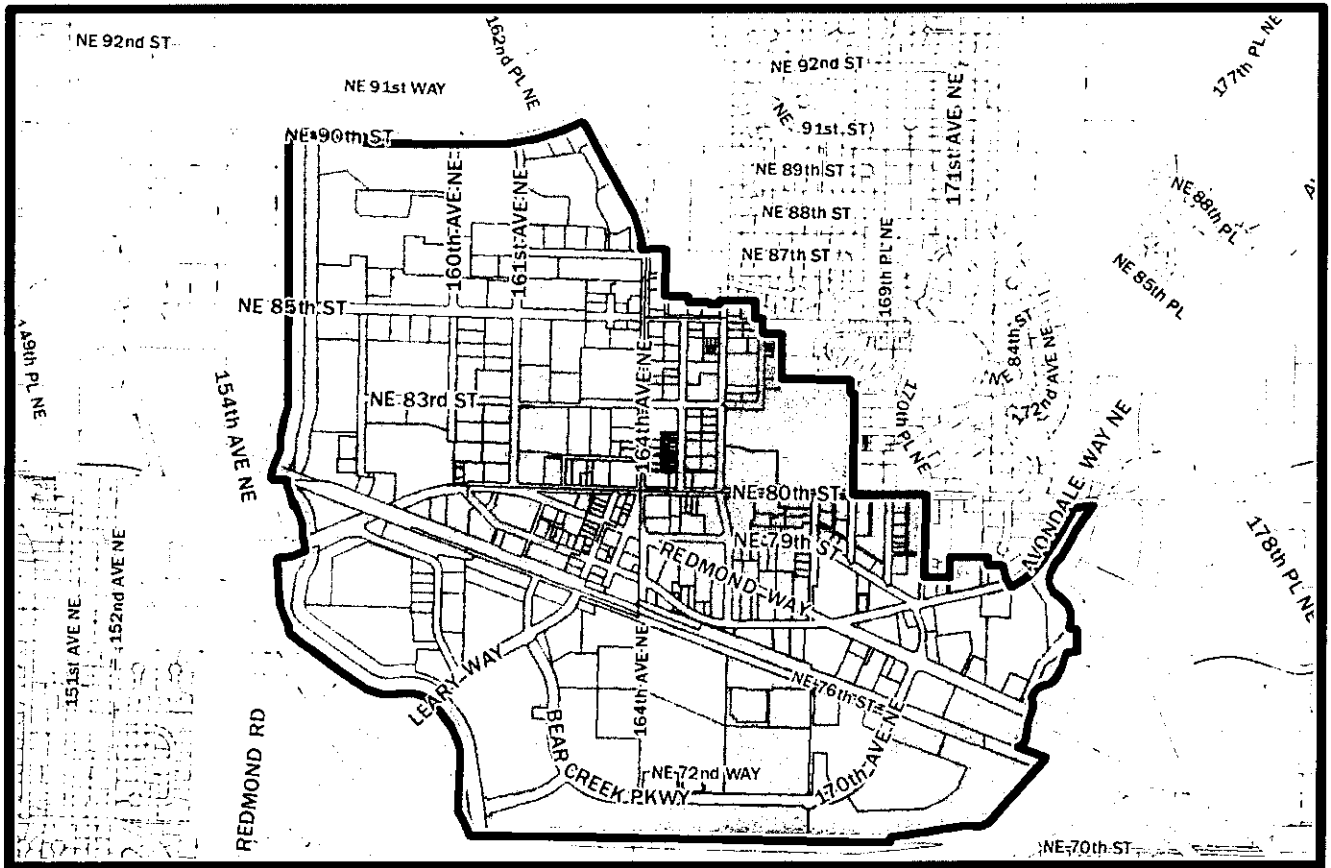
(4) Whether encouraging additional housing in the Residential Targeted Area supports plans for significant public investment in public transit or a better jobs and housing balance.

(C) 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 in this chapter for the original designation.

