



City of Othello
Washington
Ordinance No. 15

**AN ORDINANCE CREATING OTHELLO MUNICIPAL CODE
CHAPTER 3.40 ENTITLED “MULTI-FAMILY TAX EXEMPTION PROGRAM”**

WHEREAS, Housing supply in Othello is limited, and homeownership is unaffordable for many households; and

WHEREAS, Rental housing costs are rising and restricting options for low- and moderate-income households; and

WHEREAS, There is a lack of housing options available to local households, including families with children and permanent housing for farmworkers, especially for low-income households; and

WHEREAS, The Washington State Legislature, in 2021, provided the first opportunity for Othello to offer the Multi-Family Housing Tax Exemption (MFTE) Program (Chapter 84.14 RCW) within the city; and

WHEREAS, Adoption of this ordinance will help increase and improve residential opportunities, including affordable and multi-family housing opportunities; and

WHEREAS, This ordinance meets all required provisions and procedures set forth in Chapter 84.14 RCW;

NOW, THEREFORE, the City of Othello does Ordain:

Section 1. Creating. Othello Municipal Code Chapter 3.40 entitled “Multi-Family Tax Exemption Program” is created to provide:

**Chapter 3.40
Multi-Family Tax Exemption Program**

Sections:

- 3.40.010 Purpose
- 3.40.020 Definitions

- 3.40.030 Tax exemption
- 3.40.040 Residential target areas
- 3.40.050 Project eligibility
- 3.40.060 Application procedure
- 3.40.070 Application review
- 3.40.080 Final certificate
- 3.40.090 Annual certification
- 3.40.100 Cancellation of tax exemption
- 3.40.110 Hearing examiner

3.40.010 Purpose.

Limited exemptions from ad valorem property taxation for multi-family housing in urban centers are intended to:

- (a) Stimulate, with economic incentives, new construction or rehabilitation of existing buildings for multi-family housing in targeted residential areas to increase and improve housing opportunities, including affordable housing; and
- (b) Increase the supply of mixed-income multi-family housing opportunities within the city.

3.40.020 Definitions.

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

- (a) "Affordable housing" means residential housing that is rented by an eligible household whose monthly housing costs, including utilities other than telephone, do not exceed thirty percent (30%) of the household's monthly income. For the purposes of housing intended for owner occupancy, "affordable housing" means residential housing that is within the means of low- or moderate-income households.
- (b) "Director" means the city community development director, or any other office, department, or agency that shall succeed to its functions with respect to this chapter, or their authorized designee.
- (c) "Eligible household" means a household that certifies that their household income does not exceed the applicable percentage of the area median income, adjusted for household size, and who certify that they meet all qualifications for eligibility.
- (d) "Household" means a single person, family, or unrelated persons living together.
- (e) "Low-income household" means a household whose adjusted income is at or below eighty percent (80%) of the area median income adjusted for family size, for Adams County, as reported by the United States Department of Housing and Urban Development (HUD).
- (f) "MFTE" means multi-family housing property tax exemption.
- (g) "Moderate-income household" means a single person, family, or unrelated persons living together whose adjusted income is more than eighty percent (80%) but is at or below one hundred fifteen percent (115%) of the area median income adjusted for family size, for Adams County, as reported by the United States Department of Housing and Urban Development (HUD).

- (h) “Multi-family housing” means buildings having four (4) or more dwelling units designated for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.
- (i) “Owner” means the property owner of record as filed with the county assessor’s office.
- (j) “Permanent residential occupancy” means multi-family housing that provides either rental or owner occupancy for a period of at least one (1) month. This excludes hotels and motels that offer rental accommodation on a daily or weekly basis.
- (k) “Permanently affordable homeownership”, for purposes of Section 3.40.030(b), means homeownership that, in addition to meeting the definition of “affordable housing”, is:
 - a. Sponsored by a nonprofit organization or governmental entity, which;
 - i. Executes a new ground lease or deed restriction with a duration of at least 99 years at the initial sale and with each successive sale; and
 - ii. Supports homeowners and enforces the ground lease or deed restriction.
 - b. Subject to a ground lease or deed restriction that includes:
 - i. A resale restriction designed to provide affordability for future low- and moderate-income homebuyers; and
 - ii. A right of first refusal for the sponsor organization to purchase the home at resale; and
 - iii. A requirement that the sponsor must approve any refinancing, including home equity lines of credit.
- (l) “Project” means the multi-family housing or portion of the multi-family housing that is to receive the tax exemption.
- (m) “Qualified non-profit organization” means a non-profit organization or any subsidiary or affiliate of such organization.
- (n) “Residential targeted area” means an area designated by the City as a residential targeted area in accordance with, and within the meaning of, Chapter 84.14 RCW.
- (o) “Support” for homeowners by an organization includes homebuyer education, home maintenance classes, financial education, or similar programs.

