

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 6582

AN ORDINANCE amending Chapter 4.52 of the Bellevue City Code – the Multifamily Housing Property Tax Exemption; correcting typographical errors; revising definitions; designating a single Residential Targeted Area; expanding project eligibility criteria; revising affordability requirements; clarifying distribution of units; adding new sections related to rent stabilization (BCC 4.52.095) and parking (BCC 4.52.097); providing for severability; and establishing an effective date.

WHEREAS, Chapter 84.14 RCW allows a short term exemption from property taxation (known as the “multifamily tax exemption” (MFTE)) for the value of new housing construction; and

WHEREAS, the City Council has offered an MFTE Program, codified at 4.52 of the Bellevue City Code, since 2015; and

WHEREAS, the City Council reviewed MFTE program performance and possible amendments to the program at study sessions on March 15, April 19, and May 24, 2021; and

WHEREAS, the City Council received valuable input from staff, community stakeholders, and the public in connection with proposed amendments to the MFTE program; and

WHEREAS, on June 28, 2021, the City Council held a public hearing on proposed amendments to the MFTE program, including updates to the Residential Targeted Areas; and

WHEREAS, the Council finds all land use districts where multifamily housing is permitted under Title 20 of the Bellevue Land Use Code, now or as hereafter amended, meet the following criteria:

- (a) They are located with an urban center (as defined in RCW 84.14.010(18));
- (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; and

WHEREAS, the City Council desires to amend Chapter 4.52 BCC to encourage greater developer participation and increase the quantity of affordable units within the City.

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

Section 1. The Council determines all parcels in all land use districts in which multifamily dwellings are allowed pursuant to Title 20 of the Bellevue Land Use Code, now or as hereafter amended, qualify as a single Residential Target Area (RTA), meeting the following criteria under chapter 84.14 RCW:

- (a) They are located within an urban center;
- (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;
- (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 2. The listing for chapter 4.52 BCC is hereby amended to read as follows:

Chapter 4.52

MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

- 4.52.010 Purpose.**
- 4.52.020 Definitions.**
- 4.52.025 Director's authority.**
- 4.52.030 Residential targeted areas – Criteria – Designation – Rescission.**
- 4.52.040 Project eligibility.**
- 4.52.050 Application procedure – Fee.**

- 4.52.060 Application review – Issuance of conditional certificate – Denial – Appeal.**
- 4.52.065 Amendment of MFTE contract.**
- 4.52.070 Extension of conditional certificate.**
- 4.52.080 Final certificate – Application – Issuance – Denial and appeal.**
- 4.52.090 Exemption – Duration – Affordability requirements – Limits.**
- 4.52.095 Rent stabilization.**
- 4.52.097 Parking.**
- 4.52.100 Annual certification.**
- 4.52.110 Cancellation of exemption.**
- 4.52.115 Appeals to hearing examiner.**
- 4.52.120 Annual reporting.**
- 4.52.130 *Repealed.***
- 4.52.140 Conflicts.**
- 4.52.150 Severability.**

Section 3. BCC 4.52.010 is hereby amended to read as follows:

A. The purposes of this chapter are to:

1. Encourage more Multifamily Housing opportunities within the City;
2. Stimulate the construction of new Multifamily Housing;
3. Encourage the creation of mixed-income housing that is affordable to households with a range of incomes in Residential Targeted Areas;
4. Accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the City's comprehensive plan;
5. Promote community development and affordable housing in the City, especially Residential Targeted Areas;

6. Encourage additional housing in certain areas to support investment in public transit projects.
- B. Any one or a combination of these purposes may be furthered by the designation of a Residential Targeted Area under this chapter.

