

**CITY OF KENMORE
WASHINGTON
RESOLUTION NO. 20-338**

**A RESOLUTION OF THE CITY OF KENMORE,
WASHINGTON, RATIFYING CITY MANAGER
PROCLAMATION AND ISSUANCE OF EMERGENCY
RULE 20-06: TEMPORARY MORATORIUM ON SMALL
BUSINESS/NONPROFIT TENANT EVICTIONS**

WHEREAS, Art. XI, Sec. 11 of the Washington State Constitution grants 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”, including during public health emergencies and disasters; and

WHEREAS, RCW 38.52.070 establishes emergency and disaster response powers, and authorizes the City to, among other things, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster; and

WHEREAS, pursuant to KMC 8.30.060.A, the City Manager has the authority to “make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster”; and

WHEREAS, in the exercise of such authority, on March 5, 2020, the City Manager issued the City of Kenmore Proclamation 20-01, dated March 5, 2020, which proclaimed an emergency due to COVID-19, and also proclaimed that emergency operations under Chapter 8.30 of the Kenmore Municipal Code (KMC) and the utilization of emergency powers granted under RCW 38.52.070 were in effect, and the City Council ratified the same; and

WHEREAS, in the exercise of such authority, the City Manager also issued and executed Proclamation 20-06, which established a temporary moratorium on small business/nonprofit evictions for non-payment of rent; and

WHEREAS, the City Council finds that a temporary moratorium on small business and nonprofit tenant evictions during the COVID19 outbreak will protect public health, safety, and welfare by providing small businesses with stable locations from which to operate during and immediately 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; and

WHEREAS, in light of the COVID19 emergency and threat to health, safety and public welfare, the City Council wishes to ratify and adopt Proclamation 20-06, and the acts of City departments and staff that have been and will be taken in connection with such emergency rule; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE,

WASHINGTON, DOES RESOLVE

Section 1. Findings. The recitals set forth above, and as set forth in Proclamation 20-06, are hereby incorporated by reference as support for this Resolution.

Section 2. Ratification & Adoption.

- A. The City Council hereby ratifies, confirms, and adopts, "COVID-19 Pandemic and Public Health Emergency Rule 20-06: Temporary Moratorium on Small Business/Nonprofit Tenant Evictions", as set forth in in Exhibit 1 to Proclamation 20-06, attached hereto and incorporated by reference.
- B. Any and all acts undertaken by City departments and staff consistent with Proclamation 20-06, are ratified and authorized until such time as such proclamation has been rescinded or otherwise terminated by the City Manager or City Council.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 13th DAY OF APRIL 2020.

CITY OF KENMORE

David Baker, Mayor

ATTEST/AUTHENTICATED:

Kelly Chelin, City Clerk

Approved as to form:

Dawn Reitan, City Attorney

City of Kenmore

Proclamation & Issuance of Emergency Rule 20-06: Temporary Moratorium on Small Business/Non-Profit Tenant Evictions

WHEREAS, the outbreak of the novel coronavirus (COVID-19), and its rapid progression in Washington state continues to threaten the life and health of its people as well as the economy of the state, and remains a public disaster affecting life, health, property or the public peace; and

WHEREAS, on February 29, 2020, the Governor of the State of Washington proclaimed a State of Emergency due to COVID-19; and

WHEREAS, on March 5, 2020, the City Manager issued the *City of Kenmore Proclamation 20-01*, dated March 5, 2020, which proclaimed an emergency due to COVID-19, and also proclaimed that emergency operations under Chapter 8.30 of the Kenmore Municipal Code (KMC) and the utilization of emergency powers granted under RCW 38.52.070 were in effect, and the City Council ratified the same; and

WHEREAS, on March 11, 2020, the World Health Organization classified the global spread of COVID-19 as a pandemic, and urged all governments to take action now to stem the spread of the disease; and

WHEREAS, on March 11, 2020, the Governor issued the “*Proclamation By The Governor Amending Proclamations 20-05, 20-06 And 20-07, 20-08*”, dated March 11, 2020 (Proclamation 20-08), which found that COVID-19 spreads easily from person to person and may result in serious illness or death, and continues to spread in the state with cases expected to double every five to seven days, without any expectation of ending soon; and

WHEREAS, Proclamation 20-08 also identified stringent social distancing as necessary to curtail and limit the opportunities for disease transmission, and prohibited: 1) private and public schools from in-person educational, recreational and other programs; and 2) gatherings of 250 people or more until April 24, 2020, unless extended beyond that date; and

