



ORDINANCE NO. 28508

1 AN ORDINANCE relating to affordable housing and tenant protections; amending
 2 Title 1 of the Tacoma Municipal Code (“TMC”) by adding thereto a new
 3 Chapter 1.95, to be known and designated as the “Tenant Rights Code,”
 4 requiring residential landlords to provide 90 days’ written notice prior to
 5 terminating a month-to-month tenancy under certain circumstances;
 6 amending TMC 1.23.050.B, by adding a new Subsection 1.23.050.B.40,
 7 placing appeals related to violations of TMC 1.95 in the jurisdiction of the
 8 City Hearing Examiner, declaring an emergency, and will sunset at
 9 11:59 p.m. on September 30, 2018.

10 WHEREAS shelter is a basic human necessity, and as the City works to
 11 alleviate homelessness, it also wants to ensure that those who are currently
 12 housed, remain so, and

13 WHEREAS owners and landlords of affordable housing play an important
 14 part of our community, and

15 WHEREAS tenants of affordable housing deserve safe and stable housing,
 16 and

17 WHEREAS state law governs the rights of landlords and tenants, and

18 WHEREAS other local jurisdictions in Washington State impose additional
 19 requirements regarding rental agreements and tenant rights, and

20 WHEREAS the City Council declares that a public emergency exists, and

21 WHEREAS, in support of such public emergency, the City Council adopts
 22 the following findings:

- 23 • On May 9, 2017, the City Council enacted Ordinance No. 28430 (“Emergency
 24 Ordinance”), declaring a state of emergency relating to the conditions of
 25 homeless encampments, and authorizing such actions are reasonable and
 26 necessary in light of such emergency to mitigate the conditions giving rise to
 such public emergency, and provided for a sunset date of October 9, 2017,
 which has been extended to December 31, 2018, pursuant to Ordinance
 No. 28477, enacted December 12, 2017;



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- Affordable, safe, and stable housing in the City is a valuable asset in the City’s fight against homelessness;
- On April 5, 2018, residents in all 58 units of the Tiki Apartments complex received notices to vacate their apartments so that substantial rehabilitation of the apartments could be performed; half of the residents were given until April 30, 2018, to vacate, and half until the end of May 2018, in accordance with current notification requirements;
- Some of the vacation dates have been extended; many of the residents are low-income, disabled, or have other challenges in finding a new home within such a short timeframe and within a similar price point;
- Similar hardship experiences were conveyed to the City Council by members of the public at its regular meeting on April 24, 2018;
- A longer notice period would greatly assist residents locate housing and avoid homelessness,

and

WHEREAS the City Council finds and concludes that without increasing the notice period to terminate residential tenancy due to demolition, substantial rehabilitation, or change of use of a residential dwelling, there is a threat of significant harm to human health and life and the City Council must act immediately to alleviate the conditions giving rise to this public emergency; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Title 1 of the Tacoma Municipal Code (“TMC”) is hereby amended by the addition of a new Chapter 1.95, to be known and designated as “Tenant Rights Code,” to read as set forth in the attached Exhibit “A.”

Section 2. That prohibitions contained herein shall sunset and no longer be in force or effect at 11:59 p.m. on September 30, 2018.



Section 3. That TMC 1.23.160.B is hereby amended by the addition of a new

1 Subsection 1.23.160.B.40, to read as follows:

2 **1.23.050 Areas of jurisdiction.**

3 * * *

4 B. In regard to the matters set forth below, the Examiner shall conduct adjudicative proceedings,
5 maintain a record thereof, and enter findings of fact, conclusions of law, and a final decision or other
6 order, as appropriate:

* * *

6 40. Appeals arising from violations of the Tenant Rights Code (Chapter 1.95).

7 Section 4. That, based upon the facts and conclusions as set forth in this
8 ordinance, the City Council finds that a public emergency exists, making this
9 ordinance effective May 14, 2018, by an affirmative vote of at least six members of
10 the City Council.
11

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13 Passed _____

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15 _____
16 Mayor

16 Attest:

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18 _____
19 City Clerk

20 Approved as to form:

21 _____
22 Deputy City Attorney

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EXHIBIT "A"

TITLE 1 ADMINISTRATION AND PERSONNEL

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Chapters:

- 1.02 City Limits and Annexations
- 1.04 Seal
- 1.06 Administration
- 1.07 Small Business Enterprise
- 1.08 Bonds
- 1.10 Emergency Management
- 1.12 Compensation Plan
- 1.16 Library
- 1.18 Mayor
- 1.19 Salary of Council Members
- 1.20 Obligations of City – Payment
- 1.22 Municipal Court
- 1.23 Hearing Examiner
- 1.24 Personnel Rules
- 1.25 Pre-Employment Drug Screening
- 1.26 Repealed
- 1.27 Investment Committee
- 1.28 Repealed
- 1.28A Tacoma Arts Commission
- 1.28B Municipal Art Program
- 1.29 Human Rights Commission
- 1.30 Retirement and Pensions
- 1.32 Vehicles – Use
- 1.34 Working Fund Advances
- 1.35 Performance Audits
- 1.36 Bad Check and Other Charges
- 1.37 Transfer of Development Rights Program Administrative Code
- 1.38 Repealed
- 1.39 Affordable Housing Incentives and Bonuses Administrative Code
- 1.40 Repealed
- 1.42 Landmarks Preservation Commission
- 1.43 Repealed
- 1.44 City Council Election Districts
- 1.45 Neighborhood Councils
- 1.46 Code of Ethics
- 1.47 Neighborhood Business District Program
- 1.48 Repealed
- 1.49 Donations, Devises, or Bequests
- 1.50 Expired
- 1.60 Public Corporations
- 1.70 Appeals to the City Council
- 1.80 Repealed
- 1.90 Local Employment and Apprenticeship Training Program
- [1.95 Tenant Rights Code.](#)



CHAPTER 1.95
TENANT RIGHTS CODE

Sections:

1.95.010 Definitions.

1.95.020 Ninety-day tenant notice.

1.95.030 Enforcement.

1.95.040 Severability.

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

“Change of use” means the conversion of any dwelling unit from a residential use to a nonresidential use that results in the displacement of existing tenants or conversion from residential use to another residential use that requires the displacement of existing tenants, such as a conversion to a retirement home, where payment for long-term care is a requirement of tenancy, conversion to an emergency shelter or transient hotel, or conversion to a short-term rental as defined in Tacoma Municipal Code 13.06.700.

“Demolition” means the destruction of any dwelling unit or the relocation of an existing dwelling unit or units to another site.

“Director” means the Director of the City of Tacoma Neighborhood and Community Services Department, or the Director’s designee.

“Displacement” means, in the case of demolition, substantial rehabilitation, or change of use, that existing tenants must vacate the dwelling unit because of the demolition, substantial rehabilitation, or change of use. For purposes of this chapter, “displacement” shall not include the permanent relocation of a tenant from one dwelling unit to another dwelling unit in the same building with the tenant’s consent, or the temporary relocation of a tenant for less than 72 hours.

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

“Owner” means one or more persons, jointly or severally, in whom is vested:

A. All or any part of the real title to property; or

B. All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

“Substantial rehabilitation” means extensive structural repair or extensive remodeling that requires displacement of a tenant and either requires a building, electrical, plumbing, or mechanical permit for any tenant’s dwelling unit.

“Tenant” means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes under a rental agreement and includes those persons who are considered to be tenants under the State Residential Landlord-Tenant Act, chapter 59.18 RCW and those tenants whose living arrangements are exempted from the State Residential Landlord-Tenant Act under RCW 59.18.040(3). For purposes of this chapter, “tenant” shall not include the owner of a dwelling unit or members of the owner’s immediate family.

1.95.020 Ninety-day tenant notice.

A. Requirement of Notice. The owner shall deliver to each named tenant in each dwelling unit to be demolished, changed in use, substantially rehabilitated, or from which use restrictions are to be removed, a 90-day notice of the owner’s intention to demolish, substantially rehabilitate, or change the use of the dwelling unit. The 90-day notice shall state the reason for the termination. The



1 90-day period shall begin once the notice is delivered to the tenant. In addition, a copy of the notice
2 shall be posted at every entrance to any building containing dwelling units to be demolished,
3 changed in use, substantially rehabilitated, or from which use restrictions will be removed. The 90-
4 day tenant notice shall be delivered to the tenants personally or by registered or certified mail, with
5 return receipt requested. If personally delivered, an affidavit of service must be completed by the
6 owner. The notice shall list the name of the tenant and the dwelling unit number.

7 B. At least ten days prior to the 90-day notice being delivered and with at least seven days' advance
8 notice to each tenant, the owner shall hold a meeting with the tenants to discuss the upcoming
9 termination.

