

ORDINANCE NO. 2018-03

**AMENDING FOREST GROVE CODE OF ORDINANCES
ADOPTING TITLE III (ADMINISTRATION), CHAPTER 36 (§ 36.01 THROUGH §
36.14), TITLED VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM**

WHEREAS, the Oregon Legislature created the Vertical Housing Development Zone program in 2003 to increase the supply of housing throughout the State; and

WHEREAS, City Council adopted Resolution 2015-36 establishing a Vertical Housing Zone in the area bounded by 21st Avenue, A Street, Pacific Avenue and B Street; and

WHEREAS, the Oregon Legislature adopted and the Governor signed SB 310 (2017), codified as ORS 307.841 to 307.867, pertaining to the Vertical Housing Development Zone program; and

WHEREAS, SB 310 (2017) transfers Vertical Housing Development Zone program administration and oversight from the Oregon Housing and Community Services Department to local governments; and

WHEREAS, City Council desires to continue the Vertical Housing Development Zone program at the City level; and

WHEREAS, City Council wishes to amend the Forest Grove Code of Ordinances to establish the City of Forest Grove Vertical Housing Development Zone program as authorized by SB 310 (2017) and ORS 307.841 to 307.867; and

WHEREAS, the City Council held a duly-noticed Public Hearing on June 25, 2018, and continued the hearing on July 9, 2018.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

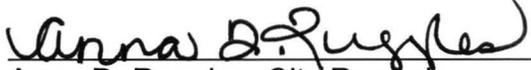
Section 1: The City Council hereby amends Forest Grove Code of Ordinances adopting Title III (Administration), Chapter 36 (§ 36.01 through § 36.14), titled Vertical Housing Development Zone Program as set forth in Exhibit A and as crossed-referenced in Exhibit B.

Section 2: The City Council hereby finds the proposed amendments are consistent with and meets the intent of SB 310 (2017) and ORS 307.841 to 307.867.

Section 3: This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 25th day of June, 2018.

PASSED the second reading this 17th day of July, 2018.



Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 17th day of July, 2018.



Peter B. Truax, Mayor

Exhibit A

TITLE III: ADMINISTRATION

VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

36.01 VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM ESTABLISHED

(A) The intent of 36.01 through 36.14 is to carry out the provisions of O.R.S. 307.841 to 307.867 as they pertain to the City's administration of the Vertical Housing Development Program. The primary purpose of the Vertical Housing Development Program is to encourage construction or rehabilitation of eligible properties in designated areas of the City by providing a partial property tax exemption for eligible projects certified by the City that increase the supply housing especially low income residential housing.

(B) This Chapter is not meant to interfere with the direct administration of property tax assessments by the Washington County Tax Assessor and does not supersede administrative rules of the Oregon Department of Revenue pertaining to valuation of property for purposes of tax assessments, including as adopted or amended in the future.

36.02 DEFINITIONS

ANCILLARY IMPROVEMENT. Land, patios, porches, deck spacing, parking and minor improvements.

CERTIFIED PROJECT. A multi-story development within a VHDZ that the City certifies as a vertical housing development project qualifying for a vertical housing partial property tax exemption under this chapter based on a proposal and description from a project applicant that conforms to this Chapter.

CONSTRUCTION. The development of land and the new construction of improvements to the land.

DIRECTOR. Finance Director.

DISPLACEMENT. A situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that: 1) A reasonable person would consider to be beyond the household's ability to prevent or control; 2) Occur despite the household having met all previously imposed conditions of occupancy; and Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

DISTRICT. Local taxing district.

EQUALIZED FLOOR. The quotient determined under O.R.S. 307.857(4)(b) that results from the division of total square footage of a Certified Project -- excluding land and ancillary improvements as determined by the City -- and the number of actual floors of the non-ancillary improvements of the project that are at least 500 square feet per floor.

GOVERNING BODY. City Council.

LIVE-WORK UNIT. A unit combining space for non-residential activities including home occupations and residential use for the owner of the business and the business owner's household. A live-work unit is deemed to be committed to non-residential use for purposes of the VHDZ program. The non-residential component of the live-work unit must have an entry at street level.

LOW INCOME RESIDENTIAL HOUSING. Housing restricted to occupancy by persons or families whose income is no greater than 80% of median income, adjusted for family size, as determined by the Housing and Community Services Department.

NON-RESIDENTIAL USE. Commercial uses including general retail and office uses as defined by the Forest Grove Development Code.

PROGRAM. The Vertical Housing Development Zone Program.

PROJECT. The construction or rehabilitation of a multiple-story building, or a group of buildings including at least one multiple-story building so that a portion of the project is dedicated to residential uses and portion of the project is dedicated to non-residential uses. A VHDZ project must be certified by the City as a VHDZ project.

PROJECT BASED VOUCHER. A program of the US Department of Housing and Urban Development managed by a local public housing agency. Project Based Vouchers provide rental assistance to low-income households for specific housing units at a specific site.

RESIDENTIAL USE. Household living as defined by the Forest Grove Development Code including live-work units.

VERTICAL HOUSING DEVELOPMENT ZONE (VHDZ). Vertical Housing Development Zone established by City Council consistent with this Chapter or an area that was officially designated by the Oregon Housing and Community Services Department as a vertical housing development zone and which remains so designated.

36.03 ADMINISTRATION AND ENFORCEMENT

(A) The Director is responsible for the implementation, administration and enforcement of this Chapter. The Director may establish administrative procedures as necessary to efficiently and effectively carry out the program consistent with this Chapter.

(B) The Director shall review and certify projects qualifying for the VHDZ partial property tax exemption. The Director's decision to certify or not certify a project is appealable to City Council. The Director shall periodically report to City Council information pertaining to new project certifications and the status of certified projects.

36.04 ZONE DESIGNATION

(A) The City Council may designate a property or area within the City as a Vertical Housing Development Zone. A VHDZ may be established only in the Town Center, Community Commercial or Neighborhood Mixed Use zoning districts. The Vertical Housing Development Zone shall be adopted by ordinance. The ordinance establishing the VHDZ shall clearly identify the zone boundaries and individual parcels included in the zone.

(B) The City may approve multiple Vertical Housing Development Zones within the City. The boundaries of a Vertical Housing Development Zone may not overlap. A property may only be

in one Vertical Housing Development Zone. Establishing the VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.

(C) Once designated, a Vertical Housing Development Zone shall continue to exist indefinitely unless modified or terminated by City Council after adoption of an ordinance modifying or termination the zone.

(D) The City shall provide notice and an opportunity to comment on the proposed Vertical Housing Development Zone. The notice shall be sent by regular mail and describe the proposed VHDZ, explain the partial property tax exemption described in O.R.S. 307.864 that would apply if the proposed zone is designated; and explain the process by which a local taxing district may elect not to participate in the VHDZ.

(E) The governing body of a district may elect not to participate in a VHDZ by providing a copy of a resolution or other official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation. Such elections must be made within 45 days after the date on which proper written notification is mailed by the City to the taxing district advising of the City's intent to establish a VHDZ.

(F) The City shall prepare not later than 60 days after mailing notice to the districts a statement identifying the districts, if any that have opted out of the VHDZ designation. The statement together with a copy of the instruments provided to the City by each taxing district shall be included as an exhibit with the ordinance considered by the City Council establishing the VHDZ.

(G) Prior to designating a vertical housing development zone the City Council shall consider the potential for displacement of households as a result of establishing the zone. The Ordinance establishing the vertical housing development zone shall include finding(s) documenting the potential for displacement and identify mitigation measures necessary to reduce impacts.

36.05 ZONE TERMINATION OR MODIFICATION

(A) The City Council may terminate all or part of the VHDZ at any time by City Council resolution. Any such termination decision will not affect existing Certified Projects approved prior to the termination decision. A termination decision made under this Chapter is not subject to administrative or judicial review.

(B) The Director may approve a Certified Project after VHDZ termination if the application for project certification was submitted and deemed complete prior to adoption of a City Council resolution terminating a VHDZ.

(C) The City will send written notice of VHDZ termination to applicants with pending applications, the Washington County Assessor and owners of Certified Projects.

36.06 APPLICATION PROCESS AND PROCEDURES

(A) The Director shall not accept an application for processing unless the applicant or applicant's representative has attended a pre-application conference or the Director has signed a waiver of the pre-application conference.

(B) The application shall be made on forms provided by the City and must contain any information required by the City including all of the following:

(1) The officially assigned address and boundaries of the proposed vertical housing development project;

(2) A description of the existing state of the property;

(3) A description of the project construction or rehabilitation, including the design of the construction or rehabilitation, the cost of the construction or rehabilitation and the number of floors and residential units to be constructed or rehabilitated.

(4) A description of the nonresidential uses to which any portion of the project is to be put, including the proportion of total square footage of the project proposed for nonresidential uses.

(5) A description of the number and nature of residential units in the proposed project that are to be low income residential housing, including the proportion of total square footage of the project proposed for low income residential housing uses.

(6) For purposes of this section, square footage does not include areas used for patios, porches, deck space, parking, unless these areas are demonstrated to the satisfaction of the City to be economically necessary to the project or the City otherwise determines that it is appropriate to include the areas in the square footage;

(7) Documentation that the project is entirely within in an established vertical housing development zone;

(8) Documentation establishing the costs of construction and rehabilitation with respect to the project.

(9) A commitment that is satisfactory to the Director, including documentation and evidence of recording of the documentation, that the project will be maintained and operated in a manner consistent with the project application and the program for a time period acceptable to the Director and not less than the term of any related property tax exemption.

(10) Such other information as the City, in its discretion, may reasonably require.

(C) Following the designation of a vertical housing development zone under O.R.S. 307.844, a person proposing to undertake a proposed vertical housing development project and seeking the partial property tax exemption set forth in O.R.S. 307.864 shall apply to the City Council for certification of the project. Applications shall be submitted on the required form provided by the City. The application must be signed by the owner or owner representative and accompanied by the required fee.

(D) If the application is denied by the Director, the City will send written notice to the project applicant. At the Director's discretion the City may allow reapplication by the project applicant.

(E) The City may charge an application processing fee and project monitoring fee adopted by City Council resolution. In determining fees the City may consider factors including, but not limited to, known and expected costs for administering the program, processing the application and ensuring project compliance.

36.07 PROJECT CERTIFICATION

(A) The Director may not certify a vertical housing development project under O.R.S. 307.857 unless the project meets all requirements of this section:

- (1) A complete application with all information required by Section 36.06(B) is submitted to the City.
- (2) The project must be entirely located within a vertical housing development zone designated by the City Council.
- (3) Each project must be on its own independent legal tax lot(s).
- (4) The project must include one or more equalized floors as determined by the Director.
- (5) Construction or rehabilitation must have started on each building included in the project, including, but not limited to, additions that expand or enlarge an existing building.
- (6) At least 50 percent of the project's ground floor that fronts on the primary public street as determined by the Director must be committed to nonresidential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall be excluded before applying the 50% test.
- (7) For the project's ground floor to be considered committed to nonresidential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use or planned for commercial use upon completion.

(B) Certification by the Director may be partial in scope. The Director's decision will identify what portions of the property and improvements included in the project application constitute the approved Certified Project.

36.08 CERTIFIED PROJECT CRITERIA

(A) The City will evaluate each complete project application to determine whether or not to certify the proposed project. The City's preference is that projects include low-income housing as defined by this Chapter.

(B) A project to qualify for City certification must satisfy each of the following minimum criteria:

(1) The project must be entirely located within an approved VHDZ. A VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.

(2) The City will strive to inform non-profit agencies about the City's VHDZ program and preference for low-income housing. The City will allow the use of Project-Based Vouchers as an eligible source of providing low-income affordable housing.

(3) The project must include one or more equalized floors as determined by the City. If a project has at least one equalized floor of low income residential housing the taxable value of the land necessary for the project may be certified for partial tax exemption. Land not necessary for the project may not be certified for partial land tax exemption.

(4) The project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential use.

