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Title: AN ORDINANCE relating to tenant protections; adding new sections to K.C.C. chapter 16.03 and adding a new chapter to K.C.C. Title 16.

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Attachments: 1. 2019-0407 and 2019-0423 SR Just Cause Evictions and Tenant Relocation Assistance Pilot, 2. ATT_4_Seattle and WA Landlord Tenant Laws, 3. 2019-0407 SR Just Cause Evictions, 4. Acknowledge-Letter-2019-S-905

Date	Ver.	Action By	Action	Result
1/21/2020	1	Metropolitan King County Council	Reintroduced	
1/21/2020	1	Metropolitan King County Council	Re-referred	
10/29/2019	1	Health, Housing and Human Services Committee	Deferred	
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Clerk 09/26/2019

AN ORDINANCE relating to tenant protections; adding new sections to K.C.C.
chapter 16.03 and adding a new chapter to K.C.C. Title 16.

SECTION 1. Findings:

A. King County established the regional affordable housing task force in 2017 through Motion 14873. The task force's charge was to develop a recommended countywide affordable housing strategy.

B. The regional affordable housing task force released its Final Report and Recommendations in December 2018, and the King County council declared through Motion 15372 that recommendations contained therein represent the policy of the council.

C. The regional affordable housing task force's report included Census data that showed that

more than one hundred twenty-four thousand low-income households in King County are severely cost burdened. Of these, eighty-eight percent, or one hundred nine thousand seven hundred households, earn fifty percent or less of AMI, meaning the country's poorest residents struggle most with housing costs. The report found that communities of color and renters are disproportionately likely to be severely cost burdened, paying more than half of their income toward housing costs. The report also included a recommended strategy of adopting ordinances to expand tenant protection and provide implementation support.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

NEW SECTION. SECTION 2. There is hereby added to K.C.C. chapter 16.03 a new section to read as follows:

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

- A. All or any part of the legal title to property; or
- B. All or part of the beneficial ownership, and a right to present use and enjoyment of the property.

NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 16.03 a new section to read as follows:

Rental agreement: all agreements that establish or modify the terms, conditions, rules, regulations or any other provisions concerning the use and occupancy of a housing unit.

NEW SECTION. SECTION 4. There is hereby added to K.C.C. chapter 16.03 a new section to read as follows:

Occupancy: the formal designation of the primary purpose of the building structure or portion thereof.

NEW SECTION. SECTION 5. There is hereby added to K.C.C. chapter 16.03 a new section to read as follows:

Housing unit: a structure or that part of a structure that is 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 and mobile homes and for which occupancy is authorized by a rental agreement.

SECTION 6. Sections 7 through 9 of this ordinance should constitute a new chapter in K.C.C. Title 16.

NEW SECTION. SECTION 7. There is hereby added to the chapter established in section 6 of this ordinance a new section to read as follows:

A. Except as otherwise specifically required or allowed by K.C.C. Title 16 or by the Washington state Residential Landlord-Tenant Act, chapter 59.18 RCW, it is unlawful for any owner to:

1. Remove or exclude a tenant from the premises except in accordance with a legal process; or
2. Evict, reduce services, increase the obligations of a tenant or otherwise impose, threaten, or attempt any punitive measure against a tenant for the reason that the tenant has in good faith reported violations of K.C.C. Title 16 to the department of local services, or otherwise asserted, exercised or attempted to exercise any legal rights granted tenants by law and arising out of the tenant's occupancy of the building.

