

03/08/21
03/15/21

ORDINANCE NO. M-4332

AN ORDINANCE amending Chapter 3.22 VMC related to the multi-family property tax exemption changing definitions, deleting references to public amenities, and expanding the area eligible for the program; and providing for an effective date.

WHEREAS, Washington State Law authorizes cities to adopt a multi-family tax exemption program in certain areas; and

WHEREAS, the City of Vancouver has had a Multi-Family Tax Exemption Program in place since 1997, and recent projects have highlighted the need to revise several areas of the code to improve clarity; and

WHEREAS, a comprehensive review of the program is underway and is expected to lead to further recommended revisions by the end of 2021; and

WHEREAS, Council has requested immediate revisions to address two issues before comprehensive revisions are adopted at the end of 2021; and

WHEREAS one such revision is to replace the term "affordable" with "income based" to acknowledge that the current requirements do not result in housing that is affordable using Vancouver-based incomes; and

WHEREAS another such revision is to delete references to "public amenities" that are listed as meeting the public benefit requirement under the market rate housing option, which are difficult to measure or simply not appropriate; and

WHEREAS, Council desires adjustment to the MFTE-eligible boundary to include property located immediately adjacent to the downtown MFTE (Vancouver City Center Vision

Plan) area to facilitate a proposed large mixed use redevelopment project Council believes will be beneficial for the public.

NOW, THEREFORE, be it ordained by the City Council of the City of Vancouver:

Section 1. Findings.

The City Council of the City of Vancouver finds that the proposed expansion area meets the applicable criteria set forth at Chapter 84.14.040(1) RCW as more specifically set forth below:

1. City Council has previously determined that the downtown, also referred to as the Vancouver City Center Vision Subarea, is an urban center under the MFTE program. Most of the VCCV Subarea plan area is zoned City Center Mixed Use, which allows for a wide range of high density residential, office, and retail uses, and is considered the most “urban” of all zoning districts.
2. The area which is proposed to be incorporated into the VCCV MFTE area is immediately adjacent to the eastern boundary of the VCCV Subarea, and is also zoned City Center Mixed Use, therefore Council hereby determines that the proposed expansion area meets the criteria for being within an urban center.
3. The proposed expansion area consists of two acres more or less that are currently occupied by two restaurants, with no housing. The VCCV Subarea has previously been determined by City Council to 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.
4. Additional housing in the expansion area, including affordable housing, will advance the stated goal of increasing residential density, support for local businesses, and vitality within the downtown.

Section 2. Ordinance M-3314 as last amended by Ordinance M-4186 and codified at Vancouver Municipal Code Section 3.22.02 is amended to read as follows:

Section 3.22.020 Definitions.

~~A. "Affordable housing" means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone and any mandatory recurring fees required as a condition of tenancy for the unit, do not exceed thirty percent of the~~

~~household's monthly income. For the purposes of homeownership, the income limits are listed in Section 3.22.040(D)(8) Affordability.~~

~~B. A.~~ “Annual Income” means gross annual income adjusted for household size and calculated based on verifiable income documentation provided by the housing applicant/tenant.

~~C. B.~~ “Area Median Income” means the median income calculated annually by the United States Department of Housing and Urban Development for the Portland-Vancouver-Hillsboro metropolitan statistical area. Area Median Income is adjusted based on household size.

~~D. C.~~ “Director” means the Director of the City's Community Development Department or authorized designee.

~~E. D.~~ "Household" means a single person, family or unrelated persons living together.

~~F. E.~~ "Growth management act" means chapter 36.70A RCW.

F. “Income based housing” means residential housing that is rented by a person or household whose monthly housing costs, including utilities other than telephone and any mandatory recurring fees required as a condition of tenancy for the unit, do not exceed thirty percent of the household’s monthly income. For the purposes of homeownership, the income limits are listed in Section 3.22.040(D)(8) Options Under the Program.