(D) The following areas, as shown in Maps 1 through 3 in this section, meet the criteria of this chapter for Residential Targeted Areas and are designated as such:

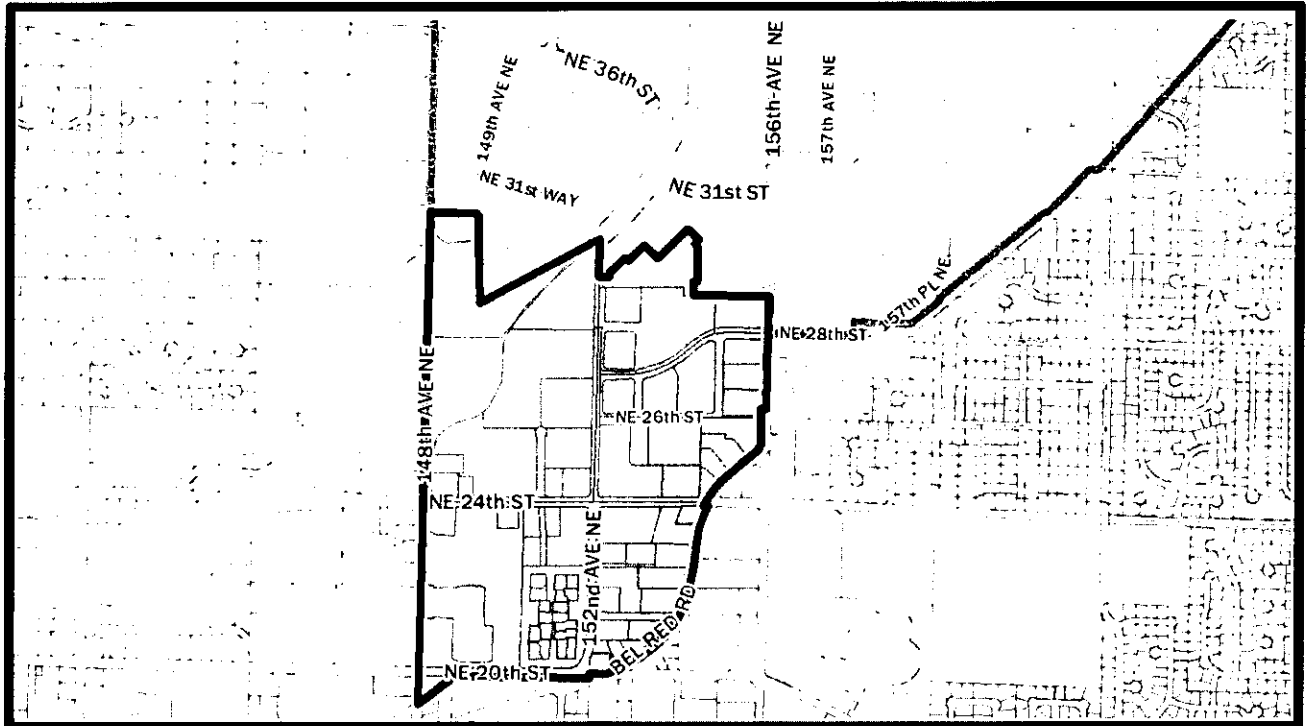
- (1) Downtown;
- (2) Overlake Village; and
- (3) Marymoor.

