

Chapter 35.107 RCW
COMMERCIAL OFFICE SPACE DEVELOPMENT

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RCW 35.107.005 Findings—Intent. The legislature finds that the cost of developing high quality, commercial office space is prohibitive in cities located outside of a major metropolitan area. The legislature finds these cities plan to locate commercial office space within those urban centers. The legislature also finds that solely planning for commercial office space within urban centers is inadequate and an incentive should be created to stimulate commercial office space development in urban centers outside major metropolitan areas. The legislature intends to provide these cities with local options to incentivize the development of commercial office space in urban centers with access to transit, transportation systems, and other amenities. [2019 c 273 § 1.]

RCW 35.107.010 Commercial office space development area—Local sales and use tax remittance program—Local property tax reinvestment program. A governing authority of a city may designate a commercial office space development area. Within the area, the city may:

- (1) Adopt a local sales and use tax remittance program to incentivize the development of commercial office space; and
- (2) Establish a local property tax reinvestment program to make public improvements that incentivize the development of commercial office space. [2019 c 273 § 2.]

RCW 35.107.020 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commercial office space" means a high quality building or buildings in the local market, as determined by a city's governing authority. High quality must be reflected in the finishes, construction, and infrastructure of the project building. The building or buildings must be at least fifty thousand square feet, and at least

three stories. The building must be centrally located in a city, provide close access to available public transportation and freeways, be managed professionally, and offer amenities and advanced technology options to tenants.

(2) "Commercial office space development area" means an area that has been designated by the city legislative authority as a commercial office space development area. Each area is limited to contiguous tracts, lots, pieces, or parcels of land without the creation of islands of property not included in the commercial office space development area. The commercial office space development area or areas within a city cannot contain more than twenty-five percent of the total assessed value of the taxable real property within the boundaries of the city at the time the area is established.

(3) "County" means a county with a population of less than one million five hundred thousand.

(4) "Family living wage job" means a job with a wage that is sufficient for raising a family. A family living wage job must have an average wage of eighteen dollars an hour or more, working two thousand eighty hours per year, as adjusted annually by the consumer price index. The family living wage may be increased by the local authority based on regional factors and wage conditions.

(5) "Operationally complete" means that a certificate of occupancy has been issued for the building.

(6) "Public improvement" means infrastructure improvements to be owned by a public entity within the commercial office space development area that include:

- (a) Street, road, bridge, and rail construction and maintenance;
- (b) Water and sewer system construction and improvements;
- (c) Sidewalks, streetlights, landscaping, and streetscaping;
- (d) Parking, terminal, and dock facilities;
- (e) Park and ride facilities of a transit authority;
- (f) Park facilities, recreational areas, and environmental remediation;
- (g) Stormwater and drainage management systems;
- (h) Seismic improvements to buildings eligible for or eligible for listing in the Washington state register of historic places (RCW 27.34.220) or the national register of historic places as defined in the national historic preservation act of 1966 (Title 1, Sec. 101, P.L. 89-665; 80 Stat. 915; 16 U.S.C. Sec. 470) as now or hereafter amended;

(i) Electric, gas, fiber, and other utility infrastructures; and
(j) Expenditures for any of the following purposes:
(i) Providing environmental analysis, professional management, planning, and promotion within the commercial office space development area; and

(ii) Providing maintenance and security for common or public areas in the commercial office space development area.

(7) "Public improvement costs" means the costs of:

(a) Design; planning; acquisition, including land acquisition; site preparation, including land clearing; construction; reconstruction; rehabilitation; improvements; and installation of public improvements;

(b) Demolishing, relocating, maintaining, and operating property pending construction of public improvements;

(c) Relocating utilities as a result of public improvements;

(d) Financing public improvements, including interest during construction; legal, and other professional services; taxes;

insurance; principal and interest costs on general indebtedness issued to finance public improvements; and any necessary reserves for general indebtedness; and

(e) Administrative expenses and feasibility studies reasonably necessary and related to these costs, including related costs that may have been incurred before adoption of the ordinance authorizing the public improvements and use of funds deposited into the commercial office development public improvement fund.

