**Subject/Topic:**
Consideration of Ordinance 19-0484 codifying a longer notice of rent increase

**Proposed Council Action/Motion:**
Adoption of Ordinance 19-0484 codifying a longer notice of rent increase

**For Council Meeting Agenda of: 5/20/19**

**Department:** Community Development

**Prepared by:** Debbie Bent, Community Development Director and Lauri Anderson, Principal Planner

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<td>Approved by Department Head: 5/19/19</td>
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**Exhibits/Attachments:**
1. Ordinance 19-0484
2. ESHB 1440

**INFORMATION/BACKGROUND:**
At the Council meeting on April 22, 2019, Council requested that staff prepare an ordinance that would put in place a 90-day notice of rent increase when a tenant’s rent is proposed to increase by more than 10%. The ordinance is attached for your consideration (see Attachment 1).

The new chapter clarifies that if a notice of rent increase provision differing from the new standard is included in a rental agreement, that agreement becomes null and void (new section 8.55.030). This allows the tenant to pursue enforcement but does not make enforcement a City responsibility. New section 8.55.040 allows the landlord and tenant to reach mutual agreement on different notice standards if they so choose.

On April 23, 2019, the Governor signed ESHB 1440 mandating a 60-day notice of rent increase for all tenants—regardless of the size of the increase (see Attachment 2). Kenmore’s ordinance would supplement that requirement for larger rent increases and would go into effect on September 1, 2019.

As Council directed, this new requirement, if adopted by Council, will be publicized in the City’s newsletter and on the website.

**FISCAL CONSIDERATION:**
None at this time.

**COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:**
Council Goal 3: Increase and preserve the options for affordable housing stock.
AN ORDINANCE OF THE CITY OF KENMORE, 
WASHINGTON, RELATING TO NOTICE OF RENT 
INCREASES; ADDING A NEW CHAPTER 8.55 TO THE 
KENMORE MUNICIPAL CODE; AND PROVIDING AN 
EFFECTIVE DATE.

WHEREAS, the City of Kenmore is experiencing increasing rents and some rent increases have been dramatic; and

WHEREAS, the average rent for all units in greater Kenmore in September 2017 was $1,596 compared to $1,031 in September 2012—an increase of 55%; and

WHEREAS, the Washington State Apartment Market Report produced by the Runstad Department of Real Estate at the University of Washington states that King County had an apartment vacancy rate of 3.8% in spring 2018 and 5.2% in fall 2018 despite the significant numbers of new housing units being constructed; and

WHEREAS, vacancy rates below 5% are usually considered the threshold for a tight rental market; and

WHEREAS, tenants often include senior citizens on fixed incomes, low-income tenants, or families with children in school; and

WHEREAS, increasing rent with little notice can create a real emergency for some tenants, with the rent increase essentially functioning as an eviction; and

WHEREAS, an increased notice period for rent increases allows time for tenants to find new housing that fits their budget; and

WHEREAS, an increased notice period for rent increases allows time for tenants to find new affordable housing near jobs and schools; and

WHEREAS, by recent amendment effective July 28, 2019, the state legislature amended RCW 59.18.140 to require a minimum of sixty (60) days advance notice to a tenant of an increase in rent, except in limited circumstances; and

WHEREAS, some cities in Washington including Vancouver, Bellingham, Seattle and Tacoma have historically enacted legislation to require a minimum notice period in excess of the period required by state law; and
WHEREAS, on July 16, 2018, July 23, 2018 and April 22, 2019 the City Council received background information and discussed policy options related to this topic; and

WHEREAS, on April 22, 2019, the City Council directed Staff to prepare amendments to require a 90-day advance notice of rent increase when rents are proposed to increase by more than 10% in a given year; and

WHEREAS, this Ordinance and the amendments therein are an exercise of the City of Kenmore’s police and regulatory authority derived from Wash. Const. art. XI, Section 111, and are consistent with RCW 35.22.280;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Findings Adopted. The City Council adopts the foregoing recitals as findings, which are incorporated herein as if set forth in full.


Section 3. Severability. If any section, sentence, clause or phrase (i.e., provision) of this Ordinance or its application to any person or circumstance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision and the remainder of this Ordinance, or its application of such provisions to other persons or circumstances, shall not be affected.

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force on September 1, 2019.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE ___TH DAY OF __________, 2019.

CITY OF KENMORE

______________________________
David Baker, Mayor

ATTEST.AUTHENTICATED:

______________________________
Kelly Chelin, City Clerk

Approved as to form:

______________________________
Rod P. Kaseguma, City Attorney

Filed with the City Clerk:
Passed by the City Council:
Ordinance No.:
Date of Publication:
Effective Date:
Chapter 8.55
NOTICE OF RENT INCREASE

Section:
8.55.010 Definitions.
8.55.020 Regulations.
8.55.030 Provisions in violations of restrictions null and void.
8.55.040 Rental agreement that waives tenant’s remedies prohibited – Exception.

