

CITY OF SEATTLE
ORDINANCE 126368
COUNCIL BILL 120077

AN ORDINANCE relating to the termination of residential rental tenancies; providing a defense to eviction for rent due during the City’s COVID-19 civil emergency; and amending Section 22.206.160 of the Seattle Municipal Code.

WHEREAS, on February 29, 2020, the Washington Governor issued Proclamation 20-05, proclaiming a state of emergency for all counties throughout the state of Washington in response to new cases of the Coronavirus Disease 2019 (COVID-19); and

WHEREAS, on March 3, 2020, Mayor Jenny A. Durkan proclaimed a civil emergency in Seattle; and

WHEREAS, on March 5, 2020, the City Council adopted Resolution 31937 affirming the civil emergency, modifying orders transmitted by the Mayor related to the emergency, and establishing Council’s expectations related to future orders and reporting by the Mayor during the civil emergency; and

WHEREAS, on March 11, 2020, the World Health Organization announced that COVID-19 is officially a global pandemic; and

WHEREAS, on March 13, 2020, the President of the United States declared a national state of emergency in response to the COVID-19 pandemic; and

WHEREAS, as of May 7, 2021, the State of Washington has confirmed 382,578 COVID-19 infections and 5,564 residents of Washington have died of COVID-19; and

WHEREAS, cancellations of large events and a decrease in the number of people patronizing places of business, has resulted in reduced work and loss of income for workers in multiple industries, including the service and entertainment industries; and

1 WHEREAS, a decrease in income can result in financial instability and uncertainty about how to
2 allocate resources to continuing expenses, including rent; and

3 WHEREAS, the economic disruptions caused by COVID-19 will increase the likelihood that
4 tenants will have difficulty paying rent; and

5 WHEREAS, more than half of Seattle’s residents are renters, and even before COVID-19, a
6 substantial share of renters paid more than 30 percent of their income to remain stably
7 housed; and

8 WHEREAS, before the pandemic, 78 percent of American workers were living paycheck-to-
9 paycheck, and nearly 75 percent reported being in debt, and as a result of COVID and the
10 economic recession, more than 30 million Americans-including at least 650,000
11 Washingtonians-are at risk of eviction when emergency measures expire; and

12 WHEREAS, Seattle renters are facing job loss, struggling with childcare, and dealing with other
13 unprecedented financial burdens stemming from the global COVID-19 crisis, leaving
14 many unable to pay rent; and

15 WHEREAS, at the end of August 2020, over 3,000 businesses in the Seattle metropolitan area
16 were closed, with an estimated 59 percent of those closures being permanent, and over
17 32,700 people in Seattle were unemployed; and

18 WHEREAS, based on the January 20 to February 1, 2021 data from the U.S. Census Bureau’s
19 Household Pulse Survey, it is estimated that approximately 31,000 Seattle renter
20 households were behind in paying rent over the last month; and

21 WHEREAS, mitigating the housing and economic impacts of the COVID-19 outbreak is in the
22 interest of the City and its residents; and

1 WHEREAS, the Washington State Legislature has declared a state policy to help residents who
2 are experiencing a temporary crisis in retaining stable housing to avoid eviction from
3 their homes, as expressed in Laws of 2019, ch. 356, § 1; and

4 WHEREAS, the City, King County, and Washington State have invested tens of millions of
5 dollars in rental assistance programs in 2020 and 2021, including through King County’s
6 Eviction Prevention and Rental Assistance Program, the state landlord mitigation fund,
7 and United Way’s Home Base program; and

8 WHEREAS, while existing City protections allow tenants to stay housed for as long as six
9 months after the end of the Mayor’s eviction moratorium, grounds for eviction may still
10 exist and result in landlords evicting tenants once those protections expire; and

11 WHEREAS, this legislation will allow tenants to stay housed if the only reason for their eviction
12 is unpaid rent that came due during the COVID-19 emergency and that protection will
13 not expire; and

