AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION AND PROVIDING FOR DIFFERENT REQUIREMENTS IN THE EVENT OF RENTAL UNIT PROJECTS PROVIDING SUBSTANTIAL ADDITIONAL PUBLIC BENEFITS.

WHEREAS, Kirkland Sustainable Investments, LLC ("KSI") is in the process of completing construction of a 111-unit multi-family project known as "Plaza" at 330 4th Street in Kirkland, across Central Way from Kirkland Urban and only several blocks from Kirkland City Hall; and

WHEREAS, Sustainable Kirkland, LLC ("Sustainable Kirkland") previously developed the 290-unit multi-family project known as "Arete" at 450 Central Way and located immediately adjacent to Plaza; and

WHEREAS, Robert Pantley is the managing member of the majority member of each of KSI and Sustainable Kirkland; and

WHEREAS, KSI wishes to dedicate 23 of its Plaza units, consisting of 21 residential suites and 2 studio apartments, as affordable housing units to households whose household annual income does not exceed eighty percent (80%) of the King County median household income, adjusted for household size, for a period of at least twelve years in exchange for certain multifamily housing property tax exemption ("MFTE") savings on the value of the improvements for that same twelve year period as provided for under Chapter 84.14 RCW; and

WHEREAS, Chapter 84.14 RCW, in "high cost areas" like Kirkland, and while authorizing local governments to include additional requirements, requires only that developers of multi-family rental developments seeking MFTE property tax savings commit to renting at least twenty percent (20%) of such rental units to low-income and moderate-income households, ranging from (1) at or below one hundred percent (100%) AMI in the case of low-income households and (2) more than one hundred percent (100%) AMI and below one hundred and fifty percent (150%) AMI in the case of moderate-income families; and

WHEREAS, each of KSI and Sustainable Kirkland have negotiated separate master lease agreements with the City of Kirkland ("City") providing, at the option of the City, for the dedication of up to a combined total of 34 additional units, anticipated to include approximately 23 units at Plaza and 11 units at Arete, for employees of the City, and possibly other public, non-profit entities in Kirkland, such as the Lake Washington School District and the Lake Washington Institute of Technology, for a period of at least twelve years; and

WHEREAS, the 23 MFTE rental units at Plaza are separate and distinct from the up to 34 master lease agreements units at Plaza and Arete; and

WHEREAS, the City believes the ability, through the master lease agreements, to offer units in addition to the MFTE units at Plaza to City employees will create substantial, additional public benefits by making it easier for City employees to live near where they work, making it easier to recruit and retain excellent employees and to provide for quicker employee response times during events such as snow storms or emergencies where special city resources are needed, and potentially providing similar benefits to other public sector employers and employees; and

WHEREAS, KSI has agreed to pay the City an annual amount equal to sixty-five percent (65%) of the annual property tax savings realized through its participation in the MFTE program at Plaza for a period of at least twelve years, estimated to be approximately \$98,000 in first year dollars; and

WHEREAS, the City wishes to dedicate such annual payments from KSI to provide housing programs for low-income residents, initially including operational funding to the new Eastside Women and Family Shelter in Kirkland, particularly with respect to such shelter's transitional housing services to help individuals experiencing homelessness successfully transition to sustainable affordable housing; and

WHEREAS, in consideration for the substantial, additional public benefits associated with (1) the additional units provided for public employee housing under the master lease agreements and (2) the payment to the City of 65% of KSI's property tax savings for use by the City to invest in low-income housing programs and in support of the Eastside Women and Family Shelter, it is in the public interest to amend KMC 5.88 to revise two of the City's MFTE requirements that exceed the requirements of the state MFTE statute and that would otherwise apply to the Plaza project: (1) to remove the requirement that the Plaza MFTE units remain available on an affordable basis for the "life of the project" in favor of a requirement that such units remain affordable for at least as long as the multifamily housing property tax exemption period applicable to the project; (2) to revise the requirement that at least ten percent (10%) of the MFTE units be reserved for occupancy to households at or below fifty percent (50%) AMI in favor of a requirement that at least twenty percent (20%) of the MFTE units be reserved for occupancy to households at or below eighty percent (80%) AMI.

