

ORDINANCE NO. 4223

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING KIRKLAND MUNICIPAL CODE CHAPTER 5.88 REGARDING THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION.

The City Council of the City of Kirkland do ordain as follows:

Section 1. Chapter 5.88 of the Kirkland Municipal Code is hereby amended to read as follows:

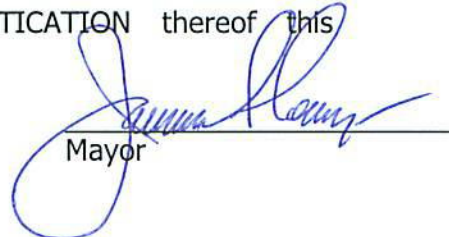
As set forth in Attachment A attached to this ordinance and incorporated by reference.

Section 2. If any section, subsection, sentence, clause, phrase, part or portion of this ordinance, including those parts adopted by reference, is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 3. This ordinance shall be in full force and effect five days from and after its passage by the Kirkland City Council and publication, pursuant to Kirkland Municipal Code 1.08.017, in summary form attached to the original of this ordinance and by this reference approved by the City Council as required by law.

PASSED by majority vote of the Kirkland City Council in open meeting this 15th day of December, 2009.

SIGNED IN AUTHENTICATION thereof this 15th day of December, 2009.



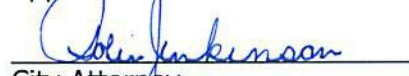
Mayor

Attest:



City Clerk

Approved as to Form:



City Attorney

Chapter 5.88 MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION

Sections:

- 5.88.010 Purpose.
- 5.88.020 Definitions.
- 5.88.030 Residential targeted areas—Criteria—Designation—Rescission.
- 5.88.040 Project eligibility.
- 5.88.050 Application procedure—Fee.
- 5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.
- 5.88.065 Amendment of contract.
- 5.88.070 Extension of conditional certificate.
- 5.88.080 Final certificate—Application—Issuance—Denial and appeal.
- 5.88.090 Exemption—Duration—Affordability requirements—Limits.
- 5.88.100 Annual certification—Cancellation of exemption.
- 5.88.110 Appeals to hearing examiner.
- 5.88.120 Annual reporting.

5.88.010 Purpose.

- (a) The purposes of this chapter are:
- (1) To encourage more multifamily housing opportunities within the city;
 - (2) To stimulate the construction of new multifamily housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing;
 - (3) To increase the supply of multifamily housing opportunities within the city for low and moderate income households;
 - (4) To accomplish the planning goals required under the Growth Management Act, Chapter 36.70A RCW, as implemented by the city's comprehensive plan;
 - (5) To promote community development and affordable housing; and
 - (6) To encourage additional housing in certain areas to support investment in public transit projects.
- (b) Any one or a combination of these purposes may be furthered by the designation of a residential targeted area under this chapter.

5.88.020 Definitions.

(a) "Affordable" means: (1) for an owner-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed ~~seventy~~the following percent of the King County median household income, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD), and no more than thirty percent of the monthly household income is paid for monthly housing expenses (mortgage and mortgage insurance, property taxes, property insurance and homeowners dues):

(A) 80 percent in zoning districts where additional building height is allowed in exchange for the creation of affordable housing units; or

(B) 100 percent in zoning districts where additional dwelling units are allowed in exchange for the creation of affordable housing units; or

(2) for a renter-occupied dwelling unit, housing reserved for occupancy by eligible households and affordable to households whose household annual income does not exceed fifty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size.

(b) “Assessor” means the King County assessor.

(c) “Director” means the director of the city’s department of planning and community development, or any other city office, department or agency that shall succeed to its functions with respect to this chapter, or his or her authorized designee.

(d) “Eligible household” means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in Section 5.88.040(7), certify that their household annual income does not exceed the applicable percent of the median household income for King County, adjusted for household size, as determined by the United States Department of Housing and Urban Development (HUD); and who certify that they meet all qualifications for eligibility, including, if applicable, any requirements for recertification on income eligibility.

