

AN ORDINANCE requiring landlords to comply with tenant protection laws and show good cause before evicting a tenant; prohibiting retaliatory evictions; prohibiting evictions based upon a tenant's status as a member of the military, first responder, senior, family member, health care provider, or educator; extending protections to lease renewal actions; and adopting penalties and procedures.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF FEDERAL WAY

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

**PART ONE. FINDINGS.**

**Section 1. Findings.**

- (1) The people of the City of Federal Way 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 and show good cause before evicting a tenant; (b) prohibit retaliatory evictions; (c) prohibiting discriminatory evictions based upon the tenant's status as a member of the military, first responder, senior, family member, health care provider, or educator; (d) extend these protections to lease renewal actions; and (e) adopt penalties and procedures.
- (2) The City of Federal Way faces an unprecedented housing affordability and homelessness crisis. This crisis has made tenants vulnerable to abuse, including violations of tenant protection laws and retaliatory and discriminatory evictions. These related abuses negatively impact our community.
- (3) To protect families, promote community, stabilize the rental market, and reduce homelessness, landlords must comply with tenant protection laws and show good cause before evicting a tenant.
- (4) Landlords are prohibited from evicting tenants based upon their status as members of the military, first responders, seniors, family members, health care providers, or educators. These individuals serve an essential role in our community and/or have been subject to discrimination in the rental housing market, and therefore need protections from discrimination in evictions.
- (5) Landlords are prohibited from evicting tenants as retaliation for asserting their rights under tenant protection laws. Tenants deserve access to safe and healthy housing, but many tenants in our city live in substandard housing. Good cause eviction protection allows tenants to raise concerns with the habitability of a rental without the fear of retaliation in the form of a no-cause eviction, whether carried out through a traditional eviction or a lease renewal action.

(6) To protect the community and help our economy thrive, and to support basic fairness, the City will prohibit landlords from terminating a tenancy unless they comply with tenant protection laws and show good cause for the eviction, and the City will prohibit retaliatory evictions and evictions that discriminate against members of the military, first responders, seniors, family members, health care providers, or educators. These protections are extended to lease renewal actions.

**PART TWO. REQUIRING LANDLORDS TO COMPLY WITH TENANT PROTECTION LAWS AND SHOW GOOD CAUSE BEFORE EVICTING A TENANT.**

**Section 2. Establishing a defense to eviction where the landlord violates tenant protection laws or lacks good cause to terminate the tenancy.**

(1) It is the intent of this section to require landlords to comply with tenant protection laws and to show good cause before taking action to terminate a tenancy.

(2) A tenant threatened with eviction shall be entitled to a defense from eviction as set forth in this section.

(3) It shall be a defense against eviction to show that the landlord seeking an eviction either is in violation of tenant protection laws, or lacks good cause for eviction as set forth in this section.

(4) It shall be a defense against eviction that the landlord is, at time of eviction, in violation of tenant protection laws.

(5) It shall be a defense against eviction that the landlord lacks good cause to evict the tenant. Only the following justifications constitute good cause under this chapter:

a. The tenant fails to pay rent, and meets all requirements for an unlawful detainer under state law, after receiving all notices required under state law and having failed to cure within the time required by state law. However, this subsection shall not constitute grounds for eviction where the tenant has withheld rent due to conditions that deprive the tenant or occupants of normal use of the dwelling unit.

b. The tenant substantially and materially breaches a non-monetary requirement of the rental agreement, and meets all requirements for an unlawful detainer under state law, after receiving all notices required under state law and having failed to take reasonable steps to cure the breach within the time required by state law.

c. The tenant has committed or permitted waste upon the premises, unlawful activity, or an ongoing, substantial interference with the use and enjoyment of the premises by

the landlord or neighbors of the tenant, and meets all requirements for an unlawful detainer under state law, after receiving all notices required under state law.

d. A person enters upon land of another without the permission of the owner and without having color of title thereto and refuses to vacate, and meets all requirements for an unlawful detainer under state law, after receiving all notices required under state law. This provision shall not apply to an immediate family member of a tenant of record absent a violation of legal occupancy limits.

