

ORDINANCE O-4759

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO A
TEMPORARY MORATORIUM ON RESIDENTIAL TENANT
EVICTIONS AND THE COVID-19 PANDEMIC.

1 WHEREAS, on February 29, 2020, Governor Inslee issued
2 Proclamation 20-05, proclaiming a State of Emergency for all
3 counties throughout the state of Washington as a result of the
4 coronavirus disease 2019 (COVID-19) outbreak in the United
5 States and confirmed person-to-person spread of COVID-19 in the
6 state; and

7
8 WHEREAS, as a result of the worldwide spread of COVID-
9 19, its significant progression in the state of Washington, and the
10 high risk posed to our most vulnerable populations, Governor
11 Inslee issued amendatory Proclamations 20-06 through 20-50
12 exercising his emergency powers under RCW 43.06.220 by
13 prohibiting certain activities and waiving and suspending specified
14 laws and regulations; and

15 WHEREAS, on February 29, 2020, the City Manager did
16 execute a Proclamation of Emergency related to COVID-19, which
17 proclamation was thereafter ratified by the City Council through
18 Resolution R-5411 on March 3, 2020; and

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20 WHEREAS the Governor's State of Emergency and the City
21 Manager's Proclamation of Emergency remain in effect; and

22
23 WHEREAS, the COVID-19 pandemic caused a sustained
24 global economic slowdown, including an economic downturn
25 throughout the state of Washington, with significant numbers of
26 layoffs and reduced work hours for a significant percentage of our
27 workforce due to substantial reductions in business activity which
28 have impacted commercial sectors that support our state's
29 economic vitality, including such impacts to the small businesses
30 that help the state's economy thrive; and

31
32 WHEREAS, many workers impacted by these layoffs and
33 substantially reduced work hours have suffered economic
34 hardship, resulting in the inability to pay for basic household
35 expenses, including rent; and

36

37 WHEREAS, the inability to pay rent by these members of
38 our workforce increases the likelihood of eviction from their
39 homes, potentially leading to homelessness and threatening a
40 new public health crisis just as communities are beginning to
41 recover from COVID-19; and

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43 WHEREAS, many renters with an inability to pay rent due
44 to COVID-19 may also face an increased likelihood of eviction due
45 to the lapse or expiration of their leases; and

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47 WHEREAS, in King County, including in Kirkland, people of
48 color have been disproportionately impacted by the economic
49 shutdown, with some groups experiencing reported
50 unemployment rates of up to 39 percent in King County; and

51
52 WHEREAS, only 57 percent of renters could afford even a
53 \$400 unexpected expense according to the Board of Governors of
54 the Federal Reserve System's "Report on the Economic Well-Being
55 of U.S. Households in 2019, Featuring Supplemental Data from
56 April 2020"; and

57
58 WHEREAS, the Seattle Times on June 4, 2021 reported that
59 a May 2021 survey by the U.S. Census bureau estimated that
60 126,106 households, or 8 percent of renters across Washington
61 and 84,808 households, or 9 percent, in the Seattle area are now
62 behind on rent; and

63
64 WHEREAS, Governor Inslee's State of Emergency
65 Proclamation 20-19 related to Evictions and Related Housing
66 Practices, as amended, is set to expire on June 30, 2021; and

67
68 WHEREAS, in order to avoid a large increase in evictions
69 and homelessness related to nonpayment of rent or lapse of lease
70 during the pandemic, it is necessary to provide interim eviction
71 protections to residential tenants in Kirkland who have faced loss
72 of income due to COVID-19 in the event State of Emergency
73 Proclamation 20-19, as amended, is not extended beyond the end
74 of June 2021.

75
76 NOW, THEREFORE, the City Council of the City of Kirkland
77 do ordain as follows:

78
79 Section 1. In any action for unlawful detainer due to
80 nonpayment of rent, it shall be a defense that the unpaid rent

81 became due during the Emergency Proclamation and through
82 September 30, 2021 and was unpaid because of a substantial
83 reduction in household income or a substantial increase in
84 expenses resulting from the COVID-19 pandemic. In any action
85 for unlawful detainer due to lapse or expiration of lease, it also
86 shall be a defense that such lease lapsed or expired during the
87 Emergency Proclamation and through September 30, 2021 when
88 the tenant has experienced a substantial reduction in household
89 income or a substantial increase in expenses resulting from the
90 COVID-19 pandemic. In both instances, this includes, but is not
91 limited to, where, as a result of the pandemic, the tenant suffered
92 a loss of employment or a reduction in hours, was unable to work
93 because their children were out of school, was unable to work
94 because they were sick with COVID-19 or caring for a household
95 or family member who was sick with COVID-19, they were
96 complying with a recommendation from a public health official or
97 agency to self-quarantine, including to avoid the risk of medical
98 complications to themselves or others, or they incurred substantial
99 out of pocket medical expenses due to COVID-19. Any notice
100 served on a residential tenant demanding rent that became due
101 during the Emergency Proclamation and through September 30,
102 2021 shall include the following statement in bold underlined 12-
103 point type: "**You may not be evicted for rent that became**
104 **due during the City of Kirkland's Proclamation of**
105 **Emergency if your lease lapsed or expired or the rent was**
106 **unpaid because of a substantial reduction in household**
107 **income or a substantial increase in expenses related to**
108 **the COVID-19 pandemic. This does not relieve you of the**
109 **obligation to pay back rent in the future.**" Nothing in this
110 section shall relieve the tenant of liability for unpaid rent.