Section 4. BCC 4.52.020 is hereby amended to read as follows:

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

- A. "Affordable Unit" means a dwelling unit as defined in Bellevue Land Use Code that is reserved for occupancy and rented at an Affordable Rent to an Eligible Household.
- B. "Affordable Rent" means that the monthly rent plus tenant paid utilities and other required expenses for the unit does not exceed 30 percent of the percentage of the applicable monthly median income adjusted for household size designated in BCC 4.52.090 for qualifying Affordable Units.
- C. "Assessor" means the King County Assessor.
- D. "Director" means the Director of the City's Community Development Department, or any other city office, department or agency that shall succeed to its functions with respect to this chapter, or his or her authorized designee.
- E. "Eligible Household" means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in BCC 4.52.040.E, certify that their household 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.
- F. "Household Income" means the aggregate income of all persons over 18 years of age residing within the same household for a period of at least four months.
- G. "King County Median Income" or "median income" means the median income for the Seattle-Bellevue, WA Housing and Urban Development Metro Fair Market Rent Area ("Seattle-Bellevue HMFA") as most recently published by the United States Department of Housing and Urban Development (the "HUD"). In the event that HUD no longer publishes median family income figures for Seattle-Bellevue HMFA or King County, the Director may estimate the applicable median income, in such manner as the Director shall determine by rule adopted following a public comment opportunity.

- H. "MFTE" means multifamily property tax exemption.
- I. "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.
- J. "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 units as referenced in BCC 4.52.040.E.
- K. "Multifamily Housing" means a building or townhouse project having four or more dwelling units designed for Permanent Residential Occupancy resulting from new construction.
- L. "Owner" means the property owner of record.
- M. "Permanent Residential Occupancy" means Multifamily Housing that provides rental occupancy for a period of at least one month, and excludes transient lodging as defined in LUC 20.50.048 now or as hereafter amended.
- N. "Project" means the Multifamily Housing or portion of the Multifamily Housing that is to receive the tax exemption.
- O. "Residential Targeted Area" means an area within an urban center as defined by Chapter 84.14 RCW (now or as hereafter amended) that has been designated by the City Council under this chapter.

Section 5. BCC 4.52.025 is hereby amended to read as follows:

- A. *General Authority.* The Director of the Community Development Department 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 Recorder's Office, the MFTE Covenant with the City required under BCC 4.52.060.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.
- C. *Power to Correct Errors.* The Director may at any time amend an administrative decision to correct error 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 at any time clarify a statement in a written administrative decision as long as the clarification does not alter the intent or effect of the decision.
- E. *Power to Adopt Procedures, Fees.* The Director may develop, adopt, and carry out procedures as needed to implement this code, including, but not limited to, setting fees and charges imposed pursuant to this code and developing procedures for periodic adjustment of these fees and charges.

Section 6. BCC 4.52.030 is hereby amended to read as follows:

- 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 area(s) 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 (now 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, including affordable housing, in the Residential Targeted Area will assist in achieving one or more of the following purposes:
 - a. Encourage increased residential opportunities within the City; or
 - b. Stimulate the construction of new affordable Multifamily 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 citizens 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. At any time, 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 in subsection A of this section for the original designation.
- D. The following area meets the criteria of this chapter for Residential Targeted Areas and are designated as such: All parcels in all land use districts in which multifamily dwellings are allowed pursuant to Title 20 of the Bellevue Land Use Code, now or as hereafter amended, are designated as a single residential target area under this Chapter 4.52 BCC.

Section 7. BCC 4.52.040 is hereby amended to read as follows:

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 new construction multifamily rental housing consisting of at least four dwelling units 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. 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).
- D. Affordable housing shall be provided in the Project as described in BCC 4.52.090.
- E. Prior to issuing a certificate of occupancy, the Owner shall record with the King County Recorder's Office, an 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 units. The MFTE Covenant shall run 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 continue to be made available to

Eligible Households as Affordable Units for a minimum of 12 years from the date of initial occupancy.

