

Rental Housing Code Changes

Comparison of City Proposed Changes, Tacoma Landlord Fairness Code Proposal, and Sponsor Considerations

Table Title Definitions

Policy: The policy column names the policy the proposed changes are intended to impact.

Current State: The current state represents the Tacoma Rental Housing Code as it exists before any recommendations or proposals are considered. This column represents the current law that is enforced within Tacoma.

City RHC Proposed Changes: These changes are based on work by staff and the Rental Housing Code (RHC) Stakeholder advisory group members that began in March of 2021, including just cause evictions. These were originally shared with the Community Vitality and Safety Committee in July and October of 2022. From November 2022 to April 2023 staff conducted outreach to housing providers and tenants through surveys and stakeholder meetings to refine the proposed changes before bringing them to Council on May 25.

Sponsor Considerations: In May 2023 Mayor Woodards, Deputy Mayor Walker, and Council Members Ushka and Hines met with Tacoma for All organizers and the Rental Housing Stakeholder Advisory Group multiple times to understand the existing proposals by staff, stakeholders, and the community. They brought forward additional recommendations that consider new information and challenges. These should be considered the current recommendation for Council consideration.

Tacoma Landlord Fairness Code Changes: These changes those presented by Tacoma For All and are the foundation of a signature gathering campaign to place the proposed changes on the November 2023 ballot for voter consideration. These changes are considered as the primary comparison because of the very public nature and awareness of these proposed changes.

Definitions within Sponsor Considerations Column

Recommend: bullets that starts with “recommend” are items that the sponsors consider great ideas now that can be adopted to protect tenants that do not require a lot of additional information for consideration. These items could be adopted by ordinance once Council is briefed, and the ordinance is scheduled.

Research: bullets that begins with “research” are items that may be worthy of consideration but need more information and data to measure the impact on Tacoma and consider the legality and ability to implement changes. The City of Tacoma wants to ensure that what is ultimately adopted policy-wise does as much as possible to protect tenants that is legally enforceable under city and state laws while avoiding adverse impacts. These items will be tracked and researched by staff and the RHC Stakeholder Advisory Group, and the status of these items will be publicly shared as we continue this research.

Concern: bullets that begins with “Concern:” are items that are being noted for awareness on risks to implementation of that change.

Policy	Current State	City RHC Proposed Changes	Tacoma Landlord Fairness Code Changes (Tacoma for All)	Feedback	Sponsor Considerations
<p>1. Notice of Rent Increase</p> <p>*included in petition with relocation assistance #6</p>	<ul style="list-style-type: none"> Under the RHC, notice of any rent increase must be provided to tenants at least 60 days from rent increase. 	<ul style="list-style-type: none"> Implement notice tiers based upon the percent of rent increase, for example: <ul style="list-style-type: none"> 60-day written notice for 6% or less increase 90-day written notice for an increase over 6% and up to 10%, 120-day written notice for an increase of more than 10%. Require that the written notice be served in accordance with RCW 59.12.040. Not allow the landlord to charge for the rent increase notice to be served. 	<ul style="list-style-type: none"> Two notices required to raise rent: <ul style="list-style-type: none"> first between 210 and 180 days second between 120 and 90 days 	<ul style="list-style-type: none"> Tiers are too complicated, reduce to one amount of any rent increase – RHC Advisory group, affordable housing property managers and landlords, Tacoma 4 All One notice is preferable to having to give two 180 days is too much – landlords stakeholder events and affordable housing property managers Landlords’ biggest concern is that a tenant will no longer have to provide the 20-day notice if they leave due to a rent increase. 89% of landlords and 95% of property managers surveyed think current 60-day notice <u>should not</u> be increased 87% of tenants surveyed think current 60-day notice should be increased. 77% prefer tiered system. THA would seek federal exemption from this requirement. 	<ul style="list-style-type: none"> Recommend adopting RHC Proposed changes with one change: <ul style="list-style-type: none"> a single notice requirement at 120 days for any rent increase. <u>What would this Policy change do?</u> The policy would increase the amount days of required notice to ensure tenants have time to secure new housing.

