

**CITY OF KENMORE  
WASHINGTON  
ORDINANCE NO. 21-0525**

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**AN ORDINANCE OF THE CITY OF KENMORE,  
WASHINGTON, RATIFYING AND ADOPTING THE  
TEMPORARY MORATORIUM ON RESIDENTIAL  
TENANT EVICTIONS ADOPTED UNDER COVID-19  
PANDEMIC AND PUBLIC HEALTH EMERGENCY RULE  
20-03.6; ADOPTING ADDITIONAL TENANT DEFENSES  
AND PROTECTIONS MADE NECESSARY DUE TO THE  
COVID-19 PANDEMIC; PROVIDING FOR  
SEVERABILITY; AND DECLARING AN EMERGENCY  
WITH AN IMMEDIATE EFFECTIVE DATE.**

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 local community, 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*, 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 18, 2020, the Governor issued Proclamation 20-19, which imposed a statewide moratorium on residential evictions, and which has been amended to extend the moratorium until June 30, 2021; and

WHEREAS, federal, state and local proclamations, recommendations and orders have the intended purpose of containing, mitigating and slowing the transmission of COVID-19, and include, among other things, social distancing measures, such as, limiting businesses, public events and recommending that individuals stay at home to reduce exposure to and transmission of COVID-19; 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 measure needed to slow the spread of COVID-19 resulted in continued reductions in employment and household income, thereby leaving large numbers of residential tenants unable to pay rent and increasing the risk of eviction; and

WHEREAS, the economic impacts of COVID-19 have increased the risk of residential tenant evictions due to loss of income and/or employment, however, residential evictions would undermine the containment and mitigation measures needed to reduce the transmission of COVID-19; and

WHEREAS, residential tenant evictions would negate the ability of tenants to self-isolate, would increase their risk of contracting and/or spreading COVID-19, and would put them, and high-risk individuals (older adults and individuals with underlying medical conditions), at greater risk from COVID-19; and

WHEREAS, Art. XI, Sec. 11 of the Washington State Constitution vests the City of Kenmore with 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 such authority and Chap. 8.30 KMC, the City Manager issued and executed Proclamation 20-03, as amended by Proclamations 20-03.1-3.5, establishing a temporary moratorium on residential tenant evictions, with certain exemptions (“Residential Eviction Moratorium”), which the City Council ratified and adopted; and

WHEREAS, the COVID-19 pandemic has caused a sustained global economic slowdown, and an economic downturn throughout Washington State with unprecedented numbers of layoffs and reduced work hours for a significant percentage of the workforce due to substantial reductions in business activity impacting commercial sectors that support the State’s economic vitality; and

WHEREAS, many people in the workforce have been and continue to be impacted by layoffs and/or substantially reduced work hours, and are suffering economic hardship that has disproportionately affected low and moderate income workers resulting in lost wages and potentially the inability to pay for basic household expenses, including rent; and

WHEREAS, the inability to pay rent by these members of the workforce increases the likelihood of eviction from their homes, increasing the life, health and safety risks to a significant percentage of people from the COVID-19 pandemic; and

WHEREAS, as of June 2, 2021, the CDC’s “COVID Data Tracker” identifies that 592,232 Americans have died from COVID-19, with an additional 111,729 national cases in the last seven days, and in Washington, there have been 436,984 cases, with an additional 6,869 cases in the last seven days; and

WHEREAS, information from the Washington State Attorney General’s Office identifies that because of the pandemic more than 1.6 million Washingtonians have filed unemployment claims and more than 180,000 have lost their jobs, and that the State has experienced the worst economic crisis since the Great Depression; and

WHEREAS, the King County Council adopted Ordinance 19118, which identifies that census data shows that more than “124,000 low-income households in King County are severely cost burdened. Of these, 88 percent, or 109,700 households, earn 50 percent or less of area median income, meaning the county’s poorest residents struggle most with housing costs” and that “communities of color and renters are disproportionately likely to be severely cost burdened, paying more than half of their income toward housing costs”; and

WHEREAS, only 57% of renters can afford a \$400 unexpected expense based on the Board of Governors of the Federal Reserve System’s “Report on the Economic Well-Being of U.S. Households in 2019, Featuring Supplemental Data from April 2020”; and