WHEREAS, on March 11, 2020, the Local Health Officer for Public Health – Seattle & King County issued the *Local Health Officer Order*, dated March 11, 2020, which limited public events of fewer than 250 people, except under certain circumstances, with the intent to mitigate and slow the spread of COVID-19 in the community; and

WHEREAS, on March 11 the Centers for Disease Control and Prevention (CDC) issued *CDC's Recommendations for the next 30 days of Mitigation Strategies for Seattle-King, Pierce, and Snohomish Counties based on current situation with widespread COVID-19 transmission and affected health care facilities*, dated March 11, 2020, which recommends “extensive community mitigation activities” to slow the spread of, and minimize morbidity and mortality caused by, COVID-19; and

WHEREAS, on March 13, 2020, the President of the United States declared a national emergency due to the COVID-19 pandemic, and on March 29, 2020, the President extended federal social distancing guidance through the month of April, 2020; and

WHEREASE, on March 15, the Governor expanded protections against COVID-19, and ordered a temporary closure of all restaurants, bars and entertainment and recreational facilities; and

WHEREAS, on March 23, 2020, the Governor issued Proclamation 20-25, “Stay Home – Stay Healthy” which ordered all residents to stay home and non-essential businesses and projects to close until April 8, 2020, and then under Proclamation 20-25.1, the Governor extended the Stay-Home Stay-Safe order to May 4, 2020; and

WHEREAS, COVID-19 has severely impacted the local economy, resulting in thousands of employees working from home, the cancellation of numerous public events, significant reductions in tourism and demand at restaurants, coffee shops, and other local businesses, increased employee lay-offs, and reduction in work-hours; and

WHEREAS, the social distancing and self-isolation mitigation measures needed to slow the spread of COVID-19 have caused numerous businesses and residents in the State and Kenmore to suffer significant financial loss, including loss of business income, layoffs and reduced hours for a significant segment of the workforce; and

WHEREAS, Art. XI, Sec. 11 of the Washington State Constitution grants 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”, including during public health emergencies and disasters; and

WHEREAS, RCW 38.52.070 establishes emergency and disaster response powers, and authorizes the City to, among other things, protect the health and safety of persons and property, and provide emergency assistance to the victims of such disaster; and

WHEREAS, under the emergency powers authorized under KMC 8.30.060.A, the

City Manager is empowered to “make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster”; and

WHEREAS, jurisdictions across the nation, including the cities of Seattle, Kirkland, and Edmonds have adopted eviction prevention measures to provide small business and nonprofit organization stabilization support during this unprecedented health emergency; and

WHEREAS, the City Manager finds that establishing a temporary moratorium on small business and nonprofit tenant evictions during the COVID19 outbreak will protect public health, safety, and welfare by providing small businesses with stable locations from which to operate during and immediately 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;

NOW, THEREFORE, THE CITY MANAGER OF THE CITY OF KENMORE, WASHINGTON, HEREBY PROCLAIMS, MAKES, AND ISSUES AN EMERGENCY COVID-19 RULE AS FOLLOWS:

1. Recitals. The recitals set forth above, which are incorporated herein by reference, are adopted as findings in support of the emergency rule established by this proclamation.
2. COVID-19 Pandemic and Public Health Emergency Rule 20-06: Temporary Moratorium on Small Business/Nonprofit Tenant Evictions. The City Manager hereby orders, makes, issues, and adopts Emergency Rule 20-06, as set forth on Exhibit 1, “COVID-19 Pandemic and Public Health Emergency Rule 20-06: Temporary Moratorium on Small Business/Nonprofit Tenant Evictions”, attached hereto and incorporated by reference.
3. Effective Date & Duration. This proclamation and emergency rule shall be in full force and effect upon signature of the City Manager, and shall not expire until 11:59 p.m. on May 4, 2020 unless the City Manager determines an extension is necessary for public health. The emergency rule shall be ratified by the City Council at the earliest practicable time, and if rejected shall be void.

Dated this ___ day of April, 2020.

Signed _____
Rob Karlinsey, City Manager

Attested _____
Kelly Chelin, City Clerk



Exhibit 1

COVID-19 Pandemic and Public Health Emergency Rule 20-06: Temporary Moratorium on Small Business/Nonprofit Tenant Evictions

1. PURPOSE:

A. The purpose of this Rule is to protect the health and safety of persons, provide emergency assistance to the victims of the COVID 19 emergency and establish procedures relating to mitigation of the pandemic illness and public health emergency currently taking place, which pose a continuing risk to the health and safety of staff and the community at large.

