

BE IT ENACTED BY THE PEOPLE OF THE CITY OF TACOMA

A new chapter is to be added to the Tacoma Municipal Code, providing as follows:

PART ONE

FINDINGS

Section 1. Findings.

1. The people of the City of Tacoma hereby adopt this citizen initiative for the purpose of protecting families and tenants and reducing homelessness. This measure is intended to:

- a. require landlords to comply with tenant protection laws before raising rent or evicting a tenant;
- b. prohibit unfair or excessive fees;
- c. require landlords to provide notice of rent increases and pay relocation assistance when significant rent increases require tenants to relocate;
- d. prohibit certain student/school-year evictions, cold-weather evictions, and evictions based upon a tenant's status as servicemember, first responder, senior, family member, health care provider, or educator; and
- e. provide penalties and other enforcement mechanisms.

2. This measure is designed to protect families, promote community, stabilize the rental market, and reduce homelessness. It is Tacoma's intent to continue its long-term commitment to maintain vibrant and diverse neighborhoods within the City. The regulations contained in this initiative balance the needs of the landlord, tenant, and Tacoma while creating a partnership to ensure safe, healthy, and thriving rental housing in Tacoma. Providing housing for Tacoma residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that it is equitably undertaken.

PART TWO

ADOPTING THE LANDLORD FAIRNESS CODE

Section 2. Adopting Landlord Fairness Code.

Through this initiative, the people of the City of Tacoma adopt the following Landlord Fairness Code to protect tenants in our City, as further outlined in this initiative:

1. Landlords must comply with tenant protection laws before raising rent or evicting a tenant.
2. Landlords must not charge unfair or excessive fees.
3. Landlords must give advanced notice of rent increases and pay relocation assistance when significant rent increases require tenants to relocate.
4. Landlords are prohibited from carrying out student/school-year evictions, cold-weather evictions, and evictions based upon a tenant's status as a servicemember, first responder, senior, family member, health care provider, or educator.

5. It shall be a defense to eviction for a landlord to be in violation of the Landlord Fairness Code as set forth herein.

Section 3. Landlords must comply with tenant protection laws.

1. Landlords must comply with all tenant protection laws. Landlords in violation of such laws may not increase rent or evict a tenant, as provided in this section.

2. A landlord shall be prohibited from increasing a tenant's rent if:

a. the landlord is determined to be in violation of tenant protection laws related to health and safety, according to the procedures detailed in TMC 2.01.050; or

b. the dwelling unit has defective conditions making the dwelling unit uninhabitable, if a request for repairs to make the dwelling unit habitable has not been resolved, or the landlord is otherwise in violation of RCW 59.18.060, as it exists or may be amended. If the tenant believes the dwelling unit has defective conditions making the unit uninhabitable or in violation of RCW 59.18.060, the tenant shall notify the landlord in writing as required by RCW 59.18.070, specifying the premises involved; the owner's name, if known; and the nature of the defective condition before the effective date listed in the notice of rent increase. Once such notice of defective condition is provided, the landlord must remedy the defective condition and provide notice of such remedy to the tenant and the City before rent may be increased.

3. It shall be a defense against eviction that the landlord is, at time of eviction, in violation of tenant protection laws related to health and safety, pursuant to the procedures set forth in paragraph 2 of this section.

Section 4. Landlords must not charge unfair or excessive fees.

1. Landlords are prohibited from charging tenants "unfair or excessive fees." As used in this section, "unfair or excessive fees" means any of the following:

a. Any rental application fees not complying with RCW 59.18.257.

b. Any non-refundable fee charged at the beginning of the tenancy, including but not limited to a fee to hold a unit prior to the tenant taking possession, except as specifically allowed in this section or that is specifically allowed under state law.

c. A pet damage deposit exceeding 25% of one month's rent or where the landlord may retain any part of the pet deposit exceeding the actual costs of repairing the pet damage.

c. Move-in fees that in total exceed the first month's rent. If a tenant pays a portion of rent and the remainder is covered by a subsidy, "first month's rent" includes both the tenant's payment and subsidy.

d. Any fee or charge for late payment of rent exceeding \$10.00 per month or that are paid or charged after the end of the tenancy, except as required by State or Federal law.

