

6/1/20
Striking Amd 1

AS Sponsor: Balducci, Zahilay, Kohl-Welles
Proposed No.: 2020-0191

1 **STRIKING AMENDMENT TO PROPOSED ORDINANCE 2020-0191, VERSION**

2 **3**

3 On page 1, beginning on line 4, strike everything through page 9, line 178, and insert:

4 "BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

5 **SECTION 1. Findings:**

6 A. Public health - Seattle & King County activated the Public Health
7 Departmental Emergency Operations Center on January 21, 2020, for a significant health
8 emergency caused by the COVID-19 virus. Governor Jay Inslee declared a state of
9 emergency in response to the cases of COVID-19 in Washington state on February 29,
10 2020, and on March 1, 2020, the King County executive issued a proclamation of
11 emergency.

12 B. The COVID-19 virus was declared a pandemic by the World Health
13 Organization on March 11, 2020.

14 C. As of April 18, 2020, 11,802 people in Washington state have been diagnosed
15 with and 624 people have died from COVID-19.

16 D. On March 23, 2020, Governor Inslee issued a proclamation entitled "Stay
17 Home - Stay Healthy," prohibiting all people in the state from leaving their homes or
18 place of residences except either to conduct or participate in essential activities or for

19 employment in essential business services, or both, until April 6, 2020. On April 2, 2020,
20 Governor Inslee extended the "Stay Home - Stay Healthy" proclamation to May 4, 2020.
21 On April 27, 2020, Governor Inslee adjusted and extended the "Stay Home – Stay
22 Healthy" proclamation to May 31, 2020.

23 E. Public health - Seattle & King County has recommended that people at higher
24 risk of severe illness stay home and away from large groups of people as much as
25 possible. People at higher risk include people: over sixty years old; with underlying
26 health conditions, including heart disease, lung disease or diabetes; with weakened
27 immune systems; and who are pregnant.

28 F. Public health - Seattle & King County has recommended that employers take
29 steps to make it more feasible for their employees to work in ways that minimize close
30 contact with large numbers of people, including maximizing telecommuting options and
31 maximizing flexibility in sick leave benefits for those who are ill or at high risk.

32 G. Persons with underlying health conditions are at greater risk of fatality if they
33 contract COVID-19, and preventing individuals from becoming higher-risk patients will
34 protect the public health, safety and welfare of the region.

35 H. The impacts of the emerging public health crisis on the economy,
36 employment, job retention, child care and businesses have resulted in and might continue
37 to result in: workers being unable to go to work because of illness; the need to care for
38 children home from day care or school or for other family members without paid sick or
39 safe time; and reduced hours due to reduced demand, furlough or unemployment as
40 businesses struggle during the state of emergency.

41 I. The impacts of the forced closure of businesses will be felt most by small
42 businesses and nonprofits, which typically have smaller profit margins, smaller cash
43 reserves, and less access to capital than larger for-profit businesses.

44 J. Those risks are compounded especially for workers without paid sick or safe
45 time, those in the "gig economy" and others without protections that help stabilize
46 income. Historically disadvantaged populations are already at greater risk of eviction.
47 Compounding existing risk with the impacts from the COVID-19 emergency may
48 increase the likelihood of exposure, spread and contraction of the virus.

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

57 L. On March 18, 2020, Governor Inslee issued Proclamation 20-19 prohibiting
58 eviction actions based on nonpayment of rent until April 17, 2020, which was extended
59 until June 4, 2020, with additional tenant protections. Under the emergency
60 proclamation, renters are still obligated to pay landlords, resulting in potentially
61 significant accumulated debt for those who defer payments.

62 M. The King County regional affordable housing task force report included
63 census data showing that more than 124,000 low-income households in King County are

64 severely cost burdened. Of these, 88 percent, or 109,700 households, earn 50 percent or
65 less of area median income, meaning the county's poorest residents struggle most with
66 housing costs. The report found that communities of color and renters are
67 disproportionately likely to be severely cost burdened, paying more than half of their
68 income toward housing costs. The report also included a recommended strategy of
69 adopting ordinances to expand tenant protection and provide implementation support.
70 The King County council declared through Motion 15372 that recommendations
71 contained therein represent the policy of the council.

72 SECTION 2. The definitions in this section apply throughout this ordinance
73 unless the context clearly requires otherwise.

74 A. "Housing unit" means a structure or that part of a structure that is used as a
75 home, residence or sleeping place by one or more persons maintaining a common
76 household, including, but not limited to, single-family residences and units of
77 multiplexes, apartment buildings and mobile homes and for which occupancy is
78 authorized by a rental agreement.

79 B. "Occupancy" means the formal designation of the primary purpose of the
80 building structure or portion thereof.

81 C. "Owner" means one or more persons, jointly or severally, in whom is vested:

82 1. All or any part of the legal title to property; or

83 2. All or part of the beneficial ownership, and a right to present use and
84 enjoyment of the property.

85 D. "Rental agreement" means all agreements that establish or modify the terms,
86 conditions, rules, regulations or any other provisions concerning the use and occupancy

87 of a housing unit.

88 E. "Small commercial tenant" means a business entity, including a sole

89 proprietorship, corporation, partnership or other legal entity, that:

90 1. Is owned and operated independently from all other businesses. A franchisee
91 with five or fewer franchise units shall be considered owned and operated independently
92 from its franchisor;

93 2. Has fifty or fewer employees per establishment or premises;

94 3. Has either been forced to close due to an emergency order issued by the
95 Governor or has gross receipts from the previous calendar month of 2020 that are less
96 than seventy percent of its gross receipts for the same month in 2019; and

97 4. Is neither a general sales and service business with ten or more
98 establishments in operation located anywhere in the world nor an entertainment use
99 business with five or more establishments in operation located anywhere in the world.

100 SECTION 3. A. Where an unlawful detainer action is based on any reason
101 enumerated in this section, it is a defense to eviction if the eviction were initiated because
102 of a failure to pay rent due before or by March 1, 2021. The defense is available only
103 where the reason for termination of the tenancy is based on:

104 1. The tenant's failure to comply with a fourteen-day notice to pay rent or vacate
105 under RCW 59.12.030(3); or

106 2. The tenant's habitual failure to comply with the material terms of the rental
107 agreement to pay rent that causes the owner to serve a notice to comply or vacate or a
108 notice to pay rent or vacate three or more times in a twelve-month period.

109 B. To assert the defense under subsection A. of this section, the residential tenant

110 must prove that the failure to pay rent was due to the following circumstances occurring
111 as a result of the COVID-19 pandemic:

- 112 1. The tenant's illness;
- 113 2. Loss or reduction of income;
- 114 3. Loss of employment;
- 115 4. Reduction in compensated hours of work;
- 116 5. Business or office closure;
- 117 6. A need to miss work to care for a family member or child, where that care is
118 uncompensated; or
- 119 7. Other similar loss of income due to the COVID-19 pandemic.

120 C. A tenant who fails to pay rent due before or by March 1, 2021, may elect to
121 pay the overdue rent in installments if the failure to pay was due to one or more reasons
122 in subsection A.1. of this section. If an unlawful detainer action is based on the
123 circumstances enumerated in subsection A. of this section, it is a defense to eviction that
124 the landlord refused a request to enter into a repayment plan that meets the following
125 requirements:

- 126 1. The reasons for which the landlord allowed residential tenants to pay overdue
127 rent on a repayment plan is due to one or more of the following circumstances occurring
128 as a result of the COVID-19 pandemic:
 - 129 a. the tenant's illness;
 - 130 b. loss or reduction of income;
 - 131 c. loss of employment;
 - 132 d. reduction in compensated hours of work;

- 133 e. business or office closure;
- 134 f. a need to miss work to care for a family member or child, where that care is
135 uncompensated; or
- 136 g. Other similar loss of income due to the COVID-19 pandemic;
- 137 2. A written installment repayment plan shall be negotiated between the
138 landlord and residential tenant, which shall include the following provisions:
- 139 a. the plan does not require the tenant to pay more than one-third of the
140 overdue rent per month unless agreed to by the tenant; and
- 141 b. all rental debt accumulated resulting from the reasons in subsection A.1. of
142 this section shall be paid in full to the landlord by September 1, 2021; and
- 143 3. Late fees, interest or other charges due to late payment of rent shall not
144 accrue during or by March 1, 2021.

145 SECTION 4. A. A small commercial tenant that fails to pay rent due before or
146 by March 1, 2021, may elect to pay its overdue rent in installments by September 1,
147 2021, during that period on a repayment schedule.

148 B. A written installment repayment schedule under subsection A. of this section
149 shall be negotiated between the lessor and the small commercial tenant for the payment
150 of rent in arrears, and:

- 151 1. The schedule may not require the small commercial tenant to pay, in addition
152 to rent due for the month or period, more than one-third of late rent within any month or
153 period following the month or period for which full rent was not paid unless agreed by
154 the tenant; and
- 155 2. Rent in arrears shall be paid in full to the lessor no later than September 1,

156 2021.

157 C. Late fees, interest or other charges due to late payment of rent shall not accrue
158 before or by March 1, 2021.

159 SECTION 5. Severability. If any provision of this ordinance or its application to
160 any person or circumstance is held invalid, the remainder of the ordinance or the
161 application of the provision to other persons or circumstances is not affected.

162 SECTION 6. The county council finds as a fact and declares that an emergency
163 exists and that this ordinance is necessary for the immediate preservation of public peace,
164 health or safety or for the support of county government and its existing public
165 institutions."

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167 **EFFECT: Makes technical corrections recommended by the PAO and the code**
168 **reviser; changes the sunset date of the provisions from September 1, 2020 to March**
169 **1, 2021.**