(e) “Household annual income” means the aggregate annual income of all persons over eighteen years of age residing within the same household for a period of at least four months.

(f) “Multifamily housing” means a building or townhouse project having four or more dwelling units designed for permanent residential occupancy resulting from new construction or rehabilitation or conversion of vacant, underutilized, or substandard buildings.

(g) “Owner” means the property owner of record.

(h) “Permanent residential occupancy” means multifamily housing that provides either rental or owner occupancy for a period of at least one month, and excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(i) “Rehabilitation improvements” means:

(1) Modifications to an existing structure, the residential portion of which has been vacant for at least twelve months prior to application for exemption under this chapter, that are made to achieve a condition of substantial compliance with the applicable building and construction codes contained in Title 21 of this code; or

(2) Modifications to an existing occupied residential structure or mixed use structure that contains occupied residential units, that add at least four multifamily dwelling units.

(j) “Residential targeted area” means an area within an urban center as defined by Chapter 84.14 RCW and the city that has been so designated by the city council pursuant to this chapter.

(k) “Substantial compliance” means compliance with the applicable building and construction codes contained in Title 21 of this code that is typically required for rehabilitation as opposed to new construction.

5.88.030 Residential targeted areas—Criteria—Designation—Rescission.

(a) Following notice and public hearing as prescribed in RCW 84.14.040, the city council may designate one or more residential targeted areas, in addition to the areas

stated in subsection (d) of this section, upon a finding by the city council in its sole discretion that the residential targeted area meets 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, including affordable housing, to meet the needs of the public who would be likely to live in the urban center if the 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:

(A) Encourage increased residential opportunities within the city; or

(B) Stimulate the construction of new affordable multifamily housing; or

(C) Encourage the rehabilitation of existing vacant and underutilized buildings for multifamily housing.

(b) In designating a residential targeted area, the city council may also consider other factors, including:

(1) Whether additional housing in the residential targeted area will attract and maintain an increase in the number of permanent residents;

(2) 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 residences were available;

(3) Whether an increased permanent residential population in the residential targeted area will help to achieve the planning goals mandated by the Growth Management Act under Chapter 36.70A RCW, as implemented through the city's comprehensive plan; or

(4) Whether encouraging additional housing in the residential targeted area supports plans for significant public investment in public transit or a better jobs and housing balance.

(c) At any time, the city council may, by ordinance, in its sole discretion, 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.

(d) The following areas, as shown in Maps 1 through 4 in this section, meet the criteria of this chapter for residential targeted areas and are designated as such:

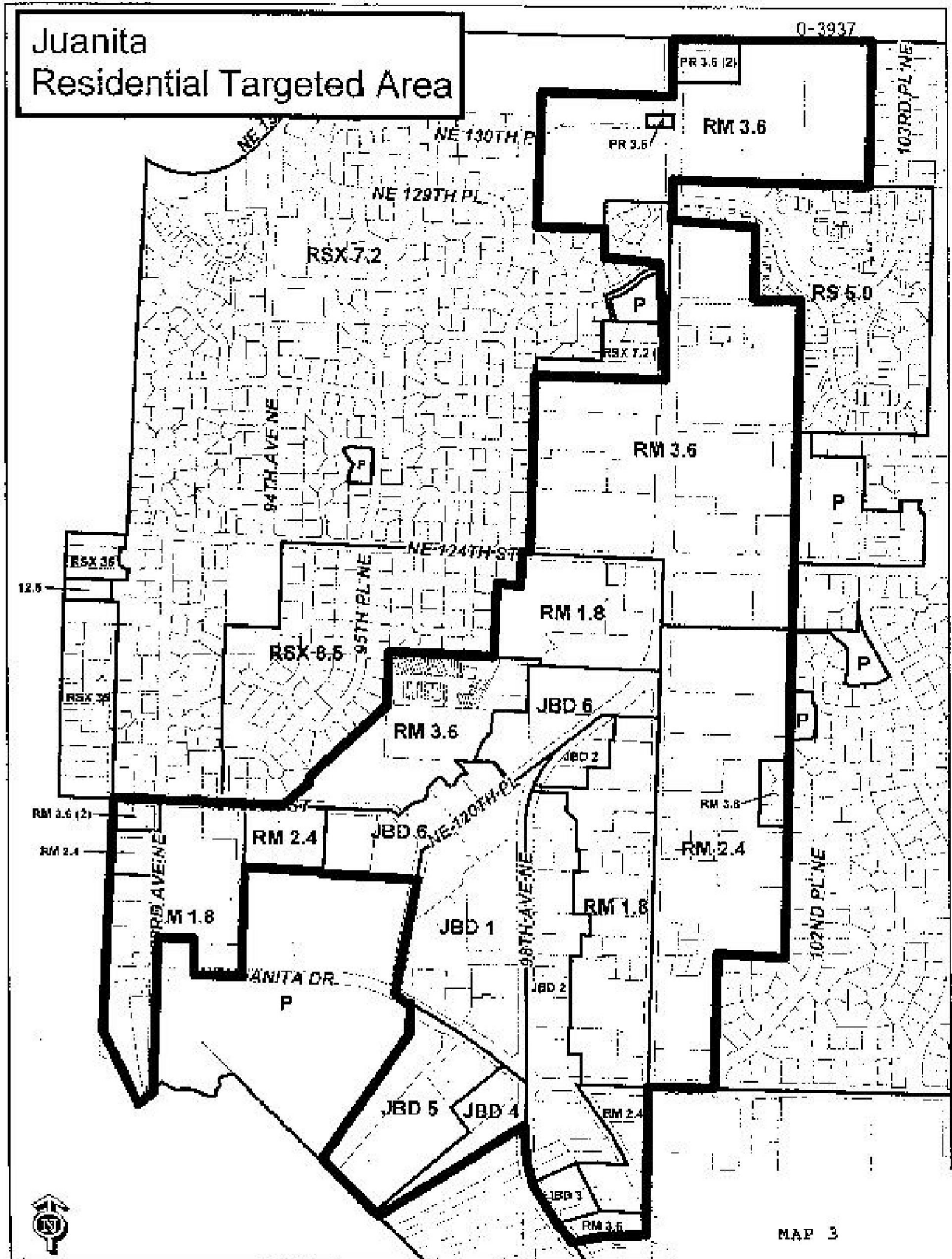
(1) Central Kirkland/Houghton;