**Map 1: Downtown**



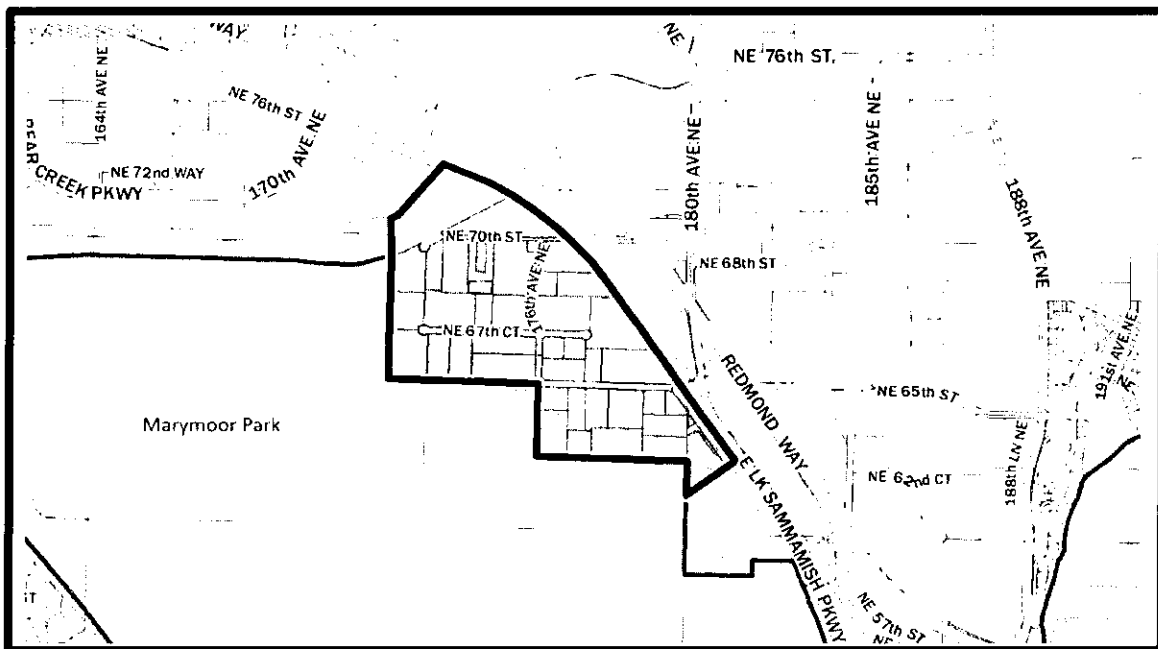
Downtown Residential Targeted Area

Map 2: Overlake Village



Overlake Village Residential Targeted Area

Map 3: Marymoor



Marymoor Residential Targeted Area

(E) If a part of any legal lot is within a residential targeted area as shown in Maps 1 through 3 in this section, then the entire lot shall be deemed to lie within such Residential Targeted Area.

**3.38.060 Project eligibility.**

To be eligible for exemption from property taxation under this chapter, the property shall satisfy all of the following requirements:

(A) The property must be located in a Residential Targeted Area.

(B) The project must be construction of new multifamily rental housing consisting within a residential structure or as part of 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) A minimum of 10 new dwelling units must be created.

(D) No application may result in the net loss of existing affordable housing which receives housing assistance through federal low or moderate income housing programs (e.g., HUD Section 8 program).

(E) Affordable housing shall be provided in the project as described in RMC 3.38.120 or through an alternative compliance method as described in RMC 3.38.170.

(F) Prior to issuing a certificate of occupancy, a MFTE covenant in a form acceptable to the City Attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with the King County Department of Records and Elections. This MFTE covenant shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the owner. Affordable units that are provided under this section shall remain as affordable housing for the life of the project from the date of initial occupancy.

(G) The mix and configuration of housing units (e.g., very small units, studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under RMC 3.38.120 shall be substantially proportional to the mix and configuration of the total housing units in the project unless otherwise approved by the Director. The exterior materials and design of the affordable housing units



must be comparable with the other dwelling units in the development, with similarity in building finishes, rooflines and landscaping. The interior finish and quality of construction of the affordable units shall at a minimum be comparable to entry level rental housing in the City.

(H) The project shall comply with all applicable provisions of the Redmond Zoning Code and the Redmond Municipal Code.

(I) Construction of new multifamily housing must be completed within three years from the date of approval of the application, as described in RMC 3.38.080, or within an extension authorized under this chapter.

**3.38.070 Application procedure and Fee.**

(A) 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 application by oath or affirmation. The application shall contain such information as the Director may deem necessary or useful, and shall include but not be limited to:

(1) A brief written description of the project, including phasing if applicable, and preliminary schematic site and floor plans of the

multifamily units and the structure(s) in which they are proposed to be located;

(2) A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter; and

(3) Information describing how the owner will comply with the affordability requirements in RMC 3.38.120.

(B) Fee.