8.55.010 Definitions.

A. “Landlord” means a “landlord” as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 (“RLTA”) in effect at the time the rental agreement is executed. At the time of passage of the ordinance codified in this chapter, RLTA defined “landlord” as “the owner, lessor, or sublessee of the dwelling unit or the property of which it is a part,” and included any person designated as representative of the landlord, including, but not limited to, an agent, a resident manager, or a designated property manager.

B. “Rental agreement” means a “rental agreement” as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed. At the time of the passage of the ordinance codified in this chapter, the RLTA defined “rental agreement” as “all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.”

C. “Rental unit” means a residential dwelling unit as defined in KMC Section 18.20.810 occupied or rented by a tenant.

C. “Tenant” means a “tenant” as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the RLTA in effect at the time the rental agreement is executed. At the time of passage of the ordinance codified in this chapter, the RLTA defined “tenant” as “any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.”

8.55.020 Regulations.

For any rental agreement or renewal of a rental agreement for a residential rental unit in the City of Kenmore entered into after [add effective date of ordinance], the landlord shall include or shall be deemed to include a provision requiring a minimum of ninety (90) days’ prior written notice whenever the periodic or monthly housing costs to be charged a tenant are to increase by ten (10) percent or more over
the periodic or monthly rental rate charged the same tenant for the same rental unit and same services for any period or month during the preceding twelve (12) month period.

8.55.030 Provisions in violation of restrictions null and void.

Any provisions in violation of KMC 8.55.020 in a rental agreement are null and void and of no lawful force and effect.

8.55.040 Rental agreement that waives tenant’s remedies prohibited - Exception.

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

B. A landlord and tenant may agree, in writing, to waive specific requirements of this chapter if all of the following conditions have been met:

1. The agreement to waive specific provisions is in writing and identifies the specific provisions to be waived; and

2. The agreement may not appear in a standard form written lease or rental agreement; and

3. There is no substantial inequality in the bargaining position of the two (2) parties; and

4. The attorney for the tenant has approved in writing the agreement as complying with subsections (B) (1), (B) (2) and (B) (3) of this section.
CERTIFICATION OF ENROLLMENT

ENGROSSED SUBSTITUTE HOUSE BILL 1440

Chapter 105, Laws of 2019

66th Legislature
2019 Regular Session

LANDLORDS--NOTICE OF RENT INCREASES

EFFECTIVE DATE: July 28, 2019

Passed by the House March 5, 2019
   Yeas 62  Nays 36

FRANK CHOPP
Speaker of the House of Representatives

Passed by the Senate April 10, 2019
   Yeas 29  Nays 18

CYRUS HABIB
President of the Senate
Approved April 23, 2019 3:56 PM

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is ENGROSSED SUBSTITUTE HOUSE BILL 1440 as passed by House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN
Chief Clerk

FILED

April 24, 2019

JAY INSLEE
Governor of the State of Washington

Secretary of State
State of Washington
AN ACT Relating to providing longer notice of rent increases; and
amending RCW 59.18.140.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Sec. 1. RCW 59.18.140 and 2010 c 8 s 19022 are each amended to
read as follows:

(1) The tenant shall conform to all reasonable obligations or
restrictions, whether denominated by the landlord as rules, rental
agreement, rent, or otherwise, concerning the use, occupation, and
maintenance of his or her dwelling unit, appurtenances thereto, and
the property of which the dwelling unit is a part if such obligations
and restrictions are not in violation of any of the terms of this
chapter and are not otherwise contrary to law, and if such
obligations and restrictions are brought to the attention of the
tenant at the time of his or her initial occupancy of the dwelling
unit and thus become part of the rental agreement.

(2) Except for termination of tenancy and an increase in the
amount of rent, after thirty days written notice to each affected
tenant, a new rule of tenancy (including a change in the amount of
rent) may become effective upon completion of the term of the rental
agreement or sooner upon mutual consent.
(3)(a) Except as provided in (b) of this subsection, a landlord shall provide a minimum of sixty days' prior written notice of an increase in the amount of rent to each affected tenant, and any increase in the amount of rent may not become effective prior to the completion of the term of the rental agreement.

(b) If the rental agreement governs a subsidized tenancy where the amount of rent is based on the income of the tenant or circumstances specific to the subsidized household, a landlord shall provide a minimum of thirty days' prior written notice of an increase in the amount of rent to each affected tenant. An increase in the amount of rent may become effective upon completion of the term of the rental agreement or sooner upon mutual consent.

Passed by the House March 5, 2019.
Passed by the Senate April 10, 2019.
Approved by the Governor April 23, 2019.
Filed in Office of Secretary of State April 24, 2019.

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