



**KING COUNTY**

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Signature Report**

**Ordinance 19118**

**Proposed No.** 2020-0191.3

**Sponsors** Balducci, Zahilay and Kohl-Welles

1 AN ORDINANCE relating to residential and commercial  
2 tenant protections during the COVID-19 pandemic; and  
3 declaring an emergency.

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,

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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. On May 31, 2020, following the expiration of the "Stay Home - Stay Healthy"  
24 proclamation, Governor Inslee issued a proclamation entitled "Safe Start", which details a  
25 phased county-by-county approach to reopening the state.

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

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

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

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

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43 during the state of emergency.

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

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

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

60 M. On March 18, 2020, Governor Inslee issued Proclamation 20-19 prohibiting  
61 eviction actions based on nonpayment of rent until April 17, 2020, which was extended  
62 until June 4, 2020, and extended again until August 1, 2020, with additional tenant  
63 protections. Under the emergency proclamation, renters are still obligated to pay  
64 landlords, resulting in potentially significant accumulated debt for those who defer  
65 payments.

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66 N. The King County regional affordable housing task force report included  
67 census data showing that more than 124,000 low-income households in King County are  
68 severely cost burdened. Of these, 88 percent, or 109,700 households, earn 50 percent or  
69 less of area median income, meaning the county's poorest residents struggle most with  
70 housing costs. The report found that communities of color and renters are  
71 disproportionately likely to be severely cost burdened, paying more than half of their  
72 income toward housing costs. The report also included a recommended strategy of  
73 adopting ordinances to expand tenant protection and provide implementation support.  
74 The King County council declared through Motion 15372 that recommendations  
75 contained therein represent the policy of the council.

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

78 A. "Housing unit" means a structure or that part of a structure that is used as a  
79 home, residence or sleeping place by one or more persons maintaining a common  
80 household, including, but not limited to, single-family residences and units of  
81 multiplexes, apartment buildings and mobile homes and for which occupancy is  
82 authorized by a rental agreement, excluding short-term rentals as defined by RCW  
83 64.37.010.

84 B. "Mobile or manufactured home park" means any real property that is rented or  
85 held out for rent to others for the placement of two or more mobile homes, manufactured  
86 homes or park models, for the primary purpose of production of income, except where  
87 the real property is rented or held out for rent for seasonal recreational purpose only and  
88 is not intended for year-round occupancy.

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89 C. "Occupancy" means the formal designation of the primary purpose of the  
90 building structure or portion thereof.

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

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

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

95 E. "Rental agreement" means all agreements that establish or modify the terms,  
96 conditions, rules, regulations or any other provisions concerning the use and occupancy  
97 of a housing or commercial unit.

98 F. "Small commercial tenant" means a business entity, including a sole  
99 proprietorship, corporation, partnership or other legal entity, that:

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

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

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

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

110 SECTION 3. A. Where an unlawful detainer action against a residential tenant is  
111 based on any reason enumerated in this section, it is a defense to eviction if the eviction

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112 was initiated because of a failure to pay rent when due between March 1, 2020, and  
113 March 1, 2021. The defense is available only where the reason for termination of the  
114 tenancy is based on:

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

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

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

123           1. The tenant's illness;

124           2. Loss or reduction of income;

125           3. Loss of employment;

126           4. Reduction in compensated hours of work;

127           5. Business or office closure;

128           6. A need to miss work to care for a family member or child, where that care is  
129 uncompensated; or

130           7. Other similar loss of income due to the COVID-19 pandemic.

131           C. When considering whether to apply the defense to eviction afforded a tenant  
132 in subsection A. of this section and fashioning any remedy, the court should balance the  
133 equities of the parties and consider material impacts to the owner as well as to the tenant.

134           D. A residential tenant who fails to pay rent when due between March 1, 2020,

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135 and March 1, 2021, may elect to pay the overdue rent through a repayment plan if the  
136 failure to pay was due to circumstances occurring as a result of the COVID-19 pandemic.  
137 In an unlawful detainer action based on nonpayment of rent that was due between March  
138 1, 2020, and March 1, 2021, if the failure to pay was due to circumstances occurring as a  
139 result of the COVID-19 pandemic, the landlord shall demonstrate by a preponderance of  
140 the evidence to a court that the tenant was offered, and refused or failed to comply with, a  
141 repayment plan that was reasonable based on the individual financial, health, and other  
142 circumstances of the tenant. A failure to provide a reasonable repayment plan shall be a  
143 defense to eviction.

144 E. Late fees, interest or other charges do not apply to late payment of rent by  
145 tenants between March 1, 2020, to March 1, 2021, if the failure to pay was due to  
146 circumstances occurring as a result of the COVID-19 pandemic, and do not apply to  
147 repayment of those amounts made in accordance with a repayment plan, so long as the  
148 payments are timely made under the plan.

149 F. A residential rental agreement may not be terminated by the landlord under  
150 RCW 59.12.030(2), RCW 59.18.200 or RCW 59.18.220, where the tenant has entered  
151 into a repayment plan under sections 3.D. and 4 of this ordinance until after the tenant has  
152 completed the repayment plan, or the tenant refused or failed to comply with, a  
153 repayment plan that was reasonable based on the individual financial, health and other  
154 circumstances of the tenant. This section shall not prohibit a landlord from otherwise  
155 terminating a tenancy subject to this ordinance due to behavior resulting in an imminent  
156 threat to health and safety of other persons on the premises.