(1) At the time of application under this section, the owner shall pay to the City an initial application fee as established by resolution. In addition, at the time of application under this section, the owner shall pay to the city a fee in an amount necessary to cover the county assessor's administrative costs.

(2) If the Director approves the application pursuant to RMC 3.38.110, the City shall forward the fee for the county assessor's administrative costs to the county assessor. If the Director denies the application pursuant to RMC 3.38.110 (E), the City shall refund the fee for the assessor's administrative costs to the owner within 30 days of the Director's decision, or in the event the owner appeals the Director's decision, within

30 days of the final decision of any appeal pursuant to the provisions of RMC 3.38.150.

(C) Notice of Completeness. The director shall notify the owner within 30 days of the application being filed if the Director determines that an application is not complete and shall identify what additional information is required before the application will be complete. Within 14 days of receiving additional information, the Director shall notify the owner in writing if the Director determines that the application is still not complete, and what additional information is necessary. An application shall be deemed to be complete if the Director does not notify the owner in writing by the deadline in this section that the application is incomplete; however, a determination of completeness does not preclude the Director from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter.

(D) Deadline. The deadline for application generally 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.

**3.38.080 Application review - Issuance of conditional certificate - Denial - Appeal.**

(A) The Director shall approve an application for tax exemption if the Director determines the project meets the eligibility requirements in RMC 3.38.060. If the application fails to meet the requirements of RMC 3.38.060 the Director must deny the application. If the application is approved, the owner shall enter into a MFTE contract with the City regarding the terms and conditions of the project and eligibility for exemption under this chapter. The Director's approval or denial shall take place within 90 days of the Director's receipt of the completed application. Following execution of the MFTE contract by the owner and the City, 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 this chapter.

(B) 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 ten calendar days of the denial.

(C) An owner may appeal the Director's denial in accordance with the provisions of RMC 3.38.150.

**3.38.090 Amendment of MFTE contract.**

(A) An owner may seek amendment(s) to the MFTE contract between the owner and the City by submitting a request in writing to the Director at any time prior to receiving the final certificate of tax exemption ("final certificate").

(B) The Director shall have authority to approve amendments to the MFTE contract between the owner and the City that are reasonably within the scope and intent of the MFTE contract.

(C) Any owner seeking amendments to the approved MFTE contract shall pay to the City an amendment application fee as established by the resolution.

(D) The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension set forth in RMC 3.38.100 are met.

**3.38.100 Extension of conditional certificate.**

(A) The Director may extend the conditional certificate 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 as

established by the Director. The Director may grant an extension if the Director determines that:

(1) The anticipated failure to complete construction 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 MFTE contract between the owner and the City will be satisfied upon completion of the project.

**3.38.110 Final certificate - Application - Issuance - Denial and appeal.**

(A) Upon completion of construction as provided in the MFTE 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, and shall include:

(1) A statement of expenditures made with respect to each multifamily housing unit, including

phasing if applicable, 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-year period or any approved extension; and

(4) Information on the owner's compliance with the affordability requirements in RMC 3.38.120.

(B) Within 30 days of receipt of all materials required for a final certificate, the Director shall determine whether the completed work is consistent with the application and MFTE contract and is qualified for limited exemption under RCW 84.14.060, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060, now or hereafter amended.

(C) If the director determines that the project has been completed in accordance with the MFTE contract between the City and owner, and with subsection A of this section, 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 (B) of this section.

(D) The Director is authorized to cause to be recorded, or to require the owner to record, in the real property records of the King County Department of Records and Elections, the contract with the City required under Section (A), and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the Director deems appropriate for recording, including requirements under this chapter relating to affordability of units.

(E) 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 subsection (B) of this section; or if the Director determines that the owner's property is not otherwise qualified under this chapter; or if the owner and the Director cannot agree on the allocation of the value of the improvements allocated to the exempt portion of new construction and multiuse new construction.

(F) Within 30 days of the date of notice of denial of final certificate, the owner may file a notice of appeal with the City Clerk along with the appeal fee as



established by resolution specifying the factual and legal basis for the appeal. The appeal shall be heard by the City's hearing examiner pursuant to RMC 3.38.150.