(5) A portion of the project must be committed for residential use and a portion of the project must be committed to non-residential use. The commitment to non-residential use must be accomplished as follows:

(6) At least 50% of the project's ground floor that fronts on the primary public street must be committed to non-residential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage and recycling receptacles and building entryways shall be excluded before applying the 50% test. For the project's ground floor to be considered committed to non-residential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use. Such ground floor interior spaces on the primary public street may be used for commercial purposes and/or live-work units upon completion. The non-residential component of the live-work unit must have an entry to street level entrances of the project.

(C) The primary public street shall be the highest order street in the City's street classification system or as otherwise determined by the Director after consultation with the applicant. The Director's decision as to the primary public street shall be final.

36.09 PARTIAL PROPERTY TAX EXEMPTION FOR CERTIFIED PROJECTS

(A) In order to receive a partial property tax exemption under this Chapter, the owner of the Certified Project, the applicant or other person responsible for the payment of property taxes on the Certified Project must notify the County Assessor in writing that the project has been approved and certified by the City as Certified Vertical Housing Development Project and qualifies for a partial property tax exemption.

(B) The notification described above in subsection A must be delivered to the County Assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

(C) Except as modified by subsections D and E of this section, the partial property tax exemption applies to the construction or rehabilitation of real property improvements associated with the Certified Project and the inclusion of low income residential housing on the Certified Project, in each of the tax years for the exemption applies.

(D) The eligible partial property tax exemption for a Certified Project equals 20 percent (0.20) multiplied by the number of fully equalized floors up to four equalized floors for all associated buildings qualifying for the property tax exemption in the tax year that are:

(1) For residential use; and

(2) Constructed or rehabilitated as part of a certified vertical housing development project. For purposes of calculating the partial property tax exemption, the equalized floor quotient is rounded down to the whole numbers reflecting only fully equalized floors up to a maximum of four equalized floors.

(E) The partial property tax exemption on a Certified Project is available for ten consecutive years beginning with the first tax year in which as of the assessment date, the project is occupied or ready for occupancy following its approval by the City as a Certified Project.

(F) If during the period of partial tax exemption, any part of a project dedicated for residential use is converted to or used as non-residential area, the County Assessor and the City shall be notified by the project owner of such change as required by this Chapter. The County Assessor and the City shall also be notified in writing by the project owner if any part of a Certified Project dedicated to low-income residential housing is converted to other purposes or is otherwise used in a manner that does not comply with the low-income residential housing requirements of this Chapter.

(G) In order to receive a partial property tax exemption for a Certified Project, the Certified Project owner must notify the County Assessor. The Certified Project owner must provide the County Assessor with the following information:

(1) A letter requesting the VHDZ partial property tax exemption in accordance with the Certified Project approval certification.

(2) A copy of the final Certified Project application submitted to the City for certification.

(3) A copy of the Certified Project approval certificate issued by the City.

(4) A copy of the certificate(s) of occupancy issued by the City for the Certified Project.

(5) Such fee(s), if any, as the County Assessor may require.

(H) The certificate of occupancy or temporary certificate of occupancy must be dated prior to January 1 of the tax assessment year for which the exemption is requested.

(I) The written notice for the partial property tax exemption must be made to the County Assessor on or before April 1 of the tax assessment year that the exemption is sought. If proper notice is provided to the County Assessor the partial property tax exemption will be effective for the first tax year for which the partial property tax exemption is eligible and for the next nine consecutive years provided Certified Project eligibility is maintained.

(J) If all or a portion of a Certified Project is decertified by the City, that portion of the Certified Project shall be disqualified from the partial property tax exemption as set forth in the notice of decertification required by this Chapter.

36.10 CERTIFIED PROJECT USE AGREEMENT REQUIRED

(A) The Certified Project owner must execute and record with the Washington County Recorder a Project Use Agreement including restrictive covenants running with the land and equitable servitudes satisfactory to the City Attorney. Recordation of the Project Use Agreement is a condition precedent to the approval of the Certified Project taking legal effect. The Director may invalidate any Certified Project approval for failure to record the Project Use Agreement and provide the Director with a copy of any such instruments. The Certified Project Owner is responsible for the cost of recording and providing satisfactory evidence to the Director showing such instruments have been properly recorded.

36.11 CERTIFIED PROJECT MODIFICATION

(A) Any modification to a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold approval. The City may void or terminate project certification of all or a portion of a Certified Project if modification occurs without the City's written approval.

36.12 MUNICIPALLY SPONSORED VERTICAL HOUSING DEVELOPMENT PROJECTS

(A) The City either directly or its urban renewal agency may acquire or dispose of real property located in a VHDZ for the purpose of developing projects. Property acquired within a VHDZ may be sold at a value determined to be reasonable and prudent by the City Council or Urban Renewal Agency Board of Directors to encourage construction of the project. This authority is in addition to and without prejudice to any authority that otherwise exists under the laws of this state or an act of this City to acquire or dispose of property.

(B) Development of municipally sponsored development projects may be undertaken by the City or jointly in partnership with a private person or entity. Development projects may also be undertaken by private persons or entities acting independently of the municipal ownership.

36.13 TRANSFER OF CERTIFIED PROJECT APPROVAL RIGHTS

(A) Transfer of ownership of a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold its approval of transfer of ownership. The City may void or terminate project certification of all or a portion of a Certified Project if transfer of ownership occurs without the City's prior written approval except where transfer of ownership occurs as a result of operation of law following death or divorce.

(B) If there is a transfer of ownership of the Certified Project the project owner shall notify both the Washington County Assessor and the City of the new owner's name, contact person, mailing address and phone number within 30-days of the change.

(C) The City may require the Certified Project owner to pay an administrative fee to cover the City's actual and anticipated costs of reviewing and processing associated with the transfer of Certified Project ownership including but not limited to effecting legal review, preparing amendments to the project use agreement, execution or recording of related documents. Such fee shall be established by City Council resolution.

36.14 CERTIFIED PROJECT MONITORING; REMEDIES; DECERTIFICATION

(A) The Director may monitor and investigate Certified Projects for compliance with VHDZ program requirements and other applicable laws as the Director deems appropriate.

(B) The owner of a Certified Project must prepare and submit an annual report to the Director on the number of residential housing units, number of low-income residential housing units, and amount of commercial space including live-work units.

(C) A monitoring fee shall be paid by the Certified Project applicant at time of project application or as otherwise directed by the Director. The monitoring fee shall be established by City Council resolution.

(D) The Director may undertake remedial action that the City determines necessary or appropriate to enforce VHDZ program requirements and commitments provided by project applicants in the final application, Project Certification and Project Use Agreement. Remedial actions may include but are not limited to:

(1) The request of written documentation demonstrating compliance with VHDZ program requirements, Project Certification and Project Use Agreement;

(2) For projects with low-income household units, a request for written documentation on current rents on an annual basis and lease agreements with redacted personal information;

(3) Decertification of all or a portion of a certified project.

(E) Prior to issuance of a notice of decertification, the Director will provide the Certified Project owner with an opportunity to correct first-time program non-compliance with a time deemed reasonable by the Director. The Director may provide a Certified Project owner with an opportunity to correct repeat program non-compliance at the Director's discretion. A

determination on how much time to provide to correct noticed program noncompliance shall be based on factors such as:

- (1) The severity of the noncompliance;
- (2) The impact of the noncompliance on project residents;
- (3) The public interest in retaining low income residential housing;
- (4) The cost and time reasonably necessary to correct program noncompliance;
- (5) The past history of compliance and noncompliance by the Certified Project owner.

(F) When the Director has issued a notice of project noncompliance to a Certified Project owner and the Certified Project Owner has failed to correct any noticed program noncompliance within the time identified in the notice the Director may issue a notice of Certified Project Decertification and direct the Washington County Assessor to disqualify all or a portion of the project for the partial property tax exemption under the VHDZ program.

(G) The effective date of a decertification is the effective date provided in the notice of decertification identified above.

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Exhibit B

CHAPTER 150: BUILDING CODES

Cross-reference:

Vertical Housing Development Program, see Ch. 36

154.03 DEVELOPMENT CODE AMENDMENTS

Cross-reference:

Vertical Housing Development Program, see Ch. 36



A place where families and businesses thrive.

CITY RECORDER USE ONLY:	
AGENDA ITEM #:	6.
MEETING DATE:	7/17/18
FINAL ACTION:	Ord 2018-03 as amended

CITY COUNCIL STAFF REPORT

SECOND READING:

TO: City Council

FROM: Jesse VanderZanden, City Manager

MEETING DATE: July 17, 2018

PROJECT TEAM: Daniel Riordan, Senior Planner, Bryan Pohl, Community Development Director

SUBJECT TITLE: Continue Public Hearing From June 25, 2018 and Second Reading of Ordinance No. 2018-03; Vertical Housing Development Zone Program

ACTION REQUESTED:

<input checked="" type="checkbox"/>	Ordinance	<input type="checkbox"/>	Order	<input type="checkbox"/>	Resolution	<input type="checkbox"/>	Motion	<input type="checkbox"/>	Informational
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X all that apply

ISSUE STATEMENT: On June 25, 2018, City Council considered first reading of Ordinance No. 2018-03, amending the Forest Grove Code of Ordinances to add a chapter for the Vertical Housing Development Zone (VHDZ) program. Should the Council desire a VHDZ program, this ordinance is necessary as Senate Bill 310, passed in 2017, transferred all VHDZ program responsibilities from the State to local jurisdictions.

During deliberations on June 25th, Council suggested changes to the proposed ordinance. The suggested changes are generally described below:

- Editing to improve format and correct scrivener errors;
- Adding a reference to Section 36.07 (Project Certification) stating a complete application is required for project certification and to ensure consistency with Section 36.08 (Certified Project Criteria) and Section 36.07;
- Modifying ordinance Section 36.08 (Certified Project Criteria) to state the City will strive to inform non-profit agencies about the City VHDZ program and allow the use of project based vouchers as an eligible source of providing low-income housing; and
- Adding a reference to Section 36.08 (Certified Project Criteria), consistent with state law (SB 310), clarifying that at least one equalized floor of low-income housing is required to qualify for a tax exemption on the taxable value of land needed for the project.

These changes are included in the attached ordinance for second reading on July 17th and therefore no motion is needed to incorporate them. If the Council disagrees with the modifications, a motion is needed to remove them from the ordinance. If adopted, the ordinance will become effective August 16, 2018.

SECOND READING:

ORDINANCE NO. 2018-03

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ADOPTING TITLE III (ADMINISTRATION), CHAPTER 36 (§ 36.01 THROUGH § 36.14),
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PASSED the second reading this 17th day of July, 2018.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 17th day of July, 2018.

Peter B. Truax, Mayor

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VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

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VERTICAL HOUSING DEVELOPMENT ZONE (VHDZ). Vertical Housing Development Zone established by City Council consistent with this Chapter or an area that was officially designated by the Oregon Housing and Community Services Department as a vertical housing development zone and which remains so designated.

36.03 ADMINISTRATION AND ENFORCEMENT

(A) The Director is responsible for the implementation, administration and enforcement of this Chapter. The Director may establish administrative procedures as necessary to efficiently and effectively carry out the program consistent with this Chapter.

(B) The Director shall review and certify projects qualifying for the VHDZ partial property tax exemption. The Director's decision to certify or not certify a project is appealable to City Council. The Director shall periodically report to City Council information pertaining to new project certifications and the status of certified projects.

36.04 ZONE DESIGNATION

(A) The City Council may designate a property or area within the City as a Vertical Housing Development Zone. A VHDZ may be established only in the Town Center, Community Commercial or Neighborhood Mixed Use zoning districts. The Vertical Housing Development Zone shall be adopted by ordinance. The ordinance establishing the VHDZ shall clearly identify the zone boundaries and individual parcels included in the zone.

(B) The City may approve multiple Vertical Housing Development Zones within the City. The boundaries of a Vertical Housing Development Zone may not overlap. A property may only be in one Vertical Housing Development Zone. Establishing the VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.

(C) Once designated, a Vertical Housing Development Zone shall continue to exist indefinitely unless modified or terminated by City Council after adoption of an ordinance modifying or termination the zone.

