

RESOLUTION R-5432

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF KIRKLAND RATIFYING CITY MANAGER EXTENDED EMERGENCY DIRECTIVE RELATED TO MORATORIUM ON SMALL BUSINESS TENANT EVICTIONS AND THE COVID-19 VIRUS.

1 WHEREAS, Kirkland Municipal Code ("KMC") Section
2 3.20.090 grants the City Manager the authority to take action on
3 behalf of the City of Kirkland ("City") in the event of an emergency
4 or disaster subject to ratification by the City Council as soon as
5 practicable; and
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7 WHEREAS, in the exercise of such authority the City
8 Manager did execute a Proclamation of Emergency related to the
9 COVID-19 virus dated February 29, 2020; and
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11 WHEREAS, such Proclamation of Emergency was ratified by
12 the City Council through Resolution R-5411 on March 3, 2020; and
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14 WHEREAS, in the exercise of his authority under KMC
15 3.20.090 the City Manager did issue an Emergency Directive Re
16 Moratorium on Small Business Tenant Evictions on March 31,
17 2020; and
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19 WHEREAS, such Emergency Directive was ratified by the
20 City Council through Resolution R-5414 on March 31, 2020; and
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22 WHEREAS, the City Manager did execute a second
23 Proclamation of Emergency on June 1, 2020 related to the death
24 of George Floyd while in police custody and the resulting civil
25 unrest around the nation, including in Kirkland, related to
26 incidents of police brutality and racial injustice; and
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28 WHEREAS, such second Proclamation of Emergency related
29 to such civil unrest was ratified by the City Council through
30 Resolution R-5427 on June 2, 2020; and
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32 WHEREAS, in the exercise of his authority under KMC
33 3.20.090 the City Manager did issue an Extended Emergency
34 Directive Re Moratorium on Small Business Tenant Evictions in
35 light of both emergencies on June 10, 2020; and
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37 WHEREAS, the City Council wishes to ratify the above-
38 referenced Extended Emergency Directive and the acts of City
39 departments and staff that have been and will be taken in
40 connection with such emergency directive.
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42 NOW, THEREFORE, be it resolved by the City Council of the
43 City of Kirkland as follows:
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45 Section 1. Any and all acts undertaken by City departments
46 and staff consistent with the Extended Emergency Directive Re

47 Moratorium on Small Business Tenant Evictions issued by the City
48 Manager dated June 10, 2020 and prior to the effective date
49 hereof are hereby ratified and confirmed.

50
51 Section 2. Any and all acts undertaken by City departments
52 and staff consistent with the Extended Emergency Directive Re
53 Moratorium on Small Business Tenant Evictions issued by the City
54 Manager dated June 10, 2020 and following the effective date
55 hereof are hereby authorized until the earlier of the termination
56 of the proclamations of emergency dated February 29 and June
57 2, 2020 or sixty (60) from the effective date of such extended
58 directive unless such extended directive has been amended,
59 rescinded or otherwise terminated by the City Manager or City
60 Council.

61
62 Passed by majority vote of the Kirkland City Council in open
63 meeting this ___ day of ___, 2020.

64 Signed in authentication thereof this __ day of ___, 2020.
65

Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

**EXTENDED EMERGENCY DIRECTIVE RE MORATORIUM
ON SMALL BUSINESS TENANT EVICTIONS**

An Extended Emergency Directive from Kurt Triplett, City Manager of the City of Kirkland, directing that a moratorium on small business and nonprofit tenant evictions for non-payment of rent or due to the expiration of a lease's term previously imposed within the city of Kirkland on March 31, 2020 is hereby extended until the earlier of the termination of the City's proclamations of emergency dated February 29 and June 1, 2020 or 60 days from the effective date of this extended emergency directive.

WHEREAS,

- a. In my capacity as City Manager, I proclaimed an emergency exists in the City of Kirkland on February 29, 2020. That proclamation of emergency was ratified by the Kirkland City Council through Resolution R-5411 on March 3, 2020. I issued a second proclamation of emergency dated June 1, 2020 related to civil unrest across the nation, including in Kirkland, following the death of George Floyd while in police custody in Minneapolis and subsequent largely peaceful protests that have nevertheless impacted the operating hours of many small businesses in Kirkland. That second proclamation of emergency was ratified by the City Council through Resolution R-5427 on June 2, 2020.
- b. The facts stated in the proclamations of emergency continue to exist, necessitating utilization of emergency powers granted to the City pursuant to Kirkland Municipal Code 3.20 and Chapter 38.52 RCW.
- c. On March 31, 2020, in my capacity as City Manager, I issued an emergency directive imposing a moratorium on small business and nonprofit tenant evictions for non-payment of rent or due to the expiration of a lease's term for up to 60 days, which emergency directive was ratified by the City Council through Resolution R-5414 on March 31, 2020.
- d. The facts stated in the emergency directive continue to exist necessitating continued utilization of emergency powers granted to the City.
- e. As of June 7, 2020, Public Health – Seattle and King County announced a total of 8,465 cases of COVID-19 in King County residents, including 566 deaths. As of that same date, the state of Washington had 23,729 confirmed cases of COVID-19, including 1,159 deaths statewide.
- f. On March 16, 2020, the Washington Governor and the Local Health Officer for Public Health - Seattle & King County issued parallel orders temporarily shutting down restaurants, bars, and other entertainment and food establishments, as well as prohibiting public gatherings of 50 or more people.
- g. On March 11, 2020, the Washington Governor and the Local Health Officer for Public Health - Seattle and King County issued parallel orders prohibiting gatherings of 250 people or more for social, spiritual and recreational activities in King County.