3.40.030 Tax exemption.

The value of new multi-family housing construction, conversion, and rehabilitation improvements qualifying under this section is exempt from ad valorem property taxation, as follows:

- (a) **Twelve-Year Exemption.** For twelve (12) successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption if the property otherwise qualifies for the exemption and meets the conditions in this subsection. For the property to qualify for the twelve-year exemption under this subsection:
 - (1) The applicant must commit to renting at least twenty percent (20%) of the multi-family housing units as affordable housing units to eligible low- and moderate-income households, and the property must satisfy that commitment; or
 - (2) The applicant must commit to selling at least twenty percent (20%) of the multi-family housing units as affordable housing units exclusively for owner occupancy to eligible low- or moderate-income households, and the property must satisfy that commitment.

Affordable units intended for owner occupancy must be sold by the applicant with a covenant running with the land that prevents the use of the property as a rental unit and includes a resale restriction designed to maintain affordability for future low- or moderate-income homebuyers until the expiration of the exemption.

- (3) At the expiration of the exemption, the applicant must provide tenant relocation assistance in an amount equal to one month's rent to a qualified tenant within the final month of the qualified tenant's lease. To be eligible for tenant relocation assistance under this subsection, the tenant must occupy an income-restricted unit at the time the exemption expires and must qualify as a low-income household under this chapter at the time relocation assistance is sought.
- (b) **Twenty-Year Exemption.** For twenty (20) successive years beginning January 1st of the year immediately following the calendar year of issuance of the final certificate of tax exemption if the property otherwise qualifies for the exemption and meets the conditions in this subsection. For the property to qualify for the twenty-year exemption under this subsection, at least twenty-five percent (25%) of the units must be built by or sold to a qualified nonprofit or local government partner that will assure permanent affordable homeownership for eligible low- or moderate-income households and support the residents of these units. The remaining seventy-five percent (75%) of units may be rented or sold at market rates. All units receive the tax exemption as long as the conditions in the final certificate of tax exemption are met for the duration of the exemption.
- (c) If, in calculating the minimum proportion of the multi-family housing units in the project for affordable housing in this section, the number contains a fraction, then the minimum number of multi-family housing units for affordable housing shall be rounded up to the next whole number.

3.40.040 Residential target areas.

- (a) A residential targeted area must meet the following criteria:
 - (1) The residential targeted area is within an urban center as defined by Chapter 84.14 RCW;
 - (2) The residential targeted area lacks sufficient available, desirable, and convenient residential housing to meet the needs of the public who would be likely to live in the urban center if affordable, desirable, attractive, and livable residences were available; and
 - (3) Providing additional housing opportunity in the residential targeted area will assist in achieving one or more of the following purposes:
 - i. Encourage increased residential opportunities within the city; or
 - ii. Stimulate the construction of new multi-family housing; or
 - iii. Encourage the rehabilitation of existing vacant and underutilized buildings for multi-family housing.
 - (4) In designating a residential targeted area, the council may also consider other factors, including:
 - i. Whether additional housing in the residential targeted area will attract and maintain an increase in the number of permanent residents;
 - ii. Whether providing additional housing opportunities for low- and moderate-income households would meet the needs of citizens likely to live in the area if affordable housing were available;

- iii. Whether an increased permanent residential population in the residential targeted area will help to achieve the planning goals through the City’s comprehensive plan; or
 - iv. Whether encouraging additional housing in the residential targeted area supports significant public investment in public transit or a better jobs and housing balance.
- (5) The residential targeted area must allow an average minimum density equivalent to 15 dwelling units or more per gross acre.
- (6) At any time, the council may, by ordinance, amend or rescind the designation of a residential targeted area pursuant to the same procedural requirements as set forth in this chapter for original designation.
- (b) The boundaries of the designated residential target areas located within the urban center of Othello are depicted in the maps below.