157 SECTION 4. A small commercial tenant who fails to pay rent when due between

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158 March 1, 2020, and March 1, 2021, may elect to pay the overdue rent through a  
159 repayment plan if the failure to pay was due to circumstances occurring as a result of the  
160 COVID-19 pandemic. In an unlawful detainer action against a small commercial tenant  
161 for nonpayment of rent that was due between March 1, 2020, and March 1, 2021, if the  
162 failure to pay was due to a circumstances occurring as a result of the COVID-19  
163 pandemic, the landlord shall demonstrate by a preponderance of the evidence that the  
164 tenant was offered, and refused or failed to comply with, a repayment plan that was  
165 reasonable based on the individual financial, health and other circumstances of the tenant.  
166 A failure to provide a reasonable repayment plan shall be a defense to eviction. Late fees,  
167 interest or other charges arising from the late payment of rent do not apply to late  
168 payment of rent by small commercial tenants between March 1, 2020, to March 1, 2021,  
169 if the failure to pay was due to circumstances occurring as a result of the COVID-19  
170 pandemic, and do not apply to repayment of those amounts made in accordance with a  
171 repayment plan, so long as the payments are timely made under the plan.

172 SECTION 5. A. Where an unlawful detainer action against a tenant of a  
173 mobile or manufactured home park is based on any reason enumerated in this  
174 section, it is a defense to eviction if the eviction was initiated because of a failure  
175 to pay rent due between March 1, 2020, and March 1, 2021. The defense is  
176 available only where the reason for termination of the tenancy or occupancy or  
177 failure to renew a tenancy or occupancy is based on:

178 1. The tenant's failure to comply with a fourteen-day notice to pay rent  
179 or charges or vacate due to nonpayment of rent or charges under RCW  
180 59.20.080(1)(b);

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181           2. The tenant's failure to comply with a fourteen-day notice to comply or  
182 vacate due to a failure to pay rent by the due date provided for in the rental  
183 agreement three or more times in a twelve-month period, commencing with the  
184 date of the first violation under RCW 59.20.080(1)(m);

185           B. To assert the defense under subsection A. of this section, the tenant of  
186 the mobile or manufactured home park must prove that the failure to pay rent was  
187 due to one or more of the following circumstances occurring as a result of the  
188 COVID-19 pandemic:

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

197           C. A tenant of a mobile or manufactured home park who fails to pay rent  
198 due between March 1, 2020, and March 1, 2021, may elect to pay the overdue  
199 rent through a repayment plan if the failure to pay was due to circumstances  
200 occurring as a result of the COVID-19 pandemic. In an unlawful detainer action  
201 based on nonpayment of rent that was due between March 1, 2020, and March 1,  
202 2021, the landlord shall demonstrate by a preponderance of the evidence to a  
203 court that the tenant was offered, and refused or failed to comply with, a

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204 repayment plan that was reasonable based on the individual financial, health and  
205 other circumstances of the tenant. A failure to provide a reasonable repayment  
206 plan shall be a defense to eviction.

207         D. Late fees, interest or other charges do not apply to late payment of rent by  
208 tenants between March 1, 2020, to March 1, 2021, if the failure to pay was due to  
209 circumstances occurring as a result of the COVID-19 pandemic, and do not apply to  
210 repayment of those amounts made in accordance with a repayment plan, so long as the  
211 payments are timely made under the plan.

212         SECTION 6. It is not the intent of the King County council to limit a court in  
213 weighing all legal and equitable defenses presented in unlawful detainer cases that  
214 include the defenses to eviction provided in sections 3.A. and D. and 4 of this ordinance.  
215 The King County council understands a court will consider the totality of circumstances  
216 in determining liability in an unlawful detainer action.

217         SECTION 7. A landlord may not take any reprisal or retaliatory action against a  
218 tenant who exercises rights under this ordinance. There is a presumption that the action  
219 of the landlord violates this section if the action occurs during a repayment plan period or  
220 sixty days after completing the repayment plan.

221         SECTION 8. Severability. If any provision of this ordinance or its application to  
222 any person or circumstance is held invalid, the remainder of the ordinance or the  
223 application of the provision to other persons or circumstances is not affected.

224         SECTION 9. The county council finds as a fact and declares that an emergency  
225 exists and that this ordinance is necessary for the immediate preservation of public peace,

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226 health or safety or for the support of county government and its existing public  
227 institutions and shall take effect immediately.  
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Ordinance 19118 was introduced on 5/26/2020 and passed as amended by the Metropolitan King County Council on 6/23/2020, by the following vote:

Yes: 7 - Ms. Balducci, Mr. Dembowski, Ms. Kohl-Welles, Ms. Lambert, Mr. McDermott, Mr. Upthegrove and Mr. Zahilay  
No: 2 - Mr. Dunn and Mr. von Reichbauer

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

DocuSigned by:  
*Claudia Balducci*  
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Claudia Balducci, Chair

ATTEST:

DocuSigned by:  
*Melani Pedroza*  
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Melani Pedroza, Clerk of the Council

**Attachments:** None