

Clerk's copy

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Introduced by: RUBY CHOW

79-183

ORDINANCE NO. 4189

AN ORDINANCE relating to disclosure of information to tenants and prospective purchasers of rental units which are being converted to condominium apartments; requiring that notice be given to tenants prior to conversion; prohibiting evictions during such period except for good cause; establishing a first right of purchase on behalf of tenants; requiring Housing Code inspection and compliance prior to the sale of a condominium apartment; providing for enforcement and administration; and declaring an emergency.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

PART I

GENERAL PROVISIONS

SECTION 1. LEGISLATIVE FINDINGS AND DECLARATION OF

PURPOSE. While there are many advantages in owning one's home or condominium apartment, including stable monthly payments and income tax deductions for interest and property taxes, recent trends in the County have caused problems which must be addressed. Therefore, the King County Council hereby finds and declares:

- A. That there has been a recent, substantial increase in the number of rental units converted to condominium apartments within King County;
- B. That there has been a recent, substantial increase in the number of condominium declarations filed within King County;
- C. That, according to the Federal Home Loan Bank Survey, there exists a low vacancy rate for rental units countywide, and projections indicate no substantial increase in the vacancy rate within the reasonably foreseeable future;

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1 D. That the conversion of rental units to condominium
2 apartments reduces the number of rental units
3 available on the open market and causes severe
4 hardships for tenants, especially the elderly
5 and those of low and moderate income, who must
6 secure new housing on short notice in a tight
7 market;

8 E. That rental units have been converted with
9 inadequate notice provided to tenants, further
10 compounding the hardship suffered by those who
11 must seek new housing as a result of conversions;

12 F. That substandard rental units have been converted
13 with inadequate disclosure and no correction of
14 existing defects to prospective purchasers, in-
15 cluding former tenants, and such failure has
16 caused severe hardships for the purchasers of
17 these units;

18 G. That the purpose of this ordinance is to alleviate
19 the aforementioned hardships on citizens of King
20 County by providing for fair disclosure of
21 conversions, protection of tenants in units
22 being converted, mitigation of hardships caused
23 by conversion displacement, and Housing Code
24 inspection and compliance prior to sale of a
25 converted apartment.

26 SECTION 2. DEFINITIONS. For purposes of this Ordinance
27 the following terms shall have the meanings set forth below.

28 A. Apartment. "Apartment" shall mean any apartment
29 as defined by the King County Zoning Code, KCC 21.04.050.
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1 B. Building. "Building" shall mean any existing
2 structure containing one or more housing units and any grouping
3 of such structures which as rental structures were operated under
4 a single name and as converted buildings are the subject of a
5 single declaration or simultaneous declarations filed pursuant
6 to the State Horizontal Property Regimes Act, RCW Chapter 64.32.

7 C. Condominium. "Condominium" shall mean real estate
8 subject to that form of ownership, as established and declared by
9 RCW chapter 64.32, whereby the owner of each condominium apartment
10 is entitled to the exclusive ownership and possession of his or
11 her apartment in fee simple absolute or qualified, by way of
12 leasehold or by way of periodic estate, or in any other manner in
13 which real property may be owned, leased or possessed in this
14 State, together with an undivided interest in a like estate
15 of the common areas and facilities in the percentage specified
16 in the declaration as duly recorded under State law.

17 D. Conversion. "Conversion" shall mean the act of
18 filing a declaration pursuant to RCW chapter 64.32 where the
19 resultant condominium includes or is part of any building that
20 at any time prior to recording of the declaration was occupied
21 wholly or in part by tenants. "Conversion" shall also include
22 the sale by a developer of condominium apartments that were pre-
23 viously rental units.

24 E. Developer. Any person, firm, partnership, joint
25 venture, corporation or any other entity or combination of en-
26 tities who undertake the conversion, sale, or offering for sale
27 of condominium apartments. "Developer" shall also include the
28 agents of and successors to developers. A person who purchases
29 a condominium apartment and then rents same shall not be considered
30 a "developer" of that unit.
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1 F. Director. "Director" shall mean the Director of
2 the King County Department of Planning and Community Development
3 and his or her designees.

