

Ordinance No. _____

AN ORDINANCE OF THE CITY OF OLYMPIA, WASHINGTON, ADDING A NEW CHAPTER 5.82 TO TITLE 5 OF THE OLYMPIA MUNICIPAL CODE REGARDING A CITY OF OLYMPIA RENTAL HOUSING CODE

WHEREAS, earlier this year, the World Health Organization announced that novel coronavirus (COVID-19) is officially a global pandemic; and

WHEREAS, on January 31, 2020, the United States Department of Health and Human Services Secretary Alex Azar declared a public health emergency because of COVID-19; and

WHEREAS, the Washington Governor also declared a State of Emergency due to new cases of COVID-19; and

WHEREAS, on March 24, 2020, the Olympia City Council passed Ordinance No. 7233 declaring a state of public health emergency in the City of Olympia. The Olympia City Council declared it will take all actions within its powers and resources to protect the public peace, health, safety and welfare of the residents and businesses of the City of Olympia due to the growing public health impacts of COVID-19; and

WHEREAS, on April 14, 2020, the Olympia City Council adopted Resolution No. M-2114 calling on Governor Jay Inslee to use the Governor's emergency powers to impose an immediate moratorium on residential and commercial rent payments, such that no resident of the City of Olympia or the State of Washington should be required to pay rent during the declared public health emergency or to suffer the accumulation of debt for unpaid rent, among other matters; and

WHEREAS, the impacts of the emerging public health crisis on the economy, employment, job retention, child care and businesses have resulted in and might continue to result in workers being unable to go to work because of illness; the need to care for children home from day care or school or for other family members without paid sick or vacation time; and reduced hours due to reduced demand, furlough or unemployment as businesses struggle during the state of the public health emergency; and

WHEREAS, pursuant to provisions of the Washington State Residential Landlord-Tenant Act, Chapter 59.18 RCW, an owner may not evict residential tenants without a court order, which under RCW 59.18.380 may be issued by a court only after the tenant has an opportunity in a show cause hearing to contest the eviction. Providing an additional defense to eviction for certain causes resulting from the COVID-19 pandemic within the City of Olympia is necessary to protect public health to support stable housing, decrease the likelihood that individuals and families will fall into homelessness and decrease exposure while the COVID-19 emergency exists; and

WHEREAS, in addition to the public health emergency caused by the COVID-19 pandemic, the Olympia City Council finds that the pandemic's effects have resulted in economic harm within the City of Olympia due to job loss or reduction of available work, lack of or inability to locate child care or care for family members, and that these unique challenges adversely affect and impact the ability of the City's residents to timely pay residential rent. The Olympia City Council further finds that it is appropriate to establish regulations supporting the issues of increasing housing security and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Olympia; and

WHEREAS, the Centers for Disease Control and Prevention (CDC) announced on September 1, 2020 a nationwide moratorium on residential evictions through the end of 2020 to prevent further spread of the coronavirus by publication in the Federal Register of an Agency Order under Section 361 of the Public Health Service Act; and

WHEREAS, it is the intent of the Olympia City Council to continue its commitment to maintain healthy, vibrant and diverse neighborhoods within the City of Olympia, while balancing the needs of landlords and tenants during the COVID-19 pandemic;

NOW, THEREFORE, THE OLYMPIA CITY COUNCIL ORDAINS AS FOLLOWS:

Section 1. NEW CHAPTER 5.82. A NEW CHAPTER 5.82, Rental Housing Code, is hereby added to Title 5 of the Olympia Municipal Code to read as follows:

CHAPTER 5.82

Rental Housing Code

5.82.000 Chapter Contents

Sections:

5.82.010 Purpose and Intent.

5.82.020 Definitions.

5.82.030 Temporary COVID-19 rental enforcement restrictions.

5.82.010 Purpose and Intent.

The purpose of this chapter is to establish regulations supporting housing security to reduce homelessness and to establish standards and enforcement mechanisms as they relate to rental housing within the municipal boundaries of the City of Olympia. It is the intent of the Olympia City Council to continue its long-term commitment to maintain healthy, vibrant and diverse neighborhoods within the City of Olympia. The regulations contained in this chapter balance the needs of the landlord, tenant, and the City of Olympia to ensure safe, healthy, and thriving rental housing within the City's municipal boundaries. The City recognizes that the renting of residential property is a commercial venture where owners and landlords must evaluate risk, profit, and loss. Providing housing for Olympia's residents directly impacts quality of life at the most basic level, and therefore requires regulations to ensure that this commercial venture is equitably undertaken. This chapter ensures housing security for current and future residents within the City of Olympia.

5.82.020 Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter:

A. "Days" means calendar days unless otherwise provided.

B. "Dwelling unit" means a structure or part of a structure used as a home, residence, or sleeping place by one or more persons maintaining a common household, including, but not limited to, single-family residences and units of multiplexes, apartment buildings, mobile homes, and rooms for which occupancy is authorized by a written or oral rental agreement.

C. "Landlord" means a landlord as defined in and within the scope of RCW 59.18.030 and RCW 59.18.040 of the Residential Landlord Tenant Act of 1973 ("RLTA") in effect at the time the rental agreement is executed or occurs. As of the effective day of this ordinance, the RLTA defines "landlord" as "the owner, lessor, or sub-lessor 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 sub-lessor including, but not limited to, an agent, a resident manager, or a designated property manager."

D. "Occupancy" means the formal designation of the primary purpose of the building structure or portion thereof.

E. "Owner" means the owner of record as shown on the last Thurston County tax assessment roll or such owner's authorized agent.

F. "Rent" or "rental amount" means recurring and periodic charges identified in the rental agreement for the use and occupancy of the premises, which may include charges for utilities. These terms do not include nonrecurring charges for costs incurred due to late payment, damages, deposits, legal costs, or other fees, including attorneys' fees. PROVIDED, however, that if, at the commencement of the tenancy, the landlord has provided an installment payment plan for nonrefundable fees or deposits for the security of the tenant's obligations and the tenant defaults in payment, the landlord may treat the default payment as rent owing.

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

H. "Tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement.

5.82.030 Temporary COVID-19 rental enforcement restrictions.

A. During the term of the public health emergency Proclamations issued by the Governor related to the COVID-19 pandemic, including the Governor's Proclamation 20-05, and any amendments and extensions thereto, landlords, property owners, and property managers are prohibited from treating any unpaid rent or other charges related to a dwelling or parcel of land occupied as a dwelling as an enforceable debt or obligation that is owing or collectable, where such non-payment was as a result of the COVID-19 pandemic and its adverse economic impacts, and where it occurred on or after February 29, 2020, the date when the initial State of Emergency was proclaimed in all counties in Washington State. This includes attempts to collect, or threats to collect through a collection agency, by filing an unlawful detainer or other judicial action, withholding any portion of a security deposit, billing or invoicing, reporting to credit bureaus, or by any other means. This prohibition does not apply to a landlord, property owner, or property manager who demonstrates by a preponderance of the evidence to a court that the resident was offered, and refused or failed to comply with, a re-payment plan that was reasonable based on the individual financial, health, and other circumstances of that resident and tenant. The enforcement restrictions set forth herein shall only apply to rental payment amounts during the time the Governor's Emergency Proclamation 20-05, and any amendments and extensions thereto that are in effect.

B. OMC Section 5.82.030 shall automatically expire and shall be repealed without any other action by the Olympia City Council one year after the effective date of this Ordinance, unless extended by legislative action.

C. Where an unlawful detainer action is based on any reason enumerated in OMC Chapter 5.82, it is a defense to eviction if the eviction was initiated because of a failure to pay rent due before or by July 1, 2021. The defense is available only where the reason for termination of the tenancy is based on:

1. The tenant's failure to comply with a fourteen-day notice to pay rent or vacate under RCW 59.12.030(3); or
2. The tenant's habitual failure to comply with the material terms of the rental agreement to pay rent that causes the owner to serve a notice to comply or vacate or a notice to pay rent or vacate three or more times in a twelve-month period.

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

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

E. A tenant who fails to pay rent due before or by July 1, 2021, may elect to pay the overdue rent in installments if the failure to pay was due to one or more reasons in subsections C. and D. of this section. If an unlawful detainer action is based on the circumstances enumerated in subsections A. and C. of this section, it is a defense to eviction that the landlord refused a request by a tenant to enter into a repayment plan.

1. The reasons for which a landlord shall allow residential tenants to pay overdue rent on a repayment plan shall be due to one or more of the following circumstances occurring as a result of the COVID-19 pandemic as set forth in subsection D. above.
2. A written installment repayment plan shall be negotiated between the landlord and residential tenant in good faith, which shall include the following provisions:
 - a. The plan does not require the tenant to pay more than one-third of the overdue rent per month unless agreed to by the tenant in writing; and
 - b. All rental debt accumulated resulting from the reasons in subsections A. and C. of this section shall be paid in full to the landlord by October 1, 2021 or the sunset date of this ordinance, whichever occurs first; and
 - c. Late fees, interest or other charges due to late payment of rent shall not accrue from the commencement of the effective date of this ordinance until this ordinance sunsets as provided in OMC 5.82.030.B.

Section 2. Corrections. The City Clerk and codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 3. Severability. If any provision of this Ordinance or its application to any person or circumstance is held invalid, the remainder of the Ordinance or application of the provisions to other persons or circumstances shall remain unaffected.

Section 4. Ratification. Any act consistent with the authority and prior to the effective date of this Ordinance is hereby ratified and affirmed.

Section 5. Effective Date. The Olympia City Council finds as a fact and declares that an emergency exists and that this Ordinance is necessary for the immediate preservation of public peace, health, safety, and welfare for the City's residents, therefore this Ordinance shall take immediate effect upon adoption, as provided by law.

MAYOR

ATTEST:

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY

PASSED:

APPROVED:

PUBLISHED:

DRAFT