14 WHEREAS, allowing tenants to stay housed while addressing any unpaid rent due during the
15 civil emergency proclaimed by Mayor Durkan on March 3, 2020 will create stability and
16 potentially a better likelihood of rent repayment if tenants are not simultaneously trying
17 to find and maintain new housing; NOW, THEREFORE,

18 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

19 Section 1. Subsection 22.206.160.C of the Seattle Municipal Code, which section was
20 last amended by Ordinance 126278, is amended as follows:

21 **22.206.160 Duties of owners**

22 * * *

23 C. Just cause eviction

1 1. Pursuant to provisions of the Washington State Residential Landlord-Tenant
2 Act (RCW 59.18.290), an owner may not evict a residential tenant without a court order, which
3 can be issued by a court only after the tenant has an opportunity in a show cause hearing to
4 contest the eviction (RCW 59.18.380). An owner of a housing unit shall not evict or attempt to
5 evict any tenant, or otherwise terminate or attempt to terminate the tenancy of any tenant, unless
6 the owner can prove in court that just cause exists. Regardless of whether just cause for eviction
7 may exist, an owner may not evict a residential tenant from a rental housing unit if: the unit is
8 not registered with the Seattle Department of Construction and Inspections if required by Section
9 22.214.040; or if subsections 22.206.160.C.8 or 22.206.160.C.9 provide the tenant a defense to
10 the eviction.

11 An owner is in compliance with the registration requirement if the rental housing
12 unit is registered with the Seattle Department of Construction and Inspections before issuing a
13 notice to terminate tenancy. The reasons for termination of tenancy listed below, and no others,
14 shall constitute just cause under this Section 22.206.160:

15 a. The tenant fails to comply with a 14 day notice to pay rent or vacate
16 pursuant to RCW 59.12.030(3); a ten day notice to comply or vacate pursuant to RCW
17 59.12.030(4); or a three day notice to vacate for waste, nuisance (including a drug-related
18 activity nuisance pursuant to chapter 7.43 RCW), or maintenance of an unlawful business or
19 conduct pursuant to RCW 59.12.030(5);

20 b. The tenant habitually fails to pay rent when due which causes the owner
21 to notify the tenant in writing of late rent four or more times in a 12 month period;

1 c. The tenant fails to comply with a ten day notice to comply or vacate that
2 requires compliance with a material term of the rental agreement or that requires compliance
3 with a material obligation under chapter 59.18 RCW;

4 d. The tenant habitually fails to comply with the material terms of the
5 rental agreement which causes the owner to serve a ten day notice to comply or vacate three or
6 more times in a 12 month period;

7 e. The owner seeks possession so that the owner or a member of the
8 owner's immediate family may occupy the unit as that person's principal residence and no
9 substantially equivalent unit is vacant and available in the same building, and the owner has
10 given the tenant at least 90 days' advance written notice of the date the tenant's possession is to
11 end. The Director may reduce the time required to give notice to no less than 20 days if the
12 Director determines that delaying occupancy will result in a personal hardship to the owner or to
13 the owner's immediate family. Personal hardship may include but is not limited to hardship
14 caused by illness or accident, unemployment, or job relocation. For the purposes of this Section
15 22.206.160, "Immediate family" includes the owner's domestic partner registered pursuant to
16 Section 1 of Ordinance 117244 or the owner's spouse, parents, grandparents, children, brothers
17 and sisters of the owner, of the owner's spouse, or of the owner's domestic partner. There is a
18 rebuttable presumption of a violation of this subsection 22.206.160.C.1.e if the owner or a
19 member of the owner's immediate family fails to occupy the unit as that person's principal
20 residence for at least 60 consecutive days during the 90 days immediately after the tenant
21 vacated the unit pursuant to a notice of termination or eviction using this subparagraph as the
22 cause for eviction;