4 G. Eviction. "Eviction" shall mean any effort by
5 a developer to deprive a tenant of possession of premises or to
6 terminate a tenancy by lawful or unlawful means.

7 H. Housing Code. "Housing Code" shall mean the
8 King County Housing Code, as codified and incorporated by KCC
9 16.04.010(3) and KCC 16.04.040.

10 I. Offer for Sale. "Offer for Sale" shall mean a
11 written offer to sell a condominium apartment to the tenant in
12 possession of that unit at a specific price and on specific terms
13 or any advertisement, inducement, solicitation, or attempt by a
14 developer to encourage any person other than a tenant to purchase
15 a condominium apartment.

16 J. Owners' Association. "Owners' Association" shall
17 mean an association formed by owners of condominium apartments,
18 acting as a group in accordance with bylaws and a duly recorded
19 condominium declaration, for the purpose of managing a condominium

20 K. Person. "Person" shall mean a natural person,
21 corporation, partnership, association, trust, other entity,
22 or any combination thereof.

23 L. Prospective Purchaser. "Prospective purchaser"
24 shall mean any person, including existing tenants or subtenants,
25 who expresses an interest to a declarant or the agent of a
26 declarant in purchasing a condominium apartment.

27 M. Purchase. "Purchase" shall mean the transmission
28 of property from one person to another by voluntary act and
29 agreement, founded on a valuable consideration, and shall
30 include the consummation of an earnest money agreement.
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1 N. Rental Unit. "Rental unit" shall mean any
2 "dwelling unit", as that term is defined in the King County
3 Zoning Code, KCC 21.04.255, which is being rented on a periodic
4 basis or leased for purposes of habitation.

5 O. Tenant. "Tenant" shall mean any person who is
6 entitled to occupy a rental unit primarily for living or dwelling
7 purposes under a rental or lease agreement, written or oral,
8 express or implied. The term "tenant" shall also include a
9 subtenant as defined in "P" below unless the two terms are
10 specifically distinguished. For purposes of the notices and
11 disclosures required by this Ordinance, the term "tenant" shall
12 mean the tenant of record on the rental agreement.

13 P. Subtenant. "Subtenant" shall mean a person in
14 occupancy with the written consent of the owner.

15 SECTION 3. APPLICATION.

16 A. In General. This Ordinance shall apply only to the
17 conversion and sale of rental units that have not yet been
18 converted to condominium apartments and to those units in con-
19 verted buildings that are not yet subject to a binding purchase
20 commitment or have not been sold on the effective date of this
21 Ordinance. However,, in the case of occupied units for which a
22 declaration has been filed pursuant to RCW Chapter 64.32 and
23 whose tenants have received notice of such declaration and of
24 the developer's intent to sell prior to the effective date of
25 this Ordinance, the notice requirements of Part II of this
26 Ordinance shall be deemed fulfilled if the notices delivered
27 to tenants and subtenants in possession are at least equal
28 to those required in Part II. The provisions of this Ordinance
29 shall not apply to a unit once it has been sold as a condominium
30 apartment. Part II of this Ordinance, Protection of Tenants,
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1 shall not apply to condominium apartments that are vacant on the
2 effective date of this Ordinance and which have been offered for
3 sale prior to that date; provided that any tenant who takes
4 possession of the apartment after said date shall be provided the
5 disclosures required by Section 3B of this Ordinance and shall be
6 entitled to the benefits of that section if the required dis-
7 closures are not given.

8 B. Application to Tenants. This Ordinance shall apply
9 only to those tenants who are in possession of rental units in
10 converted buildings at the time the notices, offers, and dis-
11 closures provided by this Ordinance are required to be delivered,
12 including tenants who have received an eviction notice under
13 RCW 59.18.200 effective after the effective date of this Ordinance.
14 This Ordinance shall not apply to tenants who take possession
15 of a unit vacated by a tenant who has received the notices and
16 other benefits provided by this Ordinance; provided, that
17 developers shall disclose in writing to all tenants who take
18 possession after service of the 120-day notice required by
19 this Ordinance that the unit has been sold or will be offered
20 for sale as a condominium apartment. This disclosure shall be
21 made prior to the execution of any written rental agreement or
22 prior to the tenant's taking possession whichever occurs earlier.
23 A developer's failure to disclose, within the time specified
24 above, that the unit has been sold or offered for sale shall
25 entitle the tenant to all the other protections and benefits of
26 this Ordinance.