WHEREAS, pursuant to provisions of the Washington state Residential Landlord-Tenant Act, Chapter 59.18 RCW, an owner may not evict residential tenants without a court order, which under RCW 59.18.380 may be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction. Providing additional defenses to eviction for certain causes resulting from the COVID-19 pandemic is necessary to protect public health, to support stable housing, decrease the likelihood that individuals and families will fall into homelessness and decrease exposure while the COVID-19 emergency exists; and

WHEREAS, it is not the intent of this ordinance to limit a court in weighing all legal and equitable defenses in unlawful detainer cases that include the defense to eviction provided herein, and it is further understood that a court will consider the totality of circumstances in determining liability in an unlawful detainer action; and

WHEREAS, in April 2021, the Washington state Legislature adopted Engrossed Second Senate Bill 5160 (“E2SSB 5160”), finding that the COVID-19 pandemic has led to unprecedented layoffs and reduced work hours for a significant percentage of the workforce, which has also disproportionately affected low and moderate-income workers resulting in lost wages and the inability to pay for basic household expenses, including rent. Accordingly, the Legislature established certain tenant protections and defenses, among other things, when it adopted E2SSB 5160; and

WHEREAS, the City Council finds that the COVID-19 emergency has not ended and the continued ability to self-isolate at home during this continued COVID-19 emergency is critical to

containing, mitigating and reducing the transmission of COVID-19, and that residential tenant evictions severely undermine state and local emergency COVID-19 response efforts; and

WHEREAS, the City Council finds that extending the Residential Eviction Moratorium will reduce economic hardship, housing instability, and related life, health, and safety risks to those members of our workforce impacted by COVID-19 layoffs and substantially reduced work hours, or who are otherwise unable to pay rent as a result of the COVID-19 pandemic; and

WHEREAS, the City Council finds that maintaining stable housing is a public health and economic imperative in the face of the ongoing COVID-19 pandemic, and that evictions during the pandemic could lead to increased homeless populations and crowding in shelters; and

WHEREAS, the City Council desires to avoid a large increase in evictions and homelessness due to the impacts of the COVID-19 pandemic, and finds it necessary to adopt and ratify the moratorium extension adopted under Emergency Rule 20-03.6, and to provide additional tenant protections and eviction defenses to households that have faced loss of income due to the Covid-19 pandemic;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF KENMORE, WASHINGTON, DO ORDAIN AS FOLLOWS:

**Section 1. Incorporation of Recitals - Findings.**

- A. The recitals set forth above are adopted and incorporated herein as if set forth in full as findings in support of this Ordinance.
- B. The recitals set forth in COVID-19 Pandemic and Public Health Emergency Rule 20-03.6, attached as Attachment 1, and incorporated by reference as if set forth in full, are adopted as findings in support for this Ordinance.

**Section 2. Ratification & Adoption of Temporary Moratorium on Residential Evictions.**

- A. The City Council hereby ratifies, confirms, and adopts the temporary moratorium on residential tenant evictions, and its extension through September 30, 2021, as set forth in Attachment 1, COVID-19 Pandemic and Public Health Emergency Rule 20-03.6.
- B. Any and all acts undertaken by City departments and staff consistent with Attachment 1 are ratified and authorized until such time as such proclamation has been rescinded or otherwise terminated by the City Manager or City Council.

**Section 3. Tenant protections and eviction defenses due to COVID-19 pandemic.**

A. In any action for unlawful detainer due to nonpayment of rent, it shall be a defense that the unpaid rent became due during the public health emergency and was unpaid because of a substantial reduction in household income or substantial increase in expenses resulting from the Coronavirus (COVID-19) pandemic. This includes, but is not limited to, where, as a result of the COVID-19 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 government agency to self-quarantine, including to avoid 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 public health emergency shall include the following statement in bold underlined 12- point type: “**You may not be evicted for rent that became due during the public health emergency if the rent was unpaid because of a substantial reduction in household income or a substantial increase in expenses related to the Coronavirus pandemic. This does not relieve you of the obligation to pay back rent in the future.**” Nothing in this subsection shall relieve the tenant of liability for the unpaid rent.

B. In any action for unlawful detainer due to nonpayment of rent, it shall be a defense to eviction that the tenant has applied for rental assistance to cover the balance owed and is waiting for a final approval or processing of the payment. If the tenant’s application for rental assistance has been denied, the tenant may defend against the eviction if the tenant can demonstrate by preponderance of the evidence that the application was wrongfully denied and the tenant is seeking to have it reviewed by the appropriate agency.