1 f. The owner elects to sell a single-family dwelling unit and gives the
2 tenant at least 90 days' written notice prior to the date set for vacating, which date shall coincide
3 with the end of the term of a rental agreement, or if the agreement is month to month, with the
4 last day of a monthly period. The Director may reduce the time required to give notice to no less
5 than 60 days if the Director determines that providing 90 days' notice will result in a personal
6 hardship to the owner. Personal hardship may include but is not limited to hardship caused by
7 illness or accident, unemployment, or job relocation. For the purposes of this Section
8 22.206.160, an owner "elects to sell" when the owner makes reasonable attempts to sell the
9 dwelling within 30 days after the tenant has vacated, including, at a minimum, listing it for sale
10 at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a
11 newspaper of general circulation. There shall be a rebuttable presumption that the owner did not
12 intend to sell the unit if:

13 1) Within 30 days after the tenant has vacated, the owner does not
14 list the single-family dwelling unit for sale at a reasonable price with a realty agency or advertise
15 it for sale at a reasonable price in a newspaper of general circulation, or

16 2) Within 90 days after the date the tenant vacated or the date the
17 property was listed for sale, whichever is later, the owner withdraws the rental unit from the
18 market, rents the unit to someone other than the former tenant, or otherwise indicates that the
19 owner does not intend to sell the unit;

20 g. The tenant's occupancy is conditioned upon employment on the
21 property and the employment relationship is terminated;

22 h. The owner seeks to do substantial rehabilitation in the building;
23 provided that, the owner must obtain a tenant relocation license if required by Chapter 22.210

1 and at least one permit necessary for the rehabilitation, other than a Master Use Permit, before
2 terminating the tenancy;

3 i. The owner (i) elects to demolish the building, convert it to a cooperative,
4 or convert it to a nonresidential use; provided that, the owner must obtain a tenant relocation
5 license if required by Chapter 22.210 and a permit necessary to demolish or change the use
6 before terminating any tenancy, or (ii) converts the building to a condominium provided the
7 owner complies with the provisions of Sections 22.903.030 and 22.903.035;

8 j. The owner seeks to discontinue use of a housing unit unauthorized by
9 Title 23 after receipt of a notice of violation. The owner is required to pay relocation assistance
10 to the tenant(s) of each such unit at least two weeks prior to the date set for termination of the
11 tenancy, at the rate of:

12 1) \$2,000 for a tenant household with an income during the past 12
13 months at or below 50 percent of the County median income, or

14 2) Two months' rent for a tenant household with an income during
15 the past 12 months above 50 percent of the County median income;

16 k. The owner seeks to reduce the number of individuals residing in a
17 dwelling unit to comply with the maximum limit of individuals allowed to occupy one dwelling
18 unit, as required by Title 23, and:

19 1)
20 a) The number of such individuals was more than is lawful
21 under the current version of Title 23 but was lawful under Title 23 or Title 24 on August 10,
22 1994;

1 required to pay relocation assistance to the tenant household residing in such a unit at least two
2 weeks prior to the date set for termination of the tenancy, at the rate of:

3 1) \$2,000 for a tenant household with an income during the past 12
4 months at or below 50 percent of the county median income, or

5 2) Two months' rent for a tenant household with an income during
6 the past 12 months above 50 percent of the county median income;

7 n. An emergency order requiring that the housing unit be vacated and
8 closed has been issued pursuant to Section 22.206.260 and the emergency conditions identified
9 in the order have not been corrected;

10 o. The owner seeks to discontinue sharing with a tenant of the owner's
11 own housing unit, i.e., the unit in which the owner resides, seeks to terminate the tenancy of a
12 tenant of an accessory dwelling unit authorized pursuant to Sections 23.44.041 and 23.45.545
13 that is accessory to the housing unit in which the owner resides, or seeks to terminate the tenancy
14 of a tenant in a single-family dwelling unit and the owner resides in an accessory dwelling unit
15 on the same lot. This subsection 22.206.160.C.1.o does not apply if the owner has received a
16 notice of violation of the development standards of Section 23.44.041. If the owner has received
17 such a notice of violation, subsection 22.206.160.C.1.m applies;

