



## **CITY OF KIRKLAND**

**City Attorney's Office**

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### **MEMORANDUM**

**To:** Kurt Triplett, City Manager

**From:** Kevin Raymond, City Attorney  
Leslie R. Miller, Human Services Supervisor

**Date:** June 7, 2021

**Subject:** AN ORDINANCE RELATING TO A TEMPORARY MORATORIUM ON RESIDENTIAL TENANT EVICTIONS AND THE COVID-19 PANDEMIC

#### **RECOMMENDATION:**

That City Council, in response to its request of City staff, consider adopting the attached ordinance providing for a temporary moratorium on residential tenant evictions in Kirkland due to the COVID-19 pandemic. Governor Inslee's statewide moratorium on residential tenant evictions related to COVID-19 is scheduled to expire on June 30, 2021, and it is not known whether that state-wide moratorium will be extended. The attached ordinance would provide for a similar residential tenant eviction moratorium in Kirkland. It would be based on the City Manager's February 29, 2020 proclamation of emergency, ratified by the Council on March 3, 2020 through Resolution R-5411, and would extend through September 30, 2021.

#### **BACKGROUND DISCUSSION:**

The Governor's State of Emergency and the City Manager's Proclamation of Emergency related to the COVID-19 pandemic remain in effect. In the exercise of his emergency powers, Governor Inslee has imposed a general moratorium on the eviction of residential tenants due to the impacts of COVID-19. That moratorium, which applies in most circumstances other than those presenting an immediate risk to the health, safety or property of others due to the actions of a tenant, is set to expire on June 30, 2021, and Governor Inslee has not indicated whether the moratorium will be extended.

The COVID-19 pandemic has caused serious damage to the local and national economies, resulting in layoffs or significantly reduced working hours for thousands of individuals in Washington, including in Kirkland. These layoffs and reduced working hours have made it much more difficult for individuals in the state, including in Kirkland, to pay rent, increasing the possibility of homelessness in the event of eviction, and just as we appear to be emerging from the worst effects of the pandemic. In addition, many renters who have been harmed economically by COVID-19 are at further risk of eviction due to the lapse or expiration of their lease during the pandemic.

It has been estimated by the U.S. Census Bureau that as of May 2021 more than 84,000 households in the Seattle area alone are now behind in rent payments. The leases of many other renters have expired during the pandemic, leaving such renters dependent on a "month to month" legal relationship with their landlords, also heightening their risk of eviction.

According to the Board of Governors of the Federal Reserve System, close to half of all renters could not afford an unexpected expense of even \$400 at this time. These impacts are felt disproportionately by Black people and other people of color, with some groups currently experiencing reported unemployment rates of up to 39 percent in King County. Community members in Kirkland who have experienced a substantial reduction in income or a substantial increase in expenses due to COVID-19, especially including Black people and people of color, would benefit from continued protections against evictions based on nonpayment of rent through at least September 30, 2021, particularly if the Governor's eviction moratorium is not extended through at least that same period.

The moratorium is only proposed through September 30, 2021 at this time because there is significant federal and state help for both landlords and tenants becoming available. The American Rescue Plan Act (ARPA) contains billions of dollars for rental assistance for landlords and tenants. Washington State and King County have also recently appropriated hundreds of millions of dollars for rental assistance for landlords and tenants. Unfortunately, programs making the money available are still in development. Kirkland will have dedicated staff in the CMO and Parks and Community Services to help connect landlords and tenants to these funding programs as soon as possible. In addition, the state legislature also passed new tenant protections and access to legal services, but it may be several months before these new laws and programs are operational. This City moratorium is proposed to be in place while these funding and programmatic gaps remain. The additional months will also allow tenants more opportunity to recover economically from the impacts of the pandemic. The key goals of this short-term moratorium are to avoid an increase in homelessness and traumatic disruption to low-income families through eviction, while also providing financial relief to landlords. The City moratorium may be extended in the future if necessary.

This ordinance is based on the Governor's eviction moratorium and a model ordinance for cities prepared by the Housing Justice Project (HJP). This ordinance is strongly supported by the Eastside Legal Assistance Program (ELAP), with whom the City contracts to provide legal assistance to low-income members of the Kirkland community, and by Eastside for All.

Under the ordinance, a renter in Kirkland would have an affirmative defense in the event of eviction for lapse or expiration of lease or nonpayment of rent during the City's proclamation of emergency and through at least September 30, 2021, if the renter can demonstrate adverse COVID-19 financial impacts. Notice of this eviction moratorium would be required to be provided to renters by landlords as part of any notices related to lapse or expiration of lease or nonpayment of rent or eviction. Similarly, the ordinance would limit the imposition of late fees or other charges under these circumstances.

As noted, this ordinance is brought forward for Council consideration based on Council's request for draft legislation related to residential tenant evictions in Kirkland due to COVID-19. It should be noted that the model ordinance prepared by the HJP includes additional provisions that are not specifically related to COVID-19, and which are not included here. Those provisions, or others, could be brought forward in the future if requested by the Council.

For example, the model HJP ordinance recommends providing residential tenants with additional eviction protections even in circumstances unrelated to COVID-19 if the renter has applied for rental assistance and is awaiting approval and the renter's landlord has first attempted, unsuccessfully, to secure rental assistance, e.g. through the state's landlord mitigation fund.

A second model ordinance that significantly broadens protections unrelated to the COVID-19 pandemic was provided by the HJP in conjunction with ELAP and Eastside for All. This ordinance is not presented as part of this action but might also be considered by the Council in the future. Those provisions include those related to "just cause" evictions; rent increases;

advance notice of rent increases; caps on move-in fees; changes to rental "due dates" based on a tenant's fixed income schedule; bars against discrimination due to immigration status including the requirement that a social security number be provided with a rental application; and a ban against "abusive, deceptive, and unfair practices" in rental housing.

Lastly, the American Rescue Plan Act (ARPA) contains a variety of programs to help households, businesses, and landlords, some of which are specifically focused on eviction prevention. Staff is researching these programs to help determine the most effective way for the City to help connect those in need with these resources.

Attachment: Ordinance  
Publication Summary