NEW SECTION. SECTION 8. There is hereby added to the chapter established in section 6 of this ordinance a new section to read as follows:

A. Under a provision of the Washington state Residential Landlord-Tenant Act, RCW 59.18.290, owners may not evict residential tenants without a court order, which under RCW 59.18.380 can be issued by a court only after the tenant has an opportunity to contest the eviction. The following reasons for termination of tenancy, and no others, shall constitute just cause under this section:

1. The tenant fails to comply with:
 - a. a fourteen-day notice to pay rent or vacate in accordance with RCW 59.12.030(3);
 - b. a ten-day notice to comply or vacate in accordance with RCW 59.12.030(4); or
 - c. a three-day notice to vacate for waste, nuisance, including a drug-related activity nuisance in accordance with chapter 7.43 RCW, or maintenance of an unlawful business or conduct in accordance with RCW 59.12.030(5);

2. The tenant habitually fails to pay rent when due that causes the owner to notify the tenant in writing of late rent four or more times in a twelve-month period;

3. The tenant fails to comply with a ten-day notice to comply or vacate that requires compliance with a material term of the rental agreement or that requires compliance with a material obligation under chapter 59.18 RCW;

4. The tenant habitually fails to comply with the material terms of the rental agreement that causes the owner to serve a ten-day notice to comply or vacate three more times in a twelve-month period;

5. The owner seeks possession so that the owner or a member of the owner's immediate family may occupy the unit as that person's principal residence and no substantially equivalent unit is vacant and available in the same building, and the owner has given the tenant at least ninety days' advance written notice of the date the tenant's possession is to end. The director may reduce the time required to give notice to no less than twenty days if the director determines that delaying occupancy will result in a personal hardship to the owner or to the owner's immediate family. Personal hardship may include but is not limited to hardship caused by illness or accident, unemployment, or job relocation. For the purposes of this subsection A.5., "immediate family" includes the owner's domestic partner registered under to chapter 26.60 RCW or the owner's spouse, parents, grandparents, children, brothers and sisters of the owner, of the owner's spouse, or of the owner's domestic partner. There is a rebuttable presumption of a violation of this subsection A.5. if the owner or a member of the owner's immediate family fails to occupy the unit as that person's principal residence for at least sixty consecutive days during the ninety days immediately after the tenant vacated the unit in accordance with a notice of termination or eviction using this subparagraph as the cause for eviction;

6. The owner elects to sell a single-family dwelling unit and gives the tenant at least ninety days' written notice before the date set for vacating, which date shall coincide with the end of the term of a rental agreement, or if the agreement is month-to-month, with the last day of a monthly period. The director may reduce the time required to give notice to no less than sixty days if the director determines that providing ninety

days' notice will result in a personal hardship to the owner. Personal hardship may include but is not limited to hardship caused by illness or accident, employment or job relocation. For the purposes of this subsection A.6., an owner "elects to sell" when the owner makes reasonable attempts to sell the dwelling within thirty days after the tenant has vacated, including, at a minimum, listing it for sale at a reasonable price with a realty agency or advertising it for sale at a reasonable price in a newspaper of general circulation. There shall be a rebuttable presumption that the owner did not intend to sell the unit if:

a. within thirty days after the tenant has vacated, the owner does not list the single-family dwelling for sale at a reasonable price with a realty agency or advertise it for sale at a reasonable price in a newspaper of general circulation, or

b. within ninety days after the date the tenant vacated or the date the property was listed for sale, whichever is later, the owner withdraws the rental unit from the sales market, rents the unit to someone other than the former tenant or otherwise indicates that the owner does not intend to sell the unit;

7. The tenant's occupancy is conditioned upon employment on the property and the employment relationship is terminated;

8. The owner seeks to do substantial rehabilitation in the building, but only if the owner obtained at least one permit necessary for the rehabilitation;

9. The owner:

a. elects to demolish the building, convert it to a cooperative or convert it to a nonresidential use, though the owner must obtain a permit necessary to demolish or change the use before terminating any tenancy; or

b. converts the building to a condominium, but only if the owner complies with K.C.C. chapters 16.03 and 16.04;

10. The owner seeks to discontinue use of a housing unit after receipt of a notice of violation from the department. Upon creation of a relocation assistance program, the owner is required to pay relocation assistance

to the tenant or tenants of each such unit as such program dictates.