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<p>2. Shared Housing Standards</p>	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Require that the master lease holder provide contact information for the sublet tenants and the property owner at time of tenancy. • Require separate leases when renting to four or more tenants. • Require lease to state the legal number of occupants and habitable spaces in the unit (TMC prohibits the renting of attics, basements, and/or garages that have not been properly permitted). • Require the property owner to serve any notices that can lead to eviction to the master lease holder and appropriate number of notices for all sublet tenants. • Require master lease holder to serve any notices that can lead to eviction by property owner to all sublet tenants. • Prohibit property owner with a master lease agreement from starting the Unlawful Detainer Action (eviction) if they cannot show notices were served to all sublet tenants. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Landlords expressed concerns if they must identify and contact all sublease tenants living in their property. • 50% of shared housing landlords and 44% of property managers have experienced Issues identifying all tenants if they were not on the lease. • 58% of shared housing landlords and 44% of property managers have experienced issues contacting all tenants if they were not on the lease. • 4% of tenants that had lived in shared housing (6 total people) had been evicted because they were not notified of the eviction actions against the person they were renting from. 	<ul style="list-style-type: none"> • Recommend adopting shared housing standards under the City proposal • <u>What would this policy change do?</u> Policy will ensure that tenants are living in legal, habitable, and healthy spaces and landlord is following all policies under the RLTA when it comes to termination of tenancy.

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<p>3. Standardized Screening Criteria</p>	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Set a standard income to rent requirement as 2.5x or 3x monthly rent based on HUD fair rental rates • Prohibits landlord from having a blanket ban on a tenant with felony convictions, and arrest records. • Requires landlords to do individual assessments of proposed tenants' criminal history to determine eligibility based on the severity and how long ago the offense occurred. • Prohibit the landlord from requiring a SSN as the only way a tenant can apply for housing. 	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> • Landlords concerned they won't be able to screen for criminal history or ask for SSNs • Most of both landlords (average 2.65 income to rent) and property managers (average 2.68 income to rent) respondents require either two times income to monthly rent or three times. • The most common income to rent requirement is three times. <ul style="list-style-type: none"> • 2 Times: 39% • 3 Times: 57% • 4 Times: 3% • 5 Times: Less than 1% • 46% of tenants reported that they'd been denied housing because they did not meet the income screening requirements 	<ul style="list-style-type: none"> • Recommend adopting screening criteria under the City proposal • <u>What would this policy change do?</u> Policy would ensure tenants can secure housing. This policy would particularly help the vulnerable population who is more likely to become homeless if they are not able to secure affordable healthy housing.

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<p>4. Fee and Deposit Standards</p> <p><i>*Combined former #4 and #7</i></p>	<ul style="list-style-type: none"> under state law, no portion of any deposit can be withheld for wear resulting from ordinary use of the premises including for carpet cleaning, repair and replacement of fixtures, equipment, appliances, and furnishings if their condition was not reasonably documented, or in excess of the cost of repair or replacement of damaged items which damaged beyond wear from ordinary use. (HB 1074) 	<ul style="list-style-type: none"> Require the landlord to actively take steps to recover late fees during tenancy, such as serving monthly or quarterly notices or invoices. Prohibit landlords who do not address late fees during tenancy from withholding them from deposit or reporting them to prospective landlords at end of tenancy. Limit the amount of late fee the landlord can charge to \$75 max per month. 	<p>Prohibits:</p> <ul style="list-style-type: none"> rental application fees not complying with RCW 59.18.257 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, pet damage deposit exceeding 25% of one month's rent move-in fees that in total exceed the first month's rent 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. any fee or charge for late payment of rent exceeding \$10.00 per month any rental agreement shall be deemed void to the extent it requires payment of fees prohibited by this section 	<ul style="list-style-type: none"> A percent is more equitable than a set amount so that low-income tenants paying lower rents aren't charged proportionately more than higher income tenants. General agreement that a % up a to a maximum dollar amount is best. 66% of landlords and 91% of property managers provide regular invoices or accounting to tenants regarding late fees. 65% of landlords and 92% of property managers take actions during tenancy to collect late fees. 27% of tenants reported that the inability to pay late fees has created a barrier to them obtaining housing 	<ul style="list-style-type: none"> Recommend adopting the late fee standards under the City proposal with one change: <ul style="list-style-type: none"> Limit the amount of late fees to 1.5% of <i>unpaid</i> monthly rent, with a maximum limit of \$75/month. Example: <ul style="list-style-type: none"> Unpaid Rent \$600 – Fee \$9 Unpaid Rent \$1,200 – Fee \$18 Unpaid Rent \$1,800 – Fee \$23 Unpaid Rent \$2,300 – Fee \$33 Unpaid Rent \$5,000 and up – Fee \$75 Recommend adopting a prohibition on late fees assessed on non-rent charges Recommend adopting a prohibition on pet damage deposit exceeding 25% of one month's rent, and require this deposit be refundable if unused Recommend increasing the current deposit installment payments from 3 months to 6 months under existing code for move-in fees (non-refundable fees, security deposit, last month's rent) Research limiting monthly fees associated with pets Research what other communities are doing to limit