- h. The COVID-19 crisis has had a significant impact on the local economy impacting the retail, restaurant and other industries resulting in economic hardship for small business owners due to loss of business income, layoffs and reduced work hours for a significant percentage of this workforce. Even though social distancing restrictions for small business and nonprofit tenants have slowly begun to ease of as this month, these economic hardships and job impacts remain cumulative and acute.
- i. Jurisdictions across the nation, including the City of Seattle, have implemented eviction prevention measures to provide small business stabilization support during this unprecedented public health emergency.
- j. Art. XI, Sec. 11 of the Washington State Constitution grants cities like the City broad police powers to "make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws."
- k. A temporary and extended moratorium on small business tenant evictions during the COVID-19 outbreak and this time of unrest will protect the public health, safety, and welfare by providing small businesses with stable locations from which to operate during and after the public health emergency, thus reducing the number of small businesses declaring bankruptcy and closing during the economic downturn caused by the public health emergency.
- l. KMC 3.20.070 gives the City the broadest authority and greatest discretion consistent with state law with respect to emergency response and operation.
- m. KMC 3.20.090 gives the City Manager the authority to take such actions subject to ratification by the City Council as soon as practicable.
- n. The COVID-19 and civil unrest emergencies require the issuance of an extended directive that is specifically aimed at a moratorium on small business tenant evictions during these civil emergencies in order to keep small businesses from economic collapse and protect the public safety, health and welfare as set forth in this extended directive.
- o. It in the public interest that the exercise of certain rights be temporarily limited in the least restrictive means reasonably possible as set forth in this extended directive.

NOW, THEREFORE, BE IT PROCLAIMED BY THE CITY MANAGER OF THE CITY OF KIRKLAND THAT:

I, KURT TRIPLETT, CITY MANAGER OF THE CITY OF KIRKLAND, ACTING UNDER THE AUTHORITY OF KMC 3.20, THE CITY MANAGER PROCLAMATIONS OF EMERGENCY DATED FEBRUARY 29 AND JUNE 1, 2020 AND CITY COUNCIL RATIFICATIONS THEREOF, HEREBY DIRECT:

SECTION 1:

- A. A moratorium order on small business and nonprofit tenant evictions for non-payment of rent or due to the expiration of a lease's term is hereby extended until the earlier of the termination of the emergency declared in the proclamations of emergency dated February 29 and June 2, 2020 or sixty (60) days from the effective date of this extended directive. Any decision to further extend the moratorium shall be evaluated and determined by the City Manager based on public health necessity and subject to ratification by the City Council;
- B. For purposes of this moratorium, "small business" shall have the same meaning as in RCW 19.85.020(3): "'Small business' means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, and that has fifty or fewer employees" per establishment or premises; and provided further, that for purposes of this directive "small business" includes franchises in Kirkland that are independently owned and operated;
- C. For purposes of this moratorium, a "nonprofit" shall mean an entity that: (1) is a "not for profit corporation" or "nonprofit corporation" under RCW 24.03.005(16) or is designated a "public benefit not for profit corporation" or "public benefit nonprofit corporation" under RCW 24.03.490 or (2) holds tax-exempt status under 26 U.S.C. § 501(c)(3);
- D. During this moratorium, an owner of property also shall endeavor to enter into a payment plan, or other workout agreement to assist a distressed small business or nonprofit in rent relief, including but not limited to the deferred payment of rent, discount to rent, or other strategies to address the economic disruption caused by the COVID-19 emergency. Further, no small business or nonprofit tenant shall incur late fees, interest, or other charges due to late payment of rent during the moratorium; and
- E. For any eviction action for the non-payment of rent or lease expiration, it shall be a defense to any eviction action that the eviction of the small business tenant would occur during the moratorium. Given the public health emergency and public safety issues, a court may grant a continuance for a future hearing date in order for the eviction action to be heard after the end of the moratorium.

SECTION 2:

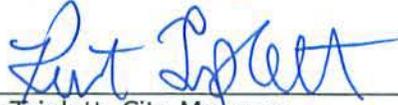
All City Manager proclamations and directives presently in effect shall remain in full force and effect except that, insofar as any provision of any such prior proclamation or directive is inconsistent with any provision of this directive, then the provision of this directive shall control.

SECTION 3:

This extended directive shall be subject to ratification by the City Council as soon as practicable, and if rejected this directive shall be void; however, any such rejection or modification shall not affect any actions previously taken.

Dated this 10th day of June, 2020.

CITY OF KIRKLAND <



Kurt Triplett, City Manager