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

Section 1. Kirkland Municipal Code Section 5.88.020 is amended to read as follows:

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 the following percentages 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 where 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 homeowner's dues):

- (A) Eighty percent in zoning districts where additional building height is allowed in exchange for the creation of affordable housing units; or
- (B) One hundred percent in zoning districts where additional dwelling units are allowed in exchange for the creation of affordable housing units.
- (2) Except as otherwise provided for in Section 5.88.090(b)(4), for 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 where no more than thirty percent of the monthly household income is paid for monthly housing expenses (rent and an appropriate utility allowance).
- For rental units for senior citizen households and assisted living units, 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 where no more than sixty percent of the monthly household income is paid for monthly housing and service expenses (including rent and an appropriate utility allowance, and services such as prepared daily meals, regular housekeeping for living units, transportation, personal care, and supportive health services). The actual percentage of monthly household income allowed shall be determined by city staff on a caseby-case basis following an analysis of the extent of services provided in the rental contract. The amount shall not be less than thirty percent nor greater than sixty percent. Assisted living facilities may satisfy this requirement if they accept Medicaid payments as payment in full for assisted living units. In no case shall an entrance, community or other buy-in fee be charged as a condition of renting an affordable unit.

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) "Assisted living facility" means a state-licensed multi-unit establishment which provides living quarters and a variety of limited personal care and at least a minimal amount of supportive health care to individuals who are unable to live independently due to infirmity of age, physical or mental handicap, but who do not need the skilled nursing care of a convalescent center or nursing home. Supportive health care may include health care monitoring, such as assistance with medication, but is limited to health care services which may be provided by a boarding home licensed under Chapter 18.20 RCW. These facilities may consist of individual dwelling units with a full kitchen, partial kitchen or no kitchen. In addition, these facilities may have a communal dining area, recreational facilities (library, lounge, game room, open space),

and/or laundry facilities. Assisted living facilities do not include adult family homes, as defined in Chapter 70.128 RCW.

- (d) "Assisted living unit" means a living unit in an assisted living facility in which a resident receives medical or health care services. A bedroom is the equivalent of a unit for the purpose of calculating the number of assisted living units.
- (e) "Director" means the director of the city's planning and building department, 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.
- (f) "Eligible household" means one or more adults and their dependents who, as set forth in the regulatory agreement referenced in Section <u>5.88.040(7)</u>, 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.
- (g) "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.
- (h) "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.
 - (i) "Owner" means the property owner of record.
- (j) "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.
 - (k) "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 <u>21</u>; 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.
- (I) "Rental units for senior citizen households" means dwelling units qualifying for the "Housing for Older Persons" exemption under the Fair Housing Act.
- (m) "Residential targeted area" means an area within an urban center as defined by Chapter <u>84.14</u> RCW and the city that has been so designated by the city council pursuant to this chapter.
- (n) "Substantial compliance" means compliance with the applicable building and construction codes contained in Title <u>21</u> that is typically required for rehabilitation as opposed to new construction.
- <u>Section 2</u>. Kirkland Municipal Code Section 5.88.040 is amended to read as follows:

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:

- 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 <u>5.88.090</u>.
- 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 recorder's office. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the applicant. Housing units identified for households with household annual income restrictions that are provided under this section shall 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; provided, however, that the requirement that such units continue to be made available to households with the identified household annual income restrictions for the life of the project for rental affordable housing units shall not apply when such units remain affordable for at least as long as the multifamily housing property tax exemption period applicable to the project and the city council has determined the project confers additional, substantial public benefits in the form of additional rental housing units made available for city or other public entity employees in the city and funding for housing programs to help individuals experiencing homelessness and low-income residents to successfully transition to stable, affordable housing.
- (8) 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 <u>5.88.090</u> shall be substantially proportional to the mix and configuration of the total housing units in the project.
- (9) For owner-occupied projects, the contract with the city required under Section <u>5.88.060</u> shall identify those units that shall be eligible per Section <u>5.88.090</u>.
- (10) The project shall comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles <u>21</u> and <u>23</u> of this code.

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New construction of multifamily housing and rehabilitation (11)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.

Section 3. Kirkland Municipal Code Section 5.88.090 is amended to read as follows:

5.88.090 Exemption—Duration—Affordability requirements— Limits.

- (a) The value of all new housing construction in the YBD 1 zoning district shall be exempt from ad valorem property taxation for eight years if not less than twenty percent nor more than fifty percent of the residential units in the zoning district are affordable, as defined in subsection (a)(1) of this section. For owner-occupied projects, the exemption shall apply only to those units that are affordable. For renteroccupied projects, a minimum of ten percent of the total residential units shall be affordable at a maximum of fifty percent of the King County median household income. For renter-occupied projects, the exemption shall extend to twelve years if at least twenty-five percent of the residential units in the zoning district are affordable, with no less than fifteen percent of the residential units affordable at a maximum of fifty percent of the King County median household income. The following standards apply to exemptions in this zoning district:
- "Affordable" means housing reserved for occupancy by eligible households and affordable to households whose household annual income meets the following percentages 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 monthly household income is paid for monthly housing expenses:
- For renter-occupied dwelling units, not more than seventy (A) percent; and
- For owner-occupied dwelling units, not more than eighty percent, or that have such other comparable level of affordability as provided for in KZC 56.10. In the event that HUD no longer publishes median income figures for King County, the city may use another method to determine the King County median income, adjusted for household size.
- "Monthly housing expenses" includes rent and an appropriate utility allowance for renter-occupied dwelling units. It includes mortgage, mortgage insurance, property taxes, property insurance and homeowners' dues for owner-occupied dwelling units.
- (3) 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.
- (4) The residential units may be developed in phases and, subject to the approval of the director, the affordable units may all be located in one of the phases. If phasing is approved, the director may allow separate contracts for each phase.
- The exemption begins January 1st of the year immediately following the calendar year of issuance of the certificate.

(b) In all zoning districts except YBD 1, the value of new housing construction and rehabilitation improvements qualifying under this chapter shall be exempt from ad valorem property taxation for:

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- 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 112KZC. Projects where affordable units are provided through a payment to the city in lieu of construction, as allowed in Chapter 112KZC, 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.
- 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.)
- (3) 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 <u>5.88.020(a)</u> 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 KZC.
- (4) 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); provided, however, that rental projects determined by the city council to confer additional, substantial public benefits in the form of additional <u>housing units for city or other public entity employees in the city and </u> funding for housing programs to help individuals experiencing homelessness and low-income residents to successfully transition to stable, affordable housing shall meet the requirements of this subsection so long as at least twenty percent of the units are affordable to households whose annual household income does not exceed eighty percent of the King County median household income, adjusted for household size. 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 KZC, 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.

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- 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 is no greater than thirty percentage points higher than the applicable 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.
- (c) 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 420 421 exemption does not include the value of improvements constructed prior 422 to submission of the completed application required under this chapter. 423 424 Section 4. The City Manager is authorized and directed to 425 execute the Master Leases with KSI and Sustainable Kirkland related to 426 the Plaza and Arete developments, respectively, in substantially the 427 form attached hereto as Exhibits A and B. 428 429 <u>Section 5</u>. The City Manager is authorized and directed to execute the Multifamily Housing Limited Property Tax Exemption 430 431 Contract and Declaration of Affordable Housing Covenants with KSI related to the Plaza development and to thereafter record such contract 432 and covenant with the King County recorder's office prior to the issuance 433 of a certificate of occupancy for Plaza, which contract and covenant shall 434 435 be in substantially the form attached hereto as Exhibits C and D. 436 437 <u>Section 6</u>. If any provision of this ordinance or its application to 438 any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or 439 circumstances is not affected. 440 441 442 <u>Section 7</u>. This ordinance shall be in force and effect five days 443 from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017, Kirkland Municipal Code in the summary 444 form attached to the original of this ordinance and by this reference 445 446 approved by the City Council. 447 448 Passed by majority vote of the Kirkland City Council in open 449 meeting this 3rd day of September, 2019. 450 451 Signed in authentication thereof this 3rd day of September, 2019. 452 Attest: Publication Date: 09/09/2019 Kathi Anderson, City Clerk Approved as to Form:

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Kevin Raymond, City Attorney

PUBLICATION SUMMARY OF ORDINANCE NO. O-4697

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO THE MULTIFAMILY HOUSING PROPERTY TAX EXEMPTION AND PROVIDING FOR DIFFERENT REQUIREMENTS IN THE EVENT OF RENTAL UNIT PROJECTS PROVIDING SUBSTANTIAL ADDITIONAL PUBLIC BENEFITS.

<u>SECTION 1</u>. Amends the definition of "affordable" as it relates to multi-family housing property tax exemptions.

<u>SECTION 2</u>. Sets forth project eligibility requirements for multi-family housing property tax exemptions.

<u>SECTION 3</u>. Amends the exemption duration criteria for multifamily housing property tax exemption requirements.

<u>SECTION 4</u>. Authorizes the City Manager to execute Master Lease Agreements.

<u>SECTION 5</u>. Authorizes the City Manager to execute the MFTE Contract and Covenant.

<u>SECTION 6</u>. Provides a severability clause for the ordinance.

<u>SECTION 7</u>. 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 3rd day of September, 2019.

I certify that the foregoing is a summary of Ordinance O-4697 approved by the Kirkland City Council for summary publication.

Kathi Anderson, City Clerk

Publication Date: 09/09/2019