					<p>move-in fees that exceed the first month's rent</p> <ul style="list-style-type: none">• Research how refundable deposits are assessed at move-in and how they can support challenging housing applications.• Research what other communities are doing to define and regulate late fees for low-income tenants and how that can be implemented throughout rental housing code, including provisions for when someone loses their job or income level changes. <p><u>What would this policy change do?</u> This policy would establish standards on how landlords address compliance with late fees during tenancy and limit the amount and what late fees can be charged on. It also would limit certain move in fees and provide more time for tenants to pay move in costs over a 6-month period, so they do not need to be paid up front.</p>
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<p>5. Business License Requirement and Health and Safety Compliance</p> <p><i>*Combined former #5 and #6</i></p>	<ul style="list-style-type: none"> T&L Staff is currently working on ways to add rent rates/increases to data collected in annual business licenses. Under current laws as written, the habitability and health and safety issues already must be addressed and the RHC allows for enforcement. 	<p>Landlords cannot pursue evictions if:</p> <ul style="list-style-type: none"> the landlord does not have a City annual business license dwelling unit fails to comply with RCW 59.18.060, and presents conditions that endanger or impair health and safety of tenants 	<ul style="list-style-type: none"> Cannot raise rent if landlord is determined to be in violation of laws related to health and safety, according to the procedures detailed in TMC 2.01.050 OR the dwelling unit has defective conditions making the dwelling unit uninhabitable per RCW 59.18.060 	<ul style="list-style-type: none"> Affordable housing providers agree that landlords must comply with health and safety codes, as well as have a business license, in order to evict a tenant. During recent stakeholder meetings, there was consensus that a business license requirement was good and a low barrier. 	<ul style="list-style-type: none"> Recommend adopting limitations on evictions <i>and</i> rent increases without a business license Recommend reviewing and clarifying code and increasing funding to continue and expand greater education to tenants on enforcement actions they can take under current law. Recommend reviewing code for who can bring complaints to the City on health and safety issues <u>What would this policy change do?</u> Policy would ensure anyone operating a rental business in the Tacoma city limits is complying with health and safety codes, and City policies before raising rents or pursuing evictions. It would also allow tenants' rights groups and other agencies to bring complaints to the City's attention that would allow for enforcement. It would also ensure that landlords are given the opportunity to provide input on all policies as the City uses the Rental Business License as an outreach tool.