(D) The City shall provide notice and an opportunity to comment on the proposed Vertical Housing Development Zone. The notice shall be sent by regular mail and describe the proposed VHDZ, explains the partial property tax exemption described in O.R.S. 307.864 that would apply if the proposed zone is designated; and explains the process by which a local taxing district may elect not to participate in the VHDZ.

(E) The governing body of a district may elect not to participate in a VHDZ by providing a copy of a resolution or other official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation. Such elections must be made within 45 days after the date on which proper written notification is mailed by the City to the taxing district advising of the City's intent to establish a VHDZ.

(F) The City shall prepare not later than 60 days after mailing notice to the districts a statement identifying the districts, if any that have adopted out of the VHDZ designation. The statement together with a copy of the instruments provided to the City by each taxing district shall be included as an exhibit with the ordinance considered by the City Council establishing the VHDZ.

(G) Prior to designating a vertical housing development zone the City Council shall consider the potential for displacement of households as a result of establishing the zone. The Ordinance establishing the vertical housing development zone shall include finding(s) documenting the potential for displacement and identify mitigation measures necessary to reduce impacts.

36.05 ZONE TERMINATION OR MODIFICATION

(A) The City Council may terminate all or part of the VHDZ at any time by City Council resolution. Any such termination decision will not affect existing Certified Projects approved prior to the termination decision. A termination decision made under this Chapter is not subject to administrative or judicial review.

(B) The Director may approve a Certified Project after VHDZ termination if the application for project certification was submitted and deemed complete prior to adoption of a City Council resolution terminating a VHDZ.

(C) The City will send written notice of VHDZ termination to applicants with pending applications, the Washington County Assessor and owners of Certified Projects.

36.06 APPLICATION PROCESS AND PROCEDURES

(A) The Director shall not accept an application for processing unless the applicant or applicant's representative has attended a pre-application conference or the Director has signed a waiver of the pre-application conference.

(B) The application shall be made on forms provided by the City and must contain any information required by the City including all of the following:

(1) The officially assigned address and boundaries of the proposed vertical housing development project;

(2) A description of the existing state of the property;

(3) A description of the project construction or rehabilitation, including the design of the construction or rehabilitation, the cost of the construction or rehabilitation and the number of floors and residential units to be constructed or rehabilitated.

(4) A description of the nonresidential uses to which any portion of the project is to be put, including the proportion of total square footage of the project proposed for nonresidential uses.

(5) A description of the number and nature of residential units in the proposed project that are to be low income residential housing, including the proportion of total square footage of the project proposed for low income residential housing uses.

(6) For purposes of this section, square footage does not include areas used for patios, porches, deck space, parking, unless these areas are demonstrated to the satisfaction of the City to be economically necessary to the project or the City otherwise determines that it is appropriate to include the areas in the square footage;

(7) Documentation that the project is entirely within in an established vertical housing development zone;

(8) Documentation establishing the costs of construction and rehabilitation with respect to the project.

(9) A commitment that is satisfactory to the Director, including documentation and evidence of recording of the documentation, that the project will be maintained and operated in a manner consistent with the project application and the program for a time period acceptable to the Director and not less than the term of any related property tax exemption.

(10) Such other information as the City, in its discretion, may reasonably require.

(C) Following the designation of a vertical housing development zone under O.R.S. 307.844, a person proposing to undertake a proposed vertical housing development project and seeking the partial property tax exemption set forth in O.R.S. 307.864 shall apply to the City Council for certification of the project. Applications shall be submitted on the required form provided by the City. The application must be signed by the owner or owner representative and accompanied by the required fee.

(D) If the application is denied by the Director, the City will send written notice to the project applicant. At the Director's discretion the City may allow reapplication by the project applicant.

(E) The City may charge an application processing fee and project monitoring fee adopted by City Council resolution. In determining fees the City may consider factors including, but not limited to, known and expected costs for administering the program, processing the application and ensuring project compliance.

36.07 PROJECT CERTIFICATION

(A) The Director may not certify a vertical housing development project under O.R.S. 307.857 unless the project meets all requirements of this section:

(1) A complete application with all information required by Section 36.06(B) is submitted to the City.

(2) The project must be entirely located within a vertical housing development zone designated by the City Council.

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(23) Each project must be on its own independent legal tax lot(s).

(34) The project must include one or more equalized floors as determined by the Director.

(45) Construction or rehabilitation must have started on each building included in the project, including, but not limited to, additions that expand or enlarge an existing building.

(56) At least 50 percent of the project's ground floor that fronts on the primary public street as determined by the Director must be committed to nonresidential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall be excluded before applying the 50% test.

(67) For the project's ground floor to be considered committed to nonresidential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use or planned for commercial use upon completion.

(B) Certification by the Director may be partial in scope. The Director's decision will identify what portions of the property and improvements included in the project application constitute the approved Certified Project.

36.08 CERTIFIED PROJECT CRITERIA

(A) The City will evaluate each complete project application to determine whether or not to certify the proposed project. The City's preference is that projects include low-income housing as defined by this Chapter. ~~A VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.~~

(B) A project to qualify for City certification must satisfy each of the following minimum criteria:

(1) The project must be entirely located within an approved VHDZ. ~~A VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.~~

~~(2) The City will strive to inform non-profit agencies about the City's VHDZ program and preference for low-income housing. The City will allow the use of Project-Based Vouchers as an eligible source of providing low-income affordable housing.~~

(23) The project must include one or more equalized floors as determined by the City. ~~If a project has at least one equalized floor of low income residential housing the taxable value of the land necessary for the project may be certified for partial tax exemption. Land not necessary for the project may not be certified for partial land tax exemption.~~

(34) The project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential use.

(45) A portion of the project must be committed for residential use and a portion of the project must be committed to non-residential use. The commitment to non-residential use must be accomplished as follows:

(56) At least 50% of the project's ground floor that fronts on the primary public street must be committed to non-residential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage and recycling receptacles and building entryways shall be excluded before applying the 50% test. For the project's ground floor to be considered committed to non-residential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use. Such ground floor interior spaces on the primary public street may be used for commercial purposes

and/or live-work units upon completion. The non-residential component of the live-work unit must have an entry to street level entrances of the project.

(C) The primary public street shall be the highest order street in the City's street classification system or as otherwise determined by the Director after consultation with the applicant. The Director's decision as to the primary public street shall be final.

36.09 PARTIAL PROPERTY TAX EXEMPTION FOR CERTIFIED PROJECTS

(A) In order to receive a partial property tax exemption under this Chapter, the owner of the Certified Project, the applicant or other person responsible for the payment of property taxes on the Certified Project must notify the County Assessor in writing that the project has been approved and certified by the City as Certified Vertical Housing Development Project and qualifies for a partial property tax exemption.

(B) The notification described above in subsection A must be delivered to the County Assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

(C) Except as modified by subsections D and E of this section, the partial property tax exemption applies to the construction or rehabilitation of real property improvements associated with the Certified Project and the inclusion of low income residential housing on the Certified Project, in each of the tax years for the exemption applies.

(D) The eligible partial property tax exemption for a Certified Project equals 20 percent (0.20) multiplied by the number of fully equalized floors up to four equalized floors for all associated buildings qualifying for the property tax exemption in the tax year that are:

(1) For residential use; and

(2) Constructed or rehabilitated as part of a certified vertical housing development project. For purposes of calculating the partial property tax exemption, the equalized floor quotient is rounded down to the whole numbers reflecting only fully equalized floors up to a maximum of four equalized floors.

(E) The partial property tax exemption on a Certified Project is available for ten consecutive years beginning with the first tax year in which as of the assessment date, the project is occupied or ready for occupancy following its approval by the City as a Certified Project.

(F) If during the period of partial tax exemption, any part of a project dedicated for residential use is converted to or used as non-residential area, the County Assessor and the City shall be notified by the project owner of such change as required by this Chapter. The County Assessor and the City shall also be notified in writing by the project owner if any part of a Certified Project dedicated to low-income residential housing is converted to other purposes or is otherwise used in a manner that does not comply with the low-income residential housing requirements of this Chapter.

(G) In order to receive a partial property tax exemption for a Certified Project, the Certified Project owner must notify the County Assessor. The Certified Project owner must provide the County Assessor with the following information:

(1) A letter requesting the VHDZ partial property tax exemption in accordance with the Certified Project approval certification.

(2) A copy of the final Certified Project application submitted to the City for certification.

(3) A copy of the Certified Project approval certificate issued by the City.

(4) A copy of the certificate(s) of occupancy issued by the City for the Certified Project.

(5) Such fee(s), if any, as the County Assessor may require.

(H) The certificate of occupancy or temporary certificate of occupancy must be dated prior to January 1 of the tax assessment year for which the exemption is requested.

(I) The written notice for the partial property tax exemption must be made to the County Assessor on or before April 1 of the tax assessment year that the exemption is sought. If proper notice is provided to the County Assessor the partial property tax exemption will be effective for the first tax year for which the partial property tax exemption is eligible and for the next nine consecutive years provided Certified Project eligibility is maintained.

(J) If all or a portion of a Certified Project is decertified by the City, that portion of the Certified Project shall be disqualified from the partial property tax exemption as set forth in the notice of decertification required by this Chapter.

36.10 CERTIFIED PROJECT USE AGREEMENT REQUIRED

(A) The Certified Project owner must execute and record with the Washington County Recorder a Project Use Agreement including restrictive covenants running with the land and equitable servitudes satisfactory to the City Attorney. Recordation of the Project Use Agreement is a condition precedent to the approval of the Certified Project taking legal effect. The Director may invalidate any Certified Project approval for failure to record the Project Use Agreement and provide the Director with a copy of any such instruments. The Certified Project Owner is responsible for the cost of recording and providing satisfactory evidence to the Director showing such instruments have been properly recorded.

36.11 CERTIFIED PROJECT MODIFICATION

(A) Any modification to a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold approval. The City may void or terminate project certification of all or a portion of a Certified Project if modification occurs without the City's written approval.

36.12 MUNICIPALLY SPONSORED VERTICAL HOUSING DEVELOPMENT PROJECTS

(A) The City either directly or its urban renewal agency may acquire or dispose of real property located in a VHDZ for the purpose of developing projects. Property acquired within a VHDZ may be sold at a value determined to be reasonable and prudent by the City Council or Urban Renewal Agency Board of Directors to encourage construction of the project. This authority is in addition to and without prejudice to any authority that otherwise exists under the laws of this state or an act of this City to acquire or dispose of property.

(B) Development of municipally sponsored development projects may be undertaken by the City or jointly in partnership with a private person or entity. Development projects may also be undertaken by private persons or entities acting independently of the municipal ownership.

36.13 TRANSFER OF CERTIFIED PROJECT APPROVAL RIGHTS

(A) Transfer of ownership of a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold its approval of transfer of ownership. The City may void or terminate project certification of all or a portion of a Certified Project if transfer of

ownership occurs without the City's prior written approval except where transfer of ownership occurs as a result of operation of law following death or divorce.

(B) If there is a transfer of ownership of the Certified Project the project owner shall notify both the Washington County Assessor and the City of the new owner's name, contact person, mailing address and phone number within 30-days of the change.

(C) The City may require the Certified Project owner to pay an administrative fee to cover the City's actual and anticipated costs of reviewing and processing associated with the transfer of Certified Project ownership including but not limited to effecting legal review, preparing amendments to the project use agreement, execution or recording of related documents. Such fee shall be established by City Council resolution.

36.14 CERTIFIED PROJECT MONITORING; REMEDIES; DECERTIFICATION

(A) The Director may monitor and investigate Certified Projects for compliance with VHDZ program requirements and other applicable laws as the Director deems appropriate.

(B) The owner of a Certified Project must prepare and submit an annual report to the Director on the number of residential housing units, number of low-income residential housing units, and amount of commercial space including live-work units.

(C) A monitoring fee shall be paid by the Certified Project applicant at time of project application or as otherwise directed by the Director. The monitoring fee shall be established by City Council resolution.

(D) The Director may undertake remedial action that the City determines necessary or appropriate to enforce VHDZ program requirements and commitments provided by project applicants in the final application, Project Certification and Project Use Agreement. Remedial actions may include but are not limited to:

(1) The request of written documentation demonstrating compliance with VHDZ program requirements, Project Certification and Project Use Agreement;

(2) For projects with low-income household units, a request for written documentation on current rents on an annual basis and lease agreements with redacted personal information;

(3) Decertification of all or a portion of a certified project.