~~G. “Market Rate Exemption Option” means an eight (8) year property tax exemption with no income or rent requirements, subject to the public benefit requirements as outlined in Section 3.22.040, D, 8, a. Properties are secured with a development agreement outlining requirements such as enhanced design, public art, additional parking or structured parking, enhanced landscaping, enhanced infrastructure (e.g. wider sidewalks, undergrounding utilities) homeownership component, energy efficiency, and consistency with subarea plan.~~

H. “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.

I. “Owner” means the property owner of record.

J. “Permanent residential occupancy” means multi-family housing that provides either rental or owner occupancy for a period of at least one month. This excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

K. “Rehabilitation improvements” means modifications to existing structures that are vacant for 12 months or longer, or modification to existing occupied structures which convert non-residential space to residential space and/or increase the number of multi-family housing units.

L. “Residential target area” means an area within an urban center that has been designated by the City Council as lacking sufficient, available, desirable, and convenient residential housing to meet the needs of the public.

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

Section 3. Ordinance M-3314 as last amended by M-4213 and codified at Vancouver Municipal Code Section 3.22.030 is amended to read as follows:

Section 3.22.030 Residential target area designation and standards.

A. Criteria. Following a public hearing, the city council may, in its sole discretion, designate one or more residential target areas. Each designated target area must meet the following criteria, as determined by the city council:

1. The target area is located within an urban center;
2. The target area lacks sufficient available, desirable, affordable, and convenient residential housing to meet the needs of the public who would likely live in the urban center if desirable, affordable, attractive, and livable places were available; and
3. The providing of additional housing opportunity in the target area will assist in achieving the following purposes:
 - a. Encourage increased residential opportunities within the target area, including affordable income-based housing opportunities; or
 - b. Stimulate the construction of new multi-family housing and/or the rehabilitation of existing vacant and under-utilized buildings for multi-family housing; or
 - c. Where appropriate, stimulate the construction, rehabilitation or conversion of existing vacant and underutilized multi-family rental units to owner occupied multi-family housing as such property redevelops.
4. In designating a residential target area, the city council may also consider other factors, including, but not limited to: whether additional housing in the target area will attract and maintain an increase in the number of permanent residents; whether an increased residential population will help alleviate detrimental conditions in the target area; and whether an increased residential population in the target area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020. The city council may, by ordinance, amend

or rescind the designation of a residential target area at any time pursuant to the same procedure as set forth in this chapter for original designation.

5. When designating a residential target area, the city council shall give notice of a hearing to be held on the matter and that notice shall be published once each week for two consecutive weeks, not less than seven days nor more than 30 days before the date of the hearing. The notice must state the time, date, place and purpose of the hearing and generally identify the area proposed to be designated

B. Target Area Standards and Guidelines. For each designated residential target area, the city council shall adopt basic requirements for both new construction and rehabilitation, including the application process and procedures. The city council may also adopt guidelines which include parking, height, density, environmental impact, home ownership, public benefit features, compatibility with the surrounding property and such other amenities as will attract and keep permanent residents and will properly enhance the livability of the residential target area. The required amenities shall be relative to the size of the proposed project and the tax benefit to be obtained.