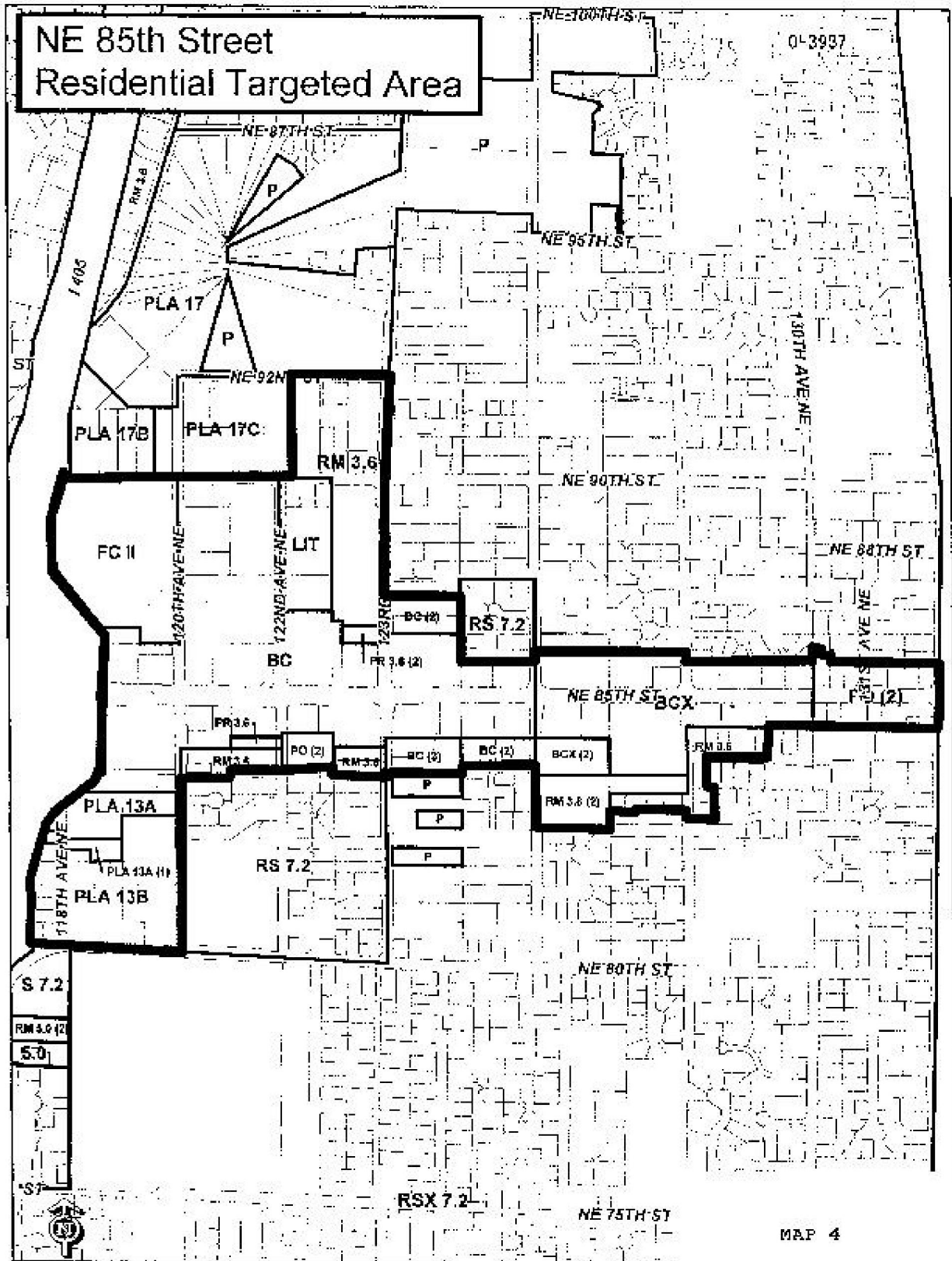
(2) Totem Lake and North Rose Hill;

(3) Juanita; and

(4) NE 85th Street.

(e) If a part of any legal lot is within a residential targeted area as shown in Maps 1 through 4 in this section, then the entire lot shall be deemed to lie within such residential targeted area.





5.88.040 Project eligibility.

To be eligible for exemption from property taxation under this chapter, the property shall satisfy all of the following requirements:

- (1) The property must be located in a residential targeted area.
- (2) The project must be multifamily housing consisting of at least four dwelling units within a residential structure or as part of a mixed use development, in which at least fifty percent of the space within such residential structure or mixed use development is intended for permanent residential occupancy.
- (3) For new construction, a minimum of four new dwelling units must be created; for rehabilitation or conversion of existing occupied structures, a minimum of four additional dwelling units must be added.
- (4) Existing dwelling units proposed for rehabilitation shall have been unoccupied for a minimum of twelve months prior to submission of an application and shall fail to comply with one or more requirements of the building code as set forth in Title 21 of this code.
- (5) No application may result in the net loss of existing affordable housing which receives housing assistance through federal low or moderate income housing programs (e.g., HUD Section 8 program).
- (6) Affordable housing shall be provided in the project as described in Section 5.88.090.
- (7) Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the city attorney that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the affordable housing units shall be recorded with the King County department of records and elections. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. Affordable housing units identified for households with household annual income restrictions that are provided under this section shall remain as affordable housing continue to be made available to households with the identified household annual income restrictions for a minimum of fifty years from the date of initial owner occupancy for ownership affordable housing units and for the life of the project for rental affordable housing units.
- ~~(8) The owner may request that the city approve a partial or full exemption in circumstances where less affordability is proposed than is required in Section 5.88.090. Criteria for considering such requests shall include the owner's inability to utilize some or all of the incentives available in Chapter 112 of the Kirkland Zoning Code. Requests under this subsection (8) require city council approval and shall be made at the sole discretion of the city council.~~
- (98) The mix and configuration of housing units (e.g., studio, one-bedroom, two-bedroom, etc.) used to meet the requirement for affordable units under Section 5.88.090 shall be substantially proportional to the mix and configuration of the total housing units in the project.
- (109) For owner-occupied projects, the contract with the city required under Section 5.88.060 shall identify those units that shall be eligible per Section 5.88.090.
- (1110) The project shall comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of this code.