(E) Prior to issuance of a notice of decertification, the Director will provide the Certified Project owner with an opportunity to correct first-time program non-compliance with a time deemed reasonable by the Director. The Director may provide a Certified Project owner with an opportunity to correct repeat program non-compliance at the Director's discretion. A determination on how much time to provide to correct noticed program non-compliance shall be based on factors such as:

(1) The severity of the noncompliance;

(2) The impact of the noncompliance on project residents;

(3) The public interest in retaining low income residential housing;

(4) The cost and time reasonably necessary to correct program non-compliance;

(5) The past history of compliance and noncompliance by the Certified Project owner.

(F) When the Director has issued a notice of project noncompliance to a Certified Project owner and the Certified Project Owner has failed to correct any noticed program noncompliance within the time identified in the notice the Director may issue a notice of Certified Project Decertification and direct the Washington County Assessor to disqualify all or a portion of the project for the partial property tax exemption under the VHDZ program.

(G) The effective date of a decertification is the effective date provided in the notice of decertification identified above.

Exhibit B

CHAPTER 150: BUILDING CODES

Cross-reference:

Vertical Housing Development Program, see Ch. 36

154.03 DEVELOPMENT CODE AMENDMENTS

Cross-reference:

Vertical Housing Development Program, see Ch. 36

Date: JULY 17, 2018

Agenda Item: 6.

Subject: CONTINUE PUBLIC HEARING AND SECOND READING OF ORDINANCE NO. 2018-03 AMENDING FOREST GROVE CODE OF ORDINANCES ADOPTING TITLE III (ADMINISTRATION), CHAPTER 36 (§36.01 THROUGH §36.14), TITLED VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign-in for the Public Hearing prior to the meeting. The Mayor or presiding officer will review the complete hearing instructions prior to testimony. The Mayor or presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Mayor and Council, please move to the witness table (center front of the room). Each person should speak clearly into the microphone and must state their first and last name and provided a mailing address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the Mayor or presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

Please sign-in below to testify.

PROPOSERS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:

OPPOSERS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:

OTHERS: (Please print legibly)

First & Last Name:

Address:

City, State & Zip Code:



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E-mail: legals@commnewspapers.com

AFFIDAVIT OF PUBLICATION

State of Oregon, County of Washington, SS I, Charlotte Allsop, being the first duly sworn, depose and say that I am the Accounting Manager of the **Forest Grove News Times**, a newspaper of general circulation, serving Forest Grove in the aforesaid county and state, as defined by ORS 193.010 and 193.020, that

City of Forest Grove

Ad#: 54133

A copy of which is hereto annexed, was published in the entire issue of said newspaper(s) for 1 week(s) in the following issue(s):
06/20/2018

Charlotte Allsop
Charlotte Allsop (Accounting Manager)

Subscribed and sworn to before me this 06/20/2018.

[Signature]

NOTARY PUBLIC FOR OREGON

Acct #: 104052
Attn: Anna Ruggles
FOREST GROVE, CITY OF
PO BOX 326
FOREST GROVE, OR 97116

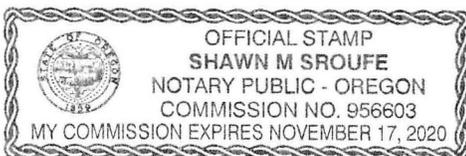
**NOTICE OF PUBLIC HEARING
FOREST GROVE CODE OF ORDINANCES
ADOPTING VERTICAL HOUSING DEVELOPMENT
ZONE PROGRAM FOR CITY OF FOREST GROVE**

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, June 25, 2018, 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider enacting an ordinance adopting City Code Chapter 36, § 36.01 through 36.14, Vertical Housing Development Zone Program. The primary purpose of the program is to encourage construction or rehabilitation of eligible properties in designated areas of the City by providing a partial property tax exemption for eligible projects identified by the City that increase the supply housing especially low-income residential housing. The proposed code ordinance, if enacted by the City Council, would take effect 30 days immediately after enactment unless City Council declares an emergency.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report and proposed ordinance are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call Anna Ruggles, City Recorder, at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove
Publish June 20, 2018.

FGNT54133





A place where families and businesses thrive.

<i>CITY RECORDER USE ONLY:</i>	
AGENDA ITEM #:	<u>6.</u>
MEETING DATE:	<u>6-25-18</u>
FINAL ACTION:	<u>WRA Reso</u> <u>2018-03</u>

CITY COUNCIL STAFF REPORT

FIRST READING:
as amended

TO: *City Council*

FROM: *Jesse VanderZanden, City Manager*

MEETING DATE: *June 25, 2018*

PROJECT TEAM: *Daniel Riordan, Senior Planner, Bryan Pohl, Community Development Director*

SUBJECT TITLE: *Ordinance Amend Forest Grove Code of Ordinances and Establishing Local Vertical Housing Development Zone Program*

ACTION REQUESTED:	<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Order	<input type="checkbox"/> Resolution	<input type="checkbox"/> Motion	<input type="checkbox"/> Informational
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X all that apply

ISSUE STATEMENT: The Oregon Legislature created the Vertical Housing Development Zone (VHDZ) program in 2003 to increase the supply of housing throughout the state. To achieve this objective the program offers a limited duration partial property tax exemption for projects located in a VHDZ meeting program eligibility requirements.

In 2015, City Council adopted Resolution 2015-36 establishing the City's only VHDZ. The zone includes the area bounded by 21st Avenue, A Street, Pacific Avenue and B Street. The only VHDZ project in the City is the Jesse Quinn development located along A Street and Pacific Avenue. Under program rules the Jesse Quinn project qualifies for a ten-year, 60% property tax exemption on the taxable value of the new improvements only. Land associated with the Jesse Quinn project is not eligible for a tax exemption since only projects with affordable housing as defined by the State qualify for this additional exemption.

When the City's VHDZ was established in 2015 the Oregon Housing and Community Services Department (OHCS) managed the VHDZ program. OHCS approved zones, reviewed projects for eligibility and performed ongoing monitoring. During the 2017 legislative session the Oregon Legislature approved and the Governor signed Senate Bill (SB) 310. SB 310 is significant for the City because the legislation transfers all administration and oversight of the VHDZ program to local governments. As such, the State will no longer have any role in VHDZ program administration and oversight. Local governments must now establish local program rules and guidelines for administering a local VHDZ including a process for establishing new zones, reviewing projects for eligibility and monitoring qualified projects for compliance with program rules.

A draft ordinance is attached for City Council consideration that if adopted would establish a local VHDZ program by adding program rules to the Forest Grove Code of Ordinances. An overview of the draft ordinance follows below after a brief overview of SB 310.

BACKGROUND: The VHDZ program was administered by the Oregon Housing and Community Services Department. Oregon Administrative Rules (OAR) Chapter 813-013 contains the program rules and requirements. This chapter will likely sunset due to the passage of SB 310.

SB 310 carries forward most of the program provisions contained in OAR 813-013. One new and notable change is the requirement that local governments address the potential for displacement of households as a result of development promoted within a VHDZ. This requirements applies only when new zones are created so this requirement will not affect the current VHDZ in Forest Grove. Please refer to SB 310 Section 1(2) (Attachment A) for more detail about the required anti-displacement analysis.

SB 310 continues the partial, limited duration, property tax exemption for qualifying VHDZ projects. Project qualifications are described in SB 310 Section 5(1) (Attachment A). Consistent with the OARs projects must be located within a VHDZ zone and must:

- Be a multiple-story building or a group of buildings including one multiple-story building;
- A portion of the project must be used for non-residential uses and a portion of the project must be used for residential purposes; and
- The project must be constructed for commercial uses along the primary street frontage. Live-work space could qualify as commercial use so long as the units are constructed to commercial building code requirements.

The Jesse Quinn development meets these criteria.

The VHDZ partial property tax exemption is based on the number of floors allocated to housing. The duration of the partial tax exemption is a maximum ten years provided the project maintains qualification over that time period. The table below shows the property tax exemption allowed by SB 310:

Floors for Housing	Maximum Tax Exemption
One	20%
Two	40%
Three	60%
Four or more	80%

Except for projects that have at least one floor of low income residential housing, land is not eligible for a tax exemption. Under SB 310 low income housing is defined to mean housing that is restricted to occupancy by persons or families whose income is no greater than 80% of area median income, adjusted for family size as determined by the Oregon Housing and Community Services Department. SB 310 does not appear to provide authority to local governments to adjust the definition of low income residential housing.

SB 310 also continues the provision allowing taxing districts to opt-out of the partial tax exemption. The City's only VHDZ is located in the Forest Grove Urban Renewal Area so taxing districts are not impacted by the VHDZ partial property tax exemption. However, the Urban Renewal Agency is impacted since tax increment revenue collections provided to the Agency are reduced during the VHDZ partial tax exemption period.

The draft ordinance (Attachment B) is based on the SB 310 provisions and OAR 813-013 and includes the following sections to add to the Forest Grove Code of Ordinances Title III (Administration):

- 36.01 Vertical Housing Development Zone Program Established
- 36.02 Definitions
- 36.03 Administration and Enforcement
- 36.04 Zone Designation
- 36.05 Zone Termination or Modification
- 36.06 Application Process and Procedures
- 36.07 Project Certification
- 36.08 Certified Project Criteria
- 36.09 Partial Property Tax Exemption for Certified Projects
- 36.10 Certified Project Use Agreement Required
- 36.11 Certified Project Modification
- 36.12 Municipally Sponsored Vertical Housing Development Projects
- 36.13 Transfer of Certified Project Approval Rights
- 36.14 Certified Project Monitoring; Remedies; Decertification

Key elements of the draft ordinance include providing authority to the Finance Director to certify projects eligible for the VHDZ partial tax exemption. The draft ordinance in Section 36.03 also requires the Finance Director periodically report to City Council information pertaining to new project certifications and the status of certified projects.

Section 36.04 of the ordinance specifies where a VHDZ may be designated in the City. Staff recommends that a VHDZ may only be established in the Town Center, Community Commercial or Neighborhood Mixed Use zoning districts. The reason for this is the VHDZ program requires commercial use as part of a project and these zones allow for mixed use commercial and residential development.

Finally, consistent with City Council's objective to address affordable housing, Section 36.08(A) of the draft ordinance states the City's preference for VHDZ projects are those that include low-income housing. SB 310 defines the VHDZ program low income housing to mean housing restricted to occupancy by persons or families whose income is no greater than 80% of median income, adjusted for family size as determined by the Housing and Community Services Department.

FISCAL IMPACT: Adoption of the ordinance will have no fiscal impact on the City. Adoption of the ordinance only establishes program rules and requirements.

STAFF RECOMMENDATION: Staff recommends City Council approve the proposed ordinance establishing a local Vertical Housing Development Zone Program for the City of Forest Grove.

ATTACHMENT(s):

- A. SB 310
- B. PowerPoint
- C. Ordinance & Exhibit A



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NOTICE OF PUBLIC HEARING

AMENDING FOREST GROVE CODE OF ORDINANCES

ADOPTING VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

FOR CITY OF FOREST GROVE

NOTICE IS HEREBY GIVEN that the Forest Grove City Council will hold a Public Hearing on **Monday, June 25, 2018, 7:00 p.m.** or thereafter, in the Community Auditorium, 1915 Main Street, Forest Grove, to consider enacting an ordinance adopting City Code Chapter 36, § 36.01 through 36.14, Vertical Housing Development Zone Program. The primary purpose of the program is to encourage construction or rehabilitation of eligible properties in designated areas of the City by providing a partial property tax exemption for eligible projects identified by the City that increase the supply housing especially low-income residential housing. The proposed code ordinance, if enacted by the City Council, would take effect 30 days immediately after enactment unless City Council declares an emergency.