18 p. A tenant, or with the consent of the tenant, the tenant's subtenant,
19 sublessee, resident, or guest, has engaged in criminal activity on the premises, or on the property
20 or public right-of-way abutting the premises, and the owner has specified in the notice of
21 termination the crime alleged to have been committed and the general facts supporting the
22 allegation, and has assured that the Seattle Department of Construction and Inspections has

1 recorded receipt of a copy of the notice of termination. For purposes of this subsection
2 22.206.160.C.1.p, a person has "engaged in criminal activity" if the person:

3 1) Engages in drug-related activity that would constitute a
4 violation of chapters 69.41, 69.50, or 69.52 RCW, or

5 2) Engages in activity that is a crime under the laws of this state,
6 but only if the activity substantially affects the health or safety of other tenants or the owner.

7 2. Any rental agreement provision which waives or purports to waive any right,
8 benefit or entitlement created by this subsection 22.206.160.C shall be deemed void and of no
9 lawful force or effect.

10 3. With any termination notices required by law, owners terminating any tenancy
11 protected by this Section 22.206.160 shall advise the affected tenant or tenants in writing of the
12 reasons for the termination and the facts in support of those reasons.

13 4. If a tenant who has received a notice of termination of tenancy claiming
14 subsection 22.206.160.C.1.e, 22.206.160.C.1.f, or 22.206.160.C.1.m as the ground for
15 termination believes that the owner does not intend to carry out the stated reason for eviction and
16 makes a complaint to the Director, then the owner must, within ten days of being notified by the
17 Director of the complaint, complete and file with the Director a certification stating the owner's
18 intent to carry out the stated reason for the eviction. The failure of the owner to complete and file
19 such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction
20 action based on this ground.

21 5. In any action commenced to evict or to otherwise terminate the tenancy of any
22 tenant, it shall be a defense to the action that there was no just cause for such eviction or
23 termination as provided in this Section 22.206.160.

1 6. It shall be a violation of this Section 22.206.160 for any owner to evict or
2 attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any
3 tenant using a notice that references subsections 22.206.160.C.1.e, 22.206.160.C.1.f,
4 22.206.160.C.1.h, 22.206.160.C.1.k, 22.206.160.C.1.l, or 22.206.160.C.1.m as grounds for
5 eviction or termination of tenancy without fulfilling or carrying out the stated reason for or
6 condition justifying the termination of such tenancy.

7 7. An owner who evicts or attempts to evict a tenant or who terminates or
8 attempts to terminate the tenancy of a tenant using a notice which references subsections
9 22.206.160.C.1.e, 22.206.160.C.1.f or 22.206.160.C.1.h as the ground for eviction or termination
10 of tenancy without fulfilling or carrying out the stated reason for or condition justifying the
11 termination of such tenancy shall be liable to such tenant in a private right for action for damages
12 up to \$2,000, costs of suit, or arbitration and reasonable attorney's fees.

13 8. Except as provided in subsection 22.206.160.C.8.d, it is a defense to eviction if:

14 a. The eviction would result in the tenant having to vacate the housing unit
15 at any time between December 1 and March 1; and

16 b. The tenant household is a moderate-income household as defined in
17 Section 23.84A.016; and

18 c. The housing unit that the tenant would have to vacate is owned by a
19 person who owns more than four rental housing units in The City of Seattle. For purposes of this
20 subsection 22.206.160.C.8.c, "owns" includes having an ownership interest in the housing units.

