

ORDINANCE NO. _____

An ordinance of the City of Spokane amending building standards for multi-family tax-increment financing projects, amending Sections 08.15.010, 08.15.020, 08.15.040 and 08.15.110 of the Spokane Municipal Code, and adopting a new section 08.15.150 of the Spokane Municipal Code.

WHEREAS, in 1995 the Washington State Legislature adopted Senate Bill 5387, which created the exemptions in the state's ad valorem property taxation for qualifying multi-family housing in target areas and authorized local jurisdictions to adopt procedures for implementing the legislation, especially in urban centers; and

WHEREAS, in response to Senate Bill 5387, later codified as RCW 84.14, the City of Spokane enacted Ordinance C32575 in the year 2000, creating a new Chapter 08.15 in the Spokane Municipal Code to implement the multifamily housing program with the stated purpose of, among other goals, to encourage the construction of new multifamily housing and the conversion of vacant and underutilized structures for multifamily housing; and

WHEREAS, Chapter 08.15 was amended by the City Council in the year 2007 to include provisions to ensure exempt multifamily projects include affordable housing units; and

WHEREAS, Chapter 08.15 was again amended by the City Council in the year 2017 to expand the eligible target areas that qualified for multifamily exemptions and made other administrative and substantive changes; and

WHEREAS, Chapter 08.15 was amended by the City Council in the year 2022 to comport with E2SSB 5287, adopted by the Washington State Legislature in 2021, which further amended the program requirements for tax-exempt multifamily housing to include provisions for housing located near high capacity transit development as well as incentives for projects paying prevailing wages; and

WHEREAS, since its enactment, RCW 84.14 has included a provision that nothing in it "prevents a governing authority from adopting and implementing additional requirements to any exemption" granted under the program; and

WHEREAS, approximately % of Spokane residents have mobility or visual impairment such as to require housing that is ADA-accessible; and

WHEREAS, many disabled members of the Spokane community are among the population of individuals who potentially qualify for housing in tax-exempt multifamily units, but who are unable to avail themselves of such housing because the units are not ADA accessible; and

WHEREAS, the lack of ADA accessible units in tax-exempt multifamily housing forecloses the disabled community from benefitting from the program, and the City of Spokane, as a matter of policy, finds that it is essential that it's multifamily housing program include minimum numbers of ADA-accessible units;

WHEREAS, the City of Spokane wishes to include in its program offering exemptions for multifamily housing a provision requiring that a minimum number of units are ADA accessible;

NOW, THEREFORE, the City of Spokane does ordain as follows:

Section 1. That Section 08.15.010 of the Spokane Municipal Code is amended to read as follows:

Section 08.15.010 Purpose

The purposes of this chapter are to:

1. encourage more multi-family housing opportunities, including affordable housing opportunities, within the City;
2. stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multi-family housing;
3. increase the supply of mixed-income multifamily housing opportunities within the City;
4. accomplish the planning goals required under the Growth Management Act, chapter 36.70A RCW, as implemented from time to time by the City's current and future comprehensive plans;
5. promote community development, neighborhood revitalization, and availability of affordable housing;

6. preserve and protect buildings, objects, sites and neighborhoods with historic, cultural, architectural, engineering or geographic significance located within the City; and
7. encourage additional housing in areas that are consistent with planning for public transit systems.
8. to encourage the construction of ADA-accessible units in multi-family housing.

B. Any one or a combination of these purposes may be furthered by the designation of a residential targeted area under this chapter.

Section 2. That Section 08.15.020 of the Spokane Municipal Code is amended to read as follows:

Section 08.15.020 Definitions

As used in this chapter:

- A. "affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent of the household's monthly income.
 1. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low or moderate-income households;
- B. "ADA accessible" means dwelling units that comply with the most recent edition of the ANSI A117.1 standard developed by the International Code Council (ICC) for Dwelling Units and Sleeping Units, and which outlines accessibility requirements for multifamily structures to ensure they are useable by individuals with disabilities.
- ~~((B))~~ C. "assessor" means the Spokane county assessor;
- ~~((C))~~ D. "council" means the Spokane city council;
- ~~((D))~~ E. "director" means the director of the City's planning department or any other City office, department or agency that shall succeed to its functions with respect to this chapter, or their authorized designee;
- ~~((E))~~ F. "household" means a single person, family or unrelated persons living together;

((F)) G. "low-income household" means a single person, family or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area where the project is located, as reported by the United States department of housing and urban development.

