

OPCD DIRECTOR'S RULE 01-2026

Applicant:

City of Seattle
The Office of Planning and Community Development

Supersedes: NA

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Subject:

Sales and Use Tax Deferral for Conversion to Housing Program

Code and Section Reference: Seattle Municipal Code (SMC) 5.45

Index: Revenue, Finance and Taxation

Type of Rule: Code Interpretation & Procedural

Ordinance Authority: SMC 3.14.992.H

Approved



Rico Quirindongo (02/02/2026 13:00:57 PST)

Rico Quirindongo, Director, OPCD

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Date

BACKGROUND

The Sales and Use Tax Deferral for Conversion to Housing Program incentivizes the conversion of underutilized commercial properties into multifamily housing with at least 10% of units designated as affordable by allowing for deferral of sales and use taxes on the construction of the conversion. This program is authorized by the State of Washington under Chapter 82.59 RCW and WAC 458-20-305 and is codified in Chapter 5.75 of the Seattle Municipal Code.

PURPOSE

This Rule clarifies the procedures, compliance, and reporting requirements for participation in the Sales and Use Tax Deferral Program subject to Chapter 5.75 of the Seattle Municipal Code. This Rule provides additional detail about the responsibilities of property owners and applicants (hereafter referred to as the “applicant”) for compliance with the program’s affordability requirements.

RULE

I. Project Eligibility

The investment project must involve the conversion of underutilized commercial structures or properties into multifamily housing. Implementation of the conversion must comply with the requirements set forth in Seattle Municipal Code Chapter 5.75, RCW 82.59, and WAC 458-20-305. A definition of “underutilized commercial property” is contained in the referenced codes. The definition allows for any property that is used or intended to be used for retailing or office-related or administrative activities to qualify. Properties currently used or intended to be used for other purposes are not eligible. There is no threshold for an amount or proportion of the property that is vacant, unoccupied or underoccupied to capacity.

The State statute requires that the conversion be to multifamily housing, and multifamily housing is defined as being at least four dwelling units. Therefore, the proposed conversion must result in at least four new dwelling units within the converted space to be eligible. A project that converts a commercial space to three or less dwelling units is not eligible even if such converted space is a component of a building that contains other multifamily housing.

II. Affordability Requirements

To qualify for the deferral, the applicant must commit to renting or selling not less than ten percent (10%) of the total dwelling units to households with incomes at or below 80 percent (80%) of the area median income, adjusted for family size. Monthly housing costs—including utilities other than telephone—may not exceed thirty percent (30%) of the household’s monthly income.

Income and Rent Limits

Units designated as affordable housing shall be subject to the Seattle Office of Housing’s Income & Rent Limits, published annually for both homeownership and rental housing.¹ The published table for the current or most recent year shall be used, and if there are multiple series of tables, whichever table applies to the City’s Mandatory Housing Affordability (MHA) and Incentive Zoning shall apply.

Income and Rent Limits Verification

OPCD will not conduct periodic income or rent verification for affordable units. The applicant is responsible for ensuring compliance with the affordability requirements. At the time of required annual

reporting, the applicant must submit a statement of compliance to OPCD to attest that they are in compliance.

Applicants are advised to maintain records documenting the income eligibility of tenants in designated affordable units for the duration of the time period they are seeking the tax deferral. After 10 years of program compliance, the sales and use taxes are permanently waived and therefore documentation is no longer required. Applicants are advised to obtain and keep on file basic income eligibility documents from tenants in affordable units at the time of initial occupancy which could include any of the following or similar income verification documents:

- Recent pay stubs
- W-2 or 1099 tax forms
- Employer verification letter
- Official documentation of other income sources, such as:
 - Social Security benefits
 - Pension or retirement distributions
 - Unemployment benefit statements

Applicants are also advised to maintain records documenting compliance with maximum rent limits for the duration of the time period they are seeking the tax deferral. It is advisable to keep leases for designated affordable units on file that indicate the monthly rental price of the unit and the number of occupants or family members who live there.

Non-Compliance with Affordability Conditions

If OPCD determines, based on annual reporting or other submitted documentation or credible information, that the investment project has failed to meet the affordability requirements—including the minimum percentage of affordable units or applicable income and rent limits—OPCD may notify the Washington State Department of Revenue (DOR). If OPCD receives a credible complaint by a third party asserting that minimum affordability requirements are not being met, it may contact the applicant to request copies of verification documents.

If an applicant is out of compliance with affordability requirements due to a temporary reason, or because of circumstances fully outside of the applicant's control, OPCD may coordinate with the applicant to provide an opportunity to remedy the non-compliance. Such circumstances could include a temporary period after a tenant has moved out of an affordable unit, or a change to the number of household members living in a unit, or extraordinary income growth of a tenant after initial occupancy. In such cases, OPCD will request a plan for provision of a replacement affordable unit at the earliest practical time. In no case will OPCD encourage the displacement of current occupants to meet affordability requirements.

If OPCD reports an applicant out of compliance to DOR, pursuant to RCW 82.59 and WAC 458-20-305, DOR may declare the total amount of deferred sales and use taxes immediately due and payable. There shall be no proration of the deferred tax amount. Although no penalties or interest will be assessed specifically on the deferred taxes, any applicable penalties or interest related to excise tax assessments may be imposed.

III. Annual Reporting Requirements

Pursuant to Section 5.75.060 of the Seattle Municipal Code, the conditional recipient of a tax deferral must submit an annual report to the Director no later than thirty (30) days following each anniversary of the issuance of the certificate of occupancy, for a period of ten (10) years.

The report shall include:

1. A statement identifying the total number of dwelling units offered, the specific dwelling unit numbers designated as affordable housing, the size and type of each of these units, and the rent charged for each unit;
2. A certification that the property has not changed use since issuance of the certificate of occupancy;
3. A description of any physical changes or improvements made to the property following issuance of the certificate;
4. In accordance with RCW 82.32.534, the conditional recipient must file an annual tax performance report with the Washington State Department of Revenue beginning in the year the certificate of occupancy is issued and continuing each year thereafter for a total of ten (10) years; and
5. A statement of compliance that the investment project meets the program requirements including the affordability criteria.

Failure to submit the required annual report to the Director within a timely manner may cause OPCD to notify the Washington State Department of Commerce and DOR, which may put the investment project at risk of being deemed non-compliant and ineligible to continue deferral of sales and use taxes.