- F. A minimum of 15 percent of the Project's housing units must have two or more bedrooms unless the Project meets the criteria described in BCC 4.52.090.A.2.
- G. The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for Affordable Units at each level of affordability under BCC 4.52.090 shall be substantially proportional to the mix and configuration of the total housing units in the Project unless otherwise approved by the Director. The Affordable Units will be constructed of similar quality and similar finishes as the other units in the Project.
- H. The Project shall comply with all applicable provisions of the Bellevue City Code, including but not limited to BCC Titles 14 (Transportation Code), 20 (Land Use Code), 21 (Comprehensive Plan), 22 (Development Code), 23 (Construction Codes) and 24 (Utilities Codes).
- I. Construction of new Multifamily Housing must be completed within three years from the date of approval of the application, or within an extension authorized under this chapter.

Section 8. BCC 4.52.050 is hereby amended to read as follows:

- A. 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 BCC 4.52.090.
- B. At the time of application under this section, the Owner shall pay to the City an initial application fee as established by the Director. In addition, at the time of application under this section, the Owner shall pay to the City a fee as set by King County to cover the County Assessor's administrative costs. If the Director approves the application pursuant to BCC 4.52.080, the City shall forward the fee

for the County Assessor. If the Director denies the application pursuant to BCC 4.52.080, 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 BCC 4.52.115.

- C. 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 30 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. 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. The deadline for application shall be any time before, but no later than, 60 calendar days after the date the first building permit under BCC Title 23 is issued for the Multifamily Housing structure.
 - 1. The Director of Community Development may allow an exception to BCC 4.52.050.D, subject to the following criteria:
 - a. The Project meets all other requirements established in BCC 4.52.040 for project eligibility; and
 - b. Commitment by the applicant to submit a complete application no less than 60 days prior to issuance of a certificate of occupancy for the Project; and
 - c. The application has substantial merit and value for the community as a whole.

Section 9. BCC 4.52.060 is hereby amended to read as follows:

- A. The Director shall approve an application for tax exemption if the Director determines the Project meets the eligibility requirements in BCC 4.52.040. If the application fails to meet the requirements of BCC 4.52.040 the Director must deny the application. If the application is approved, the Owner shall enter into a MFTE Contract and Covenant with the City regarding the terms and conditions of the Project and eligibility for exemption under this chapter. The terms and conditions of the MFTE contract shall be consistent with the provisions of this chapter and any administrative rules or policies as they may exist on the date of the complete MFTE application submittal, unless both parties agree to amend such terms and conditions and provided that the conditional certificate has not expired. 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 and Covenant 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 10 calendar days of the denial.
- C. An Owner may appeal the Director's denial of the application in accordance with the provisions of BCC 4.52.115.

Section 10. BCC 4.52.065 is hereby amended to read as follows:

- A. An Owner may seek an amendment of 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 may 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 Director.
- 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 BCC 4.52.070 are met.

Section 11. BCC 4.52.070 is hereby amended to read as follows:

- 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 of the Project 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.

Section 12. BCC 4.52.080 is hereby amended to read as follows:

- A. Upon completion of the Project 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 BCC 4.52.090.
- 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 Chapter 84.14 RCW, 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 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.

- E. 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 ordinance specifying the factual and legal basis for the appeal. The appeal shall be heard by the City's Hearing Examiner pursuant to BCC 4.52.115.

Section 13. BCC 4.52.090 is hereby amended to read as follows:

- A. The value of new Multifamily Housing construction improvements qualifying under this chapter shall be exempt from ad valorem property taxation for 12 successive years, beginning January 1st of the year immediately following the calendar year of issuance of the final certificate, and provided the following affordability requirements are satisfied:

1. Except as provided in BCC 4.52.090.A.2 and BCC 4.52.090.A.3 below, a minimum of 20 percent of the Project's total units must be Affordable Units with Affordable Rents as follows:
 - a. Any dwelling unit that is 300 square feet or less shall be categorized as a very small dwelling unit. Any Affordable Unit that is a very small dwelling unit shall have an Affordable Rent at or below 45 percent of the King County Median Income, adjusted for household size.
 - b. Any Affordable Unit that is not a very small dwelling unit shall have Affordable Rents at or below 80 percent of the King County Median Income, adjusted for household size.