2. Any rental agreement shall be deemed void to the extent it requires payment of fees prohibited by this section. This section shall not apply to or limit decisions, orders, and rulings of courts of competent jurisdiction.

Section 5. Landlords must give advanced notice of rent increases and pay relocation assistance when significant rent increases require tenants to relocate.

1. As a precondition to raising rent, a landlord must provide the tenant with two notices of the rent increase. The first notice must be provided between 210 and 180 days before the rent increase is to take effect. A second reminder notice must be provided between 120 and 90 days before the rent increase is to take effect.

2. The notice shall be in a form established by the City of Tacoma, which must include the actual dollar amount of the new rent or rent increase, a description of the rental relocation assistance program and how the relocation assistance payment will be calculated, if applicable, and must be served in accordance with RCW 59.12.040.

3. This section shall not apply to an administrator of a rental subsidy when the administrator is notifying the tenant of a change in the tenant's portion of the total rent and the remaining portion of the rent is paid by subsidy such as a housing voucher.

4. At any time after receiving the 180-day notice of a rent increase of 5% or more, a tenant deciding to relocate rather than paying the rent increase may send the landlord a request for relocation assistance. Within 30 days of receiving such request, landlords must pay the relocation assistance to tenant. Payment of relocation assistance shall be per dwelling unit, not per person, and shall be split evenly among all the tenants.

5. The tenant relocation assistance amounts shall be equal to two months of rent. However, if the notified rent increase is over 7.5%, the relocation assistance shall be equal to two and a half months of rent, and if the notified rent increase is over 10%, the relocation assistance shall be equal to three months of rent. This scale is adopted in recognition of the additional time required to find replacement housing when a tenant's current rent is below market rate. Tenant relocation assistance shall be calculated based upon the rent in effect at the time of the 180-day notice.

6. Landlords shall provide copies of the request for relocation assistance and confirmation of payment to the Landlord-Tenant Coordinator or other city designated official.

7. In the event that the tenant is unable to relocate and remains in the dwelling unit at the increased rent, the tenant must repay the relocation assistance.

8. The requirement to pay tenant relocation assistance will not apply to: (a) a landlord and tenant living on the same site if the site has four or fewer dwelling units; (b) tenants who have lived in the dwelling unit for less than six months; (c) a landlord that temporarily rents out the landlord's principal residence during the landlord's absence due to active duty military service.

Section 6. Landlords are prohibited from carrying out student/school-year, and cold-weather evictions.

1. Except as provided in subsection 4, it shall be a defense to eviction if the eviction qualifies as a student/school-year eviction or a cold-weather eviction.

2. An eviction qualifies as a student/school-year eviction if it would require the tenant to vacate their dwelling unit during the school year and the tenant or any resident of the dwelling unit is:

a. A child or student;

b. A person having legal custody of a child or student, including but not limited to the child's or student's parent, step-parent, adoptive parent, guardian, foster parent, or custodian; or

c. An educator.

3. An eviction qualifies as a prohibited cold-weather eviction if it would require the tenant to vacate their dwelling unit between November 1 and April 1.

4. This section does not apply and prevent an eviction if the reason for termination of the tenancy is due to (1) the following conditions described in TMC section 1.95.070C: (a) subsection (7)(d) (owner or family to occupy the unit); (b) subsection (7)(h) (condemnation or uninhabitability); (c) subsection (7)(i) (desire for roommate to vacate); (d) subsection (7)(p) (sexual harassment by tenant); (2) the tenant's failure to comply with a three day or ten day notice to vacate for a drug-related activity nuisance pursuant to chapter 7.43 RCW; (3) maintenance of an unlawful business or conduct pursuant to RCW 59.12.030(5); or (4) because the tenant's conduct has a substantial detrimental impact on, or constitutes an imminent threat to, the health or safety of other tenants in the rental building or the owner.