21 d. If the reason for termination of the tenancy is due to conditions
22 described in subsections 22.206.160.C.1.e, 22.206.160.C.1.f provided that the tenant was
23 provided at least 90 days' written notice prior to the date set for vacating the unit,

1 22.206.160.C.1.j, 22.206.160.C.1.k, 22.206.160.C.1.l, 22.206.160.C.1.m, 22.206.160.C.1.n,
2 22.206.160.C.1.o, or 22.206.160.C.1.p, or if the reason for termination is due to the tenant's
3 failure to comply with a three day or ten day notice to vacate for a drug-related activity nuisance
4 pursuant to chapter 7.43 RCW or maintenance of an unlawful business or conduct pursuant to
5 RCW 59.12.030(5) or because the tenant's conduct has a substantial detrimental impact on, or
6 constitutes an imminent threat to, the health or safety of other tenants in the rental building or the
7 owner, the eviction may occur as otherwise allowed by law.

8 e. A rent mitigation fund is created to provide funds to eligible low-
9 income tenant households at risk of residential eviction during the period described in subsection
10 22.206.160.C.8, if other sources of funds are not available to assist the tenant, or to provide
11 financial assistance to a non-profit corporation or other housing provider that cannot evict a
12 tenant from a rental housing unit during the period described in subsection 22.206.160.C.8
13 because the unit is subject to restrictions on tenant incomes or rent as a condition of that
14 assistance.

15 1) Tenant eligibility. To be eligible to receive funds, (1) the reason
16 for termination must include nonpayment of rent; and (2) the tenant household must be a low-
17 income household as defined in Section 23.84A.016; and (3) the tenant must demonstrate that the
18 tenant does not have the financial resources to avoid eviction; and (4) the tenant must request
19 mitigation funds on or before the date a writ of restitution is executed.

20 2) Housing provider eligibility. To be eligible to receive funds the
21 housing provider shall (1) demonstrate that an eviction was delayed during this period because
22 the tenant raised the defense described in subsection 22.206.160.C.8; and (2) demonstrate that
23 the tenant does not have financial resources available to pay rent during the period described in

1 subsection 22.206.160.C.8; and (3) demonstrate that the tenant resides in a unit that is subject to
2 restrictions on tenant incomes or rent; and (4) sign an agreement stating that the housing provider
3 will not report the tenant's delinquency on rent payment to credit reporting agencies.

4 3) The Director shall have rulemaking authority to administer the
5 fund. This authority includes the ability to have the fund administered by a public or private
6 organization having experience administering or capable of administering similar tenant
7 assistance programs. If by rule the Director determines that payments shall be made directly to a
8 landlord, the landlord shall sign an agreement with the Director prior to payment stating that the
9 landlord will not report the tenant's delinquent rent payment to credit reporting agencies.

10 4) The availability of funds is subject to the existence of budget
11 appropriations for that purpose. A request for funding shall be denied if insufficient funds are
12 available. The City is not civilly or criminally liable for failure to provide funding and no penalty
13 or cause of action may be brought against the City resulting from the provision or lack of
14 provision of funds.

15 5) When a landlord issues a notice to terminate tenancy due to
16 nonpayment of rent, the notice must contain information to the tenant about how to access the
17 tenant mitigation fund. The landlord is not required to provide this information if insufficient
18 funds have been appropriated by the City Council to provide the funds for mitigation. The
19 information for the notice shall be adopted by the Seattle Department of Construction and
20 Inspections by rule.

21 9.

22 a. Subject to the requirements of subsection 22.206.160.C.9.b, it is a
23 defense to eviction if the eviction would result in the tenant having to vacate the housing unit

1 within six months after the termination of the Mayor's eviction moratorium, and if the reason for
2 terminating the tenancy is:

3 1) The tenant fails to comply with a 14-day notice to pay rent or
4 vacate pursuant to RCW 59.12.030(3) for rent due during, or within six months after the
5 termination of, the Mayor's residential eviction moratorium; or

6 2) The tenant habitually fails to pay rent resulting in four or more
7 pay-or-vacate notices in a 12-month period.