This hearing is open to the public and interested parties are encouraged to attend. A copy of the staff report and proposed ordinance are available for inspection before the hearing at the City Recorder's Office or by visiting the City's website at www.forestgrove-or.gov. Written comments or testimony may be submitted at the hearing or sent to the attention of the City Recorder's Office, P. O. Box 326, 1924 Council Street, Forest Grove, OR 97116, prior to the hearing. For further information, please call Anna Ruggles, City Recorder, at 503.992.3235.

Anna D. Ruggles, CMC, City Recorder
City of Forest Grove

To be published: Wednesday, June 20, 2018

79th OREGON LEGISLATIVE ASSEMBLY--2017 Regular Session

Enrolled Senate Bill 310

Sponsored by Senators HASS, BOQUIST; Representatives BUEHLER, STARK (Presession filed.)

CHAPTER

AN ACT

Relating to vertical housing development zone program administration; creating new provisions; amending ORS 307.841, 307.844, 307.854, 307.857, 307.861, 307.864, 307.866 and 307.867 and section 13, chapter 119, Oregon Laws 2005; repealing ORS 307.847 and 307.851; and prescribing an effective date.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 307.841 is amended to read:

307.841. As used in ORS 307.841 to 307.867:

(1) "Construction" means the development of land and the construction of improvements to land, and may be further defined by the [*Housing and Community Services Department by rule*] **city or county that designated the vertical housing development zone under ORS 307.844.**

(2) "Displacement" means a situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that:

(a) A reasonable person would consider to be beyond the household's ability to prevent or control;

(b) Occur despite the household's having met all previously imposed conditions of occupancy; and

(c) Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

[(2)] (3) "Equalized floor" means the quotient determined under ORS 307.857 [(3)(b)] (4)(b).

[(3)] "*Light rail station area*" has the meaning given that term in ORS 307.603.]

(4) "Low income residential housing" means housing that is restricted to occupancy by persons or families whose income is no greater than 80 percent of area median income, adjusted for family size, as determined by the **Housing and Community Services** Department.

(5) "Nonresidential use" means any use that is not exclusively residential use.

(6) "Rehabilitation" means [*the substantial*] repair **or replacement** of improvements, **including fixtures**, or land developments, **the cost of which equals at least 20 percent of the real market value of the improvements or land developments being repaired or replaced**, and may be further defined by the [*department by rule*] **city or county that designated the zone.**

[(7)] "*Transit oriented area*" has the meaning given that term in ORS 307.603.]

[(8)] (7) "Vertical housing development project" or "project" means the construction or rehabilitation of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for nonresidential uses and a portion of the project is to be used for residential uses.

[9] (8) “Vertical housing development zone” or “zone” means an area that has been designated a vertical housing development zone under ORS [307.847] **307.844**.

SECTION 2. ORS 307.844 is amended to read:

307.844. (1)(a) A city may [apply to the Housing and Community Services Department for designation of an] **designate an** area within the city as a vertical housing development zone.

(b) A county may [apply to the Housing and Community Services Department for designation of an unincorporated area within the county] **designate as a vertical housing development zone an area that is subject to a goal exception for residential use approved under ORS 197.732.**

(2) With the prior consent of the governing body of each city in which a proposed **vertical housing development** zone is to be located, a county may [apply to the department for designation of] **designate** any area within each city that has given consent for vertical housing development zone designation **as a vertical housing development zone.**

(3) A city and a county, or any combination of cities and counties, may [apply to the department for designation of an] **designate an** area [situated] within each [applying] jurisdiction as a vertical housing development zone.

(4) A local taxing district may elect not to participate in a vertical housing development zone. A local taxing district that elects not to participate may continue to impose taxes on property otherwise exempt from ad valorem property tax under ORS 307.864.

(5) A city or county must consider the potential for displacement of households within a proposed vertical housing development zone before designating the zone.

[5] (6)(a) [An application for designation of] **Before designating** a vertical housing development zone [must be submitted to the department. The application shall be in the form and contain the information required by the department, including:]

[a] A list of], **a city or county, as applicable, must notify the** local taxing districts, other than the [applicant] **city or county,** that have territory in the proposed vertical housing development zone **of the city’s or county’s intention to designate a vertical housing development zone.**

(b) [A copy of a written notification that the applicant mailed to the local taxing districts listed pursuant to paragraph (a) of this subsection that] **The notice required under paragraph (a) of this subsection must be sent by regular mail and must:**

(A) [Describes] **Describe** the proposed vertical housing development zone;

(B) [Explains] **Explain** the exemption described in ORS 307.864 that would apply if the proposed zone is designated; **and**

(C) [Explains] **Explain** the process by which a local taxing district may elect not to participate in the vertical housing development zone; **and**].

[D] *Is in a form that is satisfactory to the department.*]

(c) [A statement signed by the applicant attesting that the notification described in paragraph (b) of this subsection was sent by regular mail to each local taxing district listed pursuant to paragraph (a) of this subsection.] **Notice of the election of a district listed in ORS 198.010 or 198.180 not to participate in the vertical housing development zone must be received by the city or county, as applicable, within 30 days after the district receives the notice required under paragraph (a) of this subsection.**

[6] *The application shall:*

[a] *Be filed on behalf of one or more local government units as described in subsections (1) to (3) of this section by action of the governing body of each applicant;*

[b] *Contain a description of the area sought to be designated as a vertical housing development zone, including proposed zone boundaries;*

[c] *Contain the reasons that all or a portion of a proposed zone constitutes a core area of an urban center, a light rail system area or a transit oriented area; and*

[d] *Contain any other information required by the department.*]

[(7) The applicant shall submit to the department, within 30 days following the date the application is filed with the department, a list of the local taxing districts that elected not to participate in the vertical housing development zone.]

(7)(a) Not sooner than 60 days after sending the notice required under subsection (6)(a) of this section, the governing body of the city or county that seeks to designate a vertical housing development zone may adopt an ordinance or resolution designating the vertical housing development zone and describing the area and boundaries of the zone. The ordinance or resolution may include additional criteria for certification of a vertical housing development project that do not conflict with the requirements described in section 5 of this 2017 Act.

(b) As soon as practicable after adopting the ordinance or resolution designating the zone, the governing body shall notify the assessor of the county in which the zone is located of the designation of the zone and the districts that elected not to participate in the zone.

SECTION 3. ORS 307.854 is amended to read:

307.854. (1) Following the designation of a vertical housing development zone under ORS [307.847] **307.844**, the city or county that [*sought zone designation*] **designated the zone** may acquire or dispose of real property within the zone for the purpose of developing vertical housing development projects within the zone.

(2) The development of projects may be undertaken by the city or county independently, jointly or in partnership with a private entity or may be undertaken by a private entity acting independently.

(3) The entities undertaking the development of property under this section may own and operate the developed property or may sell or otherwise dispose of the property at any time during or after development. The property may be sold at the property's real market value or at a lesser value.

SECTION 4. Section 5 of this 2017 Act is added to and made a part of ORS 307.841 to 307.867.

SECTION 5. (1) A city or county may not certify a vertical housing development project under ORS 307.857 unless the project meets all requirements of this section.

(2) The project must be entirely located within a vertical housing development zone designated by the city or county with which the application for certification is filed.

(3) The project must include one or more equalized floors.

(4) Construction or rehabilitation must have been started on each building included in the project, including, but not limited to, additions that expand or enlarge an existing building.

(5)(a) At least 50 percent of the project's ground floor that fronts on the primary public street must be committed to nonresidential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall be excluded before applying the 50 percent test.

(b) For the project's ground floor to be considered committed to nonresidential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use or planned for commercial use upon completion.

SECTION 6. ORS 307.857 is amended to read:

307.857. (1) Following the designation of a vertical housing development zone under ORS [307.847] **307.844**, a person proposing to undertake a proposed vertical housing development project and seeking the partial property tax exemption set forth in ORS 307.864 shall apply to the [*Housing and Community Services Department*] **governing body of the city or county that designated the zone** for certification of the project. **Each phase of a phased development, whether vertical or horizontal, requires a separate application.**

(2) The application must be satisfactory to the [*department*] **city or county** in form and content and [*shall*] **must** contain any information required by the [*department*] **city or county**, including all of the following:

(a) The address and boundaries of the proposed vertical housing development project[;].

(b) A description of the existing state of the property[;].

(c) A description of the proposed project construction or rehabilitation, including the design of the construction or rehabilitation, the cost of the construction or rehabilitation and the number of floors and residential units to be constructed or rehabilitated[;].

(d) A description of the nonresidential uses to which any portion of the proposed project is to be put, including the proportion of total square footage of the project proposed for nonresidential uses[;].

(e) A description of the proposed portion of the project to be used for residential uses, including the proportion of total square footage of the project proposed for residential uses[;].

(f) A description of the number and nature of residential units in the proposed project that are to be low income residential housing, including the proportion of total square footage of the project proposed for low income residential housing uses[;].

(g) The calculation and allocations described under subsection [(3)] (4) of this section[; and].

(h) Documentation establishing the costs of construction and rehabilitation with respect to the project.

[(h)] (i) A commitment that is satisfactory to the [department] **city or county**, including documentation and evidence of recording of the documentation, that the project will be maintained and operated in a manner consistent with the application submitted under this section for the duration of the commitment. The duration of the commitment, **including the eligibility of units in the project as low income residential housing**, may not be less than the number of tax years for which the project is intended to be partially exempt from ad valorem property taxes under ORS 307.864.

(3) For purposes of this section, square footage does not include areas used for parking, patios or porches, unless these areas are demonstrated to the satisfaction of the city or county to be economically necessary to the project or the city or county otherwise determines that it is appropriate to include the areas in square footage.

[(3)(a)] **(4)(a)** Each application filed under this section shall contain a calculation of equalized floors, an allocation of equalized floors to residential uses and an allocation of equalized floors to low income residential housing uses as determined under this subsection.

(b) An equalized floor is the quotient that results from the division of total square footage of a project by the number of actual floors of the project that are at least 500 square feet per floor, or as may be increased or otherwise qualified by the [department] **city or county** by rule.

(c) To allocate equalized floors to residential uses, divide the total square footage of residential property in the project by the square footage of an equalized floor.

(d) To allocate equalized floors to low income residential housing use, divide the total square footage of low income residential housing property in the project by the square footage of an equalized floor. In determining the square footage of low income residential housing property, include that proportion of the square footage of residential common space that is the same as the proportion of the total square footage of low income residential housing units to the total square footage of all residential housing units.

(e) Land that is necessary for a project having at least one equalized floor of low income residential housing may be certified for partial exemption. Land that is not necessary for the project may not be certified for partial exemption.

[(4)] **(5)(a) For rehabilitation that does not involve displacement of tenants, the application must be filed on or before the date on which the rehabilitation is complete.**

(b) The application must be filed [under this section] on or before the date **on which** residential units that are a part of the vertical housing development project are ready for occupancy.

[(5)] **(6)** The [department] **city or county** shall review each application submitted under this section and shall certify or deny certification based on whether the proposed vertical housing development project meets **the requirements described in section 5 of this 2017 Act and all** criteria established by the [department by rule] **city or county** that are consistent with ORS 307.841 to 307.867.

[(6)] (7) The [department] **city or county** may request any documentation or undertake any investigation necessary to ascertain the veracity of any statement made on an application under this section.

[(7)] (8) The certification issued by the [department] **city or county** shall:

- (a) Identify the property included in the certified vertical housing development project;
- (b) Identify the number of equalized floors of residential housing in the project and include a description of the property of each equalized floor;
- (c) Identify the number of equalized floors of low income residential housing in the project and include a description of the property of each equalized floor; and
- (d) Contain any other information prescribed by the [department] **city or county**.

[(8)] (9) The determination of the [department] **city or county** to certify or deny certification is a discretionary determination. The determination is final and is not subject to judicial or administrative review.

[(9)] (10) The [department] **city or county** may charge appropriate fees to offset the cost of administering the application and certification process under this section and any other related costs.

SECTION 7. ORS 307.861 is amended to read:

307.861. (1) Upon determining to certify a vertical housing development project **under ORS 307.857**, the [Housing and Community Services Department] **city or county** shall send a copy of the certification to the county assessor of the county in which the project is to be located. **The certification must be accompanied by a description of the property granted partial exemption under ORS 307.864.**

(2) At any time after certification and prior to the end of the exemption period, the [department] **city or county** may:

(a) Request documentation, undertake investigations or otherwise review and monitor the project to ensure ongoing compliance by project applicants and owners[; and].