B. The purpose of this Rule is also to provide small businesses and nonprofits stabilization support during this unprecedented health emergency. A temporary moratorium on small business and nonprofit tenant evictions during the COVID19 outbreak will protect public health, safety, and welfare by providing small businesses with stable locations from which to operate during and immediately 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.

2. SCOPE: The temporary moratorium imposed under this Rule applies to all tenant evictions of small businesses or nonprofits within the City's boundaries.

3. DEFINITIONS:

A. "City" means the City of Kenmore.

B. "Eviction" or "evictions" mean any and all acts or conduct to expel or cause a small business or nonprofit tenant to vacate property for non-payment of rent.

C. "Moratorium" means the prohibition, delay and/or suspension of an activity.

D. "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. Sec. 501(c)(3).

- E. “Small business” shall have the same meaning as in RCW 19.85.020(2), which is 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.

4. TEMPORARY MORATORIUM IMPOSED:

- A. There is hereby adopted, ordered and imposed a temporary moratorium on all tenant evictions of small businesses or nonprofits within the City for the non-payment of rent for the time period set forth in Section 7 of this Rule.
- B. During this moratorium, a landlord or owner of property shall endeavor to enter into a payment plan, discount to rent, or other agreement to assist the distressed small business or nonprofit in rent relief, including but not limited to, the deferred payment of rent, or other strategies to address the economic disruption caused by the COVID19 emergency.
- C. No late fees, interest, or other charges due to late payment of rent shall accrue during the moratorium.
- D. For any pending eviction action for the non-payment of rent, it shall be a defense to any eviction action that the eviction of a small business or nonprofit tenant would occur during the moratorium. Given the public health emergency and public safety issues, a court may grant a continuance for future hearing date in order for the eviction action to be heard after the moratorium.

5. EXCEPTION TO MORATORIUM: The temporary moratorium imposed under Section 4 of this Rule shall not apply to small business/nonprofit tenant evictions relating to the protection of life and safety, including, but not limited to circumstances where a tenant threatens another tenant or other person(s) with a firearm or other deadly weapon, or some other unlawful use of a firearm or other deadly weapon on the property, for physically assaulting or placing another person in immediate physical danger on the property, or evictions issued for waste, nuisance or commission of a crime on the property.

6. REFERENCES:

- A. Art. XI, Sec. 11 of the Washington State Constitution
- B. Chapter 7.05 RCW – Local Health Departments
- C. Chapter 7.08 RCW – Combined City-County Health Departments
- D. Chapter 70.26 RCW – Pandemic Influenza Preparedness
- E. RCW 38.52.070 – Emergency Powers
- F. Chapter 8.30 KMC – Emergency Operations Plan
- G. City of Kenmore Comprehensive Emergency Management Plan
- H. Washington Department of Health: doh.wa.gov
- I. Public Health – Seattle & King County: www.kingcounty.gov/depts/health.aspx
- J. *City of Kenmore Proclamation*, dated March 5, 2020
- K. *Proclamation By The Governor Amending Proclamations 20-05, 20-06 and 20-07 - 20-08*, dated March 11, 2020
- L. *Proclamation By The Governor Amending Proclamations 20-05 - 20-25*, dated March 23, 2020
- M. *Proclamation By The Governor Amending Proclamations 20-05 and 20-25 - 20-25.1*,

dated April 2, 2020

- N. Public Health – Seattle & King County, *Local Health Officer Order*, dated March 11, 2020
- O. *CDC’s Recommendations for the next 30 days of Mitigation Strategies for Seattle-King, Pierce, and Snohomish Counties based on current situation with widespread COVID-19 transmission and affected health care facilities*, dated March 11, 2020

7. **DURATION:** The temporary moratorium imposed in Section 4 of this Rule shall be in full force and effect upon signature of the City Manager, and ratification by the City Council, and shall not expire until 11:59 p.m. on May 4, 2020. Provided, however, the City Manager shall have the authority, in his discretion, to extend the temporary moratorium for additional time periods based on public health necessity.

Dated this ____ day of April, 2020:

Signed _____
Rob Karlinsey, City Manager

Attested _____
Kelly Chelin, City Clerk