27 C. New Condominium Apartments. Newly constructed
28 apartment units for which a certificate of occupancy is issued
29 subsequent to the date of this Ordinance, and which have been
30 declared as condominiums prior to occupancy, shall be exempt
31 from the provisions of the ordinance for a period of 280 days.
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1 developer shall also deliver to the tenant a statement, in an
2 easily understandable format to be provided by the Director,
3 of the tenant's rights under this Ordinance.

4 B. Prior to Offer for Sale. At least 120 days prior
5 to offering any rental unit or units for sale to the public as a
6 condominium apartment unit, the developer shall serve each tenant
7 in the building with written notice of his or her intention to
8 sell the unit or units. The notice shall specify the individual
9 units to be sold and the sale price of each unit. This notice
10 shall be in addition to and not in lieu of any notices required
11 for eviction by RCW Chapter 59.12 and RCW Chapter 59.18. With
12 the notice the developer shall also deliver to the tenant a
13 statement, in an easily understandable format to be provided by
14 the Director, of the tenant's rights under this Ordinance.

15 SECTION 6. TENANT'S PURCHASE RIGHTS.

16 A. Rights of Tenants in Possession. With the 120-day
17 notice provided by this Ordinance, the developer shall deliver
18 to each tenant whose unit is to be offered for sale a firm offer
19 of sale of the unit that the tenant occupies. In the event that
20 more than one tenant occupies a single unit, the developer shall
21 deliver the offer to all tenants jointly or separately. For 60
22 days from the date of delivery of the offer a tenant shall have
23 the exclusive right to purchase his or her unit. For a period
24 of one year following the first rejection of an offer by a tenant
25 in possession, the developer shall not offer that unit for sale
26 to any other person on terms in any respect more favorable than
27 those offered the tenant; provided that, nothing in this section
28 shall prevent the developer from offering a discounted price
29 to the original tenant in possession. Should the original tenant
30 in possession reject the discounted offer, that offer may be
31 extended to any other person.

1 Tenants of rental units which were offered for sale
2 as condominium apartments prior to the effective date of this
3 Ordinance, but for which offers there have been no acceptances,
4 shall be entitled to the rights and benefits of this Ordinance
5 except that those rights provided by Paragraph C of this Section
6 shall terminate 60 days from the offer of sale of the unit
7 to the tenant.

8 B. Rights of Subtenants in Possession. Should a tenant
9 reject an offer of sale, a subtenant in possession at the time
10 the 120-day notice provided by this Ordinance is delivered shall
11 be offered the unit on the same terms as those offered the tenant.
12 For 30 days following the offer or until the expiration of the
13 tenant's 60-day purchase period as provided in Paragraph A of
14 this Section, whichever occurs later, the subtenant shall have
15 the exclusive right to purchase the unit.

16 C. Rights to Purchase Other Units. Should both the
17 tenant and subtenant reject the offer of sale or vacate, the
18 unit shall be made available to other tenants and subtenants
19 in the building. A tenant and his or her subtenant shall have
20 the right between them to purchase one other unit in the building,
21 and this right shall extend to the end of the 120-day notice
22 period provided the tenant in possession of that unit. The
23 tenant's right to purchase another unit under this section
24 shall take precedence over a subtenant's right. Whenever all
25 tenants and subtenants in a building have indicated in writing
26 their intention not to purchase a unit and that unit is or
27 becomes vacant then the developer may offer for sale and sell
28 the unit to the public.