(b) Undertake any remedial action that the [department] **city or county** determines to be necessary or appropriate to fulfill the purposes of ORS 307.841 to 307.867, including issuing a notice of decertification directing the county assessor to disqualify all or a portion of a project.

(3)(a) [The] A notice of decertification [notice] issued under subsection (2)(b) of this section shall identify:

(A) The property decertified from the vertical housing development project;

(B) The number of equalized floors that have ceased qualifying as residential housing for purposes of ORS 307.841 to 307.867;

(C) The number of equalized floors that have ceased qualifying as low income residential housing for purposes of ORS 307.841 to 307.867;

(D) The remaining number of equalized floors of residential housing in the project and include a description of the property of each remaining equalized floor; and

(E) The remaining number of equalized floors of low income residential housing in the project and include a description of the property of each remaining equalized floor of low income residential housing.

[(3)] (b) [A] **The** notice of decertification [issued under subsection (2) of this section] shall include any other information prescribed by the [department] **city or county**.

[(4)] (c) The [department] **city or county** shall send copies of [a] **the** notice of decertification [issued under subsection (2) of this section] to the property owner and the county assessor of the county in which the property is located.

SECTION 8. ORS 307.864 is amended to read:

307.864. (1) For the first tax year in which, as of the assessment date, a vertical housing development project is occupied or ready for occupancy following certification under ORS 307.857, and for the next nine consecutive tax years:

(a) The property of the vertical housing development project, except for the land of the project, shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone [as de-

scribed in] pursuant to ORS 307.844 (4), according to the following schedule and as identified in the certification issued [by the department] under ORS 307.857 [(7)] (8):

(A) If the project consists of the equivalent of one equalized floor allocated to residential housing, the project shall be 20 percent exempt.

(B) If the project consists of the equivalent of two equalized floors allocated to residential housing, the project shall be 40 percent exempt.

(C) If the project consists of the equivalent of three equalized floors allocated to residential housing, the project shall be 60 percent exempt.

(D) If the project consists of the equivalent of four or more equalized floors allocated to residential housing, the project shall be 80 percent exempt.

(b) The land of the vertical housing development project shall be partially exempt from ad valorem property taxes imposed by local taxing districts, other than the districts that elected not to participate in the vertical housing development zone [as described in] pursuant to ORS 307.844 (4), in the same percentages determined under paragraph (a) of this subsection, for each equalized floor allocated to low income residential housing, as identified in the certification issued [by the department] under ORS 307.857 [(7)] (8).

(2) In order for the property of a vertical housing development project to receive the partial property tax exemption described in subsection (1) of this section, the vertical housing development project property owner, project applicant or other person responsible for the payment of property taxes on the project must notify the [Housing and Community Services Department] city or county that the project is occupied or ready for occupancy, and the [department] city or county must notify the assessor of the county in which the project is located, in the manner set forth in ORS 307.512, that the project is occupied or ready for occupancy and has been certified [by the department] under ORS 307.857.

SECTION 9. ORS 307.866 is amended to read:

307.866. (1)(a) During the period in which property of a vertical housing development project would otherwise be partially exempt under ORS 307.864 (1)(a), if all or a portion of the project has been decertified [by the Housing and Community Services Department] under ORS 307.861, the property is disqualified from exemption in proportion to the equivalent of each equalized floor that has ceased qualifying as residential housing, as set forth in the notice of decertification.

(b) During the period in which the land of a vertical housing development project would otherwise be partially exempt under ORS 307.864 (1)(b), if all or a portion of the project has been decertified [by the Housing and Community Services Department] under ORS 307.861, the land is disqualified from exemption in proportion to the equivalent number of equalized floors that have ceased qualifying as low income residential housing, as set forth in the notice of decertification.

(2) Notwithstanding ORS 307.864, there shall be added to the general property tax roll for the tax year next following decertification described in subsection (1) of this section, to be collected and distributed in the same manner as other real property tax, an amount equal to the difference between the taxes assessed against the property and land granted exemption under ORS 307.864 and the taxes that would have been assessed against the property and land but for the exemption for each of the years, not to exceed the last 10 years, during which the property and land were exempt from taxation under ORS 307.864.

(3) Notwithstanding ORS 307.864, if, after a period of exemption under ORS 307.864 has terminated, the [Housing and Community Services Department] city or county that designated the zone in which the project is located discovers that the property or land of a vertical housing development project was granted exemption to which the project was not entitled, additional taxes may be collected as provided in subsection (2) of this section, except that the number of years for which the additional taxes may be collected shall be reduced by one year for each year that has elapsed since the year the property or land was last granted exemption, beginning with the [oldest] earliest year for which additional taxes are due.

(4) The assessment and tax rolls shall show potential additional tax liability for all property and land granted exemption under ORS 307.864.

(5) Additional taxes collected under this section shall be deemed to have been imposed in the year to which the additional taxes relate.

SECTION 10. ORS 307.867 is amended to read:

307.867. (1) *[Following vertical housing development zone designation under ORS 307.847, if the Housing and Community Services Department receives a request to terminate a vertical housing development zone from the applicant for zone designation under ORS 307.844, the department shall terminate the zone.]* **A city or county that designates a vertical housing development zone under ORS 307.844 may terminate the zone at any time.**

(2) The termination of a zone under this section does not affect the exemption *[of any property]* from tax under ORS 307.864 *[if an application for the exemption was approved]* **of any property of a vertical housing development project that was certified under ORS 307.857 prior to the [zone] termination of the zone and that continues to qualify for the exemption at the time of the termination of the zone.**

SECTION 11. ORS 307.847 and 307.851 are repealed.

SECTION 12. (1) The amendments to ORS 307.841 by section 1 of this 2017 Act apply to property tax years beginning on or after July 1, 2017.

(2) Section 5 of this 2017 Act, the amendments to ORS 307.841, 307.844, 307.854, 307.857, 307.861, 307.864, 307.866 and 307.867 by sections 1 to 3 and 6 to 10 of this 2017 Act and the repeal of ORS 307.847 and 307.851 by section 11 of this 2017 Act become operative on January 1, 2018.

SECTION 13. (1) Property that was constructed pursuant to a certification for a partial property tax exemption under ORS 307.857 prior to the effective date of this 2017 Act shall continue to receive the exemption according to the same schedule and subject to the disqualification provisions of ORS 307.841 to 307.867 that were in effect and applied at the time the vertical housing development project was certified for partial property tax exemption.

(2) If an application for certification was filed with the Housing and Community Services Department prior to the effective date of this 2017 Act but not acted upon as of the effective date of this 2017 Act, the Housing and Community Services Department shall forward the application to the city or county, as applicable.

SECTION 14. Section 13, chapter 119, Oregon Laws 2005, as amended by section 4, chapter 507, Oregon Laws 2015, is amended to read:

Sec. 13. (1) The Housing and Community Services Department may not issue a certification under ORS 307.841 to 307.867 on or after January 1, [2026] **2018.**

(2) **A city or county may not issue a certification under ORS 307.841 to 307.867 on or after January 1, 2026.**

SECTION 15. This 2017 Act takes effect on the 91st day after the date on which the 2017 regular session of the Seventy-ninth Legislative Assembly adjourns sine die.

Passed by Senate March 2, 2017

Repassed by Senate June 7, 2017

.....
Lori L. Brocker, Secretary of Senate

.....
Peter Courtney, President of Senate

Passed by House June 1, 2017

.....
Tina Kotek, Speaker of House

Received by Governor:

.....M,....., 2017

Approved:

.....M,....., 2017

.....
Kate Brown, Governor

Filed in Office of Secretary of State:

.....M,....., 2017

.....
Dennis Richardson, Secretary of State



Vertical Housing Development Zone (VHDZ) Program Ordinance

Project Team:

Dan Riordan, Senior Planner

Bryan Pohl, Community Development Director

City Council Presentation

June 25, 2018

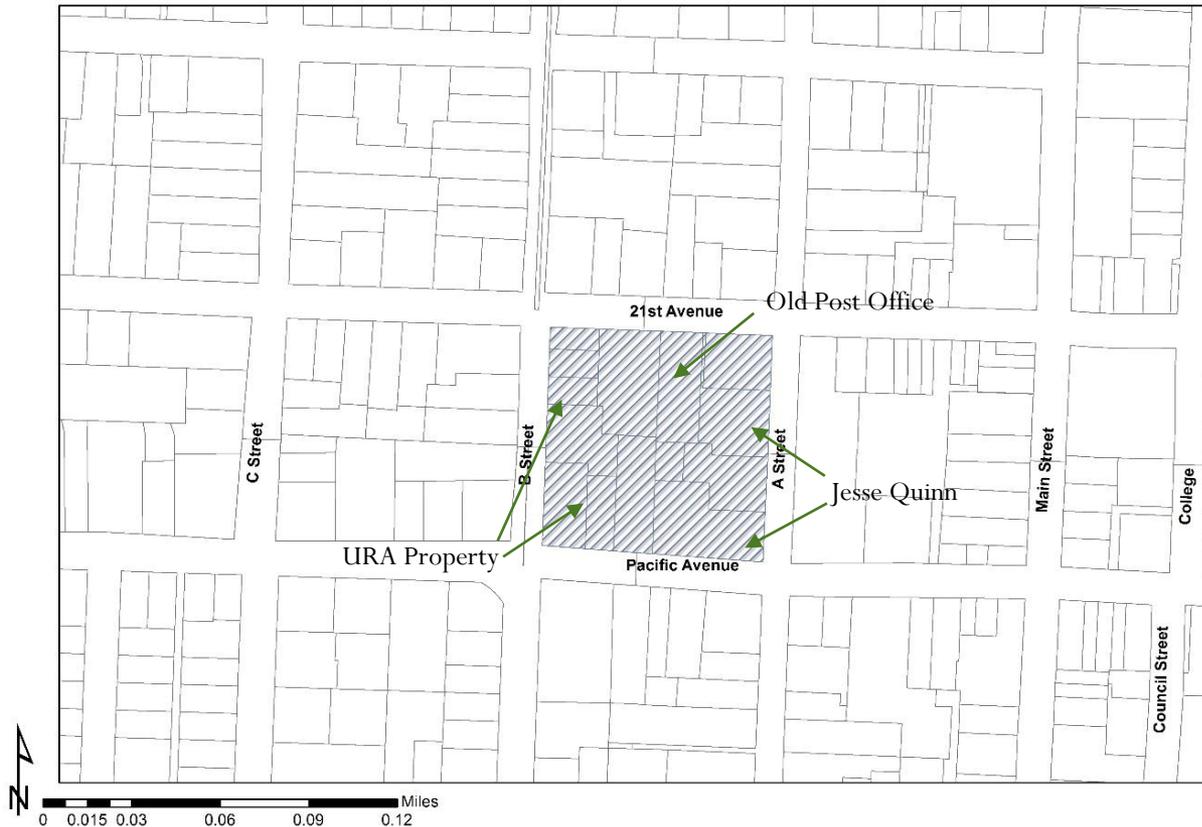
Purpose

- Adoption of ordinance establishing a local VHDZ program. State legislation (Senate Bill 310) transferred responsibility for VHDZ administration from the Oregon Housing and Community Services Department (OHCS) to local jurisdictions.
- The purpose of VHDZ is to encourage mixed-use (residential and commercial) development in downtowns and areas near transit by reducing property taxes on improvements, and land for qualifying affordable housing projects, for a maximum ten-year period.
- An ordinance establishing a local VHDZ program is included in the Council packet for first reading.
- This ordinance should address processes and criteria for:
 - Designation of a VHDZ;
 - Application and approval of certified projects;
 - Calculation of any partial property tax exemptions;
 - Monitoring and maintenance of properties as qualifying certified projects; and
 - Process for decertifying a project and termination of the VHDZ.

