

CITY OF SEATTLE

ORDINANCE 126116

COUNCIL BILL 119829

AN ORDINANCE relating to commercial tenancies; temporarily prohibiting the enforcement of personal liability provisions in commercial leases or other rental agreements; 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, 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 COVID-19; 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, on March 25, 2020 the Washington Governor issued Proclamation 20-25, prohibiting all people in Washington State from leaving their homes and all non-essential businesses in Washington State from conducting business (“Stay Home – Stay Healthy Proclamation”); and

WHEREAS, these actions are appropriate for public health reasons but result in severe economic impacts on businesses, families, and individuals in Seattle; and

WHEREAS, these actions 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

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

3 WHEREAS, meeting existing rent obligations are a continuing financial burden on small
4 businesses and not-for-profits and threaten their viability; and

5 WHEREAS, small businesses and non-profits have reported that their landlords are threatening
6 to come after their personal assets and hold liable other guarantors on lease agreements;
7 and

8 WHEREAS, the Council recognizes that tenants already at risk of losing their businesses during
9 an unprecedented pandemic should not also be at risk of losing their homes or other
10 personal assets; and

11 WHEREAS, losing both business and personal assets could have devastating impacts on both the
12 tenant and the economy; and

13 WHEREAS, The City of Seattle has a heightened interest in preventing more small businesses or
14 non-profits from closing; NOW, THEREFORE,

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

16 Section 1. The City Council finds and declares that:

17 A. On February 29, 2020, Governor Inslee proclaimed a State of Emergency for all
18 counties throughout the State of Washington as a result of the confirmed person-to-person spread
19 of COVID-19 in Washington State.

20 B. The COVID-19 disease, caused by a virus that spreads easily from person to person
21 and which may cause serious injury and death, has spread throughout King County and the City
22 of Seattle.

1 C. On March 3, 2020, Mayor Durkan issued a Proclamation of Civil Emergency
2 declaring a civil emergency within the City of Seattle based on the confirmed spread of COVID-
3 19 in King County and resulting deaths.

4 D. On March 11, 2020, the Governor of Washington State and the Local Health Officer
5 for Public Health – Seattle & King County issued parallel orders prohibiting gatherings of 250
6 people or more for social, spiritual and recreational activities in King County.

7 E. On March 13, 2020, the Governor of Washington state issued an emergency order
8 announcing all K-12 schools in Washington to be closed from March 17, 2020 through June 19,
9 2020 to combat the spread of the disease.

10 F. On March 16, 2020, Washington Governor Jay Inslee and the Public Health - Seattle &
11 King County Local Health Officer issued parallel orders temporarily shutting down restaurants,
12 bars, and other entertainment and food establishments, except for take-out food.

13 G. In recognition of the danger that hospitals may become overwhelmed with COVID-19
14 patients unless the spread of the disease is slowed, on March 23, 2020, Governor Inslee imposed
15 a stay-home order throughout Washington State prohibiting all people in the State from leaving
16 their homes or participating in gatherings with only limited exceptions for participating in
17 essential activities or essential business services.

18 H. On April 2, 2020, Washington Governor Jay Inslee extended the “Stay Home - Stay
19 Healthy” proclamation through May 4, 2020.

20 I. On May 1, 2020, Washington Governor Jay Inslee extended the “Stay Home - Stay
21 Healthy” proclamation through May 31, 2020 in recognition that the worldwide COVID-19
22 pandemic and its progression in Washington State continue to threaten the life and health of our

1 people as well as the economy of Washington State, and remain a public disaster affecting life,
2 health, property or the public peace.

3 J. On May 4, 2020, Washington Governor Jay Inslee announced a “Safe Start” plan that
4 reopens Washington’s economy in phases and has restrictions on the seating capacity of
5 restaurants during three of the four phases and physical distancing for high-risk populations and
6 worksites during all four phases.

7 K. As of June 11, 2020, the Washington State Department of Health confirmed 25,171
8 cases of COVID-19 and 1,204 deaths caused by the virus in Washington State, with 8,611
9 confirmed cases and 586 deaths caused by the virus in King County.