29 D. Acceptance. Acceptance by tenants or other
30 beneficiaries of offers provided pursuant to this Ordinance
31 shall be in writing and delivered to the developer by registered
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1 or certified mail postmarked on or before the expiration date
2 of the offer.

3 SECTION 7. TENANT'S RIGHT TO RESCIND.

4 A tenant may rescind an earnest money agreement or any
5 other acceptance of an offer of sale by delivering to the
6 developer or his agent, by registered or certified mail, written
7 notice of revocation within 15 days of acceptance of the
8 offer. Upon receipt of a timely revocation the developer
9 shall immediately refund any deposit, earnest money, or other
10 funds and the parties shall have no further rights or liabil-
11 ities under the purchase agreement. Developers shall include
12 in their sales contracts a clause informing purchasers of their
13 rights under this Section. The clause shall be located either
14 immediately above the purchaser's signature or under a separate
15 conspicuous caption entitled "Purchaser's Right to Cancel."
16 In addition each binding sale agreement shall provide that the
17 prevailing party in any action to enforce rights under the
18 agreement shall be entitled to reasonable attorney's fees.

19 SECTION 8. UNLAWFUL EVICTIONS.

20 A. A developer shall not evict tenants or force
21 tenants to vacate their rental units, through
22 unreasonable increases in rents or any other
23 device, for the purpose of avoiding application
24 of this Ordinance. During the 90-day period
25 immediately preceding filing of a declaration,
26 a developer shall not increase rents in an affected
27 unit in a cumulative amount greater than 10% of
28 the base rent that was charged at the beginning
29 of the 90-day period. If a unit was unoccupied
30 at the beginning of the 90-day period but was sub-
31 sequently rented during that period, then the
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base rent shall be that initially charged the tenant. A developer shall not increase rents in an affected unit from the time a declaration is filed until expiration of the 120-day notice period provided by Section 5 of this Ordinance and pertaining to sale of that particular unit. If a unit was unoccupied at the time of filing the declaration but was subsequently rented during the period, then the base rent shall be that initially charged the tenant.

B. A tenant shall be evicted only for good cause during the 120-day notice period provided by Section 5 of this Ordinance and pertaining to sale of the tenant's unit. For the purposes of this Ordinance good cause shall mean:

(1) failure to quit the premises after expiration of the term of the lease as provided in RCW 59.12.030(1) (not applicable to periodic tenancy); (2) failure to pay rent after service of a three (3) day notice to pay rent or vacate as provided in RCW 59.12.030(3); (3) failure to comply with a term or terms of the tenancy after service of a ten (10) day notice to comply or vacate as provided in RCW 59.12.030(4); and (4) the commission or permission of a waste or the maintenance of a nuisance on the premises and failure to vacate after service of a three (3) day notice as provided in RCW 59.12.030(5).

1 SECTION 9. RELOCATION ASSISTANCE.

2 Relocation assistance in an amount per rental unit
3 equal to \$350.00 or two months rent (computed at the most
4 recent rate), whichever is greater, shall be paid by the develop
5 to tenants and subtenants who vacate the building after receiving
6 the 120-day notice of intention to sell as provided by this
7 Ordinance, except where the tenant or subtenant is evicted for
8 cause under RCW 59.12.030. In unfurnished sublet units the
9 subtenant shall be entitled to the benefits of this provision.
10 Otherwise, the tenant shall be entitled to the benefit: provided,
11 that the developer shall not be obligated to determine tenant
12 from subtenant and shall have fulfilled his obligation under this
13 Section by delivering the relocation benefit to either the tenant
14 or the subtenant. Relocation assistance shall be paid on or
15 before the date the tenant or subtenant vacates and shall be in
16 addition to any damage deposit or other compensation or refund
17 to which the tenant is otherwise entitled.

18 SECTION 10. TENANT'S RIGHT TO VACATE. Nothing in
19 this Ordinance shall be construed as limiting a tenant's right
20 to vacate the premises at any time in the manner prescribed
21 by law.