Section 7. Prohibiting evictions based upon tenant's status as a member of the military, first responder, senior, family member, health care provider, or educator.

1. The people of Tacoma hereby declare their intent to outlaw discriminatory evictions against members of the military, first responders, seniors, family members, health care providers, and educators. Additional protection is provided to these groups of tenants because they serve an essential role in our community, they have been subject to documented discrimination in the rental housing market, or they are likely to face discrimination in the rental market.

2. It shall be a violation of this chapter and a defense against eviction for a landlord to evict a tenant based upon the tenant's status as a member of the military, first responder, senior, family member, health care provider, or educator.

3. To carry out the policy protecting family members, it shall be a violation of this chapter and a defense against eviction for a landlord to evict a tenant or the tenant's immediate family members based upon a tenant's immediate family members residing in the unit, absent a violation of occupancy limits under federal, state, or local law.

PART THREE

ADOPTING PENALTIES FOR VIOLATION AND PROCEDURES TO PROTECT THE RIGHTS OF LANDLORDS AND TENANTS

Section 8. Adopting penalties and procedures.

1. Any tenant claiming injury from any violation of this chapter shall be entitled to bring an action in Pierce County Superior Court or in any other court of competent jurisdiction to enforce the provisions of this chapter, and shall be entitled to all remedies available at law or in equity appropriate to remedy any violation of this chapter, including declaratory or injunctive relief. A tenant who prevails in any action to enforce this chapter shall be awarded his or her actual damages, costs, reasonable attorney's fees, and expenses.

2. A landlord who violates this chapter shall also be liable for penalties of not less than \$500 and up to five times the monthly rent of the dwelling unit at issue, per violation. If the violation constitutes failure to pay a valid request for relocation assistance, the penalty shall be no less than three times the relocation assistance. If the violation constitutes imposition of a monthly or periodic rent that is illegal under this chapter, the penalty shall be no less than three times the monthly or periodic rent.
3. Failure of a landlord to comply with any of the provisions of this chapter shall provide the tenant with a defense in any legal action brought by the landlord to recover possession of the dwelling unit.
4. A tenant or an organization representing tenants may seek injunctive relief on their own behalf or on behalf of other affected tenants.
5. A landlord may seek a court order allowing a particular eviction or exempting them from a provision of this chapter if they can show that a provision of this chapter, if fully enforced, would constitute either (a) an undue and significant economic hardship, or (b) a takings under the United States or Washington State constitutions, or (c) that the chapter as applied is preempted by federal or state law.
6. Retaliation and retaliatory evictions constitute a violation of this ordinance and subject to all remedies provided in this section.
7. Remedies provided in this section are in addition to any other existing legal remedies and are not intended to be exclusive.
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PART FOUR

DEFINITIONS

Section 9. Definitions.

For the purposes of this Chapter:

“Child” or “student” means any person either under the age of 18 years or currently enrolled in a school.

“Dwelling unit” or “unit” is a structure or that part of a structure which is used as a home, residence, or sleeping place by one person or by two or more persons maintaining a common household, including but not limited to single-family residences, units of multiplexes, units of apartment buildings, mobile homes, and mobile home lots.

“Educator” means any person who works at a school as an employee or independent contractor of the school or its governing body, including but not limited to all teachers, substitute teachers, paraprofessionals, substitute paraprofessionals, administrators, administrative staff, counselors, social workers, psychologists, school nurses, speech pathologists, custodians, cafeteria workers, and maintenance workers.

“Eviction” or “evict” is an effort by the landlord to terminate or discontinue the tenancy through any means, including unlawful detainer, refusing to offer a new lease, or seeking a mutual termination agreement.

“Immediate family” includes: spouse, domestic partner, or partner in a committed intimate relationship; and parents, grandparents, children, grandchildren, siblings, nieces, and nephews, whether related by blood, marriage, domestic partnership, or committed intimate relationship.

“Landlord” means the owner, lessor, or sublessor of the dwelling unit or the property of which it is a part, and in addition means any person designated as representative of the owner, lessor, or sublessor including, but not limited to, an agent, a resident manager, or a designated property manager.

