

ORDINANCE O-4810

AN ORDINANCE OF THE CITY OF KIRKLAND CREATING A NEW CHAPTER 7.75 OF THE KIRKLAND MUNICIPAL CODE TO ADOPT TENANT PROTECTIONS, INCREASING NOTICE FOR RENT INCREASES, CAPPING MOVE-IN FEES AND DEPOSITS, AND AUTHORIZING TENANT PAYMENT PLANS; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION.

1           WHEREAS, over the past several years rents in East King  
2 County have increased, and vacancies for affordable rental  
3 housing are at low levels, making it difficult for tenants, especially  
4 those with low incomes, to locate affordable rental housing; and  
5

6           WHEREAS, the King County Regional Affordable Housing  
7 Task Force issued its *Final Report and Recommendations for King*  
8 *County*, December 2018 (rev. March 2019) ("*Affordable Housing*  
9 *Task Force Final Report*"), which identifies that renting rather than  
10 owning a home increases the chances of being severely cost  
11 burdened,<sup>1</sup> and recognizes an existing affordable housing crisis in  
12 King County;<sup>2</sup> and  
13

14           WHEREAS, the *Affordable Housing Task Force Final Report*  
15 includes a regional plan with goals, strategies and a five-year  
16 action plan to address the affordable housing crisis, and Goal 4 of  
17 the action plan is to "[p]reserve access to affordable homes for  
18 renters by supporting tenant protections to increase housing  
19 stability and reduce risk of homelessness";<sup>3</sup> and  
20

21           WHEREAS, A Regional Coalition for Housing (ARCH) was  
22 created by interlocal agreement to help coordinate the efforts of  
23 Eastside cities to provide affordable housing; and  
24

25           WHEREAS, the ARCH Interlocal Agreement (ILA)  
26 establishes a common purpose among ARCH members of acting  
27 cooperatively to formulate affordable housing goals and policies;  
28 and  
29

30           WHEREAS, recent Census data estimated that 25,870  
31 renter households in ARCH member jurisdictions are cost-  
32 burdened, paying more than 30 percent of income toward housing  
33 costs, and 12,550 renter households are severely cost-burdened,  
34 paying more than 50 percent of income toward housing costs; and

35           WHEREAS, local rental assistance programs are finite and  
36 have exhausted or nearly exhausted available resources for

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<sup>1</sup> King County Regional Affordable Housing Task Force, *Final Report and Recommendations for King County*, December 2018 (rev. March 2019) at 15.

<sup>2</sup> *Id.* at 7.

<sup>3</sup> *Id.* at 8.

37 renters, and such programs are often limited to tenants who have  
38 received eviction notices; and

39  
40 WHEREAS, residents of affordable rental housing created  
41 by ARCH member jurisdictions' policies and programs are subject  
42 to annual rent increases, based on changes in the area median  
43 income (AMI) as published by the Department of Housing and  
44 Urban Development (HUD); and

45  
46 WHEREAS, residents of naturally occurring affordable  
47 housing that exists in Kirkland are not protected by ARCH  
48 restrictive covenants governing annual rent increases and cost  
49 burden analysis; and

50  
51 WHEREAS, the residents of ARCH monitored housing and  
52 naturally occurring affordable housing in Kirkland will be subject  
53 to significant expected rent increases in 2022, which are  
54 anticipated to exacerbate cost burdens, and create economic  
55 displacement and other negative impacts; and

56  
57 WHEREAS, the ARCH ILA establishes an Executive Board  
58 with responsibility for providing recommendations to ARCH  
59 member jurisdictions regarding local and regional affordable  
60 housing policies; and

61  
62 WHEREAS, at its April 14, 2022, meeting, the ARCH  
63 Executive Board adopted Resolution 2022-01 providing for  
64 recommendations to ARCH members to adopt the following tenant  
65 protections: 1) increased notice of rent increases; 2) cap on late  
66 fees; and 3) cap on move in fees and deposits, and an allowance  
67 to pay in installments; and

68  
69 WHEREAS, the City Council desires to create a new Chapter  
70 7.75 of the Kirkland Municipal Code to adopt ARCH's  
71 recommended tenant protections, and finds that such adoption is  
72 in the best interests of the community members of Kirkland and  
73 will promote the public health, safety and welfare of the City; and

74  
75 WHEREAS, in order to ensure there is time to educate  
76 landlords about the requirements and responsibilities imposed on  
77 them as a result of this ordinance, and to give landlords time to  
78 update their administrative processes to be in compliance with  
79 these requirements, the effective date of this ordinance shall be  
80 delayed 45 days.

81  
82 NOW, THEREFORE, the City Council of the City of Kirkland  
83 do ordain as follows:

84  
85 Section 1. Findings. The City Council adopts the recitals  
86 set forth above as findings in support of this Ordinance, which are  
87 incorporated by reference as if set forth in full.