C. Designated Target Areas. The “following residential target areas” are designated in the City of Vancouver.

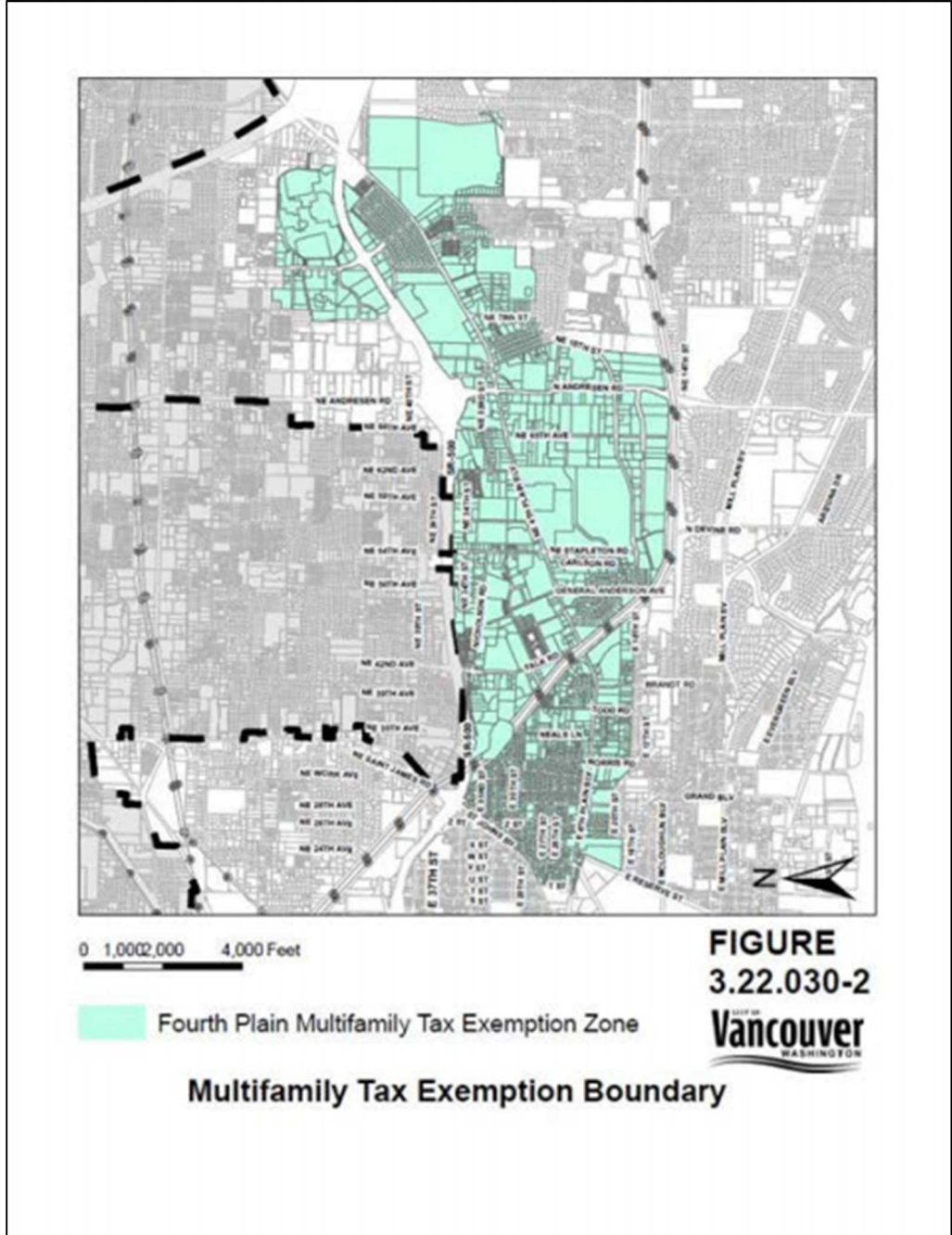
1. The area inside the boundaries of the Vancouver City Center Subarea Plan and an adjacent area consisting of approximately two acres located south of SE Columbia and east of Interstate 5 as depicted on Map 1 below:

Map 1: Vancouver City Center Vision Subarea



2. The area inside the boundaries of the Fourth Plain Corridor Subarea Plan as depicted on Map 2 below. This residential target area shall encourage the construction or rehabilitation of owner-occupied multi-family housing as well as rental multi-family housing.

Map 2. Fourth Plain Corridor Subarea



Section 4. Ordinance M-3314 as last amended by Ordinance M-4225 and as codified at Vancouver Municipal Code Section 3.22.040 is amended to read as follows:

Section 3.22.040 Tax exemptions for multi-family housing in residential target areas.

