

Seattle City Council Adopts Multiple Ordinances for Rental Properties

Legal Alert
May 19, 2020

In response to City of Seattle Mayor Jenny Durkan's earlier declaration of a Civil Emergency because of COVID-19, the Seattle City Council has extended additional protections for renters.

The City Council's first rental regulation responding to COVID-19 was an ordinance that prohibits rent increases on small business or nonprofit tenants, prohibits evictions of such tenants for nonpayment, and allows negotiation of a repayment schedule to pay back rent within a year after the termination of the emergency, but which requires payment of no more than one-third of the debt per month, [Ord. 126066](#) (passed April 13, 2020).

Since then, the City Council has focused on the residential side. In the last two weeks, it adopted ordinances that:

- Create a COVID-19 defense to an eviction proceeding for failure to pay rent during, or within six months after, the declared emergency, provided that the tenant declares a financial hardship, [Ord. 126075](#) (passed May 4, 2020);
- Allow tenants who miss rent payments during or within six months of the termination of the COVID-19 emergency to repay in installments with no penalty or interest, [CB 119788](#) (passed May 11, 2020);
- Prohibit landlords evaluating a prospective tenant from considering an eviction that occurred during or within six months after the declared emergency and, creating a rebuttable presumption against a landlord with knowledge of a COVID-19-era eviction who also decides not to rent to the applicant, [CB 119787](#) (passed May 11, 2020).

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These legislative enactments continue the City Council's recent trend toward expanding renter protections. In the few years previous to the COVID-19 emergency, City Council adopted ordinances that:

1. Cap expenses such as security deposits and move-in fees (see Ch. 7.24 SMC), including:
 - - move-in fee cannot exceed 10 percent of first month's rent,
 - pet deposit cannot exceed 25 percent of first month's rent, and
 - refundable security deposit + non-refundable move-in fee cannot exceed one month's rent
2. Prohibit discrimination based on source of income, such as Section 8 vouchers (later enacted by the state legislature);
3. Prohibit "preferred employer" programs that provide incentives such as free parking or fee waivers for employees of certain businesses (does not apply to "housing specifically designated as employer housing which is owned or operated by an employer and leased for the benefit of its employees only," SMC 14.08.020);
4. Create a rental unit registration and inspection program, (SMC 22.214.030.A.9);
5. Limit the number of short-term (fewer than 30 days) rental units a landlord can operate and requires short-term rental operators to obtain a short-term rental license (SMC 23.42.060);
6. Created a defense to eviction during the winter (between December 1 and March 1) (SMC 22.206.160.C.8);
7. Implement a first-in-time rule that requires landlords to rent to the first qualified applicant (SMC 14.08.050); and
8. Prohibit landlords from asking tenants about criminal history (Ch. 14.09 SMC).

Ordinances seven and eight (first-in-time and criminal history) faced legal challenges that initially succeeded in the trial court, but after a pair of rulings from the Washington State Supreme Court (in two cases each titled *Yim v. City of Seattle*, which dramatically changed constitutional law in Washington), now appear headed toward a favorable outcome for the City unless the U.S. Supreme Court accepts review. Stay tuned.

The land use attorneys of Foster Garvey continue to track the City Council's response to COVID-19. If you have questions, please don't hesitate to contact [Steve Gillespie](#).