88  
89 Section 2. Creation of New City Code Chapter Providing for  
90 Tenant Protections. A new Chapter 7.75 of the Kirkland Municipal  
Code is created to read as follows:

91  
92  
93  
94

## CHAPTER 7.75 TENANT PROTECTIONS

95

### 7.75.010 Definitions.

96 The definitions of this section apply throughout this chapter unless  
97 the context clearly requires otherwise. The definitions of RCW  
98 59.18.030 under the Residential Landlord-Tenant Act (RLTA) also  
99 apply to this chapter unless otherwise defined in this section.

100 A. "Dwelling" or "dwelling unit" has the same meaning as RCW  
101 59.18.030(10), as may be amended. At the time this ordinance  
102 was passed, the RLTA defined "dwelling unit" to mean a structure  
103 or that part of a structure which is used as a home, residence, or  
104 sleeping place by one person or by two or more persons  
105 maintaining a common household, including but not limited to  
106 single-family residences and units of multiplexes, apartment  
107 buildings, and mobile homes.

108  
109 B. "Landlord" has the same meaning as RCW 59.18.030(16), as  
110 may be amended, and excluding the living arrangements  
111 identified in RCW 59.18.040. At the time this ordinance was  
112 passed, the RLTA defined landlord as the owner, lessor, or  
113 sublessor of the dwelling unit or the property of which it is a part,  
114 and included any person designated as representative of the  
115 landlord, including, but not limited to, an agent, a resident  
116 manager, or a designated property manager.

117  
118 C. "Rental agreement" or "lease" has the same meaning as RCW  
119 59.18.030(30), as may be amended. At the time this ordinance  
120 was passed, the RLTA defined "rental agreement" as all  
121 agreements which establish or modify the terms, conditions, rules,  
122 regulations, or any other provisions concerning the use and  
123 occupancy of a dwelling unit.

124  
125 D. "Subsidized housing" has the same meaning as RCW  
126 59.18.030(33), as may be amended. At the time this ordinance  
127 was passed, the RLTA defined "subsidized housing" as rental  
128 housing for very low-income or low-income households that is a  
129 dwelling unit operated directly by a public housing authority or its  
130 affiliate, or that is insured, financed, or assisted in whole or in part  
131 through one of the following sources: (a) A federal program or  
132 state housing program administered by the department of  
133 commerce or the Washington state housing finance commission;  
134 (b) A federal housing program administered by a city or county  
135 government; (c) An affordable housing levy authorized under  
136 RCW 84.52.105; or (d) The surcharges authorized in RCW  
137 36.22.178 and 36.22.179 and any of the surcharges authorized in  
138 chapter 43.185C RCW.

139  
140 E. "Tenant" has the same meaning as RCW 59.18.030(34), as  
141 may be amended, and excluding the living arrangements  
142 identified in RCW 59.18.040, and RCW 59.20.030(24), as may be  
143 amended. At the time this ordinance was passed, the RLTA  
144 defined "tenant" as any person who is entitled to occupy a  
145 dwelling unit primarily for living or dwelling purposes under a

146 rental agreement, and RCW 59.20.030 defined "tenant" as any  
 147 person, except a transient as defined in Chapter 59.20 RCW, who  
 148 rents a mobile home lot.

149  
 150 **7.75.020 Applicability.**

151 The provisions of this chapter apply to tenancies governed by  
 152 Chapter 59.18 RCW (RLTA) and Chapter 59.20 RCW  
 153 (Manufactured/Mobile Home Landlord-Tenant Act) and are in  
 154 addition to the provisions provided in said chapters of the RCW.

155  
 156 **7.75.030 Notice of rent increase.**

157 A. Any *rental agreement* or renewal of a *rental agreement* shall  
 158 state the dollar amount of the rent or rent increase and include,  
 159 or shall be deemed to include, a provision requiring not less than:

- 160  
 161 1. one hundred twenty (120) days' written notice for rent  
 162 increases greater than three percent (3%); or  
 163  
 164 2. one hundred eighty (180) days' written notice for rent  
 165 increases greater than ten percent (10%).  
 166

167 B. If the *rental agreement* governs *subsidized housing* where the  
 168 amount of rent is based on the income of the *tenant* or  
 169 circumstances specific to the subsidized household, the *landlord*  
 170 shall provide a minimum of thirty (30) days' prior written notice of  
 171 an increase in the amount of rent to each affected *tenant*.

172  
 173 C. The notice of rent increases in Sections A and B above shall  
 174 include the actual dollar amount of the new rent or rent increase.

175  
 176 **7.75.040 Move in fees and security deposits – limits –**  
 177 **exceptions – payments by tenants.**

178 A. All move in fees and security deposits charged by a *landlord*  
 179 before a *tenant* takes possession of a *dwelling unit* shall not  
 180 exceed one month's rent, except in *subsidized housing* where the  
 181 amount of rent is set based on the income of the tenant. The  
 182 exception for *subsidized housing* shall not include tenancies  
 183 regulated under Section 8 of the Housing Act of 1937, 42 U.S.C.  
 184 Sec. 1437f, commonly known as the housing choice voucher  
 185 program.