e. The landlord in good faith, without ulterior reasons and with honest intent, seeks to remove the dwelling unit from the rental market for one of the following reasons, after providing the tenant with 120 day advanced written notice of the eviction: (i) the landlord or his or her immediate family seeks to occupy the dwelling unit as their principal residence; (ii) the landlord seeks to convert the dwelling unit to a condominium pursuant to RCW 64.34.440; (iii) the landlord seeks to demolish or substantially rehabilitate the dwelling unit; (iv) a governmental entity has prohibited the continued rental of the dwelling unit to the tenant; or (v) the landlord intends to remove the dwelling unit from the rental market for at least a 24 month period. There is a rebuttable presumption that the landlord did not act in good faith if, after the landlord terminates the tenancy under subsection (5)(e)(i) of this section, the landlord or their immediate family fails to occupy the unit as a principal residence for at least ninety consecutive days during the one hundred twenty days immediately after the tenant vacated. Moreover, if the landlord owns a similar vacant unit, and chooses instead to take possession of the dwelling unit occupied by a tenant, there shall be a rebuttable presumption that the landlord is acting in bad faith. A landlord may not recover possession pursuant to subsection (5)(e)(i) more than once in any thirty-six (36) month period. No notice is required to take possession when the tenant is a former owner of the dwelling unit and the landlord is the new owner of the dwelling unit.

f. The tenant continues in possession after the expiration of a rental agreement after having declined to enter a new or extended rental agreement offered pursuant to section 5.

g. The tenant continues in possession after having received a thirty-day notice to quit due to chronic, unexcused, and unjustified failure to pay rent, with such pattern documented in the filing of numerous unlawful detainer actions over a twelve month period.

h. The dwelling unit was provided to the tenant as part of a transitional housing program or other program which receives public funding and operates on a model that provides temporary housing.

i. The landlord resides in the dwelling unit and no longer wishes to cohabitate with the tenant.

j. The landlord establishes other good cause under section 6.

(6) If a tenant dies, vacates, or voluntarily or involuntarily abandons the dwelling unit, the protections of this section apply to any remaining co-tenants in the dwelling unit. However, the

landlord may require any remaining co-tenant to take over the existing rental agreement as a condition of remaining in the dwelling unit.

### **PART THREE. PROHIBITING RETALIATORY EVICTIONS.**

#### **Section 3. Prohibiting retaliatory evictions.**

- (1) It shall be a violation of this chapter and a defense against eviction for a landlord to threaten, commence, or carry out retaliation or a retaliatory eviction due to the tenant having asserted rights and protections afforded by this chapter or another tenant protection law.
- (2) There shall be a rebuttable presumption that the landlord's action was retaliatory if the action occurred within nine months of the tenant asserting a right or defense afforded by this chapter or another tenant protection law.
- (3) A landlord who retaliates against a tenant for asserting rights or defenses afforded by this chapter or under another tenant protection law shall be liable to the tenant for penalties and other relief under section 6.

### **PART FOUR. PROHIBITING EVICTIONS BASED UPON THE TENANT'S STATUS AS A MEMBER OF THE MILITARY, FIRST RESPONDER, SENIOR, FAMILY MEMBER, HEALTH CARE PROVIDER, OR EDUCATOR.**

#### **Section 4. 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 the City of Federal Way 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 FIVE. PROHIBITING RETALIATION AND DISCRIMINATION IN LEASE RENEWAL ACTIONS.**