“Move-in fees” include all charges imposed by the landlord on a tenant prior to taking possession of a dwelling unit, or as a condition of maintaining residency, including but not limited to fees required to apply for tenancy (including processing fees and credit and background check charges), security deposits, prepayment of rent (e.g., “last month’s rent”), but excluding a valid pet fee.

“Mutual termination agreement” means any agreement by a landlord and tenant to terminate a tenancy.

“Rent” means any recurring or periodic payments for the use and occupancy of the dwelling unit, which may include utilities. Rent does not include any non-recurring charges such as late fees, notice fees, attorney’s fees, court costs, damages, or other fees.

“Rental agreement” means all agreements by the tenant which establish or modify the terms, conditions, rules, regulations, or any other provisions concerning the use and occupancy of a dwelling unit.

“Retaliatory eviction” is an eviction in response to a tenant’s assertion of rights or protections afforded under this chapter or another tenant protection law.

“Retaliation” has the same meaning as “reprisal or retaliatory action” under RCW 59.18.240.

“School” means any child care, early childhood education and assistance program, or head start facility, and any public, private, or parochial institution that provides educational instruction in any or all of the grades and age groups up to and including twelfth grade, except this grade limitation shall not apply to special education students where the education plan extends beyond the twelfth grade.

“School year” means the period from (and including) the first day of the academic year to the last day of the academic year, as set by Tacoma Public Schools, or its successor, on its calendar for first through twelfth grade students. If for those grades there are multiple dates for the first day or last day of the academic year, the earliest and latest dates, respectively, shall define the period.

“Tenancy” refers to the right of a tenant to reside in a dwelling unit for living or dwelling purposes.

“Tenant” is any person who occupies a dwelling unit primarily for living or dwelling purposes.

“Tenant protection laws” includes this chapter, RCW 59.18.060, RCW 59.18.240, and any other federal, state, or local law or regulation designed to protect tenants, regardless of whether such laws or regulations are enacted before or after this chapter.

PART FIVE

MISCELLANEOUS PROVISIONS

1. Nothing in this chapter eliminates a tenant's rights under a rental agreement, including the right to civil relief if a landlord terminates a rental agreement before its expiration.
2. All written notices required under this chapter must be served in a manner consistent with RCW 59.12.040.
3. The provisions of this chapter may not be waived, and any term of any rental agreement, contract, mutual termination agreement, or other agreement which purports to waive or limit a tenant's substantive or procedural rights under this chapter are contrary to public policy, unenforceable, and void. A landlord may not coerce a tenant to sign a mutual termination agreement. If a tenant has agreed to terminate a tenancy, whether within a rental agreement, in a separate termination agreement, or otherwise, the tenant may rescind such agreement to terminate: (a) within ten business days after signing the agreement by delivering written notice of rescission to the landlord; or (b) by delivering written notice of rescission to the landlord at a later time, if the tenant agreed to terminate without representation by an attorney or other tenant advocate or outside of a proceeding mediated by a neutral third party. Nothing in this paragraph shall be interpreted or applied so as to create any power or duty in conflict with federal law. In the event of any conflict, federal requirements shall supersede the requirements of this paragraph.
4. The provisions of this chapter are declared to be separate and severable. If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, that invalidity shall not affect any other provision or application of this chapter that can be given effect without the invalid provision or application. All provisions in this chapter should be read in harmony with state and federal law, and if there is any question or conflict between Tacoma and state law, state law will apply. If a provision or its application is declared invalid due to preemption by state or federal law, then the remainder shall remain valid.
5. Any ambiguity in this chapter shall be construed in favor of the tenant. Statements that non-compliance with certain provisions constitutes a violation of this chapter and/or are subject to penalties are provided for emphasis only and such statements shall not be construed to mean that non-compliance with other provisions does not constitute a violation subject to penalties.
6. The subject of this initiative is reducing homelessness by regulating the housing rental market.
7. This Act shall be known as the Tacoma Landlord Fairness Code Initiative.