(~~4211~~) New construction of multifamily housing and rehabilitation improvements must be scheduled to be completed within three years from the date of approval of the application, or within an authorized extension of this time limit.

5.88.050 Application procedure—Fee.

(a) The owner of property applying for exemption under this chapter shall submit an application to the director, on a form established by the director. The owner shall verify the application by oath or affirmation. The application shall contain such information as the director may deem necessary or useful, and shall include:

(1) A brief written description of the project, including phasing if applicable, and preliminary schematic site and floor plans of the multifamily units and the structure(s) in which they are proposed to be located;

(2) A statement from the owner acknowledging the potential tax liability when the property ceases to be eligible for exemption under this chapter;

(3) Information describing how the applicant will comply with the affordability requirements in Section 5.88.090; or if applicable, request for approval under Section 5.88.040(8) and their justification for such request; and

(4) In the case of rehabilitation of an existing vacant structure under Section 5.88.020(i)(1), verification from the fire and building departments of noncompliance with applicable building and housing codes as required under Section 5.88.020(i)(1), and an affidavit from the owner verifying that the existing dwelling units have been vacant for a period of twelve months prior to filing the application.

(b) At the time of application under this section, the applicant shall pay to the city an initial application fee as established by ordinance. In addition, at the time of application under this section, the applicant shall pay to the city a fee of one hundred fifty dollars to cover the county assessor's administrative costs. If the director approves the application pursuant to Section 5.88.080, the city shall forward the fee for the county assessor's administrative costs to the county assessor. If the director denies the application pursuant to Section 5.88.080, the city shall refund the fee for the assessor's administrative costs to the applicant.

(c) The director shall notify the applicant within twenty-eight days of the application being filed if the director determines that an application is not complete and shall identify what additional information is required before the application will be complete. Within fourteen days of receiving additional information, the director shall notify the applicant in writing if the director determines that the application is still not complete, and what additional information is necessary. An application shall be deemed to be complete if the director does not notify the applicant in writing by the deadlines in this section that the application is incomplete; however, a determination of completeness does not preclude the director from requiring additional information during the review process if more information is needed to evaluate the application according to the criteria in this chapter.

(d) The application shall be submitted any time before, but no later than, the date the ~~building or other construction permit certificate of occupancy~~ is issued under Title 21 of this code.

5.88.060 Application review—Issuance of conditional certificate—Denial—Appeal.

(a) Other than requests under Section 5.88.040(8), the director shall approve or deny an application under this chapter. If the application is approved, the applicant shall enter into a contract with the city, subject to approval by resolution of the city council, regarding the terms and conditions of the project and eligibility for exemption under this chapter. The city council's resolution to approve the applicant's contract with the city shall take place within ninety days of the director's receipt of the completed application. Upon city council approval of the contract, the director shall execute the contract as approved by the city council, and shall issue a conditional certificate of acceptance of tax exemption. The conditional certificate shall expire three years from the date of approval unless an extension is granted as provided in this chapter.

(b) If the application is denied, the director shall state in writing the reasons for the denial and send notice of denial to the applicant's last known address within ten days of the denial.