A. Intent. Limited eight, ten or twelve year exemption from ad valorem property taxation for multi-family housing in urban centers are intended to:

1. Encourage increased residential opportunities within urban centers designated by the city council as residential target areas;
2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multi-family housing in residential target areas to increase and improve housing opportunities;
3. Assist in directing future population growth to 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.
5. Encourage new construction or rehabilitation of owner-occupied multi-family housing where identified as desirable; and
6. Encourage ~~affordable~~ income-based housing.

B. Duration of Exemption. The value of improvements qualifying under this chapter will be exempt from ad valorem property taxation for:

(1) Eight successive years where all applicable criteria herein are met under Section 3.22.040(8)(a) or (b), or (2) Ten successive years if all applicable criteria herein ~~including affordability~~ are met, or (3) Twelve successive years if all applicable criteria herein ~~including affordability~~ are met. In both cases the duration of exemption shall be measured beginning January 1 of the year immediately following the calendar year after issuance of the Final Certificate of Tax Exemption.

C. Limits on Exemption. The exemption does not apply to the value of land or the value of improvements not qualifying under this chapter, nor does the exemption apply to increases in assessed valuation of land and non-qualifying 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.

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

1. Location. The project must be located within a residential target area, as designated in Section 3.22.030.
2. Tenant Displacement Prohibited. Property proposed to be rehabilitated must be vacant at least twelve months before submitting an application and fail to comply with one or more standards of the applicable state or local building or housing codes on or after July 23, 1995.

3. Size. The project must include at least four units of multi-family housing within a residential structure or as part of a mixed-use development. A minimum of four new units must be constructed or at least four additional multi-family units must be added to existing occupied multi-family housing. Existing multi-family housing that has been vacant for 12 months or more does not have to provide additional units so long as the project provides at least four units of new, converted, or rehabilitated multi-family housing.

4. Permanent Residential Housing. At least 50 percent of the space designated for multi-family housing must be provided for permanent residential occupancy, as defined in Section 3.22.020.

5. Proposed Completion Date. New construction multi-family housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application.

6. 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 in effect at the time the application is approved. Rehabilitation and conversion improvements must comply with all applicable housing codes. New construction must comply with the ~~Uniform~~ International Building Code. The project must also comply with any other standards and guidelines adopted by the city council for the residential target area in which the project will be developed.

7. Owner Occupancy. Projects within a residential target area that are developed for owner-occupancy shall include an agreement or other guarantee acceptable to the Director ensuring that some or all of the units within the project are used for purposes of owner-occupancy.

8. ~~Affordability Options Under the Program~~. To be eligible for the eight-year tax exemption option under this chapter, the applicant may choose between the market-rate option and the ~~affordable-income-based~~ option.

a. Under the eight-year market-rate exemption option, applicants shall enter into a development agreement with the city specifying requirements such as: ~~enhanced design~~

1. ~~Public art consistent with the City's adopted Arts, Culture and Heritage Plan and subject to review by the Vancouver cultural Commission~~

2. ~~Additional parking or structured parking in excess of at least 10% of the minimum required parking spaces, enhanced landscaping,~~

3. Significantly enhanced public infrastructure (e.g. public plazas of at least 1,000 square feet and permanently accessible to the public, wider sidewalks that provide enhanced amenities for pedestrians such as benches, landscaping and/or public art, undergrounding utilities) not otherwise required by development standards, and homeownership component, ~~energy efficiency, consistency with subarea plan.~~

4. The documented cost of such features shall collectively be no less than 25% of the estimated tax benefit over the abatement period and shall be completed, inspected and verified as to value prior to a certificate of occupancy being issued.

b. To be eligible for the eight-year affordable income-based exemption option under this chapter, applicants must commit to renting or selling at least 20% of units as affordable income-based housing to households with annual incomes at or below 100% of Area Median Income.

29. To be eligible for the ten-year tax exemption, applicants must commit to renting or selling at least 20% of units as affordable income-based housing to households with annual incomes at or below 80% of Area Median Income.

310. To be eligible for the twelve-year tax abatements exemption under this chapter, applicants must commit to renting or selling at least 20% of units as affordable income-based housing to households with annual incomes at or below 60% of Area Median Income.