10 L. There are at least 38,000 businesses in the City of Seattle employing a minimum of
11 655,000 individuals. Since the Governor of Washington closed or limited operations of many
12 businesses in the state beginning in March, the statewide unemployment rate went from 5.1
13 percent in March to 15.4 percent in April. This equates to 199,000 individuals in March, and
14 610,000 individuals in April who are unemployed. In the Seattle/Bellevue/Everett area, the
15 unemployment rate went from 5.6 percent in March to 14.5 percent in April. This equates to
16 96,000 individuals in March and 248,000 individuals in April who are unemployed.

17 M. The impacts of the COVID-19 crisis on the economy, employment, job retention,
18 child care, and businesses has resulted in: restaurants, bars, and other businesses being forced to
19 close; workers being unable to go to work because of illness; the need to care for children home
20 from day care or school or for other family members without paid sick or safe time; and reduced
21 business income due to reduced demand as businesses struggle during the state of emergency
22 proclaimed by Mayor Durkan on March 3, 2020. These impacts have led to a temporary closure

1 of many businesses, which will struggle to reopen, and who still have to pay rent under their
2 lease agreements.

3 N. This legislation is necessary to respond to the COVID-19 public health emergency
4 because this legislation prevents putting at risk personal assets in addition to business assets,
5 which will maintain stability and decrease the likelihood of homelessness.

6 Section 2. A provision in a commercial lease or other commercial rental agreement that
7 makes the tenant or one or more persons who are not the tenant wholly or partially personally
8 liable for payment of rent, utility expenses, taxes, fees, or charges relating to routine building
9 maintenance for the leased premises is not enforceable if the tenant is a small business or non-
10 profit and:

11 A. Enforcement of the provision would occur during the civil emergency proclaimed by
12 the Mayor on March 3, 2020 or within six months after the expiration of the Mayoral
13 Proclamation and the tenant's business or non-profit was subject to in-person limitations under
14 Gubernatorial Proclamations 20-07, 20-13, 20-14; 20-24, 20-25, 20-25.1, 20-25.2, 20-25.3, 20-
15 25.4, 20-25.5, 20-25.6 or any subsequent extensions; or

16 B. The tenant's business or non-profit closed or ceased operations pursuant to
17 Gubernatorial Proclamations 20-07, 20-13, 20-14, 20-24, 20-25, 20-25.1, 20-25.2, 20-25.3, 20-
18 25.4, 20-25.5, 20-25.6, or any subsequent extensions.

19 Section 3. For the purposes of this ordinance, "small business" means any business entity,
20 including a corporation, partnership, or other legal entity, that (1) is owned and operated
21 independently from all other businesses (a franchisee with five or fewer franchise units shall be
22 considered owned and operated independently from its franchisor); (2) has fifty or fewer
23 employees per establishment or premises; (3) is neither: a general sales and service business with

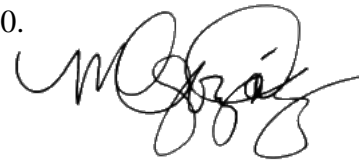
1 ten or more establishments in operation located anywhere in the world; nor an entertainment use
2 business with five or more establishments in operation located anywhere in the world.

3 Section 4. For purposes of this ordinance, a “nonprofit” means an entity that: (1) is a “not
4 for profit corporation” or “nonprofit corporation” under RCW 24.03.005(16) or is designated a
5 “public benefit not for profit corporation” or “public benefit nonprofit corporation” under RCW
6 24.03.490; and (2) holds tax-exempt status under 26 U.S.C. § 501(c)(3).

7 Section 5. Based on the findings of fact set forth in Section 1 of this ordinance, the
8 Council finds and declares that this ordinance is a public emergency ordinance, which shall take
9 effect immediately and is necessary for the immediate preservation of the public peace, health
10 and safety.

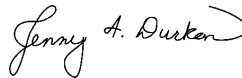
1 Section 6. By reason of the findings set out in Section 1, and the emergency that is hereby
2 declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4
3 vote of the Council and its approval by the Mayor, as provided by Article 4, subsection 1.I of the
4 Charter of the City.

5 Passed by a 3/4 vote of all the members of the City Council the 20th day of
6 July, 2020, and signed by me in open session in authentication of its
7 passage this 20th day of July, 2020.



8 _____
9 President _____ of the City Council

10 Approved by me this 31st day of July, 2020.



11 _____
12 Jenny A. Durkan, Mayor

13 Filed by me this 31st day of July, 2020.



14 _____
15 Monica Martinez Simmons, City Clerk

16 (Seal)