10 C. The notice required herein does not apply when:

11 1. An owner terminates for nonpayment of rent or for other cause allowed by the State Residential
12 Landlord-Tenant Act, chapter 59.18 RCW; or

13 2. An owner is required to repair the dwelling unit due to a violation of the Minimum Building and
14 Structures Code, Tacoma Municipal Code 2.01.050, and is either derelict or unfit.

15 **1.95.030 Enforcement.**

16 A. Powers and duties of the Director.

17 1. The Director is authorized to enforce this chapter, and may promulgate rules and regulations
18 consistent with this chapter, provided that the Director shall hold one or more public hearings prior
19 to adoption of final rules and regulations.

20 2. The Director shall attempt to conciliate and settle by agreement, any alleged violation or failures
21 to comply with the provisions of this chapter.

22 B. Charge filing.

23 1. A charge alleging a violation of this chapter shall be in writing, on a form or in a format
24 determined by the Director and signed by or on behalf of a charging party, and shall describe the
25 violation complained of and shall include a statement of the dates, places, and circumstances and the
26 persons responsible for the alleged violation.

2. A charge alleging a violation of this chapter may also be filed by the Director, whenever the
Director has reason to believe that any person has been engaged or is engaging in a violation of this
chapter.

C. Notices of Violation and Civil Penalties.

1. If a violation of this chapter occurs, the Director shall issue a Notice of Violation. A Notice of
Violation shall include:

i. The street address or a description of the building, structure, premises, or land, in terms reasonably
sufficient to identify its location;

ii. A description of the violation and a reference to the provisions of the Tacoma Municipal Code
which have been violated;

iii. A description of the action required to comply with the provisions of this chapter;

iv. A statement that the owner to whom a Notice of Violation is directed may request a hearing. Such
notice must be in writing and must be received by the City Clerk, no later than ten calendar days
after the Notice of Violation has been issued;

v. A statement that if the owner to whom the Notice of Violation is issued fails to comply with this
chapter, penalties will accrue as provided in this chapter.

2. The Notice of Violation shall be delivered in writing to all parties by personal delivery or first-
class mail.



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3. Any person violating any provision of this chapter shall be subject to a cumulative civil penalty (“Penalty”) in the amount of \$1,000 per day, per dwelling unit, for each day from the date the violation began until the requirements of this chapter are satisfied.

4. If the tenants have already relocated, but a violation of this chapter can be confirmed by the City by a preponderance of the evidence, then any person violating any provision of this chapter shall be subject to a cumulative Penalty in the amount of \$1,000 per day, per dwelling unit, for the difference between the number of days in the original notice, if provided, and 90 days. If no notice was provided, the person in violation shall be subject to a cumulative Penalty in the amount of \$1,000 per day, per dwelling unit, for 90 days.

5. The Director may waive or reduce the Penalty if the owner comes into compliance within three calendar days of the notice or shows that its failure to comply was due to reasonable cause and not willful neglect. If the Director finds a willful violation of this chapter which results in a Notice of Violation, the Director may issue a Penalty that shall not be less than \$1,000.

6. Any tenant or person aggrieved by a violation of this chapter may institute a private action to enforce the obligations contained in this chapter, provided, that this subsection does not create any right of action against the City or any City officer or employee for the failure to act.

D. Administrative Review by Director.

1. General. A person to whom a Notice of Violation or Penalty is assessed may request an administrative review of the Notice of Violation or Penalty.

2. How to request administrative review. A person may request an administrative review of the Notice of Violation or Penalty by filing a written request with the Director within ten calendar days from the date of the Notice of Violation or Penalty. The request shall state, in writing, the reasons the Director should review the Notice of Violation or Penalty. Failure to state the basis for the review in writing shall be cause for dismissal of the review. Upon receipt of the request for administrative review, the Director shall review the information provided. The City has the burden to prove a violation exists by a preponderance of the evidence.

3. Decision of Director. After considering all of the information provided, the Director shall determine whether a violation has occurred and shall affirm, vacate, suspend, or modify the Notice of Violation or Penalty. The Director’s decision shall be delivered, in writing, to all parties by first-class mail.

E. Appeals to the Hearing Examiner of Director’s Decision.

Appeal of the Director’s decision shall be made within ten calendar days from the date of the Director’s decision by filing a written notice of appeal, clearly stating the grounds that the appeal is based upon, with the Hearing Examiner, which appeal shall be governed by TMC 1.23. The Hearing Examiner shall notify all parties, by mail, of the time and place of hearing.

1.95.040 Severability.

If any provision or section of this chapter shall be held to be void or unconstitutional, all other parts, provisions, and sections of this chapter not expressly so held to be void or unconstitutional shall continue in full force and effect.