4.11 Table 1 below summarizes the as affordable income-based requirements for each exemption option.

Exemption Period	Affordability <u>Income-based</u> Requirement
Eight (8) Years	No <u>affordability income-based</u> requirement with development agreement under market-rate option; or Minimum of 20% of units rented or owned will be <u>affordable as income-based</u> housing to households at/below 100% of Area Median Income
Ten (10) Years	Minimum of 20% of units rented or owned will be as <u>affordable income-based</u> housing to households at/below 80% of Area Median Income
Twelve (12) Years	Minimum of 20% of units rented or owned will be as <u>affordable income-based</u> housing to households at/below 60% of Area Median Income

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

1. File with the city's Community Development Department the required application and the required fees. The initial application fee to the city shall consist of a base fee of \$300, plus \$50 per multi-family unit, up to a maximum total fee to the city of \$1,000. An additional \$100 fee to cover the Clark County Assessor's administrative costs shall also be paid to the city. If the city denies the application, the city will retain that portion of the fee attributable to its own administrative costs and refund the balance to the applicant.

2. A complete application shall include:

- a. A completed City of Vancouver multi-family limited tax exemption application form setting forth the grounds for the exemption;
- b. Preliminary floor and site plans of the proposed project;
- c. Detailed list of unit size, number of bedrooms and bathrooms and projected rent or sales price.
- d. A statement acknowledging the potential tax liability when the project ceases to be eligible under this chapter;
- e. Verification by oath or affirmation of the information submitted.
- f. A detailed project budget, financing plan and operating projection; and g. For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application and shall secure from the city verification of property noncompliance with the city's minimum housing code.

F. Application Review. City staff will review the application to determine eligibility based on 3.22.040(D) and evaluate the effect of the deferred tax proceeds.

G. Issuance of Conditional Certificate. The director may certify as eligible an applicant who is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within 90 days of receipt of a complete application.

1. Approval. If an application is approved, the applicant shall enter into a contract with the city, subject to approval by the city council in a form of a resolution, regarding the terms and conditions of the project. Upon council approval of the contract, 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.

2. Denial. If an applicant is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten days of the denial. An applicant may appeal a denial to the city council within 30 days of receipt of notice. On appeal, the Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The city council's decision on appeal will be final.

H. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Director for a period not to exceed 24 consecutive months except as provided below. The applicant must submit a written request stating the grounds for the extension, accompanied by a \$100 processing fee. An extension may be granted if the Director 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 applicant;

2. The applicant 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.

4. An additional 12 month extension may be granted where each of the following criteria are met:

a. The request for the extension is for a later phase of a development subject to a development agreement; and

b. The Conditional Certificate was granted prior to February 2015; and

c. Ownership of the property has been transferred subsequent to the granting of the Conditional Certificate.”

I. Application for Final Certificate.

1. 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. The applicant must file with the City's Community Development Services Department 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 that the rehabilitation improvements or new construction on the owner's property qualify the property for limited exemption;

c. If applicable, a statement that the project meets the as ~~affordable~~ income-based housing requirements as described in RCW 84.14.020.

d. A statement that the work was completed within the required three-year period plus any authorized extension.

2. Within 30 days of receipt of all materials required for a Final Certificate, the Director shall determine which specific improvements satisfy the requirements whether the work was completed, and the ~~affordability~~ rent and income limits of the units; is consistent with the application and the contract approved by the city and is qualified for a limited tax exemption under this chapter.

J. Issuance of Final Certificate.

1. Review and Approval. If, after reviewing, the application for Final Certificate, the Director determines that the project has been completed in accordance with the contract between the

applicant and the city and has been completed within the authorized time period, the city shall, within ten days, file a Final Certificate of Tax Exemption with the Clark County Assessor.

2. Denial. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:

- a. The improvements were not completed within the authorized time period;
- b. The improvements were not completed in accordance with the owner's application or the contract between the applicant and the city; including if applicable as ~~affordable~~ income-based housing requirements; or
- c. The owner's property is otherwise not qualified under this chapter.