## **Section 5. Prohibiting retaliation and discrimination in lease renewal actions.**

- (1) It has been documented that some landlords circumvent tenant protections by carrying out retaliatory or discriminatory evictions through lease renewal actions, including refusing to renew a rental agreement or imposing new, non-financial terms which are known to be incompatible with the tenant's continued tenancy. The intent of this paragraph is to enforce the protections of the chapter by extending its protections to lease renewal actions to the extent permitted by law.
- (2) Between 60 and 90 days prior to the expiration of the existing rental term, the landlord must offer a tenant the opportunity to enter into a new rental agreement or to extend the existing rental agreement, either on a term or month-to-month basis, unless the existing lease provides for automatic extension on a month-to-month basis. The landlord may change the duration and financial terms of the agreement, but the proposal cannot include other material changes from the terms of the expiring lease. The landlord must deliver the proposed new or extended rental agreement to the tenant in accordance with RCW 59.12.040 and give the tenant 30 days to accept or decline the proposed new or extended rental agreement. If the tenant declines to enter a new or extended rental agreement, the landlord may end the tenancy according to the term of the expiring rental agreement.
- (3) Lease renewal actions are subject to prohibitions on retaliation and discrimination in sections 3 and 4.
- (4) A landlord may decline to offer a new or extended lease to a tenant under this section for good cause as defined in section 2, in which case the landlord must provide the tenant with notice identifying the good cause. The notice shall be provided at least 60 days prior to the expiration of the existing rental term unless a different notice period applies under section 2.
- (5) If the City is found to lack authority to prohibit evictions for failure to comply with this section, the purposes of this chapter and section shall be carried out by allowing tenants to obtain penalties and other remedies for non-compliance with the mandates of this section, regardless of whether the tenant remains in the dwelling unit.

## **PART SIX. ADOPTING PENALTIES FOR VIOLATION AND PROCEDURES TO PROTECT THE RIGHTS OF LANDLORDS AND TENANTS.**

### **Section 6. Adopting penalties and procedures.**

- (1) Any tenant claiming injury from any violation of this chapter shall be entitled to bring an action in King 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 costs, reasonable attorneys' fees, and expenses.

- (2) A landlord who violates this chapter shall be liable for penalties of up to four and one-half times the monthly rent of the dwelling unit at issue.
- (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) Remedies provided in this section are in addition to any other existing legal remedies and are not intended to be exclusive.

#### **PART SEVEN. DEFINITIONS.**

For the purposes of this Chapter:

- (1) "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, and mobile homes.
- (2) "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 pursuant to this chapter, or seeking a mutual termination agreement.
- (3) "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.
- (4) "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.

- (5) “Lease renewal actions” include actions taken in the lease renewal process which could have the effect of ending the tenancy, including but not limited to a landlord’s refusal to renew a rental agreement or the addition of new material non-financial terms to a renewed rental agreement.
- (6) “Mutual termination agreement” means any agreement by a landlord and tenant to terminate a tenancy.
- (7) “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.
- (8) “Rental agreement” means all agreements subscribed to in writing 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.
- (9) “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.
- (10) “Retaliation” has the same meaning as "reprisal or retaliatory action" under RCW 59.18.240.
- (11) “Tenancy” refers to the right of a tenant to reside in a dwelling unit for living or dwelling purposes.
- (12) “Tenant” is any person who occupies a dwelling unit primarily for living or dwelling purposes.
- (13) “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.
- (14) “Transitional housing” means housing units owned, operated, or managed by a nonprofit organization or governmental entity in which supportive services are provided to individuals and families that were formerly homeless, with the intent for them to move to permanent housing.

#### **PART EIGHT. MISCELLANEOUS.**

- (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. Any notice served pursuant to this section shall identify the facts and circumstances that support the cause or causes with enough specificity for the tenant to be able to

respond and assert any defense that may be available. Failure to comply with notice requirements constitutes a violation of this chapter.

(3) Any notice issued pursuant to this chapter shall include the following, in bold letters of at least 16 point font: “If you are a Veteran of the U.S. Military, you may be able to access housing resources by calling 2-1-1 or contacting the King County Veterans Program for assistance with rent, relocation, or other support services.”

(4) Except as provided in subsections (5)(e), (5)(f), or (5)(g) of section 2, or in section 5, a notice may not form a part of any basis for an eviction action if more than sixty days have passed since issuance of the notice.

(5) 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. A tenant may rescind a mutual termination agreement by: (a) delivering written or electronic notice of rescission to the landlord within ten business days after signing the agreement; or (b) at a later time, by establishing that the tenant improvidently entered into the agreement, which may be demonstrated by an examination of the unequal bargaining power between the parties, vulnerability of the tenant, legitimacy of landlord’s reasons for seeking termination, and whether tenant was able to procure alternative housing within the time allotted in the agreement.

(6) 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. Moreover, if a provision or its application is declared invalid due to preemption by state or federal law, then the remainder shall remain valid.

(7) 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.

(8) This Act shall be known as the Federal Way Good Cause Eviction Ordinance.