**3.38.120 Exemption - Duration - Affordability requirements - Limits.**

(A) The value of new housing construction qualifying under this chapter shall be exempt from ad valorem property taxation as follows:

(1) In the Marymoor Residential Targeted Area:

(a) Length of Exemption. For eight or 12 successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate for rental projects where at least the required minimum number of units are affordable units as specified in Table 1.

(b) Table 1: Required Minimum Affordability Levels. Affordable Rents as indicated:

<b>Table 1: Marymoor Residential Targeted Area</b>		
<b>Length of Exemption</b>	<b>Number of Units</b>	<b>Affordability Level</b>
8 years	First 10%	50% AMI
12 years	First 10%	60% AMI
	Second 10%	80% AMI

(2) In the Downtown and Overlake Village Residential Targeted Areas:

(a) Length of Exemption: For eight or 12 successive years beginning January 1 of the year immediately following the calendar year of issuance of the certificate for rental projects where at least the required minimum number of units are affordable units as specified in Table 2.

(b) Table 2. Required Minimum Affordability Levels. Affordable Rents as indicated:

<b>Table 2: Downtown and Overlake Village Residential Targeted Areas</b>		
<b>Length of Exemption</b>	<b>Number of Units</b>	<b>Affordability Level</b>
8 years	First 10%	60% AMI
12 years	First 10% Second 10%	65% AMI 85% AMI

(B) For any affordable units required in this section, the following shall apply:

(1) Affordable units shall have affordable rents as defined in RMC 3.38.030. The mix and configuration of affordable units (e.g. very small units, studio, one-bedroom, two bedroom, etc.) at each affordability level shall be substantially proportional

to the mix and configuration of the total housing units in the project unless otherwise approved by the Director.

(2) Affordable units will be reserved for occupancy by eligible households who certify that their household annual income does not exceed the applicable percent of the King County median income; and who certify that they meet all qualifications for eligibility, including any requirements for recertification on income eligibility as set forth in the MFTE covenant referenced in RMC 3.38.060 (F).

(3) The location of the affordable housing units shall be approved by the Director, with the intent that they generally be intermingled with all other dwelling units in the development.

(4) If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (units) if the fraction of the whole number is at least 0.50.

(C) The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, to increases in assessed valuation of land and nonqualifying improvements, or to increases made by

lawful order of the King County Board of Equalization, Washington State Department of Revenue, State Board of Tax Appeals, or King County, to a class of property throughout the county or a specific area of the county to achieve uniformity of assessment or appraisal as required by law.

**3.38.130 Annual certification.**

(A) A property that receives a tax exemption under this chapter shall continue to comply with the contract and the requirements of this chapter in order to retain its property tax exemption.

(B) Within 30 days after the first anniversary of the date the City filed the final certificate of tax exemption and each year for the tax exemption period, the property owner shall file a certification with the Director, verified upon oath or affirmation, which shall contain such information as the Director may deem necessary or useful, and shall 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 since the date of filing of the final certificate of tax exemption, and continues to be in

compliance with the MFTE contract with the City and the requirements of this chapter;

(3) A description of any improvements or changes to the property made after the filing of the final certificate or last declaration, as applicable;

(4) Information demonstrating the owner's compliance with the affordability requirements of RMC 3.38.120;

(5) The total monthly rent of each unit;

(6) The income of each household at the time of initial occupancy and their current income;

(7) The value of the tax exemption for the project; and

(8) Any additional information requested by the City in regard to the units receiving a tax exemption (pursuant to meeting any reporting requirements under Chapter 84.14 RCW).

**3.38.140 Cancellation of exemption.**

(A) The Director may cancel the tax exemption if the property owner breaches any term of the MFTE contract or any part of this chapter. Reasons for cancellation include but are not limited to the following:

(1) Failure to file the annual certification or filing a defective certification.

(2) Violation of any applicable zoning requirements, land use regulations, or building and housing code requirements contained in RMC Titles 15 and 21. Timely and cooperative resolution of the violation(s) may serve as a mitigating factor in the Director's decision of whether to cancel the exemption.