186  
 187 B. *Tenants* entering *rental agreements* with terms lasting six or  
 188 more months may choose to pay their move-in fees and security  
 189 deposits in six equal monthly installments over the first six months  
 190 occupying the *dwelling unit*.

191  
 192 C. *Tenants* entering *rental agreements* with terms lasting fewer  
 193 than six months or month-to-month *rental agreements*, may  
 194 choose to pay move in fees and security deposits in two equal  
 195 monthly installments over the first two months occupying the  
 196 *dwelling unit*.

197  
 198  
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 200

201 **7.75.055 Exception to move in fees and security deposits.**

202 A. No rental agreement, whether oral or written, may provide  
203 that the tenant waives or foregoes rights or remedies under this  
204 chapter, except as provided by subsection B of this section.

205  
206 B. A landlord and tenant may agree, in writing, to waive specific  
207 requirements of this chapter regarding the limitations a landlord  
208 can require relating to move in fees and security deposits if all of  
209 the following conditions have been met:

- 210
- 211 1. The agreement to waive specific provisions is in writing  
212 and identifies the specific provisions to be waived; and
  - 213 2. The agreement may not appear in a standard form  
214 written lease or rental agreement; and
  - 215 3. An attorney for the tenant has approved in writing the  
216 agreement as complying with subsections B.1 and B.2  
217 of this section.  
218  
219

220  
221 **7.75.060 Provisions in violation of restrictions null and**  
222 **void - Exemption.**

223 A. Any provisions in violation of sections .030 through .040 of this  
224 chapter in a *rental agreement* are null and void and of no lawful  
225 force and effect.

226  
227 B. Nothing in this chapter shall be interpreted or applied so as to  
228 create any conflict with federal law. In the event of any conflict,  
229 federal requirements shall supersede the requirements of this  
230 chapter.

231  
232 **7.75.070 Effect on Existing Lease Provisions.**

233 A. Any notice of rent increases lawfully given to an existing tenant  
234 prior to the effective date of this ordinance shall be deemed valid.  
235 Otherwise, the notice provisions of 7.75.030 apply to all *rental*  
236 *agreements* as of the effective date of this ordinance.

237  
238 B. Provisions regarding the amount of move-in fees and security  
239 deposit due under 7.75.040(A) in a *rental agreement* that has  
240 been entered into prior to the effective date of this ordinance shall  
241 remain in effect until the original expiration date of such *rental*  
242 *agreement*.

243  
244 Section 3. If any provision of this ordinance or its  
245 application to any person or circumstance is held invalid, the  
246 remainder of the ordinance or the application of the provision to  
247 other persons or circumstances is not affected.

248  
249 Section 4. This ordinance shall be in force and effect 45  
250 days from and after its passage by the Kirkland City Council and  
251 publication pursuant to Section 1.08.017, Kirkland Municipal Code  
252 in the summary form attached to the original of this ordinance and  
253 by this reference approved by the City Council.  
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255  
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Passed by majority vote of the Kirkland City Council in open meeting this 3rd day of August, 2022.

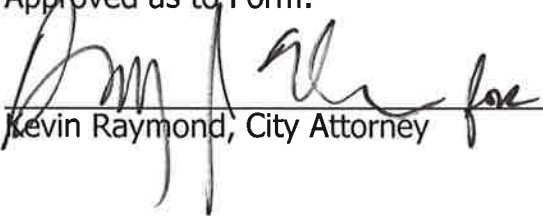
Signed in authentication thereof this 3rd day of August, 2022.

  
\_\_\_\_\_  
Penny Sweet, Mayor

Attest:

  
\_\_\_\_\_  
Kathi Anderson, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Kevin Raymond, City Attorney

PUBLICATION SUMMARY  
OF ORDINANCE NO. 4810

AN ORDINANCE OF THE CITY OF KIRKLAND CREATING A NEW CHAPTER 7.75 OF THE KIRKLAND MUNICIPAL CODE TO ADOPT TENANT PROTECTIONS, INCREASING NOTICE FOR RENT INCREASES, CAPPING MOVE-IN FEES AND DEPOSITS, AND AUTHORIZING TENANT PAYMENT PLANS; PROVIDING FOR SEVERABILITY; ESTABLISHING AN EFFECTIVE DATE, AND APPROVING A SUMMARY ORDINANCE FOR PUBLICATION.

SECTION 1. Adopts findings in support of tenant protections.

SECTION 2. Creates a new Chapter 7.75 of the Kirkland Municipal Code related to tenant protections.

SECTION 3. Provides a severability clause for the ordinance.

SECTION 4. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as 45 days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 3 day of August, 2022.

I certify that the foregoing is a summary of Ordinance O-4810 approved by the Kirkland City Council for summary publication.

  
\_\_\_\_\_  
Kathi Anderson, City Clerk