

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

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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

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

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

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

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

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

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

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

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

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

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

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70 WHEREAS, the Washington Legislature, through Engrossed  
71 Second Substitute Senate Bill (ESSSB) 5160 related to landlord-  
72 tenant relations effective as of April 22, 2021, added a new  
73 subsection to chapter 59.18 RCW that reads "The eviction  
74 moratorium instituted by the governor of the state of  
75 Washington's proclamation 20-19.6 shall end on June 30, 2021";  
76 and

77  
78 WHEREAS, in order to avoid a large increase in evictions  
79 and homelessness related to nonpayment of rent during the  
80 pandemic, it is necessary to provide interim eviction protections  
81 to residential tenants in Kirkland who have faced loss of income

82 due to COVID-19 in the event State of Emergency Proclamation  
83 20-19, as amended, is not extended beyond the end of June 2021.

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85 NOW, THEREFORE, the City Council of the City of Kirkland  
86 do ordain as follows:

87  
88 Section 1. In any action for unlawful detainer due to  
89 nonpayment of rent, it shall be a defense that the unpaid rent  
90 became due during the Emergency Proclamation and through  
91 September 30, 2021 and was unpaid because of a substantial  
92 reduction in household income or a substantial increase in  
93 expenses resulting from the COVID-19 pandemic. This includes,  
94 but is not limited to, where, as a result of the pandemic, the tenant  
95 suffered a loss of employment or a reduction in hours, was unable  
96 to work because their children were out of school, was unable to  
97 work because they were sick with COVID-19 or caring for a  
98 household or family member who was sick with COVID-19, they  
99 were complying with a recommendation from a public health  
100 official or agency to self-quarantine, including to avoid the risk of  
101 medical complications to themselves or others, or they incurred  
102 substantial out of pocket medical expenses due to COVID-19. Any  
103 notice served on a residential tenant demanding rent that became  
104 due during the Emergency Proclamation and through September  
105 30, 2021 shall include the following statement in bold underlined  
106 12-point type: "**You may not be evicted for rent that became**  
107 **due during the City of Kirkland's Proclamation of**  
108 **Emergency if your rent was unpaid because of a**  
109 **substantial reduction in household income or a**  
110 **substantial increase in expenses related to the COVID-19**  
111 **pandemic. This does not relieve you of the obligation to**  
112 **pay back rent in the future. For more information for**  
113 **renters or landlords, call (425) 587-3326 or go to**  
114 **housinghelp@kirklandwa.gov.**" Nothing in this section shall  
115 relieve the tenant of liability for unpaid rent.

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

123 Section 3. Until no earlier than September 30, 2021, a  
124 landlord shall not seek to remove a tenant from a residential

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

149 Section 4. For purposes of this ordinance, the following  
150 definitions shall apply:

- 151 (a) "Landlord" shall have the same definition as that found in  
152 RCW 59.18.030(15) and RCW 59.20.030(6).  
153 (b) "Rent" shall have the same definition as RCW  
154 59.18.030(28).  
155 (c) "Tenant" shall refer to any individual renting a dwelling  
156 unit or lot primarily for living purposes, including anyone  
157 with a tenancy subject to RCW 59.18 or RCW 59.20.

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159 Section 5. The City Manager shall provide the Council with  
160 a detailed report at its July 20, 2021 meeting regarding the status  
161 of this temporary moratorium, the Governor's statewide  
162 moratorium, if any at that time, and federal, state and King County  
163 programs related to the provision of financial or other support to  
164 tenants and landlords adversely impacted by the COVID-19  
165 pandemic.  
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167           Section 6. If any provision of this ordinance or its  
168 application to any person or circumstance is held invalid, the  
169 remainder of the ordinance or the application of the provision to  
170 other persons or circumstances shall not be affected.


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172           Section 7. This ordinance shall be in force and effect five  
173 days from and after its passage by the Kirkland City Council and  
174 publication pursuant to Kirkland Municipal Code Section 1.08.017  
175 in the summary form attached to the original of this ordinance and  
176 by this reference approved by the City Council.

177           Passed by majority vote of the Kirkland City Council in open  
178 meeting this 15 day of June, 2021.

179  
180           Signed in authentication thereof this 15 day of June, 2021.

  
Penny Sweet, Mayor

Attest:

  
Kathi Anderson, City Clerk

Approved as to Form:

  
Kevin Raymond, City Attorney

Publication Date: 06/21/2021

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 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 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. Sets a date for the City Manager to report to Council regarding the status of the temporary moratorium and programs supporting tenants and landlords adversely impacted by the Covid-10 pandemic.

SECTION 6. Provides a severability clause for the ordinance.

SECTION 7. 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 15 day of June, 2021.

I certify that the foregoing is a summary of Ordinance 4759 approved by the Kirkland City Council for summary publication.

  
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Kathi Anderson, City Clerk