11. The owner seeks to reduce the number of individuals residing in a housing unit to comply with the maximum limit of individuals allowed to occupy one housing unit as required by K.C.C. Title 21A and:

a. the owner has served the tenants with a thirty-day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit,

b. after expiration of the thirty-day notice, the owner has served the tenants with and the tenants have failed to comply with a ten-day notice to comply with the limit on the number of occupants or vacate, and

c. if there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; however, the owner may terminate no more than the minimum number of rental agreements necessary to comply with the legal limit on the number of occupants, or, at the owner's option, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit;

12.a. The owner seeks to reduce the number of individuals who reside in one housing unit to comply with the legal limit after receipt of a notice of violation of the K.C.C. Title 16 or 21A restriction on the number of individuals allowed to reside in a housing unit, and:

(1) the owner has served the tenants with a thirty-day notice, informing the tenants that the number of tenants exceeds the legal limit and must be reduced to the legal limit; however, a thirty-day notice is not required if the number of tenants was increased above the legal limit without the knowledge or consent of the owner;

(2) after expiration of the thirty-day notice required by subsection 12.a.(1) of this section, or any time after receipt of the notice of violation if a thirty-day notice is not required in accordance with subsection 12.a.(1) of this section, the owner has served the tenants and the tenants have failed to comply with a ten-day notice to comply with the maximum legal limit on the number of occupants or vacate; and

(3) if there is more than one rental agreement for the unit, the owner may choose which agreements to terminate; however, the owner may either terminate no more than the minimum number of rental agreements

necessary to comply with the legal limit on the number of occupants, or, at the option of the owner, terminate only those agreements involving the minimum number of occupants necessary to comply with the legal limit.

b. For any violation of the maximum legal limit on the number of individuals allowed to reside in a housing unit that occurred with the knowledge or consent of the owner, upon creation of a relocation assistance program, the owner is required to pay relocation assistance to the tenant or tenants of each such unit as such program dictates;

13. The owner seeks to discontinue use of an accessory dwelling unit. Upon creation of a relocation assistance program, the owner is required to pay relocation assistance to the tenant or tenants of each such unit as such a program dictates;

14. Emergency measures requiring that the housing unit be vacated and closed has been issued under K.C.C. Title 16 or 23 and the emergency measures identified in the order have not been corrected;

15. The owner seeks to discontinue sharing with a tenant of the owner's own housing unit, which is the unit in which the owner resides, seeks to terminate the tenancy of a tenant of an accessory dwelling unit that is accessory to the housing unit in which the owner resides, or seeks to terminate the tenancy of a tenant in a single-family dwelling unit and the owner residing in an accessory dwelling unit on the same lot; and

16. A tenant, or with the consent of the tenant, the tenant's subtenant, sublessee, resident or guest, has engaged in criminal activity on the premises, or on the property or public right-of-way abutting the premises, and the owner has specified in the notice of termination the crime alleged to have been committed and the general facts supporting the allegation, and has assured the department of local services has recorded receipt of a copy of the notice of termination. For purposes of this subsection A.14., a person has "engaged in criminal activity" if the person:

a. Engages in a drug-related activity that would constitute a violation of chapters RCW 69.41, 69.50 or 69.52; or

b. Engages in activity that is a crime under the laws of this state, but only if the activity substantially

affects the health or safety of other tenants or the owner.

B. Any rental agreement provision that waives or purports to waive any right, benefit or entitlement created by this chapter shall be deemed void and of no lawful force or effect.

C. With any termination notices required by law, owners terminating any tenancy protected by this chapter shall advise the tenant or tenants in writing of the reasons for the termination and the facts in support of those reasons.

D. If a tenant who has received a notice of termination of tenancy claiming subsection A.5., 6. or 13. of this section as the ground for termination believes that the owner does not intend to carry out the stated reason for eviction and makes a complaint to the director, the owner must, within ten days of being notified by the director of the complaint, complete and file with the director a certification stating the owner's intent to carry out the stated reason for the eviction. The failure of the owner to complete and file such a certification after a complaint by the tenant shall be a defense for the tenant in an eviction action based on this ground.

E. In any action commenced to evict or to otherwise terminate the tenancy of any tenant, it shall be a defense to the action that there was no just cause for such eviction or termination as provided in this chapter.