((G)) H. "moderate-income household" means a single person, family or unrelated persons living together whose adjusted income is more than eighty percent but is at or below one hundred fifteen percent of the median family income adjusted for family size, for the county, city, or metropolitan statistical area where the project is located, as reported by the United States department of housing and urban development.

((H)) I. "multi-family housing" means a building or group of buildings 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 to multi-family housing and does not include transient accommodations, including hotels, motels or short-term rentals regulated under Chapter 10.52 SMC, Chapter 17C.316 SMC or other applicable regulations;

((I)) J. "owner" means the property owner of record;

((J)) K. "permanent residential occupancy" means multi-family housing that provides either rental or owner occupancy on a nontransient basis.

1. This includes owner-occupied or rental accommodation that is leased for a period of at least one month.
2. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis and short-term rentals regulated under Chapter 10.52 SMC, Chapter 17C.316 SMC or other applicable regulations.

((K)) L. "rehabilitation improvements" means modifications to an existing:

1. structure the residential portion of which has been vacant for at least twelve months prior to application for exemption under this chapter, that are made to achieve a condition of substantial compliance with the applicable building and construction codes contained in Title 11 SMC and all applicable uniform codes adopted pursuant to Title 11 SMC; or
2. occupied residential structure or mixed use structure that contains occupied residential units, that add at least four multifamily housing units;

((L)) M. "residential targeted area" means an area within an urban center that has been so designated by the council pursuant to this chapter;

((M)) N. "substantial compliance" means compliance with the applicable building and construction codes contained in Title 11 SMC and all applicable uniform codes adopted pursuant to Title 11 SMC that is typically required for rehabilitation as opposed to new construction;

((N)) O. "urban center" means a compact identifiable district where urban residents may obtain a variety of products and services and which must contain:

1. several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, governmental agencies;
2. adequate public facilities including streets, sidewalks, lighting, transit, domestic water and sanitary sewer systems; and
3. a mixture of uses and activities that may include housing, recreation and cultural activities in association with either commercial or office, or both, use.

Section 3. That Section 08.15.040 of the Spokane Municipal Code is amended to read as follows:

Section 08.15.040 Project Eligibility

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

- A. The property must be located in a residential targeted area of an urban center.
- B. The project must be multifamily housing consisting of at least four dwelling units within a residential structure or group of structures or as part of a mixed-use development in which at least fifty percent of the space within such residential structure or mixed-use development is intended for permanent residential occupancy.
- C. For new construction, a minimum of four new dwelling units must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added. Existing multifamily vacant housing that has

been vacant for twelve months or more does not have to provide additional multifamily units.

- D. For rehabilitation or conversion of an existing building: the residential portion of the building fails to comply with one or more standards of the applicable building or housing codes, and the rehabilitation improvements shall achieve a condition of compliance with the applicable building and construction codes, or the building has been vacant for at least a year. If the property proposed to be rehabilitated is not vacant, an applicant shall provide each existing tenant housing of comparable size, quality and price and a reasonable opportunity to relocate.

At the time of application for a [MFTE Conditional Agreement](#), the applicant will provide a letter attesting and documenting how the existing tenant(s) were/will be provided comparable housing and opportunities to relocate. The comparable housing requirements to be included in the MFTE Conditional Agreement:

1. The existing residential tenant(s) are to be provided housing of a comparable size and quality at a rent level meeting the Washington State definition of affordable to their income level. Specifically, RCW 84.14.010 defines “affordable housing” as residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone, do not exceed thirty (30) percent of the household’s monthly income. The duration of this requirement will be the length of the tenant’s current lease plus one year.

- E. Commencing January 1, 2026, for new construction or for rehabilitation or conversion of an existing building, no less than ten percent (10%) of the designated affordable housing units must be ADA accessible. For purposes of this subsection the term “ADA accessible means dwelling units that comply with the most recent edition of the ANSI A117.1 standard developed by the International Code Council (ICC), and which outlines accessibility requirements for multifamily structures to ensure they are useable by individuals with disabilities.

- ((E)) F. The project must comply with all applicable zoning requirements, land use regulations, design review requirements and building and housing code requirements contained in the Spokane Municipal Code at the time of new construction, rehabilitation or conversion.