Unless otherwise stated, nothing in this section shall relieve the Owner of complying with the eligibility requirements in BCC 4.52.040.

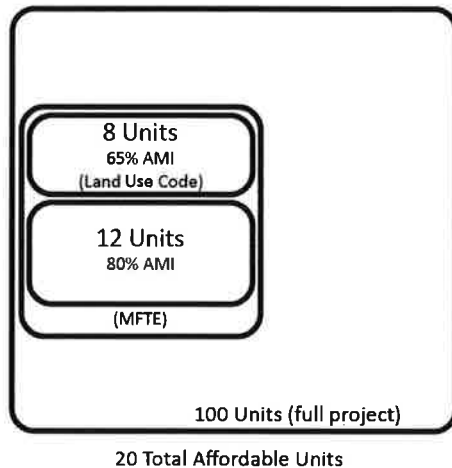
2. If a Project is unable to meet the MFTE program's eligibility requirement that a minimum of 15 percent of its total units have two or more bedrooms, then the Project may still qualify for the MFTE program provided it selects one of the following:
 - a. A minimum of 25 percent of the Project's total units are Affordable Units and shall have Affordable Rents at or below 80 percent of the King County Median Income, adjusted for household size; or
 - b. A minimum of 20 percent of the Project's total units are Affordable Units and shall have Affordable Rents at or below 70 percent of the King County Median Income, adjusted for household size; except any Affordable Units having two or more bedrooms shall remain at or below 80 percent of the King County Median Income, adjusted for household size.

Nothing in this section shall relieve the Owner of the affordability requirements for very small dwelling units under BCC 4.52.090.A.1.

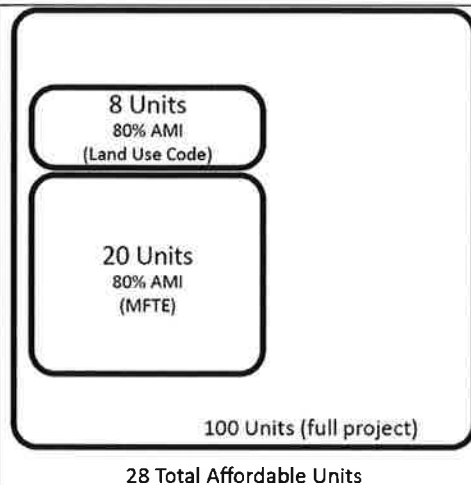
3. An eligible project may benefit from both the MFTE program and other incentive programs that seek to increase the quantity of affordable housing. When a Project utilizes both the MFTE program and another incentive program, the Project shall apply the MFTE benefit as follows:
 - a. **Overlap:** When a Project overlaps the MFTE benefit with units that also receive incentives from another affordable housing program, and said units are used simultaneously to satisfy the requirements of both programs, the Affordable Rents for said units shall be at least 15 percentage points below the applicable King County Median Income level, adjusted for household size, as prescribed in this chapter, provided this 15 percent reduction shall not apply to very small dwelling units described in BCC 4.52.090.A.1. Thus, by example, when a Project overlaps an MFTE unit as described in BCC 4.52.090.A.1.b with another affordable housing program, said unit would have affordable rents at or below 65 percent of the King County Median Income, adjusted for household size; or
 - b. **No Overlap:** When a Project does not overlap the MFTE benefit with units that also receive incentives from another affordable housing program, the Affordable Units required under this chapter shall be in addition to those that the Project is required to designate under the other incentive programs.
 - c. **Illustration:**

