

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
CONDOMINIUM CONVERSION AND AMENDING CHAPTER 7.64 KIRKLAND
MUNICIPAL CODE.

Be it ordained by the City Council of the City of
Kirkland as follows:

Section 1. Chapter 7.64 of the Kirkland Municipal
Code, Condominium Conversions, is hereby amended to read
as follows:

7.64.010 Purpose.

The purpose of the chapter is to establish
requirements that will be applied to the conversion
of rental units into condominium units.

7.64.020 Applicability.

This chapter applies to the conversion of a
rental unit that :

- (1) Is occupied at the time a declaration is
filed or at any time during the
~~[one-hundred-twenty-day]~~ notice period established by
RCW 64.34.440(1) [this chapter]; and
- (2) Has not been offered for sale prior to the
effective date of the ordinance codified in this
chapter.

7.64.030 Definitions.

Unless a contrary meaning is clearly indicated
from the context, the following definitions apply in
this chapter:

- (1) "Building" means any existing structure or
group of structures containing one or more dwelling
units and operated under a single name.
- (2) "Condominium" means a building which is
governed by the Horizontal Property Regimes Act (RCW
64.32), or by the Condominium Act (RCW 64.34).
- (3) "Condominium Unit" means a single dwelling
unit in a condominium.
- (4) "Conversion" means the change of rental
units into condominium units resulting from the filing
of a declaration under the Horizontal Property
Regimes Act. (RCW 64.43) or the Condominium Act (RCW
64.34).

(5) "Declaration" means the document by which the building is subject to the provisions of the Horizontal Property Regimes Act (RCW 64.32) or the Condominium Act (RCW 64.34).

(6) "Developer" means any person who undertakes the conversion of rental units.

(7) " Dwelling Unit " means a single unit providing complete, independent living facilities for one or more persons and including permanent provision for living, sleeping, eating, cooking and sanitation.

(8) " Good Cause " means the failure of a tenant to substantially comply with the duty to:

(A) Pay rent when due; or

(B) Keep the rental unit occupied as clean and sanitary as the conditions of the premises permit; or

(C) Properly dispose of all rubbish, garbage or waste in a clean and sanitary manner at reasonable and regular intervals, and assume all costs of extermination and fumigation for infestation caused by the tenant; or

(D) Properly use and operate all electrical, gas, heating, plumbing and other fixtures and appliances supplied by the landlord; or

(E) Not intentionally or negligently destroy, deface, damage, impair or remove any part of the structure or dwelling with the appurtenances thereto including the facilities, equipment, fixtures, furniture, furnishing, and appliances, or permit any member of the family, invitee, licensee, or any person acting under the tenant's control to do so; or

(F) Not permit a nuisance or common waste; or

(G) Conform to all reasonable obligations or restrictions brought to the attention of the tenant as required by RCW 59.18.140 at least thirty days prior to the one-hundred-twenty-day notice period.

(9) " Offer of Sale to the Public " means any advertisement, inducement, solicitation, or attempt by a developer to encourage any person, other than a tenant, to purchase a condominium.

(10) (8) " Person " means any individual, corporation, partnership, association, trustee or other legal entity.

(11) (9) " Rental Unit " means a dwelling unit occupied pursuant to a lease or rental agreement, written or oral, on or after the effective date of the ordinance codified in this chapter, and for which there has not been a written commitment for purchase at a specific price and on specific terms.

(12) (10) " Tenant " means any person entitled to occupy a dwelling unit primarily for purposes of habitation under a lease or rental agreement, written or oral.

(13) "Unlawful Practice" means the violation of, failure to comply with, or attempt to avoid the application of this chapter.

[7.64.040 Notification Requirements.]

(a) Notice of Declaration. A developer shall send a notice of the filing of a declaration to the building official by registered or certified mail, within five days of the date of filing the declaration.

(b) Notice of Intent to Sell, Tenants' Rights, Disclosure.

(1) A developer shall send to the building official, by certified mail:

(A) A notice of his or her intention to sell the rental unit as a condominium unit, and

(B) A statement of tenants' rights defined by this chapter on a form to be provided by the building official, and

(C) A disclosure statement as required by Section 7.64.090;

(2) A developer shall send the notice and statements required by subsection (b)(1) of this section as follows:

(A) To each tenant residing in a unit at the time notice of intent to sell is first sent, and to the building official:

(i) One hundred twenty days before offer of sale to the public of any unit, or if earlier

(ii) One hundred twenty days before notice of eviction for other than good cause;

(B) To each tenant who takes possession after the tent to sell has been first sent for that unit before any binding rental agreement is entered into.

7.64.050 Interim Rent Control.

Rent collected during the one-hundred twenty-day notice period cannot exceed a rate of one hundred percent of the average monthly rate collected in the twelve months prior to the notice of intent to sell required by Section 7.64.040(b).