(8) "Qualifying project" means new construction or rehabilitation of a building or group of buildings intended for use as commercial office space. A "qualifying project" may include mixed-use buildings, not solely intended to be used as office space, but does not include any portion of a project intended for residential use or noncommercial use. A "qualifying project" may include new construction, or rehabilitation of an existing building, which included an area intended to be used for child care facilities at or near the commercial office space. "Qualifying project" does not include the land associated with the new construction or rehabilitation.

(9) "Rehabilitation" and "rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(10) "Rehabilitation improvements" means modifications to an existing building or buildings made to achieve substantial improvements such that the building or buildings can be categorized as commercial office space.

(11) "Urban center" means a compact identifiable district where urban residents may obtain a variety of products and services. An urban center must contain:

(a) Several existing or previous, or both, business establishments that may include but are not limited to shops, offices, banks, restaurants, and governmental agencies;

(b) Adequate public facilities including streets, sidewalks, lighting, transit, domestic water, and sanitary sewer systems; and

(c) A mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office use, or both commercial and office use. [2019 c 273 § 3.]

RCW 35.107.030 Ordinance establishing commercial office space development area—Requirements. (1) In order for a city to approve a qualifying project to receive a sales and use tax remittance and participate in a local property tax reinvestment program, the city legislative authority must adopt an ordinance designating a commercial office space development area or areas. In the ordinance, the city legislative authority must:

(a) Outline the boundaries of the commercial office space development area or areas, consistent with the definitions of this chapter;

(b) Find that the area is wholly within an urban center;

(c) Find that the area lacks sufficient available, desirable, high quality, and convenient commercial office space to provide family living wage jobs in the urban center;

(d) Outline standards and guidelines consistent with RCW 35.107.040 to accept and approve applications for qualifying projects

to be considered for a local sales and use tax remittance or a property tax reinvestment program; and

(e) Establish a commercial office development public improvement fund in which to deposit property tax reinvestment revenues.

(2) The city legislative authority must hold a public hearing on the ordinance establishing the commercial office space development area or areas. The city legislative authority must give notice of a hearing held under this section by publication of the notice once each week for two consecutive weeks, not less than seven days, nor more than thirty days before the date of the hearing in a paper having a general circulation in the city where the proposed commercial office space development area or areas would be located. The notice must state the time, date, place, and purpose of the hearing and generally identify the area proposed to be designated as a commercial office space development area. [2019 c 273 § 4.]

RCW 35.107.040 Application for a qualifying project—

Requirements. (1) In order to approve the sales and use tax remittance and property tax reinvestment for a qualifying project under RCW 35.107.030, an owner of a qualifying project must, in coordination with the city, submit an application to the city consistent with the standards and guidelines provided in RCW 35.107.030. Additionally, the application must include:

(a) Whether the qualifying project is located within a commercial office space development area, in accordance with an adopted ordinance under RCW 35.107.030;

(b) Whether the qualifying project meets the definition of a qualifying project;

(c) The number of family living wage jobs estimated to be generated by the qualifying project;

(d) A description of the qualifying project, including a physical description of proposed building or buildings including estimated square footage, number of floors, and a list of features and amenities;

(e) The cost of construction or rehabilitation, and length of time that the qualifying project will be under construction;

(f) Whether the qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved; and

(g) A statement that the qualifying project is not anticipated to be used for the purpose of relocating a business from outside of the commercial office space development area, but within the state, to within the commercial office space development area. This does not exclude the incentives authorized under this chapter and RCW 82.14.532 from being used for the expansion of a business, including the development of additional offices or satellite facilities.

(2) If the project applicant is seeking a sales and use tax remittance, the application must also include:

(a) A written agreement for the use of the local sales and use tax remittance from any taxing authority that imposes a sales or use tax under chapter 82.14 RCW or RCW 81.104.170. The agreement must be authorized by the governing body of such participating taxing authorities. If a taxing authority does not provide a written agreement, the sales and use tax for that taxing authority may not be remitted and the revenue may not be estimated in the application;

(b) An estimate of the amount of local sales and use tax revenue that will be remitted to a taxpayer;

(c) The approximate date that the local sales and use tax revenue will be remitted to a taxpayer; and

(d) The criteria under this section by which a qualifying project can later receive certification under RCW 82.14.532(4) confirming that a taxpayer is eligible for the remittance.