8 For purposes of this subsection 22.206.160.C.9, "termination of the
9 Mayor's residential eviction moratorium" means termination of subsection 1.C (creating a
10 defense to a pending eviction action) of the moratorium on residential evictions ordered by the
11 Mayor's civil emergency order, as amended by the Council in Resolution 31938 on March 16,
12 2020.

13 b. The tenant may invoke the defense provided in subsection
14 22.206.160.C.9.a only if the tenant has submitted a declaration or self-certification asserting the
15 tenant has suffered a financial hardship and is therefore unable to pay rent.

16 c. If a landlord issues a notice to terminate a tenancy due to a reason listed
17 in subsections 22.206.160.C.9.a.1—2, and if the landlord issues that notice within six months
18 after the termination of the Mayor's residential eviction moratorium, the notice must contain the
19 following statement: "If you cannot pay rent, during or within 6 months after the end of the
20 Mayor's moratorium on evictions, your inability to pay is a defense to eviction that you may raise
21 in court." It is a defense to eviction if the notice does not contain that statement.

1 d. An award of attorneys' fees and statutory court costs to a landlord
2 arising from an eviction proceeding arising from a notice to terminate a tenancy due to a reason
3 listed in subsections 22.206.160.C.9.a.1—2 is prohibited unless otherwise allowed by law.

4 10.

5 a. Subject to the requirements of subsection 22.206.160.C.10.b, it is a
6 defense to eviction if the tenant fails to pay rent due during the civil emergency proclaimed by
7 Mayor Durkan on March 3, 2020, the tenant has suffered a financial hardship during the civil
8 emergency proclaimed by Mayor Durkan on March 3, 2020, and the reason for terminating the
9 tenancy is:

10 1) The tenant fails to comply with a 14-day notice to pay rent or
11 vacate pursuant to RCW 59.12.030(3) for rent due during the civil emergency proclaimed by
12 Mayor Durkan on March 3, 2020; or

13 2) The tenant habitually fails to pay rent resulting in four or more
14 pay-or-vacate notices in a 12-month period.

15 b. The tenant may invoke the defense provided in subsection
16 22.206.160.C.10.a only if the tenant submits a declaration or self-certification asserting the
17 tenant has suffered a financial hardship and was therefore unable to pay rent during the civil
18 emergency proclaimed by Mayor Durkan on March 3, 2020.

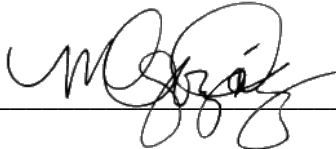
19 c. If a landlord issues a notice to terminate a tenancy due to a reason listed
20 in subsection 22.206.160.C.10.a.1 or subsection 22.206.160.C.10.a.2, and if the notice is based
21 on a failure to pay rent due during the civil emergency proclaimed by Mayor Durkan on March
22 3, 2020, the notice must contain the following statement: "If you cannot pay rent due during the
23 civil emergency proclaimed by Mayor Durkan on March 3, 2020, your inability to pay is a

1 defense to eviction that you may raise in court.” It is a defense to eviction if the notice does not
2 contain that statement.

3 Section 2. The provisions of this ordinance are declared to be separate and severable. If
4 any clause, sentence, paragraph, subdivision, section, subsection, or portion of this ordinance, or
5 the application thereof to any landlord, prospective occupant, tenant, person, or circumstance, is
6 held to be invalid, it shall not affect the validity of the remainder of this ordinance, or the validity
7 of its application to other persons or circumstances.

1 Section 3. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by the City Council the 7th day of June, 2021,
5 and signed by me in open session in authentication of its passage this 7th day of
6 June, 2021.

7 

8 President _____ of the City Council

9 Approved / returned unsigned / vetoed this 18th day of June, 2021.

10 **Returned Unsigned by Mayor**

11 Jenny A. Durkan, Mayor

12 Filed by me this 18th day of June, 2021.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)