7.64.060 Right to Purchase.

Each tenant of a building undergoing conversion to whom notice of intent to sell a particular unit is first sent has a first option to purchase the unit in which he or she is residing. The option period will

commence upon receipt of the notice of intent to sell and will be valid for ninety consecutive days.

7.64.070 Relocation Assistance.

The developer shall pay relocation assistance of three hundred fifty dollars per rental unit to any tenant to whom notice of intent to sell a particular unit is first sent, and who, after receiving notice of intent to sell, provides notice to vacate and vacates the building voluntarily, or receives notice to vacate for other than good cause and vacates the building.

7.64.070 Relocation Assistance

A. In the buildings which are the subject of a Condominium Conversion Notice pursuant to RCW 64.34.440(1), relocation assistance of Five Hundred Dollars (\$500.00) per unit shall be paid by the Developer to tenants of rental units who elect not to purchase a unit in the converted building and who are in lawful occupancy for residential purposes of a unit on the date of the Condominium Conversion Notice and whose monthly household income from all sources, on the date of the Condominium Conversion Notice, was less than an amount equal to eighty percent (80%) of the monthly median income for comparably sized households in the Seattle-Everett Standard Metropolitan Statistical Areas, as defined and established by the United States Department of Housing and Urban Development.

B. The household size of a unit shall be based on the number of persons actually in lawful occupancy of the unit on the date of the condominium Conversion Notice.

C. The tenant or subtenant actually in lawful occupancy of the unit shall be entitled to the relocation assistance.

D. Relocation assistance shall be paid on or before the date the tenant or subtenant vacates the unit and shall be in addition to any damage deposit or other compensation or refund to which the tenant is otherwise entitled. Unpaid rent or other amounts owed by the tenant or subtenant to the landlord may be offset against the relocation assistance.

7.64.080 Inspection and Repair

(a) Conversion Standards. Any building undergoing conversion must meet all applicable provisions of the following Uniform Codes as adopted by the city:

- (1) The Uniform Fire Code; and
- (2) The Uniform Housing Code; and
- (3) [The Uniform Building Code; Chapter 55 as amended (relates to Fire Alarm Systems)]; Chapter 21.35 Fire Alarm Systems Kirkland Municipal Code.

(b) Duties of the Developer. The developer shall:

- (1) Arrange for access to all parts of the building official and bureau of fire prevention of any building undergoing conversion; and
- (2) Correct all violations in a unit as noted in the inspection reports required by subsection (c) of this section at least seven days prior to the close of sale of that unit; and
- (3) Correct all violations in the common areas as noted in the inspection reports required by subsection (c) of this section at least seven days prior to close of sale of the first unit;
- (4) Warrant all repairs and improvements made by the developer to each condominium unit for one year from the close of sale of each unit; and
- (5) Warrant all repairs and improvements made by the developer to the common areas for one year from the close of sale of the first unit;
- (6) Obtain a certificate of occupancy issued by the city for each unit at least seven days prior to the close of sale of each unit;
- (7) Obtain a certificate of occupancy issued by the city for each unit at least seven days prior to close of sale of the first unit; and
- (8) Pay to the city the fee established by the building official for inspections.

(9) Warranty of Repairs -- Escrow Fund

(A) Each developer shall warrant for one (1) year from the date of completion all improvements and repairs required to be made.

(B) The developer shall establish within thirty (30) days after sale for the first unit, in a bank or other financial institution of his or her choosing, an escrow fund in an amount equal to ten percent (10%) of the actual cost of all repairs and improvements warranted. The location of the fund shall be made known to all condominium and

cooperative unit owners and to the owners' association and shall be available for making repairs to warranted improvements and repairs; provided, that no money shall be withdrawn from the fund unless the developer has been advised in writing of the need for specific repair and has failed to complete the repair within a reasonable period of time.

(C) Depletion of the escrow fund prior to expiration of the warranty period shall not relieve the developer of the obligation of making all repairs warranted.

(D) Any money remaining in the fund at the end of the one (1) year period shall be returned to the developer, including a trustee in bankruptcy or receiver, even if such funds are commingled.

(c) Duties of City Departments. The building department and bureau of fire prevention shall:

(1) Conduct inspections of all buildings undergoing conversion; and

(2) Issue inspection reports listing all violations of applicable codes discovered during the inspections; and

(3) Conduct inspection of all repairs and improvements in accordance with all permits authorized; and

(4) Issue a certificate of occupancy for each condominium unit and for the common area to the developer only upon satisfactory completion of all repairs and improvements; and

(5) Establish a fee schedule for required inspections.