Figure 1: Residential Target Area A (North)

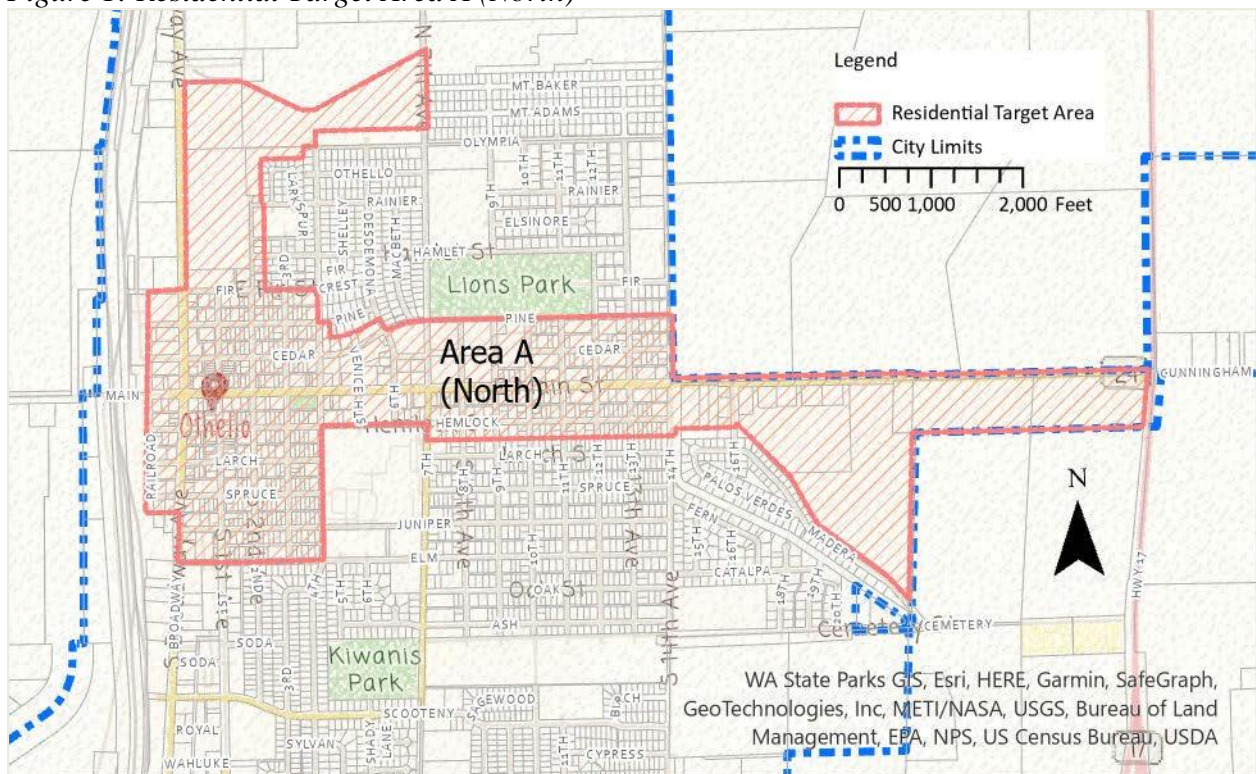


Figure 2: Residential Target Area B (South)