(3) Conversion of the multifamily housing to another use. The owner shall notify the Director and the county assessor within no less than 60 days of the intended change in use. Upon such change in use, the tax exemption shall be canceled pursuant to this section.

(4) Noncompliance with RMC 3.38.120 for affordable units. In the event an affordable unit is rented to a household other than an eligible household, or at a rental rate greater than prescribed in the MFTE covenant referenced in RMC 3.38.060, the property tax exemption for the property shall be canceled pursuant to this section.

(B) Upon cancellation of the exemption for any reason, the property owner shall be immediately liable for all taxes, interest and penalties pursuant to law. 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 along with the appeal fee established by resolution within 30 days of the date of notice of cancellation, specifying the factual and legal basis for the appeal in writing. The appeal shall be heard by the hearing examiner pursuant to RMC 3.38.150.

(C) Failure to submit the annual declaration may result in cancellation of the tax exemption pursuant to this section.

**3.38.150 Appeals to hearing examiner.**

(A) Appeal. An owner aggrieved by the Director's denial of an application, final certification, or cancellation of an exemption under this chapter shall have the right to appeal to the hearing examiner. Any such appeal shall be in writing and shall be filed with the hearing examiner within 30 days of the Director's decision. The appeal shall specify the factual and legal basis on which the Director's decision is alleged to be erroneous. The appeal shall be accompanied by the applicable appeal fee established by resolution of the City Council. Failure to follow the appeal procedures in this section shall preclude the owner's right to appeal.

(B) The hearing examiner's procedures shall apply to hearings under this chapter to the extent they are consistent with the requirements of this chapter and Chapter 84.14 RCW. All affected parties may be heard and all competent evidence received by the hearing examiner. The hearing examiner shall give substantial weight to the Director's decision and the burden of overcoming the weight and proving that the Director's decision was not supported by substantial evidence or was clearly erroneous shall be on the appellant. The hearing examiner must affirm, modify, or overturn the decision of the Director based on the evidence received. The decision of the hearing examiner constitutes the final decision of the City. An aggrieved party may appeal the decision of the hearing examiner on a final certificate of exemption or cancellation thereof to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within 30 days of the date of the notification by the City to the appellant of the hearing examiner's decision.

(C) Merger. When an appeal under this chapter is associated with a land use permit application, the appeal will be heard with any appeal on the land use application as required under RZC 21.76.050. Any



consolidated appeal will be processed in accordance with RZC 21.76.050 (E) (6), provided, that processing the application using such procedures shall not make any decision on an appeal under this chapter a land use decision within the meaning of the Land Use Petition Act and the criteria used to decide any appeal under this chapter shall be the criteria set forth in this section.

**3.38.160 Annual reporting.**

(A) If the City issues tax exemption certificates pursuant to this chapter, the Director shall submit the report required by RCW 84.14.100 to the Department of Commerce by December 31st of each year.

(B) Annually, beginning in 2019, the Director or designee shall review the program established by this chapter and provide a report to the City Council describing development activity, types and numbers of units produced and their locations, rent, information regarding the number of low and moderate income households benefiting from the program, and other appropriate factors. These reports may include recommendations on whether any Residential Targeted Areas should be added or removed, feedback from owners who have MFTE contracts with the City and whether affordability limits should be changed in certain areas.

The annual report shall be submitted to the City Council no later than March 30th of each year the program is in effect, starting in 2019; each report shall include information for the previous year.

**3.38.170 Alternative Compliance.**

(A) While the goal of the multifamily property tax exemption program is to achieve affordable housing on-site, the Director may approve a request for satisfying all or part of the affordable housing requirements with alternative compliance methods proposed by the applicant, if they meet the intent of this section.

(B) The owner may propose one or more alternative compliance methods together with a request for a property tax exemption for a maximum of 8 years. The alternative compliance method may involve provision of affordable housing off-site or cash payment in lieu of providing affordable housing on-site provided the method is consistent with the criteria in (C). Cash payments in lieu of providing the actual housing units will be used only for the subsequent provision of affordable housing units by the City or other housing provider approved by the Director.