(3) If the city intends to approve the qualifying project for a property tax reinvestment, the application must also include:

(a) A written agreement of the participation of any taxing authority that collects a local property tax allocation. The agreement must be authorized by the governing body of such participating local taxing authorities. If a taxing authority does not provide written agreement, the local property tax for that taxing authority may not be remitted to the city legislative authority that established a commercial office development public improvement fund;

(b) An estimated amount of property tax to be deposited into a commercial office development public improvement fund resulting from the qualifying project; and

(c) A prioritized list of public improvements that support the development of the qualifying project, and the estimated public improvement costs. [2019 c 273 § 5.]

RCW 35.107.050 Application approval by administrative official or committee of the city—When authorized.

(1) The duly authorized administrative official or committee of the city may approve the application if it finds that:

(a) The proposed qualifying project meets the criteria as defined by the city in RCW 35.107.030;

(b) The proposed qualifying project is or will be, at the time of completion, in conformance with all local plans and regulations that apply at the time the application is approved;

(c) The owner has complied with all standards and guidelines adopted by the city in RCW 35.107.030; and

(d) The site is located in a commercial office space development area that has been designated by the city legislative authority in accordance with the procedures and guidelines indicated in RCW 35.107.030.

(2) If the application is approved, the city must issue the owner of the property a conditional certificate of acceptance of the project for the sales and use tax remittance and participation in a property tax reinvestment program.

(3) If the application is denied by the authorized administrative official or committee authorized by the city legislative authority, the deciding administrative official or committee must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(4) Upon denial by a duly authorized administrative official or committee, an applicant may appeal the denial to the city legislative authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official or committee with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official's or committee's decision. The

decision of the city legislative authority in denying or approving the application is final. [2019 c 273 § 6.]

RCW 35.107.060 Commercial office development public improvement fund—Required deposits. (1) Once the city approves an application for a qualifying project to participate in a property tax reinvestment program, the city must deposit into a commercial office development public improvement fund, the equivalent of the city's share of the ad valorem property taxation on the value of new construction and rehabilitation improvements of real property for qualifying projects under this chapter for a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved.

(2) For a period of ten successive years beginning January 1st of the calendar year immediately following the calendar year in which the application is initially approved, taxing districts participating under this section that provide a written agreement under RCW 35.107.040 must transfer to the city an amount equivalent to the portion of the taxing district's ad valorem property tax on the value of new construction and rehabilitation improvements of real property for qualifying projects for the city to deposit into a commercial office development public improvement fund. [2019 c 273 § 7.]

RCW 35.107.070 Commercial office development public improvement fund—Expenditures. (1) The city may only make expenditures from the commercial office development public improvement fund that:

(a) Are to construct the public improvement that was identified in the approved application, requesting the property tax reinvestment submitted under RCW 35.107.040 and approved under RCW 35.107.050;

(b) Transfer funding to the project applicant to construct the public improvement and transfer ownership of the public improvement to a public agency; and

(c) Meet any additional criteria established in an ordinance adopted under RCW 35.107.030.

(2) The city and the project applicant must enter into a written agreement outlining the specifics of the public improvement, associated public improvement costs, responsible parties, and any other information required by the city. [2019 c 273 § 8.]

RCW 35.107.080 Ownership change in participating projects. If a qualifying project participating in the property tax reinvestment program under this chapter changes ownership, the property continues to qualify for the reinvestment, if the new owner complies with all of the application requirements, procedures, terms, conditions, and reporting requirements under this chapter, and meets all of the criteria established by the city to which the application was submitted under this chapter. [2019 c 273 § 9.]

RCW 35.107.090 Joint legislative audit and review committee report. (Expires December 31, 2028.) (1) The joint legislative audit and review committee must study the effectiveness of the local sales and use tax remittance and the local property tax reinvestment

programs authorized in this chapter, and submit a report as provided in subsection (3) of this section.

(2) The report must include, but is not limited to, an assessment of the local sales and use tax remittance and the property tax reinvestment programs authorized under this chapter and an evaluation of:

- (a) The availability of quality office space;
- (b) The effects on affordable housing;
- (c) The effects on transportation, traffic congestion, and greenhouse gas emissions; and
- (d) Job creation.

(3) By October 1, 2028, and in compliance with RCW 43.01.036, the joint legislative audit and review committee must submit to the appropriate committees of the legislature a final report with their findings and recommendations under this section.

(4) This section expires December 31, 2028. [2019 c 273 § 10.]