(c) An applicant may appeal the director's denial of the application to the city council by filing a notice of appeal with the city clerk along with the appeal fee as established by ordinance within thirty days of the date of the denial. The appeal before the city council shall be based upon the record before the director, and the director's decision shall be upheld unless the applicant can show that there is no substantial evidence on the record to support the director's decision. The city council's decision on appeal is final.

5.88.065 Amendment of contract.

(a) Any applicant seeking amendment(s) to the contract approved by the city council may do so by submitting a request in writing to the director at any time within three years of the date of the city council's approval of the contract.

(b) The director shall have authority to approve amendments to the contract between the applicant and the city that are reasonably within the scope and intent of the contract approved by the city council. Amendments that are not reasonably within the scope and intent of the approved contract, as determined by the director, shall be submitted to the city council for approval by resolution.

(c) Any applicant seeking amendments to the approved contract, which in the sole discretion of the director require approval by the city council, shall pay to the city an amendment application fee as established by ordinance.

(d) The date for expiration of the conditional certificate shall not be extended by contract amendment unless: (1) all the conditions for extension set forth in Section 5.88.070 are met, or (2) the conditions set forth in Section 5.88.070(1) and (2) are met and the city council specifically approves the extension.

5.88.070 Extension of conditional certificate.

The conditional certificate may be extended by the director for a period not to exceed twenty-four consecutive months. The applicant shall submit a written request stating the grounds for the extension together with a fee as established by ordinance. The director may grant an extension 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.

5.88.080 Final certificate—Application—Issuance—Denial and appeal.

(a) Upon completion of the rehabilitation improvements or new construction as provided in the contract between the applicant and the city, and upon issuance of a certificate of occupancy, the applicant may request a final certificate of tax exemption. The applicant shall 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 multifamily housing unit, including phasing if applicable, 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 approved extension; and

(4) Information on the applicant's compliance with the affordability requirements in Section [5.88.090](#).

(b) Within thirty days of receipt of all materials required for a final certificate, the director shall determine whether the completed work is consistent with the application and contract approved by the city council and is qualified for limited exemption under Chapter 84.14 RCW, and which specific improvements completed meet the requirements of this chapter and the required findings of RCW 84.14.060.

(c) If the director determines that the project has been completed in accordance with subsection (a) of this section, the city shall file a final certificate of tax exemption with the assessor within ten days of the expiration of the thirty-day period provided under subsection (b) of this section.

(d) The director is authorized to cause to be recorded, or to require the applicant or owner to record, in the real property records of the King County department of records and elections, the contract with the city required under Section [5.88.060](#)(a), and such other document(s) as will identify such terms and conditions of eligibility for exemption under this chapter as the director deems appropriate for recording, including requirements under this chapter relating to affordability of units.

(e) The director shall notify the applicant in writing that the city will not file a final certificate if the director determines that the project was not completed within the required three-year period or any approved extension or was not completed in accordance with subsection (b) of this section; or if the director determines that the owner's property is not otherwise qualified under this chapter or if the owner and the director cannot agree on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multiuse new construction.

(f) Within thirty days of the date of notice of denial of final certificate, the applicant may file a notice of appeal with the city clerk along with the appeal fee as established by ordinance specifying the factual and legal basis for the appeal. The appeal shall be heard by the city's hearing examiner pursuant to Section [5.88.110](#).

5.88.090 Exemption—Duration—Affordability requirements—Limits.

(a) The value of new housing construction and rehabilitation improvements qualifying under this chapter shall be exempt from ad valorem property taxation for:

(1) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a), or have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code. Projects where affordable units are provided through a payment to the city in lieu of construction, as allowed in Chapter 112 of the Kirkland Zoning Code, are eligible to apply for an exemption. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption in zoning districts where additional building height is allowed instead of a density bonus in exchange for the creation of affordable housing units. In making its decision on the amount of the partial exemption, the city will consider the value of the height increase allowed and any fee waivers, if a lesser amount of affordability is provided. The amount of the partial exemption shall be proportional to the amount of affordability provided relative to that required for a full exemption. (For example, if a project includes five percent of the units affordable at fifty percent of median income, the property will receive an exemption on fifty percent of the residential portion of the project.) ~~If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66.~~