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23 PART III

24 CONSUMER PROTECTIONS

25 SECTION 11. MANDATORY HOUSING CODE INSPECTION. Prior
26 to service of a 120-day notice for any rental unit in a building,
27 a developer shall request a Housing Code inspection of the entire
28 building from the Division of Building and Land Development.
29 The compliance inspection shall be completed within 45 days
30 of receipt by the Division of the developer's written request.

1 All violations of the Housing Code revealed by the inspection,
2 must be corrected at least seven (7) days prior to the closing
3 of the sale of the first unit or by the compliance date on the
4 inspection report, whichever is sooner. A copy of the inspection
5 report and certification of repairs shall be provided by the
6 developer to each prospective purchaser at least seven (7) days
7 before the signing of any earnest money agreement or other
8 binding purchase commitment. Copies of the inspection report
9 shall be served on tenants in the building by the developer with
10 the 120-day notice of intent to sell provided by this Ordinance.

11 SECTION 12. CERTIFICATION OF REPAIRS. For the pro-
12 tection of the general public, the Division of Building and
13 Land Development shall inspect the repair of defective conditions
14 identified in the inspection report and certify corrected vio-
15 lations. The certification shall state that only those defects
16 discovered by the Housing Code inspection and listed on the
17 inspection report have been corrected and that the certification
18 does not guarantee that all Housing Code violations have been
19 corrected. Prior to closing any sale the developer shall de-
20 liver a copy of the certificate to the purchaser. No developer,
21 however, shall use the Division's certification in any advertising
22 or indicate to anyone, in any fashion, for the purpose of inducing
23 a person to purchase a condominium apartment, that King County
24 or any of its agencies has "approved" the building or any unit
25 for sale on account of such certification.

26 * SECTION 13. REQUIRED DISCLOSURES. In addition to
27 the disclosures required by previous Sections of this Ordinance,
28 developers shall make available the following information to
29 prospective purchasers at least seven (7) days before any
30 purchase commitment is signed, or, in the case of tenants in
31 possession, with the 120-day notice provided by this Ordinance:
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1 A. General Disclosures.

2 (1) copies of all documents filed with any governmental
3 agency pursuant to the Horizontal Property Regimes Act, RCW
4 Chapter 64.32;

5 (2) an itemization of the specific repairs and improve-
6 ments relating to correction of Housing Code violations and
7 made to the entire building during the six (6) months immediately
8 preceding the offer for sale;

9 (3) an itemization of the repairs and improvements
10 relating to correction of Housing Code violations and to be
11 completed before close of sale;

12 (4) a statement of the services and expenses which are
13 being paid for by the developer but which will in the future
14 be terminated, or transferred to the purchaser; or transferred
15 to the owners' association;

16 (5) an accurate estimate of the useful life of the
17 building's major components and mechanical systems (foundation,
18 exterior walls, exterior wall coverings other than paint or
19 similar protective coating, exterior stairs, floors and floor
20 supports, carpeting in common areas, roof cover, chimneys,
21 plumbing system, heating system, water heating appliances,
22 mechanical ventilation system, and elevator equipment); and

23 (6) an estimate of the cost of repairing any component
24 whose useful life will terminate in less than five years from
25 the date of this disclosure. For each system and component
26 whose expected life cannot be accurately estimated, the developer
27 shall provide a detailed description of its present condition
28 and an explanation of why no estimate is possible.
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2 B. Statement of Itemized Costs.

3 The developer shall also provide an itemized statement
4 in budget form of the monthly costs of owning the condominium
5 apartment that the purchaser intends to buy. The itemization
6 shall include but shall not be limited to: payments on purchase
7 loan; taxes; insurance; utilities (which shall be listed
8 individually); homeowner's assessments; the projected monthly
9 assessment needed for replacing building components and systems
10 whose life expectancy is less than five (5) years; and a state-
11 ment of the budget assumptions concerning occupancy and inflation
12 factors.

13 SECTION 14. WARRANTY AND ESCROW FUND.

14 A. Warranty of Repairs. Each developer shall warrant
15 for one (1) year from the date of completion all improvements
16 and repairs disclosed pursuant to this Ordinance.

