



## City Council

### Emergency Approval of an Ordinance Adding a New Chapter 5.82 to Title 5 of the Olympia Municipal Code regarding Tenant Protections Related to COVID-19 - First and Final Reading

**Agenda Date:** 10/13/2020  
**Agenda Item Number:** 4.F  
**File Number:**20-0749

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**Type:** ordinance **Version:** 1 **Status:** Passed

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#### Title

Emergency Approval of an Ordinance Adding a New Chapter 5.82 to Title 5 of the Olympia Municipal Code regarding Tenant Protections Related to COVID-19 - First and Final Reading

#### Recommended Action

##### Committee Recommendation:

On September 17, 2020, the Land Use & Environment Committee recommended City Council take emergency action to adopt the ordinance on first and final reading as soon as possible.

##### City Manager Recommendation:

Move to approve the ordinance adding a new Chapter 5.82 to Title 5 of the Olympia Municipal Code regarding tenant protections related to COVID-19 on first and final reading.

#### Report

##### Issue:

Whether to approve an ordinance to protect tenants who have fallen behind in rent due to the COVID-19 pandemic.

##### Staff Contact:

Keith Stahley, Assistant City Manager, Executive, 360.753.8227

##### Presenter(s):

Keith Stahley, Assistant City Manager

#### Background and Analysis:

The ordinance under consideration would create a Rental Housing Code in the Olympia Municipal Code (OMC) Chapter 5.82. It would establish temporary protections for tenants who have fallen behind in rent due to the COVID-19 pandemic.

King County adopted a similar ordinance in June 2020. The King County ordinance extends COVID-19 protections to renters in King County until March 1, 2021. The ordinance for Olympia recommended by the Land Use and Environment Committee 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.

In the initial draft ordinance, late fees, interest and other charges are suspended and do not accrue commencing on the effective date of the ordinance until its sunset date. On October 6, 2020, during discussion of the proposed ordinance, Councilmember Cooper made a motion to revise the language relating to late fees, interest and other charges to provide that once a tenant has entered into a reasonable written installment repayment plan with a landlord, any default by the tenant for any reason other than due to COVID-19 as set forth in the seven factors in OMC 5.82.030.D, the tenant shall be responsible for late fees, interest or other charges from and after the date of default in the repayment plan and to bring the revised ordinance back before Council on October 13, 2020. The motion passed and the proposed ordinance has been revised to add the requested language.

The seven factors in the ordinance that provide a defense to a tenant's failure to pay rent due to circumstances occurring as a result of the COVID-19 pandemic are:

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 OMC 5.82.030 shall be paid in full to the landlord by October 1, 2021, or the sunset date of the 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, except that once a tenant has entered into a reasonable written installment repayment plan with a landlord, any default by the tenant for any reason other than due to COVID-19 as set forth in subsection D, the tenant shall be responsible for late fees, interest or other charges from and after the date of default in the repayment plan.

The Land Use & Environment Committee previously added language to the ordinance to express a

legislative intent that the tenant's financial circumstances be considered in any reasonable repayment plan. The language added in OMC 5.82.030.E.2 is as follows: "A reasonable written installment repayment plan shall be based on the tenant's individual financial, health and other circumstances, including the tenant's income, and shall be negotiated between the landlord and residential tenant in good faith . . ."

#### **ADOPTION AND ENFORCEMENT**

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. The ordinance would be enforceable by the courts. The City of Olympia would not be involved in enforcement.

#### **OTHER PROTECTIONS IN PLACE**

The Washington State Governor's Proclamation 20-19.3, Evictions and Related Housing Practices, which protects tenants from eviction due to inability to pay rent due to COVID-19, was extended on July 24, 2020 until October 15, 2020.

On September 1, 2020, the federal Center for Disease Control (CDC) enacted a moratorium on evictions. This moratorium remains in effect until December 31, 2020.

Rental assistance is available through the Community Action Council (CAC). The program targets residents at or below 50 percent median income who have missed rent and meet other eligibility requirements. The program is funded with \$3.1 million by the CARES Act, having flowed through the State Department of Commerce and Thurston County to the CAC. Also, since March, the City of Olympia has provided \$400,000 in funding for rental assistance administered by the CAC.

Rental assistance for young adults, aged 18-24, who are most likely to become homeless or to suffer severe health consequences if evicted is also available through Community Youth Services (CYS). The program is funded with \$360,000 by the CARES Act, having flowed through the State Department of Commerce to CYS.

Landlords and tenants can learn more about these programs on the City of Olympia's web page ([www.Olympiawa.gov](http://www.Olympiawa.gov) <<http://www.Olympiawa.gov>>) or by connecting directly with the Community Action Council of Lewis Mason Thurston Counties ([www.caclmt.org](http://www.caclmt.org) <<http://www.caclmt.org>>) or Community Youth Services (<<https://communityyouthservices.org>>).

#### **Neighborhood/Community Interests:**

Rental properties are spread throughout the City. Fifty-four percent of the residential properties in Olympia are renter occupied.

Eleven people provided comments at the Land Use Committee meeting, with a majority in favor of the ordinance. Several public comments - both opposed and supportive of the ordinance and including renters and landlord/property owners - have been submitted to the City Council. Council received public comments in support and opposition to the proposed ordinance during its business meeting on October 6, 2020.

#### **Options:**

1. Move to approve the ordinance as an emergency measure on first and final reading, as amended by Councilmember Cooper's motion.
2. Consider the proposed amended ordinance and provide feedback and direction to staff and return to the Land Use Committee for further consultation.
3. Consider the amended ordinance and take no action.

**Financial Impact:**

No direct financial impacts to the City are anticipated.

**Attachments:**

Ordinance

King County Ordinance

Center for Disease Control's Order

Proclamation 20-19.3

CAC Rent Assistance Program flyer

CYS Rent Assistance Program flyer