111
112 Section 2. Notwithstanding any lease provision to the
113 contrary, for residential tenancies, no late fees or other charges
114 arising out of such lapse or expiration of lease or nonpayment of
115 rent, including those incurred for the collection of such rent, may
116 be imposed against any tenant for lapse or expiration of lease or
117 for rent that became due during the Emergency Proclamation and
118 through September 30, 2021.

119 Section 3. Until no earlier than September 30, 2021, a
120 landlord shall not seek to remove a tenant from a residential
121 property unless the landlord attaches an affidavit with an eviction
122 or termination of tenancy notice attesting that the action is
123 necessary to respond to a significant and immediate risk to the

124 health, safety, or property of others created by the resident or
 125 showing that at least 60 days' written notice were provided of the
 126 property owner's intent to (i) personally occupy the premises as
 127 the owner's primary residence or (ii) sell the property. Any such
 128 60-day notice of intent to sell or personally occupy shall be in the
 129 form of an affidavit signed under penalty of perjury. For purposes
 130 of this ordinance, a "significant and immediate risk to the health,
 131 safety, or property of others created by the resident" (a) is one
 132 that is described with particularity; (b) as it relates to "significant
 133 and immediate" risk to the health and safety of others, including
 134 any behavior by a resident which is imminently hazardous to the
 135 physical safety of other persons on the premises (RCW 59.18.130
 136 (8)(a)); (c) cannot be established on the basis of the resident's
 137 own health condition or disability; (d) excludes the situation in
 138 which a resident who may have been exposed to, or contracted,
 139 the COVID-19, or is following Department of Health or other
 140 relevant health official or agency guidelines regarding isolation or
 141 quarantine; and (e) excludes circumstances that are not urgent in
 142 nature, such as conditions that were known or knowable to the
 143 landlord, property owner, or property manager pre-COVID-19 but
 144 regarding which that entity took no action.

145 Section 4. For purposes of this ordinance, the following
 146 definitions shall apply:

- 147 (a) "Landlord" shall have the same definition as that found in
 148 RCW 59.18.030(15) and RCW 59.20.030(6).
- 149 (b) "Rent" shall have the same definition as RCW 59.18.030(28).
- 150 (c) "Tenant" shall refer to any individual renting a dwelling unit or
 151 lot primarily for living purposes, including anyone with a
 152 tenancy subject to RCW 59.18 or RCW 59.20.

153
 154 Section 5. If any provision of this ordinance or its
 155 application to any person or circumstance is held invalid, the
 156 remainder of the ordinance or the application of the provision to
 157 other persons or circumstances shall not be affected.

158
 159 Section 6. This ordinance shall be in force and effect five
 160 days from and after its passage by the Kirkland City Council and
 161 publication pursuant to Kirkland Municipal Code Section 1.08.017
 162 in the summary form attached to the original of this ordinance and
 163 by this reference approved by the City Council.

164 Passed by majority vote of the Kirkland City Council in open
165 meeting this _____ day of _____, 2021.

166
167 Signed in authentication thereof this _____ day of
168 _____, 2021.

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

PUBLICATION SUMMARY
OF ORDINANCE NO. 4759

AN ORDINANCE OF THE CITY OF KIRKLAND RELATING TO A TEMPORARY MORATORIUM ON RESIDENTIAL TENANT EVICTIONS AND THE COVID-19 PANDEMIC.

SECTION 1. Provides a defense in unlawful detainer actions due to lapse of lease or nonpayment of rent that became due during an Emergency Proclamation through September 30, 2021.

SECTION 2. Limits the collection of late fees and other charges for lapse of lease or nonpayment of rent during the Emergency Proclamation through September 30, 2021.

SECTION 3. Sets forth the conditions a landlord may remove a tenant from a residential property.

SECTION 4. Defines the meaning of the words "landlord," "rent" and "tenant" for the Ordinance.

SECTION 5. Provides a severability clause for the ordinance.

SECTION 6. 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 _____ day of _____, 2021.

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

Kathi Anderson, City Clerk