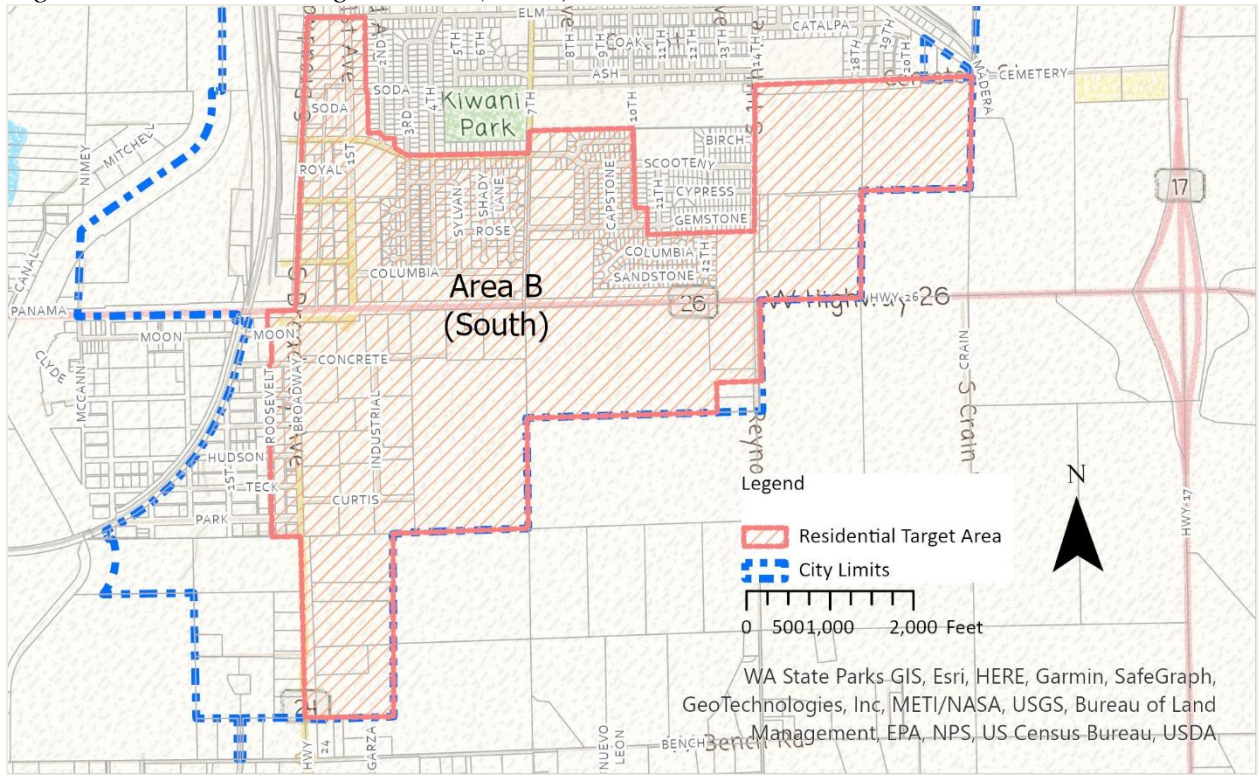


Figure 3: Residential Target Area C (Ash St)



3.40.050 Project eligibility.

An owner of property applying under this chapter must meet the following requirements:

- (a) The new or rehabilitated multiple-unit housing must be located in a designated residential targeted area.
- (b) The project must be multi-family housing consisting of at least four (4) dwelling units within a residential structure or as part of a mixed-use development, in which at least fifty percent (50%) of the space within such residential structure or mixed-use development is intended for permanent residential occupancy.
- (c) For new construction, a minimum of four (4) new dwelling units must be created. For rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added.
- (d) Rehabilitation:
 - (1) Property proposed to be rehabilitated must fail to comply with one or more standards of the City's building or housing codes.
 - (2) Property proposed to be rehabilitated with existing multi-family housing that has been vacant for twelve (12) months or more does not have to provide additional multi-family units.
 - (3) If the property proposed to be rehabilitated is not vacant, an applicant must provide each existing tenant housing of comparable size, quality, and price and a reasonable opportunity to relocate.
 - (4) The exemption does not include the value of improvements constructed prior to submittal of the application for exemption.
- (e) The project shall be completed within three (3) years from the date of approval of the contract by the Director as provided in 3.40.070(b) or by any extended deadline granted by the Director as provided in 3.40.070(c).
- (f) As per RCW 84.14.030(6), the applicant must enter into a contract approved by the Director, under which the applicant has agreed to implement the development.
- (g) The project must achieve a minimum density of fifteen (15) residential units per gross acre.
- (h) No new applications may be accepted for inclusion into this program after the City has received MFTE applications which would result in 800 units of new multi-family housing.