(C) Decision Criteria for the Director include and are not limited to the following:

(1) The alternative compliance method will achieve a result better than providing affordable housing on-site.

(2) The proposed off-site location for required affordable housing pursuant to the alternative compliance provision must locate in such a way that it achieves seamless integration of the affordable housing component into the overall project. Property that is immediately proximate to the project site will be considered by the Director as most closely achieving this criteria, though other properties may be considered if it can be demonstrated that the goal of dispersal of affordable housing throughout the City is achieved.

(3) The proposed alternative property for affordable housing units is under site control at the time of approval of the final certificate.

(4) Housing units provided through the alternative compliance method must be based on providing the same type and tenure of units as the units in the project that give rise to the requirement.

(5) In the case of cash payments in lieu of providing affordable housing on-site, the cash payment obligation and timing must be determined by the Director

to be satisfactory to support achievement of the alternative compliance method.

(6) No individual property that receives off-site affordable housing units or payment in lieu may have more than 25 percent of its units as affordable housing units, unless the property will be utilizing public funding sources for affordable housing.

(7) The proposed alternative property for affordable housing is planned for completion within three years of approval of the final certificate. The Director may determine if a project's circumstances warrant allowing flexibility in the timing of completion of the affordable units.

(D) Timing. Application for and approval by the Director for alternative compliance must be made no later than the time of initial application for an 8 year multifamily property tax exemption, unless otherwise permitted by the Director.

(E) The MFTE contract between the applicant and the City in a case of alternative compliance shall modify the requirements of RMC 3.38.070 through 3.38.160 as appropriate to reflect the terms and conditions of the alternative compliance.

(F) Completion of payment of an in lieu fee, provision of affordable units off-site and/or satisfaction of other conditions required pursuant to an alternative compliance approval shall constitute full and complete satisfaction of the requirements of this RMC 3.38. Following such satisfaction, the applicant shall have no further obligations under this RMC 3.38, except as otherwise set forth in the MFTE contract.

**3.38.180 Conflicts.**

(A) If a conflict exists between the provisions of this chapter or between this chapter and the laws, regulations, codes or rules promulgated by other authority having jurisdiction within the City, the requirement that best advances the purposes set forth in RMC 3.38.010 shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this chapter.

**3.38.190 Severability.**

(A) The provisions of this chapter are severable. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter and its application are not affected and will remain in full force and effect.

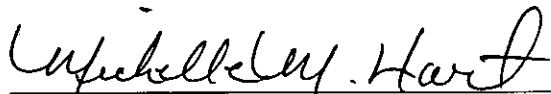
Section 4. Effective Date. This ordinance shall become effective five days after its publication, or publication of a summary thereof, in the city's official newspaper, or as otherwise provided by law.

ADOPTED by the Redmond City Council this 18<sup>th</sup> day of July, 2017.

CITY OF REDMOND

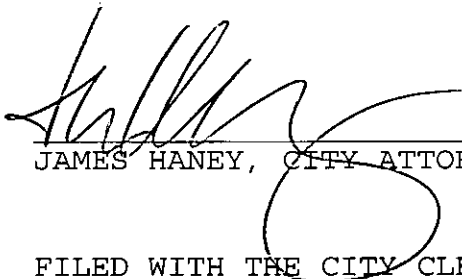
  
\_\_\_\_\_  
JOHN MARCHIONE, MAYOR

ATTEST:

  
\_\_\_\_\_  
MICHELLE M. HART, MMC, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

  
\_\_\_\_\_  
JAMES HANEY, CITY ATTORNEY

FILED WITH THE CITY CLERK: July 5, 2017  
PASSED BY THE CITY COUNCIL: July 18, 2017  
SIGNED BY THE MAYOR: July 21, 2017  
PUBLISHED: July 24, 2017  
EFFECTIVE DATE: July 29, 2017  
ORDINANCE NO. 2892 (AM)

YES: BIRNEY, MARGESON, MYERS, PADHYE, SHUTZ, STILIN