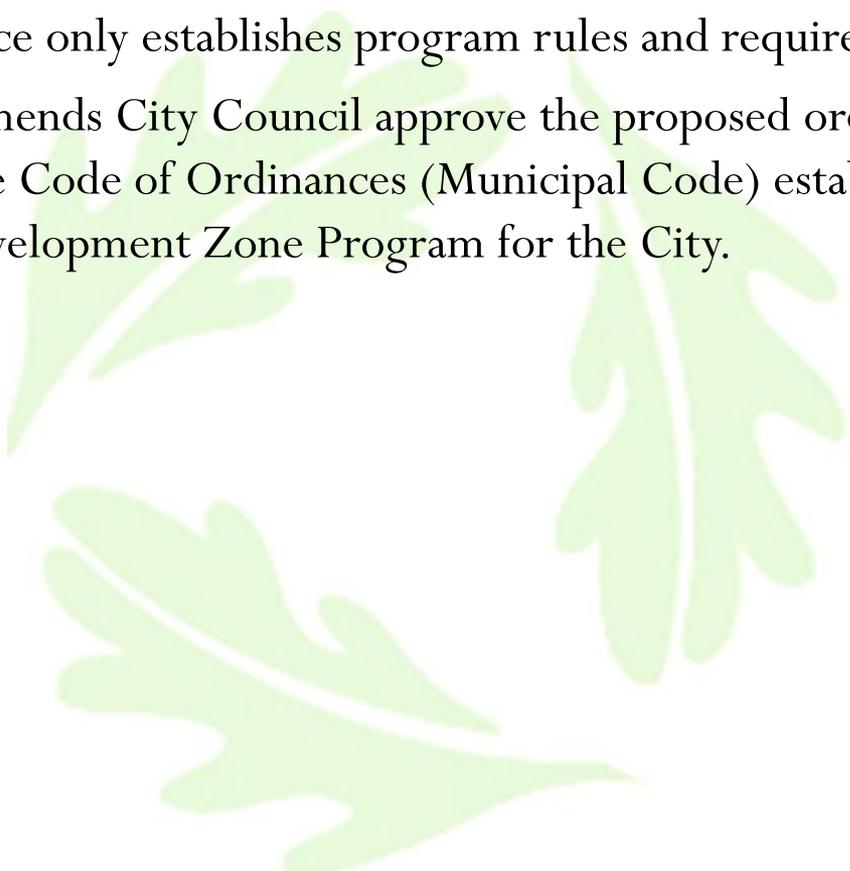
Background

- The existing VHDZ zone was adopted by Ordinance.

Attachment A Vertical Housing Zone Parcels



Conclusion and Recommendation

- Adoption of the ordinance will have no fiscal impact on the City.
 - The ordinance only establishes program rules and requirements.
 - Staff recommends City Council approve the proposed ordinance amending the Forest Grove Code of Ordinances (Municipal Code) establishing a local Vertical Housing Development Zone Program for the City.
- 



Questions?

Date: JUNE 25, 2018 *July 17th*

Agenda Item: 6.

Subject: PUBLIC HEARING AND FIRST READING OF ORDINANCE NO. 2018-03 AMENDING FOREST GROVE CODE OF ORDINANCES ADOPTING TITLE III (ADMINISTRATION), CHAPTER 36 (§36.01 THROUGH §36.14), TITLED VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

CITY COUNCIL MEETING

Request to Testify at Public Hearing

Public Hearings – Public hearings are held on each matter required by state law or City policy. Anyone wishing to testify should sign-in for the Public Hearing prior to the meeting. The Mayor or presiding officer will review the complete hearing instructions prior to testimony. The Mayor or presiding officer will call the individual or group by the name given on the sign-in form. When addressing the Mayor and Council, please move to the witness table (center front of the room). Each person should speak clearly into the microphone and must state their first and last name and provided a mailing address for the record. All testimony is electronically recorded. In the interest of time, Public Hearing testimony is limited to three minutes unless the Mayor or presiding officer grants an extension. Written or oral testimony is heard prior to any Council action.

Please sign-in below to testify.

PROPONENTS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

OPPONENTS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

OTHERS: *(Please print legibly)*

First & Last Name:

Address:

City, State & Zip Code:

ORDINANCE NO. 2018-03

**AMENDING FOREST GROVE CODE OF ORDINANCES
ADOPTING TITLE III (ADMINISTRATION), CHAPTER 36 (§ 36.01 THROUGH § 36.14),
TITLED VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM**

WHEREAS, the Oregon Legislature created the Vertical Housing Development Zone program in 2003 to increase the supply of housing throughout the State; and

WHEREAS, City Council adopted Resolution 2015-36 establishing a Vertical Housing Zone in the area bounded by 21st Avenue, A Street, Pacific Avenue and B Street; and

WHEREAS, the Oregon Legislature adopted and the Governor signed SB 310 (2017), codified as ORS 307.841 to 307.867, pertaining to the Vertical Housing Development Zone program; and

WHEREAS, SB 310 (2017) transfers Vertical Housing Development Zone program administration and oversight from the Oregon Housing and Community Services Department to local governments; and

WHEREAS, City Council desires to continue the Vertical Housing Development Zone program at the City level; and

WHEREAS, City Council wishes to amend the Forest Grove Code of Ordinances to establish the City of Forest Grove Vertical Housing Development Zone program as authorized by SB 310 (2017) and ORS 307.841 to 307.867; and

WHEREAS, the City Council held a duly-noticed Public Hearing on June 25, 2018, and continued the hearing on July 9, 2018.

NOW, THEREFORE, THE CITY OF FOREST GROVE ORDAINS AS FOLLOWS:

Section 1: The City Council hereby amends Forest Grove Code of Ordinances adopting Title III (Administration), Chapter 36 (§ 36.01 through § 36.14), titled Vertical Housing Development Zone Program as set forth in Exhibit A and as crossed-referenced in Exhibit B.

Section 2: The City Council hereby finds the proposed amendments are consistent with and meets the intent of SB 310 (2017) and ORS 307.841 to 307.867.

Section 3: This ordinance is effective 30 days following its enactment by the City Council.

PRESENTED AND PASSED the first reading this 25th day of June, 2018.

PASSED the second reading this 9th day of July, 2018.

Anna D. Ruggles, City Recorder

APPROVED by the Mayor this 9th day of July, 2018.

Peter B. Truax, Mayor

Exhibit A

TITLE III: ADMINISTRATION

VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM

36.01 VERTICAL HOUSING DEVELOPMENT ZONE PROGRAM ESTABLISHED

(A) The intent of 36.01 through 36.14 is to carry out the provisions of ORS 307.841 to 307.867 as they pertain to the City's administration of the Vertical Housing Development Program. The primary purpose of the Vertical Housing Development Program is to encourage construction or rehabilitation of eligible properties in designated areas of the City by providing a partial property tax exemption for eligible projects certified by the City that increase the supply housing especially low income residential housing.

(B) This Chapter is not meant to interfere with the direct administration of property tax assessments by the Washington County Tax Assessor and does not supersede administrative rules of the Oregon Department of Revenue pertaining to valuation of property for purposes of tax assessments, including as adopted or amended in the future.

36.02 DEFINITIONS

ANCILLARY IMPROVEMENT. Land, patios, porches, deck spacing, parking and minor improvements.

CERTIFIED PROJECT. A multi-story development within a VHDZ that the City certifies as a vertical housing development project qualifying for a vertical housing partial property tax exemption under this chapter based on a proposal and description from a project applicant that conforms to this Chapter.

CONSTRUCTION. The development of land and the new construction of improvements to the land.

DIRECTOR. Finance Director

DISPLACEMENT. A situation in which a household is forced to move from its current residence due to conditions that affect the residence or the immediate surroundings of the residence and that: 1) A reasonable person would consider to be beyond the household's ability to prevent or control; 2) Occur despite the household having met all previously imposed conditions of occupancy; and Make continued occupancy of the residence by the household unaffordable, hazardous or impossible.

DISTRICT. Local taxing district

EQUALIZED FLOOR. The quotient determined under ORS 307.857(4)(b) that results from the division of total square footage of a Certified Project -- excluding land and ancillary improvements as determined by the City -- and the number of actual floors of the non-ancillary improvements of the project that are at least 500 square feet per floor.

GOVERNING BODY. City Council

LIVE-WORK UNIT. A unit combining space for non-residential activities including home occupations and residential use for the owner of the business and the business owner's household. A live-work unit is deemed to be committed to non-residential use for purposes of the VHDZ program. The non-residential component of the live-work unit must have an entry at street level.

LOW INCOME RESIDENTIAL HOUSING. Housing restricted to occupancy by persons or families whose income is no greater than 80% of median income, adjusted for family size, as determined by the Housing and Community Services Department.

NON-RESIDENTIAL USE. Commercial uses including general retail and office uses as defined by the Forest Grove Development Code.

PROGRAM. The Vertical Housing Development Zone Program.

PROJECT. The construction or rehabilitation of a multiple-story building, or a group of buildings including at least one multiple-story building so that a portion of the project is dedicated to residential uses and portion of the project is dedicated to non-residential uses. A VHDZ project must be certified by the City as a VHDZ project.

RESIDENTIAL USE. Household living as defined by the Forest Grove Development Code including live-work units.

VERTICAL HOUSING DEVELOPMENT ZONE (VHDZ). Vertical Housing Development Zone established by City Council consistent with the Chapter or an area that was officially designated by the Oregon Housing and Community Services Department as a vertical housing development zone and which remains so designated.

36.03 ADMINISTRATION AND ENFORCEMENT

(A) The Director is responsible for the implementation, administration and enforcement of this Chapter. The Director may establish administrative procedures as necessary to efficiently and effectively carry out the program consistent with this Chapter.

(B) The Director shall review and certify projects qualifying for the VHDZ partial property tax exemption. The Director's decision to certify or not certify a project is appealable to City Council. The Director shall periodically report to City Council information pertaining to new project certifications and the status of certified projects.

36.04 ZONE DESIGNATION

(A) City Council may designate a property or area within the City as a Vertical Housing Development Zone. A VHDZ may be established only in the Town Center, Community Commercial or Neighborhood Mixed Use zoning districts. The Vertical Housing Development Zone shall be adopted by ordinance. The ordinance establishing the VHDZ shall clearly identify the zone boundaries and individual parcels included in the zone.

(B) The City may approve multiple Vertical Housing Development Zones within the City. The boundaries of a Vertical Housing Development Zone may not overlap. A property may only be in one Vertical Housing Development Zone. Establishing the VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.

(C) Once designated, a Vertical Housing Development Zone shall continue to exist indefinitely unless modified or terminated by City Council after adoption of an ordinance modifying or termination the zone.

(D) The City shall provide notice and an opportunity to comment on the proposed Vertical Housing Development Zone. The notice shall be sent by regular mail and describe the proposed VHDZ, explain the partial property tax exemption described in ORS 307.864 that would apply if the proposed zone is designated; and explain the process by which a local taxing district may elect not to participate in the VHDZ.

(E) The governing body of a district may elect not to participate in a VHDZ by providing a copy of a resolution or other official instrument duly adopted and issued by the governing body of the district affirming its decision to opt out of the VHDZ designation. Such elections must be made within 45 days after the date on which proper written notification is mailed by the City to the taxing district advising of the City's intent to establish a VHDZ.

(F) The City shall prepare not later than 60 days after mailing notice to the districts a statement identifying the districts, if any that have opted out of the VHDZ designation. The statement together with a copy of the instruments provided to the City by each taxing district shall be included as an exhibit with the ordinance considered by the City Council establishing the VHDZ.

(G) Prior to designating a vertical housing development zone the City Council shall consider the potential for displacement of households as a result of establishing the zone. The Ordinance establishing the vertical housing development zone shall include finding(s) documenting the potential for displacement and identify mitigation measures necessary to reduce impacts.

36.05 ZONE TERMINATION OR MODIFICATION

(A) The City Council may terminate all or part of the VHDZ at any time by City Council resolution. Any such termination decision will not affect existing Certified Projects approved prior to the termination decision. A termination decision made under this Chapter is not subject to administrative or judicial review.

(B) The Director may approve a Certified Project after VHDZ termination if the application for project certification was submitted and deemed complete prior to adoption of a City Council resolution terminating a VHDZ.