3.40.060 Application procedure.

A property owner who wishes to propose a project for a multi-family property tax exemption shall comply with the following procedures:

- (a) Prior to the application for any building permit, the applicant shall submit an application to the Director, on a form established by the Director along with required application fees.
- (b) A complete application shall contain such information as the Director may deem necessary or useful, and shall include:
 - (1) A brief written description of the project;
 - (2) A preliminary schematic site and floor plans of the multi-family units and the structure(s) in which they are proposed to be located;
 - (3) A brief statement setting forth the grounds for qualification for exemption;
 - (4) A statement from the owner acknowledging the tax liability when the project ceases to be eligible under this chapter;
 - (5) Verification by oath or affirmation of the information submitted;

- (6) For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of twelve months prior to filing the application, or that housing of comparable size, quality, and price and a reasonable opportunity to relocate has been provided to tenants, and shall secure from the City verification of property noncompliance with the City's local housing standard; and
- (7) Any application fee as established by the City for review and consideration of the MFTE application.

3.40.070 Application review.

- (a) The Director may certify as eligible an application which is determined to comply with the requirements of this chapter. A decision to approve or deny an application shall be made within ninety (90) days of receipt of a complete application. An application may be approved subject to such terms and conditions as deemed appropriate by the Director to ensure the project meets the land use regulations of the City.
- (b) Approval. If an application is approved by the Director, the approval, together with a contract between the applicant and the City regarding the terms and conditions of the project, signed by the applicant, shall be signed by the Director or designee. Once the contract is fully executed, the Director shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate expires three (3) years from the date of approval unless an extension is granted as provided in this chapter.
- (c) Extension of Conditional Certificate. The conditional certificate may be extended by the Director for a period not to exceed twenty-four (24) consecutive months. The applicant must submit a written request stating the grounds for the extension, accompanied by a processing fee, if required. An extension may be granted if the Director determines that:
 - (1) The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
 - (2) The owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and
 - (3) All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.
- (d) Denial of Application. If the application is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten (10) days of the denial. An applicant may appeal a denial to the hearing examiner by filing a written appeal, together with any fees required, within thirty (30) days of notification by the City. The appeal will be based upon the record made before the Director with the burden of proof on the applicant to show that there is no substantial evidence on the record to support the Director's decision. The decision of the hearing examiner in denying or approving the application is final.
- (e) Amendments. An owner may request amendments to the contract by submitting a request in writing to the Director, along with the any fees established by the City, at any time within three (3) years of the date of the approval of the contract. The Director may approve amendments to the MFTE contract between the owner and the City that are reasonably within the scope and intent of the MFTE contract. The date for expiration of the conditional certificate shall not be extended by contract amendment unless all the conditions for extension set forth in subsection (c) of this section are met.

3.40.080 Final certificate.

- (a) Application. Upon completion of the improvements provided in the contract between the applicant and the city and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant must file with the Director such information as the Director may deem necessary or useful to evaluate eligibility for the final certificate and shall include:
- (1) A statement of expenditures made with respect to each multi-family housing unit and the total expenditures made with respect to the entire property;
 - (2) A description of the completed work and a statement of qualification for the exemption;
 - (3) A statement that the work was completed within the required three-year period or any authorized extension;
 - (4) A statement that the project meets the affordable housing requirements as required by this chapter.
- (b) Approval of final certificate.
- (1) Within thirty (30) days of receipt of all materials required for a final certificate, the Director shall determine whether the work completed and the affordability of the units satisfy the requirements of the application and the conditional contract approved by the City and is qualified for a limited tax exemption under this chapter. The City shall also determine which specific improvements completed meet the intent of this chapter and the required findings of RCW 84.14.060.
 - (2) If the Director determines that the project has been completed in accordance with this chapter and the contract between the applicant and the City and has been completed within the authorized period the City shall, within ten (10) calendar days of the expiration of the determination above, file a final certificate of tax exemption with the county assessor.
- (c) Denial of final certificate.
- (1) The Director shall notify the applicant in writing that a final certificate will not be filed if the Director determines that:
 - i. The improvements were not completed within the authorized period;
 - ii. The improvements were not completed in accordance with the contract between the applicant and the City; or
 - iii. The owner's property is otherwise not qualified under this chapter.
 - (2) Within thirty (30) days of notification by the City to the owner of the Director's denial of a final certificate of tax exemption, the applicant may file a written appeal, together with any fees required, with the City hearing examiner specifying the factual and legal basis for the appeal.