**Section 4. Late Fees and Other Charges Prohibited.** Consistent with Engrossed Second Substitute Senate Bill 5160, a landlord shall not charge or impose any late fees or other charges against any tenant for the nonpayment of rent that became due between March 1, 2020, and six months following the expiration of the Governor’s eviction moratorium, as defined in Section 2 of E2SSB 5160.

**Section 5. Landlord Certification of Rental Assistance Programs Required.**

A. Landlords are prohibited from seeking or enforcing, or threatening to seek or enforce, any collection activity against a tenant for any unpaid rent that became due during the public health emergency, unless the landlord has made good faith efforts to obtain rental assistance through any available resources, including the Landlord Mitigation Fund under RCW 43.31.605, the Limited Landlord Relief Program operated by the Washington State Department of Commerce, the King County Eviction Prevention and Rental Assistance Program, or any other resources provided by federal, state, or local government.

- B. For the duration of the public health emergency, prior to issuing any eviction notice to evict the tenant for rent owed, the landlord shall serve along with the eviction or termination of tenancy notice a certification form indicating the landlord has applied for such programs and has been denied access to available programs for reasons outside the landlord's control, the landlord is ineligible for such programs, or was denied the rental assistance. The certification form shall substantially comply with the following form:

### LANDLORD'S CERTIFICATION

I, the landlord, certify under penalty of perjury that I have accessed or attempted to access the following programs but was either denied or am not eligible.

Landlord Mitigation Fund under RCW 43.31.605

- Denied  
 Ineligible  
 Other \_\_\_\_\_

Limited Landlord Relief Program operated by the Washington State Department of Commerce

- Denied  
 Ineligible  
 Other \_\_\_\_\_

King County Eviction Prevention and Rental Assistance Program

- Denied  
 Ineligible  
 Other \_\_\_\_\_

Other program: \_\_\_\_\_

- Denied  
 Ineligible  
 Other \_\_\_\_\_

Signed on \_\_\_\_\_, 202\_ in \_\_\_\_\_, \_\_\_\_ by:

\_\_\_\_\_  
Landlord/Landlord's Agent

- C. Failure to provide a certification in conformity with this section or to make good faith efforts to access rental assistance programs shall be a defense to an eviction under RCW 59.12.030(3).

- D. For purposes of this Section 5, "collection activity" includes attempts to collect, or threats to collect, through a collection agency, by filing an unlawful detainer or other judicial

action, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, or by any other means.

**Section 6.**     **Definitions.** For purposes of this Ordinance, the following definitions shall apply:

A. “Public health emergency” shall be defined as set forth in Section 2 of E2SSB which refers to the Governor of the State of Washington’s Proclamation 20-05, proclaiming a state of emergency for all counties throughout Washington State on February 29, 2020 and any subsequent orders extending or amending such Civil Emergency due to COVID-19 until the proclamation expires or is terminated by the Governor of the State of Washington.

B. “Landlord” shall have the same definition as defined in RCW 59.18.030(15) and RCW 59.20.030(6).

C. “Rent” shall have the same definition as RCW 59.18.030(28).

D. “Tenant” shall mean any person renting a dwelling unit or lot primarily for living or dwelling purposes, including any person with a tenancy subject to RCW 59.18 and RCW 59.20.

**Section 7.**     **Severability.** If any provision of this ordinance or its application to any person or circumstance is held invalid, the remainder of the ordinance or the application of the provision to other persons or circumstances shall not be affected and shall be in full force and effect.

**Section 8**     **Emergency declared – effective immediately.** The City Council finds and declares that an emergency exists for the reasons stated herein and that this ordinance is necessary for the immediate preservation of public peace, health, or safety, and shall take effect immediately.

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 14<sup>th</sup> DAY OF JUNE 2021.

CITY OF KENMORE



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David Baker, Mayor

ATTEST/AUTHENTICATED:

*Anastasiya Warhol*

Anastasiya Warhol (Jun 16, 2021 11:32 PDT)

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Anastasiya Warhol, City Clerk

Approved as to form:

*Dawn Reitan*  
Dawn Reitan (Jun 16, 2021 14:02 PDT)

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Dawn Reitan, City Attorney

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