F. It shall be a violation of this chapter for any owner to evict or attempt to evict any tenant or otherwise terminate or attempt to terminate the tenancy of any tenant using a notice that references subsection A.5., 6., 8., 11., 12. or 13. of this section as grounds for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such a tenancy.

G. An owner who evicts or attempts to evict a tenant or who terminates or attempts to terminate the tenancy of a tenant using a notice that references subsection 3., 5 or 6. of this section as the ground for eviction or termination of tenancy without fulfilling or carrying out the stated reason for or condition justifying the termination of such tenancy shall be liable to such a tenant in a private right of action for damages up to two thousand dollars, costs of suit or arbitration and reasonable attorneys' fees.

NEW SECTION. SECTION 9. There is hereby added to the chapter established in Section 6 of this

ordinance a new section to read as follows:

A. It is the duty of the director of the department of local services or designee to enforce the provisions of this ordinance. The director of the department of local services or designee is referred to as "the director" for the purposes of this section.

B. When a complaint of an illegal termination of tenancy is made by a tenant, the department is authorized to investigate the complaint, issue notices of violation, assess civil penalties, and provide appeal processes as provided in K.C.C. Title 23.

C.1. As outlined in K.C.C. 23.24.010, Whenever a director has reason to believe, based on investigation of documents and/or physical evidence, that a civil code violation exists or has occurred, that the civil code violations cited in a citation have not been corrected or that the terms of a voluntary compliance agreement have not been met, the director is authorized to issue a notice and order to any person responsible for code compliance. The director shall make a determination whether or not to issue a notice and order within one hundred twenty days of receiving a complaint alleging a violation or otherwise discovering that a violation may potentially exist, or within thirty days of the end of a voluntary compliance agreement time period that has not been met. Subsequent complaints shall be treated as new complaints for purposes of this chapter.

2. The notice of the violation shall be consistent with K.C.C. 23.24.030 as to its contents.

3. The notice shall be served consistent with service requirements as laid out in K.C.C. 23.02.080.

4. The director may order that work in the building or on the premises be stopped until violations in the notice have been corrected if, in the director's opinion, the continuation of other work will impair the owner's ability to comply with this code in a timely manner.

D.1. In calculating the time for compliance the director shall consider:

a. the type and degree of violations found;

b. applicable time limits for correction of similar violations provided in the State Landlord-Tenant Act, chapter 59.18 RCW;

c. The person responsible for code compliance's demonstrated intent to repair, demolish or vacate and close the building. Evidence of this intent may include, but is not limited to:

- (1) a signed construction contract with a licensed contractor to perform any required work by a specific date;
 - (2) proof of the availability of financial resources to perform any of the required work; and
 - (3) the filing of a complete application for any permit required to perform the required work and evidence of payment of any required fees;
- d. The procedural requirements for obtaining a permit to correct any of the violations;
- e. the complexity of the repairs, seasonal considerations, construction requirements and the legal rights of tenants; and
- f. circumstances beyond the control of the person responsible for code compliance.

2. The director may extend the compliance date if required repairs have been commenced and, in the director's opinion, they are taking substantial steps towards compliance. Extensions in excess of ninety days may not be granted unless the need therefore is established in a director's review.

E.1. Filing requirements shall be consistent with K.C.C. 23.36.010.

2. The hearing examiner shall process all appeals and applications as according to timelines stated in K.C.C. 20.22.100.

3. Procedures and timelines for the appeals process shall follow K.C.C. 23.36.020 and 20.22.100.

F. Civil fines and civil penalties shall be consistent with those outlined in K.C.C. chapter 23.32.

G. Decisions of the director under this chapter are final unless the person affected by the notice files an appeal in accordance with K.C.C. 20.22.080. The examiner's decision is a final decision, as authorized by K.C.C. 20.22.040.

H. Nothing in this chapter is intended to affect or limit a landlord's rights to pursue an action for unlawful detainer as defined by RCW 59.12.030, except as specifically set forth in this

chapter.