3.40.090 Annual certification.

- (a) Within thirty (30) days after the first anniversary of the date of filing the final certificate of tax exemption and each year thereafter, for the applicable tax exemption period, the property owner shall file a notarized declaration with the Director indicating the following:
- (1) A statement of occupancy and vacancy of the rehabilitated or newly constructed property during the twelve (12) months ending with the anniversary date;

- (2) A certification by the owner that the property has not changed use and, if applicable, that the property has been in compliance with the contract with the City;
- (3) A description of changes or improvements constructed after issuance of the certificate of tax exemption;
- (4) The total monthly rent of each unit;
- (5) Information demonstrating compliance with the affordability requirements of 3.40.030, and other applicable requirements under 3.40.050;
- (6) For the required affordable units, the household size and income of each household at the time of initial occupancy and their current household size and income; and
- (7) Any additional information requested regarding the units receiving a tax exemption and meeting any reporting requirements under Chapter 84.14 RCW.

3.40.100 Cancellation of tax exemption.

- (a) The Director may cancel the tax exemption if the property owner breaches any term of the MFTE contract, covenant, or any part of this chapter. Reasons for cancellation include but are not limited to the following:
 - (1) The property no longer complies with the terms of the contract or with the requirements of this chapter, including the provision of affordable units;
 - (2) The use of the property is changed or will be changed to a use that is other than residential;
 - (3) The project violates applicable zoning requirements, land use regulations, or building code requirements;
 - (4) The property for any other reason no longer qualifies for the tax exemption; or
 - (5) The property owner fails to submit the annual certification required under 3.40.090.
- (b) Upon determining that a tax exemption shall be canceled, the Director shall notify the property owner or qualified non-profit organization, if applicable, by certified mail with a return receipt requested.
- (c) The property owner or qualified non-profit organization, if applicable, may appeal the determination within thirty (30) days by filing a notice of appeal with the City hearing examiner, together with any fees required, specifying the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The hearing examiner will conduct a hearing at which the applicant and the City will be heard and all competent evidence received. The hearing examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received.
- (d) The Director shall notify the county assessor of the cancellation of the tax exemption thirty (30) days after the notification of the property owner or qualified non-profit organization, or upon an unsuccessful appeal under subsection (c).
- (e) If the owner intends to convert multi-family housing receiving a tax exemption under this chapter to another use, the owner must notify the Director and the county assessor within sixty (60) days of the change in use. Upon such change in use, the tax exemption shall be canceled.

3.40.110 Hearing examiner.

- (a) The city's land use hearing examiner is hereby provided jurisdiction to hear appeals of the decisions of the Director under this chapter. Said appeals shall be as follows:

- (1) Appeal of a decision of the Director that the owner is not entitled to a final certificate of tax exemption, filed within thirty days of notification by the City to the owner of denial of a final certificate of tax exemption.
 - (2) Appeal of a cancellation of tax exemption, filed within thirty days of the notification by the City to the owner of cancellation.
- (b) The hearing examiner's procedures shall apply to hearings under this chapter to the extent they are consistent with the requirement of this chapter and Chapter 84.14 RCW. The hearing examiner shall give substantial weight to the Director's decision and the burden of overcoming the weight shall be on the appellant. The decision of the examiner constitutes the final decision of the City. An aggrieved party may appeal the decision to superior court under RCW 34.05.510 through 34.05.598 if the appeal is properly filed within thirty days of notification by the City to the appellant of that decision.

Section 2. Effective date. This ordinance shall be in full force and effect five days after its passage and publication of its summary as provided by law.

PASSED by the City Council of Othello, Washington this ____ day of _____, 2023

CITY OF OTHELLO

Shawn Logan, Mayor

ATTEST/AUTHENTICATED:

Tania Morelos, City Clerk

Approved as to form:

Kelly E. Konkright, WSBA #33544
City Attorney

PASSED the __ day of _____ 2023
EFFECTIVE the __ day of _____ 2023
PUBLISHED the __ day of _____ 2023