(2) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects not subject to the affordable housing requirements of the Kirkland Zoning Code where at least ten percent of the units are affordable to households whose household annual income does not exceed eighty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption if a lesser amount of affordability is provided. The amount of the partial exemption shall be proportional to the amount of affordability provided relative to that required for a full exemption. (For example, if a project includes five percent of the units affordable at fifty percent of median income, the property will receive an exemption on fifty percent of the residential portion of the project.)

(23) Eight successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for owner-occupied projects. The property tax exemption shall apply only to those units that are affordable as defined in

Section 5.88.020(a) or that have such other comparable level of affordability as provided for in the city's affordable housing incentive program, as regulated through Chapter 112 of the Kirkland Zoning Code.

(34) Twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for rental projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a) and at least an additional ten percent of the units are affordable to households whose household annual income does not exceed eighty percent of the King County median household income, adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance). In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. Projects where affordable units are provided through a payment to the city in lieu of construction, as allowed in Chapter 112 of the Kirkland Zoning Code, are eligible to apply for an exemption. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. To the extent allowed by Chapter 84.14 RCW, the city may grant a partial exemption in zoning districts where additional building height is allowed instead of a density bonus in exchange for the creation of affordable housing units. In making its decision on the amount of the partial exemption, the city will consider the value of the height increase allowed and any fee waivers. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66.

(45) Twelve successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate for owner-occupied projects where at least ten percent of the units are affordable as defined in Section 5.88.020(a) and at least an additional ten percent of the units are affordable to households whose household annual income ~~does not exceed one hundred percent of~~ is no greater than 30 percentage points higher than the applicable the King County median household income defined in Section 5.88.020(a), adjusted for household size, as determined by HUD, and no more than thirty percent of the monthly household income is paid for monthly housing expenses. In the event that HUD no longer publishes median income figures for King County, the city may use or determine such other method as it may choose to determine the King County median income, adjusted for household size. If the percentage of affordable units in the project required is a fraction, then the number of required affordable units shall be rounded up to the next whole number (unit) if the fraction of the whole number is at least 0.66. The property tax exemption shall apply only to those units that are affordable as defined in Section 5.88.020(a) or this subsection.

(b) The exemption does not apply to the value of land or to the value of improvements not qualifying under this chapter, to increases in assessed valuation of land and nonqualifying improvements, or to increases made by lawful order of the King County board of equalization, Washington State Department of Revenue, State Board of Tax Appeals, or King County, to a class of property throughout the county or a

specific area of the county to achieve uniformity of assessment or appraisal as required by law. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this chapter.

5.88.100 Annual certification—Cancellation of exemption.

(a) A property or individual affordable ownership unit that receives a tax exemption under this chapter shall continue to comply with the contract and the requirements of this chapter in order to retain its property tax exemption.

(b) Within thirty days after the first anniversary of the date the city filed the final certificate of tax exemption and each year for the tax exemption period, the property owner shall file a certification with the director, verified upon oath or affirmation, which shall contain such information as the director may deem necessary or useful, and shall include the following information:

- (1) A statement of occupancy and vacancy of the multifamily units during the previous year;
- (2) A certification that the property has not changed use since the date of filing of the final certificate of tax exemption, and continues to be in compliance with the contract with the city and the requirements of this chapter;
- (3) A description of any improvements or changes to the property made after the filing of the final certificate or last declaration, as applicable;
- (4) Information demonstrating the owner's compliance with the affordability requirements of Section 5.88.090;
- (5) The total monthly rent or total sale amount of each unit;
- (6) The income of each renter household at the time of initial occupancy and the income of each initial purchaser of owner-occupied units at the time of purchase for each of the units receiving a tax exemption;
- (7) The value of the tax exemption for the project; and
- (8) Any additional information requested by the city in regards to the units receiving a tax exemption (pursuant to meeting any reporting requirements under Chapter 84.14 RCW).