Section 4. That Section 08.15.110 of the Spokane Municipal Code is amended to read as follows:

Section 08.15.110 Cancellation of Tax Exemption - Appeal

- A. If at any time the director determines that the property no longer complies with the terms of the contract or with the requirements of this chapter, or for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalty imposed pursuant to RCW 84.14.110 or other applicable provisions of state law.
- B. In the case of multi-family housing units rented as affordable housing, qualifying units as defined in the final certificate of exemption or in SMC 8.15.090(A)(2)(b) must be available to be rented to qualified low and moderate-income tenants at all times during the entire exemption period. While household's income may rise above the low and moderate-income level during the exemption period, the property owner must demonstrate that subsequent or different tenants of those affordable units do meet the income level requirements for the remainder of the exemption period.
- C. If after the issuance of a final certificate of tax exemption multi-family housing units rented as affordable housing fail to satisfy the requirements for the affordable housing tax exemption and the number of units fall below the percentage requirements, the exemption period shall expire, unless the affordable housing units are within the Spokane Targeted Investment Area. Properties or units failing to satisfy the affordable requirement of SMC 8.15.090(A)(2)(b) within the Spokane Targeted Investment Area shall be converted and limited to eight years from the date of the issuance of the final certificate of tax exemption and a new final certificate of tax exemption will need to be recorded by the Spokane county assessor.
- D. If the property owner sells the affordable multi-family housing units, the new property owner shall file with the City a report indicating that the unit was purchased at a value affordable to low and moderate-income in order to continue to comply with the affordability requirement of SMC 8.15.090(A)(1)(b) and RCW 84.14.020(1)(ii)(B). If the unit was not sold at a level affordable to low and moderate-income household, a request to cancel the exemption needs to be filed with the City within 60 days. If the unit is within the Spokane Targeted Investment Area, a request to convert the remaining term of exemption to an 8-year exemption is allowable, if the ~~((remain))~~ remaining term is less than eight years, unless the remaining term would exceed eight years.
- E. If the owner intends to convert the multi-family housing to another use, or if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in SMC 8.15.090 or any other condition to exemption, the

owner must notify the director and the Spokane county assessor within sixty days of the change in use or intended discontinuance.

1. Upon such change in use or discontinuance, the tax exemption shall be canceled and additional taxes, interest and penalty imposed pursuant to state law.
- F. Upon determining that a tax exemption shall be canceled, the director, on behalf of the city council, shall notify the property owner by certified mail, return receipt requested.
1. The property owner may appeal the determination by filing a notice of appeal with the city clerk within thirty days, specifying the factual and legal basis for the appeal.
 2. The hearing examiner will conduct a hearing pursuant to chapter 17G.050 SMC at which all affected parties may be heard and all competent evidence received.
 3. The hearing examiner will affirm, modify or repeal the decision to cancel the exemption based on the evidence received. The hearing examiner shall give substantial weight to the director's decision and the burden of overcoming that weight shall be upon the appellant.
 4. An aggrieved party may appeal the hearing examiner's decision to the Spokane county superior court as provided in RCW 34.05.510 through RCW 34.05.598.
- G. If after the issuance of a final tax certificate an owner-occupied multi-family housing unit that initially qualified as a low or moderate-income unit is sold at market rate and no longer qualifies as an affordable housing unit, that unit may lose its tax exempt status and all prior exempt taxes and penalties and interest shall become a lien on the property per RCW 84.14.110 and the subsequent owner shall no longer qualify for the tax exemption. The remaining units' tax exemption status shall not be affected.
- ~~((H. The City may adopt administrative policies and procedures to implement the reporting requirement for this section which are not inconsistent the provisions of chapter 8.15 SMC and chapter 84.14 RCW.))~~
- ((I)) H. A determination by the director to discontinue an exemption period may be appealed pursuant to SMC 8.15.110.

Section 5. That there is adopted a new Section 08.15.150 of the Spokane Municipal Code to read as follows:

Section 08.15.150 Promulgation of Rules.

The City may adopt administrative policies and procedures to implement the requirements for this chapter which are not inconsistent the provisions of chapter 8.15 SMC and chapter 84.14 RCW. Any public rule promulgated under this chapter shall be adopted pursuant to the requirements of the Spokane Municipal Code.

Section 6. Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase or word of this ordinance.

Section 7. Clerical Errors. Upon approval by the city attorney, the city clerk is authorized to make necessary corrections to this ordinance, including scrivener's errors or clerical mistakes; references to other local, state, or federal laws, rules, or regulations; or numbering or referencing of ordinances or their sections and subsections.

PASSED by the City Council on _____

Council President

Attest:

Approved as to form:

City Clerk

City Attorney

Mayor

Date

Effective Date