Overlap	No Overlap
<p>In a 100-unit project, where 8 Affordable Units are required under an incentive program other than the MFTE program, and 20 Affordable Units are required under the MFTE program, overlapping the two incentive programs for a total of 20 Affordable Units, then for 12 years the Affordable Rents for the 8 overlapping units shall be at or below 65 percent of the King County Median Income, adjusted for household size, and the Affordable Rents for the remaining 12 units shall be at or below 80 percent of the King County Median Income, adjusted for household size. When the exemption expires or terminates, the Project</p>	<p>In a 100-unit project, where 8 Affordable Units are required under an incentive program other than the MFTE program, and 20 Affordable Units are required to be set aside under the MFTE program, for a total of 28 Affordable Units, then the Affordable Rents for the 20 MFTE units shall be at or below 80 percent of the King County Median Income for the duration of the MFTE program. The Project must provide the 8 additional Affordable Units consistent with the other incentive program's requirements.</p>

must continue to provide the 8 Affordable Units as required under the other incentive program.



Note: Illustration assumes the Project satisfies the 15 percent requirement under BCC 4.52.040.F and does not include very small dwelling units.



Note: Illustration assumes the Project satisfies the 15 percent requirement under BCC 4.52.040.F and does not include very small dwelling units.

Nothing in this chapter shall relieve a Project of observing more restrictive criteria prescribed under another affordable housing incentive program.

4. For any Affordable Units required in this section, the following shall apply:
 - a. Affordable Units shall have Affordable Rents as defined in BCC 4.52.020.B.
 - b. The mix of unit types (e.g., very small dwelling unit, studio, one-bedroom, two-bedroom, etc), configuration and size of Affordable Units at each affordability level shall be substantially proportional to the mix, configuration and size of the total housing units in the Project unless otherwise approved by the Director.
 - c. Affordable Units will be reserved for occupancy by Eligible Households who certify that their Household 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 BCC 4.52.040.E.

- d. When the Project contains more than one building or multiple floors, all of the Affordable Units required by this chapter may not be located in the same building or on the same floor. The Affordable Units shall be interspersed with all other dwelling units within the Project.
 - e. If, in calculating the number of Affordable Units, the number contains a fraction, then the number of Affordable Units shall be rounded up to the next whole number.
- B. 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.

Section 14. A new Section 4.52.095 is added to Chapter 4.52 of the Bellevue City Code as follows:

For the duration of any exemption authorized under this chapter, any rent increase for any existing tenant remaining in the same Affordable Unit, or in a similar type of Affordable Unit (e.g., very small dwelling unit, studio, one-bedroom, two-bedroom, etc) within the same project, shall not exceed 3 percent in any given year as described herein:

- A. When the King County Median Income increases by more than 3 percent in a given year, the Project shall be permitted to increase Affordable Rents up to 3 percent that year.
- B. When King County Median Incomes increase by 3 percent or less in a given year, the Project shall be permitted to increase Affordable Rents by (i) the amount of the corresponding increase in median income; or (ii) 3 percent, to allow the Project's Affordable Rents to begin to catch up with King County Median Income calculations after having been capped due to conditions set forth in BCC 4.52.090.A. Under no circumstance may Affordable Rents exceed the current King County Median Income calculation.

The provisions of this subsection shall not apply to new tenants that move into Affordable Units, or existing tenants who move into a different type of Affordable Unit. In such an event, the rent and income qualifications shall be calculated based on the current, applicable King County Median Income at the time a lease agreement is executed.

Section 15. A new Section 4.52.097 is added to Chapter 4.52 of the Bellevue City Code as follows:

- A. The City Council finds low- and moderate-income individuals require access to reliable transportation and costs associated with parking often make housing unaffordable, further cost burdening said individuals, contrary to the aims of this chapter.
- B. Projects that benefit from the MFTE program shall mitigate the parking costs of their affordable tenants occupying MFTE sponsored units as follows:
 - 1. Eligible projects shall offer affordable tenants who choose to rent a parking space through the Project a 30 percent discount off the Market Rate Price.
 - a. The “Market Rate Price” shall be the lesser of: (a) the average actual cost of a parking stall of comparable type and configuration for market rate tenants in the preceding calendar year, or (b) the stated price of a parking stall of comparable type and configuration offered to market rate tenants at the time of a MFTE tenant’s lease, inclusive of any discounts offered in promotional or marketing materials.
 - b. Projects required to mitigate parking costs shall not be required to set aside parking spaces for affordable tenants, but the Project shall rent available parking spaces on a first-come, first-served basis.
 - c. Projects required to mitigate parking costs shall not give preference to market-rate tenants over affordable tenants in providing any parking spaces that may be available.
 - d. Any discounted parking space provided to a tenant in an Affordable Unit shall be non-transferable.
 - 2. Eligible projects located in the Downtown Land Use District, as described in Part 20.25A of the Bellevue Land Use Code, are exempt from the discount requirement described above, given their proximity to high frequency transit, employment, and social/cultural centers.

Section 16. BCC 4.52.100 is hereby amended to read as follows:

- A. A property that receives a tax exemption under this chapter shall continue to comply with the MFTE Contract and Covenant 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 and Covenant 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 BCC 4.52.090;
5. The total monthly rent of each unit;
6. For the affordable units, 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).

Section 17. BCC 4.52.110 is hereby amended to read as follows:

- A. The Director may cancel the tax exemption if the property owner breaches any term of the MFTE Contract, Covenant, 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 BCC Titles 20 and 23. 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 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 BCC 4.52.090 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

BCC [4.52.040.E](#), the property tax exemption for the property shall be canceled pursuant to this section.

5. Any noncompliance with BCC 4.52.095 and BCC 4.52.097.

- 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 ordinance 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 BCC [4.52.115](#).
- C. Failure to submit the annual declaration may result in cancellation of the tax exemption pursuant to this section.

Section 18. BCC 4.52.115 is hereby amended to read as follows:

- 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. Except as noted in subsection [B](#) of this section, the appeal shall be processed under Process II, LUC [20.35.200](#) et seq. Failure to follow the appeal procedures in this section and LUC [20.35.200](#) et seq. shall preclude the Owner's right to appeal. For any appeal related to BCC [4.52.060.C](#), the Hearing Examiner's decision on appeal is final.
- B. *Time and Place to Appeal.* The written statement required under LUC [20.35.250.A.2](#), and the appeal notification form, and the appeal fee, if any, must be received by the City Clerk no later than 5:00 p.m. on the thirtieth day following the date on which the Director's determination was mailed to the Owner.
- 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 LUC [20.35.085](#). Any consolidated appeal will be processed in accordance with LUC [20.35.085](#).
- D. *Judicial Review of Hearing Examiner Decision.* For appeals related to BCC [4.52.080.E](#) and [4.52.110.B](#), the decision of the Hearing Examiner may be appealed to the Superior Court of King County by the appellant Owner or by the Director by filing a proper request for a writ of review with the Superior Court. A request for a writ of review must be filed within 30 calendar days following the date that the decision of the Hearing Examiner was mailed to the parties. Review

by the Superior Court shall be on, and shall be limited to, the record on appeal created before the Hearing Examiner.

Section 19. BCC 4.52.120 is hereby amended to read as follows:

- 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. 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, 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 the following calendar year.

Section 20. BCC 4.52.140 is hereby amended to read as follows:

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 BCC 4.52.010 shall be applied, except when constrained by federal or state law, or where specifically provided otherwise in this chapter.

Section 21. Severability. Should any provision of this ordinance or its application to any person or circumstance be held invalid, the remainder of the ordinance or the application or the provision to other person or circumstances shall not be affected.

Section 22. Effective Date. This Ordinance shall take effect and be in force five (5) days after its passage and legal publications.

Passed by the City Council this 28th day of JUNE,
2021 and signed in authentication of its passage this 28th day of
JUNE, 2021.

(SEAL)



Lynne Robinson, Mayor

Approved as to form:
Kathryn L. Gerla, City Attorney

Brian Wendt, Assistant City Attorney

Attest:

Charmaine Arredondo, City Clerk

Published: 7/1/21