(C) The City will send written notice of VHDZ termination to applicants with pending applications, the Washington County Assessor and owners of Certified Projects.

36.06 APPLICATION PROCESS AND PROCEDURES

(A) The Director shall not accept an application for processing unless the applicant or applicant's representative has attended a pre-application conference or the Director has signed a waiver of the pre-application conference.

(B) The application shall be made on forms provided by the City and must contain any information required by the City including all of the following:

1. The officially assigned address and boundaries of the proposed vertical housing development project;
2. A description of the existing state of the property;
3. A description of the project construction or rehabilitation, including the design of the construction or rehabilitation, the cost of the construction or rehabilitation and the number of floors and residential units to be constructed or rehabilitated.

4. A description of the nonresidential uses to which any portion of the project is to be put, including the proportion of total square footage of the project proposed for nonresidential uses.
5. A description of the number and nature of residential units in the proposed project that are to be low income residential housing, including the proportion of total square footage of the project proposed for low income residential housing uses.
6. For purposes of this section, square footage does not include areas used for patios, porches, deck space, parking, unless these areas are demonstrated to the satisfaction of the City to be economically necessary to the project or the City otherwise determines that it is appropriate to include the areas in the square footage;
7. Documentation that the project is entirely within in an established vertical housing development zone;
8. Documentation establishing the costs of construction and rehabilitation with respect to the project.
9. A commitment that is satisfactory to the Director, including documentation and evidence of recording of the documentation, that the project will be maintained and operated in a manner consistent with the project application and the program for a time period acceptable to the Director and not less than the term of any related property tax exemption.
10. Such other information as the City, in its discretion, may reasonably require.

(C) Following the designation of a vertical housing development zone under ORS 307.844, a person proposing to undertake a proposed vertical housing development project and seeking the partial property tax exemption set forth in ORS 307.864 shall apply to the City Council for certification of the project. Applications shall be submitted on the required form provided by the City. The application must be signed by the owner or owner representative and accompanied by the required fee.

(D) If the application is denied by the Director, the City will send written notice to the project applicant. At the Director's discretion the City may allow reapplication by the project applicant.

(E) The City may charge an application processing fee and project monitoring fee adopted by City Council resolution. In determining fees the City may consider factors including, but not limited to, known and expected costs for administering the program, processing the application and ensuring project compliance.

36.07 PROJECT CERTIFICATION

(A) The Director may not certify a vertical housing development project under ORS 307.857 unless the project meets all requirements of this section:

1. The project must be entirely located within a vertical housing development zone designated by the City Council.
2. Each project must be on its own independent legal tax lot(s).
3. The project must include one or more equalized floors as determined by the Director
4. Construction or rehabilitation must have started on each building included in the project, including, but not limited to, additions that expand or enlarge an existing building.

5. At least 50 percent of the project's ground floor that fronts on the primary public street as determined by the Director must be committed to nonresidential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage receptacles and building entryways shall be excluded before applying the 50% test.
6. For the project's ground floor to be considered committed to nonresidential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use or planned for commercial use upon completion.

(B) Certification by the Director may be partial in scope. The Director's decision will identify what portions of the property and improvements included in the project application constitute the approved Certified Project.

36.08 CERTIFIED PROJECT CRITERIA

(A) The City will evaluate each complete project application to determine whether or not to certify the proposed project. The City's preference is that projects include low-income housing as defined by this Chapter. A VHDZ does not obligate the City to certify a project as qualifying for the VHDZ partial tax exemption.

(B) A project to qualify for City certification must satisfy each of the following minimum criteria:

1. The project must be entirely located within an approved VHDZ.
2. The project must include one or more equalized floors as determined by the City.
3. The project must be comprised of a multiple-story building, or a group of buildings, including at least one multiple-story building, so that a portion of the project is to be used for non-residential uses and a portion of the project is to be used for residential use.
4. A portion of the project must be committed for residential use and a portion of the project must be committed to non-residential use. The commitment to non-residential use must be accomplished as follows:
5. At least 50% of the project's ground floor that fronts on the primary public street must be committed to non-residential use. If a project has access to only one public street, the square footage of driveways, loading docks, bike storage, garbage and recycling receptacles and building entryways shall be excluded before applying the 50% test. For the project's ground floor to be considered committed to non-residential use, all ground floor interior spaces that front on the primary public street must be constructed to building code standards for commercial use. Such ground floor interior spaces on the primary public street may be used for commercial purposes and/or live-work units upon completion. The non-residential component of the live-work unit must have an entry to street level entrances of the project.

(C) The primary public street shall be the highest order street in the City's street classification system or as otherwise determined by the Director after consultation with the applicant. The Director's decision as to the primary public street shall be final.

36.09 PARTIAL PROPERTY TAX EXEMPTION FOR CERTIFIED PROJECTS

(A) In order to receive a partial property tax exemption under this Chapter, the owner of the Certified Project, the applicant or other person responsible for the payment of property taxes on the Certified Project must notify the County Assessor in writing that the project has been approved

and certified by the City as Certified Vertical Housing Development Project and qualifies for a partial property tax exemption.

(B) The notification described above in subsection A must be delivered to the County Assessor in writing on or before April 1 preceding the first tax year for which the partial property tax exemption is sought.

(C) Except as modified by subsections D and E of this section, the partial property tax exemption applies to the construction or rehabilitation of real property improvements associated with the Certified Project and the inclusion of low income residential housing on the Certified Project, in each of the tax years for the exemption applies.

(D) The eligible partial property tax exemption for a Certified Project equals 20 percent (0.20) multiplied by the number of fully equalized floors up to four equalized floors for all associated buildings qualifying for the property tax exemption in the tax year that are:

1. For residential use; and
2. Constructed or rehabilitated as part of a certified vertical housing development project. For purposes of calculating the partial property tax exemption, the equalized floor quotient is rounded down to the whole numbers reflecting only fully equalized floors up to a maximum of four equalized floors.

(E) The partial property tax exemption on a Certified Project is available for ten consecutive years beginning with the first tax year in which as of the assessment date, the project is occupied or ready for occupancy following its approval by the City as a Certified Project.

(F) If during the period of partial tax exemption, any part of a project dedicated for residential use is converted to or used as non-residential area, the County Assessor and the City shall be notified by the project owner of such change as required by the Chapter. The County Assessor and the City shall also be notified in writing by the project owner if any part of a Certified Project dedicated to low-income residential housing is converted to other purposes or is otherwise used in a manner that does not comply with the low-income residential housing requirements of this Chapter.

(G) In order to receive a partial property tax exemption for a Certified Project, the Certified Project owner must notify the County Assessor. The Certified Project owner must provide the County Assessor with the following information:

1. A letter requesting the VHDZ partial property tax exemption in accordance with the Certified Project approval certification.
2. A copy of the final Certified Project application submitted to the City for certification.
3. A copy of the Certified Project approval certificate issued by the City.
4. A copy of the certificate(s) of occupancy issued by the City for the Certified Project.
5. Such fee(s), if any, as the County Assessor may require.

(H) The certificate of occupancy or temporary certificate of occupancy must be dated prior to January 1 of the tax assessment year for which the exemption is requested.

(I) The written notice for the partial property tax exemption must be made to the County Assessor on or before April 1 of the tax assessment year that the exemption is sought. If proper notice is provided to the County Assessor the partial property tax exemption will be effective for the first tax year for which the partial property tax exemption is eligible and for the next nine consecutive years provided Certified Project eligibility is maintained.

(J) If all or a portion of a Certified Project is decertified by the City, that portion of the Certified Project shall be disqualified from the partial property tax exemption as set forth in the notice of decertification required by this Chapter.

36.10 CERTIFIED PROJECT USE AGREEMENT REQUIRED

(A) The Certified Project owner must execute and record with the Washington County Recorder a Project Use Agreement including restrictive covenants running with the land and equitable servitudes satisfactory to the City Attorney. Recordation of the Project Use Agreement is a condition precedent to the approval of the Certified Project taking legal effect. The Director may invalidate any Certified Project approval for failure to record the Project Use Agreement and provide the Director with a copy of any such instruments. The Certified Project Owner is responsible for the cost of recording and providing satisfactory evidence to the Director showing such instruments have been properly recorded.

36.11 CERTIFIED PROJECT MODIFICATION

(A) Any modification to a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold approval. The City may void or terminate project certification of all or a portion of a Certified Project if modification occurs without the City's written approval.

36.12 MUNICIPALLY SPONSORED VERTICAL HOUSING DEVELOPMENT PROJECTS

(A) The City either directly or through its urban renewal agency may acquire or dispose of real property located in a VHDZ for the purpose of developing projects. Property acquired within a VHDZ and may be sold at a value determined to be reasonable and prudent by the City Council or Urban Renewal Agency Board of Directors to encourage construction of the project. This authority is in addition to and without prejudice to any authority that otherwise exists under the laws of this state or an act of this City to acquire or dispose of property.

(B) Development of municipally sponsored development projects may be undertaken by the City, jointly or in partnership with a private person or entity. Development projects may also be undertaken by private persons or entities acting independently of the municipal ownership.

36.13 TRANSFER OF CERTIFIED PROJECT APPROVAL RIGHTS

(A) Transfer of ownership of a Certified Project must receive prior written approval from the Director. The Director will not unreasonably withhold its approval of transfer of ownership. The City may void or terminate project certification of all or a portion of a Certified Project if transfer of ownership occurs without the City's prior written approval except where transfer of ownership occurs as a result of operation of law following death or divorce.

(B) If there is a transfer of ownership of the Certified Project the project owner shall notify both the Washington County Assessor and the City of the new owner's name, contact person, mailing address and phone number within 30-days of the change.

(C) The City may require the Certified Project owner to pay an administrative fee to cover the City's actual and anticipated costs of reviewing and processing associated with the transfer of Certified Project ownership including but not limited to effecting legal review, preparing amendments to the project use agreement, execution or recording of related documents. Such fee shall be established by City Council resolution.

36.14 CERTIFIED PROJECT MONITORING; REMEDIES; DECERTIFICATION

(A) The Director may monitor and investigate Certified Projects for compliance with VHDZ program requirements and other applicable laws as the Director deems appropriate.

(B) The owner of a Certified Project must prepare and submit an annual report to the Director on the number of residential housing units, number of low-income residential housing units, and amount of commercial space including live-work units.

(C) The Director may undertake remedial action that the City determines necessary or appropriate to enforce VHDZ program requirements and commitments provided by project applicants in the final application, Project Certification and Project Use Agreement. Remedial actions may include but are not limited to:

1. The request of written documentation demonstrating compliance with VHDZ program requirements, Project Certification and Project Use Agreement;
2. For projects with low-income household written documentation on current rents on an annual basis and lease agreements with redacted personal information;
3. Decertification of all or a portion of a certified project.

(D) Prior to issuance of a notice of decertification, the Director will provide the Certified Project owner with an opportunity to correct first-time program non-compliance with a time deemed reasonable by the Director. The Director may provide a Certified Project owner with an opportunity to correct repeat program non-compliance at the Director's discretion. A determination on how much time to provide to correct noticed program noncompliance shall be based on factors such as:

1. The severity of the noncompliance;
2. The impact of the noncompliance on project residents;
3. The public interest in retaining low income residential housing;
4. The cost and time reasonably necessary to correct program noncompliance;
5. The past history of compliance and noncompliance by the Certified Project owner.

(E) When the Director has issued a notice of project noncompliance to a Certified Project owner and the Certified Project Owner has failed to correct any noticed program noncompliance within the time identified in the notice the Director may issue a notice of Certified Project Decertification and direct the Washington County Assessor to disqualify all or a portion of the project for the partial property tax exemption under the VHDZ program.

(F) The effective date of a decertification is the effective date provided in the notice of decertification identified above.

(G) A monitoring fee shall be paid by the Certified Project applicant at time of project application or as otherwise directed by the Director. The monitoring fee shall be established by City Council resolution.

Exhibit B

CHAPTER 150: BUILDING CODES

Cross-reference:

Vertical Housing Development Program, see Ch. 36

154.03 DEVELOPMENT CODE AMENDMENTS

Cross-reference:

Vertical Housing Development Program, see Ch. 36