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<p>6. Relocation Assistance</p> <p>*notice of increase by petition included in #1</p>	<ul style="list-style-type: none"> The RHC already has provisions that provide \$2,000 in relocation assistance to assist in the costs of moving in situations where they are being displaced due to significant rehabilitation, demolition, change in use of their rented residence, or when the unit is deemed uninhabitable by the city. 		<p>Relocation assistance owed to tenant when rent increases within 30 days:</p> <ul style="list-style-type: none"> 5% rent increase = 2 mo. relocation 7.5-10% rent increase = 2.5 mo. relocation Over 10% or more rent increase = 3 mo. Relocation If the tenant is unable to relocate and remains in the dwelling unit at the increased rent, the tenant must repay the relocation assistance. The requirement to pay tenant relocation assistance will not apply to: <ul style="list-style-type: none"> a landlord and tenant living on the same site if the site has four or fewer dwelling units tenants who have lived in the dwelling unit for less than six months a landlord that temporarily rents out the landlord's principal residence during the landlord's absence due to active-duty military service. 	<ul style="list-style-type: none"> Concerns expressed that small landlords and affordable housing landlords will not be able to afford relocation costs. Concerns expressed that some years increases to operating expenses may necessitate a 5% increase and perhaps tying the increase to the Consumer Price Index or inflation rate would be preferable Concerns expressed that landlords would be less likely to rent to low-income tenants. Deed restricted affordable housing providers are concerned about longer notice for rental increases as they rely on the Housing Finance Commission (HFC) to provide them new rental rates. The process can take up to 6 months to send new rates out. Once housing providers receive notice from HFC they can increase rents, the provider would then have to wait another six months before they can implement increases. THA would seek federal exemption from this requirement. 	<ul style="list-style-type: none"> Recommend increasing the current deposit installment payments from 3 months to 6 months under existing code for move-in fees (non-refundable fees, security deposit, last month's rent) Research if the city's current relocation assistance program can be extended to include excessive rent increases as a reason for low-income tenants. Research what other communities are doing to define and regulate relocation for low-income tenants and how that can be implemented throughout rental housing code, <i>including provisions for when someone loses their job or income level changes.</i> Concern: relocation assistance based on rent increases in this manner may be challenged under the state's rent control prohibition. <u>What would this policy change do?</u> This change would allow tenants more time to pay move in costs over a 6-month period.

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7. Eviction Prohibitions	<ul style="list-style-type: none"> The RHC already protects against “no cause” evictions year-round, including for occupation. 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Prohibit economic evictions during school year, for households with students or children under 18 Prohibit evictions between November 1 to April 1, Landlord cannot evict a tenant based on status as a member of the military, first responder, senior, family member, health care provider, or educator. Landlords can still carry out evictions at any time if tenants are posing a threat to others or their property, using their apartments for illegal purposes, an owner or family moves to occupy the unit, the unit is condemned for uninhabitability, or desire for roommate to vacate 	<ul style="list-style-type: none"> Concerns expressed that multiple months of unpaid rent could result in high debt levels for tenants and delinquent mortgages for property owners. Concerns expressed that multiple months of unpaid rent or being unable to evict a tenant for an otherwise appropriate reason could drive small landlords out of the market. Comment: THA would seek federal exemption from this requirement 	<ul style="list-style-type: none"> Recommend that we follow state just cause eviction laws as we believe the just cause provisions already protect against evictions year-round, including based on occupation. Research specific concerns around no-cause provisions related to cold weather and school year termination of tenancy for those on low and/or fixed incomes Concern: Eviction moratoriums this extensive could push smaller housing providers out of the housing market and further consolidate corporate housing. Concern: as written, no tenant with a child under 18 could be evicted. <u>What would this policy change do?</u> This change would continue existing practice on just cause eviction protections.

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8. Penalties and Enforcement	<ul style="list-style-type: none"> The RHC already contains penalty provisions that can be applied when a landlord fails to pay relocation, RLTA already allows tenants to sue 	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> Tenants can sue for violations and obtain actual damages, costs, reasonable attorney's fees AND obtain \$500 or 5 times the mo. rent per violation. If fail to pay relocation asst. then penalty is 3x the relocation asst. amount Tenants' organization can sue on behalf of tenants. 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 	<ul style="list-style-type: none"> Some feedback indicated current fees are not incentive enough for landlords to comply, or for lawyers to take up tenant cases 	<ul style="list-style-type: none"> Recommend reviewing code for who can bring suit in municipal court for violations of the RHC, including tenants' organizations or others with consent of tenant Research allowing penalties assessed by City to be given to tenant If tenant was due relocation assistance under current code, and landlord did not comply. Research using penalties assessed by the RHC to fund and support relocation assistance or subsidies for public and smaller housing providers. Concern: The fines and fees may be considered excessive and challenged in court. There is also ambiguity in the exemptions for landlords which may invalidate the provision as written. <u>What would this policy do?</u> This policy will allow tenant organizations (and others) to bring suit on behalf of the tenant for violations and <i>may</i> allow the city to provide funds directly to tenants or use them for relocation assistance and subsidies to smaller housing providers.