

ORDINANCE O-4763

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

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73 WHEREAS, Governor Inslee's Emergency Proclamation 20-
74 19, as amended, related to Evictions and Related Housing
75 Practices, as amended, was due to expire on June 30, 2021; and

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77 WHEREAS, in order to avoid a large increase in evictions
78 and homelessness related to nonpayment of rent during the
79 pandemic, it was considered necessary by the Council to provide
80 interim eviction protections to residential tenants in Kirkland who
have faced loss of income due to COVID-19 in the event

81 Emergency Proclamation 20-19, as amended, was not extended
82 beyond the end of June 2021; and

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84 WHEREAS, as a result of the foregoing, the Council did
85 adopt Ordinance O-4759 at its regular meeting on June 15, 2021;
86 and

87 WHEREAS, Governor Inslee’s Emergency Proclamation 20-
88 19 did expire at the end of June 2021; and

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90 WHEREAS, prior to such expiration, Governor Inslee issued
91 a June 29, 2021 Emergency Proclamation 21-09, related to
92 Tenancy Preservation – A Bridge to E2SSB 5160, creating a
93 “bridge” between the expiration of the Governor’s proclamation
94 related to evictions and related housing practices and the
95 anticipated implementation of core elements of E2SSB 5160,
96 including operational rental assistance for tenants and landlords
97 and eviction dispute resolution programs in each Washington
98 county, including King County, anticipated by the Governor to
99 occur by the end of September 2021; and

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101 WHEREAS, notwithstanding the Governor’s “bridge”
102 proclamation there remain differences between the proclamation
103 and the City’s temporary eviction moratorium, including with
104 respect to the City’s provision of a defense to an unlawful detainer
105 actions brought against Kirkland residential tenants solely for
106 unpaid rent due to COVID-19 during the months of August and
107 September 2021; and

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109 WHEREAS, the Council wishes to affirm its intent to support
110 residential tenants in Kirkland facing potential eviction based
111 solely on nonpayment of rent due to COVID-19 during the period
112 of the beginning of the pandemic and through September 2021;
113 and

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115 WHEREAS, the Council also wishes to affirm that its
116 temporary eviction moratorium does not create a defense against
117 or otherwise limit the ability of a landlord to pursue available legal
118 remedies, either by law or by contract, against residential tenants
119 in Kirkland for reasons unrelated to nonpayment of rent due to
120 COVID-19 during this same time period, such as for a material
121 breach of a separate lease or rental agreement provision or in the
122 event of a significant and immediate threat to the health, safety,
123 or property of others created by a resident, subject to the
124 Governor’s “bridge” proclamation and applicable state law.

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

Section 1. Section 1 of Ordinance O-4759 is amended in its entirety to read as follows:

In any action for unlawful detainer due to nonpayment of rent, it shall be a defense that the unpaid rent became due during the Emergency Proclamation and through September 30, 2021 and was unpaid because of a substantial reduction in household income or a substantial increase in expenses resulting from the COVID-19 pandemic. This includes, but is not limited to, where, as a result of the pandemic, the tenant suffered a loss of employment or a reduction in hours, was unable to work because their children were out of school, was unable to work because they were sick with COVID-19 or caring for a household or family member who was sick with COVID-19, they were complying with a recommendation from a public health official or agency to self-quarantine, including to avoid the risk of medical complications to themselves or others, or they incurred substantial out of pocket medical expenses due to COVID-19. Any notice served on a residential tenant demanding rent that became due during the Emergency Proclamation and through September 30, 2021 shall include the following statement in bold underlined 12-point type: **"You may not be evicted solely for rent that became due during the City of Kirkland's Proclamation of Emergency if your rent was unpaid because of a substantial reduction in household income or a substantial increase in expenses related to the COVID-19 pandemic. This does not relieve you of the obligation to pay back rent in the future. For more information for renters or landlords, call (425) 587-3326 or go to housinghelp@kirklandwa.gov."** Nothing in this section shall relieve the tenant of liability for unpaid rent. Further, nothing in this section is intended to bar an action taken by a landlord consistent with Section 3 below.

Section 2. Section 3 of Ordinance O-4759 is amended in its entirety to read as follows:

Until no earlier than September 30, 2021, and without limiting the defense to an unlawful detainer action in the circumstances set forth in Section 1 above, a landlord shall not seek to remove a tenant from a residential property unless the action is necessary

168 to enforce a violation by that tenant of the lease or rental
169 agreement then in force for that tenant, the rules and regulations
170 of the community, or local, state or federal laws and the landlord
171 attaches a declaration attesting to that fact to any eviction,
172 compliance, or termination notice related thereto. The notice shall
173 be incorporated into the declaration and shall set forth the reasons
174 for the notice served on the tenant. The notice period and grounds
175 of the eviction, compliance, or termination notice shall be those
176 required by state law, including RCW 59.12.030, chapter 59.18
177 RCW and ESHB 1236.

178 Section 3. Section 4 of Ordinance O-4759 is amended in
179 its entirety to read as follows:

180 For purposes of this ordinance, the following definitions shall
181 apply:

- 182 a. "Landlord" shall have the same definition as that found in
183 RCW 59.18.030(15) and RCW 59.20.030(6).
- 184 b. "Rent" shall have the same definition as RCW
185 59.18.030(28).
- 186 c. "Tenant" shall refer to any individual renting a dwelling unit or
187 lot primarily for living purposes, including anyone with a
188 tenancy subject to RCW 59.18 or RCW 59.20, and their guests
189 or invitees if the lease or rental agreement provides that the
190 tenant is responsible for the actions of their guests or invitees.

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192 Section 4. If any provision of this ordinance or its
193 application to any person or circumstance is held invalid, the
194 remainder of the ordinance or the application of the provision to
195 other persons or circumstances shall not be affected.

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197 Section 5. This ordinance shall be in force and effect five
198 days from and after its passage by the Kirkland City Council and
199 publication pursuant to Kirkland Municipal Code Section 1.08.017
200 in the summary form attached to the original of this ordinance and
201 by this reference approved by the City Council.

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Passed by majority vote of the Kirkland City Council in open meeting this 20 day of July, 2021.

Signed in authentication thereof this 20 day of July, 2021.



Penny Sweet, Mayor

Attest:



Kathi Anderson, City Clerk

Approved as to Form:



Kevin Raymond, City Attorney

Publication Date: 07/26/2021

PUBLICATION SUMMARY
OF ORDINANCE NO. 4763

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

SECTION 1. Amends Section 1 of Ordinance O-4759 providing a defense in unlawful detainer actions due to nonpayment of rent that became due during an Emergency Proclamation through September 30, 2021.

SECTION 2. Amends Section 3 of Ordinance O-4759 setting forth the conditions a landlord may remove a tenant from a residential property.


SECTION 3. Amends Section 4 of Ordinance O-4759 defining the meaning of the words "landlord," "rent" and "tenant" for the Ordinance.

SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. 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 20th day of July, 2021.

I certify that the foregoing is a summary of Ordinance 4763 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk