



Meeting Agenda

Land Use & Environment Committee

City Hall
601 4th Avenue E
Olympia, WA 98501

Information: 360.753.8244

Thursday, September 17, 2020

5:00 PM

Online and via phone

Register to attend:

https://us02web.zoom.us/webinar/register/WN_O_eqivwsRf2irmvHzDdDxA

1. **CALL TO ORDER**

2. **ROLL CALL**

3. **APPROVAL OF AGENDA**

4. **PUBLIC COMMENT**

(Estimated Time: 0-15 Minutes)

During this portion of the meeting, citizens may address the Committee for up to three (3) minutes regarding the Committee's business meeting topics.

5. **APPROVAL OF MINUTES**

5.A [20-0703](#) Approval of August 20, 2020 Land Use & Environment Committee Meeting Minutes

Attachments: [Minutes](#)

6. **COMMITTEE BUSINESS**

6.A [20-0697](#) Risk and Resiliency Assessment and Water System Plan Update Project Briefing

Attachments: [RRA Fact Sheet](#)

[WSP Update Flyer](#)

6.B [20-0698](#) Thurston Regional Climate Mitigation Plan Project Update

Attachments: [Link to Thurston Regional Climate Mitigation Plan](#)

6.C [20-0696](#) Consideration of an Ordinance Adding a New Chapter to 5.82 to Title 5 of the Olympia Municipal Code regarding a Rental Housing Code

Attachments: [Renter Protections Ordinance](#)

[Governor's Proclamation 20.19.3 Evictions](#)

[Renter Protections King County](#)

[Renter Protections CDC](#)

7. REPORTS AND UPDATES**8. ADJOURNMENT**

The City of Olympia is committed to the non-discriminatory treatment of all persons in employment and the delivery of services and resources. If you require accommodation for your attendance at the City Council Committee meeting, please contact the Council's Executive Assistant at 360.753.8244 at least 48 hours in advance of the meeting. For hearing impaired, please contact us by dialing the Washington State Relay Service at 7-1-1 or 1.800.833.6384.



City Hall
601 4th Avenue E.
Olympia, WA 98501
360-753-8244

Land Use & Environment Committee
**Approval of August 20, 2020 Land Use &
Environment Committee Meeting Minutes**

Agenda Date: 9/17/2020
Agenda Item Number: 5.A
File Number:20-0703

Type: minutes **Version:** 1 **Status:** In Committee

Title

Approval of August 20, 2020 Land Use & Environment Committee Meeting Minutes



Meeting Minutes - Draft

Land Use & Environment Committee

City Hall
601 4th Avenue E
Olympia, WA 98501
Information: 360.753.8244

Thursday, August 20, 2020

5:00 PM

Via zoom or telephone

Register to attend:

https://us02web.zoom.us/webinar/register/WN_hAY_RlqWTKm2STUdREuppg

1. CALL TO ORDER

Chair Gilman called the meeting to order at 5:00 p.m.

2. ROLL CALL

Present: 3 - Chair Clark Gilman, Committee member Dani Madrone and Committee member Jessica Bateman

2.A OTHERS PRESENT

Community Planning and Development Staff:
Director Leonard Bauer
Economic Development Director Mike Reid
Historic Preservation Officer Marygrace Goddu

Public Works Staff:
Water Resource Director Eric Christensen

Pioneer Technologies (City consultant) Joel Hecker

3. APPROVAL OF AGENDA

The agenda was approved.

4. PUBLIC COMMENT

Chris van Daalen spoke.

5. APPROVAL OF MINUTES

5.A [20-0644](#) Approval of July 16, 2020 Land Use & Environment Committee Meeting Minutes

The minutes were approved.

6. COMMITTEE BUSINESS

6.A [20-0640](#) Sea Level Rise Response Implementation Briefing

Mr. Christensen gave a briefing on the Sea Level Rise (SLR) Plan. He also presented several questions regarding a governance structure for the SLR partnership between the City of Olympia, Port of Olympia, and LOTT, and potentially other future partners to the committee.

The discussion was completed.

6.B [20-0641](#) Environmental Protection Agency Brownfield Grant project briefing

Mr. Reid and Mr. Hecker gave a presentation on the Environmental Protection Agency Brownfield Grant Project. Mr. Hecker reviewed the purpose of the \$600,000 EPA grant (what it can and cannot be used for), public open house, and properties that have been assisted under the grant to date.

The discussion was completed.

6.C [20-0629](#) Downtown Creative District Development Code Amendment

Ms. Goddu provided an overview of the Downtown Creative District and underscored the need for aligning development regulations with the intent of that District to encourage adaptive reuse of historic buildings. Committee comments supported continuing with a broad definition of creative industries to be permitted throughout the creative district.

The discussion was completed.

7. REPORTS AND UPDATES

Mr. Bauer reported on the upcoming Planning Commission hearings on the Capital Facilities Plan and Housing Options ordinance. He noted topics for the next meeting include briefings on the Water System Risk and Resiliency Plan and Thurston Regional Climate Action Plan.

Committee member Madrone reported on a recent meeting with Thurston Conservation District regarding urban farmland.

The Committee discussed residential tenant-related actions and timing of consideration by Council. The Committee agreed to add to their September meeting provisions directly related to the COVID pandemic and other items to be scheduled for a more robust public conversation.

8. ADJOURNMENT

The meeting was adjourned at 7:00 p.m.



Land Use & Environment Committee

Risk and Resiliency Assessment and Water System Plan Update Project Briefing

Agenda Date: 9/17/2020
Agenda Item Number: 6.A
File Number:20-0697

Type: discussion **Version:** 1 **Status:** In Committee

Title

Risk and Resiliency Assessment and Water System Plan Update Project Briefing

Recommended Action

City Manager Recommendation:

Receive a briefing on the Risk and Resiliency Assessment and Water System Plan update and provide feedback.

Report

Issue:

Whether to receive a briefing on the Risk and Resiliency Assessment and Water System Plan Update Project.

Staff Contact:

Eric Christensen, Water Resources Director, 360.570.3741

Susan Clark, Engineering and Planning Supervisor, Public Works Water Resources, 360.753.8321

Presenters:

Eric Christensen

Susan Clark

Background and Analysis:

Risk and Resiliency Assessment

America's Water Infrastructure Act of 2018 requires water utilities to conduct a Risk and Resilience Assessment (RRA), including an examination of risks the utility faces from malevolent acts against its physical, telemetry, and cyber systems, as well as risks it faces from natural hazards (e.g. earthquakes, extreme weather). Additionally, six months after completing an RRA, an Emergency Response Plan is required.

Because sensitive information is included in an RRA, we are not required to submit our RRA work to the Environmental Protection Agency (EPA), instead, we must certify that we have completed our RRA by December 31, 2020 and the Emergency Response Plan by June 30, 2021.

Our RRA effort will build upon past work, including a 2004 Water System Vulnerability Assessment and the Drinking Water Utility Emergency Response Plan.

The City hired an outside consulting firm, HDR Engineering, Inc., to assist with the RRA (and with our Water System Plan update). We are using a methodology from the American Water Works Association to conduct the RRA. Key steps include:

- Asset characterization
- Threat characterization
- Consequence analysis
- Vulnerability analysis
- Threat analysis
- Risk/resilience analysis
- Risk/resilience management

The results of the RRA will inform the water system planning process, particularly our capital and operations and maintenance programs.

Water System Plan Update

Washington Administrative Code (WAC 246-290-100) requires water utilities with 1,000 or more connections, or those that are expanding, to develop water systems plans every 6 to 10 years. Water system plans are reviewed and approved by the Washington State Department of Health (DOH) and are formatted to demonstrate the utility's capacity to remain in compliance with relevant local, state and federal regulations.

The 2015-2020 Water System Plan (WSP) was approved by DOH on January 22, 2016 and our 2021-2026 WSP is due by January 22, 2022.

To conduct the update, an internal cross-sectional writing team has been formed. (Members of this writing team are also assisting with the RRA.) To date, the writing team has:

- Established a project webpage and announced the project in the September/October *Five Things* Utility Insert
- Attended a pre-plan meeting with representatives of DOH
- Determined the focus of our WSP update
- Reviewed and revised the 2015-2020 WSP goals and objectives

Neighborhood/Community Interests (if known): None known at this time. Community outreach, particularly through the Utilities Advisory Committee, will occur as a component of the water system planning process.

Options: None at this time. Briefing only.

Financial Impact: None at this time. The Water System Plan Update will include a financial and rate analysis and a 6-year and 20-year capital improvement program.

Type: discussion **Version:** 1 **Status:** In Committee

Attachments:

RRA Fact Sheet

WSP Update Flyer

PRIMER FOR TECHNICAL ASSISTANCE PROVIDERS: HELPING COMMUNITY WATER SYSTEMS COMPLY WITH SECTION 2013 OF AMERICA'S WATER INFRASTRUCTURE ACT OF 2018

America's Water Infrastructure Act of 2018 (AWIA) amends the Safe Drinking Water Act (SDWA) and includes new resilience requirements for drinking water utilities.

AWIA applies to a subset of community water systems (CWSs), which are drinking water utilities that consistently serve at least 25 people or 15 service connections year-round.

Section 2013 of AWIA requires CWSs serving populations more than 3,300 to conduct and certify completion of a Risk and Resilience Assessment and Emergency Response Plan (ERP) to the U.S. Environmental Protection Agency (U.S. EPA).



AWIA Deadlines

Risk and Resilience Assessment

Certification

- March 31, 2020 if serving $\geq 100,000$ people
- December 31, 2020 if serving 50,000 to 99,999 people
- June 30, 2021 if serving 3,301 to 49,999 people

Emergency Response Plan

- September 30, 2020 if serving $\geq 100,000$ people
- June 30, 2021 if serving 50,000 to 99,999 people
- December 30, 2021 if serving 3,301 to 49,999 people

Recertification

Every five years, the utility must review and, if necessary, revise the Risk and Resilience Assessment and submit a recertification to the U.S. EPA. The deadline for the recertification is five years from the original statutory deadlines listed above.

Within six months of submitting the recertification for the Risk and Resilience Assessment, the utility must certify it has reviewed and, if necessary, revised, its ERP.

Certification Frequently Asked Questions

How will the U.S. EPA determine utility population service size and the certification deadline?

- The U.S. EPA will use the CWS population size shown in the Safe Drinking Water Information System (SDWIS) as of the AWIA date of enactment on October 23, 2018.

What if a CWS has more than one Public Water System Identification (PWSID) number?

- The CWS must certify the completion of its Risk and Resilience Assessment and ERP for every individual PWSID number.

Certifying Process

Utilities can begin the initial certification process after completing their Risk and Resilience Assessments. There are three options for certifying:

1. Electronic submission via online portal, which is accessible from the [U.S. EPA's AWIA homepage](#)
2. Email certification statement to the U.S. EPA at awiasupport@epacdx.net
3. Mail certification statement to the U.S. EPA at

U.S. EPA Data Process Center
ATTN: AWIA
C/O CGI Federal
12601 Fair Lakes Circle Fairfax, VA 22033

If you choose to certify via email or regular mail, please use the Risk and Resilience Assessment Certification Statement or ERP Certification Statement fillable PDF provided by the U.S. EPA. The following information is required to complete the document:

- Name of the utility
- Mailing address
- PWSID
- Population served
- Date of the certification
- Name of certifying official

Quick Submittal Tips:

- The quickest method to certify is to use the secure online portal. The portal is accessible from the [U.S. EPA's AWIA homepage](#). Certifying officials create a login with their PWSID and enter official contact information or the name of their utility. The next step is to read the certification statement and certify completion of the Risk and Resilience Assessment. This will be the only certification option where the U.S. EPA will be able to provide an acknowledgement of receipt of the certification statement.
- The certification process is the same for the Risk and Resilience Assessment and the ERP.

Important:

- Utilities should NOT submit the Risk and Resilience Assessment itself to the U.S. EPA; only the certification is required.
- Utilities should not submit their certification to their state primacy agency in lieu of the U.S. EPA. States are not required to accept or track the utility certifications under AWIA Section 2013.

Certifying Official

Both Risk and Resilience Assessments and ERPs are self-certified by the utility. There are no specific requirements for the utility certifying official, however, the official must be a utility employee.

TOOLS AND RESOURCES

Conducting a Risk and Resilience Assessment

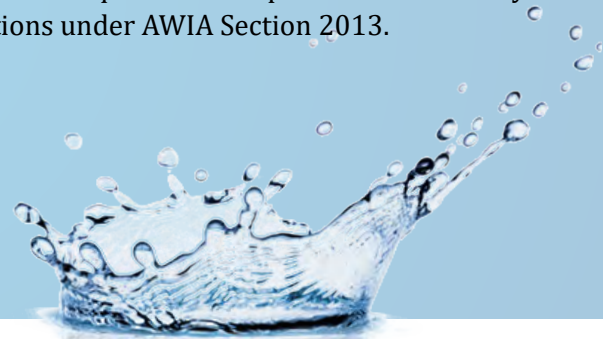
- [U.S. EPA Baseline Information on Malevolent Acts for Community Water Systems](#)
- [U.S. EPA Vulnerability Self-Assessment Tool \(VSAT\) Web 2.0](#)

Certification Process

- [U.S. EPA Instructions on How to Certify Your Risk and Resilience Assessment and ERP](#)
- [Risk and Resilience Assessment Certification Statement](#)
- [ERP Certification Statement](#)

Developing an Emergency Response Plan

- [U.S. EPA ERP Template and Instructions](#)
- [Local Emergency Planning Committees \(LEPCs\)](#)



RISK AND RESILIENCE ASSESSMENT

Risk and Resilience Assessments allow utilities to identify their vulnerabilities to man-made and natural hazards and evaluate potential improvements to enhance security and resilience. AWIA Section 2013 requires that Risk and Resilience Assessments consider:

- Natural hazards and malevolent acts
- Monitoring practices
- Financial systems (e.g., billing systems)
- Chemical storage and handling
- Operation and maintenance
- Resilience of water facility infrastructure and resources

The assessment may also include an evaluation of capital and operational needs for risk and resilience management of the system.

TOOLS AND RESOURCES

Technical assistance (TA) providers should encourage and facilitate coordination between utilities and local stakeholders, including:

- [LEPCs](#)
- [Mutual Aid and Assistance Networks](#)

These organizations may be willing to share information concerning local risk assessments.

TA providers can direct utilities to available tools to conduct Risk and Resilience Assessments, such as [U.S. EPA's VSAT WEB 2.0](#). VSAT Web 2.0 helps utilities conduct Risk and Resilience Assessments by identifying the highest risks to mission-critical operations and finding the most cost-effective measures to reduce those risks.

Risk and Resilience Assessments Frequently Asked Questions

What is a malevolent act?

- A malevolent act is defined as an intentionally harmful act, such as the use of force, against a utility. [The Baseline Information Malevolent Acts for Community Water Systems](#) document can assist utilities in calculating the likelihood of malevolent acts.

How are the 2002 mandated vulnerability assessments and the newly required Risk and Resilience Assessments different?

- The earlier vulnerability assessments were required by Title IV of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act). The Bioterrorism Act added Section 1433 to the SDWA and required utilities serving more than 3,300 people to conduct and submit to the U.S. EPA a vulnerability assessment. This one-time requirement only considered threats associated with terrorist and other intentional acts. The AWIA Section 2013 Risk and Resilience Assessments must be reviewed and updated every five years and consider additional hazards. AWIA does not require utilities submit their assessments to the U.S. EPA, but instead only requires that utilities certify completion.

Can a utility use an existing Risk and Resilience Assessment to comply with the AWIA requirement?

- Yes, provided that the previous Risk and Resilience Assessment satisfies all requirements outlined by AWIA.

EMERGENCY RESPONSE PLAN

Utilities should be prepared for several types of emergencies, including natural hazards and manmade (such as cyber attacks) threats. Utilities should develop their ERPs based on the vulnerabilities identified in their Risk and Resilience Assessments.

Required core elements of an ERP include:

- Strategies and resources to improve resilience, including physical security and cybersecurity
- Plans and procedures for responding to a malevolent act or natural hazard that threatens safe drinking water
- Actions, procedures and equipment to lessen the impact of a malevolent act or natural hazard, including alternative water sources, relocating intakes and flood protection barriers
- Strategies to detect malevolent acts or natural hazards that threaten the system



TOOLS AND RESOURCES

TA providers can use resources from the local, state and federal level to guide water utilities in updating or developing an ERP.

Utilities must work, to the extent possible, with their LEPCs when creating their ERP. TA providers can assist utilities in contacting their [LEPCs](#).

The [U.S. EPA ERP Template and Instructions](#) can help utilities develop their ERP.

Utilities must meet the ERP requirements specified in AWIA to certify completion. TA providers should also recommend utilities check with their primacy agency regarding any additional requirements mandated by the state. AWIA does not supersede state law.

Emergency Response Plans Frequently Asked Questions

What are the benefits of working with the LEPC?

- Under the Emergency Planning and Community Right-to-Know Act (EPCRA), LEPCs must develop an ERP and review it annually. The information contained in these plans may be beneficial to water utilities. In addition, water utilities can participate in training exercises led by their LEPCs.

How are the 2002 mandated ERPs and the newly required ERPs different?

- Like the vulnerability assessment, the Bioterrorism Act required utilities to develop a one-time ERP. AWIA requires that ERPs be reviewed and recertified every five years. Utilities must also consider additional factors including resilience strategies, emergency plans and procedures, mitigation actions and detection strategies under AWIA.

Can a utility use an existing ERP to comply with the AWIA requirement?

- Yes, however, utilities must ensure that the ERP addresses all criteria outlined in AWIA Section 2013. Additionally, utilities must ensure that the plan incorporates the findings from the Risk and Resilience Assessment required under AWIA.

Do utilities have to use U.S. EPA guidance to meet the ERP certification requirements under AWIA?

- No. Utilities are not required to follow any specific standards, methods or tools to prepare their ERP. However, they must ensure their plan meets all the AWIA criteria.

Still have questions about the new AWIA requirements?

Contact the U.S. EPA at dwresilience@epa.gov.

What are our Risk and Resiliency Assessment Requirements?

America's Water Infrastructure Act of 2018 requires us to conduct a Risk and Resilience Assessment, including an examination of risks from malevolent acts and natural hazards, by December 31, 2020 and an Emergency Response Plan that addresses the identified risks by June 30, 2021.

The results of the Risk and Resiliency Assessment will inform the water system planning process, especially the development of the capital and operations and maintenance programs.

What will the Water System Planning Process Focus on?

In addition to meeting water system planning requirements, the water utility will focus on the following during this update cycle:

Our Water Sources: Our primary focus during the development of our 2015-2020 WSP was on changing our source of supply from McAllister Springs (surface supply) to the McAllister Wellfield. During this update, we intend to evaluate the current health of our production wells and consider possible alternative sequencing of our water rights. We will focus foremost on our Shana Park Well itself and in conjunction with the use of our other Southeast Olympia wells and water rights.

Our Storage Infrastructure: In recent years we have been conducting seismic and condition evaluations of our reservoirs/tanks. Currently, we are making seismic upgrades to our Fir St and Elliot reservoirs. During this update, we intend to prepare a plan for addressing how and when to address upgrades to - or replacement of - our other reservoirs/tanks.

Our Aging Infrastructure: Our 2015-2020 WSP included an Asset Management Strategy. Since that time, we have made progress in several areas, including with our asset inventory. During this update, we will focus on determining replacement costs and effective life of our assets in order to better inform, educate and engage the community and our elected officials of our infrastructure investment needs.

Water System Plan Update – Project Assumptions

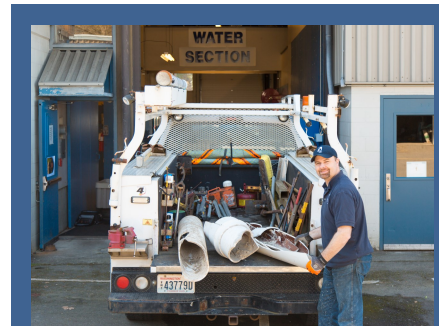
The water system plan update process will be guided by the following assumptions:

The 2015-2020 Water System Plan serves as an excellent starting point for the 2021-2026 WSP – a minor update will occur consistent with Washington Administrative Code planning requirements.

A city cross-sectional writing team will serve as the primary plan authors. Consulting assistance will be used for:

- Water demand forecasting & source analysis
- System deficiency analysis
- Capital improvement development & project cost estimating
- Financial and rate analysis

Outreach activities will include, at a minimum, a customer informational meeting, a conservation goal setting forum, a neighboring system and public review period and a public hearing. The Utility Advisory Committee will serve as the primary review committee.



Mission

Provide and protect nature's water for a healthy community.

What are the 2021-2026 Water System Plan's DRAFT Goals and Objectives?

As a first step in the water system plan update process, the city cross-sectional writing team has reviewed the 2015-2020 Water System Plan goals and objectives. This review resulted in a recommendation to include one new goal, and associated objectives, to address climate change. As additional work is completed by the writing team, additional revisions may be made.

Water System Plan Goals and Objectives

- Goal 1:** Adequate supplies of water are available for the Olympia community while protecting in-stream flows and sustaining long-term capacity of aquifers. (Chapter 4)
- Objective 1A:** Identify water rights that ensure adequate supply for at least 50 years, so sources can be protected from contamination or commitment to lower priority uses.
- Objective 1B:** Encourage multi-jurisdictional approaches to water rights and source development.
- Objective 1C:** Monitor water levels in all pumped aquifers and maintain numerical groundwater models to better define aquifer characteristics and accurately evaluate the impacts of the City's withdrawals.
- Goal 2:** Water is delivered at pressures required by the Washington State Department of Health and meets Safe Drinking Water Act standards. (Chapter 11)
- Objective 2A:** Maintain 100 percent compliance with all state and federal monitoring requirements.
- Objective 2B:** Maintain 100 percent compliance with all state and federal treatment requirements.
- Objective 2C:** Respond to customer water quality concerns promptly and maintain accurate records.
- Objective 2D:** Support the groundwater protection network with monitoring and data collection.
- Goal 3:** Olympia's water supplies are used efficiently to meet the present and future needs of the community and natural environment.
- Objective 3A:** PLACEHOLDER—new water conservation objective.
- Objective 3B:** PLACEHOLDER—new water conservation objective.
- Objective 3C:** Meet the needs of current and future City reclaimed water customers. (Chapter 6)
- Objective 3D:** Prioritize use of reclaimed water towards meeting the regional wastewater management goal of reducing the amount of treated wastewater discharged into Puget Sound. (Chapter 6)
- Goal 4:** Customers have access to the information they need, have a role in accomplishing Utility goals, and participate in Utility decision making. (Chapter 1)
- Objective 4A:** Engage with drinking water customers regularly.
- Objective 4B:** Coordinate customer service and education with the City's other water resource utilities and LOTT.

Continued next page

Goal 5: Groundwater quality is protected to ensure clean drinking water for present and future generations and to avoid the need for expensive replacement or treatment facilities. (Chapter 7)

Objective 5A: Prevent contamination of groundwater through surveillance and response.

Objective 5B: Strengthen and exercise partnerships with citizens and state/local agencies.

Objective 5C: Improve program policies, procedures and tools to enhance the effectiveness of groundwater protection efforts.

Goal 6: Infrastructure is prudently financed, and sustainably constructed, maintained and operated to ensure reliable delivery of high quality water to a growing community. (Chapters 8-13)

Objective 6A: Design and construct infrastructure to ensure reliable delivery of water. (Chapters 8, 9, 10)

Objective 6B: Continue to improve maintenance management, including preventive maintenance, repairs and replacements. (Chapter 12)

Objective 6C: Continue to improve the Utility's emergency response program and maintain facility security. (Chapter 12)

Objective 6D: Continue to improve O&M program management, including safety and asset management. (Chapter 12)

Goal 7: Drinking Water Utility finances are managed responsibly, and costs are recovered equitably based on customer use. (Chapter 14)

Objective 7A: Set rates that reflect financial policies and recover the cost of providing services to each customer class.

Objective 7B: Manage Utility rates and connection fees consistent with the City's guiding principle of growth paying for growth.

Objective 7C: Use debt financing responsibly to support needed capital facility investments and "smooth" rate impacts.

Goal 8: The Utility implements all applicable City and region-wide climate change mitigation and adaptation measures.

Objective 8A: Reduce the Drinking Water Utility's greenhouse gas emissions.

Objective 8B: Adapt drinking water infrastructure to accommodate predicted sea level rise projections.



Land Use & Environment Committee

Thurston Regional Climate Mitigation Plan Project Update

Agenda Date: 9/17/2020
Agenda Item Number: 6.B
File Number: 20-0698

Type: discussion **Version:** 1 **Status:** In Committee

Title

Thurston Regional Climate Mitigation Plan Project Update

Recommended Action

City Manager Recommendation:

Receive an update on the Thurston Regional Climate Mitigation Plan and provide feedback.

Report

Issue:

Whether to receive an update on the Thurston Climate Mitigation Plan.

Staff Contact:

Rich Hoey, P.E., Public Works Director, 360.753.8495

Susan Clark, Engineering and Planning Supervisor, Public Works Water Resources, 360.753.8321

Presenters:

Rich Hoey

Susan Clark

Background and Analysis:

Regional Climate Mitigation Planning

In April 2018, Thurston County, Olympia, Lacey, Tumwater and Thurston Regional Planning Council (TRPC) signed an Interlocal Agreement to complete Phase I of a regional Thurston Climate Mitigation Plan, with TRPC leading the effort. Phase I work resulted in the following regional greenhouse gas emissions reduction targets:

- 45% below 2015 levels by 2030
- 85% below 2015 levels by 2050

In November 2018, Olympia and the other regional jurisdictions approved a Phase II Interlocal Agreement addressing the development of the Thurston Climate Mitigation Plan.

Regional planning process accomplishments include:

- Steering Committee formed and 12 meetings held (Councilmembers Parshley and Cooper represent Olympia)
- Climate Advisory Workgroup formed and six meetings held
- Public Engagement Strategy approved and initial community outreach completed
- Completed review of the Thurston County Community-wide Greenhouse Gas Inventory
- Development of 300+ potential community-wide climate actions
- Approval of climate action screening criteria by the Steering Committee
- Screening of the 300+ community-wide climate actions across five different sectors (Buildings and Energy; Transportation and Land Use; Water and Waste; Agriculture and Forestry, and; Cross-cutting).
- Steering Committee narrowed the list of 300+ community-wide actions to 71 actions to be analyzed in more detail by the consultant.
- Completed an emissions target analysis which shows that the greenhouse gas emission reduction targets while ambitious, are achievable.
- Publication of a Thurston Climate Mitigation Plan Public Review Draft (Draft Plan) and establishment of a public comment period (September 14 - October 13)

Thurston Climate Mitigation Plan Public Review Draft

The Draft Plan lays out a road map for continuing regional collaboration on reducing local greenhouse gas emissions. It is intended to provide Olympia and its project partners with a suite of solid strategies that will guide next steps, not lock the jurisdictions into specific actions that may not make sense as the details are worked out.

The framework for reducing local greenhouse gas emissions presented in the Draft Plan includes:

- Greening our grid
- Shifting energy sources
- Living lighter
- Storing carbon
- Building local capacity

Each action included in the Draft Plan will require additional work to understand its feasibility, cost and impacts as implementation is considered. As a first step in this work, the project partners have grouped each action into the following general implementation approaches:

- Legislative agenda
- Regionally coordinated
- Individual jurisdiction

- Supporting partner

The Draft Plan can be found on the Thurston Regional Planning Council website(listed in attachments area). <https://trpc.org/909/Thurston-Climate-Mitigation-Plan>

Internal City Coordination

To ensure coordination occurs on climate issues as the mitigation plan is developed, the City of Olympia Executive Team formed an internal Climate Action Workgroup (Workgroup). To date the Workgroup has:

- Held nine Workgroup meetings, plus additional topic specific sub-Workgroup meetings.
- Developed a list of Early Climate Actions and begun action implementation
- Participated in mitigation plan stakeholder sub-committee meetings as subject matter experts.
- Provided feedback on implementation issues associated with the narrowed list of assessed actions.
- Provided input on priority actions for implementation during 2021 and 2022.

Next Steps

The next steps in the climate mitigation planning process include:

- Completion of the Draft Plan public review period
- Steering Committee review of public comment
- Steering Committee approval
- Completion of a Phase III Interlocal Agreement addressing implementation
- Individual jurisdiction review and approval

Neighborhood/Community Interests (if known):

During mitigation planning outreach activities and at mitigation planning meetings, various stakeholders and community members have voiced general support for the planning process and taking action to reduce the region's greenhouse gas emissions. As the planning process has progressed, stakeholders and community members have begun to express support for specific actions, including those that address energy efficiencies in existing buildings, promote solar and electric vehicles and address transit and growth strategies to move neighborhoods closer to workplaces. Recent input has focused on observations associated with similarities between the current COVID-19 situation and the climate crisis; the need to begin implementation immediately; and, concerns with equity and systemwide sustainability and the high reliance on carbon sequestration to meet the regional greenhouse gas reduction targets.

Options: None at this time. Briefing only.

Financial Impact: None at this time. Implementation of the strategies and actions included in the finalized Thurston Climate Mitigation Plan will likely require resources for additional staff and/or consultant support.

Attachment:

<https://trpc.org/909/Thurston-Climate-Mitigation-Plan>



Land Use & Environment Committee

Consideration of an Ordinance Adding a New Chapter to 5.82 to Title 5 of the Olympia Municipal Code regarding a Rental Housing Code

Agenda Date: 9/17/2020
Agenda Item Number: 6.C
File Number:20-0696

Type: recommendation **Version:** 1 **Status:** In Committee

Title

Consideration of an Ordinance Adding a New Chapter to 5.82 to Title 5 of the Olympia Municipal Code regarding a Rental Housing Code

Recommended Action

Committee Recommendation:

Move to forward a recommendation to City Council to take emergency action to adopt these regulations on first and final reading as soon as possible.

City Manager Recommendation:

Move to approve the Land Use and Environment Committee recommendation.

Report

Issue:

Whether to forward a recommendation to the City Council for consideration on an Ordinance adding a new chapter 5.82 to Title 5 of the Olympia Municipal Code related to rental housing.

Staff Contact:

Keith Stahley, Assistant City Manager 360.753.8227

Presenter(s):

Amy Buckler, Strategic Projects Programming and Planning Supervisor

Background and Analysis:

Consider a draft Ordinance Creating a Rental Housing Code in OMC Chapter 5.82. This ordinance protects tenants who have fallen behind in rent due to the COVID-19 pandemic.

King County adopted a similar ordinance in June of 2020. The King County ordinance extends Covid-19 protections to renters in King County until March 1, 2021. The draft ordinance included for the Land Use and Environment Committee's review would extend protections until July 1, 2021.

The ordinance authorizes a defense that a tenant may assert in court during a show cause hearing as to why the landlord should not be granted a writ of restitution restoring the landlord to the rental premises and evicting the tenant. It also provides a defense if a landlord refuses a tenant's request to enter into an installment repayment plan for unpaid rent due to the COVID-19 pandemic. The tenant has until October 1, 2021 or the sunset date of the ordinance, whichever occurs first, to pay the landlord in full for back rent. Late fees, interest and other charges are suspended and do not accrue commencing on the effective date of the ordinance until its sunset date.

The ordinance provides that the tenant's failure to pay rent was due to the following circumstances:

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

Repayment of rent owed is subject to the following conditions:

- a. The plan does not require the tenant to pay more than one-third of the overdue rent per month unless agreed to by the tenant in writing; and
- b. All rental debt accumulated resulting from the reasons in subsections A. and C. of this section shall be paid in full to the landlord by October 1, 2021 or the sunset date of this ordinance, whichever occurs first; and
- c. Late fees, interest or other charges due to late payment of rent shall not accrue from the commencement of the effective date of this ordinance until this ordinance sunsets as provided in OMC 5.82.030.B.

The Governor's Proclamation 20-19.3, Evictions and Related Housing Practices, was extended on July 24, 2020 until October 15, 2020. On September 1, 2020 the Center for Disease Control enacted a moratorium on evictions. This moratorium remains in effect until December 31, 2020.

In order to pass as an emergency measure, this ordinance must be adopted by a majority plus one of the full Council per RCW 35A.13.190. This ordinance will sunset one year after its effective date, unless legislatively extended by Council.

Neighborhood/Community Interests:

Rental properties are spread throughout the City. Over 50% of the residential properties in Olympia are renter occupied.

Options:

1. Consider the proposed ordinance and forward a recommendation to City Council to adopt the ordinance as an emergency measure.
2. Consider the proposed ordinance and provide feedback and direction to staff and return to the committee for further consultation.

3. Consider the ordinance and take no action.

Financial Impact:

No direct financial impacts are anticipated.

Attachments:

Draft Ordinance

King County Ordinance

Center for Disease Control's Order

Proclamation 20-19.3

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ADDING A NEW CHAPTER 5.82 TO TITLE 5 OF THE OLYMPIA MUNICIPAL CODE REGARDING A CITY OF OLYMPIA RENTAL HOUSING CODE

WHEREAS, earlier this year, the World Health Organization announced that novel coronavirus (COVID-19) is officially a global pandemic; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency because of COVID-19; and

WHEREAS, the Washington Governor also declared a State of Emergency due to new cases of COVID-19; and

WHEREAS, on March 24, 2020, the Olympia City Council passed Ordinance No. 7233 declaring a state of public health emergency in the City of Olympia. The Olympia City Council declared it will take all actions within its powers and resources to protect the public peace, health, safety and welfare of the residents and businesses of the City of Olympia due to the growing public health impacts of COVID-19; and

WHEREAS, on April 14, 2020, the Olympia City Council adopted Resolution No. M-2114 calling on Governor Jay Inslee to use the Governor's emergency powers to impose an immediate moratorium on residential and commercial rent payments, such that no resident of the City of Olympia or the State of Washington should be required to pay rent during the declared public health emergency or to suffer the accumulation of debt for unpaid rent, among other matters; and

WHEREAS, the impacts of the emerging public health crisis on the economy, employment, job retention, child care and businesses have resulted in and might continue to result in workers being unable to go to work because of illness; the need to care for children home from day care or school or for other family members without paid sick or vacation time; and reduced hours due to reduced demand, furlough or unemployment as businesses struggle during the state of the public health emergency; 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 an additional defense to eviction for certain causes resulting from the COVID-19 pandemic within the City of Olympia 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, in addition to the public health emergency caused by the COVID-19 pandemic, the Olympia City Council finds that the pandemic's effects have resulted in economic harm within the City of Olympia due to job loss or reduction of available work, lack of or inability to locate child care or care for family members, and that these unique challenges adversely affect and impact the ability of the City's residents to timely pay residential rent. The Olympia City Council further finds that it is appropriate to establish regulations supporting the issues of increasing housing security and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Olympia; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) announced on September 1, 2020 a nationwide moratorium on residential evictions through the end of 2020 to prevent further spread of the coronavirus by publication in the Federal Register of an Agency Order under Section 361 of the Public Health Service Act; and

WHEREAS, it is the intent of the Olympia City Council to continue its commitment to maintain healthy, vibrant and diverse neighborhoods within the City of Olympia, while balancing the needs of landlords and tenants during the COVID-19 pandemic;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. NEW CHAPTER 5.82. A NEW CHAPTER 5.82, Rental Housing Code, is hereby added to Title 5 of the Olympia Municipal Code to read as follows:

CHAPTER 5.82

Rental Housing Code

5.82.000 Chapter Contents

Sections:

5.82.010 Purpose and Intent.

5.82.020 Definitions.

5.82.030 Temporary COVID-19 rental enforcement restrictions.

5.82.010 Purpose and Intent.

The purpose of this chapter is to establish regulations supporting housing security to reduce homelessness and to establish standards and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Olympia. It is the intent of the Olympia City Council to continue its long-term commitment to maintain healthy, vibrant and diverse neighborhoods within the City of Olympia. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City of Olympia to ensure safe, healthy, and thriving rental housing within the City's municipal boundaries. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for Olympia's residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that this commercial venture is equitably undertaken. This chapter ensures housing security for current and future residents within the City of Olympia.

5.82.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

A. "Days" means calendar days unless otherwise provided.

B. "Dwelling unit" means a structure or part of a structure used as a home, residence, or sleeping place by one or more persons maintaining a common household, including, but not limited to, single-family residences and units of multiplexes, apartment buildings, mobile homes, and rooms for which occupancy is authorized by a written or oral rental agreement.

C. "Landlord" means a landlord as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed or occurs. As of the effective day of this ordinance, the RLTA defines "landlord" as "the owner, lessor, or sub-lessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sub-lessor including, but not limited to, an agent, a resident manager, or a designated property manager."

D. "Occupancy" means the formal designation of the primary purpose of the building structure or portion thereof.

E. "Owner" means the owner of record as shown on the last Thurston County tax assessment roll or such owner's authorized agent.

F. "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees. PROVIDED, however, that if, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's obligations and the tenant defaults in payment, the landlord may treat the default payment as rent owing.

G. "Rental agreement" means all agreements which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

H. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

5.82.030 Temporary COVID-19 rental enforcement restrictions.

A. During the term of the public health emergency Proclamations issued by the Governor related to the COVID-19 pandemic, including the Governor's Proclamation 20-05, and any amendments and extensions thereto, landlords, property owners, and property managers are prohibited from treating any unpaid rent or other charges related to a dwelling or parcel of land occupied as a dwelling as an enforceable debt or obligation that is owing or collectable, where such non-payment was as a result of the COVID-19 pandemic and its adverse economic impacts, and where it occurred on or after February 29, 2020, the date when the initial State of Emergency was proclaimed in all counties in Washington State. This 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. This prohibition does not apply to a landlord, property owner, or property manager who demonstrates by a preponderance of the evidence to a court that the resident was offered, and refused or failed to comply with, a re-payment plan that was reasonable based on the individual financial, health, and other circumstances of that resident and tenant. The enforcement restrictions set forth herein shall only apply to rental payment amounts during the time the Governor's Emergency Proclamation 20-05, and any amendments and extensions thereto that are in effect.

B. OMC Section 5.82.030 shall automatically expire and shall be repealed without any other action by the Olympia City Council one year after the effective date of this Ordinance, unless extended by legislative action.

C. Where an unlawful detainer action is based on any reason enumerated in OMC Chapter 5.82, it is a defense to eviction if the eviction was initiated because of a failure to pay rent due before or by July 1, 2021. The defense is available only where the reason for termination of the tenancy is based on:

1. The tenant's failure to comply with a fourteen-day notice to pay rent or vacate under RCW 59.12.030(3); or
2. The tenant's habitual failure to comply with the material terms of the rental agreement to pay rent that causes the owner to serve a notice to comply or vacate or a notice to pay rent or vacate three or more times in a twelve-month period.

D. To assert the defense under subsection A. of this section, the residential tenant must prove by a preponderance of the evidence that the failure to pay rent was due to the following circumstances occurring as a result of the COVID-19 pandemic:

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

E. A tenant who fails to pay rent due before or by July 1, 2021, may elect to pay the overdue rent in installments if the failure to pay was due to one or more reasons in subsections C. and D. of this section. If an unlawful detainer action is based on the circumstances enumerated in subsections A. and C. of this section, it is a defense to eviction that the landlord refused a request by a tenant to enter into a repayment plan.

1. The reasons for which a landlord shall allow residential tenants to pay overdue rent on a repayment plan shall be due to one or more of the following circumstances occurring as a result of the COVID-19 pandemic as set forth in subsection D. above.
2. A written installment repayment plan shall be negotiated between the landlord and residential tenant in good faith, which shall include the following provisions:
 - a. The plan does not require the tenant to pay more than one-third of the overdue rent per month unless agreed to by the tenant in writing; and
 - b. All rental debt accumulated resulting from the reasons in subsections A. and C. of this section shall be paid in full to the landlord by October 1, 2021 or the sunset date of this ordinance, whichever occurs first; and
 - c. Late fees, interest or other charges due to late payment of rent shall not accrue from the commencement of the effective date of this ordinance until this ordinance sunsets as provided in OMC 5.82.030.B.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. The Olympia City Council finds as a fact and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of public peace, health, safety, and welfare for the City's residents, therefore this Ordinance shall take immediate effect upon adoption, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

DRAFT

JAY INSLEE
Governor



STATE OF WASHINGTON
OFFICE OF THE GOVERNOR
P.O. Box 40002 • Olympia, Washington 98504-0002 • (360) 902-4111 • www.governor.wa.gov

**PROCLAMATION BY THE GOVERNOR
EXTENDING AND AMENDING
PROCLAMATIONS 20-05 AND 20-19, et seq.**

20-19.3

Evictions and Related Housing Practices

WHEREAS, on February 29, 2020, I issued Proclamation 20-05, proclaiming a State of Emergency for all counties throughout the state of Washington as a result of the coronavirus disease 2019 (COVID-19) outbreak in the United States and confirmed person-to-person spread of COVID-19 in Washington State; and

WHEREAS, as a result of the continued worldwide spread of COVID-19, its significant progression in Washington State, and the high risk it poses to our most vulnerable populations, I have subsequently issued amendatory Proclamations 20-06 through 20-53 and 20-55 through 20-63, exercising my emergency powers under RCW 43.06.220 by prohibiting certain activities and waiving and suspending specified laws and regulations; and

WHEREAS, the COVID-19 disease, caused by a virus that spreads easily from person to person which may result in serious illness or death and has been classified by the World Health Organization as a worldwide pandemic, continues to broadly spread throughout Washington State; and

WHEREAS, the COVID-19 pandemic is causing 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 our workforce due to substantial reductions in business activity impacting our commercial sectors that support our state's economic vitality, including severe impacts to the large number of small businesses that make Washington State's economy thrive; and

WHEREAS, many of our workforce expected to be impacted by these layoffs and substantially reduced work hours are anticipated to suffer economic hardship that will disproportionately affect 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 our workforce increases the likelihood of eviction from their homes, increasing the life, health and safety risks to a significant percentage of our people from the COVID-19 pandemic; and

WHEREAS, tenants, residents, and renters who are not materially affected by COVID-19 should and must continue to pay rent, to avoid unnecessary and avoidable economic hardship to landlords, property owners, and property managers who are economically impacted by the COVID-19 pandemic; and

WHEREAS, under RCW 59.12 (Unlawful Detainer), RCW 59.18 (Residential Landlord-Tenant Act), and RCW 59.20 (Manufactured/Mobile Home Landlord-Tenant Act) residents seeking to avoid default judgment in eviction hearings need to appear in court in order to avoid losing substantial rights to assert defenses or access legal and economic assistance; and

WHEREAS, on May 29, 2020, in response to the COVID-19 pandemic, the Washington Supreme Court issued Amended Order No. 25700-B-626, and ordered that courts should begin to hear non-emergency civil matters. While appropriate and essential to the operation of our state justice system, the reopening of courts could lead to a wave of new eviction filings, hearings, and trials that risk overwhelming courts and resulting in a surge in eviction orders and corresponding housing loss statewide; and

WHEREAS, the Washington State Legislature has established a housing assistance program in RCW 43.185 pursuant to its findings in RCW 43.185.010 “that it is in the public interest to establish a continuously renewable resource known as the housing trust fund and housing assistance program to assist low and very low-income citizens in meeting their basic housing needs;” and

WHEREAS, it is critical to protect tenants and residents of traditional dwellings from homelessness, as well as those who have lawfully occupied or resided in less traditional dwelling situations for 14 days or more, whether or not documented in a lease, including but not limited to roommates who share a home; long-term care facilities; transient housing in hotels and motels; “Airbnbs”; motor homes; RVs; and camping areas; and

WHEREAS, a temporary moratorium on evictions and related actions throughout Washington State at this time will help reduce economic hardship and related life, health, and safety risks to those members of our workforce impacted by layoffs and substantially reduced work hours or who are otherwise unable to pay rent as a result of the COVID-19 pandemic; and

WHEREAS, a temporary moratorium on evictions and related actions will reduce housing instability, enable residents to stay in their homes unless conducting essential activities, employment in essential business services, or otherwise engaged in permissible activities, and will promote public health and safety by reducing the progression of COVID-19 in Washington State; and

WHEREAS, when I issued Proclamation 20-19.2 on June 2, 2020, the Department of Health indicated there were approximately 22,157 cases of COVID-19 in Washington State with 1,129 deaths; and now, as of July 23, 2020, there are 50,009 cases and 1,482 deaths, demonstrating the ongoing, present threat of this lethal disease; and

WHEREAS, I issued Proclamations 20-25, 20-25.1, 20-25.2, and 20-25.3 (Stay Home – Stay Healthy), and I subsequently issued Proclamation 20-25.4 (“Safe Start – Stay Healthy” County-By-County Phased Reopening), wherein I amended and transitioned the previous proclamations’ “Stay Home – Stay Healthy” requirements to “Safe Start – Stay Healthy” requirements, prohibiting all people in Washington State from leaving their homes except under certain circumstances and limitations based on a phased reopening of counties as established in Proclamation 20-25.4, et seq., and according to the phase each county was subsequently assigned by the Secretary of Health; and

WHEREAS, when I issued Proclamation 20-25.4 on May 31, 2020, I ordered that, beginning on June 1, 2020, counties would be allowed to apply to the Department of Health to move forward to the next phase of reopening more business and other activities; and by July 2, 2020, a total of five counties were approved to move to a modified version of Phase 1, 17 counties were in Phase 2, and 17 counties were in Phase 3; and

WHEREAS, on July 2, 2020, due to increased COVID-19 infection rates across the state, I ordered a freeze on all counties moving forward to a subsequent phase, and that freeze remains in place while I work with the Department of Health and other epidemiological experts to determine appropriate strategies to mitigate the recent increased spread of the virus, and those strategies may include dialing back business and other activities; and

WHEREAS, on July 23, 2020, in response to the statewide increased rates of infection, hospitalizations, and deaths, I announced an expansion of the Department of Health’s face covering requirements and several restrictions on activities where people tend to congregate; and

WHEREAS, the worldwide COVID-19 pandemic and its progression in Washington State continue to threaten the life and health of our people as well as the economy of Washington State, and remain a public disaster affecting life, health, property or the public peace; and

WHEREAS, the Washington State Department of Health (DOH) continues to maintain a Public Health Incident Management Team in coordination with the State Emergency Operations Center and other supporting state agencies to manage the public health aspects of the incident; and

WHEREAS, the Washington State Military Department Emergency Management Division, through the State Emergency Operations Center, continues coordinating resources across state government to support the Washington State Department of Health and local health officials in alleviating the impacts to people, property, and infrastructure, and continues coordinating with the Department of Health in assessing the impacts and long-term effects of the incident on Washington State and its people.

NOW, THEREFORE, I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency continues to exist in all counties of Washington State, that Proclamation 20-05 and all amendments thereto remain in effect, and that Proclamations 20-05 and 20-19, et seq., are amended to temporarily prohibit residential evictions and temporarily impose other related prohibitions statewide until 11:59 p.m. on October 15, 2020, as provided herein.

I again direct that the plans and procedures of the *Washington State Comprehensive Emergency Management Plan* be implemented throughout State government. State agencies and departments are directed to continue utilizing state resources and doing everything reasonably possible to support implementation of the *Washington State Comprehensive Emergency Management Plan* and to assist affected political subdivisions in an effort to respond to and recover from the COVID-19 pandemic.

I continue to order into active state service the organized militia of Washington State to include the National Guard and the State Guard, or such part thereof as may be necessary in the opinion of The Adjutant General to address the circumstances described above, to perform such duties as directed by competent authority of the Washington State Military Department in addressing the outbreak. Additionally, I continue to direct the Washington State Department of Health, the Washington State Military Department Emergency Management Division, and other agencies to identify and provide appropriate personnel for conducting necessary and ongoing incident related assessments.

ACCORDINGLY, based on the above noted situation and under the provisions of RCW 43.06.220(1)(h), and to help preserve and maintain life, health, property or the public peace, except where federal law requires otherwise, effective immediately and until 11:59 p.m. on October 15, 2020, I hereby prohibit the following activities related to residential dwellings and commercial rental properties in Washington State:

- Landlords, property owners, and property managers are prohibited from serving or enforcing, or threatening to serve or enforce, any notice requiring a resident to vacate any dwelling or parcel of land occupied as a dwelling, including but not limited to an eviction notice, notice to pay or vacate, notice of unlawful detainer, notice of termination of rental, or notice to comply or vacate. This prohibition applies to tenancies or other housing arrangements that have expired or that will expire during the effective period of this Proclamation. This prohibition applies unless the landlord, property owner, or property manager (a) attaches an affidavit attesting that the action is necessary to respond to a significant and immediate risk to the health, safety, or property of others created by the resident; or (b) provides at least 60 days' written notice of intent to (i) personally occupy the premises as a primary residence, or (ii) sell the property.
- Landlords, property owners, and property managers are prohibited from seeking or enforcing, or threatening to seek or enforce, judicial eviction orders involving any dwelling or parcel of land occupied as a dwelling, unless the landlord, property owner, or property manager (a) attaches an affidavit attesting that the action is necessary to respond

to a significant and immediate risk to the health, safety, or property of others created by the resident; or (b) shows that at least 60 days' written notice were provided of intent to (i) personally occupy the premises as a primary residence, or (ii) sell the property.

- Local law enforcement are prohibited from serving, threatening to serve, or otherwise acting on eviction orders affecting any dwelling or parcel of land occupied as a dwelling, unless the eviction order clearly states that it was issued based on a court's finding that (a) the individual(s) named in the eviction order is creating a significant and immediate risk to the health, safety, or property of others; or (b) at least 60 days' written notice were provided of intent to (i) personally occupy the premises as a primary residence, or (ii) sell the property. Local law enforcement may serve or otherwise act on eviction orders, including writs of restitution, that contain the findings required by this paragraph.
- Landlords, property owners, and property managers are prohibited from assessing, or threatening to assess, late fees for the non-payment or late payment of rent or other charges related to a dwelling or parcel of land occupied as a dwelling, and where such non-payment or late payment occurred on or after February 29, 2020, the date when a State of Emergency was proclaimed in all counties in Washington State.
- Landlords, property owners, and property managers are prohibited from assessing, or threatening to assess, rent or other charges related to a dwelling or parcel of land occupied as a dwelling for any period during which the resident's access to, or occupancy of, such dwelling was prevented as a result of the COVID-19 outbreak.
- Except as provided in this paragraph, landlords, property owners, and property managers are prohibited from treating any unpaid rent or other charges related to a dwelling or parcel of land occupied as a dwelling as an enforceable debt or obligation that is owing or collectable, where such non-payment was as a result of the COVID-19 outbreak and occurred on or after February 29, 2020, and during the State of Emergency proclaimed in all counties in Washington State. This 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. **This prohibition does not apply to a landlord, property owner, or property manager who demonstrates by a preponderance of the evidence to a court that the resident was offered, and refused or failed to comply with, a re-payment plan that was reasonable based on the individual financial, health, and other circumstances of that resident; failure to provide a reasonable re-payment plan shall be a defense to any lawsuit or other attempts to collect.**
- Landlords, property owners, and property managers are prohibited from increasing, or threatening to increase, the rate of rent for any dwelling or parcel of land occupied as a dwelling. Except as provided below, this prohibition also applies to commercial rental property if the commercial tenant has been materially impacted by the COVID-19, whether personally impacted and is unable to work or whether the business itself was deemed non-essential pursuant to Proclamation 20-25 or otherwise lost staff or customers

due to the COVID-19 outbreak. This prohibition does not apply to commercial rental property if rent increases were included in an existing lease agreement that was executed prior to February 29, 2020 (pre-COVID-19 state of emergency).

- Landlords, property owners, and property managers are prohibited from retaliating against individuals for invoking their rights or protections under Proclamations 20-19 et seq., or any other state or federal law providing rights or protections for residential dwellings. Nothing in this order prevents a landlord from seeking to engage in reasonable communications with tenants to explore re-payment plans in accordance with this order.
- The preceding prohibitions do not apply to operators of facilities licensed or certified by the Department of Social and Health Services to prevent them from taking action to transfer or discharge a resident for health or safety reasons in accordance with the laws and rules that apply to those facilities.

Terminology used in these prohibitions shall be understood by reference to Washington law, including but not limited to RCW 49.60, RCW 59.12, RCW 59.18, and RCW 59.20. For purposes of this Proclamation, a “significant and immediate risk to the health, safety, or property of others created by the resident” (a) is one that is described with particularity, and cannot be established on the basis of the resident’s own health condition or disability; (b) excludes the situation in which a resident who may have been exposed to, or contracted, the COVID-19, or is following Department of Health guidelines regarding isolation or quarantine; and (c) excludes circumstances that are not urgent in nature, such as conditions that were known or knowable to the landlord, property owner, or property manager pre-COVID-19 but regarding which that entity took no action.

FURTHERMORE, it is the intent of this order to prevent a potential new devastating impact of the COVID-19 outbreak – that is, a wave of statewide homelessness that will impact every community in our state. To that end, this order further acknowledges, applauds, and reflects gratitude to the immeasurable contribution to the health and well-being of our communities and families made by the landlords, property owners, and property managers subject to this order.

ADDITIONALLY, I want to thank the vast majority of tenants who have continued to pay what they can, as soon as they can, to help support the people and the system that are supporting them through this crisis. The intent of Proclamation 20-19, et seq., is to provide relief to those individuals who have been impacted by the COVID-19 crisis. Landlords and tenants are expected to communicate in good faith with one another, and to work together, on the timing and terms of payment and repayment solutions that all parties will need in order to overcome the severe challenges that COVID-19 has imposed for landlords and tenants alike. I strongly encourage landlords and tenants to avail themselves of the services offered at existing dispute resolution centers to come to agreement on payment and repayment solutions.

ADDITIONALLY, to inform any future changes to this order in the short-term and the long-term, if an additional extension is necessary, I direct my executive senior policy advisors who have expertise in housing issues to convene an informal workgroup with stakeholders and legislators no later than September 15, 2020. The workgroup will discuss a broad range of issues, including, but not limited to, potentially authorizing rent rate increases.

MOREOVER, as Washington State begins to emerge from the current public health and economic crises, I recognize that courts, tenants, landlords, property owners, and property managers may desire additional direction concerning the specific parameters for reasonable re-payment plans related to outstanding rent or fees. This is best addressed by legislation, and I invite the state Legislature to produce legislation as early as possible during their next session to address this issue. I stand ready to partner with our legislators as necessary and appropriate to ensure that the needed framework is passed into law.

Violators of this order may be subject to criminal penalties pursuant to RCW 43.06.220(5).

Signed and sealed with the official seal of the state of Washington on this 24th day of July, A.D., Two Thousand and Twenty at Olympia, Washington.

By:

_____/s/_____
Jay Inslee, Governor

BY THE GOVERNOR:

_____/s/_____
Secretary of State

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."

166

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.**

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Agency Order.

SUMMARY: The Centers for Disease Control and Prevention (CDC), located within the Department of Health and Human Services (HHS) announces the issuance of an Order under Section 361 of the Public Health Service Act to temporarily halt residential evictions to prevent the further spread of COVID-19. **DATES:** This Order is effective September 4, 2020 through December 31, 2020.

FOR FURTHER INFORMATION CONTACT: Nina Witkofsky, Acting Chief of Staff, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS H21-10, Atlanta, GA 30329; Telephone: 404-639-7000; Email: cdcregulations@cdc.gov.

SUPPLEMENTARY INFORMATION:

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an

immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.¹

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.² During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these best efforts, COVID-19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Applicability

Under this Order, a landlord, owner of a residential property, or other person³ with a legal right to pursue

eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order. This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. Nor does this order apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more restrictive than the requirements in this Order.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Renter’s or Homeowner’s Declaration

Attachment A is a Declaration form that tenants, lessees, or residents of residential properties who are covered by the CDC’s order temporarily halting residential evictions to prevent the further spread of COVID-19 may use. To invoke the CDC’s order these persons must provide an executed copy of the Declaration form (or a similar declaration under penalty of perjury) to their landlord, owner of the residential property where they live, or other person who has a right to have them evicted or removed from where they live. Each adult listed on the lease, rental agreement, or housing contract should likewise complete and provide a declaration. Unless the CDC order is extended, changed, or ended, the order prevents these persons from being evicted or removed from where they are living through December 31, 2020. These persons are still required to pay rent and follow all the other terms of their lease and rules of the place where they live. These persons may also still be evicted for reasons other than not paying rent or making a housing

¹ CDC, *People with Certain Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

² Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

³ For purposes of this Order, “person” includes corporations, companies, associations, firms,

partnerships, societies, and joint stock companies, as well as individuals.

payment. Executed declarations should not be returned to the Federal Government.

Centers for Disease Control and Prevention, Department of Health and Human Services

Order Under Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2

Temporary Halt in Residential Evictions To Prevent the Further Spread of COVID-19

Summary

Notice and Order; and subject to the limitations under “Applicability”: Under 42 CFR 70.2, a landlord, owner of a residential property, or other person⁴ with a legal right to pursue eviction or possessory action, shall not evict any covered person from any residential property in any jurisdiction to which this Order applies during the effective period of the Order.

Definitions

“Available government assistance” means any governmental rental or housing payment benefits available to the individual or any household member.

“Available housing” means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to such individual.

“Covered person”⁵ means any tenant, lessee, or resident of a residential property who provides to their landlord, the owner of the residential property, or

other person with a legal right to pursue eviction or a possessory action, a declaration under penalty of perjury indicating that:

(1) The individual has used best efforts to obtain all available government assistance for rent or housing;

(2) The individual either (i) expects to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return),⁶ (ii) was not required to report any income in 2019 to the U.S. Internal Revenue Service, or (iii) received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;

(3) the individual is unable to pay the full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or wages, a lay-off, or extraordinary⁷ out-of-pocket medical expenses;

(4) the individual is using best efforts to make timely partial payments that are as close to the full payment as the individual’s circumstances may permit, taking into account other nondiscretionary expenses; and

(5) eviction would likely render the individual homeless—or force the individual to move into and live in close quarters in a new congregate or shared living setting—because the individual has no other available housing options.

“Evict” and “Eviction” means any action by a landlord, owner of a residential property, or other person with a legal right to pursue eviction or a possessory action, to remove or cause the removal of a covered person from a residential property. This does not include foreclosure on a home mortgage.

“Residential property” means any property leased for residential purposes, including any house, building, mobile home or land in a mobile home park, or

similar dwelling leased for residential purposes, but shall not include any hotel, motel, or other guest house rented to a temporary guest or seasonal tenant as defined under the laws of the State, territorial, tribal, or local jurisdiction.

“State” shall have the same definition as under 42 CFR 70.1, meaning “any of the 50 states, plus the District of Columbia.”

“U.S. territory” shall have the same definition as under 42 CFR 70.1, meaning “any territory (also known as possessions) of the United States, including American Samoa, Guam, the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands.”

Statement of Intent

This Order shall be interpreted and implemented in a manner to achieve the following objectives:

- Mitigating the spread of COVID-19 within congregate or shared living settings, or through unsheltered homelessness;
- mitigating the further spread of COVID-19 from one U.S. State or U.S. territory into any other U.S. State or U.S. territory; and
- supporting response efforts to COVID-19 at the Federal, State, local, territorial, and tribal levels.

Background

There is currently a pandemic of a respiratory disease (“COVID-19”) caused by a novel coronavirus (SARS-COV-2) that has now spread globally, including cases reported in all fifty states within the United States plus the District of Columbia and U.S. territories (excepting American Samoa). As of August 24, 2020, there were over 23,000,000 cases of COVID-19 globally resulting in over 800,000 deaths; over 5,500,000 cases have been identified in the United States, with new cases being reported daily and over 174,000 deaths due to the disease.

The virus that causes COVID-19 spreads very easily and sustainably between people who are in close contact with one another (within about 6 feet), mainly through respiratory droplets produced when an infected person coughs, sneezes, or talks. Some people without symptoms may be able to spread the virus. Among adults, the risk for severe illness from COVID-19 increases with age, with older adults at highest risk. Severe illness means that persons with COVID-19 may require hospitalization, intensive care, or a ventilator to help them breathe, and may be fatal. People of any age with certain underlying medical conditions, such as cancer, an

⁴ For purposes of this Order, “person” includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals.

⁵ This definition is based on factors that are known to contribute to evictions and thus increase the need for individuals to move into close quarters in new congregate or shared living arrangements or experience homelessness. Individuals who suffer job loss, have limited financial resources, are low income, or have high out-of-pocket medical expenses are more likely to be evicted for nonpayment of rent than others not experiencing these factors. See Desmond, M., Gershenson, C., *Who gets evicted? Assessing individual, neighborhood, and network factors*, Social Science Research 62 (2017), 366–377, <http://dx.doi.org/10.1016/j.ssresearch.2016.08.017>, (identifying job loss as a possible predictor of eviction because renters who lose their jobs experience not only a sudden loss of income but also the loss of predictable future income). According to one survey, over one quarter (26%) of respondents also identified job loss as the primary cause of homelessness. See 2019 San Francisco Homeless Point-in-Time Count & Survey, page 22, available at: https://hsh.sfgov.org/wp-content/uploads/2020/01/2019HIRDReport_SanFrancisco_FinalDraft-1.pdf.

⁶ According to one study, the national two-bedroom housing wage in 2020 was \$23.96 per hour (approximately, \$49,837 annually), meaning that an hourly wage of \$23.96 was needed to afford a modest two bedroom house without spending more than 30% of one’s income on rent. The hourly wage needed in Hawaii (the highest cost U.S. State for rent) was \$38.76 (approximately \$80,621 annually). See National Low-Income Housing Coalition, *Out of Reach: The High Cost of Housing 2020*, available at: <https://reports.nlihc.org/oor>. As further explained herein, because this Order is intended to serve the critical public health goal of preventing evicted individuals from potentially contributing to the interstate spread of COVID-19 through movement into close quarters in new congregate, shared housing settings, or through homelessness, the higher income thresholds listed here have been determined to better serve this goal.

⁷ An extraordinary medical expense is any unreimbursed medical expense likely to exceed 7.5% of one’s adjusted gross income for the year.

immunocompromised state, obesity, serious heart conditions, and diabetes, are at increased risk for severe illness from COVID-19.⁸

COVID-19 presents a historic threat to public health. According to one recent study, the mortality associated with COVID-19 during the early phase of the outbreak in New York City was comparable to the peak mortality observed during the 1918 H1N1 influenza pandemic.⁹ During the 1918 H1N1 influenza pandemic, there were approximately 50 million influenza-related deaths worldwide, including 675,000 in the United States. To respond to this public health threat, the Federal, State, and local governments have taken unprecedented or exceedingly rare actions, including border closures, restrictions on travel, stay-at-home orders, mask requirements, and eviction moratoria. Despite these significant efforts, COVID-19 continues to spread and further action is needed.

In the context of a pandemic, eviction moratoria—like quarantine, isolation, and social distancing—can be an effective public health measure utilized to prevent the spread of communicable disease. Eviction moratoria facilitate self-isolation by people who become ill or who are at risk for severe illness from COVID-19 due to an underlying medical condition. They also allow State and local authorities to more easily implement stay-at-home and social distancing directives to mitigate the community spread of COVID-19. Furthermore, housing stability helps protect public health because homelessness increases the likelihood of individuals moving into close quarters in congregate settings, such as homeless shelters, which then puts individuals at higher risk to COVID-19.

Applicability

This Order does not apply in any State, local, territorial, or tribal area with a moratorium on residential evictions that provides the same or greater level of public-health protection than the requirements listed in this Order. In accordance with 42 U.S.C. 264(e), this Order does not preclude State, local, territorial, and tribal authorities from imposing additional requirements that provide greater public-health protection and are more

restrictive than the requirements in this Order.

Additionally, this Order shall not apply to American Samoa, which has reported no cases of COVID-19, until such time as cases are reported.

This Order is a temporary eviction moratorium to prevent the further spread of COVID-19. This Order does not relieve any individual of any obligation to pay rent, make a housing payment, or comply with any other obligation that the individual may have under a tenancy, lease, or similar contract. Nothing in this Order precludes the charging or collecting of fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Nothing in this Order precludes evictions based on a tenant, lessee, or resident: (1) Engaging in criminal activity while on the premises; (2) threatening the health or safety of other residents;¹⁰ (3) damaging or posing an immediate and significant risk of damage to property; (4) violating any applicable building code, health ordinance, or similar regulation relating to health and safety; or (5) violating any other contractual obligation, other than the timely payment of rent or similar housing-related payment (including non-payment or late payment of fees, penalties, or interest).

Eviction and Risk of COVID-19 Transmission

Evicted renters must move, which leads to multiple outcomes that increase the risk of COVID-19 spread. Specifically, many evicted renters move into close quarters in shared housing or other congregate settings. According to the Census Bureau American Housing Survey, 32% of renters reported that they would move in with friends or family members upon eviction, which would introduce new household members and potentially increase household crowding.¹¹ Studies show that COVID-19 transmission occurs readily within households; household contacts are estimated to be 6 times more likely to become infected by an

index case of COVID-19 than other close contacts.¹²

Shared housing is not limited to friends and family. It includes a broad range of settings, including transitional housing, and domestic violence and abuse shelters. Special considerations exist for such housing because of the challenges of maintaining social distance. Residents often gather closely or use shared equipment, such as kitchen appliances, laundry facilities, stairwells, and elevators. Residents may have unique needs, such as disabilities, cognitive decline, or no access to technology, and thus may find it more difficult to take actions to protect themselves from COVID-19. CDC recommends that shelters provide new residents with a clean mask, keep them isolated from others, screen for symptoms at entry, or arrange for medical evaluations as needed depending on symptoms.¹³ Accordingly, an influx of new residents at facilities that offer support services could potentially overwhelm staff and, if recommendations are not followed, lead to exposures.

Congress passed the Coronavirus Aid, Relief, and Economic Security (CARES) Act (Pub. L. 116-136) to aid individuals and businesses adversely affected by COVID-19. Section 4024 of the CARES Act provided a 120-day moratorium on eviction filings as well as other protections for tenants in certain rental properties with Federal assistance or federally related financing. These protections helped alleviate the public health consequences of tenant displacement during the COVID-19 pandemic. The CARES Act eviction moratorium expired on July 24, 2020.¹⁴ The protections in the CARES Act supplemented temporary eviction moratoria and rent freezes implemented by governors and local officials using emergency powers.

Researchers estimated that this temporary Federal moratorium provided relief to a material portion of the nation's roughly 43 million renters.¹⁵

¹² Bi Q, Wu Y, Mei S, et al. *Epidemiology and transmission of COVID-19 in 391 cases and 1286 of their close contacts in Shenzhen, China: a retrospective cohort study*. *Lancet Infect Dis* 2020. [https://doi.org/10.1016/S1473-3099\(20\)30287-5](https://doi.org/10.1016/S1473-3099(20)30287-5).

¹³ See CDC COVID-19 Guidance for Shared or Congregate Housing, available at: <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>.

¹⁴ Because evictions generally require 30-days' notice, the effects of housing displacement due to the expiration of the CARES act are not expected to manifest until August 27, 2020.

¹⁵ See Congressional Research Service, *CARES Act Eviction Moratorium*, (April 7, 2020) available at: <https://crsreports.congress.gov/product/pdf/IN/IN11320>.

⁸ CDC, *People with Certain Medical Conditions*, <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (accessed August 26, 2020).

⁹ Faust JS, Lin Z, del Rio C. Comparison of Estimated Excess Deaths in New York City During the COVID-19 and 1918 Influenza Pandemics. *JAMA New Open*. 2020;3(8):e2017527. doi:10.1001/jamanetworkopen.2020.17527.

¹⁰ Individuals who might have COVID-19 are advised to stay home except to get medical care. Accordingly, individuals who might have COVID-19 and take reasonable precautions to not spread the disease should not be evicted on the ground that they may pose a health or safety threat to other residents. See *What to Do if You are Sick*, available at <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html>.

¹¹ United States Census Bureau. *American Housing Survey*, 2017. <https://www.census.gov/programs-surveys/ahs.html>.

Approximately 12.3 million rental units have federally backed financing, representing 28% of renters. Other data show more than 2 million housing vouchers along with approximately 2 million other federally assisted rental units.¹⁶

The Federal moratorium, however, did not reach all renters. Many renters who fell outside the scope of the Federal moratorium were protected under State and local moratoria. In the absence of State and local protections, as many as 30–40 million people in America could be at risk of eviction.¹⁷ A wave of evictions on that scale would be unprecedented in modern times.¹⁸ A large portion of those who are evicted may move into close quarters in shared housing or, as discussed below, become homeless, thus contributing to the spread of COVID-19.

The statistics on interstate moves show that mass evictions would likely increase the interstate spread of COVID-19. Over 35 million Americans, representing approximately 10% of the U.S. population, move each year.¹⁹ Approximately 15% of moves are interstate.²⁰

Eviction, Homelessness, and Risk of Severe Disease From COVID-19

Evicted individuals without access to housing or assistance options may also contribute to the homeless population, including older adults or those with underlying medical conditions, who are more at risk for severe illness from COVID-19 than the general population.²¹ In Seattle-King County, 5–15% of people experiencing homelessness between 2018 and 2020 cited eviction as the primary reason for becoming homeless.²² Additionally,

some individuals and families who are evicted may originally stay with family or friends, but subsequently seek homeless services. Among people who entered shelters throughout the United States in 2017, 27% were staying with family or friends beforehand.²³

People experiencing homelessness are a high-risk population. It may be more difficult for these persons to consistently access the necessary resources in order to adhere to public health recommendations to prevent COVID-19. For instance, it may not be possible to avoid certain congregate settings such as homeless shelters, or easily access facilities to engage in handwashing with soap and water.

Extensive outbreaks of COVID-19 have been identified in homeless shelters.²⁴ In Seattle, Washington, a network of three related homeless shelters experienced an outbreak that led to 43 cases among residents and staff members.²⁵ In Boston, Massachusetts, universal COVID-19 testing at a single shelter revealed 147 cases, representing 36% of shelter residents.²⁶ COVID-19 testing in a single shelter in San Francisco led to the identification of 101 cases (67% of those tested).²⁷ Throughout the United States, among 208 shelters reporting universal diagnostic testing data, 9% of shelter clients have tested positive.²⁸

CDC guidance recommends increasing physical distance between beds in homeless shelters.²⁹ To adhere to this guidance, shelters have limited the number of people served throughout the United States. In many places, considerably fewer beds are available to

individuals who become homeless. Shelters that do not adhere to the guidance, and operate at ordinary or increased occupancy, are at greater risk for the types of outbreaks described above. The challenge of mitigating disease transmission in homeless shelters has been compounded because some organizations have chosen to stop or limit volunteer access and participation.

In the context of the current pandemic, large increases in evictions could have at least two potential negative consequences. One is if homeless shelters increase occupancy in ways that increase the exposure risk to COVID-19. The other is if homeless shelters turn away the recently homeless, who could become unsheltered, and further contribute to the spread of COVID-19. Neither consequence is in the interest of the public health.

The risk of COVID-19 spread associated with unsheltered homelessness (those who are sleeping outside or in places not meant for human habitation) is of great concern to CDC. Over 35% of homeless persons are typically unsheltered.³⁰ The unsheltered homeless are at higher risk for infection when there is community spread of COVID-19. The risks associated with sleeping and living outdoors or in an encampment setting are different than from staying indoors in a congregate setting, such as an emergency shelter or other congregate living facility. While outdoor settings may allow people to increase physical distance between themselves and others, they may also involve exposure to the elements and inadequate access to hygiene, sanitation facilities, health care, and therapeutics. The latter factors contribute to the further spread of COVID-19.

Additionally, research suggests that the population of persons who would be evicted and become homeless would include many who are predisposed to developing severe disease from COVID-19. Five studies have shown an association between eviction and hypertension, which has been associated with more severe outcomes from COVID-19.³¹ Also, the homeless

[uploads/2020/07/Count-Us-In-2020-Final_7.29.2020.pdf](https://www.huduser.gov/portal/datasets/assths/statedata98/descript.html)

²³ United States Department of Housing and Urban Development. The 2017 Annual Homeless Assessment Report (AHAR) to Congress: Part 2. Available at: <https://files.hudexchange.info/resources/documents/2017-AHAR-Part-2.pdf>

²⁴ Mosites E, et al. Assessment of SARS-CoV-2 Infection Prevalence in Homeless Shelters—Four U.S. Cities, March 27–April 15, 2020. *MMWR* 2020 May 1;69(17):521–522.

²⁵ Tobolowsky FA, et al. COVID-19 Outbreak Among Three Affiliated Homeless Service Sites—King County, Washington, 2020. *MMWR* 2020 May 1;69(17):523–526.

²⁶ Baggett TP, Keyes H, Sporn N, Gaeta JM. Prevalence of SARS-CoV-2 Infection in Residents of a Large Homeless Shelter in Boston. *JAMA*. 2020 Apr 27;323(21):2191–2. Online ahead of print.

²⁷ Imbert E, et al. Coronavirus Disease 2019 (COVID-19) Outbreak in a San Francisco Homeless Shelter. *Clin Infect Dis*. 2020 Aug 3.

²⁸ National Health Care for the Homeless Council and Centers for Disease Control and Prevention. Universal Testing Data Dashboard. Available at: <https://nhchc.org/cdc-covid-dashboard/>.

²⁹ Centers for Disease Control and Prevention. Interim Guidance for Homeless Service Providers to Plan and Respond to COVID-19. <https://www.cdc.gov/coronavirus/2019-ncov/community/homeless-shelters/plan-prepare-respond.html>.

¹⁶ See HUD, A Picture of Subsidized Households General Description of the Data and Bibliography, available at: <https://www.huduser.gov/portal/datasets/assths/statedata98/descript.html>.

¹⁷ See Emily Benfer, et al., *The COVID-19 Eviction Crisis: An Estimated 30–40 Million People in America are at Risk*, available at: <https://www.aspeninstitute.org/blog-posts/the-covid-19-eviction-crisis-an-estimated-30-40-million-people-in-america-are-at-risk/>.

¹⁸ As a baseline, approximately 900,000 renters are evicted every year in the United States. Princeton University Eviction Lab. National Estimates: Eviction in America. <https://evictionlab.org/national-estimates/>.

¹⁹ See U.S. Census Bureau, CPS Historical Migration/Geographic Mobility Tables, available at: <https://www.census.gov/data/tables/time-series/demo/geographic-mobility/historic.html>.

²⁰ *Id.*

²¹ See CDC, Coronavirus Disease 2019 (COVID-19), People Who Are at Increased Risk for Severe Illness, available at <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-at-increased-risk.html> (accessed August 26, 2020).

²² Seattle-King County. Point in Time Count. <https://regionalhomelessnessystem.org/wp-content/>

³⁰ In January 2018, 552,830 people were counted as homeless in the United States. Of those, 194,467 (35 percent) were unsheltered, and 358,363 (65 percent) were sheltered. See, Council of Economic Advisors, *The State of Homelessness in America* (September 2019), available at <https://www.whitehouse.gov/wp-content/uploads/2019/09/The-State-of-Homelessness-in-America.pdf>.

³¹ Hugo Vasquez-Vera, et al. *The threat of home eviction and its effects on health through the equity*

often have underlying conditions that increase their risk of severe outcomes of COVID-19.³² Among patients with COVID-19, homelessness has been associated with increased likelihood of hospitalization.³³

These public health risks may increase seasonally. Each year, as winter approaches and the temperature drops, many homeless move into shelters to escape the cold and the occupancy of shelters increases.³⁴ At the same time, there is evidence to suggest that the homeless are more susceptible to respiratory tract infections,³⁵ which may include seasonal influenza. While there are differences in the epidemiology of COVID-19 and seasonal influenza, the potential co-circulation of viruses during periods of increased occupancy in shelters could increase the risk to occupants in those shelters.

In short, evictions threaten to increase the spread of COVID-19 as they force people to move, often into close quarters in new shared housing settings with friends or family, or congregate settings such as homeless shelters. The ability of these settings to adhere to best practices, such as social distancing and other infection control measures, decreases as populations increase. Unsheltered homelessness also increases the risk that individuals will experience severe illness from COVID-19.

Findings and Action

Therefore, I have determined the temporary halt in evictions in this Order constitutes a reasonably necessary measure under 42 CFR 70.2 to prevent the further spread of COVID-19 throughout the United States. I have further determined that measures by states, localities, or U.S. territories that

lens: A systematic review. Social Science and Medicine. 175 (2017) 199e208.

³²Fazel S, Geddes JR, Kushel M. *The health of homeless people in high-income countries: descriptive epidemiology, health consequences, and clinical and policy recommendations.* Lancet. 2014;384(9953):1529–1540.

³³Hsu HE, et al. *Race/Ethnicity, Underlying Medical Conditions, Homelessness, and Hospitalization Status of Adult Patients with COVID-19 at an Urban Safety-Net Medical Center—Boston, Massachusetts, 2020.* MMWR 2020 Jul 10;69(27):864–869. Historically, African Americans and Hispanic Americans are disproportionately represented in evictions compared to other races. They are more likely to experience severe outcomes of COVID-19. *Id.*

³⁴See, generally, the Annual Homeless Assessment Report to Congress (2007), available at: <https://www.huduser.gov/Publications/pdf/ahar.pdf> (acknowledging the seasonality of shelter bed use).

³⁵Ly TDA, Edouard S, Badiaga S, et al. *Epidemiology of respiratory pathogen carriage in the homeless population within two shelters in Marseille, France, 2015–2017: Cross sectional 1-day surveys.* Clin Microbiol Infect. 2019; 25(2):249.e1–249.e6.

do not meet or exceed these minimum protections are insufficient to prevent the interstate spread of COVID-19.³⁶

Based on the convergence of COVID-19, seasonal influenza, and the increased risk of individuals sheltering in close quarters in congregate settings such as homeless shelters, which may be unable to provide adequate social distancing as populations increase, all of which may be exacerbated as fall and winter approach, I have determined that a temporary halt on evictions through December 31, 2020, subject to further extension, modification, or rescission, is appropriate.

Therefore, under 42 CFR 70.2, subject to the limitations under the “Applicability” section, a landlord, owner of a residential property, or other person with a legal right to pursue eviction or possessory action shall not evict any covered person from any residential property in any State or U.S. territory in which there are documented cases of COVID-19 that provides a level of public-health protections below the requirements listed in this Order.

This Order is not a rule within the meaning of the Administrative Procedure Act (“APA”) but rather an emergency action taken under the existing authority of 42 CFR 70.2. In the event that this Order qualifies as a rule under the APA, notice and comment and a delay in effective date are not required because there is good cause to dispense with prior public notice and comment and the opportunity to comment on this Order and the delay in effective date. See 5 U.S.C. 553(b)(3)(B). Considering the public-health emergency caused by COVID-19, it would be impracticable and contrary to the public health, and by extension the public interest, to delay the issuance and effective date of this Order.

A delay in the effective date of the Order would permit the occurrence of evictions—potentially on a mass scale—that could have potentially significant consequences. As discussed above, one potential consequence would be that evicted individuals would move into close quarters in congregate or shared living settings, including homeless shelters, which would put the individuals at higher risk to COVID-19. Another potential consequence would be if evicted individuals become

homeless and unsheltered, and further contribute to the spread of COVID-19. A delay in the effective date of the Order that leads to such consequences would defeat the purpose of the Order and endanger the public health. Immediate action is necessary.

Similarly, if this Order qualifies as a rule under the APA, the Office of Information and Regulatory Affairs has determined that it would be a major rule under the Congressional Review Act (CRA). But there would not be a delay in its effective date. The agency has determined that for the same reasons, there would be good cause under the CRA to make the requirements herein effective immediately.

If any provision of this Order, or the application of any provision to any persons, entities, or circumstances, shall be held invalid, the remainder of the provisions, or the application of such provisions to any persons, entities, or circumstances other than those to which it is held invalid, shall remain valid and in effect.

This Order shall be enforced by Federal authorities and cooperating State and local authorities through the provisions of 18 U.S.C. 3559, 3571; 42 U.S.C. 243, 268, 271; and 42 CFR 70.18. However, this Order has no effect on the contractual obligations of renters to pay rent and shall not preclude charging or collecting fees, penalties, or interest as a result of the failure to pay rent or other housing payment on a timely basis, under the terms of any applicable contract.

Criminal Penalties

Under 18 U.S.C. 3559, 3571; 42 U.S.C. 271; and 42 CFR 70.18, a person violating this Order may be subject to a fine of no more than \$100,000 if the violation does not result in a death or one year in jail, or both, or a fine of no more than \$250,000 if the violation results in a death or one year in jail, or both, or as otherwise provided by law. An organization violating this Order may be subject to a fine of no more than \$200,000 per event if the violation does not result in a death or \$500,000 per event if the violation results in a death or as otherwise provided by law. The U.S. Department of Justice may initiate court proceedings as appropriate seeking imposition of these criminal penalties.

Notice to Cooperating State and Local Officials

Under 42 U.S.C. 243, the U.S. Department of Health and Human Services is authorized to cooperate with and aid State and local authorities in the enforcement of their quarantine and

³⁶In the United States, public health measures are implemented at all levels of government, including the Federal, State, local, and tribal levels. Publicly-available compilations of pending measures indicate that eviction moratoria and other protections from eviction have expired or are set to expire in many jurisdictions. Eviction Lab, *COVID-19 Housing Policy Scorecard*, available at: <https://evictionlab.org/covid-policy-scorecard/>.

other health regulations and to accept State and local assistance in the enforcement of Federal quarantine rules and regulations, including in the enforcement of this Order.

Notice of Available Federal Resources

While this order to prevent eviction is effectuated to protect the public health, the States and units of local government are reminded that the Federal Government has deployed unprecedented resources to address the pandemic, including housing assistance.

The Department of Housing and Urban Development (HUD) has informed CDC that all HUD grantees—states, cities, communities, and nonprofits—who received Emergency Solutions Grants (ESG) or Community Development Block Grant (CDBG) funds under the CARES Act may use these funds to provide temporary rental assistance, homelessness prevention, or other aid to individuals who are experiencing financial hardship because of the pandemic and are at risk of being evicted, consistent with applicable laws, regulations, and guidance.

HUD has further informed CDC that:

HUD's grantees and partners play a critical role in prioritizing efforts to support this goal. As grantees decide how to deploy CDBG-CV and ESG-CV funds provided by the CARES Act, all communities should assess what resources have already been allocated to prevent evictions and homelessness through temporary rental assistance and homelessness prevention, particularly to the most vulnerable households.

HUD stands at the ready to support American communities take these steps to reduce the spread of COVID-19 and maintain economic prosperity. Where gaps are identified, grantees should coordinate across available Federal, non-Federal, and philanthropic funds to ensure these critical needs are sufficiently addressed, and utilize HUD's technical assistance to design and implement programs to support a coordinated response to eviction prevention needs. For program support, including technical assistance, please visit www.hudexchange.info/program-support. For further information on HUD resources, tools, and guidance available to respond to the COVID-19 pandemic, State and local officials are directed to visit <https://www.hud.gov/coronavirus>. These tools include toolkits for Public Housing Authorities and Housing Choice Voucher landlords related to housing stability and eviction prevention, as well as similar guidance for owners and renters in HUD-assisted multifamily properties.

Similarly, the Department of the Treasury has informed CDC that the funds allocated through the Coronavirus Relief Fund may be used to fund rental assistance programs to prevent eviction. Visit <https://home.treasury.gov/policy->

issues/cares/state-and-local-governments for more information.

Effective Date

This Order is effective upon publication in the **Federal Register** and will remain in effect, unless extended, modified, or rescinded, through December 31, 2020.

Attachment

Declaration Under Penalty of Perjury for the Centers for Disease Control and Prevention's Temporary Halt in Evictions to Prevent Further Spread of COVID-19

This declaration is for tenants, lessees, or residents of residential properties who are covered by the CDC's order temporarily halting residential evictions (not including foreclosures on home mortgages) to prevent the further spread of COVID-19. Under the CDC's order you must provide a copy of this declaration to your landlord, owner of the residential property where you live, or other person who has a right to have you evicted or removed from where you live. Each adult listed on the lease, rental agreement, or housing contract should complete this declaration. Unless the CDC order is extended, changed, or ended, the order prevents you from being evicted or removed from where you are living through December 31, 2020. You are still required to pay rent and follow all the other terms of your lease and rules of the place where you live. You may also still be evicted for reasons other than not paying rent or making a housing payment. This declaration is sworn testimony, meaning that you can be prosecuted, go to jail, or pay a fine if you lie, mislead, or omit important information.

I certify under penalty of perjury, pursuant to 28 U.S.C. 1746, that the foregoing are true and correct:

- I have used best efforts to obtain all available government assistance for rent or housing;³⁷
- I either expect to earn no more than \$99,000 in annual income for Calendar Year 2020 (or no more than \$198,000 if filing a joint tax return), was not required to report any income in 2019 to the U.S. Internal Revenue Service, or received an Economic Impact Payment (stimulus check) pursuant to Section 2201 of the CARES Act;
- I am unable to pay my full rent or make a full housing payment due to substantial loss of household income, loss of compensable hours of work or

³⁷ "Available government assistance" means any governmental rental or housing payment benefits available to the individual or any household member.

wages, lay-offs, or extraordinary³⁸ out-of-pocket medical expenses;

- I am using best efforts to make timely partial payments that are as close to the full payment as the individual's circumstances may permit, taking into account other nondiscretionary expenses;

- If evicted I would likely become homeless, need to move into a homeless shelter, or need to move into a new residence shared by other people who live in close quarters because I have no other available housing options.³⁹

- I understand that I must still pay rent or make a housing payment, and comply with other obligations that I may have under my tenancy, lease agreement, or similar contract. I further understand that fees, penalties, or interest for not paying rent or making a housing payment on time as required by my tenancy, lease agreement, or similar contract may still be charged or collected.

- I further understand that at the end of this temporary halt on evictions on December 31, 2020, my housing provider may require payment in full for all payments not made prior to and during the temporary halt and failure to pay may make me subject to eviction pursuant to State and local laws.

I understand that any false or misleading statements or omissions may result in criminal and civil actions for fines, penalties, damages, or imprisonment.

Signature of Declarant Date

Authority

The authority for this Order is Section 361 of the Public Health Service Act (42 U.S.C. 264) and 42 CFR 70.2.

Dated: September 1, 2020.

Nina B. Witkofsky,

Acting Chief of Staff, Centers for Disease Control and Prevention.

[FR Doc. 2020-19654 Filed 9-1-20; 4:15 pm]

BILLING CODE 4163-18-P

³⁸ An "extraordinary" medical expense is any unreimbursed medical expense likely to exceed 7.5% of one's adjusted gross income for the year.

³⁹ "Available housing" means any available, unoccupied residential property, or other space for occupancy in any seasonal or temporary housing, that would not violate Federal, State, or local occupancy standards and that would not result in an overall increase of housing cost to you.