17 B. Escrow Fund. The developer shall establish within
18 30 days after sale of the first unit in the converted building,
19 in a bank or other financial institution of his choosing, an
20 escrow fund for the benefit and protection of the owners'
21 association in an amount equal to 10% of the cost of all repairs
22 and improvements warranted. Alternatively, a developer may
23 satisfy the requirements of this section through use of a
24 sight irrevocable letter of credit for the benefit and pro-
25 tection of the owners' association. The location of the fund
26 or letter of credit shall be made known to all condominium
27 apartment owners and to the owners' association and shall be
28 available for insuring completion of warranted improvements
29 and repairs: provided, that no money shall be withdrawn from
30 the fund or through the letter of credit unless the developer
31 has been advised in writing of the need for the specific repair
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1 and has failed to complete the repair within a reasonable
2 period of time. Depletion of the escrow fund or the fund
3 established through the letter of credit prior to expiration
4 of the warranty period shall not relieve the developer of
5 the obligation of making all repairs and improvements warranted.
6 Any money remaining in the escrow fund or the fund established
7 through the letter of credit at the end of the one year period
8 shall be returned to the developer. Any claim of the owners'
9 association to any money in the escrow fund or the fund estab-
10 lished through the letter of credit shall be prior to any credito
11 of the landlord, including a trustee in bankruptcy or receiver,
12 even if such funds are commingled.

13 SECTION 15. UNLAWFUL REPRESENTATIONS. It shall be
14 unlawful for any developer, agent, or person to make or cause
15 to be made in any disclosure or other document required by this
16 Ordinance any statement or representation that is knowingly
17 false or misleading. It shall also be unlawful for any
18 developer, agent, or other person to make, or cause to be made,
19 to any prospective purchaser, including a tenant, any oral
20 representation which differs materially from the statements
21 made in the disclosures and other documents required to be
22 provided tenants and purchasers by this Ordinance.

23 SECTION 16. PURCHASERS RIGHT TO RESCIND. Any
24 purchaser who does not receive the notices, disclosures, and
25 documents required by this Ordinance may, at any time prior
26 to closing of the sale, rescind, in writing, any binding purchase
27 agreement without any liability on the purchaser's part, and
28 the purchaser shall thereupon be entitled to the return of any
29 deposits made on account of the agreement.
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PART IV

ENFORCEMENT AND ADMINISTRATION

SECTION 17. ENFORCEMENT. The Director is authorized to enforce the provisions of this Ordinance, and any rules and regulations promulgated thereunder, pursuant to the enforcement and penalty provisions of the King County Enforcement Ordinance, KCC Title 23.

SECTION 18. ADMINISTRATION. The Director is authorized to promulgate and adopt administrative rules and regulations under the procedures specified in Ordinance 2165, KCC Chapter 2.98, for the purpose of implementing and enforcing the provisions of this Ordinance. Such rules and regulations may include, but shall not be limited to, (1) a fee schedule designed to reasonably compensate the County for the costs incurred by inspections required under this Ordinance; (2) a procedure for checklists which can be signed by the developer, purchaser or tenant, as appropriate, to indicate that various requirements of this Ordinance have been met.

SECTION 19. SEVERABILITY. Should any section, subsection, paragraph, sentence, clause or phrase of this Ordinance be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION 20. EMERGENCY. The County Council finds as a fact and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of public peace, health or safety or for the support of county government and its existing public institutions.

1 SECTION 21. IMPLEMENTATION. The County Executive shall
2 report to the County Council by the first of May, 1981, on the
3 effectiveness of implementation of this Ordinance, and any
4 necessary changes shall be made to update the Ordinance.
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21 INTRODUCED AND READ for the first time this 15th day of

22 February, 1979.

23 PASSED this 16th day of April, 1979.

24 KING COUNTY COUNCIL
25 KING COUNTY, WASHINGTON

26 Richard K. Row
27 Chairman

28 ATTEST:

29 Barbara M. Row
30 Deputy Clerk of the Council

31 APPROVED this 27th day of April, 1979.

32 David J. Bellman
33 King County Executive