

Summary of WA State and City of Seattle Moratoriums, Proclamations Regarding Commercial Leases (last updated 2-4-21)

This document specifically summarizes the Washington State Proclamations and the City of Seattle Moratoriums and Proclamations regarding commercial leases in response to the Covid-19 shuttering of businesses. If your business is NOT located in Seattle, please refer to your City's laws and rules applicable to your business.

1. Washington State:

[PROCLAMATION BY THE GOVERNOR AMENDING PROCLAMATIONS 20-05 AND 20-19 \(Issued April 16, 2020 and extends to June 4, 2020\); Extended to August 1, 2020 20-19.2, Extended to October 15, 2020, 20-19.3; Extended to December 31, 2021, 20-19.4; Extended to March 31, 2021, 20-19.5](#)

Under this Proclamation, commercial landlords, in Washington State, cannot increase rent or the amount of any deposit on commercial rental property, if the commercial tenant has been materially impacted by Covid-19. Page 4 of the Proclamation states:

Landlords, property owners, and property managers are prohibited from increasing, or threatening to increase, the rate of rent or the amount of any deposit for any dwelling or parcel of land occupied as a dwelling. . . . this prohibition also applies to commercial rental property if the commercial tenant has been materially impacted by the COVID-19, whether personally impacted and is unable to work or whether the business itself was not deemed essential pursuant to Proclamation 20-25 or otherwise lost staff or customers due to the COVID-19 outbreak. This prohibition does not apply to commercial rental property if rent increases were included in an existing lease agreement that was executive before February 29, 2020 (pre-COVID-19 state of emergency).

2. King County:

[The King County Sheriff's office announced that it will not be serving or enforcing eviction orders until further notice, including residential, commercial, or post - foreclosure orders, starting March 17, 2020 until further notice.](#)

3. City of Seattle:

In Seattle, Mayor Durkan issued a Moratorium on Evictions and the Seattle City Council issued an Ordinance on commercial leases. The Moratorium and the Ordinance are described below. The Ordinance affirms everything in the Moratorium and adds specific additional requirements.

- A. [Civil Emergency Order - City of Seattle Moratorium on Small Business Tenant Evictions \(Issued March 17, 2020\)](#).
- a. [Executive Order 2020-06: COVID-19 Civil Emergency – Continued Extension of City Closures and Relief Measures](#).
 - b. [Executive Order 2020-09: COVID-19 Civil Emergency - Extension of Eviction Moratoriums](#).
 - c. [Executive Order 2020-12: COVID-19 Civil Emergency – Extension of City Closures and Relief Measures](#).

Under this Moratorium and Executive Order 2020-06, Landlords (“LL”) cannot evict small businesses and nonprofit organizations for non-payment of rent. LLs are also required to endeavor to enter into a payment plan, or other workout agreement to assist economically distressed small businesses and nonprofit organizations.

1. LLs cannot evict a nonprofit or small business (a business owned and operated independently from all other businesses and that has 50 or fewer employees per premises), terminate the lease under the lease agreement, or pursue a contractual remedy under the lease agreement for non-payment of rent during the moratorium.
2. LL shall work with Tenant and try to enter into a payment plan.
3. LL cannot charge late fees, interest or other charges due to late payment of rent during the moratorium.
4. A small business is defined as an independently owned business entity with fifty or fewer employees per premises. A small business is defined under [RCW 19.85.020\(3\)](#) and a nonprofit entity is defined under [RCW 24.03.490](#).
5. The Moratorium is in effect from March 17, 2020 through March 31, 2021. The March 17, 2020 Moratorium was originally scheduled to expire on the termination of the Mayor’s Proclamation of Civil Emergency or May 16, 2020 (whichever comes earlier). However, on December 15, 2020, the Mayor, through Executive Order 2020-12, extended the Moratorium on evictions through March 31, 2021.

For more information, see City of Seattle [FAQ on the Mayor’s Moratorium](#).

- B. [City of Seattle Ordinance 126066, Council Bill 119766 \(Issued April 13, 2020\)](#).

This City of Seattle Council Ordinance affirms Mayor Durkin’s Moratorium on Small Business Tenant Evictions, described above, and adds additional requirements regarding repayment of rent. The Ordinance includes rules that do not allow the landlord to raise the rent and rules about creating a repayment plan for back rent. Here are the rules:

1. For tenants with a month-to-month tenancy, Landlords cannot increase rent charged to a small business or nonprofit until Civil Emergency Proclaimed by Mayor on March 3, 2020 is terminated (see Sec. 2 of the Ordinance). This provision of the Ordinance (Sec. 2)

is not applicable to fixed-term leases; See next point for fixed-term leases. See Sec. 2 of the Ordinance.

2. For tenants, who have a lease other than a month-to-month basis (fixed-term leases), the Landlord cannot:
 - a. Increase the amount of rent charged, unless the increase was in the lease before April 13, 2020; or
 - b. Renew the lease or enter into a new lease and increase the rent amount.See Sec. 3 of the Ordinance.

3. Repayment Plan (see Sec. 4 of the Ordinance):
 - a. Seattle landlords must work with their tenants on a repayment plan to pay unpaid rent.
 - b. Small business or nonprofit that did not pay rent during the moratorium or within six months after the moratorium is lifted, may elect to pay its overdue rent in installments during that period on a payment schedule.
 - c. The Landlord and Tenant shall negotiate a written installment payment schedule for the rent in arrears:
 - i. There's a limit to the rate of repayment a Landlord can require the Tenant to pay. The repayment schedule may not require the small business/nonprofit to pay in addition to rent due for the month, more than 1/3 of late rent within any month/period following the month or period for which full rent was not paid;
 - ii. The Tenant must pay the back rent within one year. Rent in arrears shall be paid in full to the LL no later than one year after the termination of the civil emergency order (moratorium is lifted); and
 - iii. Landlord cannot charge late fees, interest or other charges due to late payment of rent during or within one year after the termination of the civil emergency order proclaimed on March 3rd, 2020.
 - d. Small Business: The City Council ordinance adds the following requirements for the tenant to be considered a "small business":
 - i. The small business has been forced to close due to an emergency order OR has gross receipts from the previous calendar month of 2020 that are less than 70% of its gross receipts for the same month in 2019; AND
 - ii. The business is neither a general sales or service business with ten or more establishments in operation located anywhere in the world or an entertainment use business with five or more establishments in operation located anywhere in the world

D. [City of Seattle Ordinance 126116, Council Bill 119829 \(Issued July 31, 2020\)](#).

This City of Seattle Council Ordinance is an attempt to limit personal liability for small business and non-profit tenants who default in their commercial leases.

- The Ordinance limits the enforceability of “a provision in a commercial lease or other commercial rental agreement that makes the tenant or one or more persons who are not the tenant wholly or partially personally liable for payment of rent, utility expenses, taxes, fees, or charges related to routine building maintenance for the leased premises.” This means that landlords cannot hold a tenant or other individual personally liable for payment of rent, utilities, taxes, fees or other charges related to the building maintenance of the leased premises during the period of the civil emergency and within 6 months after the civil emergency period expires.
- The enforcement limitation is effective during the civil emergency (proclaimed by Mayor Durkan on March 3, 2020) and within six months of the civil emergency’s expiration.
- The Ordinance defines a “small business” in the same as the Mayor’s Eviction Moratorium, and a nonprofit entity is defined under [RCW 24.03.490](#).