(c) Failure to submit the annual declaration may result in cancellation of the tax exemption pursuant to this section.

(d) For the duration of the exemption granted under this chapter, the property shall have no violation of applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 21 and 23 of this code for which the designated city department shall have issued a notice of violation or notice of civil infraction that is not resolved by a certificate of compliance, certificate of release, or withdrawal within the time period for compliance provided in such notice of violation or notice of civil infraction and any extension of the time period for compliance granted by the director.

(e) For owner-occupied affordable units, in addition to any other requirements in this chapter, the affordable owner-occupied units must continue to meet the conditions of Section 5.88.090. In the event of a sale of an affordable owner-occupied unit to a household other than an eligible household, or at a price greater than prescribed in the regulatory agreement referenced in Section 5.88.040(7), the property tax exemption for that affordable owner-occupied unit shall be canceled pursuant to this section.

(f) For property with renter-occupied dwelling units, in addition to any other requirements in this chapter, the affordable renter-occupied units must continue to meet the conditions of Section 5.88.090. In the event of a rental of an affordable renter-occupied unit to a household other than an eligible household, or at a rent greater than prescribed in the regulatory agreement referenced in Section 5.88.040(7), the property tax exemption for the property shall be canceled pursuant to this section.

(g) If the owner converts the multifamily housing to another use, the owner shall notify the director and the county assessor within sixty days of the change in use. Upon such change in use, the tax exemption shall be canceled ~~and additional taxes, interest and penalty imposed pursuant to state law~~ pursuant to this section.

(h) The director shall cancel the tax exemption for any property or individual unit that no longer complies with the terms of the contract or with the requirements of this chapter. Upon cancellation, additional taxes, interest and penalties ~~may~~ shall be imposed pursuant to state law. Upon determining that a tax exemption shall be canceled, the director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination by filing a notice of appeal with the city clerk along with the appeal fee established by ordinance within thirty days of the date of notice of cancellation, specifying the factual and legal basis for the appeal. The appeal shall be heard by the hearing examiner pursuant to Section 5.88.110.

5.88.110 Appeals to hearing examiner.

(a) The city's hearing examiner is provided jurisdiction to hear appeals of the decisions of the director on the final certificate of tax exemption and cancellation thereof.

(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 hearing 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 the date of the notification by the city to the appellant of that decision.

5.88.120 Annual reporting.

(a) If the city issues tax exemption certificates pursuant to this chapter, the director shall submit the report required by RCW 84.14.100 to the Department of Community, Trade and Economic Development by December 31st of each year.

(b) Annually, beginning in 2005, the director or designee shall review the program established by this chapter and provide a report to the city council outlining development activity, types and numbers of units produced and their locations, rent and sales prices, information regarding the number of low and moderate income households benefiting from the program, and other appropriate factors. These reports may include recommendations on whether any neighborhoods should be added or removed, whether affordability limits should be changed in certain areas, and will analyze any issues related to the use of the program for homeownership units. The annual report shall be submitted to the city council no later than March 30th of each year the program is in effect, starting in 2005; each report shall include information for the previous year.

PUBLICATION SUMMARY
OF ORDINANCE NO. 4223

AN ORDINANCE OF THE CITY OF KIRKLAND AMENDING KIRKLAND MUNICIPAL CODE CHAPTER 5.88 REGARDING THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION.


SECTION 1. Provides that portions of Kirkland Municipal Code Chapter 5.88 relating to the multifamily housing property tax exemption are amended, and that the amendments are attached to the Ordinance as Attachment A.

SECTION 2. Provides a severability clause for the ordinance.

SECTION 3. 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 five 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 15th day of December, 2009.

I certify that the foregoing is a summary of Ordinance 4223 approved by the Kirkland City Council for summary publication.



City Clerk