3. Appeal. Within 14 days of receipt of the Director's denial of a Final Certificate, the applicant may file an appeal with the city council. On appeal, the Director's decision will be upheld unless the applicant can show that there is no substantial evidence on the record to support the Director's decision. The city council's decision on appeal will be final.

K. Annual Compliance Review. Thirty days after the first anniversary of the date of filing the Final Certificate of Tax Exemption and each year thereafter, for the duration of the tax exemption, the owner of the rehabilitated or newly constructed property shall file a notarized declaration with the Director that includes the following:

1. A statement identifying the total number of occupied and vacant multi-family units receiving a property tax exemption;
2. A certification that the property continues to be in compliance with the contract with the city including any provisions related to as ~~affordable~~ income-based housing; and
3. A description of any improvements or changes to the property constructed after the issuance of the certificate of tax exemption;
4. The total monthly rent or total sale amount for each unit;
5. For exemptions granted under the as ~~affordable~~ income-based housing provisions of this chapter, the income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase; and
6. For exemptions granted under the ~~affordable~~ income-based housing provisions of this chapter, documentation showing that twenty percent (20%) of the units were rented or sold as ~~affordable~~ income-based housing to low or moderate income households. The property owner must maintain records supporting this declaration and those records and the multi-family units are subject to inspection by the city. Failure to submit the annual declaration or maintain adequate records may result in the tax exemption being canceled.

L. Annual Report. By December 31 of each year the city has any outstanding limited multi-family tax exemptions the city shall submit a report to the State providing the information required by RCW 84.14..

M. Annual Monitoring. A review of the rent rolls is required annually including unit number, unit size (bedrooms/bathrooms) household size, rent, utilities. City staff will conduct on-site reviews of tenant files randomly. There is a \$500.00 annual monitoring fee.

N. Cancellation of Tax Exemption. If the Director determines the owner is not complying with the terms of the contract, the tax exemption will be canceled. This cancellation may occur in conjunction with the annual review or at any other time when non-compliance has been determined. If the owner intends to convert the multi-family housing to another use or otherwise discontinues compliance with this chapter, the owner must notify the Director and the Clark County Assessor within 60 days of the change in use.

1. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Clark County Assessor may impose an additional tax on the property, together with the interest and penalty, and a priority lien may be placed on the land, pursuant to RCW 84.14.

2. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by certified mail. The property owner may appeal the determination by filing a notice of appeal with the city clerk within 30 days, specifying the factual and legal basis for the appeal. The city council will conduct a hearing at which all affected parties may be heard and all competent evidence received. The city council will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received. An aggrieved party may appeal the city council's decision to the Clark County Superior Court.

Section 5. Effective date. This ordinance shall be effective 30 days after adoption.

Read the first time: March 8, 2021

Ayes: Councilmembers Paulsen, Lebowsky, Glover, Stober, Mayor McEnerney-Ogle

Nays: Councilmember Fox

Absent: None

Read the second time: March 15, 2021


Passed by the following vote: 6-1

Ayes: Councilmembers Paulsen, Lebowsky, Glover, Stober, Hansen, Mayor McEnery-Ogle


Nays: Councilmember Fox

Absent: None

SIGNED this 15th day of March, 2021.

DocuSigned by:

58CB15C8632F403...
Anne McEnery-Ogle, Mayor

Attest:

DocuSigned by:

BCF6734E40E94AE...
Natasha Ramras, City Clerk

Approved as to form:

DocuSigned by:

9A7DC2E31F694A2...
Jonathan Young, City Attorney

SUMMARY

ORDINANCE NO. M-4332

AN ORDINANCE amending Chapter 3.22 VMC related to the multi-family property tax exemption changing definitions, deleting references to public amenities and expanding the area eligible for the program; and providing for an effective date.

The full text of this ordinance will be mailed upon request. Contact Raelyn McJilton, Records Officer at 487-8711, or via www.cityofvancouver.us (Go to City Government and Public Records).