



Legislation Text

File #: CB 119766, Version: 2

CITY OF SEATTLE

ORDINANCE _____

COUNCIL BILL _____

AN ORDINANCE relating to commercial tenancies; temporarily restricting increases in commercial rents; authorizing repayment of late rent in installments for small businesses and nonprofits; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

WHEREAS, the coronavirus disease 19 (COVID-19) outbreak was declared a pandemic by the World Health Organization on March 11, 2020; and

WHEREAS, self-distancing (keep 6 feet of distance between individuals) has been recommended to deter the spread of the virus; and

WHEREAS, the Governor of Washington has declared a state of emergency, prohibited gatherings of 50 or more people, and limited gatherings of fewer than 50 people, in an effort to slow transmission and contraction of the disease; and

WHEREAS, the Governor of Washington has further required the closure of all non-essential places of work;

WHEREAS, such a ban and closure in conjunction with self-distancing means cancellations of large events, a decrease in the number of people patronizing places of business, and the temporary closure of many small businesses and not-for-profit organizations, resulting in the loss of income for businesses in multiple industries, including the service and entertainment industries; and

WHEREAS, the economic disruptions caused by COVID-19 will increase the likelihood of businesses and nonprofits struggling to meet existing financial commitments; and

WHEREAS, unplanned increases in rent can result in additional financial burdens on small businesses and not-for-profits that threaten their viability; and

WHEREAS, The City of Seattle has a heightened interest in preventing more small businesses from closing;
and

WHEREAS, it is in the public interest to control increases in commercial rents and provide for alternative means of payment of rent during the state of emergency;

WHEREAS, the Council recognizes the impact of such rent control and delayed rent payments on property owners and lessors and intends to assess the continuing need for such protections on a weekly basis, in conjunction with consideration of the weekly reports requested from the Mayor in Section 5 of Resolution 31937, which modified the Mayor's Proclamation of Civil Emergency, beginning March 20, 2020; and

WHEREAS, the Council will continue to explore and implement strategies to support small landlords during the state of emergency; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council ("Council") makes the following legislative findings of fact and declarations:

A. In the exercise of the City of Seattle's police powers, the City is granted authority to pass regulations designed to protect and promote public peace, health, safety, welfare, and prosperity.

B. On January 24, 2020, the Seattle Office of Emergency Management announced that the first reported case in Washington and in the United States of novel coronavirus (COVID-19) occurred in Snohomish County.

C. On February 28, 2020, Public Health - Seattle and King County announced the first King County and United States death due to COVID-19 at Evergreen Hospital in Kirkland, Washington.

D. On February 29, 2020, Washington Governor Jay Inslee declared a state of emergency in response to new cases of COVID-19, directing state agencies to use all resources necessary to prepare for and respond to the outbreak.

E. On March 3, 2020, Mayor Jenny Durkan issued a proclamation of civil emergency in response to

new cases of COVID-19, authorizing the Mayor to exercise the emergency powers necessary for the protection of the public peace, safety, and welfare.

F. On March 11, 2020, Washington Governor Jay Inslee amended his emergency order to prohibit gatherings of 250 people or more for social, spiritual and recreational activities including, but not limited to, community, civic, public, leisure, faith-based, or sporting events; parades; concerts; festivals; conventions; fundraisers; and similar activities.

G. On March 12, 2020, Washington Governor Jay Inslee announced that all schools in King, Snohomish, and Pierce Counties will close through April 24, 2020.

H. On March 12, 2020, Public Health - Seattle and King County confirmed 270 cases of COVID-19, including 27 deaths, in King County.

I. On March 16, 2020, Washington Governor Jay Inslee announced that all restaurants, bars, and entertainment and recreational facilities will close through March 30, 2020 and prohibited gatherings of 50 or more people and limited all other gatherings.

J. On March 23, 2020, Governor Inslee announced a “Stay-Home” order that required that all non-essential businesses be closed and banned all gatherings for two weeks.

K. In light of COVID-19 spreading person-to-person and particularly between people who are in close contact with one another, the Center for Disease Control and Prevention (CDC) has recommended that: those who are mildly ill self-isolate by staying home, avoiding public areas, and avoiding transportation; sensitive populations avoid people who are sick; and everyone practice self-distancing.

L. Public Health - Seattle and King County has recommended that people at higher risk of severe illness stay home and away from large groups of people as much as possible. People at higher risk include people: over 60 years of age; with underlying health conditions, including heart disease, lung disease, or diabetes; with weakened immune systems; and who are pregnant.