7.64.090 Information for Prospective Purchasers.

A developer shall provide the following information to prospective purchasers at least seven days before any purchase commitment is signed:

(1) A copy of the inspection reports required by Section 7.664.080(c)(2);

(2) A copy of all documents filed under the Horizontal Property Regimes Act (RGW 64.32);

(2) The location, including name of financial institution of the escrow repair fund required to be established by subsection 7.64.080(b)(9);

(3) An itemization of the specific repairs and improvements made to the building during the six months preceding the declaration.

(4) An itemization of the specific repairs and improvements to be completed.

7.64.100 Enforcement.

The building official is authorized to conduct necessary investigations, and if there appears to be a violation [an unlawful practice], he or she shall undertake one or more of the following:

- (1) Attempt to conciliate the matter and to secure a written conciliation agreement; or
- (2) Initiate criminal prosecution proceedings.

7.64.110 Filing Complaint.

Any person who has been [the object of an unlawful practice] subjected to any violation of the provisions of this chapter may file a complaint with the building official.

~~7.64.120 Private Right of Action.~~

~~Any person who has been the object of an unlawful practice as defined in this chapter or any purchaser in a contract which may be avoided under this chapter may rely on the provisions of this chapter to institute civil proceedings against the developer to:~~

- ~~(1) Secure compliance with the chapter; and~~
- ~~(2) Recover any expenses, including attorney's fees, reasonably incurred.~~

7.64.130 Violation - Penalty

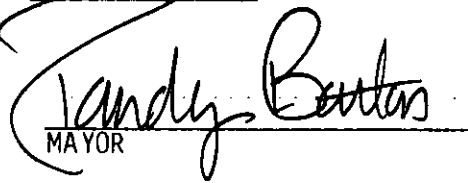
[~~(a) Fine.~~] A person who commits a violation [an unlawful practice] under this chapter shall, upon conviction, be fined a sum not to exceed five hundred dollars for each offense. Each day's [unlawful practice] violation constitutes a separate offense.

[~~(b) Remedial Action.~~] Any binding agreement of sale entered into by a developer which results in [an unlawful practice] under this chapter is:

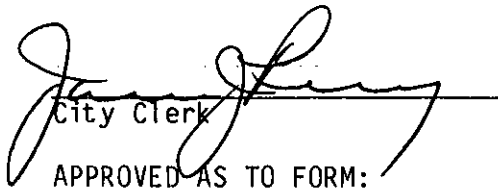
- ~~(1) Void, if the tenant was an object of the unlawful practice, or~~
- ~~(2) Voidable at the option of the purchaser, if the purchaser was the sole object of the unlawful practice.~~

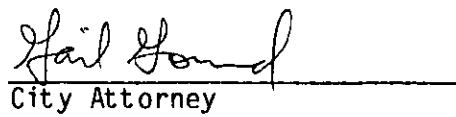
Section 2. This ordinance shall be in force and effect five days from and after its passage by the Kirkland City Council and publication pursuant to Section 1.08.017 of the Kirkland Municipal Code in summary form attached to the original of this Ordinance and by this reference approved by the City Council, as required by law.

Passed by majority vote of the Kirkland City Council
in regular, open meeting this 19th day of
June, 1990.


MAYOR

ATTEST:


City Clerk
APPROVED AS TO FORM:


City Attorney

SUMMARY OF ORDINANCE NO. 3222

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AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO
CONDOMINIUM CONVERSION AND AMENDING CHAPTER 7.64 KIRKLAND
MUNICIPAL CODE.

Section 1. Amends the following Sections of Chapter
7.64 to conform with 1990 Legislative amendments to the
State Condominium Act (RCW 64.34):

7.64.020 Applicability	7.64.030 Definitions
7.64.070 Relocation Assistance	7.64.080 Inspection and Repairs
7.64.090 Information for Prospective Purchasers	7.64.100 Enforcement
7.64.110 Filing Complaint	7.64.130 Violation - Penalty

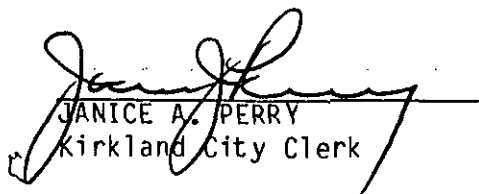
Repeals the following Sections of Chapter 7.64:

7.64.040 Notification Requirements	7.64.050 Interim Rent Control
7.64.060 Right to Purchase	7.64.120 Private Right of Action

Section 2. Authorizes publication by summary,
approves the summary to be published and establishes the
effective date of the Ordinance as five days after passage
and publication of the summary.

The full text of this Ordinance will be mailed
without charge to any person upon request made to the
Kirkland City Clerk. The Ordinance was passed by the
Kirkland City Council at its regular meeting on the 19th
day of June, 1990.

I certify that the foregoing is a summary of
Ordinance 3222, approved by the Kirkland City Council for
summary publication.


JANICE A. PERRY
Kirkland City Clerk