M. Public Health - Seattle and King County has recommended that employers take steps to make it

more feasible for their employees to work in ways that minimize close contact with large numbers of people, including maximizing telecommuting options and maximizing flexibility in sick leave benefits for those who are ill or at high risk.

N. The impacts of the emerging public health crisis on the economy, employment, job retention, child care, and businesses has resulted in: restaurants, bars, and other businesses being forced to close; 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 safe time; and reduced business income due to reduced demand as businesses struggle during the state of emergency proclaimed by Mayor Durkan on March 3, 2020. These impacts have led to a temporary closure of many businesses, which will struggle to reopen. Compounding existing risk with the impacts from the COVID-19 emergency may increase the likelihood of exposure, spread, and contraction of the virus.

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

P. Increases in rents during the emergency when many businesses have been forced to close temporarily would contribute to the factors that would cause the permanent closure of those businesses.

Q. Alternative rent payment plans during and after the emergency can help businesses to stay and will enable them to reopen when the forced closure order has been lifted, allowing them to avoid closing permanently.

R. Because the permanent closure of Seattle's businesses will result in increased unemployment, reduced availability of goods and services, community blight and significant income loss, it is necessary to protect the public peace, health, and safety to keep open as many businesses as possible.

Section 2. An owner of property who rents premises to a small business or nonprofit on a month-to-month basis shall not increase the amount of rent charged to the small business or nonprofit, until the civil

emergency proclaimed by the Mayor on March 3, 2020 is terminated.

Section 3. Until the civil emergency proclaimed by the Mayor on March 3, 2020 is terminated, an owner of property who leases premises to a small business or nonprofit on other than a month-to-month basis shall not:

A. Increase the amount of rent charged for the premises during the lease term unless the increase was authorized in a written lease in effect before the effective date of this ordinance; or

B. Renew the lease or enter into a new lease with the small business or nonprofit if the new lease requires a rental payment that exceeds the payment due under the expired lease.

Section 4.

A. A small business or nonprofit tenant that fails to pay rent when due during or within six months after the termination of the civil emergency proclaimed by Mayor Durkan on March 3, 2020, may elect to pay its overdue rent in installments during that period on a payment schedule.

B. A written installment payment schedule shall be negotiated between the lessor and the small business or nonprofit for the payment of rent in arrears, provided that 1) the repayment schedule may not require the small business or nonprofit to pay, in addition to rent due for the month or period, more than 1/3 of late rent within any month or period following the month or period for which full rent was not paid unless agreed by the tenant, and 2) rent in arrears shall be paid in full to the lessor no later than one year after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020.

C. No late fees, interest, or other charges due to late payment of rent shall accrue during or within one year after the termination of the civil emergency proclaimed by the Mayor on March 3, 2020.

Section 5. For purposes of this ordinance, “small business” means any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that (1) is owned and operated independently from all other businesses (a franchisee with five or fewer franchise units shall be considered owned and operated independently from its franchisor); (2) has fifty or fewer employees per establishment or premises; (3) has

either: been forced to close due to an emergency order issued by the Governor or Mayor; or has gross receipts from the previous calendar month of 2020 that are less than 70 percent of its gross receipts for the same month in 2019; and (4) is neither: a general sales and service business with ten or more establishments in operation located anywhere in the world; nor an entertainment use business with five or more establishments in operation located anywhere in the world.

Section 6. For purposes of this ordinance, a “nonprofit” means an entity that: (1) is a “not for profit corporation” or “nonprofit corporation” under RCW 24.03.005(16) or is designated a “public benefit not for profit corporation” or “public benefit nonprofit corporation” under RCW 24.03.490; and (2) holds tax-exempt status under 26 U.S.C. § 501(c)(3).

Section 7. Based on the findings of fact set forth in Section 1 of this ordinance, the Council finds and declares that this ordinance is a public emergency ordinance, which shall take effect immediately and is necessary for the protection of the public health, safety, and welfare.

Section 8. By reason of the findings set out in Section 1, and the emergency that is hereby declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4 vote of the Council and its approval by the Mayor, as provided by Article 4, subsection 1.1 of the Charter of the City.

Passed by a 3/4 vote of all the members of the City Council the _____ day of _____, 2020, and signed by me in open session in authentication of its passage this _____ day of _____, 2020.

President _____ of the City Council

Approved by me this _____ day of _____, 2020.

Jenny A. Durkan, Mayor

Filed by me this _____ day of _____, 2020.

Monica Martinez Simmons, City Clerk

(Seal)